April 23, 2002

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, April 23, 2002 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were Jared Loewenstein, Chairman; William Rieley, Vice-Chairman; William Finley; Rodney Thomas; Pete Craddock; and Bill Edgerton. Absent from the meeting was Tracy Hopper.

Other officials present were Wayne Cilimberg, Director of Planning and Community Development; David Benish, Chief of Planning & Community Development; Greg Kamptner, Assistant County Attorney; Steven Biel, Planner; Joan McDowell, Senior Planner; Stephen Waller, Planner; and Margaret Doherty, Senior Planner.

Call to Order and establish quorum

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

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

Approval of Planning Commission Minutes – March 5, 2002 and March 19, 2002.

SDP 2002-021 Atlantic Coast Athletic Club @ Four Seasons Major Amendment & Waiver -Request for waiver of Section 4.2, Critical Slopes, pursuant to Section 4.2.5 of the Zoning Ordinance. (Karl Guiler)

SUB 2002-056 Beaver Creek Private Road Request - Request for authorization to construct one or more private roads in a subdivision. (Francis MacCall)

SUB 2002-058 High View Private Road Request - Request for authorization to construct one or more private roads in a subdivision. (Francis MacCall)

Review of Blue Run Agricultural/Forestal District - Review of the Blue Run Agricultural/Forestal District in accordance with Chapter 3 Section 204 of the Albemarle County Code, which requires regular reviews of districts. (Scott Clark) PLANNING COMMISSION MUST ACCEPT FOR REVIEW.

Creation of Grassmere Agricultural/Forestal District - Request to create an Agricultural/Forestal District of Local Significance in accordance with Chapter 3 Section 301 of the Albemarle County Code, which allows for creation of districts of local significance is zoned RA Rural Areas. (Scott Clark) PLANNING COMMISSION MUST ACCEPT APPLICATION.

SDP-02-024 Lifecare Medical Transports Preliminary Site Plan – Critical Slopes Waiver – Request for waiver of Section 4.2.3.2, Critical Slopes, of the Zoning Ordinance. (Stephen Waller)

ZTA-01-06 Resolution of Intent to amend Zoning Ordinance – Proposal to amend Section 5.1.28, Borrow, Fill, or Waste Areas, of the Albemarle County Zoning Ordinance. (Michael Barnes)

Mr. Loewenstein asked if any commissioners wished to pull an item from the consent agenda.

Mr. Thomas moved for approval of the consent agenda as presented.

Mr. Craddock seconded the motion, which carried unanimously.

Deferred Item

SP-2001-047 Albemarle Baptist Church (Sign #93 & 94) – Request special use permit to allow a church in accordance with Section 10.2.2.35 of the Zoning Ordinance which allows for churches in the Rural Areas. The property, described as Tax Map 61, Parcel 1E, contains 6.239 acres, and is located in the Jack Jouett Magisterial District on the northeast corner of Hydraulic Road (State Route 743) and Roslyn Ridge Road (State Route 1390), approximately 1.5 miles northeast from the intersection of Seminole Trail (U.S. 29 North) and Hydraulic Road (State Route 743). The property is zoned Rural Areas District (RA). The Comprehensive Plan designates this property as Rural Area. (Steven Biel) DEFERRED FROM THE FEBRUARY 26, 2002 PLANNING COMMISSION MEETING.

Steven Biel presented the staff report as attached. He noted that the Architectural Review Board has reviewed this. Changes to the orientation and location of the parking have been made as requested by the ARB. When the site plan come in, the ARB will be reviewing this again. He asked that condition number six be deleted. After review of the condition six, he found that the required number of parking spaces shall be determined by the occupancy of the proposed number of people in the church or the square footage of the public assembly area.

Mr. Rieley questioned the relationship between this application and their shifting attitude towards the number of parking spaces required. He pointed out that they have an ordinance amendment in the works. He asked if this plan is bound by the old ordinance regulations, if the new ordinance is in place before the site plan is complete. Does that mean that they can lower the number of parking spaces?

Mr. Kamptner stated yes, the parking regulations in effect at the time of the site plan review would be used.

Mr. Rieley noted that the proposed 29 by-pass would be right on the boundary of this property.

Mr. Edgerton noted that the project and parking proposed is phrased. He asked if they could be more specific about what parking will occur.

Mr. Biel replied that without reviewing the actual site plan that he could not say what parking will take place.

Mr. Edgerton asked if the numbers listed in the staff report were based on the proposed phases, and Mr. Biel stated yes that they were.

Mr. Craddock asked if there is any potential for cooperative parking between the two churches, and Mr. Biel noted that the churches were too far apart with some wooded area between the lots.

SPEAKER FOR REQUEST:

Marcus Deloach, Pastor of Albemarle Baptist Church, stated that several church members were present. He asked that all their members stand. According to the drawing, the center section of the parking lot has dotted lines on the left-hand and right-hand sides. The center section would be for phase one. Phase two would include the parking on either side.

Mr. Thomas ascertained that the applicant was willing to use asphalt on the parking lot.

Mr. Thomas asked if the applicant had considered using something other than asphalt that would allow water to drain through.

Mr. Deloach replied that their engineer would have to look into this as he was not familiar with that.

Mr. Loewenstein asked for additional public comment. There being none, he closed the public hearing and brought the special use permit before the Commission for discussion and action.

Mr. Rieley suggested adding the provision that they use pervious pavement on the parking since the property was in the watershed area.

Mr. Edgerton endorsed adding the condition.

Mr. Craddock stated that number seven says that any thing above the minimum number required would not be paved.

Mr. Rieley noted that on the previous project, the spaces were to be paved with a permeable paving material, but not the travel way since that would be more difficult to do.

Mr. Loewenstein asked staff to write the condition.

Mr. Finley asked if this would be considerably more costly? The last one that the Commission included this in was not done.

Mr. Cilimberg noted that there was a project located further east on Rio Road that the Commission had included a condition of this type. Some question was raised in Engineering regarding that technique and the increased cost. He cautioned the Commission that they did not have any comments from Engineering regarding that. The condition is going to raise that need to have Engineering comment. By the time that it gets to the Board, we might have a different kind of thinking from them.

Mr. Kamptner stated that the ordinance requires a recommendation from the Engineering Department.

Mr. Rieley stated that it certainly was reasonable and appropriate for Engineering to review this. If they find that it is not a good condition, then they can advise the Board of Supervisors to remove the condition.

Mr. Edgerton noted that the additional cost was due to the groundwork that has to be done under the pavement to provide the drainage. The reduction for the surface runoff and detention would offset this additional cost. If there were an issue here of lack of area for drainfield, and staff is pointing to the proposed detention basin as the location of the drainfield, then this would be a win/win situation for everyone. He pointed out that this was a relatively new initiative. In the watershed, this is more than appropriate.

Mr. Rieley suggested that permeable pavement will be supplied under the parking spaces to meet the requirements of the Department of Engineering. He moved for approval of SP-2001-047 with the conditions as amended deleting condition number six and adding the new condition as previously stated.

Mr. Edgerton seconded the motion, which carried unanimously.

The Commission unanimously recommended approval of
SP-2001-47 with the following conditions:

1. All requirements of the Architectural Review Board shall be met, including the site plan indicating the existing tree line and specific trees of 6" or greater and retaining significant trees.
2. The church's improvements and the scale and location of the improvements shall be developed in substantial compliance with the master plan entitled Albemarle Baptist Church, prepared by Dex A. Sanders, and dated 11/28/01.
3. The area of assembly shall be limited to a maximum 435-seat sanctuary.
4. Health Department approval of well and septic systems prior to final site plan approval.
5. Commercial setback standards, as set forth in Chapter 18, Section 21.7.2 of the Albemarle County Zoning Ordinance, shall be maintained adjacent to residential uses or residentially zoned properties.
6. Any number of parking spaces in excess of the required minimum shall not be paved.

7. There shall be no day care center or private school on-site without approval of a separate special use permit.
8. Construction of Phase 1 (6,800 sq. ft. sanctuary) shall commence within 48 months or this special use permit shall expire.
9. All requirements of VDOT shall be met prior to final site plan approval, including approval of one entrance from Roselyn Ridge Road, with a 100' right-turn lane and 100' taper lane.
10. Permeable pavement shall be used for all parking spaces, subject to the approval of the Department of Engineering.

Mr. Loewenstein pointed out that this issue would go the Board of Supervisors on May 15.

ZMA-01-017 Hickory Ridge Equestrian (Sign #73) - Request to rezone 5.02 acres from Planned Unit Development PUD to Rural Area RA to allow zoning conformity of existing stable and establish two development rights. The property, described as Tax Map 30 Parcel 39 is located in the White Hall Magisterial District at 4600 Pelham Road at the northwest corner of Pelham Road and State Route 665. The Comprehensive Plan designates this property as Rural Area. (Joan McDowell) DEFERRED FROM THE MARCH 19, 2002 PLANNING COMMISSION MEETING.

Joan McDowell presented the staff report as attached. She noted that the original plan is located on the wall behind the County Attorney. A smaller copy of the plan is in the brochure attachment. She stated that the homeowner's signatures for Section One and Two of Hickory Ridge has been received which states that they want both of the proffers accepted with the rezoning.

Mr. Finley asked when Rivanna Water took over property in the Buck Mountain Watershed, what happened to the division rights in the property that they took over?

Ms. McDowell stated that there were no division rights afforded with these properties because they were within a Planned Unit Development and not the Rural Areas zone. She pointed out that division rights and property that has been subdivided are not quite the same thing. The division rights are afforded to and given to Rural Areas property. These lots were in the A-1 zone. There were no rights in the 1980-zoning ordinance. They bought the lots and were not able to apply or transfer those numbers.

Mr. Cilimberg pointed out that was a separate matter from what they had here.

Mr. Finley noted that they were trying to get back one lot since they had lost so many.

Ms. McDowell stated that the lots were purchased.

Mr. Thomas asked how many property owners would have to be involved in owning the property that the stables are on to remain under the neighborhood association. Does the neighborhood association have to be the owners of that stable property?

Ms. McDowell stated that was the original intent. The developer/owner suggested that it had something to do with getting a hard loan. Our records do not show this, but she assumed that the homeowner's association did not wish to buy the property in order to fulfill the requirement. To answer the question, there is no set number of owners.

Mr. Edgerton stated that if they deny the request, then they would remain illegal. He questioned what happens then.

Ms. McDowell noted that Mr. Kamptner might want to address this issue. She stated from reading the old Zoning files, the people in Hickory Ridge have a right to keep their horses there and the property is for open space intended to be used for equestrian use. It could be transferred to just plain open space.

Mr. Finley asked who would own it.

Mr. Loewenstein stated that if you just make it open space, then you still have to take away the stable.

Ms. McDowell stated that she did not believe that you have to demolish the stable.

Mr. Loewenstein noted that it was only the commercial aspect of the stable that has to be removed.

Ms. McDowell stated that if they do not approve the rezoning, you could not put a residence on that.

Mr. Edgerton asked if they approve the rezoning, would there be any requirement for the current owner of the facility to maintain the stable? Could they tear the stable down and just sell the property as an individual residential unit?

Mr. Finley asked what other commercial businesses were allowed.

Ms. McDowell stated that the property was not commercial now nor would it be if it were rezoned. By right under Rural Areas, they could operate a commercial stable. Under Rural Areas, they would be allowed to do anything that is listed by right. This includes putting in one residence. She stated that they were not guaranteeing the stable, but just allowing it.

Mr. Loewenstein pointed out that there was a question as to whether or not this application, if approved, would be in contradiction to the comprehensive plan. He asked if there were other questions for staff at this point. As there were no other questions, the public hearing was opened. He asked if the applicant would like to address the commission.

SPEAKER FOR REQUEST:

John Harris, property owner, stated that there might have been a clerical error in 1974 and that part of what Ms. Dowell said he felt was misstated. Originally that property was zoned as part of the PUD, the 517 acres. In December, 1974, the Board of Supervisors allowed the developer to buy the property back. The developer was Hickory Ridge Limited, and he purchased that property from the homeowner's association. That deed was effective on February 14, 1975. In that deed the County put a restriction that the use had remained horse-related, polo fields, jumps, rides, whatever without the approval of the residents of section one and section two of Hickory Ridge. It also gave the homeowner's association a 20-year option to buy the property back. This was February of 1974. In October, 1975 they formed Hickory Ridge Equestrian, who was still owned by the developer, Hickory Ridge Limited. In the same deed restrictions is the one that they hold today. The ownership has changed several times for Hickory Ridge Equestrian. It went from Hickory Ridge Limited to The Brown Land Trust to Alexander Bowers and to the Alexander Bowers Estate. They learned that the Alexander Bowers Estate was trying to sell the property in 1995. At that time he wrote to all of the lot owners and received twenty favorable responses. At the initial meeting eighteen persons showed up with thirteen persons interested in buying the property. He started negotiations with the estate, which was held by Mr. Musselman. When it came down to the time to write checks, there were three persons left, Mr. Bruscoe, Mr. Seibert, myself and their wives. The initial density in that area allowed for 31 lots. Four of those were future lots that were taken up when the Rivanna Sewer and Water Authority came in with Buck Mountain. Then they took those lots and deeded those lots over to the homeowner's association. That left 29 lots. Of that, 23 lots are built or buildable. There are three cases where people own two lots and have built their house on both lots and they can never be platted. There are eight fewer houses than were originally planned. He pointed out that left room within the development from that standpoint. He noted that the written consent of all of the owners of section one and section two have been obtained. In addition, they have a letter from the adjacent neighborhood, section three, giving their approval as long as they stick to the two proffers submitted. The submitted proffer limited them to the one subdivision right. The property has been leased to private operators over the years. There is not one person who lives in Hickory Ridge that has a horse in there. It has been a commercial operation. When they acquired the property, the three of them that live in the

neighborhood, that was the first time that it had really been owned by owners out there since the Homeowner's Association sold it in 1975. It just happens that they live there. The Bowers Estate could have sold that corporation to anybody. There are no restrictions stating who you have to sell a corporation. It is a bit confusing that you have property that has to the homeowner association property that is owned by a corporation that can sell it to anyone. They bought the property to protect themselves because the lot was located in their front yard. The ideal situation would have been for everybody to jump back in and the homeowner's association buys it, but they did not want to. When they purchased the property or the corporation, we acquired its only asset that was the stable property. We were required to honor the existing lease, which were two individuals and not residents of Hickory Ridge. Since that time, they have leased the property to other people. There is no one who lives there that has a horse out there. In 1975 when they purchased the property, he went to the Real Estate Department and asked why the taxes were so high. They noted that the assessment was based on a commercial operation and that the restrictions on the deed had no bearing on the assessment. Last week they called and asked them again, and they said that as far as the County was concerned that the zoning was a PUD and the state classification is commercial. The lot was taxed the same as the near by veterinary hospital on its replacement value. He asked if it is common open space, why have they been paying commercial taxes on it. The application was submitted after conferences with the Zoning and Planning administration. Their guidance was the reason that they applied for two development rights. With the zoning of Rural Areas, they could continue to operate the stable until what time that somebody might want to build a house or whatever. By making that property comply with their covenants that apply to the rest of the subdivision, they would protect themselves from any future development because it would come under their Architectural Review Board. For examples, this would prevent chicken coops. The corporation needs to break up due to the aging of all of the members. One of the participants has asked to get out of the corporation. We believe that this is in the best interest of the public. It would correct the situation in that it has been operated illegally as a commercial stable. In addition, it would give them a mechanism to market the property later if they need to. The current occupant applied for license last year and was turned down because of the zoning. He would like to buy the property, continue to operate the property, and eventually build a house there. He asked that they approve the application.

Mr. Edgerton asked if the intention was to continue operating the stable if this was approved.

Mr. Harris stated that the proposed buyer wanted to continue to run the stable and in about five to ten years to build a house.

Mr. Edgerton asked if the stable would be taken down at that time.

Mr. Harris noted that he was not sure, since they would lose control of the property once it was sold. Actually, the new owner would have plenty of space to have both the house and stable on the property.

Mr. Loewenstein asked if anyone else would like to speak.

David Edwards, President of the Homeowner's Association, stated that this matter has been a point of discussion of their yearly meetings for a few years. There were some questions. There were some people who would like to see the stable continue to operate, but they have all indicated that whether it was a stable or home, they felt fine about it either way. One concern has been the upkeep of the stable property. The way things are right now; it is difficult to run a viable commercial operation. That is the reason that many people are interested in the covenants. He stated that there is an additional section not developed on the original plan. He asked if there is any record why that has not been developed.

Mr. Loewenstein stated that it was not part of this application.

Mr. Edwards stated that it does not appear that they were imposing on the original plan to have an additional home. The homeowner association authorized him to support this. Therefore, he asked that the Commission approve the request.

Steve Beach, who lives in Hickory Ridge Section Three, stated that he was building a house. He noted that he looks at the back of the stable everyday. He pointed out that they would like to see the stable operate as a legitimate commercial venture. He questioned what other uses would be allowed on this property if this was approved.

Mr. Loewenstein stated that essentially only one residence would be allowed on the property.

Mr. Beach asked if the stable was demolished, then nothing could replace it.

Mr. Loewenstein stated that was correct.

Ms. McDowell stated that in order to clarify this, they were asking for rural areas zoning and that allows a whole number of things in the rural areas, including a commercial stable. There are some things allowed by right, such as a farm or by special use permit which was an application

Mr. Kamptner stated that the rural areas zoning restricts it to residential uses.

Ms. McDowell stated that they would only be allowed one house or residence.

Ms. Derlin Beach, a member of the Homeowner's Association for Hickory Ridge Three, stated that her concern was to maintain the stable. The restriction was put on the 1975 deed that a stable would be required on property. She asked that this be required on this property with the one division right.

Mr. Loewenstein stated that he did not think so.

Ms. Beach stated that the Architectural Review Board would have to approve any deconstruction of the stable.

Mr. Loewenstein stated that he did not think so, but he had not seen a copy of the covenants.

Ms. Beach asked if the Association's document indicates that the ARB has to approve any destruction or any alterations to the parcel.

Ms. McDowell stated that she had read it, but had not memorized it.

Jeff Warner, Piedmont Environmental Council, voiced concerns about the request to change this property to Rural Areas.

Mr. Harris noted that the restriction for the change to the stable only pertained to sections one and two. They do have the signatures of all of those persons.

Mr. Loewenstein closed the public hearing, and brought the item before the Commission.

Mr. Thomas asked that staff explain more fully the by-right process.

Mr. Cilimberg noted for clarification, the applicants have made a request to rezone what is currently Planned-Development to Rural Areas. In making that request, they would have the full allowances under the RA property. It is a second proffer that deals with the convenants and restrictions that is going to limit what this particular property can do in terms of its development. It sounds like this is going to limit it to a house. That is really where this stands. They have not proffered to keep the stable. They could do that, but they have not. They have asked for a rezoning to RA and have proffered to one unit and to follow the covenants and restrictions.

Mr. Harris stated that the covenant does not require keeping the stable.

Mr. Cilimberg noted that there is no requirement to keep the stable that they know of, and certainly they have not proffered to do so.

Mr. Craddock stated that once the stable is torn down, then it was just a house and five-acre lot.

Mr. Cilimberg stated that was what it becomes.

Mr. Rieley stated that the bottom line of this was taking a piece of land unit development that is part of the open space and making it a lot.

Mr. Cilimberg stated that it was making it a lot. He noted that it was using the RA to create a residence, which was where they run in to trouble with the comprehensive plan. The comprehensive plan is not about creating residences. It is about a district that allows residences, but it is intended if you read the purpose and intent for a completely different purpose.

Mr. Rieley stated that the bottom line was the most important one and the principle in our requirements and obligation to make decisions based on the comprehensive plan. This makes it impossible for me to support this.

Mr. Edgerton noted that currently the lot is not buildable since it was set aside as open space.

Mr. Finley stated that the property must be rezoned in order to authorize a house to be built, and staff stated that was correct.

Mr. Loewenstein stated that the replacement of open space with zoning that would permit a residence is directly contrary to the comprehensive plan. The comp plan is the most sacre set of guidelines that we are asked to uphold. Therefore, he could not support this.

Mr. Rieley moved to recommend denial of ZMA-01-017 for Hickory Ridge Equestrian.

Mr. Craddock seconded the motion, which carried (4:2). (Thomas & Finley – No)

The Commission (4:2) recommended denial of ZMA-01-17 for Hickory Ridge Equestrian to the Board of Supervisors.

Mr. Loewenstein stated that the Board of Supervisors would hear this request on May15th.

SP-2002-003 Sam's Woodworking Shop (Sign #77) - Request for a special use permit to allow for the construction of a woodworking shop in accordance with Section 10.2.2(31) of the Zoning Ordinance which allows for a home occupation, Class B. The property described as Tax Map 122, Parcel 33A, contains 12.24 acres, and is located in the Scottsville Magisterial District on the northeast side of Route 712 (Coles Rolling Road), approximately 1.25 miles northwest of Route 795 (Blenheim Road). The property is zoned RA, Rural Areas. The Comprehensive Plan designates this property as Rural Area.

Steven Biel presented the staff report as attached:

Mr. Rieley asked how far the building would be off the road.

Mr. Biel stated that the building would be several hundred feet off Route 712. Wooded areas surround this property. The house was not visible from Route 712.

Mr. Loewenstein opened the public hearing and invited the applicant to address the commission.

SPEAKER FOR REQUEST:

James Sams, applicant, stated that he had been in the woodworking business since the late seventies. He noted that he now needs a larger space to work.

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

Mr. Rieley stated that this seems to be a reasonable application for a Class B, Home Occupation in an appropriate area.

Mr. Thomas moved for approval of SP-2002-003 with the conditions as recommended by staff.

Mr. Finley seconded the motion, which carried unanimously.

The Commission (6:0) recommended approval of SP-2002-003 with the following conditions:

1. There shall be no on-site sales.
2. There shall be no outdoor storage of materials.
3. All solvents/paints shall be disposed of in accordance with all applicable hazardous waste regulations.
4. All production activity of custom-made furniture shall occur within the designated workshop area, not to exceed 1,500-sq. ft., as shown on Attachment A.

Mr. Loewenstein stated that the Board of Supervisors would hear the special use permit on May 15

SP-2002-004 Bright-Triton PCS - CVR 350E (Sign #75) – Request to amend a special use permit in order to allow the continued use of a personal wireless facility, which was installed in violation of a condition that was intended to restrict the diameter of a metal monopole to 30 inches at the bottom and 18 inches at the top. The facility instead was constructed with a monopole with diameters of 39.19 inches at its base and 23.4 inches at its top. This property, described as Tax Map 58-Parcel 61A, contains approximately 5.144 acres, and is located in the Samuel Miller Magisterial District on the east side of Tillman Road (Route 676), approximately 1/2 mile north of the intersection with Route 250 West. The property is zoned RA, Rural Areas, and the Comprehensive Plan designates this property as Rural Area. (Stephen Waller)

The error was found at the time of final inspection by the Zoning Department of the building permit. Staff has made a field visit identifying the visibility along Route 250 West, some locations on Morgantown Rd and within the Glenaire subdivision. Staff cannot say what is visible. It is staff's opinion that the special use permit process should be the last option. The applicant has not demonstrated a hardship in replacing the pole.

Mr. Finley stated that on page 1, that should be August 8, 2001.

Mr. Waller stated that was correct.

Mr. Finley stated that the letter in the back actually went to the applicant before they started building. He stated that 2b) states, "The diameter of the pole shall not exceed thirty (30) inches at its base and eighteen (18) inches at the top." He knew that action to mitigate this was being pursued and that the monopole might be adversely affected.

Mr. Waller stated yes, that the condition was applied at the time the original building permit was approved.

Mr. Thomas asked what was the date.

Mr. Thomas stated on December 18, the Board of Supervisors' action letter on page 29, 2 l) states, "The diameter of the pole shall not exceed fifty (50) inches at its base, and twenty (20) inches at the top. This is a change from the standard condition, which requires a smaller diameter for the pole, to allow the use of a larger diameter pole which the applicant has in inventory and requested to use at this particular site."

Mr. Waller stated that request was for a monopole that was approved with a modification of that condition. Staff originally recommended that all of the standard conditions be applied, but when they went to the Board of Supervisors they allowed a modification of that condition in this one instance in which the applicant requested that modification. This was at the same time that they were requesting the original special use permit.

Mr. Edgerton asked if anyone has checked to see if condition number one has been met, pointing out that the tower appears to be taller than one foot above the top of the tallest tree. There were some other conditions such as the grounding rod that needed to be checked like 2f, 2g, 2h and 2i. He asked if they have met all of those conditions or does anybody know.

Mr. Waller stated that at this point the only condition that they were cited in violation of was condition 2B. As far as whether or not the site complies with all of the other conditions, he has not gotten that information from the Zoning Department. There was a requirement in the conditions.

Mr. Edgerton noted that he was particularly curious about the certification that was required by the approval of the special use permit that says within one month after completion of the pole, the permittee shall provide a statement to the Planning Department certifying the height of the pole, measured both in feet above ground level and elevation above sea level.

Mr. Waller stated that at this point, because the site was in violation of condition 2b, the Certificate of Occupancy has not been issued for the site. He noted that he was unsure if the Zoning Department has even requested that.

Mr. Loewenstein stated that they needed to know if potentially there were other conditions that applied to the structure that would make it in violation of the original conditions of approval. He could not imagine that they would want to look at the conditions one at a time. If it had to be built back with a thinner diameter and the same height, and then they subsequently discovered that the height was also wrong, then this could be endless. We need to know from someone just how many of those conditions are in violation. He opposed taking the conditions one at a time.

Mr. Cilimberg stated that they had to go by what Zoning has indicated. Therefore, they would have to ask them to check those other conditions. The certification could not be submitted until the permitting occurs with Zoning. They have not permitted this because of the violations. He noted that we would have to ask them about the other conditions. We do not have that answer. Since they have not cited the violations, then we could only assume that they are not in violation.

Mr. Loewenstein stated that they could proceed with this. He noted that there were some blanks here that they needed to know. He asked if anyone else has questions or comments for staff.

Mr. Finley stated that if this were denied, then would he have to start the process over from the beginning.

Mr. Waller stated that they would have to build a facility that complies with all of the special use permit conditions. Once they find that everything is in compliance, then they could receive a certificate of occupancy for the structure.

Mr. Loewenstein stated that they would come back to this issue of other possible violations because it was not what was before them. He asked that they focus for the moment on the application they had before them. He asked if there were other questions for staff. There being none, he opened the public hearing and asked if the applicant would like to address the commission.

SPEAKERS FOR REQUEST:

Valerie Long, representative for Triton, PCS, stated that Dale Finocchi with Triton PCS was here this evening. He was the head of the Zoning Staff Department at Triton. As Mr. Waller stated, Triton is seeking an amendment to 2b of the special use permit, SP 2001-08. She reiterated that this was a mistake on the part of Triton. This was not anything that was done intentionally on Triton's behalf. They get no benefit from having a pole than what was approved by the Board. It was an inadvertent mistake, an inexcusable one. They have worked hard with the Commission and the Board of Supervisors in establishing a very reasonable pole diameter limit. We had no reason to believe that we could not comply with it. There was no reason we could not comply with it. It was merely an oversight by the construction team. This was the first of Triton's eighteen wireless facilities that actually specifically limited the diameter of the pole. Unfortunately, Triton's construction team was not paying nearly as close of attention to the plans, which actually included the diameter limits on it, as they should have. As soon as it was made apparent to us, we moved forward and started considering all of the options. Just in the two years that she has been working with Triton, they have received approvals for eighteen wireless facilities, sixteen of which were treetop poles. This is the only situation that they are aware of that a mistake has been made. They have worked very closely with the staff, Commission and Board to comply with all of these conditions. As you may recall, several neighbors were involved in the process. They worked very closely with the neighbors. They provided many helpful comments of which they were appreciative. She noted that they notified those neighbors of the violation when it was brought to their attention. They notified them of their intent to file an amendment to the special use permit. They have worked very hard to continue that close working relationship with them throughout this process. Nevertheless, while this is a violation, she asked the Commission to consider this in light of larger circumstances. One is that the violation is of less than a foot at the base and of less than one-half a foot at the top of the pole. The difference in the built versus approved diameter at the base of the pole is 9.19 inches and at the top is 5.4 inches. In addition, she had submitted some photographs with the application, which were not included in the packet. The photographs of the facility were taken in early January from Tillman Road. This is the only place off-site that the base of the pole could be visible. She distributed some photographs for the Commission's review and consideration. The photograph shows that this pole was sited within a grove of many large trees on a vacant parcel that is heavily wooded. Despite the fact that it was built larger than it was approved to be built, it does continue to blend in very well with the surrounding trees. Again, she also has a signed and stamped drawing from one of Triton's engineers demonstrating the relative diameters of the pole comparing what was approved to what was actually built. Mr. Wilcox, one of the neighbors, sent you copies of a similar exhibit. She noted that she had used his idea because it was persuasive. They asked their engineers to look at what the difference was in the diameter. She noted that there were two pictures. This picture shows the approved diameter of the pole in the middle. The outside is the size it was actually constructed. She noted that they were scaled drawings. The third factor that she hoped they would factor into their consideration is that Triton did not immediately file to amend the special use permit. The first response she gave was to replace the pole. In responding to the issue, she has learned a lot about the construction process. In Triton's perspective, it was just unfortunately not that easy. There is a significant cost factor involved. She realized that was not the Commission's focus or concern. If Triton replaces the pole, they will have, in essence, a worthless pole. It is too large to be used in Albemarle County due to the new condition that limits the pole diameter. It is not tall enough to be used in other locations that they are aware of. That has a significant expense. Triton estimates about $52,000 associated with the construction expenses of taking down the existing pole and replacing it with a new one. In fact, they are not sure if they can actually do that in the very tight quarters that they are working with and protect all of the trees that are in that area. She noted that Mr. Finocchi could elaborate on those issues. Contrary to her initial opinion, it was not so easy just to take down a pole that was already there and put a new one in. The existing grade was very steep area. The wireless policy speaks to visibility as the most important factor. She felt that they would agree when she distributed the photographs. While this pole was built with a slightly larger diameter than was approved by the Board, the larger diameter does not exasperate or add any adverse impact on the visibility. It is only visible from certain locations. Again, she would argue that does not exasperate the pole's visibility, particularly when it is viewed from a distance. She hoped that when they look at all of these issues together that they would feel it was reasonable to grant this request.

Dale Finocchi, with Suncom Triton PCS, was present to speak for the request.

Mr. Thomas asked if the top of the pole was 23 inches and was it in sections.

Mr. Finocchi stated that typically when they are constructed in 40-foot sections, you would have two 40-foot sections and then one residual section with the rest of the diameters on the top.

Mr. Thomas asked if it was possible to change the top.

Mr. Finocchi stated that was not necessarily any easily than dismantling the whole thing. In order to do that, you would have to dismantle the entire top apparatus. The top part was where the antennas are and would have to be removed. The coax runs through the middle and would have to be detached and pulled down. The top section would have to be taken off, and then one could be manufactured to fit over it. The diameter would have to be tapered, which might look a little odd. If you were talking about five inches, you would not be able to change the diameter of that second section so it would fit on that. It would be tapered more dramatically than the existing pole. It would come up and then go up.

Mr. Thomas asked if the pole would be below the tree level.

Mr. Finocchi stated that probably that was something that could be done.

Mr. Finley asked if the attachment was an as-built drawing and shows the diameters as they presently are.

Mr. Finocchi asked if it was stamped.

Mr. Finley stated that there was a stamp on there, but it did not have a date. He asked if the present pole was 39 inches at the base and 23 inches at the top.

Mr. Finocchi stated that was correct.

Mr. Loewenstein asked if there were other questions for the applicant. He noted that there was one person, Mary Jan Devais, who was listed on the sign-up sheet to speak. He asked if she would like to address the Commission.

Mary Jane Devais stated that she owned the property just to the east. Actually, she was glad to hear the comments from the Triton people. There were some things that made her uneasy about the specs not being followed. She felt a lot better knowing that it was an inadvertent mistake. She questioned whether this happened accidentally on purpose or what. She stated that if the reason for using the metal monopole is because it was easier to install and so forth, then it seems like it would also be easier to install the correct size. She did not see why that would necessarily mean taking out more trees. So the bottom line is that she agreed with staff's original recommendation and reasoning. Therefore, her preference would be that it conforms to the original specs.

Harvey Wilcox stated that he was opposed to the request. In your packets, you have my statement as well as some colored photographs. He noted that there were 21 other households on Turner Mountain who also urge you to deny the request. He could not convey the dismay and disbelief in the neighborhood that Triton has the brass to come in here and simply act as if nothing has happened in this error. Two years ago, you agreed with us that the first site for this tower was not good. You told them to try again, find a new site, and work with the neighbors, which they did. Last spring and during the middle of the summer, there were many meetings. They were concerned about the height and the dimensions of this thing. We were also concerned about its girth and its visibility as a fat pole and about the expansion capability of a fat pole. They told us that we were worrying about trefoils. You have a copy of a photograph they gave us at a neighborhood meeting on 23 May showing how skinny it was going to be. He passed out copies of the approved drawing BZ-5, which was their final drawing to the County that

showed how this tower was going to be built. As specified, he circled the dimensions on the drawing of approximately 25 inches at the base and 10 inches at the top. They were worried about the word approximately, but the Commission pinned it down to a maximum of 30 inches and 18 inches. They withdrew their objections because they felt that they had done their jobs. They did what you asked them to do. They did not want the tower in their neighborhood, but they felt that they had worked out a bunch of conditions and compromises that they could deal with and put it in the County's hands. They were relying on the County to make Triton do the same. Triton would have you believe that the monster that they have put up is no more visible than what you authorized. He stated that he had not seen Ms. Long's version of his chart, but he trusted that it was accurate, as he believed his was. She focuses on the maximum size that you authorized. She does not focus conveniently on the size that they proposed to build at 25 inches. In that case, what they have up there has a visible profile more than 78 percent larger than what they told us that they were going to give us. This cell phone case does not involve the telecommunications act in the slightest. This is a breach of contract situation pure and simple. They should abate the violation and switch the pole. They really feel aggrieved in this circumstance. They have done their best to cooperate, and then have this inadvertence occur. He hoped that the County would send a message that in the County that we think that contractors ought to live up to their promises.

Mr. Loewenstein asked if there were other persons present to speak.

Margaret Jest, secretary of the Glenaire Neighborhood Association, stated that they represent more than 60 households who are located just west of the Tillman's Road tower. She pointed out that they could see the top of the tower from a number of households in Glenaire. In fact, this winter when she looked across the street from her front yard and saw the tower outlined against the sky, she did wonder if they had been more than a little bit gullible last summer. Among other options, they had agreed to test the neighborhood impact of the tower by going to a demonstration. With the trees in full leaf, the crowd gathered to see just how visible this tower might be with a balloon struck up in the trees to show us where it would go. The red balloon could only be seen at certain angles and from certain locations. It was not generally visible with all of the leaves out on the trees. It was not a child's balloon. They stood around in the yards and said well if the impact is no more than what they could see with this balloon, and then they really should be able to work with these people. When they finished the permitting process, they felt that they had reached a situation they could live with. In the fall when the leaves were off the trees, the tower does appear to loom and is noticeable against the skyline. She thought it was just because it was the real tower and the leaves were off the trees causing the skyline to be more visible than in the summer. It never occurred that the tower was a lot fatter that what they had been told it would be in the summer. It was only later that she had learned that the tower was fatter than it was suppose to be and it does not make it any less visible. She wondered who made the largest mistake in this process. Should they have delayed the demonstration? We feel very strongly that the Commission should deny this amendment to the special use permit and order the applicant to build the tower that they said they would build originally.

Mr. Tom Purvis, resident at 742 Tillman Road, passed out a picture of the existing tower with the "View from the west". He pointed out that the sun reflects off the pole for two hours in the morning and two hours in the afternoon. It appears that the pole is painted with a semi-gloss paint rather than a flat plat that would enhance the reflection. In addition, the tree to the left-hand side of the picture is what they used as a landmark to build this tower. That is to the north of the tower. The tower could be lowered to not be so noticeable from the treetop. He asked that the Commission consider that.

Mr. Thomas asked how far he was away from the tower when he took the picture.

Mr. Purvis stated that he was approximately 1,500 feet away from the tower in his front yard.

Steven Rubin, resident of 879 Tillman, stated that Triton had said that the tower resembles a tree. He pointed out that the tower does not resemble a tree that any of us has ever seen. He asked that the Commission make Triton take the tower down.

Leslie Wilcox, resident of Turner Mountain Road, stated that if an individual homeowner had made a mistake like this one, the County would make him correct it at his own expense. Last year a near by

homeowner mismeasured the road setback by eight- and one-half inches when he laid out the foundation for his new home. After he had built his entire basement, the error becomes apparent. His application for a variance was denied in large part because the hardship was self-imposed. He was required to jack hammer up the whole thing, take it apart, and start over. She acknowledged that these cases are different because that case involved a variance and this one a special use permit. The equities are similar. She suggested that Triton's special use permit should be revoked for willful noncompliance under Section 31.2.4, which she has passed out. The people in Triton's business office were directly involved in working out the conditions of the special use permit. Triton clearly had knowledge of the 30-inch size limit that affects the bottom and at the top. It is also clear that people in Triton's construction shop and its subcontractors worked on the outset knowingly building the foundation for a 39-inch pole and then installing a 39-inch pole. They willfully undertook acts that violated the condition. Triton is responsible and the appropriate County response may be to revoke its special use permit completely in order to tear down the entire installation.

Jeff Werner, Piedmont Environment Council, opposed the granting of the special use permit request. He stated that when this tower came through this process, he had the pleasure of working with a group of about 130 citizens to reduce the visibility of the proposed towers through a series of meetings, hearings and discussions. Now they are being asked to set their entire efforts aside because somebody made an error. In light of that point alone, he opposed this special use permit. He was troubled about this mistake because construction details involving construction assemblies are usually not left to chance. When Mr. Wilcox called me about this tower, he said that the wrong diameter of tower had been shipped and then installed. He noted that he was troubled by the lack of details on these drawings and how this larger tower was erected.

Mr. Loewenstein asked for further public comment. There being none, he closed the public hearing.

Dale Finocchi stated that he wanted to address the specific issues about the size and the anchoring. Mr. Werner was correct in what he said. They needed to get down to the practical aspects of what happened with the mistake. As you all know, at the time he did not work for Triton. He worked for Crown Communications as a consultant. In that capacity, his job was to find the location and to guide the site through the zoning process. After it gets through the zoning process, the way that it was handled was that it was then handed off to Triton and they handled the construction on their own. They got their plans and all of the information. What occurred was the normal process that they do when they order a tower from whatever tower manufacturer that they ordered this particular tower from. What happened was when they ordered the tower, the person that called the person to order the tower simply told the person at the manufacturing company what height they needed the tower of. Then that manufacturing company manufactured the tower to the height. They decided what diameter that it would come out as based on the height that was requested. That is where it says foundation and tower design by others. So the normal procedure in ordering a tower, if you are going to order a 200-foot tower or 110-foot tower, you call up Summit Tower and tell them I need a 111-foot tower. They designed it. They design the foundation. They tell you when it is ready to be delivered. They send the information with you. That is what happened. Where the mistake and the disconnect occurred was that nobody said to Summit, we have to have a tower that is not more than 30 inches at the base and no more than 18 inches at the top. So to answer his questions, yes the anchor bolts in the tower base are 39 inches because they were put in specifically for a tower that was the tower ordered specifically for this spot? There is not an issue of mismatched anchor bolts or an issue of structural problems. What happened was when the tower was ordered the diameters were not specified. That condition got lost in the transfer of information to all of those in the process of getting a tower ordered, and built and constructed on the site.

Mr. Loewenstein asked as a follow up on that, when the tower arrived and before it was erected, was there no on-site inspection by a trade representative that would have brought any of this wrong dimension issue to light.

Mr. Finocchi stated that on the one set of plans the dimensions were there. He noted that he would not sit here and make excuses for people who do not even work for me. He was not saying that someone should not have caught that.

Mr. Loewenstein stated that it was not the issue of whether or not it was made incorrectly, but the issue of whether it was installed at this site incorrectly.

Mr. Finocchi stated that it was not installed incorrectly as far as the tower that was ordered was installed properly. Now whether or not somebody caught the blurb on the plans with all of these conditions, he was not sure. There was a little spot on the plans that said no to exceed the diameter. He did not know if the field construction manager completely overlooked that or did not see it, he could not answer that question. He stated that the core of the mistake occurred was in the ordering of the tower in not specifying that there was a diameter limit.

Mr. Finley asked if normally they exchanged shop drawings when ordering something of this size. He stated that if they did not receive a copy of his drawing, then he could be liable.

Mr. Finocchi stated that he probably did receive those drawings. However, all he could tell them was that he was sure that it was an oversight. Certainly, there would have been no reason for them to do this with any malfeasance. There is no merit to us to do this with any type of malious. There would be no gain whatsoever. All he could tell them was that typically in the tower business in ordering construction of these things a diameter is not something that is usually looked at. It is not usually something that is limited anywhere else.

Mr. Edgerton asked why he agreed to a diameter after all of those meetings, if it was not going to be followed?

Mr. Finocchi stated that he would not necessarily say that they agreed to it happily.

Mr. Edgerton pointed out that it was agreed to in writing. He asked if they saw shop drawings, which was the usual process.

Mr. Finocchi noted that they were produced.

Mr. Edgerton asked if the shop drawings showed the 39-inch base.

Mr. Finocchi stated no, that the construction drawings.

Mr. Edgerton asked about the shop drawings that came back.

Mr. Finocchi stated that the disconnect was that he was not involved in that process. At that point, it was a whole different group of people.

Mr. Finley asked if Triton has an engineer that looks at construction and knows what it going in?

Mr. Finocchi stated that they certainly do.

Mr. Finley stated that surely someone should have caught this. He noted that 50 years ago he was doing this type of work. Even back then they would have looked at shop drawings and double-checked particularly when you have something that could blow over and cause damage.

Mr. Finocchi stated that all he could tell him that what occurred is that in the construction department who would be reviewing all of things did not have their hand on the pulse that this was an issue that they needed to be looking for. That information was not transmitted to them properly. That is where the mistake occurred.

Mr. Finley agrees that they would have had no motive to willfully do this on purpose.

Mr. Finocchi stated that they certainly would not. This was the first application that they had the limit applied to it. This happened to be the one that they goofed up. No one since then, there has not been a problem. We do our very best and try to be very diligent at adhering to all of these conditions. With all of the people in the process and the number of conditions, it is a tough job to make sure that everything is done correctly. He noted that he does his best to do that. Now they can do it a little bit differently because he did work for them now. Through the transition, it was just not there.

Mr. Loewenstein noted that the public hearing was closed.

Mr. Finley stated that since it was such a large amount of money to replace this tower, he wondered if a portion of the money could be used to hide the tower a little bit more with some plantings.

Mr. Rieley stated that he was struck by the amount of agreement by everybody on what are all of the critical portions of that. Everybody agrees that it was a mistake. Whether it was a willful mistake or unintentional he felt that was debatable because a larger pole could be extended to a higher height in the future. Nevertheless, those things are all irrelevant. Everybody agrees that it is inexcusable. When an inexcusable mistake is made, it is only reasonable that the recourse for that be brunt by the person who made the mistake, and not the people who entered into negotiations to try to make this work as well as possible. This seems very easy to me.

Mr. Loewenstein stated that the neighbors have given a lot of valuable time, attention, thought and valuable input into this project. The staff and the Commission provided considerable input and detail about what was expected and it seems to me that whether it was an honest mistake or not, it was still a very large mistake which was not in the public's interest.

Mr. Thomas stated that when someone is in a business and make a mistake, they have to make it good. We all worked very hard on this tower. He noted that they had four sessions on this to get it to the Board of Supervisors. He favored having the tower replaced by the specs.

Mr. Rieley stated that if there was any mistake made in the over all process, it would have been in granting too much flexibility. When the applicant came forward with a proposed 24 inches on the base and 10 inches on the top, that is what it should have been. They gave an additional 5 inches and got an additional nine on top of that.

Mr. Loewenstein stated that if they need to apply these conditions consistently. If they allowed this kind of thing to be rectified simply by abating the violation and changing the rules, then they are doing the citizens of the community what they have been put here to do.

Mr. Rieley stated that there were a couple of issues that go beyond the denial of this request. One was raised by Mr. Edgerton in what a wonderful opportunity we have now when we have the real thing on the ground that is measurable, let's find out how tall it is. Let us do an independent surveyor before the Board of Supervisors hearing so that they can have the information that we have not had survey those. The other is, and he did not know what the mechanism for this is, but he was reading a veiled threat towards some of the existing trees in there if this has to be replaced. Extreme measures need to be taken to protect those trees. If the trees were not hurt putting in the tower, then there is no excuse for them being hurt in taking this out and putting in the correct one in there. He hoped that they could get that in place.

Mr. Loewenstein asked that the record show this so that the Board can have this information when they hear this request.

Mr. Rieley pointed out that what was approved as a maximum and what was out there now was 69 percent bigger at the bottom and 58 percent bigger at the top. He noted that was substantial if you take a cross sectional area.

Mr. Edgerton agreed with all of the reasons and was not able to support the request. This is an example of where the community and the developer were supposedly working in good faith and the developer did not follow through on his commitment. Frankly, he was concerned because the height of the tower was substantially higher than what was approved by the special use permit. He wanted the height checked because the trees were there. Just working off the scaled drawings, It appears to be approximately 15 to 20 feet higher than the tallest tree within the 25 foot radius as required by the special use permit. As far as the accountability, there really is no reason to have a Planning Commission or a Board of Supervisors if the requirements as mandated in a special use permit are ignored. Whether it was intentional or not does not make any difference. After having been involved in the construction industry for 25 years, it is hard to understand how this mistake could have gotten that far without somebody knowing. It does not matter. The requirements are the requirements.

Mr. Craddock stated that as Mr. Loewenstein mentioned earlier, how many other concerns are there about this one pole. They have seen a couple pictures where it does not even appear to be painted, much less worrying about the height being correct. The drawings were of June 4, 2001 that was approved. These other drawings were approved with a 2002 date. He noted that he could not support this.

Mr. Finley stated that he could support it for all of the reasons he was saying, but morally he could not imagine spending $52,000. There would absolutely be no change in performance except the two inches on the top and the four inches on the bottom on the radius. There should be some way to get that money to a good use.

Mr. Edgerton moved to recommend denial of the amendment of SP-2002-004 for Bright-Triton PCS.

Mr. Thomas seconded the motion.

The motion for denial was approved (5:1). (Finley – No)

Mr. Finley stated that he voted no for non-technical reasons

Mr. Loewenstein stated that the Board of Supervisors would hear this request on May 15th.

The Board recessed for 10 minutes at 8:10 p.m.

The meeting reconvened at 8:20 p.m.

SUB 2002-048 Highlands 2C Preliminary Plat - Request for preliminary plat approval to create 52 lots, for single family detached dwellings, on 16.656 acres. The property is zoned R-4 Residential. The property, described as Tax Map 57A Block 1 Parcel A is located in the White Hall Magisterial District on Three Notch'd Road [Route #240] approximately1.5 miles from the intersection of Route #240 and Crozet Ave. The Comprehensive Plan designates this property as Neighborhood Density, which recommends 3-6 dwelling units per acre.

Ms. Doherty presented the staff report. (See attached staff report.)
She noted that one condition of approval was added as result of a request from the neighborhood was that they do screening along the lots that beck up to Route 240 along lots 9 through 36. She noted that was condition 1b. She noted that this would not be here if an adjacent owner had not voiced an objection. There are no waiver or critical slope issues.

SPEAKERS FOR REQUEST:
Kirk Kloeckner, representative for Kloeckner Engineering, stated that they would answer any question. He noted that they agreed with the conditions. Mr. Farrer was the contract purchaser and was here to answer any questions.

Mr. Loewenstein asked if there was anyone else present to speak on this matter. There are two names listed on the sign up sheet to speak, He asked Mr. Loch to come forward.

Tom Loach, resident of Crozet, voiced objections over the placement of the homes with their rear ends towards Route 240, which could best be described as butt ugly. This design certainly falls under the same designation as the design submitted for Greyrock, which was described as the architecture equivalent to mooning. One could only assume that the developer did not hear the comments made by the Planning Commission last time when this proposal was presented. When you told them to take it back and do it right, they thought you said take it back and do it by-right. He asked if the entire idea of developing the neighborhood model to improve the architectural form within our growth areas. Isn't good architectural form one in which you do not have to shield design? Should not landscaping architecture in Albemarle County be more than just big trees. If you drive down Route 240, across from the proposed building site you will see homes all oriented towards the streets. Route 240 is the entrance corridor to Crozet. They like to turn their best sides to our neighbors and not our backsides. When you take this proposal and put it in context with Clover Lawn and the Bargamin rezoning, what you effectively are going to do is to kill the neighborhood model in Crozet. Instead of nurturing this infant process we call the neighborhood model, this will end up poisoning the well.

Mr. Loewenstein stated that the next speaker on the sign up sheet was Bev Urgenbright.

Bev Urgenbright stated that she was responsible for bringing this issue up for review. She noted that she lived across the road from this development. Her family owned the adjacent property of the whole stretch of this area. Last Wednesday they met with Mr. Carter to discuss the plans for this tract of land. They found him very receptive to our concerns. On the plus side, Mr. Carter's development follows the contour of land permitting fewer disturbances to the earth, less environmental elements, pollution from dust from grading and has also agreed to work with my family to control the blowing of dust during the grading of this property. Mr. Carter said that the houses would be designed to be like those at Stone Gate that they find to be quite attractive. He said that he would make the buffer zone denser than areas on the north side of Route 240 for the property owners being affected by the back door views. This was a meaningful suggestion, but to the contrary we must give up our view of the south mountains to trees to block the back doors and in some cases where rooftops will block the mountain view for homes on the north side of Route 240 and the general public in route to and from Crozet. We must keep in mind that this is an entrance corridor coming off Route 250 and it is the entrance to Crozet. The future of appearance of this entrance is in the palm of the Planning Commission's hand. In addition, some other issues need to be addressed. Has land from this development been dedicated to the widening of Route 240? The need to widen the road will result from the growth. On the other hand, do we wait and in the future jam the road up to the back doors of these homes or take away more land from the rural area. Highlands needs a common area to take care of their pets. The area that Mr. Carter is trying to develop right now is actual the bathroom for the dogs because Highlands does not have a common area.

Jeff Werner, Piedmont Environmental Council, noted his concerns about DISK and DISK2 of which he was a member. He encouraged the people in Crozet to stay enthusiastic about the neighborhood model. He stated that there were 12 projects racing to beat the masterplan. He feared the cumulative impact of the addition of new houses here and there. With the additional of a few houses here and there, he felt that there would an impact on the proposed neighborhood model.

Mr. Loewenstein closed the public hearing.

Mr. Rieley stated that based on the staff report, they did not have the capacity to make this better. They were a victim of this zoning.
He agreed with Mr. Loch that house should not front on Route 250.
That is not within this Board's purview in this application.

Mr. Kamptner stated that the only way would be if there were a subdivision ordinance requirement that addressed or required residential or orientation.

Mr. Rieley stated that one of the frustrations of being on this Commission is when it is generally assumed that we can make things better and we do not have the capacity to do that. We are the victim of the existing zoning.

Mr. Cilimberg stated that was a frustration that staff has. They know and have identified in fact a schedule for you and the Board in what needs to be done. We are actually on schedule but there are things we need to do that address the subdivision ordinance that should get under way this spring. He pointed out that the Board has approved two new positions for the department for next year. One of them was identified specifically to work with Ordinance changes of the type that would apply to subdivision and zoning provisions. .

Mr. Loewenstein stated that was hearting news, but in the meantime the clock keeps ticking. It is very unfortunate that they need to implement the master planning in Crozet and by the time we have the staff to do the work and get the necessary ordinance changes, the other side of the process is moving so quickly that we won't be able to get the benefit we want as quickly as we want. Frequently a frustration since Crozet is under the gun because so many development applications out there pending.

Mr. Cilimberg noted that most of these development plans were not subdivisions and site plans that will actually allow a discretionary decision on your part. The hope that will be a part of the master planning process. That is what they are telling those people that have those paid proposals on the table. We know of one that is delayed. The master planning work is now beginning. There is now a consultant that they have actually met with on the design. That is a frustration for staff as well.

Mr. Loewenstein noted as Mr. Kamptner has confirmed that our action is pretty much a magisterial one.

Mr. Thomas moved to recommend approval of SUB 2002-048, Highlands 2C Preliminary Plat, with the conditions as recommended by staff.

Mr. Finley seconded the motion, which carried unanimously with the following conditions:

1. The final plat shall not be submitted for signature nor shall it be signed until the following conditions are met:

a. Please show the area within the rear yard setback of Lots 9, 10 and 11, where mature Bradford Pear trees exist, as "to be maintained by the Homeowner's Association;"

b. Please provide a landscape plan, which includes the following screening: All double frontage lots (Lots 9 through 36) shall be screened between the rear of the residences and the public right-of-way. Screening shall consist of a planting strip, existing vegetation, a slightly opaque wall or fence, or combination thereof, to the reasonable satisfaction of the agent. Where only vegetative screening is provided, such screening strip shall not be less than twenty feet in depth. Vegetative screening shall consist of a double staggered row of shrubs planted ten feet on center. Alternate methods of vegetative screening may be approved by the agent. Where a fence or wall is provided, it shall be a minimum of six feet in height and plantings may be required at intervals along such fence or wall; and

c. All other reviewing agencies have granted approval.

d. The following items must reviewed and approved by the Engineering Department before the final plat can be recommended for approval. A completed submittal form and application, available at the Engineering Department, must accompany all submittals. The required number of copies and the required fees are indicated on the form and application.

    a. A stormwater management/BMP plan, computations, and maintenance agreement. The BMP/stormwater detention basin location will require Engineering approval prior to final plat approval. This may require the elimination of one or more lots to accommodate an approved basin location;

b. All drainage easements must be shown on the final plat;

c. An erosion and sediment control plan, narrative and computations;

d. A stream buffer mitigation plan; and

e. Road plans and computations.

New Business.

Resolution of Intent to amend both Sections 114-203, Fees, of the Subdivision Ordinance and Section 35, Fees, of the Zoning Ordinance.

Mr. Kamptner handed out two resolutions of intent concerning fees. He asked the Commission to consider both of the resolutions of intent in order that the fee regulations could be amended. The Board of Supervisors authorized a 25 percent increase in fees and was hopeful that they would be in place by July 1st. The zoning text amendments need to be processed.

Mr. Rieley moved to approve both resolutions of intent concerning the amendment of fees.

Mr. Craddock seconded the motion, which carried unanimously.

Mr. Cilimberg stated that for the next two weeks there will be work sessions on Albemarle Place. Next Tuesday, April 30, the work session will begin at 4:00 p.m. He noted that the City Planning Commission has been invited to attend both work sessions.

Mr. Loewenstein asked that staff update the guidelines on the back of the agenda to include the sign in sheets.

Mr. Cilimberg noted that staff would take care of it.

Mr. Edgerton asked staff to be prepared to answer questions concerning Kay Slaughter's letter about Albemarle Place.

Mr. Cilimberg noted that staff would give brief information on that, but noted that it was standard practice for developers to make their submittals to the Corp. He noted that staff would provide what information it can.

With no further items, the meeting adjourned at 8:50 p.m.

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V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon C. Taylor, Recording Secretary.)