March 26, 2002

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, March 26, 2002 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Those members attending were Jared Loewenstein, Chairman; William Rieley, Vice-Chairman; William Finley, Rodney Thomas; Pete Craddock; and Bill Edgerton. Absent from the meeting was Tracey Hopper.

Other officials present were Greg Kamptner, Assistant County Attorney; David Benish, Chief of Community Development; Yadira Amarante, Planner; Steven Biel, Planner; Elaine Echols, Principal Planner; Scott Clark, Planner; Margaret Doherty, Principal Planner; and Michael Barnes, Planner.

***Other Matters Not Listed on the Agenda from the Public***

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

***Consent Agenda:***

Since there were no items, the meeting proceeded.

***Review of Board of Supervisors Meeting – March 20, 2002***

Mr. Cilimberg reviewed the Board of Supervisors actions for March 20, 2002.

***Items Requesting Deferral:***

**SP-01-065 Mosby Mountain Stream Crossing -** Request for special use permit to allow for earthen fill and bridge/culvert crossing in the floodplain, per Sections 30.3.05.2.1 and 30.3.6.1 of the Zoning Ordinance. The property is zoned R1 (Residential with a density of 1du/acre) and FH (Flood Hazard Overlay District) and is described as Tax Map 90, Parcel 1B. The property is located in the Samuel Miller Magisterial District on State Route 631 (Old Lynchburg Road) across from Southwood Estates Mobile Home Park. The Comprehensive Plan designates this property for Rural Area and Neighborhood Density (3-6 du/acre) uses in Rural Area 4. (Yadira Amarante) ***DEFERRED FROM THE MARCH 19, PLANNING COMMISSION MEETING.***

Ms. Amarante presented the staff report as attached.

**SPEAKER FOR REQUEST:**
Frank Cox, of the Cox Co, stated that they were representing the applicant, Evergreen Land Company, for the special use permit. Over the last three or four months, they have worked with staff to bring this application to this point. They feel it is consistent with prior approvals for similar types of proposals. The Planning Commission has not reviewed this in the context of the by-right preliminary plan submitted. To that end, he would be happy to answer any questions about this particular application or the preliminary plan currently before the staff.

Mr. Loewenstein invited public comment. There being none, the public hearing was closed and the matter before the Board.

**MOTION:**
Mr. Finley moved for approval of SP-01-065, for Mosby Mountain Stream Crossing, with the conditions recommended by staff.

Mr. Thomas seconded the motion, which was unanimously approved with the following conditions:

1. Albemarle County Engineering Department and VDOT approval of final grading plans and bridge and road plans and computations;
2. Albemarle County Engineering Department approval of an Erosion and Sediment Control Plan to include stabilization of fill;
3. Albemarle County Engineering Department approval of mitigation plans for disturbance of the stream buffer;
4. The CON/SPAN bridge system must be installed per manufacturer's specifications.
5. The final subdivision plat should reflect any changes to the floodplain and floodway limits, and the applicant must provide computations supporting any such changes, as well as copies of the correspondence demonstrating FEMA approval of the revised floodplain or no changes in flood plain levels can occur.
6. In an effort to minimize environmental degradation, no soil shall be removed from the stream to compensate for any fill.

**SP-2001-033 Bethel Baptist (Sign #34 & 35)** - Request for a special use permit to allow the construction of a 6,944 square foot expansion for a church sanctuary, classroom and fellowship hall, in accordance with Section 10.2.2.35 of the Zoning Ordinance which allows for church uses in the Rural Areas. The subject parcel, described as Tax Map 21, Parcel 25, contains approximately 3.004 acres zoned RA. This site is located just east of Route 29 North at the intersection of Burnley Station Road (State Route 641) and Watts Passage (State Route 600). The property lies within the Rivanna Magisterial District in the area designated as Rural Areas 2 by the Comprehensive Plan. (Steven Biel) ***DEFERRED FROM THE FEBRUARY 26, 2002 PLANNING COMMISSION MEETING.***

Mr. Biel presented the staff report as attached.

**SPEAKER FOR REQUEST:**

Mr. William M. Verebely, Jr., of Verebely and Associates Architects of Chesapeake, Virginia, represented the application.

Mr. Loewenstein asked if it would be easy for them to obtain the certificate of occupancy to use those sheds as temporary classrooms without doing a lot of work to the structures.

Mr. Biel noted that the Building Code Department would make an inspection.

Mr. Thomas asked if they were looking at a special use permit in order to get the applicant into compliance.

Mr. Biel stated that they have come into compliance on some of the citations. They have reinstalled some landscaping and taken care of some of the lighting shields. The sheds are not in compliance.

Mr. Benish pointed out that they were proposing to temporarily continue to use the sheds and then take them into a use that does not require a special use permit. That is still an outstanding violation that will be remedied through the conditions of the special use permit that permits that temporary use. Once the church is complete, that use will cease. Otherwise, we need a special use permit.

Mr. Thomas noted on the top of page 2 it says that violations numbered two through four have been addressed to the satisfaction of the Zoning Department. It further says that the conditions will be addressed when the site plan is approved.

Mr. Loewenstein asked if the current physical state of the buildings represent any kind of detriment or concern. Obviously, the sheds will have to be brought up to some standard. If they approve this, they need to make sure that is going to be done properly. The condition of the sheds is important because there are children involved.

Mr. Biel stated that the sheds would be inspected before the issuance of the certificate of occupancy.

Mr. Finley asked about the site plan since he had mentioned a site plan waiver, and Mr. Biel pointed out that the site plan waiver was withdrawn, but the site plan is forthcoming.

Mr. Rieley pointed out that the preliminary site plan is incomplete because there is no topography displayed.

Mr. Biel stated that the architect is working on the topography. This is more of a concept plan. They probably used the site plan from the previous special use permit.

Mr. Rieley asked if the property was close enough to Route 29 to require review by the Architectural Review Board.

Mr. Biel stated no, because the Architectural Review Board's comments stated that this property is about 500 feet outside of their area of review.

Mr. Rieley asked if the elevations of the proposed building have been submitted.

Mr. Biel stated that no elevations have been received, but should be submitted with the site plan.

Mr. Rieley asked if anyone from the Engineering Department was present to talk about the BMP, and Mr. Biel responded that he did not believe so.

Mr. Craddock asked if there is a time limit once this gets approved to when they have to do construction.

Mr. Kamptner stated yes, that it is two years, but the Board has the ability to extend that time.

Mr. Biel pointed out that was brought to the attention of the applicant and they did not want to apply for a waiver to it.

Mr. Loewenstein asked for additional questions for staff. There being none, he asked for comments from the public.

**SPEAKER FOR REQUEST:**

William Verebely, Jr., of Verebely and Associates Architects in Chesapeake, Virginia, stated that he represented the applicant. He noted that they agree with staff's recommendations. Pastor Lamb is also present. They were present to answer any questions.

Mr. Rieley pointed out that a rectangular BMP structure is shown to the east of the church. There are some proposed contours, but no existing contours. He questioned the origin of this information.

Mr. Verebely stated that the civil engineer developed a pond that could be moved around when they got the final topo. A local surveyor did that work this past week. He had just received a copy of that which will be revised and shown on the final site plan.

Mr. Rieley asked if he had been in consultation with the Engineering Department and the Water Resources Manager about the configuration shown on this plan.

Mr. Verebely stated that he had not, but his civil engineer may have.

Mr. Rieley noted that he was particularly interested in the elevation of the rooflines.

Mr. Verebely noted that he would check his files.

Mr. Rieley asked how often they meet at night in regards to the lighting concerns.

Wendell Lamb, Pastor of Bethel Baptist Church, stated that there was a Sunday and Wednesday night service at 7:00 p.m.

Mr. Verebely stated that he did not bring the elevations with him this evening.

Mr. Rieley asked if the lighting fixtures are shown on this plan.

Mr. Lamb stated that the lighting fixtures are not shown on this plan, but would be noted on the final site plan.

Mr. Loewestein asked for further public comment. There being none, the public hearing was closed.

Mr. Loewenstein suggested a condition that says explicitly that we would like to see the final site plan.

Mr. Edgerton noted that it is difficult to follow staff's recommendation for approval based on the history of this applicant. The history of the applicant is quite lengthy as far as noncompliance. He was troubled about after the fact they might be approving something that probably would not have been approved initially. He requested that they require the elevations and the final site plan. He noted concern with the comments about the impoundment area that apparently was just a volume that has been calculated for this site. Without any contours, it is difficult to see if that would even fit where they were talking about. It may belong on the northeast corner of the property for all they know. Then in that case, it would not fit. If the lighting is an issue and we see no lighting plans, how can we address the concern? Since this is a concept plan, he did not feel they should be in a hurry to approve it based on the past performance of the applicant. He asked for more information.

Mr. Rieley concurred with Mr. Edgerton's comments. The configuration of the BMP is one that certainly should change. He noted concern about the massing of the building relative to the existing building. If this were in the preview of the Architectural Review Board, it would not be in ours. This certainly falls within the realm of things that should be considered as part of the special use permit. Because this is in a rural setting surrounded by rural residences, the actual design of the lighting is a consideration. We will have a lot more flexibility in dealing with these conditions at the special use permit level than at the site plan level.

Mr. Finley suggested deferring the request in order to get the information.

Mr. Rieley suggested that the applicant defer this unless the clock has run out on our part

Mr. Benish pointed out that staff would have to calculate that time.

Mr. Loewenstein noted concern in how they deal with the buildings being used that are in noncompliance. That will be a problem during this interim. If they defer this, they do not actually address that. He presumed that the Zoning Department would have to handle that.

Mr. Kamptner pointed out that condition number seven requires that the site plan must be approved and the Certificate of Occupancy issued before the sheds are used as temporary classrooms.

Mr. Thomas stated that use has ceased.

Pastor Lamb asked if he could address the violations.

Mr. Loewenstein stated that he could. He noted that the public hearing has been closed, but they usually give the applicant a chance at the end to respond.

Pastor Lamb stated that one violation was that they planted a screen of trees since 15 of those trees had died. Therefore, Snow's Nursery replaced the trees that corrected the violation. The other violation was that there was about a four-inch addition that needed to be added to the two lights in the parking lot so it gives a downward cast. They added the four-inch shields around those lights. The other violation was that there were three trees shown on the plan and the trees are not there. They were big old Oak trees. The wind took all three Oak trees down because they were hollow. They had to remove those trees. The other violation was the storage sheds. Permits were obtained to build the storage sheds. They used them three Sundays for a 45-minute class. Then they said that we could not use them for classrooms. After being told not to use the sheds, they have not used them since. The land right behind the church is a parking lot that is not ample to carry the people as such. They opened the gate and parked in the field that belongs to the church. The other violation deals with being told that we can not park in the field. Therefore, they fenced that off and no longer park in the field. All of those minor violations have been addressed and they conform to what the County has asked for.

Mr. Rieley asked how the existing sanctuary building would be used after the construction of the new building.

Pastor Lamb stated that the existing sanctuary building would continue to be used for a Junior church, small weddings and ladies meetings. He noted that they wanted to keep the existing building with no changes to it.

Mr. Loewenstein stated that condition number seven says that the site plan will have to be approved before these buildings can be used as temporary classrooms. In addition, the certificate of occupancy will be required.

Mr. Thomas asked if they could require that the site plan come back to us.

Mr. Kamptner suggested that they make it a condition of the special use permit because the criteria for calling a final site plan does not otherwise appear.

Mr. Rieley preferred seeing the site plan before they passed the special use permit. Once they approve the special use permit, they have very little authority to deal with matters such as the location of the storm water detention pond, lights, etc. Based on the topography, not shown on the plan, the storm water detention pond is only 10 feet from the neighbor's property line.

Mr. Loewenstein asked if the applicant is willing to take a voluntary deferral or ask to accept a deferral until a plan is submitted.

Mr. Verebely stated that they would be willing to take a deferral.

Mr. Loewenstein asked staff to provide a period for the deferral.

Mr. Benish noted that would partially depend on their ability to bring back that information.

Mr. Verebely stated that he had just received the topo information this evening and was not sure they could have it ready for the next meeting.

Mr. Benish stated that if they could take action later this evening, then he would go and check the schedule.

Mr. Loewenstein stated that based on David's suggestion, they would withhold action until later in the meeting after staff comes up with a date. Then the applicant could request a deferral based on a specific date.

Mr. Verebely agreed to his suggestion.

Mr. Loewenstein stated that the Board would defer action on the request until later in the meeting, so that staff could come up with a specific meeting date.

**CPA- 01-03 Rivanna Village at Glenmore.** The proposed amendment would modify the Land Use Plan element of the Comprehensive Plan by revising the following information for the Village of Rivanna: updating population and housing information, providing new headings for the recommended elements of the plan, recommending improvements to Route 250 East, and recommending mass transit to the Village. The proposed amendment would also change the land use designation for Tax Map Parcels 80-50, 93A1-1, 93A1-2, 93A1-3, and 93A1-4 from Neighborhood Density residential (which allows for 3 – 6 dwellings per acre) to Community Service which would allow commercial uses and residential density of 6 – 34 dwellings per acre. The proposed amendment would provide specific guidance for the area designated Community Service by recommending that a neo-traditional street system, a "main street" with retail and office buildings, a variety of housing types, offices, and commercial use not in excess of 240,000 square feet be provided. The amendment would also allow for civic buildings including schools, churches, and community centers to be included in the area designated as Community Service. The amendment would require mass, scale, and architectural detailing of buildings that provide for a "human scale" and supports pedestrians, a well-integrated pedestrian system, including sidewalks and paths, and interconnections within the Community Service Area as well as to the rest of the Village. The amendment would recommend that development be sensitive to the location within Monticello's viewshed and that parking is minimized, buffered, shielded from nearby and adjoining properties. Finally, the amendment would allow for property formerly proffered for a school site on Tax Map Parcel 93A-4to be substituted for provision of other needed public facilities within the area shown as Community Service. (Elaine Echols)

Mr. Craddock excused himself from this discussion, as he was President of the Board of East Rivanna.

Ms. Echols stated that there really was not much of a staff report, but that she had made the few minor changes they had suggested. She noted that they have a clean copy. The applicants have a number of displays. If the Board feels like they need them, then we can have them put up. Otherwise, the information posted behind Mr. Kamptner is the information that you have seen all along.

Mr. Rieley stated for clarification, at various work sessions they have been talking about various aspects of a very specific site development plan. That is not referred to in this document. Do you feel that would be more appropriately dealt with at the rezoning level rather than the CPA level?

Ms. Echols pointed out that a reference was made in the staff report to some pages in a previous staff report. Some of the pages out of the larger book did not get in with this staff report. That is a very good point. There is a plan that should be referenced in this comprehensive plan, but the copies from the last version that you had are the illustrations. She noted that she could pull them out and let him see them.

Mr. Thomas stated that he had his copy.

Mr. Rieley asked how they deal with the proximity to the neighboring property, stream, etc. in that area. The Commission had discussed and agreed that some adjustment was required in that area.

Ms. Echols stated that some comments had been noted from the first meeting. On page 11 of the marked up copy, it says that the development should have buffered and screened parking from neighboring residential properties in areas as shown as neighborhood density using a combination of techniques including landscaping, screening, fencing and berming. That is in the last bullet.

Mr. Rieley stated that was not what he thought they talked about.

Ms. Echols noted that there should be a bullet on page 11. The bullet says, "should be developed in a way that minimizes adverse impacts on residential properties adjoining the community service area by preserving the mature vegetation having residences adjoining residential property. Use of screening and berming and use of wide buffer strips." She asked if that was more akin to what he was referring. She noted that page five does have the bullet on the clean copy.

Mr. Loewenstein asked if there were any other questions for staff. If not, he opened CPA-01-03 to ask if the applicant wishes to make a statement.

**Speaker for Request:**
Frank Cox ,of Cox Company, stated that he was representing the applicant and would be happy to answer any questions. He noted in response to Mr. Rieley's concerns, that the applicants intend to move forward to design concepts to bring forth during the rezoning, but before submitting a preliminary plan. The design concepts can be tested relative to meeting your expectation regarding how best to buffer those adjoining properties to the north. He noted that was one of the obstacles that they needed to spend a little time. The concept plan that they marked up by hand and included in you last time package just showed a target area as to where they anticipate having to spend time on the design tables.

Mr. Thomas asked if they would be accepting comments from the neighbors, particularly MacGruder.

Mr. Cox noted they have pledged at least to one neighbor to get them involved in the process.

Mr. Loewenstein asked for public comment. There being none, the public hearing was closed and the matter before the Commission.

Mr. Edgerton stated that they have spent a great deal of time discussing the buffering aspects. One of the suggested changes, which was reflected in this language, has to do with minimizing impacts not only by preserving some of the vegetation using other types of buffering and screening, but also by replacing parking with residential. Protecting the adjoining neighbors as much as possible is a fundamental part of what they would like to see done.

Mr. Rieley agreed that the bottom line of their conversation was for more residential in that area and doing everything they could to minimize the amount of parking so we're not pushing the boundaries quite so much to begin with.

**Motion:**
Mr. Rieley moved to recommend approval of CPA-01-03, Rivanna Village at Glenmore, to the Board of Supervisors as amended by staff (correction of typographical errors).

**Second:**
Mr. Finley seconded the motion, which was approved (4:0). (Craddock abstained)

Ms. Echols pointed out that this goes to the Board of Supervisors for a work session next Wednesday.

**CPA- 02- 01 Neighborhood Model Amendments to the Land Use Plan**. The proposed amendment would amend the Land Use Plan element of the Comprehensive Plan by revising the words describing the growth management policy, modifying the focus of the goals for development in the Development Areas from promoting the segregation of uses and neighborhoods to goals that are consistent with traditional neighborhood development, as reflected in the Neighborhood Model adopted by the Albemarle County Board of Supervisors on May 16, 2001, and by amending the guidelines and standards for design and uses in each of the land use designations within the Development Areas. The proposed amendment would also make corresponding changes to other provisions of the Comprehensive Plan as a result of the revisions described above." (Elaine Echols) ***DEFERRED FROM THE MARCH 5, PLANNING COMMISSION MEETING.***

Ms. Echols stated that there was no new staff report, but the changes had been made as recommended. Again, the Board has the marked up copy and the clean copy. She noted that they got one set of comments that you received at the Commission hearing that they have looked at and tried to use in making modifications. It included some of the comments made by Mr.Worrell. Staff has accommodated those as best as they can in this particular version. The County Attorney has given some new references to the State Code that will be included.

Mr. Loewenstein asked if there were general areas that the Commissioners would like to comment on or ask staff about. He pointed out that staff has done a good job on this.

Mr. Rieley stated that they had talked in great length dealing with the Rural Areas section of the Comprehensive Plan about not giving agricultural and forestry priority over conservation and preservation, and yet it is done in this section. That is on page 5. He asked if they could make those more consistent.

Mr. Benish pointed out that they can, but they have not gotten to the amendment to the Rural Areas. He noted that the changes would be made when they have the Rural Areas discussion and make the changes to the Comprenhensive Plan. This discussion is on the calendar for the end of April. They will go back and make changes.

Mr. Rieley asked that they to put an asterisk beside that with a note subject to changes.

Mr. Finley asked that on the bottom of Page seven, that the first half of the following sentence should be dropped: "A lower level of service delivery will be provided to the Rural Areas and those persons living in the Rural Areas should not anticipate levels of service delivery equal to services provided in the Development Areas." The previous sentence clarifies that issue."

Mr. Rieley stated that language as written is a part of the proposed language approved for Rural Area/

Mr. Thomas asked that lower be changed to lesser.

Mr. Benish noted that staff would go back and review any language change that does not alter the intent during the Rural Areas discussion.

Mr. Finley pointed out that on Page 14 under principles, the last sentence, first paragraph, “Some people will experience more significant change than others and will find . . . “ is a little unclear.

Mr. Benish noted that the words, “may not necessarily be bad:” was a subjective statement and could be taken it out.

Mr. Craddock noted that on Page 18, item 6, there was a typo, “designated village development areas . . . “. That should be removed.

Mr. Loewenstein invited public comment

**SPEAKER:**
Valerie Long made one comment concerning the specific descriptions for the properties that were designated for Office and Regional Service. As you are aware, the application coming up later this evening for Martha Jefferson Hospital is property designated for Office and Regional Service. In fact, this is probably the only property in the County with such designation. They have a couple of questions about the last item on the list on Page 33 of the staff report. That references the proportion of residential to nonresidential uses that should be at least 20 percent.

Mr. Rieley noted that was Page 31 in the new copy.

Ms. Long stated concerning this issue, perhaps focusing on the Comprehensive Plan issues connected with this property would be more appropriately discussed later this evening. We would ask that you consider this issue at that time. They have some questions about where that figure came from and how it is interpreted. Is it based on the acreage of the park, the square footage, or the gross floor area of development? As you are aware, the existing approved land use application plan for this property does include residential uses. It comprises 16 acres out of 242 acres of the park. She pointed out that there are some issues that would be more appropriately discussed later this evening.

Mr. Loewenstein closed the public hearing and asked for comments from the Commission. In regards to what Ms. Long just said, he asked if there was a way to qualify that somewhere along the lines of the first bullet. He asked for comments.

Mr. Edgerton noted that Ms. Long's question is one that continues to bother him. The percentages that they have identified in the report are targets and they have been trying to figure this out. There has to be a starting point somewhere. He asked how they would establish a target without hanging themselves in a corner. In the coming years, they would be trying to apply this structure to the County. He questioned how tight these percentages would be. He asked how they could structure this so that the intent will work without locking themselves in.

Mr. Loewenstein suggested that they try to strike a balance by having a little flexibility to cite something that is specific enough to make it a genuine guideline that can be used reliably by applicants.

Mr. Rieley stated that it was a good point. The use of the subjunctive should be at 20 percent, which he felt helps. But how that is calculated is important.

Ms. Echols noted that it should say square footage.

Mr. Loewenstein noted that the last bullet on Page 31 should be modified to reflect "square footage" rather than "uses."

**Motion:**
Mr. Thomas moved to recommend approval of CPA-02-01 with the requested changes as discussed.

**Second:**
Mr. Rieley seconded the motion.

The motion carried unanimously with the following Neighborhood Model changes:
1) Page 5; Note that the Introduction will be changing with upcoming changes to the Comprehensive Plan relating to the Rural Areas.
2) Page 7, Modify the sentence, "A lower level of service delivery will be provided to the Rural Areas and those persons living in the Rural Areas should not anticipate levels of service delivery equal to

services provided in the Development Areas" to remove the first half of the sentence since the sentence before clarifies that issue.
3) Page 14; Remove the words in the first paragraph, "may not be necessarily bad, and in fact"
4) Page 31; modify the last bullet under Office/Regional Service to reflect "square footage" rather than "uses".

Mr. Cilimberg noted that the last two items would be work sessions before the Board of Supervisors next Wednesday, April 3rd f.

**SP-2001-033 Bethel Baptist Church**

Mr. Benish noted that staff has a date set for Bethel Baptist Church.

Mr. Loewenstein asked that they revisit the matter on Bethel Baptist Church

Mr. Benish stated that the best target date for deferral is April 30th.

Mr. Loewenstein asked if that date was acceptable to the applicant, and Mr. Verebely stated that it was.

**Motion:**
Mr. Rieley moved to accept the applicant's request for deferral to April 30 for SP-2001-033.

**Second:**
Mr. Craddock seconded the motion, which carried unanimously.

Mr. Loewenstein stated that this matter would be heard again on April 30.

**Sugar Hollow Agricultural/Forestal District Addition –** Request to add one parcel to an Agricultural-Forestal District in accordance with Chapter 3 Section 203 of the Albemarle County Code, which allows for additions of land to districts. The property, described as Tax Map 40 Parcel 12B1, contains 15.367 acres, and is located in the White Hall Magisterial District on Route 811, approximately 0.3 miles west of its intersection with Route 810. The property is zoned RA Rural Areas. The Comprehensive Plan designates this property as Rural Area. (Scott Clark)

**Sugar Hollow Agricultural/Forestal District Addition –** Request to add one parcel to an Agricultural-Forestal District in accordance with Chapter 3 Section 203 of the Albemarle County Code, which allows for additions of land to districts. The property, described as Tax Map 40 Parcel 46C1, contains 9.93 acres, and is located in the White Hall Magisterial District on Route 811, approximately 1 mile east of its intersection with Route 810. The property is zoned RA Rural Areas. The Comprehensive Plan designates this property as Rural Area. (Scott Clark)

Mr. Clark stated that the requests would be presented together. He presented the staff reports as attached. He noted that there are two additions noted in the handout of parcels divided out of a parent parcel already in the district.

Mr. Rieley asked what regulations apply for parcel 46C1 because the parcel was outside of the contiguous boundary of the district.

Mr. Clark noted that the Code says it has to be within one mile

Mr. Loewenstein opened the public hearing. As there was no comment, the public hearing was closed and the matter before the Commission. He asked if they need one or two motions.

Mr. Kamptner asked that they take each item separately.

**MOTION:**
Mr. Finley moved for approval of the Sugar Hollow Agricultural/Forestal District Addition for tax map 40, parcel 12B1.

**SECOND:**
Mr. Rieley seconded the motion, which carried unanimously.

**MOTION:**
Mr. Thomas moved for approval of the Sugar Hollow Agricultural/Forestal District Addition for tax map 40, parcel 46C1.

**SECOND:**
Mr. Edgerton seconded the motion, which carried unanimously.

Mr. Loewenstein stated that the requests would go before the Board of Supervisors on April 4.

**SDP 2001-078 Collegiate Hall Apartments Preliminary Site Plan –** Request for Preliminary Site Plan approval for a 280 unit multi-family residential development (10 buildings with 28 units per unit). This development proposes 756 bedrooms that will be individually leased. The property, described as Tax Map 76, Parcels 28, 44 and 44A, is located in the Samuel Miller Magisterial District on the east side of Sunset Avenue adjacent to Moores Creek which is also the City/County boundary. The property consists of approximately 46.4 acres and is zoned R-15, Residential. The Comprehensive Plan designates this area as Urban Density Residential (6.01-34 dwelling units per acre) in Neighborhood 5. (Margaret Doherty)

Due to Ms. Doherty's illness, Mr. Benish presented the staff report as attached:

Mr. Loewenstein stated that he did not see anywhere in the report that there was an explicit recommendation by staff. He asked if staff was recommending approval.

Mr. Cilimberg stated that they were recommending approval.

Mr. Finley asked if all of the conditions a through e was for the final site plan.

Mr. Cilimberg stated that conditions one through four would be met with the final site plan.

Mr. Loewenstein asked if there were questions for Mr. Benish.

Mr. Rieley stated that they were in the process of trying to rework our ordinances to make them more compatible with the Neighborhood Model. They have seen higher density zoned properties like this one project. To what degree do you think that the changes that we will be making in the Zoning Ordinances will influence a piece of property like this with old zoning already in place?

Mr. Benish stated that they hope that the ordinance was structured in a way under by-right development that it sets the standard for the expectation of what the Neighborhood Model wants to achieve. So even under old zoning, if the ordinance were updated in a manner and time before the site plan review process, then they would hope that by-right development would look like the type of development that they wanted to see. The magic of drafting that ordinance was to articulate the right the wording in a way to provide the appropriate standards to set a strong expectation, but the flexibility to deal with the strengths of the site.

Mr. Cilimberg stated that a couple of things were currently being working on. One of those is parking requirements, which certainly with some change, would have some influence on the amount of parking required. The other one has to deal with the critical slope provisions. This is a significant overhaul that they were trying to work through with the Engineering Department in how to better address the true emphasis of the critical slopes and the relationship of critical slopes particularly to critical environmental features that have been identified in the open space plan, stream, valleys and such. Work has not begun on some of the more specific changes within each of the conventional districts. In actuality, we projected into the implementation schedule that work would not begin until later this spring. The Board of Supervisors reviewed that implementation schedule last year. The degree to which that might change these projects in a significant way is to be seen out of the work that we will be doing. Obviously, what was recommended out of DISK has some changes that deal with things that are standard in the ordinance and have been there for some time. He noted that he could not tell you how it might change this project around. The twelve principles of the Neighborhood Model need to be reflected through those ordinance changes. For example, building with the terrain.

Mr. Rieley questioned the area of relegated parking.

Mr. Cilimberg noted that it was where you place buildings, which will be addressed. He pointed out that he was sure that they would have impact on how conventional development is done. He pointed out that he could not give a preview because the work had not been started.

Mr. Craddock asked if this was outside of the Neighborhood B.

Mr. Benish noted that this property would be just outside or on the border. The East Side of Sunset is outside of the area. In that study process, they will look at some issues that that go outside of the boundary. This would probably not be for land use issues, but probably transportation issues.

Mr. Craddock asked if they had any comments from the City or the University.

Mr. Benish stated that the City has been aware of this. They have had some discussion and discussions specific to this project and other projects in that area. The decision to update that existing Area B study and look at the transportation issue. They have had an opportunity to look at it and comment on it.

Mr. Rieley asked if this project would be reviewed by the ARB.

Mr. Cilimberg stated that it would require ARB approval.

Mr. Loewenstein opened the public hearing and asked for comments.

**SPEAKER FOR REQUEST:**
Steve Blaine, representative for Collegiate Hall Properties, asked to address one of the points in the recommended action. They understand that they were here for the three waiver requests. The recommended action provision of the staff report contains a number of items that they would expect to see required for a final site plan. He asked that it be clarified that is what they intend to address. One particular item 1b) that indicates the revised plan would show a portion of the property to be dedicated as a permanent easement for a park if the parks department agrees. He noted that they would like to continue discussions with the County about uses for that property that might include a park, but the applicant has not agreed to dedicate the area for a park. He suggested that to be deleted in its entirety or at lease modified after the word park place if any. He noted that they understand if there is a park dedicated or as we have agreed to dedicate the greenway shown on the final site plan. That is an acceptable condition. He asked that the one change be made. Other persons present to speak for the request includes: the project engineer, Mr. James Covington, of Dewberry and Davis, and the principal for the applicant, Mr. Russ Davis.

Mr. Cilimberg noted as a point of clarification, because this was requested for review by you, the full site plan is before you including the waivers. Therefore, these are conditions of approval for the full site plan inclusive of the waivers. He suggested that 1b) be reworded so to make it clear that the dedication of the park had to be agreed upon by the Parks Department and the applicant. He noted that this is not a requirement of a typical site plan in a typical case. This was included because Margaret had understood that it might be offered and wanted to make sure that it got onto the plan.

Mr. Loewenstein noted that if an easement were going to be dedicated, wouldn't it get on the final plan regardless?

Mr. Cilimberg stated that it would. He noted that it could be removed all together.

Mr. Loewenstein opened the public hearing and invited public comment.

Craig Vander Castle stated that he lived in the County and was curious about the visibility of this from Interstate 64. This is a huge amount of grading and land clearance. He noted it was unclear where the critical slopes and the two acres that they would be disturbing are located. Generally if their site plan layout requires critical slope displacement on two acres that leads to a diminished view from Interstate 64, he did not feel that was a reasonable request.

Mr. Cilimberg noted that the parcel was not adjacent to Interstate 64. He asked to correct the record because Mr. Rieley asked that question. He stated that this was outside of the Entrance Corridor Review.

Mr. Loewenstein asked for additional comments from the public. There being none, the public hearing was closed and the matter before the Commission.

Mr. Rieley noted that Mr. Vander Castle raised a legitimate issue. As discussed earlier, this is a plan that is requesting special permission for disturbance of critical slopes in order to achieve this form of development. None of the criteria that they must satisfy themselves of before they have the option of approving critical slopes. They have to make the determination that the critical slope disturbance does not negatively influence the aesthetic resources of the site. He noted that it would be very difficult for him to support a critical slope waiver. Since this is highly visible, it will negatively affect the area.

Mr. Loewenstein asked if Mr. Blaine wished to give a rebuttal.

Mr. Blaine stated that the site is approximately 3,400 feet from Interstate 64 and is downgrade from it. There is a prominent project to the south of this project, which is visible. You cannot see this site from Interstate 64. The parking ordinance, as they originally interpret it, would have permitted 250 fewer parking spaces, which would have gone a long way to alleviating the critical slope issue altogether. The Zoning staff took a position that they were required to do 1½ spaces for each bedroom in excess of over 1,000 parking spaces. He noted it was their preference to do fewer parking spaces.

Mr. Rieley asked if they had any better information to verify Mr. Blaine's recollection that this is not visible from interstate 64.

Mr. Loewenstein stated that 3,400 feet seems to be quite a distance.

Mr. Benish stated that page nine and ten will show you the grading. The shaded area indicates the location of the finished grades.

Mr. James Covington, Engineer with Dewberry & Davis, pointed out that the critical slopes that are impacted are in the middle of the site. There is roughly two acres of impact located in the middle of the

site. However, one-tenth of an acre is only impacted along Moore's Creek and outside of the 100-foot stream buffer to Moore's creek. There is minimal impact.

Mr. Thomas asked if there was still a 100-foot buffer between the disturbed area and the creek.

Mr. Covington stated that was correct because actually the 100-foot buffer was not impacted at all. Beyond that buffer area, there are areas that are not being impacted as well. Some of that is due to staying out of the floodplain with the proposed construction.

Mr. Rieley asked if staff has made any analysis of the visibility of the site.

Mr. Cilimberg stated that the color attachment on page 14 displays the open space plan, which includes the topo. If you look at Route 781 as it goes north from I-64 on that map, you will see a high point of 586 feet. That 586 feet is at the southern tip of this parcel. The parcel generally is down slope away from I-64 from that point to Moore's Creek in a northwesterly direction. As you would be traveling I-64 coming from the East, you will see the very eastern side of the site for some short distance that is on the north side of the 586 point. Traveling from the west, this property would not be visible until you look up at Route 781. That is where you would see a part of the parcel at that point. Route 781 seems to be coming through a low point in that topography. There is a hill to the west of Route 781 on the north side of I-64 that you would see first coming from the west. You would have a view up Route 781 towards the City and probably see part of this parcel, but you would quickly lose that view. There are probably a couple spots, one from the east and one from the west, that you might see the property. It would appear that it would be of a short duration as you travel I-64. He noted that he had not been out there to take that kind of view of the property.

Mr. Rieley stated that it probably is visible for an area of about 1,000 feet as you are traveling, which is one-quarter of a mile for about 15 seconds. He stated that a substantial part of the parcel would be seen. He asked that they explore one more issue that Mr. Blaine raised. An important issue, which they have talked about a lot in here is requiring more parking than anybody wants to put in to serve their own development. It does not serve anybody's interest, particularly in a self-contained project such as this. If there is difficulty finding a place to park, it is not likely to impact adjacent properties to the degree it would in another location. He noted that the Zoning Administrator calculates the parking requirements. He asked what flexibility they had to work with the developer to decrease the amount of parking. It would appear to affect the critical slopes, the pervious area and all kinds other things and might lead to a more sensitive site plan and save the developer money.

Mr. Cilimberg deferred the question to Mr. Kamptner pointing out that the Commission could ask the Zoning Administrator to review the parking requirements.

Mr. Edgerton asked if the applicant had offered to provide some type of shuffle service to the University.

Mr. Cilimberg stated that was correct.

Mr. Kamptner stated that the new parking recommendations will allow the Zoning Administrator to reduce the required parking if there is mass transit available.

Mr. Edgerton asked if the shuttle service would qualify.

Mr. Kamptner stated that it probably would. The applicant would need to present a parking study demonstrating the amount to which reduction could be granted. The Zoning Administrator would have the authority to do that. Under the current regulations, that kind of flexibility does not exist.

Mr. Thomas asked if the landlord would have to restrict the number of cars per lease.

Mr. Edgerton stated that it would be one car per bedroom instead of one and a half per bedroom.

Mr. Kamptner stated that the number of required parking spaces assigned to multi family dwellings will change, although in some cases for larger multi-family dwellings there will actually be more than the current two.

Mr. Rieley stated that the new provisions will allow this flexibility, but it does not exist now.

Mr. Kamptner stated that is correct.

Mr. Benish noted that the Zoning Department was requiring 1.25 parking spaces. Each bedroom is leased and kind of functions as an independent facility although it is in a suite concept.

Mr. Rieley asked how the proposed density compares to the Comprehensive Plan target.

Mr. Cilimberg stated that this is Urban Density that recommends 6.01 to 34 dwelling units per acres. The zoning is R-15.

Mr. Benish stated that on the gross residential density on the site plan is six units per acre, but keep in mind that there is significant critical slopes.

Mr. Rieley noted that this density with the required amount of parking can only be achieved with disturbing critical slopes. He questioned if it was too much density for the site. Higher density would be permissible if the parking were reduced because there is an obvious connection between that and disturbance of critical slopes.

Mr. Loewenstein stated that there appears to be no relief for the parking.

Mr. Rieley asked what the schedule was for that proposed change.

Mr. Cilimberg noted that it was several months away from public hearing. Within the next month, they hoped to wrap the proposed amendments up and have a public meeting for a work session discussion. Then there will be a public hearing here and before the Board of Supervisors. That part of the process would take about three months. He asked if Jan Sprinkle who was with the Zoning Department had any comments about the parking requirements.

Mr. Loewenstein noted that page 18 shows the existing tree canopy that they are not going to have to grade. He asked if that is a realistic buffer and does it really exist?

Mr. Cilimberg stated that if they show that, then they have to keep it. On those two pages, it shows how the existing trees would be retained along Sunset Avenue as well as on Moore's Creek. There will be internal landscaping as well in the development area. They have to meet the tree canopy provisions under the ordinance.

Mr. Loewenstein asked if Ms. Jan Sprinkle had anything to share with the Commission.

Ms. Sprinkle stated that she had nothing to share. She had made a suggestion to the applicant, but he was not interested.

Mr. Thomas stated that the development is on the backside of the property. Would the canopy in front shield everything from I-64?

Mr. Rieley stated that it would be visible, but is hard to tell without the topography being shown. He felt that the buildings would be elevated above the tops of the trees.

Mr. Thomas pointed out that the developer of the other property is leaving all of the trees that he could up to where he was disturbing the property.

Mr. Loewenstein asked if someone would like to venture a solution that would lead to some type of action on this matter.

Mr. Thomas stated that the two problems were the critical slopes and the view form I-64.

Mr. Rieley pointed out that their only authority was related to the critical slopes.

Mr. Edgerton stated that if he looked at the significant critical slopes that were going to be disturbed on the southern part of the property, most of it was tied to the extension of this little finger pointed down. If the parking could be reduced, you could have the same density and the lower building could be moved up closer to the rest of the building. Then there would not be a critical slope issue. It would be more of a by right development since the existing zoning allows more units than are showing. The Urban Density from the Comprehensive Plan they are closer to the low end of the range. If they are committing to maintaining the existing canopy, it looks like they are trying to maintain as much as they can. They would have no control over another developer doing something on another person's site.

Mr. Rieley stated that as long as they do not disturb the critical slopes.

Mr. Edgerton stated that it appears like the applicant is working hard to minimize the impact on the critical slopes.

Mr. Loewenstein stated that it was a shame that we cannot lower the parking requirements.

Mr. Finley noted that the Engineering Department has review this and recommended approval.

Mr. Cilimberg pointed out that the only other thing they could do is build the units over some of the parking to reduce the area of coverage. That is a lot more expensive.

Mr. Loewenstein noted that our hands were tied on the parking. He felt uncomfortable with the critical slope issues; he thought that is connecting it from the parking, Mr. Edgerton has a point that it appears that they have tried to minimize the quantity of that. Under the circumstances involving the parking requirements, it seems that they have appeared to do that.

Mr. Loewenstein stated that the only discussion of changes to the conditions was the applicant's request to delete 1b.

**MOTION:**
Mr. Finley moved for approval of SDP 2001-078, Collegiate Hall Apartments Preliminary Site Plan, exclusive with all three waivers, with the amended conditions.

**SECOND:**
Mr. Thomas seconded the motion.

The motion was approved (5:1) (Rieley against) with the following conditions as amended:

The Planning Department shall not accept submittal of the final site plan for signature until a tentative final approval for the following conditions have been obtained. The final site plan shall not be signed until the following conditions have been met:

1) The following items must be reviewed and approved by the Planning Department before tentative approval of the final site plan can be granted:

   a) A revised plan which shows that portion of the property located within the 100' stream buffer along Moore's Creek to be dedicated as a permanent easement for a greenway;
   b) A revised plan which shows that portion of the property (southernmost portion of the property) shown the Open Space Map as *Major and Locally Important Stream Valley and Adjacent Critical Slopes* to remain undisturbed;
   c) A landscape plan meeting the requirements of Section 32.7.9; and
   d) An approved minor amendment to the Jefferson Ridge Final Site Plan, to allow the entrance on that property.

2) The following items must reviewed and approved by the Engineering Department before tentative approval of the final site plan can be granted:

   a) A stormwater management/BMP plan, computations, and maintenance agreement;
   b) An erosion and sediment control plan, narrative and computations;
   c) A stream buffer mitigation plan; and
   d) Road plans, which include the improvements to Sunset Ave. Extd. described in the letter from James Covington to Chuck Proctor, dated February 1, 2002, and the letter from Chuck Proctor to James Covington, dated March 14, 2002, provided as Attachment D.

3) The following items must be reviewed and approved by the Service Authority before tentative approval of the final site plan can be granted:

   a) Final approval of construction drawings for water and sewer extensions. These drawings (3 sets) shall be submitted directly to the Service Authority; and
   b) A master meter for the entire complex will not be permitted. Groups of buildings can be served by master meters.

4) Final tentative approval from the Department of Building Code and Zoning Services will be subject to the following conditions:

   a) Verify that adequate fireflow is available;
   b) Show the location of all outdoor lighting on the plan;
   c) Provide a description and photograph or diagram and show the location of each type of outdoor luminaire that emits 3,000 or more initial lumens. Please be aware that installation of such luminaires in the future that are not shown on this plan shall require an amendment to this plan;
   d) Include a photometric plan on the site plan demonstrating that parking area luminaires are in compliance with 4.17.4(b);
   e) All signs will require separate permits under 4.15 of the zoning ordinance; and
   f) Show the location of all proposed utility structures, including above ground fuel tanks, HVAC equipment and the like on the plan.

The Planning Commission recessed at 8:10 p.m. for a 10-minute break.

The meeting reconvened at 8:30 p.m.

Mr. Loewenstein stated that there are two work sessions tonight. The first work session is ZTA-01-06, Fill and Waste.

**ZTA-01-06 Fill & Waste** - Amend Section 5.1.28 Borrow, Fill, or Waste Areas of Chapter 18, Zoning, of the Albemarle County Code, to change the materials that may be placed in a fill and waste area from only soil and rock to inert waste including soil and rock, and other materials. (Michael Barnes)

Michael Barnes presented the staff report as attached.

Mr. Loewenstein opened the hearing for comments and questions from the Commissioners.

Mr. Rieley stated that on the top of page two, the last sentence, the first paragraph, "Other literature research proved inconclusive as to the environmental impacts of asphalt." He asked if he could tell them the range of literature that you used on this subject.

Mr. Barnes noted that the starting point for the research was with the State's regulations. He contacted the regional DEQ office and the state office and discussed this. He also called a few other contacts at the Chesapeake Bay Local Assistance Department. They found information on the WEB. The asphalt question depends on who you ask. If you ask an industry source, it tends to be relatively predictable. The other side of the coin you can have more environmental sites that tend to find more problems with it. It is hard to come down with a definitive source that says said one way or the other. Part of the reason that he said inclusive was that he did contact the State and tried to figure out exactly why they came up with the decision that they had. The State said that they got their information from the Federal government. It appeared to them that it had no impact. He pointed out that it was relatively inconclusive. Therefore, we also used another deductive with the asphalt question in that a large portion of our community is paved with roads of asphalt. The gentleman, who is responsible for writing the State regulations, stated that as asphalt cures and is weathered, the more harmful substances are either lost or bound to the chemical structure of the asphalt. So that in time it becomes a less toxic substance than it would be if you were putting fresh asphalt into a stream or something like that.

Mr. Loewenstein questioned how long and what process it would take for older asphalt that has absorbed a good deal of petroleum materials to bond.

Mr. Barnes pointed out that he did not have the actual scientific data to answer that. He referred the question to Mark Graham, County Engineer.

Mr. Cilimberg stated that Planning staff is only here to introduce the subject.

Mark Graham, Director of Engineering and Public Works, stated that that was a very good question because asphalt versus asphaltive pavement is what they were actually discussing. Asphalt in the liquid form, and you all have seen the tankard trucks running down the highway which have the placards on the side that indicate that there is a controlled material in there. It has potentially harmful volatile hydrocarbons in it. The asphalt pavement is cured. EPA is kind of in an awkward situation. Almost all of the roads in this Country are asphaltive pavement. If you think about the relative environmental risk of this material buried in the ground versus being on the surface where the rain will hit it and the runoff will go directly into the streams. Well being buried is obviously a lot lower environmental risk than what you have sitting out there on the roads. Therefore, they are caught because there is potentially some environmental risk with it, but it seems to be low. Everything degrades. We call it inert. Everything degrades; even granite if you give it enough geologic time degrades. Relatively speaking it is an inert material. Oil tends to bind to sediment. The thought seems to be even if it does tend to degrade slowly over 100 or 200 years, that oil still stays bound to sediment and that sediment is not moving within that soil that it is buried in.

Mr. Finley asked if any heat generated in the landfill would not affect that.

Mr. Graham noted that they were not talking about burying it in a landfill, although that is permitted. It is an unregulated material and can be buried in any municipal landfill where there is heat. However, where

we are talking about here is in waste areas where the material is inert already. All chemical reaction as far as the violates coming off the asphalt has happened long ago. It is a relatively inert material at that point.

Mr. Finley asked where this material would be buried.

Mr. Graham stated that they would allow it to be buried within an area where there is fill occurring for a construction site or a waste area which is allowed under the ordinance.
He stated that he was comfortable with this noting that nobody wants to come right out and say that there is no risk to it. However, everybody seems to be of the opinion that it is a low risk that goes with it. The State and the EPA are both just not willing to regulate it as material because of all of the questions that come up with all of the road that we are driving over everyday.

Mr. Rieley noted that their question was if it is better to allow asphalt to be used in fill by the public or to have it taken to a controlled landfill.

Mr. Graham pointed out that he was not seeing any significant difference.

Mr. Rieley asked that he try to answer a question that he received by email from somebody in his district. He noted that his concern was that we are essentially adopting State language for an inert material which is different than what we should be looking at for something to be put in a fill section. That it is two different things. That there is no reason to go by the State definition for inert materials when we are talking about fill in a construction area that is a different thing. He asked how he would respond to that.

Mr. Graham noted that the proposal was worded this way in case the State or the EPA decides five years from now that asphaltive pavement is an environmental risk and should not be disposed of except in controlled situations. Then, they would not need to come back with an ordinance revision since they would have already encompassed that. If the State and the EPA say that there is no health and safety issue, then it is somewhat hard for us to make a claim that there is a health and safety issue.

Mr. Kamptner asked if the State, EPA or DEQ stated this in writing.

Mr. Graham acknowledged that they have requested that they put this in writing since they have only given us a verbal statement that they will give us a letter to the effort, but he has not seen it. He was expecting a typical letter stating that under current regulation that it is considered an inert material and not permitted. He does not have anything in writing at this point.

Mr. Craddock asked a question about Page 3 under item number four that the Zoning Administrator is the responsible agent for dust and debris and that it proposed that the County Engineer would be. He asked what the real trigger is to what is too much dust and debris in respect to Pantops Mountain.

Mr. Graham noted that is also regulated under the Erosion Sediment Control requirements within the Water Protection Ordinance. Therefore, they are already regulating that. They did a stop work order on Pantops until they resolved the issues. That is just part of normal business for the Engineering Department. If the Police declares that it is a potential hazard to traffic, then they can shut them down immediately. They routinely require paved construction entrances with wash water. The State only requires a 12-foot by 70 foot-graveled strip to help knock the mud off. They have found that is not adequate.

Mr. Cilimberg noted that our plan would be based on any input the Commission provides that may necessitate changes to the Ordinance. This would then be to taken to public hearing within the next month.

Mr. Loewenstein questioned the statements at the end of the report on page five of the summary. The factors that are not addressed by this amendment are the long term effect of land filling of inert waste on a single site and the possibility of performing stream bank stabilization. It is very clear that this issue is beyond the scope of these two issues and the resolution of intent. He asked if they could add anything or any comment about those two matters. These items should be reviewed in some other way. He asked if they were suggesting that.

Mr. Barnes noted in large part that they have existing problems with sites that are potentially in violation of the Zoning Ordinance of materials that would be permissible under this Ordinance. One is trying to deal with that question. The focused discussion group who noted that there are some people use their site as the primary use of the property as the fill area. If that site becomes an area where you are constantly having trucks and noise, then that could become more of an issue than the regulations that they are proposing here. It may have to be dealt with a special use permit because it is the primary use of the property.

Mr. Cilimberg noted that within what they propose in the Ordinance provisions here is essentially number one would not be possible. He asked if that is correct on an independent site.

Mr. Graham stated that what they proposed there was a one year permitting with these types of activities. There are provisions in there that would allow that to be extended if someone had a particular large project. For example, like North Fork where they are going to put in all of the roads which would take them two years or longer. The decision would be project driven rather than permitting a landfill type of use on a particular property where it becomes the primary use. We did not see that as the function of Section 5.1.28.

Mr. Loewenstein noted that it sounds like it is outside of the scope of this particular amendment. Certainly, we are aware that there are such long-term sites in use. How are we dealing with this now, independent of what this speaks to?

Mr. Graham noted that when they find them that they report them to the Zoning Department and it becomes a zoning violation. As far as he knew, they were pursuing several of those violations right now. He noted that he was unaware of the status.

Mr. Finley noted that fill and waste is used all the time on the site. The inert materials you are talking about would be different from having a stockpile of fill materials being put back into the site. It looks like you are using the two together here.

Mr. Graham noted that they were including those inert materials under the definition of fill material. So that is correct in that they are saying that the broken concrete, the rubble bricks could be used as fill material on a site. Of course anything where it is going to be subject to a use such as building or whatever would normally required a geo-technical report and a geo-technical engineer's supervision, and the same would apply here. For example, when they put large rocks or rubble on a potential building site. The geo-technical engineer supervises the location and size of the materials. He would anticipate the same happening with the concrete type of rubble.

Mr. Edgerton stated that their interest is primarily a structural interest. They would not be worried about the potential impact of the pectin chemicals that might be leaching out of the asphalt if they were included as one of these fill materials.

Mr. Graham stated that was correct. Again, if they found any evidence that there was a reason to believe there was a significant environmental risk with those materials, then they would not be bringing this to you. The EPA and the State are saying that they are not willing to tell us there is a risk. He asked to respond to the second question regarding the stream bank stabilization. This is one that has comes up repeatedly for the fill in the floodplain which was under Section 30.0 Floodplain Requirements. This

section requires a special use permit for any fill which would include this type of material being placed along stream banks. There is a provision for natural material to be placed, which would include the stone itself under an approved plan that is approved by the Department of Engineering and Public Works. They felt that this zoning text amendment dealt with Section 5.1.28, pointing out that there were a number of other issues that needed addressing. They felt that would be going beyond the scope intended with the original resolution for this zoning text amendment.

Mr. Barnes noted that it is beyond the scope of what the original applicant's request was.

Mr. Graham pointed out that it not an issue that is worth looking into in the future. Again, there is a slight contradiction. If you go the State Department's Conservation Recreation manual for erosion and sediment control devices, it clearly indicates that concrete rubble is an appropriate type of material to use for stream bank stabilization.

Mr. Edgerton asked if asphalt was listed.

Mr. Graham stated that asphalt was not included.

Mr. Edgerton noted that if they support his position on this, they would be including asphalt as stabilization for a stream bank.

Mr. Graham stated no because they were not talking about stream bank stabilization at all.

Mr. Barnes noted that furthermore they tried to rectify from the discrepancies that were in the previous ordinance which related to stream banks to apply to Section 17 which was basically your 100-foot buffer on perennial streams.

Mr. Graham noted that this comes up all the time on special use permits. They usually find it after the fact when someone has already dumped the materials. Either they have to get a retroactive special use permit for what they have done illegally or we ask them to remove it. One of the biggest concerns they always have is the environmental damage that caused by trying to take that material out.

Mr. Kamptner asked Mr. Graham if he thought that a borrow, fill or waste area less than 10,000 square feet should be limited to the one-year life of the project.

Mr. Graham noted that the issue that they had was the 10,000 cubic yards and 10,000 square feet question. The current ordinance is 10,000 cubic yards, anything below that is not regulated. The first lower parking lot filled 10 foot deep would be less than 10,000 cubic yards and was unregulated. They current Erosion and Sediment Control Ordinance requires 10,000 square feet. For consistency, they were bringing the fill and waste requirement in with that amount of 10,000 square feet. Routinely nothing below that is regulated and we receive nothing on it. The question is how low do we do.

Mr. Edgerton asked if he would be comfortable amending this recommendation leaving out asphalt. He noted a concern that science was still very soft on the potential environmental impacts for not only asphalt, but for most petroleum based products. There is science coming out all over the world that these petro-chemicals are tied to significant environmental and health issues. He had a great deal of trouble not taking the precautionary principle stand here because if there is enough reason to be concerned, then we probably are not doing anybody any good to allow this. The argument that brings this to State standards and the Development of Environmental Quality does not give me great comfort. In recent years we all know that the Department of Environmental Quality has been politically adjusted downward in its concern in this State. It is the same on the Federal level. Asphalt might present a potential danger. The question is whether he was concerned about the developer's cost for hauling to Zion Crossroads. The answer to that is no. If he had to make a choice between the future health of the inhabitants of Albemarle County or the developer's cost, then he would rather have the development pay a little more.

Mr. Graham stated that to be honest he felt that it actually would potentially create problems for us. The materials will not go to Zion Crossroads. A 15-ton truckload of asphalt that you are going to haul to Zion Crossroads, with next year's rates of $46 per ton would be about $750 to a load to dump that asphalt. They are going to find some other place to dump it

Mr. Edgerton asked since the law will be broken, we should lower the law.

Mr. Graham stated that the material sitting on top of the road that we drive on everyday is much more subject to getting into our streams and rivers than materials that we bury down in the ground. What we have with our roads is a lot bigger problem than a little bit here and there in the ground.

Mr. Loewenstein noted that the other side of that was that they both are potentially dangerous.

Mr. Finley asked if in this case you could dig a hole on your place and dump these materials.

Mr. Graham stated that the definition speaks to the moving of material from one site to the other and not containing within the same site.

Mr. Loewenstein stated that anything that is involved in burying on the same site would fall outside the scope of this particular ordinance.

Mr. Graham stated that was correct. He noted that as long as the area is smaller than 100 X 100 feet or the 10,000 square feet, then they do not need an erosion control plan. The question of whether the 10,000 square feet is the appropriate standard under the Erosion and Sediment Control Ordinance was a separate issue. State law does permit you to reduce that if you wish.

Mr. Loewenstein asked with this change if it was likely that there would be greater compliance.

Mr. Graham that it would because the potential reward versus the risk would change the whole proportion of the numbers in compliance.

Mr. Cilimberg noted that unless there is an absolute change, which the Commission feels that they need to make for the public hearing, then staff will proceed. Then, the Commission can make their recommendation after they hear the public comment.

Mr. Loewenstein noted that this was still subject to further modification.

Mr. Rieley asked that staff get the most definite science available on the subject.

Mr. Kamptner stated that no formal action is necessary.

Mr. Cilimberg noted that staff would have this scheduled for public hearing in April.

In summary, the Planning Commission held a work session on ZTA-01-06 Fill & Waste. No formal action was taken.

ZMA-2001-015 Martha Jefferson Hospital at Peter Jefferson Place (Sign # 54, 55 & 56) **- Request to rezone 106.92 acres from CO (Commercial Office) to PD-MC (Planned Development-Mixed Commercial) to allow for the Martha Jefferson Hospital and associated uses. The property, described as Tax Map 78 Parcels 20M, 71, and 71A is located in the Rivanna Magisterial District on Peter Jefferson Parkway (Rt. 1118) approximately a half mile from the intersection of Route 250 West and Peter Jefferson Parkway.**

**The Comprehensive Plan designates this property as Office/ Regional Service in Pantops. (Michael Barnes)**

AND

SP-2001-056 Martha Jefferson Hospital at Peter Jefferson Place (Sign # 50 & 51) **- Request for a special use permit to allow a hospital in accordance with Section 23.2.2.1 of the Zoning Ordinance which allows for hospitals. (Michael Barnes)**

AND

SP-2001-057 Martha Jefferson Hospital at Peter Jefferson Place (Sign #48 & 49) **- Request for a special use permit to allow a parking structure in accordance with Section 23.2.2.4 of the Zoning Ordinance which allows for a parking structure located partly or wholly above grade. (Michael Barnes)**

Mr. Barnes presented a power point presentation as attached. In summary, Mr. Barnes stated that the three major issues concerning the applicant's proposal includes the following:

- Overall compatibility with comp plan and land use plan
- Potential visibility impacts
- Application of the 12 neighborhood model principles

He noted that the applicant has a reason for not having a detailed plan at this point. The applicant will address those reasons. The site has a rolling terrain. We have seen conceptual plans in our office, but they have not committed to anything. Therefore, we have nothing to present to you with the topography.

**SPEAKERS FOR REQUEST:**

Jim Haden, President of Martha Jefferson Hospital, spoke for the request.

Andrew Dracopoli, representative for Worrell Investments Corporation, spoke for the request. He presented the history of the development of the application plan for the entire development.

Ron Cottrell, Vice-President of Planning and Corporate Development of Martha Jefferson Hospital, spoke for the request.

**Summary:**

The Planning Commission held a work session to receive information from staff and discuss issues. In summary, the Planning Commission recognized that additional work sessions would be helpful and asked that staff work with the applicant on the project with the following suggestions:

- The applicant should provide a nonspecific plan to deal with the visibility issues and the scale/massing of the building. First, they should attempt to cover the visibility issues, and then move forward to provide further detail on the other neighborhood model issues identified.
- Due to the presentation by Andrew Dracopli, the Planning Commission will consider relaxing the principles of the neighborhood model to allow the alignment of the buildings to be towards the central park and not the roads. This would be subject to the linear park being developed as promised in the Peter Jefferson Place Master Plan.
- Recognizing the importance of the open space, they suggested that the open space be identified and protected.
- Due to the historic significance, they asked staff to investigate the location of the satellite slave community of Monticello. To ensure the preservation of this, they suggested that staff make sure that it is noted on the plan and located in the open space.
- They requested staff to consult with the City of Charlottesville about the visibility issue.

***Old Business***

Mr. Loewenstein asked for old business. There being none, the meeting proceeded.

***New Business***

Mr. Loewenstein pointed out that there would be no meeting next week. The next meeting will be held on April 9th.

With no further items, the meeting adjourned at 10:40 p.m.

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V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon Taylor, Recording Secretary)