Planning Commission
June 18, 2002
6:00 PM

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, June 18, 2002 at 6:00 p.m. in Meeting Room # 241 at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Vice-Chairman; William Finley; Rodney Thomas; Pete Craddock; and Bill Edgerton. Absent from the meeting were Tracey Hopper and Jared Loewenstein.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; David Benish, Chief of Planning & Community Development; Greg Kamptner, Assistant County Attorney; Juandiego Wade, Transportation Planner; Steven Biel, Planner; Susan Thomas; Senior Planner; and Michael Barnes, Planner.

Other Matters Not Listed on the Agenda from the Public:

Mr. Rieley invited comment from the public on other matters not listed on the agenda. There being none, the meeting proceeded.

Consent Agenda:

Approval of Planning Commission Minutes – May 7, 2002.

Consent Agenda - SDP-2001-096 Snow's Business Park Major Amendment Critical Slope Waiver & Buffer Disturbance Waiver Requests - Request, pursuant to Section 4.2.5.2, to allow for the disturbance of critical slope. Request, pursuant to Section 26.10.3, to disturb the required 30' buffer between Industrial and Residential properties. (Francis MacCall)

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

Mr. Craddock seconded the motion, which carried unanimously.

SDP-2001-096, Snow's Business Park Major Amendment Critical Slope Waiver & Buffer Disturbance Waiver Requests, was unanimously approved to disturb the critical slopes and the buffer with the following conditions:

1. Replant the 30' buffer with a double staggered row (15' on center) of American Holly along the full distance of the shared residential property line.
2. A single row of white pines (15' on center) shall be planted along the entire length of the rear property line.
3. Any portion of the 8' high chain link that is removed as a result of the disturbance activity shall be reinstalled, after completion of the work necessary for cleanup, in the location as shown on site plan SDP-01-096
4. The slopes that are at a grade of 2:1 shall be stabilized with low maintenance vegetative ground cover. The vegetative cover must be a variety selected from Table 3.37-C on page III-391 of the Virginia Erosion and Sediment Control Handbook or an equal approved by the Engineering Department.

Deferred Item:

ZMA-01-021 Carriage Gate Apartments (Sign #69) - Request to rezone 2.742 acres from R-6 Residential to R-15 Residential to allow apartments with a density of 14 dwellings per acre. The property described as Tax Map 45 Parcel 91 is located in the Rio Magisterial District on Woodbrook Drive approximately 1/4 miles from the intersection of Woodbrook Drive and Berkmar

Drive. The Comprehensive Plan designates this property as transitional, recommended for mixed-use areas with Urban Density uses and non-residential land uses on the scale of Neighborhood Service and Office Service. Urban Density uses are 6 - 34 units per acre (if this applies) in Neighborhood 1. (Elaine Echols) ***DEFERRED FROM THE MAY 28, 2002 PLANNING COMMISSION MEETING.***

Mr. Benish, in Ms. Echols absence, presented the staff report as attached. He pointed out that previously the Commission had asked the applicant to redesign their proposal to better meet the principles of the Neighborhood Model with specific regard to relegated parking, providing more accurate grading information and providing a central amenity. The applicant has revised the plan's proffers and they have been provided in Attachment C. Staff has reviewed the modified plans and the elevations provided. The new plan relegates almost all of the parking and does provide for a central amenity. These changes are in keeping with the changes that were requested by staff and the Commission. He noted that the modified plan and proffers have been reviewed by staff and are ready for approval with minor non-substantive changes. With this plan, the Planning Commission has also been asked to increase the distance of parking spaces to the units. The requirement is for spaces to be located within 100 feet of each unit and the Commission can increase that to a distance of 200 feet. Staff does recommend approval of that waiver. He noted that staff was planning on amending the ordinance to eliminate that requirement in the future. Staff is recommending approval of the rezoning request with the proffers as attached with minor revisions and the parking requirement.

Mr. Edgerton asked if the unit was two or three stories, and Mr. Benish stated that it was a typo and actually was a three-story unit.

Mr. Edgerton asked if the garages that were shown across the back of the parking lot was going to be used for storage or for actual garages?

Mr. Benish noted that his understanding was that they would be garages, but he felt that the applicant could best address that product. He pointed out that was new and was not a part of the prior request.

Mr. Cilimberg noted that all of the items that were scheduled for the Board of Supervisors on July 3rd would actually be heard on July 10th.

SPEAKER:
Mr. Steve Melton, representative for Berkmar Land Trust in the rezoning portion of this application, stated that he was in agreement with the revised proffers mentioned in the staff report. These proffers will be signed this Thursday when the owner returns from out of town and delivered to Mr. Benish. He pointed out that a lot of hard work had been done by the design engineer to modify this plan in consideration of the Planning Commission's recommendations brought up at the March 19th meeting. He hoped that the Commission would agree that this project meets with the guidelines of the Neighborhood Model and vote for its approval. He stated that he would be happy to answer any questions on the rezoning portion. He pointed out that Rich Carter was present to answer questions about the garage buildings.

Mr. Edgerton asked if the parking in the garages was included as part of the required parking?

Rich Carter, representative for Southland Homes, stated no because they had parking onsite outside of the garages.

Mr. Edgerton asked if the garages would be used as garages or as storage buildings?

Mr. Carter stated that they would be used as garages, but actually could be used for either use. He pointed out that he would imagine that someone with a nicer vehicle or boat would probably use the garage to store it out of sight.

Mr. Thomas asked if each garage would be assigned to a unit, and Mr. Carter stated more to the complex. He noted that it would be hard to assign them to a particular unit. He stated that it would be an option to a homeowner who may have a hobby of sorts with a car.

Mr. Rieley invited public comment. There being none, he closed the public hearing and brought the matter before the Commission for discussion and possible action.

Mr. Thomas moved to approve ZMA-01-021, Carriage Gate Apartments, subject to the proffers as submitted.

Mr. Kamptner suggested that the Commission take two separate actions.

Mr. Craddock seconded the motion, which carried unanimously.

Mr. Thomas asked for a clarification on the parking waiver.

Mr. Benish stated that in accordance with Section 4.12.3.4.c of the Zoning Ordinance, the parking waiver was to allow an increase in the distance from the parking spaces to the units from 100 feet of each unit up to 200 feet.

Mr. Thomas moved for approval of the waiver of the parking distance.

Mr. Finley seconded the motion, which carried unanimously.

Public Hearing Items:

SP 02-020 Pine Crest Orchids Amendment (Sign #38,39)
The applicant requests a special use permit to allow for a Home Occupation -Class B to cultivate and sell orchids. The applicant proposed to construct a greenhouse. Home occupations are allowed in accordance with Section 15.2.2.11 of the Zoning Ordinance. The property, described as Tax Map 61A Parcel 14, contains 1.020 acres, and is located in the Rio Magisterial District on Penn Park Lane [Route # 1481] at the intersection of Rio Road and Penn Park Lane. The property is zoned R-4, Residential. The Comprehensive Plan designates this property as Urban Density in Residential Development Area 2. (Juandiego Wade)

Mr. Wade presented the summarized staff report. (See the attached copy of the staff report.)

SPEAKER FOR REQUEST:
Mr. Richard Armstrong, representative for Pine Crest Orchids, stated that Mr. Wade's report captures very well the nature of this request. He stated that the request was simply to expand what already exists. He noted that the main purpose of adding the third greenhouse was because it takes eight to ten years to grow orchids. Therefore, in order to continue the business, they want to help to expand the ability to grow. He stated that it was not intended to increase any traffic to the location. He pointed out that the staff report indicates that it only generates seven to ten customers per week. He stated that they did not anticipate that was going to increase. There have been no complaints from the neighbors and they will not increase any noise or waste dealing with environmental based concerns.

Mr. Edgerton stated that the proposed greenhouse was described as an addition to an existing greenhouse, but on the plat it shows as a separate footprint. He asked which one was correct?

Mr. Wade stated that they have two greenhouses with an attached breezeway. He noted that all three greenhouses will be connected.

Mr. Edgerton asked what would be sold on the premises that were handcrafted items?

Mr. Wade stated that was the way the Zoning Ordinance describes what you can do with a home occupation. He pointed out that the handcrafted items would be the orchids.

Mr. Rieley asked if there was any one else that wanted to address the Commission. There being none, the public hearing was closed, and the matter placed before the Commission.

Mr. Thomas moved to recommend approval to the Board of Supervisors of SP-02-020, Pine Crest Orchids Amendment, subject to the three conditions recommended by staff.

Mr. Edgerton seconded the motion, which carried unanimously subject to the following conditions:

1. The entrance to the parcel containing this home occupation, Tax Map 61A, Parcel 14, along Route 631 (Rio Road) shall remain permanently closed;
2. The home occupation shall be limited to the greenhouses and the retail area and shall not exceed 3,500 square feet; and
3. The normal hours of operation shall be from 8:00 a.m. to 5:00 p.m. Monday through Saturday.

SP 02-017 Marks Construction (Sign #37) - Request for a special use permit to allow for a custom furniture 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 22, Parcel 28A, contains 5.134 acres (3.619 acres in Albemarle County and 1.515 acres in Orange County), and is located in the Rivanna Magisterial District on the northwest side of Burnley Lane, approximately .25 miles northeast of Route 641 (Burnley Station Road). The property is zoned RA-Rural Areas. The Comprehensive Plan designates this property as Rural Area. (Steven Biel)

Mr. Rieley stated that because Jill Marks was a valued employee of Rieley Associates, he was going to excuse himself from this item and hand the gavel over to Mr. Finley.

Mr. Finley asked staff to present the staff report.

Mr. Biel presented the staff report as summarized below , noting that the Board of Supervisors would hear the special use permit on July 10th. (See the attached copy of the staff report.)

Mr. Thomas asked if staff is recommending no commercial entrance, and Mr. Biel stated that was correct because staff does not believe there will be any increase in traffic.

Mr. Finley opened the public hearing and asked the applicant to come forward.

SPEAKER FOR REQUEST:
Bill Marks, owner of Marks Construction, stated that he had been in business since 1989 serving Charlottesville and the surrounding areas with custom woodworking projects. He noted that Mr. Biel has covered everything in the application. He stated that there was a line in their deed that permits the operation of this type of business. He stated that it permits the making and selling of violins, the making of baskets and cabinets, weaving or other home occupational pursuits. He pointed out that was the reason that they had purchased this property so that they could potentially do this sort of thing. He presented a poster of photographs for the Commission's review.

Mr. Finley invited public comment.

Lauren Gloria Bowers, a neighbor of Mr. Marks, stated that they had never had any problems with his construction business. She spoke in support of the special use permit.

Jim Bowman, the closest neighbor of the Marks, spoke in support of his shop.

Mr. Finley asked for further public comment. There being none, he closed the public hearing and placed the matter before the Commission.

Mr. Edgerton moved for approval of SP 02-017, Marks Construction, with the conditions as outlined in the staff report.

Mr. Thomas seconded the motion, which carried unanimously. (4:0) (Rieley abstained)

SP 02-017 for Marks Construction was approved (4:0) subject to 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.
5. The workshop shall not exceed 1,152 square feet, as shown on Attachment A.
6. The applicant shall obtain a Zoning Clearance for this use within sixty (60) days of approval or this special use permit shall expire.

SP-02-019 Clifton Inn Amendment - Expanding Seating (Sign #21, 22) - Request to amend a special use permit (SP 2001-039) to allow increased seating from 80 persons to no more than 200 persons for special events in accordance with Section 10.2.2(27) of the Zoning Ordinance which allows for restaurants and inns located in historic landmarks and to allow for shared parking with Stone Robinson Elementary School (Tax Map 79, Parcel 23A) in accordance with Section 4.12.4 of the Zoning Ordinance which allows for cooperative parking. A waiver to Section 4.12.3.4(b) of the Zoning Ordinance is requested to allow for parking that is greater than 500 feet from the proposed use. The property, described as Tax Map 79 Parcel 23B and 23C, contains 10.36 acres, and is located in the Scottsville Magisterial District on Route 729 approximately 0.25 miles from its intersection with US 250. The property is zoned RA Rural Areas. The Comprehensive Plan designates this property as Rural Area. (Stephen Biel)

Mr. Biel presented the staff report. (See the attached staff report.)

Mr. Biel stated that there were some concerns with safety issues dealing with pedestrians crossing Route 729. He pointed out that the applicant has proposed to use a shuttle service, to shuttle the attendees across Route 729 from the school parking lot. That would add additional traffic than what it normally would be. Staff believes that this request could result in the possibility of pedestrians crossing Route 729, which could become a liability for the County. The speed limit on Route 729, which is a two-lane state road, is 45 miles per hour. According to VDOT's statistics, the average daily traffic volume is 5,600 vehicles. He felt that was too large of a volume of traffic to be shuttling people back and forth. He stated that there have been previous problems with the septic. The Health Department has recommended that no more than 100 persons attend any event. In fact, the applicant is proposing to provide port-a-toilets for these special events.

Both the Department of Building Code and Zoning Services and Department of Engineering have commented they cannot support this request due to the safety concerns previously mentioned. In addition, the Albemarle County School Board has been asked to give a recommendation. The School Board has not as yet scheduled this matter for review, but their staff has expressed reservations about this request.

Staff has suggested that the applicant consider on-site or alternative parking to alleviate the safety concerns, and the Department of Building Code and Zoning Services and Department of Engineering have supported this suggestion. The Department of Parks and Recreation would

also like for the applicant to consider the possibility of developing a parking lot in conjunction with the County on a parcel owned by the applicant (Tax Map 79, Parcel 36) that could serve as a boat ramp to the Rivanna River, as well as satisfy the parking requirements for Clifton Inn. This could provide a solution to provide off-site parking without requiring the crossing of a heavily traveled public road.

SUMMARY:

Staff has identified the following factors favorable to this request:

1. The expanded use could promote greater economic stability of the area, which is located within a historic property. This could help preserve this historic resource.

Staff has found the following factors that are unfavorable to this request:

1. There is a potential safety concern with pedestrians crossing Route 729 and, for this reason, the Zoning Department and Engineering Department do not support this request.
2. Alternative parking has not been explored.
3. The Health Department has recommended that the aggregate number of guests of the Inn, restaurant, and special events on the premises to not exceed 100 people.
4. The applicant is proposing to accommodate more people (up to 200) than what is permitted for farm winery special events (no more than 150 people).

Therefore, staff is unable to support this request.

RECOMMENDED ACTION:

Based on the findings contained in this staff report, staff recommends the request be denied due to safety concerns and lack of support from the Zoning Department and Engineering Department.

Should the Planning Commission recommend approving this request, and subsequently the Board of Supervisors approves the request, conditions of approval would be contingent upon recommendations from the School Board.

Mr. Biel pointed out that the Board of Supervisors would hear this request on July 10th.

Mr. Rieley asked if there were any questions for Mr. Biel.

Mr. Craddock asked if currently when they have special events, do they have to get a permit.

Mr. Biel stated not to his knowledge, but that they are limited to 80 people at any one time.

Mr. Craddock pointed out that currently they use parking at Stone Robinson School.

Mr. Cilimberg stated that they were currently conditioned by their special use permit to a certain number. If they are exceeding that number of people, then the Zoning Administrator would need to be made aware of that, but he would believe that was a violation of the special use permit.

Mr. Biel noted that he had received two telephone calls this past Friday from area residents saying that they have had problems with music going into the early hours of the morning.

Mr. Rieley asked if there were any other questions for staff. There being none, he opened the public hearing and asked the applicant to address the Commission.

SPEAKER FOR REQUEST:
Richard Armstrong, on behalf of Clifton Inn, stated that there were three issues addressed in the staff report. They were parking, the health issue and the expansion issue. He stated that Mr. Biel stated that there would be 5,600 cars per day, but they were basically just talking about weekend events. For anybody who has traveled in that area during the week, particularly when they are trying to get in and out of the school; they know how busy that area can be. He noted that on week ends it was significantly different. Therefore, he did not think that the average amount of traffic that went by on Route 729 was the operative number that they should use. He stated that even though the two parcels were right across from each other, the entrances to the school and Clifton Inn were very far apart. He stated that the realistic possibility that people are going to walk across there is slim especially considering the patterns of the guests that attend these events and the terrain of the properties. He stated that they proposed and were willing to accept as a condition to allay this concern that they would have somebody in the parking lot to make sure that any guests that would start to walk across the street would be stopped and taken across in a van. He stated that the nightmare that one would image would be the drunk person who is leaving the party and does not want to wait for the van and starts walking across the street and gets hit by a car. He noted that they could have somebody there to stop that from happening so that it would not be an issue. He stated that as to the other issues on the parking, they said that it might conflict with school events. He pointed out that principal, Ms. Ashby Kindler, has given permission in the past to use the parking lot there. It has always been a working relationship that when the school had events, that Clifton would not hold an event and would take a back seat to whatever was going on at the school. Another issue that the school board staff raised was that during the soccer season they want the parking lot available at the soccer field for the parents. Also, in the winter they wanted the parking spaces near the gym to be available for the parents. He pointed out that it would not be a problem to direct the parking in a certain area of the parking lot so that it best accommodates the school. He noted that there were ways that they could work around that. He stated that as to the Health Department issue, he apologized to the Commission because they do not have this report yet, but they do expect a report from an Engineer who has done testing on the current system. He asked that if they do recommend approval of this, that they condition it upon receipt of a report from their Engineer that indicates that the sewage system can accommodate 200 or more people. He noted that the Health Department issue can be dealt with and he did think that it was going to be a problem. He noted that the staff report indicates that these parties can be accommodated without any expansion of the existing structures and that nothing would be viewed from the road. He stated that they would help the community by creating new jobs for the increase in the business. He stated that up until the time that the Engineering Department had decided not to recommend approval because of the pedestrian issue, the School Board was not putting up an issue about parking. He stated that he had spoken with the assistance superintendent and another person who was in charge of that over there, and they tentatively approved to recommend to the School Board that his be accepted with the condition that they pay a fee for the use per car. He noted that they did not want to get involved once it appeared that the staff report was going to be negative. He stated that they were totally dependent on that parking so that if the school board don't approve it, then they would not be able to proceed.

Mr. Thomas asked how many spaces were available on the property.

Mr. Armstrong stated that they have 32 parking spaces.

Mr. Thomas asked if that was for 80 people, and Mr. Armstrong stated that was correct.

Mr. Thomas asked why they don't put more parking spaces on the actual property.

Mr. Armstrong stated that it was a beautiful spot and that there was a lot of green area on the site, but they would rather not put down a lot of pavement or gravel. That would affect the appearance during the wedding and they would prefer to leave it alone.

Mr. Thomas stated that he liked the idea of shared parking, but noted that it was a very busy road.

Mr. Finley asked if there have been any formal applications about Clifton developing parking down by the river.

Mr. Armstrong stated that no formal discussions have been made. They would prefer to start with their wedding events without having the two tied together.

Mr. Rieley invited public comment. There being none, he closed the public hearing and placed the matter before the Commission.

Mr. Edgerton stated that he was concerned and felt, as Mr. Thomas said earlier, that it would be wonderful to figure out a way to share parking with the shuttle arrangement. He pointed out that he was not sure if the system could be worked out to be handled safety. He felt that was a major issue that was brought up by staff and the Engineering Department. He stated that the applicant represents that they are in the process of getting an engineering study that says that the existing septic system will accommodate 200 people. He noted that the School Board would get to make the decision about the parking lot. He asked what the rush was because they needed this information before they could make a decision. He asked staff if a suggestion had been made to the applicant that this was not ready yet.

Mr. Biel stated that the Health Department has serious problems based on the previous record of past problems. He stated that they were trying to get things rectified. He stated that he was unclear as to whether they have complied with the Health Department's requirements of the last special use permit. He stated that there were some serious problems here.

Mr. Rieley stated that he shared those reservations. He noted that Mr. Armstrong had categorized the issues quite correctly and clearly in parking, health and expansion of a use in the Rural Areas. He stated that none of the three areas have been adequately resolved. He noted that he found himself thinking about the prospect of people trying to walk from Stone Robinson School to an event at Clifton. He stated that you would have to have shuttle buses that are right on the money in order to prevent people from doing that. He noted that people would certainly walk in the road. He pointed out the fact that if the applicant would feel it was necessary to suggest having a monitor on site to encourage people not to do that suggests the likelihood that it would happen. To talk about an enforcement problem for zoning, they have enough problem trying to figure out whether a special use permit that was granted for 80 people is being violated. He wondered along those lines, if there are 33 spaces intended for the 80 people who are suppose to be using the site, why do they need to use the space across the street at Stone Robinson School which tends to support the impression that Mr. Craddock had. He felt that there were alternatives and that it was a use in the Rural Areas that he supports. He did not think that the designation of historic site should necessarily be the benchmark, but that this should be available for special use permit for lots of properties. He noted that this was less than an 8-acre site and it is trying to squeeze an awful lot out of a site that has a record of expanding. He hoped that something could be worked out by the County to keep the parking all on one side and that some middle ground can be arrived at that is satisfactory to the Health Department so that an expansion of a reasonable scale for this site could be done that does not pose hazardous parking.

Mr. Thomas asked the applicant to provide one thing for clarification of the Health Department concern. He stated that the previous special use permit requirements needed to be followed up on and completed first.

Mr. Craddock stated that it also said in the report that it was not to exceed 100 people. He thought that Clifton is the only commercial establishment on the Glenmore Water line because of health and safety issues.

Mr. Cilimberg stated that he was trying to remember whether they got that water jurisdictional area approval. He asked Steve if he found that in his research?

Mr. Biel stated that he was not familiar with it.

Mr. Cilimberg stated that he knew that Stone Robinson was on the water line, and believed that Clifton applied for public water service. He noted that he was not sure if they received that approval. He stated that they may have because of some of the problems they had with well water on site.

Mr. Craddock stated that it certainly was a nice place, but for three reasons that have been brought up, he certainly could not support that. He stated that he traveled that road a number of times and had seen a number of cars parked at Stone Robinson for events at Clifton and actually seen the people walk the roads. He pointed out that it was about one-tenth of a mile from the entrance to Clifton to the first entrance at Stone Robinson. He stated that he was surprised that someone has not gotten clipped along through there yet. There is enough land at Clifton from the river to Route 250 that they could do some parking up there. Therefore, he was not in support of this for those reasons and the liability issue of using the school property.

Mr. Rieley stated that it makes sense if something could be mutually worked out on the parking next to the river with Mr. Mullaney. Since they did not have any details on it, he could not advocate it.

Mr. Finley agreed that if the parking was on the other side of the road, that people are going to be walking across the road. He asked at what point they would need a policeman or blinking lights.

Mr. Rieley stated that was not a land use requirement.

Mr. Cilimberg stated that there may have been one occasion in the past where on a special use permit there was a requirement for police control because of the nature of the event. But typically it was an arrangement between the Police Department and the user. The user normally would hire someone for traffic control.

Mr. Rieley stated that an event for 80 people in an historic inn on less than 8 acres of land seems about right.

Mr. Craddock moved to recommend denial of SP-02-19 for Clifton Inn Amendment – Expanded Seating.

Mr. Finley seconded the motion, which carried unanimously.

Mr. Rieley stated that the Planning Commission would send the recommendation of denial for SP-02-17 to the Board of Supervisors. He stated that they could also send along a recommendation relative to staff's suggested conditions if the Board does not agree.

Mr. Cilimberg stated that staff did not actually have a set of conditions.

Mr. Kamptner stated that they had the waiver of cooperative parking to consider.

Mr. Cilimberg asked that the Planning Commission take action on the request for cooperative parking.

Mr. Craddock made a motion for denial of the request for the waiver of parking.

Mr. Kamptner asked if that would be for the waiver for cooperative parking and parking 500 feet from the use. He stated that they could take those two things together.

Mr. Craddock agreed.

Mr. Thomas seconded the motion, which carried unanimously.

Mr. Craddock moved to recommend denial of SP-02-19 for Clifton Inn Amendment – Expanded Seating.

Mr. Finley seconded the motion, which carried unanimously.

SP-02-05 Albemarle Nursing & Rehabilitation Center (Sign #76) Request for special use permit to allow an elderly care facility in accordance with Sections 22.2.2.6 and 18.2.2.9 of the Zoning Ordinance which allows for nursing homes. The property, described as Tax Map 61W Section 2 Parcel 2 ((portion), contains 5.566 acres, and is located in the Rio Magisterial District on the south side of Greenbrier Drive [Route 866] at the intersection of Greenbrier Drive and Pepsi Place [Route 1340]. The property is zoned C-1, Commercial, and EC, Entrance Corridor. The Comprehensive Plan designates this property as Community Service in Neighborhood Two. (Susan Thomas)

Ms. Thomas presented the staff report (See attached). She stated that from staff's perspective, the issue was not so much the use which was very consistent with this particular part of our urban area, but siting the use appropriately on the site and also ensuring that the site can accommodate the use. The applicant has submitted a concept plan that includes the entire site. The special use permit tonight is for the northern part of the site. Contrary to what was written in the staff report, the owners of the property have now decided to separate the two parts and indeed have submitted a preliminary site plan for the nursing and the rehabilitation center with the idea that the site would be subdivided and there would actually be a property line probably going right through the middle of the BMP located between the office building to the south and the nursing facilitiy. She noted that would be a condition of the site plan approval should it be approved. Another clarification of the staff report, this project will go to the Architectural Review Board because when they got the site plan they realized that the western most corner lies within 375 feet from Route 29 right-of-way. She noted that the project will be reviewed by the Architectural Review Board as part of the site plan process. She corrected the fact that the request will go before the Board of Supervisors on July 10th and not the 3rd. She pointed out that the applicant was prepared to talk about the use and explain in more detail how it works. She referred to Page 3 under interconnective streets and networks where she stated that the retaining wall would vary between one and fifteen feet in height. The applicant's consultant was able to work with the retaining wall a little bit to reduce it in height to bring it down 3 feet in the back. She stated that was one of the main areas of concern because of the size of the building and the nature of the site, it is an unusually shaped parcel, it was just not possible to leave that critical slope alone, and leave the trees on it. The retaining wall was necessary that allowed accommodation of storm water needs on site to serve the entire site. There is a letter from the Engineering Department stating that the BMP facilities are appropriately sized in their view and we know that they will work. She stated that they wanted to make sure that there was room to accommodate that storm water because there was a lot of impervious surface. This would be a very intensively developed site under this scheme. Staff received a lot of cooperation from the applicant and the building underwent a complete redesign. She noted that it was great improvement. Although there is still an elevation difference at the corner that was more than she would like, she thought it would vary quite a bit so that as you walk along the exposed frontage in some places the pedestrian will be right at the finished floor level of the building. It is not uniformly elevated. Sidewalks will be provided along with the bus pull outs in staff's recommended conditions. She stated that she did not stress the need to connect this site through pedestrian facilities to the properties along Route 29 because with the sidewalk network there was a good way to get to Route 29 if someone needed to. She noted that there was such a terrain difference that it would be a difficult connection. She stated

that this whole area had been reconfigured at a point in the past. She felt that the properties that backed up to this are good candidates for possible redevelopment in the future. There might be a different relationship built between the parcels over time, but they don't know that would happen. She went over the recommended conditions. The first condition needs to be corrected to say that the maximum amount of 35 staff would be present at any one time. She also did recommend approval of the waiver. Although this is an intensive use of the site, this is the heart of our urban area and is justifiably to build to its full potential.

Mr. Rieley asked if the alternative of the use of a multi-story building was explored with the applicant.

Ms. Thomas stated that it certainly was discussed early on, but the applicant's operating plan does not include that. She noted that a two-story would certainly free up a lot of space on this site. She stated that she still could support the request.

Mr. Edgerton stated that if you reduce the footprint by one-half, they would not have to disturb the critical slopes. He asked if that was a correct assumption.

Ms. Thomas stated that she thought that assumption was accurate.

Mr. Edgerton shared Mr. Rieley's concerns. He hoped that they could address the number of parking spaces because it is almost twice to what is required. He noted that was contrary to what they had been talking about.

Mr. Rieley noted that it would not be consistent with the parking ordinance. 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.

SPEAKER FOR REQUEST

Bruce Hedrick, Vice-President of Smith/Packett, stated that he had three gentlemen present tonight that were not part of the formal presentation. They were Jack Jones, architect of the project; Bill Mesnick, local civil engineer with Land Planning; and Adam Garth, of Smith/Packett. He stated that Smith/Packett has been developing long term facilities for about twenty years. He noted that they have done about 100 different projects. He presented a power point presentation. He stated that they see themselves as an ideal transitional use. Smith/Packett works with a number of regional operators that actual operate the facilities. For this particular project, Laural Healthcare would actually operate the facility. They have a 15-year relationship with Laural Healthcare who operate another of their facilities in Richmond. Their most recent survey was deficiency free which was a very high State standard. The genesis for this facility was the closure of the Jefferson Park Center last July. They were able to purchase 120 beds from UVA and have acquired a certificate of public need for 120 beds at the Greenbrier/Pepsi Place location. The State gives preference to facilities that have a minimum of 120 beds. They see that as the operational efficiency level for delivery of care. From the staffing perspective it is the best way to deliver the best level of care to our residents. Second, they always build single story facilities. The single story structure is by far the safest as well as provides the most accessibility to our residents and their family members. He asked for consideration in amending the completion of sidewalks all around the site to taking the sidewalk up Greenbrier Drive and terminating it at the bus stop. He pointed out that the reason for that is going west to Route 29 there was no sidewalks. They feel that it a much better line of sight crossing the creek here rather than at the crest of the hill. There is an existing sidewalk that runs up to the service station on the other side of the road. They felt it was a safer way to provide access. He stated that they had two letters of support from the Alzheimer's Association and Ron Langman at the Branchlands Retirement Village. He asked for favorable consideration on the request.

Mr. Rieley asked if there were any questions.

Mr. Thomas asked if they had 55 parking spaces.

Mr. Hedrick stated that there were actually 56 parking spaces. He pointed out that the intensity of the use requires additional folks to come into the facility as well as attending physicians, visiting family members and friends.

Mr. Edgerton stated that in a former life he did a lot of health care design and nursing home design. He asked that he elaborate on the absolute necessity for a one-story structure. He noted that is not something that he was aware of that was necessary since elevators work well. He stated that he was opposed to the scale of the footprint of a one-story building, and you indicated that your company does not do any multi-story buildings. He asked if that was correct.

Mr. Hedrick stated that Smith/Packett does have a one and one-half story facility that they Operate, but Laural Healthcare does not operate any two-story structures.

Mr. Edgerton asked if they require a multi-story structure to avoid having to impact the critical slopes, then that would kill the project?

Mr. Hedrick stated that was correct. He stated that the concern and risk that the operators take is that if you are in a two-story structure and those systems don't work, how do you get people who are bedridden and wheel chair bound out of a two-story structure. That is the issue. The ability insurance for our industry has sky rocketed. Unfortunately, the insurers look at a two-story building as a more risky proposition.

Mr. Edgerton stated that the retaining wall is a concern that is being required because of the large footprint of the bldg. He asked if the height of that was 15 feet at one point.

Mr. Hedrick asked Mr. Mesnick to come forward and answer the question.

Bill Mesnick, landscape architect, stated that basically the wall transitions from approximately one foot to fifteen foot and then up to 4 feet and then back down to grade. He noted that the majority of the wall would be fairly low. Most of it would be screened from view by the building, except for the portion that was visible through the entrance parking lot.

Mr. Rieley noted that he was struck by this enormous one-story building placed on a piece of sloping ground that creates problems on both ends of it. It is a site in which a multi-story building would not only be more urban in this setting which they had been arguing for, but he felt it would be less expensive and fit the land better and provide the kind of emergency access out of each grade and answer Mr. Hedrick's concern. He asked if anyone else would like to speak.

SPEAKERS AGAINST REQUEST:

Robert Meshner, resident of Brookmill Subdivision and President of Brookmill Homeowner' Association, stated that their treasurer, Mr. William Palmer and our spouses are here. He stated that they wanted to address the problems east of this facility. He noted that 14 or 15 years ago, Brookmill was developed at the same time as Branchlands. To the west of our development runs Meadow Creek and it comes down and passes 10 houses and makes a left turn and runs east and passes another ten houses. These are in our backyards. He noted that they have fought for 10 years to combat the erosion that was taken place from this creek. Finally in 1999 with the efforts of David Hirschman, they finally got the County to come in and do some work concerning the easterly flow of Meadow Creek. Now the southern flow of it was not even addressed and the Association has spent $3,000 at one time to make sure that the creeks erode away or lose any more of their backyards. Our concern at this time is that they are going to have additional storm drain water running into this creek. Since they had the extensive work done by Albemarle County, they have had the addition of the JABA building, the Real Estate Title Building

and Rosewood Manor and now you are talking about another nursing home where additional storm water will be pumped into this stream. He pointed out that it was important to have a good nursing facility and he appreciated what these folks are trying to do. They were concerned with the storm water that would be pouring down this stream. He asked if they did approve this, that they make a provision that Albemarle County would sure up their yards so that they don't get the erosion that would be expected from this.

Bill Palmer, resident of Brookmill, stated that they live right on that creek that Mr. Meshner spoke of. He stated that he remembered in 1996, that they had a heavy rain and the creek was up within ten feet of his back door. There was a huge pond of dark brown flowing water. He stated that he was concerned with the runoff. He stated that since he moved here many other businesses have been built. He stated that if it was a two-story structure, it seemed like it would be less run-off.

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

Mr. Thomas asked about the water problems.

Ms. Thomas stated that Steven Snell of the Engineering was present to answer those questions. She pointed out that they did meet with David Hirschman and the applicant and had quite an extensive conversation. She stated that she did not believe that this water drains to the Branchlands Basin, but Steven was the expert.

Steven Snell, of Engineering Department, stated that this does drain below that basin. He stated that the area below that basin was not included in this study so staff does not have any study material on that part of the streambed.

Mr. Thomas asked if he (Mr. Snell) thought that the Greenbrier drainage would affect the basin on Meadow Creek and Mr. Snell stated no because they were unrelated.

Mr. Palmer stated that they have a map here that shows the creek.

Mr. Rieley stated that they cannot have dialogue. Each person needs to address the Commission directly.

Mr. Palmer stated that the water from this facility will enter Meadow Creek. He understood from an earlier meeting that it enters right at Greenbrier Road. That would mean that the water passes behind my house.

Mr. Snell stated that the water would not enter the basin, but would enter in the creek before the basin.

Mr. Thomas stated that he would prefer that the sidewalk be put in to the end of he property, and Ms. Thomas agreed.

Mr. Thomas stated that he would prefer to see the sidewalk built all the way to Route 29.

Ms. Thomas stated that until the gas station comes in for modification, unless public funding Is used, that the sidewalk cannot be funded. She felt a portion of the sidewalk being built was worth building.

Mr. Rieley stated that he has extremely mixed feelings about this project as proposed. It has some serious shortcomings. It puts impervious surface over most of the site when he does not think it is necessary or in fact the most efficient way to develop the site. He felt the issue of parking in excess of what this applicant has built in other locations far in exceed of what would be

recommended in the new ordinance that they took a early look at which was going to public hearing shortly. On other hand, he was also acutely aware of the need to provide these services at a reasonable expense to make accessible for a wide range of the population.

Mr. Edgerton stated that he had listened hard to the applicant's arguments. He read the staff's recommendations carefully. He noted that he continues to be concerned not about the intent of the project, but he felt like the standard solution for the tenant that they are trying to house does not fit this site. The single-story versus the multi-story issue is the critical one to him. It forces the critical slope issue and forces a retaining wall across the western edge of the property. Staff has pointed out that will prevent any future connectivity that was one of our principles of the Neighborhood model. He stated that he believed that the engineer actually said that the water from this site would go into the actual creek. He stated that he was opposed to the excessive parking.

Mr. Rieley asked what the relationship of this site was to the on street parking near by.

Ms. Thomas stated that the Director of the Senior Center who is here tonight visited her. The one strong comment he made was that the on street parking was very significant for the Senior Center where popular events frequently overflow the capacity of their lot and people frequently park in Hillsdale. That in combination with the fact that this facility could utilize so many nonstafff people, like therapists, etc. The applicant feels that the additional parking would be more than warranted here than in other places. She stated that it was one to four beds under the Ordinance. She pointed out that Jan Sprinkle had reviewed the requirement with her.

Mr. Rieley asked how many spaces are required, and Ms. Thomas stated that they would be required to have thirty spaces.

Ms. Thomas stated that the applicant pointed out that the residents are not the drivers. That is not an issue.

Mr. Rieley noted that the parking is calculated on the number of beds.

Ms. Thomas stated that the nursing home regulations are based on beds, visitors and staff.

Mr. Craddock suggested that they have look at multi-story parking.

Mr. Hedrick asked if they get a chance to comment on this on the issues raised.

Mr. Rieley asked Mr. Hedrick to come back.

Mr. Hedrick asked if they get a chance to comment on the issues raised.

Bill Mesnick, landscape architect from Land, Planning & Design, stated that in terms of the grade access on the front and back of the building, it is possible but you would basically have to cut the entire site around that building to make that possible. He stated that the existing grade change was about 15 feet from the corner of Greenbrier and Pepsi Place back to the corner of the site. He noted that the slope was about 5 percent across the entire site. He stated that to pick up a little bit of grade, you would have to play with a little bit of fill in the front to see how much you could cut in the back. In terms of that situation, with the 30-foot setback it made it undetermined at this time if that was possible since the site was so tight.

Mr. Edgerton moved for denial of SP-02-05, Albemarle Nursing & Rehabilitation Center because of the concerns expressed.

Mr. Craddock seconded the motion, which was approved (3:2). (Finley - No, Thomas - No)

The motion was approved (3:2) to recommend denial for SP-02-05, Albemarle Nursing & Rehabilitation Center, to the Board of Supervisors.

Mr. Edgerton moved to deny the request for the critical slope waiver.

Mr. Craddock seconded the motion, which carried (3:2). (Finley – No, Thomas – No)

The motion for denial of the critical slope waiver was approved (3:2). The Commission expressed concerns over the fact that the proposal is not the most effective way to develop the site due to the proposed size of the building and the nature of the site. The following are some of the concerns expressed by the Commission:

1. The critical slope issue would be resolved or reduced if the building footprint were smaller.

2. The retaining wall is required because of the footprint of the one-story building design.

3. Excessive parking is proposed by the applicant (request is twice what is required by the Zoning Ordinance).

4. The increase in storm water drainage to Meadow Creek add to existing drainage problems within the area, and stems from the very large amount of impervious cover on-site.

The critical slopes waiver was also denied, by a vote of 3:2.

ZTA 02-02 - Fees – Amend Section 35.0, Fees, of Chapter 18, Zoning, of the Albemarle County Code, to increase the fees for all listed zoning applications and approvals by twenty-five percent (rounded up to the nearest $10.00). The proposed fee increase is necessary to assure that the fees cover the cost of services rendered by the County in reviewing zoning applications and site plans, issuing permits, advertising notices, conducting inspections, and other expenses incident to the administration of the Zoning Ordinance or to the filing of any appeal or amendment thereto. The proposed fee increase is authorized by Virginia Code § 15.2-2286(A)(6). (Wayne Cilimberg)

AND

STA 02-01- Fees – Amend Section 14-203, Fees, of Chapter 14, Subdivision of Land, of the Albemarle County Code, to increase the fees for all listed subdivision applications and approvals by twenty-five percent (rounded up to the nearest $10.00). The increase in fees is necessary to assure that the fees are commensurate with the cost of services rendered by the County in reviewing subdivision plats and associated approvals, and inspecting improvements. The complete ordinance, and information concerning the documentation and justification for the proposed fee increase, are available for examination by the public in [identify location]. The proposed fee increase is authorized by Virginia Code § 15.2-2241(9). (Wayne Cilimberg)

Mr. Cilimberg presented the staff report, noting that this was a part of the Board of Supervisors FY02-03 County Budget in which they included provisions to increase fees up to 25% to cover County costs of services provided in processing applications made under the two ordinances. Resolutions of intent have already been approved by the Commission. The last fee increase was effective December 11, 1991 in a comprehensive way. This occurred after extensive study of County costs and survey of other localities and was intended to cover 100% of costs at that time. Since 1991 there have been a number of factors in review that have changed and created more time and effort in the review process as well as additional regulations. Given this change in the

environment, staff's feeling was that that the increase in the cost of staff and overhead alone justifies a 25% increase in the fees. The actual increase based on consumer price index since December of 1991 has been approximately 28%.

Mr. Rieley invited public comment on ZTA-02-02 and STA-02-01.

Jeff Werner, representing Piedmont Environmental Council, pointed out that the report states that this increase is justified based on the change in the economy and policies and procedures. He expressed his concern that there are a number of things that increase the cost, suggesting that there be some clarification that the increase in fees is to bring cost in line with the reality of the situation. If it is a result of the Neighborhood Model or the change in times this should be expressed.

Mr. Cilimberg stated that this is too simple of a context to state in this way. There are a lot of factors that contributed to the cost increase. The Neighborhood Model, considering where we are, is a minimal factor in overall cost increase. Cost of living over this period of time justifies a 25% increase as proposed by the Board.

Mr. Rieley stated that the two key issues are cost recovery and inflation.

With no further public comment, the public hearing was closed and the matter put before the Commission.

Mr. Cilimberg explained that fees are one revenue source to cover an element of cost to the County for doing business. If you are not recovering in fees, but doing that business, then you are paying for it through the other revenue sources of the County which are primarily property taxes. In 1991 the County attempted to establish fees that were as close to recovering 100% of cost at that time that could be determined so that the other revenue sources were not trying to make up for those costs. This increase is to provide some level that is greater to avoid having to use other revenue sources to cover this cost. He pointed out that there is still a fair subsidy of the costs that is not being recovered through the application fee even with this increase.

Mr. Finley noted that the taxpayers basically are still paying for the increase in home buying, etc., pointing out that this increase will be added on to the cost of whatever the applicant is proposing to do.

Mr. Cilimberg stated that the public could either pay through the fees or the county taxes that have to be adjusted to cover the cost of government.

Mr. Thomas moved for approval of ZTA 02-02 Fees and STA 02-01 Fees as presented.

Mr. Edgerton seconded the motion, which carried unanimously.

Mr. Rieley stated that the Commission would take a ten-minute break.

The Planning Commission recessed at 8:20 p.m.

The meeting reconvened at 8:45 p.m., after the Planning Commission took a few minutes to read the new materials.

Mr. Rieley called the meeting back to order at 8:45 p.m.

CPA-2001-04 Albemarle Place - Change the land use designation from Industrial Service to Regional Service for Parcels 19A and 19B of TM 61W, Section 3, to support an eventual rezoning from LI, Light Industrial to PUD, Planned Unit Development, for the purposes of creating 0a mixed residential, office, and commercial development. (Michael Barnes)

Mr. Barnes presented the staff report (See attached). He provided the Planning Commission with additional information on staff's proposed draft language that reflects some of the discussion of the City/County staff. He passed out a faxed memo from Frank D. Cox , Jr., PE AICP about the CPA, a Wall Street Journal Article from a City Commissioner and a letter dated June 17, 2002 to the Planning Commission from James E. Tolbert, AICP on behalf of the Charlottesville Planning Commission.

Mr. Rieley pointed out that the Commission had just received new information on the recommended language along with several attachments. He stated that there were no City Planning Commissioners present tonight as well as two County Planning Commissioners absent. He questioned procedurally whether they should just give general guidance and carry the item ahead to another worksession so that they would have time to digest the new information as well as give the others an opportunity to participate. He pointed out that they would have a general discussion tonight and set up another worksession.

The Board held a work session. Discussion was held, but no action was taken. The Commission noted that they wanted to make sure that the City Planning Commission was notified of the next work session. The Commission deferred CPA-2001-04, Albemarle Place, to the June 25th meeting in hopes that all Commission members could be present.

Adjournment.

There being no further business, the meeting closed at 9:35 p.m.

V. Wayne Cilimberg, Secretary

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