Albemarle County Planning Commission
August 14, 2001

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, July 14, 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, Jared Loewenstein, Rodney Thomas, and Pete Craddock. Other officials present were: Larry Davis, Amelia McCulley, Jan Sprinkle, Elaine Echols, Michael Barnes, Scott Clark and Wayne Cilimberg.

Call to order and establish quorum

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

Other Matters Not Listed on the Agenda from the Public

Mr. Rooker asked for additional matters from the public. There being none, the meeting proceeded.

Review of Board of Supervisors Meeting – August 8, 2001

Mr. Cilimberg said that the Triton/Elizabeth M. Bright telecommunications facility was approved with the recommendations of the planning commission. On the Redfields Phase IV rezoning, the Board supported eliminating four lots and having a 50' right-of-way reserved to the property line. The item was deferred to allow the applicant to adjust their request. The Board approved the Blue Run Agricultural/Forestal District addition.

Consent Agenda

a. **SUB 01-154 Fontana Land Trust Final Plat:** Request for authorization to construct a private road to serve two lots in the Fontana Subdivision. (Yadira Amarante)
b. **SUB 01-145 Peter Weems Final Subdivision Plat -** Request for plat approval to create 2 lots - Lot 3B (.3113 acres) and Lot 3A (.7398 acres) on an internal private road. (Yadira Amarante)
c. **Approval of Minutes** – June 26, 2001.

Mr. Rooker asked if any commissioner wished to remove an item from the consent agenda.

Mr. Thomas moved for approval of the consent agenda.

Mr. Finley seconded the motion, which passed unanimously.

Deferred Items:

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 JULY 17, 2001 PLANNING COMMISSION MEETING. APPLICANT REQUESTS DEFERRAL TO SEPTEMBER 25, 2001.***

Mr. Rooker opened the item for public comment. There being none, the hearing was closed.

Mr. Rieley moved to accept the applicant's request for deferral to September 25, 2001.

Mr. Craddock seconded the motion, which passed unanimously.

b. **ZMA-2001-009 Rivers Edge Offices (Sign #82)** - Request to rezone 1.818 acres from Residential [R-1] to Commercial Office [C-O] 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) ***DEFERRED FROM JULY 17, 2001 PLANNING COMMISSION MEETING.***

Mr. Barnes presented the staff report.

Mr. Thomas asked about the existing height of the structure.

Mr. Barnes said that staff wanted to make sure the applicant did not expand beyond the footprint or the current height of the current building.

Mr. Thomas asked if he was referring to what they are presently building.

Mr. Barnes stated that currently there is a home on the site, which they would like to convert into an office. The intent is to limit expansion of that building.

Mr. Cilimberg noted that the proffers will be tidied up and wordsmith between now and the board meeting. The substance is here.

Mr. Rooker opened the item for public comment.

Mr. Katurah Roell, the applicant, said that they are in agreement with the County's goals. All in all, we will end up with a better project. He told Mr. Thomas that the home is a story and a half.

There being no further comment, Mr. Rooker closed the public hearing.

Mr. Thomas asked if proffer #7 should mention the existing building.

Mr. Craddock pointed out that it says "beyond the present roofline".

Mr. Cilimberg stated that it starts with "the existing structure".

Mr. Rooker said it appears that the proffers have addressed the items we had concerns about at the previous meeting. He said he could support the application with the revised proffers.

Mr. Rieley agreed. He said he thought it was better to have that building remain in the floodplain in a different use, than to have an additional building.

Mr. Thomas moved for approval with proffers.

Mr. Rieley seconded the motion, which passed unanimously.

Public Hearing Items:

a. **SP-2001-019 Covesville Child Development Center (Sign #34 & 35)** - Request for special use permit to allow day care in accordance with Section 18-10.2.2.7 of the Zoning Ordinance which allows for "day care, child care, or nursery facility". The property, described as Tax Map 108 Parcel 27, contains 3.49 acres, and is located in the Scottsville Magisterial District on Covesville Road just east of the intersection with US 29. The property is zoned RA Rural Areas. The Comprehensive Plan designates this property as Rural Area. (Scott Clark)

AND

SDP 2001-051 Covesville Child Development Center Site Plan Waiver – Request for site plan waiver for day care center. (Scott Clark)

Mr. Clark presented the staff report.

Mr. Rooker asked if the previous permit was also for 25 children.

Mr. Clark replied that he did not know.

Mr. Finley asked if all the names given for the activity were the same.

Mr. Clark replied that they were. It is referred to as a "day care center" in the zoning ordinance and the item is called a child development center.

Mr. Rooker opened the public hearing.

Ms. Marcie Orr, co-director of the child development center, said that a child development center is just a way of saying that it is an educational day care center. It will be an educational center, not simply custodial care. We previously housed the Covesville Migrant Head Start center. When the Harvey Orchard was closed, we were busing children in from Nelson County. The Federal government decided to no longer fund the project. We were not required to have a special use permit, as we were only open in September and October. The project was considered an outgrowth of our church and ministry. Now, because we will be a separate, non-profit organization, the permit is required.

Mr. Rieley asked how many children attended previously.

Ms. Orr replied approximately 25 each year.

Mr. Rieley asked if she saw a distinction between the way the property was previously and the current request. He said he was referring to the need for additional parking.

Ms. Orr replied that there wasn't as much traffic, the children were bussed in. To that extent, it will be different. We will again have the age levels split so there won't be much difference for the children.

Mr. Rooker asked if someone will meet the children at the cars, or will the parents be required to park and bring the children inside.

Ms. Orr said they will require the parents to park and bring the children inside, we won't have enough staff to bring the children in.

There being no further comment, Mr. Rooker closed the public hearing.

Mr. Rieley said he is glad we don't have commercial entrances on Covesville Lane. In this instance it seems the additional parking is warranted because of the new use. He gave his support to the application.

SP-2001-019

Mr. Rieley moved for approval of the special use permit with conditions.

1. The applicant shall not commence operation of the day-care center until the Planning Commission approves the Covesville Child Development site-plan waiver request (SDP 2001-051).
2. The applicant shall not commence operation of the day-care center before securing a Certificate of Appropriateness for this use from the Architectural Review Board.
3. Enrollment in the day care center shall be limited to 25 children.

Mr. Craddock seconded the motion, which passed unanimously.

SDP 2001-051

Mr. Rieley moved approval of the site plan waiver.

Mr. Thomas seconded the motion, which passed unanimously.

Mr. Rieley moved for approval of the additional waivers.

Mr. Thomas seconded the motion, which passed unanimously.

b. **ZTA-01-003 Building site area and dimensions** – Amend Sections 4.2.2, Area regulations, 4.2.3 Location of structures and improvements, and 4.2.6, Exemptions, of Chapter 18, Zoning, of the Albemarle County Code, to revise the minimum size and dimensions for certain building sites, to authorize the director of planning and community development to modify or waive the required dimensions under prescribed conditions, to establish a procedure to appeal the denial of a modification or waiver, to establish that accessways, public utility lines and appurtenances, stormwater management facilities and other required public facilities are exempt from any requirement that they be located within a building site under prescribed conditions, and to make minor technical changes to sections 4.2.3 and 4.2.6. (Elaine Echols)

Ms. Echols presented the staff report.

Mr. Finley asked if new structures also required the auxiliary drainfield.

Ms. Echols replied yes.

Mr. Finley verified that the both regular and auxiliary drainfields can be non-rectangular.

Ms. Echols said that was correct. There is some variety in the layout, they don't require that strict rectangular shape. It is required that the drainfield be placed within the building site.

Mr. Finley asked if they could be "L" shaped.

Ms. Echols said yes. We are seeking to simply modify shape slightly.

Mr. Cilimberg stated that in working with the contours of the land, it will not be a strict rectangle.

Mr. Finley verified that you can follow contours on either one.

Ms. Echols yes.

Mr. Finley stated that was good news.

Mr. Rieley said he thought this was very sensible.

Mr. Finley pointed out that this is saying the director of planning can make approvals.

Mr. Rooker opened the public hearing.

Mr. Ron Keeler said that in the cover report, there is a statement that current septic system installation process does not require rectilinear drainfield installation. He said he thought that meant that the Building site does not have to be rectilinear. He is unaware of any changes in the health department practices that allows a non-rectilinear drainfield. It would be a good idea to ask for some written information from the health department. The amendment is a good idea, and he recommends passing it onto the board.

There being no further comment, Mr. Rooker closed the public hearing.

Ms. Echols said that staff would check with health department.

Mr. Rieley said he thought it was worth doing for information and to help people at that stage of the process.

Mr. Rooker stated that he thought it makes a great deal of sense.

Mr. Finley moved for approval.

Mr. Craddock seconded the motion, which passed unanimously.

Work Session:

a. **ZTA-01-007 Alleys and Shared Driveways -** Amend Sections 3.1, Definitions, 4.6.3, Lots, yards adjacent to streets, and 4.11.2.1, Accessory structures, of Chapter 18, Zoning, of the Albemarle County Code, to define “alley,” “driveway,” “private road” and “shared driveway,” to require that the regulation pertaining to required lots and yards adjacent to streets also apply to alleys, to clarify the location from where the yard shall be measured, and to clarify that the setback for accessory structures applies not only from the property line, but also certain travelways. (Elaine Echols)

b. **STA 01-01 - Alleys and shared driveways** - Amend Sections 14-104, Definitions, 14-303, Contents of final plat, 14-313, Instrument evidencing maintenance of certain improvements, 14-512, Standards for both public streets and private roads, and 14-514, Standards for private roads only, and to add Section 14-241, Circumstances when shared driveways and alleys may be authorized, of Chapter 14, Subdivision of Land, of the Albemarle County Code, to define “driveway” and “shared driveway,” and to amend the definitions of “alley” and “private road,” to establish the conditions and procedures by which shared driveways and alleys may be authorized, to require that final plats contain information pertaining to alleys and shared driveways, to require that alleys be subject to an approved maintenance agreement, and to allow alleys to be provided on the side of certain lots and to be subject to approval by the county engineer. (Elaine Echols)

Ms. Echols presented the staff report.

Mr. Rooker said that we are showing in the bottom illustration a difference between the easement and the paved area and are talking about the setback operating from the easement point as opposed to the paved area point.

Ms. Echols replied that was correct.

Mr. Rooker asked if it would make a difference if you had a narrow paved area. There might be more need for easement.

Ms. Echols replied that in each of these illustrations, we are thinking of an alley with a 20' width with at least a 10' travelway. The idea of it not being paved all the way to the sides is usually to allow for utilities. The narrower the alley, the less the opportunity for two-way access. These are meant to be a secondary point of access.

Mr. Rooker asked if there was anything in the ordinance, which prevents paving to 20'.

Ms. Echols replied that there wouldn't be. In the commercial alleys, you would see a full pavement width, but not in residential alleys.

Mr. Rooker said he wondered if that same argument would go to not requiring a separate setback from the easement line. With buildings that are set way back from the easement line, you have a potentially wide travel area.

Ms. Echols said that with at least 3' here, you would have about eight feet from the middle of the travelway. Drivers would be able to pull off of the travelway to allow someone to pass.

Mr. Craddock asked if alleys like Park St. and Locust Ave. would be grandfathered in.

Ms. Echols replied that alleys come in a lot of different forms. Most of the alleys we have today were built in the 40's and 50's. VDOT does not provide maintenance for alleys. Alleys often don't get maintained very well. Maintenance for these alleys would belong to a homeowner's association.

Mr. Thomas pointed out that Belmont was designed with alleys, but have become unused. They were supposed to have been maintained by the neighborhoods. Some have been grown over and taken over by the property owners.

Ms. Echols said that some local governments have made it available to request dedication of that alley. We are promoting alleys and we want to be proactive in defining their function.

Mr. Finley asked if the sidewalk would normally be on the street right-of-way or in pedestrian easement.

Ms. Echols replied that it can go either way. The setback is measured from the property line.

Mr. Thomas asked if the only access the property owner would have would be through alley with a vehicle.

Ms. Echols said that was correct, but you could ask planning director to waive that requirement. The planning director can approve a driveway and an alley. We are trying to promote a view from the street that has the housing closer with parking in the rear. We would expect that there would be on street parking for visitors.

Mr. Rieley said he would suggest that at the next round, we run these by engineering with turning radius shown so the diagrams are realistic. He is not sure he understands the distinction between the detached and attached garages. An attached breezeway could become a violation of setback.

Ms. Echols said that was more a function of the zoning ordinance. We were trying to look at existing regulations and allow for these shared driveways to be done administratively.

Mr. Rieley said his other concern is with the item shown on the upper right of the diagram. He asked if it would be not be possible for us to end up with lots of lots too deep and served by one driveway.

Ms. Echols replied that's a good one to get the turning radius from engineering. It would be good to see how deep that's going.

Ms. Echols pointed out that every lot has to have public road frontage.

Ms. Rooker said that in the basic definition of an alley, the lot has to have frontage.

Mr. Rieley said he thought this was a healthy move.

Mr. Thomas added that the alleys in Belmont are very helpful. He is sorry to see some of them closed down.

Ms. Echols said the alleys are usually in fairly good shape and used.

Mr. Rooker invited Mr. Kelly Strickland, of Weatherhill Homes to address the commission.

Mr. Strickland spoke on the issue. Weatherhill Homes is building Parkside Village next to Claudius Crozet park. We had planned to alleyways, but have ended up with one. We have been trying to learn the zoning and subdivision ordinances, but still feel like there is much to learn. We would like to suggest that we back away from the details and allow for creativity and new concepts. He is in support of what is in front of us tonight. An alleyway and a driveway do nothing but improve the character of a neighborhood. Adding more setback requirements creates limits and makes it more difficult to create a plan. Utilities obviously need a 20' setback. In an urban plan, there is a public area on the street, the private area in the residence, and a semi-private area in the back. There is a certain amount of understanding the homeowner needs to have. The County does not need to have the additional rules and regulations. We would ask you to consider allowing a garage to sit on a corner of a lot along an alley. He would ask the same thing of a shared driveway. If there is a 10' setback on either side, a driveway would not be 20' wide, the standard driveway would be 12' wide.

Mr. Rooker asked if there would be a waiver process on any of these setbacks.

Ms. Echols replied only through the board of zoning appeals. In the short term, we will likely see in the new planned developments, where developers are including their own proposed setbacks, we may have a rear yard that is only 6 feet. We are trying to get out are the building separation requirements from the building code.

Mr. Rooker said he thought that this makes sense, how much flexibility should be allowed beyond what's shown here tonight. One way to provide flexibility would be to allow waivers based on engineering department recommendations. There are circumstances in which nothing is gained by having a setback from a garage to an alley.

Mr. Rieley agreed. He said he thought that zero lot line garages were a good way to organize things. If there is the ability to waive those, it seems reasonable..

Mr. Craddock asked if fire and rescued had looked at this.

Ms. Echols said they have not looked at these drawings. The public road is supposed to provide for fire access. If the alley would have to be used, the requirements would change in that instance.

Mr. Craddock verified that would be done on a case-by-case basis.

Mr. Keeler said he has a problem with the format under definitions, there is vagueness and a lack of consistency. Where it refers to alleys open to the public, is that meant to also accommodate service vehicles. The policy states that alleys are not intended for through-traffic. How does that

fit in with the DISC plan and the interconnectivity issue. If you look at that statement, you would have to design dead end alleys. That would make it more difficult for service vehicles.

Mr. Rooker said that does not mean every alley would be a dead end.

Mr. Keeler asked how you would discourage through-traffic. If the design is dead-end, then you have different design requirements. There is a fairly big issue in the way the ordinance is constructed. You cannot have a driveway or a shared driveway off of an alley. There is no definition of primary structure or vehicular access easement in the regulations.

Mr. Rooker said that the way it was set up, the agent can grant a waiver.

Mr. Keeler suggested including it in the definitions. The intention is vehicular access off the alleys. He suggested adding "in or adjacent to the easement" under 4.11.12. In addition to that add "including site distance". It is important to insure it includes site distance as a basic safety requirement. Under 14.303.e the dimension of standards. What does that mean? Does that mean that whoever is reviewing the plat has the ability to require any information they choose. Also, there is no requirement for a maintenance agreement on a shared driveway. Government is going to be asked to step in at some point in time. It will likely lead to dispute between the property owners. In 14.313.b at the end leads me to believe that in every case the roads would be designed to accommodate public service vehicles. In 14.512.f there are no specific design requirements for alleys. This ordinance contains specific requirements for public and private roads. Not having specific requirements for alleys could lead to inconsistency and legal troubles.

Mr. Keeler said a fire lane requires a minimum 18' for a fire lane. Does not need to paved but cleared.

Ms. Echols said we didn't originally have that language in our draft. The County attorney wanted to make it clear that the police and ambulances could travel on the alley. It is confusing. We would like to have that clarification made.

Mr. Rooker pointed out that public safety vehicles would use the street rather than the alley. It would make it impractical to use the alleyway, when we are trying to encourage them.

Mr. Rieley stated that distinction needs to be made.

Mr. Keeler suggested that distinction and understanding be included in at least an advisory capacity. He hoped that in the future the commission would look for a comprehensive package of DISC amendments, rather than pieces. It is not adequate overall for the design flexibility that may be sought in other developments. In the past, we have used the quarterly roundtable. Any significant ordinance amendments were made subject to discussion at the roundtable. He would like to see DRC and CALAC be invited to participate. That might help avoid piecemeal regulatory changes.

Ms. Echols asked Mr. Keeler for his list.

Mr. Thomas asked if there would be a central place for postal pickup with these configurations.

Ms. Echols replied that you might, but they could be individual. The postal service is asking some of the developers for centralized pickup.

Mr. Cilimberg stated that in some of these new urban style developments, we have gone back to the walking postal carrier. They utilize mail slots rather than boxes.

Mr. Craddock said they would be out on the public road anyway.

Mr. Finley asked about the dead end alleys. Would a turnaround be required?

Ms. Echols said yes, a turnaround would be required. That would be the exception rather than the rule. Engineering would be looking at safety first.

Mr. Finley asked if the recommendation of 20' generally (inaudible).

Mr. Echols said we are anticipating that fire service would have access from the public street. If the access needs to be from the alley, they would have to do more than what we talked about here. Engineering has the ability to make those requirements greater.

Mr. Rieley said that turning radius in it would be the biggest issue.

Mr. Rooker said he could not imagine many instances in which access for fire trucks would be the alleyway. The alleyway is an additional access, not primary.

Mr. Davis stated that it depends on what the front access looks like. It may be a difficult issue for the fire department on a steep grad with only walking access. There could be difficulty in enforcement if the alleyway is not designated a public roadway.

Mr. Rieley said he hoped we could resolve that issue.

Mr. Rooker asked if the same was true of private roads.

Mr. Davis said there could be traffic enforcement on private roads.

Mr. Rooker pointed out if they are so designated. You could designate an alley that way, also.

Mr. Davis said we would have to call it a road.

Mr. Rieley suggested a separate private road standard for an alleyway.

Mr. Finley asked if maintenance agreements for private roads are typically recorded.

Ms. Echols replied that it is a requirement.

Mr. Cilimberg said there could be maintenance agreements that you don't see.

Mr. Rooker said he had never seen one that is not recorded. The developer wants to make certain people are on notice and the properties are bound by it.

Ms. Echols stated that staff looked at whether or not we needed a maintenance agreement with the shared driveways. Staff opted to recommend a note on the plat that leaves responsibility up to the two property owners.

Mr. Rooker pointed out that could well be a frequent point of contention, but it is not much different than a shared fence.

Ms. Sprinkle said that roof overhangs are often an issue with setbacks in the alleys. Somebody years later wants to add a gutter or an overhang needs a variance. We would prefer to have a little setback so there is not that issue. If you are building right to the easement line, then you are extending the easement when you paint your garage.

Mr. Rooker asked if she would have a problem with a proposal that would allow the agent to waive the setback requirements.

Mr. Davis said you would have to have a system where it is provided in the ordinance. You could set up in an ordinance with criteria, a variable setback requirement that could be subject to a waiver by the commission or staff. Unless it was uniform in a neighborhood, it could create confusion and enforcement problems for zoning to deal with.

Mr. Finley asked if the house was setback and the new owner wanted to build a deck, would that require a waiver.

Ms. Sprinkle stated they would need variance.

Mr. Davis said the ordinance would have to be carefully crafted.

Mr. Rooker said that earlier we were discussing what Mr. Strickland raised. Can we build some flexibility into this setback requirement? We ought to be a way to enable a good design to be approved.

Mr. Davis said that what he is looking at is that it needs to be uniform for that development, not different from one lot to the next.

Mr. Rieley asked if Ms. Sprinkle had the same reservation about zero lot line garages as she did the setback from the alleyway.

Ms. Sprinkle said no. We want to have some space for a vehicle to get out of the travelway and provide some safe distance.

Mr. Rieley asked what the proposed setback was from the right-of-way.

Ms. Echols said it was proposed at 3'. It would be eight' to the edge of the pavement.

Mr. Rieley said the highway department usually uses 9' to measure site distance.

Mr. Rooker stated that would be dependent on several factors.

Mr. Rieley said that having these with turning radius would be helpful. It would be helpful to have a distinction made between what is already in the ordinance and what is different.

Mr. Rooker said the counterpoint would be to avoid getting the point where we are treating alleys like we are creating public and private roads.

Mr. Craddock stated we are only talking about 5-10 miles per hour.

Mr. Rieley said he is not suggesting we treat them the same, just that we are operating within a practical framework.

Mr. Rooker asked when this would come back before the commission.

Ms. Echols replied September 18th.

Old Business

a. **SDP 01-044 Carlton Court Preliminary Site Plan –** Review of final site plan. (Francis MacCall)

Mr. Cilimberg stated that Mr. MacCall prepared this. We feel like we can take care of this administratively if you will allow it. We have suggested granting staff administrative approval of the final site plan, which would be the normal course. We can let you know at the time of

approval what was done. If you require it to come back, it is more costly and time consuming for the applicant.

Mr. Rooker pointed out that this was on the consent agenda before. The adjacent property owner asked it to be pulled for comment. If the neighboring property owner is comfortable with handling it by staff, that would be fine.

Mr. Thomas said he is all for it. He thought the adjacent owner was close to being satisfied that night.

Mr. Finley moved enable approval of the final site plan to be handled administratively.

Mr. Craddock seconded the motion, which passed unanimously.

With 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.