Albemarle County Planning Commission

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, October 8, 2002 at 6:00 p.m., at the County Office Building, Room 241, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Vice-Chairman; Rodney Thomas; Bill Edgerton; Pete Craddock; Tracey Hopper; Jared Loewenstein, Chairman; and William Finley.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; Stephen Waller, Senior Planner; Steven Biel, Planner; Michael Barnes, Planner; and Joan McDowell, Senior Planner.

Other Matters Not Listed on the Agenda from the Public:

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

Review of Board of Supervisors Meeting – October 2, 2002.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on October 2, 2002 as follows:

- Staff informed the Board of the change in the schedule of the Rural Areas Review under the Comprehensive Plan that the Commission saw and agreed to. The Board did not take issue with the change and agreed with it.
- SP-2002-19 Clifton Inn Amendment – Expanded Seating was approved by the Board with conditions. The applicant, based on staff recommendations, deferred the special use permit for a couple of months and developed an alternative to provide parking at Clifton Inn rather than across the street at Stone Robinson Elementary School.
- SP-2002-36 Evergreen Church Amendment was approved to allow the new building in accordance with the conditions the Commission recommended.

Request for Additional Information In Staff Reports on Water Capacity:

Mr. Loewenstein suggested an expansion of the information that the Planning Commission members receive in staff reports to include water resources impact data utilizing existing formulas that are out there to represent potential water use. He noted that they already receive information on traffic generation, school impacts and fiscal impacts. He noted that the information should not be difficult or time consuming to provide. He suggested that the Planning staff work with the Service Authority experts to determine the easiest and most efficient way to create and distribute data on potential water use for the Commission. He felt that any such data ought to be incorporated into any staff report on large-scale issues and should be considered during discussions prior to taking actions on such matters. He noted that at the CPA level that these figures would be inexact, but they should become more detailed as rezonings, special use permits or other specific applications come up for consideration and action by the Commission. He invited other members of the Commission to join with him in taking an active role in considering water resources as a necessary component to determine the best course of action with respect to larger scale land use decisions. He felt that this is good for the entire community, including both the County and the City. He noted that he initiated this topic because everyone has a heightened interest in water right now as a result of the current crisis. It is a critically important element in doing proper land use planning anywhere at anytime. The long range picture makes it clear that over time Albemarle County will still need expanded water resources just to stay in step with a well managed growth policy. He felt that it was high time that they move forward on this particular front. This is not a suggestion to stop or delay development based

merely on water matters. It is a suggestion to make water usage information available to us in our actions on future land use planning questions that affect all of us in the community.

Mr. Rieley moved that the Commission endorses Mr. Loewenstein's view that staff should provide information regarding the water capacity since they need to have this level of information provided on those matters and officially ask staff to try to fulfill that to the extent that it is possible.

Ms. Hopper seconded the motion.

The motion carried unanimously (7:0).

Mr. Cilimberg stated that staff would provide this information to the Commission with the assistance of the Service Authority. He noted that Mr. Bill Brent and Mr. Paul Shoop of the Service Authority were present and that staff would rely on them to provide this information.

Mr. Loewenstein noted that this would simply be another factor for the Commission to look at just as they would look at traffic impacts, school impacts and fiscal impacts. This was just another set of data to consider in the entire process of making decisions for specific actions that they would take.

Mr. Cilimberg stated that it would be a balance to further look at the capacity available based on other land use decisions that the Board of Supervisors makes. Obviously, more density would put more people and businesses located in the County on the public system. That is going to theoretically move the demand from the Rural Area to the Urban Area and the public system if they were successful. This is obviously calling for the need to be looking at the capacity to provide for that to meet those kinds of Comprehensive Plan goals.

Mr. Bill Brent, Director of Service Authority, stated that they would be delighted to work with staff in trying to determine how they could provide the information needed to make their decisions. He noted that at the level being discussed, they would be painting with a broad brush. To the extent possible, they will try to provide staff with what is needed.

Consent Agenda:

Approval of Planning Commission Minutes – September 3, 2002.

Ms. Hopper moved for approval of the consent agenda as presented.

Mr. Thomas seconded the motion, which carried unanimously (7:0).

Items Requesting Deferral:

SP-2002-025 Time Disposal Services - Request for a special use permit to allow for the outdoor storage of portable toilets in accordance with Section 10.2.2(31) and Section 5.2 of the Zoning Ordinance which allows for a Home Occupation, Class B. The property described as Tax Map 33, Parcel 47A2, contains 4.051 acres, and is located in the Rivanna Magisterial District on the west side of Route 640, approximately 1.5 miles northwest from the intersection of Route 640 (Gilbert Station Road) and Route 784 (Doctors Xing). (Steven Biel) **DEFERRED FROM AUGUST 20TH - APPLICANT REQUESTS DEFERRAL TO OCTOBER 29.**

Mr. Loewenstein opened the public hearing for public comment, noting that this would be opened for public comment again. There being none, he closed the public hearing to bring the matter before the Commission for discussion and action.

Mr. Finley moved for approval of the applicant's request for deferral of SP-2002-025 to October 29th.

Mr. Edgerton seconded the motion, which carried unanimously (7:0).

Mr. Loewenstein stated that SP-2002-025 for Time Disposal Services was deferred to October 29th.

SP-2002-044 Veralum Farm – Request for special use permit to allow the construction of a personal wireless facility with a steel monopole, approximately 75 feet its total height and 9.27 feet above the height of the tallest tree within 25 feet. This application is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance which allows for microwave and radio-wave transmission and relay towers in the Rural Areas. The property, described as Tax Map 74, Parcel 14B1 contains approximately 1.046 acres zoned RA (Rural Areas) and EC (Entrance Corridor). This site is located in the Samuel Miller Magisterial District on Route 637 (Dick Woods Road), at the Ivy Exit off of Interstate Route 64. The Comprehensive Plan designates this site as Rural Areas 3. (Stephen Waller) APPLICANT REQUESTS INDEFINITE DEFERRAL

Mr. Rieley moved to indefinitely defer SP-2002-044, Veralum Farm, as per the applicant's request.

Ms. Hopper seconded the motion, which carried unanimously (7:0).

Deferred Item:

CPA-01-04 Albemarle Place – Change the land use designation from Industrial Service to Regional Service for Parcels 19A and 19B of Tax Map 61W, Section 3 to support an eventual rezoning from LI, Light Industrial to PUD, Planned Unit Development, for the purposes of creating a mixed residential, office, and commercial development. (Michael Barnes) **DEFERRED FROM SEPTEMBER 24, 2002 PLANNING COMMISSION MEETING**

Mr. Loewenstein stated that the Commission has already held the public hearing, but the staff has some additional information.

Mr. Barnes stated that tonight he had provided the following three documents:

1) Revised language based on the discussion that you held at the previous meeting on this subject. He noted that the underlined language was to be added to the CPA language and the struck through language was to be deleted. The drawings that were requested to be deleted have X's marked through them.
2) Attachments F8, G8 and H8 include the language from the Brass, Inc. CPA. G8 is the executive summary that went to the Board. H8 is the language from Rooker/Rieley Amendment that came out of the Planning Commission. I8 is the final draft that the Board considered prior to the applicant withdrawing the application.
3) The chart requested by the Planning Commission that shows the water usage comparison between a potential by-right proposal and a proposal that has been provided by the applicant.

He pointed out that the numbers are estimates and are pretty broad. The ultimate user would determine how much water would be used for the site. That is an important note to take into consideration. The by-right consideration here is not as high a FAR as the Albemarle Place proposal is. Staff did not know exactly how to calculate that type of density on the site. He noted that the industrial user might be low because it depends on the user. He pointed out that local data was used. He pointed out that the Service Authority could answer questions concerning the actual numbers used. Because it is a mixed used project, the residential portion pushes the number up high. Staff feels that because of the mixed use this project meets many of the components of the Neighborhood Model and provides for living space for people who would

otherwise be some place else in the public system or would be in the Rural Areas on a private well.

Mr. Loewenstein asked if there were any questions for the Service Authority.

Paul Shoop, Director of Engineering, stated that he was the generator of these numbers. He stated that he did not have anything to present to support the numbers, but would be happy to answer any questions.

Mr. Thomas asked how much water Sperry or Comdial uses over these figures.

Mr. Shoop stated that those uses were worked in the numbers. He pointed out that Sperry was not a big user and actually used less or equal to a car wash or Laundromat. He stated that there are very few big industrial water users in the area.

Mr. Edgerton stated that the residential component that staff suggests should not be considered in a comparative nature seems to be a low number from what he had been hearing about an average use. He stated that the 150 gallons per day per unit seems low for an average use.

Mr. Shoop stated that the Virginia Department of Health historically wants you to use 100 gallons per person per day. He stated that they have seen numbers much lower than that with the addition of water saving facilities. He pointed out that he pulled most of the apartment complexes and the range was from 93 gallons per unit to 263 gallons per unit. He noted that it really depends on the scale of the unit.

Mr. Edgerton noted that if the property were developed with the residential component that they would have to be in the water system in this block.

Mr. Barnes stated that staff took the daily rate of 42 gallons per day as an estimate and the square footage derived from the traffic study at 50 gallons per day. Staff pulled these numbers together for you in two days.

Mr. Shoop stated that these numbers were not based on a drought situation.

Mr. Thomas asked what effect would Albemarle Place have on our water system if we were not in a critical drought.

Mr. Shoop stated that Rivanna has already started the process of taking a look at future water supply impoundment. It is a number that can be met under normal circumstances without any problem.

Mr. Loewenstein asked if staff has anything further to add.

Mr. Finley asked what the shading means on page 4.

Mr. Barnes stated that at the previous meeting they had discussed replacing the language that was shaded on pages 4 and 5 with language from attachment H and I.

Mr. Loewenstein noted that was replacement language from the Brass, Inc. CPA.

Mr. Finley asked if staff recommends approval including the attached text and map.

Mr. Cilimberg stated that was staff's original recommendation and then the Commission at its last meeting made some changes and added this information regarding Brass, Inc. He noted that they provided this information in order that the Commission could make their decision.

Mr. Barnes stated that the changes that were recommended last time don't change the form or the substance and staff would still recommend approval with the changes that come out of tonight's meeting. He asked for the Commission's input.

Mr. Loewenstein asked that they discuss the language substitution that has been suggested using the old Brass, Inc. language.

Since he circulated some of this language, Mr. Rieley stated that there were some minor refinements that he would suggest. He noted that staff had done a thorough representation of their meeting of a couple of weeks ago. Relative to C4, which was the area that was shaded, he read his suggested changes for those who did not get a copy. He noted that it essentially was substituting the Brass, Inc. Board of Supervisors' language and then leaving the bullets from staff's report, both of which were very slightly edited, so that following language adjustments to the Albemarle Place CPA would read as follows:

B. Land Use

3) Preference will be given to rezoning proposals that provide a mixture of uses, *along with a phasing plan that assures a mixture of uses during the development of the project.*

4) The phasing of the project should be coordinated with the provision to assure adequate water supply for existing and proposed users of that supply.

C. Design Standards for Development or Redevelopment within the Super Block

4) To reduce the amount of site disturbance and impervious surface, the ground floor ("footprint") of any single user may not exceed 65,000 square feet. Any building larger than 65,000 square feet shall be designed so that each floor can function as an individual business, to be reusable by separate users in the future. In addition, any large-scale building should adhere to the following guidelines for the purpose of creating an appropriate streetscape:

- The building's facades and rooflines should be of visual interest and should reduce the massive scale and the uniform, impersonal appearance of such large buildings.

- The building should have architectural features and patterns at the scale of the pedestrian that provide visual interest, reduce massive aesthetic effects, and recognize local character. These elements should be integral parts of the building fabric and not applied trim, graphics or paint.

- A large building's design should integrate small liner stores with entrances onto the sidewalk in order to break up the façade of the larger user.

- Any large building's location should be integrated with other buildings and site features with an eye toward a pedestrian-friendly composition.

- All large buildings shall present at least a two-story elevation to the streetscape.

Mr. Loewenstein asked if there was any further discussion.

Mr. Thomas stated that the maximum 65,000 square foot maximum footprint was too restrictive for anybody who wanted to develop a piece of property that should be regional. He supported the developers being able to put in a large anchor store to make the development viable. He asked if the Commission was moving in the direction that they don't want any big boxes at all. He asked if

this was not the proper place, then where would be a good location. He acknowledged the traffic problem from Hydraulic Road to the bridge, but did not feel that should stop the CPA from moving forward.

Mr. Finley agreed with what Mr. Thomas was saying. He stated that he did not know a lot about the Albemarle Place design that was before the Commission, but felt that the anchor store that they were talking about is the key to making this a feasible project. He stated that the limitation on the square footage should be an option and not a requirement as long as the proposal fits into the development. He stated that they could expect that the applicant would bring forth a site plan and architectural plan appropriate for the setting that looks good and will be good for our community and stay around for a while

Ms. Hopper stated that there seems to be two tiers to what they are looking at. One was the Brass, Inc. language that they brought up. They talked about the fact that the presumption was that they wanted buildings no larger than the 65,000 square foot footprint. If it was larger than that, then the applicant had to rebut that presumption on why it should be larger. The Commission wanted some guidance provided in the CPA for that. So we talked about reaching back to Brass, Inc. to do that. She noted that it was unclear if they had reached a consensus. She noted that she had several editing suggestions at that point. The first issue is what does the majority want to do.

Mr. Loewenstein asked how the Commission felt about the Brass, Inc. language substitution that contains some limitations.

Mr. Rieley pointed out that one of the distinctions between this language and the Brass, Inc. language is that there was a cap on the total square footage for any individual building in the Brass, Inc. language. He stated that this language does not contain such a cap. He stated that they were not talking about whether or not they have a large building. They were actually talking about the shape of the building and the percentage of rooftop relative to the percentage of floor area. He pointed out that 65,000 square feet is enough square footage to cover a conventional city block. If they were working towards a pattern of greater urbanity and street network, the 65,000 square feet seems to be a reasonable basis for this. He stated that the reason that it appeared in Brass, Inc. was that it was something that had been used in other Comprehensive Plan language. He noted that there was nothing magical about the number, but pointed out that it was roughly 260 feet square which is an extremely large building just in a footprint and is not limited except by our other Ordinances that are relevant.

Mr. Edgerton stated that he felt very strongly about not wanting to do anything that would encourage the traditional or the known big image of the 130,000 square foot unit. He stated that he gets troubled when he hears the argument made that people want to shop in large stores and therefore we should build them. He noted that these stores are not designed for Albemarle County. These stores are designed for anywhere U.S.A. He felt that when they just roll over and agree to accept the generic design, then they are deferring their judgement as designers and planners for our own community. As an architect, he knew that it was possible to provide every bit of the square footage desired in a multi-story structure without having the same impact on the community. This could be done by bringing it more to a human scale and getting away from the automobile scale that the Neighborhood Model argues so much for. He noted that he has struggled hard with this project. They have referred and the applicant has assured us on many occasions that this project incorporates much of the Neighborhood Model. He stated that he had trouble with that judgement. It is a mixed-use project and does have residential in it. He felt that it was a long way away from the Neighborhood Model. He stated that it would require an automobile to arrive or leave the project. He stated that the Commission has tried to send strong signals that they don't want a big box or at least a lot of the Commissioners don't want a big box as part of this project. They have been told that was the only way that this project would work. From a perspective of their responsibility to try to plan for a better community, he felt that they have the responsibility to take that challenge seriously. He stated that he did not want the project

if it requires a big box. He felt that it was time that they tell the big box developers what is acceptable in our community rather than having them tell us what is acceptable. He stated that he felt strongly that they needed to hold firmly to the smaller footprint. He felt that 65,000 square feet was large enough for any consideration.

Mr. Finley stated that under C-4, you mention each floor and then down under the last bullet at least two-story elevation; and therefore you are saying that all large buildings shall be two floors.

Mr. Rieley stated that was not exactly what he said. Actually he said that any building that exceeds 65,000 square feet, the building has to go up and it cannot go out. The last bullet was unchanged from the staff's language. It was language that had anything that is described as a large building to have a two-story appearance. He noted that he was troubled with that standing by itself. He stated that he was not troubled when it was included with the limitation on the 65,000 square feet. He pointed out that it was actually saying two different things.

Mr. Craddock stated that from the beginning of this project he felt that it has a lot of good points with it. One is the potential to clean up that Hydraulic/Route 29 intersection including the south and west ends of it. He pointed out that he has not been in favor of the north end of the development because it looked like a traditional big box with a sea of parking. In more recent times, he was troubled with the water use. He noted that he was surprised to see the water use come in fairly low in comparison of an overall daily usage. He noted that personally he does not shop big boxes, but a lot of folks do. He felt that this new language has incorporated some points that would be well taken so that those folks can go to a big box, but it does not look like a big box. He noted that he was in favor of this project with the wording that Mr. Rieley has put into it.

Mr. Loewenstein stated that he essentially agrees with what Mr. Craddock just said. He stated that overall this is a potentially good project for the community. This is in part because of previous planning and because of the location of this area. Due to the property's location to the sizeable arterial highway, he felt that public transportation would probably become a reality. He noted that he was troubled by having to limit the way in which the utilization of square footage in buildings above 65,000 square feet is done. He pointed out that he knew it was possible because it has been done in a number of communities in this country to work with corporations that primarily operate from a traditional big box environment in buildings of more innovative and community sympathetic design. He noted that they have seen that in some communities already. It is a market that needs to get developed and the corporation saw the potential. He felt that this was a way to strike a balance that allows some rational development of opportunities like this while at the same time working within some design guidelines. They are really pretty reasonable and can be made to work. He agreed and supported the language of the CPA as revised in the Mr. Rieley's earlier suggested language.

Mr. Cilimberg pointed out that the Commission would review the particulars during the rezoning review and which was actually not a part of the CPA review. He suggested that they not get hung up on the square footages used in the comparisons.

Mr. Finley asked under D8 what is the larger footprint square footage.

Mr. Loewenstein pointed out that specific plan or rendering was not part of this CPA review.

Mr. Barnes stated that the one on the northern portion was 140,000 square feet and the one on the southwest corner was about 70,000 square feet.

Mr. Loewenstein asked if they wanted to make the 65,000 generic footprint decision. He noted that was not a decision that relates directly to this plan or any other plan. This is a CPA level detail and that was all that it was.

Mr. Rieley stated that this language does not contain a maximum size for the entire building, but only for the footprint. He stated that what relates to the 65,000 square feet was actually a part of Part C and a fairly minor suggestion that preceded that under the land use section B, number 3. The current language says that preferences shall be given to rezoning proposals to provide a mixture of uses. He suggested that they append that with remove the period and put in a comma, along with a phasing plan that assures a mixture of uses during the development of the project. This phrasing plan must be coordinated with the provision to assure adequate water supply for existing and proposed users of that supply. He noted that language was intended to do two things. One is to ensure that not only is the ultimate objective a mixed-use community, but also to some extent mixed use would be throughout the development. Secondly, to get language in here that locks the phrasing into an assured water supply. This gets back to the numbers and the kind of information that you were requesting.

Mr. Thomas agreed that phrasing was very important no matter if there was a water situation or not.

Ms. Hopper asked to split out the second sentence about the water supply. She felt that since water supply was such an important component that it should have its own bullet.

Mr. Rieley stated that preference will be given to rezoning proposals that provide a mixture of uses, along with a phrasing plan that will assure a mixture of uses during the development of the project. That obviously a substantial amount of interpretation and flexibility, but it establishes a principle that you are not going to go in and build all of the commercial.

Mr. Loewenstein stated that the County, City and Service Authority would continue to seek additional avenues for water supply for the community over time. Even in a managed growth environment, the demand for water increases over time.

Mr. Finley stated that hopefully we are planning and preparing to get enough water for our County.

Mr. Rieley stated that rezoning applications should be cognitive of and phased in along with the plans for water expansion.

Mr. Loewenstein felt that they have enough information to move this along tonight if they could agree on the form that this language for the CPA should take. Mr. Loewenstein asked if anyone had any problem with the language on the first two pages.

Ms. Hopper pointed out that particular attention should not be given to neighborhoods to the south, she felt that neighborhoods should be considered concerning cut through traffic. This was addressed elsewhere in the staff report on page 3, number A7. She noted that she was uncomfortable giving the southern neighborhoods extra consideration.

Mr. Loewenstein stated that the suggestion was to strike that sentence. He asked if anybody had any problem with doing that. Since there was no objection, the Commission decided to strike the sentence.

Mr. Rieley asked to back up one sentence to delete conceptually.

Mr. Loewenstein stated that since no one disagreed, then the word conceptually was deleted. He asked if there were any suggestions concerning pages 3 or 4.

Mr. Rieley asked to include his previously suggested language for number 3. He noted that he was perfectly happy with Ms. Hopper's suggestion to break that into two parts. Since they struck number 4, he asked that they add that phasing be concurrent with water availability. He noted that they were adding a number 2 and number 4.

Mr. Loewenstein stated that they had talked about using the language as modified by Mr. Rieley from the Brass, Inc. CPA. He noted that he would make a copy of that language available.

Mr. Finley preferred the language of condition 4 in the staff report since Mr. Rieley's suggested language was too restrictive.

Ms. Hopper stated that the C4 reference to large buildings should be defined as a building with the total square footage greater than 65,000 square feet.

Mr. Rieley noted that he did not mind the ambiguity of large buildings, but that he would be happy to make it more specific.

Mr. Loewenstein stated that it was difficult to do without talking about specific design proposals, which was way beyond the scope of what they needed to use at the CPA level. He felt that it was hard to predict how large might be defined. He felt that some flexibility would be a reasonable thing.

Mr. Barnes asked if the 70,000 square foot proposal in Attachment 8 is no longer falling within that range.

Mr. Cilimberg stated that they did not have a copy of Mr. Rieley's proposed language.

Mr. Barnes stated that on page 4 there was a (generally in excess of 5,000 square feet). He noted that his language would say as defined as no greater than 5,000 square feet.

Mr. Rieley stated that if staff feels that it needs a number to feel comfortable in applying the specific things like having liner stores and presenting a two story elevation to the streetscape, he would be perfectly happy to put the 65,000 square feet into it. He felt that they could discuss that kind of think relative to specific proposals. To some people, 20,000 square feet is a large building. He pointed out that none of the bullets say shall except the last one, which he felt that they should change. By saying should, he noted that leaves the door open for people to make arguments about this. He felt that this would be reasonable. He deferred to staff on whether they should include a number for the definition of a large building.

Mr. Thomas stated that he preferred the way he did not put a number on the end of this.

Mr. Rieley asked that in the last bullet that the word shall be substituted for should.

Mr. Cilimberg suggested that they not put shall in the Comp Plan.

Mr. Loewenstein stated that should will remain. He asked if there were any problems with page 5.

Mr. Edgerton stated that on page 5, paragraph 10 inappropriate is misspelled. Then in E1, the project should overtreat should be one word. He stated that they deferred this project for a considerable period of time in hopes of getting some encouragement from the City. He noted that he sat through that meeting last night as they passed the request for the traffic study that Mr. Rue had described to us. He stated that he was curious as to the reactions of the other Commissioners to that and what type of confidence they should or should not have in a true cooperative effort based on the language.

Mr. Loewenstein asked for a motion since they had covered all of the suggested text.

Mr. Edgerton stated that they had delayed action on this hoping to get some encouragement from the City. He pointed out that he sat through the meeting last night as they passed the request for

the traffic study that Mr. Rue described to us. He questioned what kind of confidence they should have in a true cooperative effort based on the language.

Mr. Loewenstein stated that he did not want to get into a discussion on the latter point. He stated that personally he was glad that they were able to see the City agree to a traffic study. He would have liked to seen the by-pass brought to an end, but that action was not taken. He noted that it might be at some future time. He believed that they were at the point to move forward on this CPA because they have certainly seen some modest progress on the City's part. He stated that they knew that this site was going to be developed and that a study could make it a better development than it otherwise might be. He stated that they were fortunate to have that foot into the door. He noted that he hoped the City would continue to cooperate with them further.

MOTION:
Ms. Hopper made a motion for the approval of CPA-01-04 with the following changes to the language in A8.

1. On page 2, strike the underlined particular attention and should be made a sentence.
2. Strike the word conceptually in the sentence before that.
3. On page 3, up to b everything stays the same. At b, substitute Mr. Rieley's language in the attachment that he distributed except for the second sentence of Mr. Rieley's language we made number 4.
4. On page 4 at c, we adopt Mr. Rieley's language and we define large building to state that means that a large building is when the square footage of the entire building is beyond 65,000 square. Due to some disagreement, she asked to leave the language as it is.
5. On page 5, the spelling of appropriate is changed and overttreed is one word.

Mr. Cilimberg stated that on pages 6 and 7 only B8 continue. He noted that a minor point on Mr. Rieley's number 4 under c should be should rather than shall.

Ms. Hopper asked to include Mr. Cilimberg's corrections as part of her motion.

Mr. Craddock seconded the motion.

The motion carried unanimously (7:0).

Mr. Loewenstein stated that CPA-01-04, Albemarle Place, has been approved. He noted that it would be recommended to the Board of Supervisors, but that no date has been set.

Mr. Finley stated that he voted aye, but he still protests the restriction on the building size.

The Planning Commission took a 10-minute break at 7:30 p.m.

The Planning Commission reconvened at 7:45 p.m.

Mr. Loewenstein called the meeting back to order.

Public Hearing Items:

SP-2002-043 Crown Orchard - Request for a special use permit to allow the construction of a digital broadcast television facility 250-foot tall tower structure mounted with a 50-foot tall antenna. This request is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for radio-wave transmission and relay towers, and appurtenances. The

property, described as Tax Map 91, Parcel 28, contains 234.165 acres, zoned RA, Rural Areas. This site is located in the Scottsville Magisterial District, on Carter's Mountain Trail, approximately 1 mile south of the intersection with the Route 53 (Thomas Jefferson Parkway). The Comprehensive Plan designates this site as Rural Area 4. (Stephen Waller)

Mr. Waller presented the staff report. He stated that the Virginia Broadcasting Corporation maintains this site for the WVIR television station. The structure itself would be 30 feet wide at the base and tapers up to a width of 4 feet 7 ¾ inches at its top. This facility will allow the television station to undertake the transition that is has been federally mandated. They have to switch from analog to digital broadcast transmission no later than December 31, 2006. Due to the tower's siting and its need to be at this height for its transmission, staff recognized that there were not too many options from the Personal Wireless Policy that the applicant could not comply with. Staff recommends approval with the conditions set forth in the staff report with a few changes and additions as follows:

1. The facility including the tower and the ground equipment building renovations shall be sized, located and built as shown on the application plan, dated June 7, 2001 and last revised on March 14, 2002.
2. Prior to the issuance of a building permit, the applicant shall submit the final revised set of site drawings for construction of the facility. Planning staff shall review the revised plans to ensure that all appropriate conditions of the special use permit have been addressed.
3. The Engineering Department shall grant approval of an erosion and sediment control plan for this site prior to the issuance of a building permit.
4. The height of the tower structure shall not exceed 250 feet and the top of the digital antenna shall not exceed 300 feet above ground level. No equipment, with the exception of any FAA required flight safety lighting, shall extend more than 50 feet above the top of the tower.
5. No additional antennas that support services other than television broadcasting shall be attached to extend above a total height of 250 feet on the digital tower or the existing guyed tower that holds the analog antenna.
6. The width of each side of the tower shall not exceed thirty (30) feet at its base, and five (5) feet at the top.
7. Only satellite or microwave dishes that are necessary to support the digital television transmission shall be allowed.
8. No guy wires shall be permitted.
9. Should the existing guyed tower that holds the analog antenna be used for mounting additional antennas after the analog signal is discontinued, the owner shall comply with the regulations for attachment of facilities to an existing structure set forth in Section 5.1.40c of the Zoning Ordinance.

Mr. Edgerton suggested that the Commission require the removal of the existing tower once the analog signal and tower are no longer needed. He voiced concern that the applicant is bound by a contractual agreement to the site which allows the property owner, Crown Orchards Corporation, to assume control of the existing guide tower once it is no longer used as the mount for the analog antenna. He asked if Crown Orchard was the applicant.

Mr. Waller stated that Crown Orchard Corporation owns the property and is listed as the applicant. The site and the proposal are in support of the WVIR transmission and the facility is maintained by WVIR.

Mr. Edgerton stated that the WVIR would be leasing from Crown Orchard.

Mr. Waller stated that WVIR leases the space from Crown Orchard. They own the current tower that is there for the analog broadcast. However, there is a clause in their contract that once the tower is abandoned for their television purposes that Crown Orchard has the right to assume ownership of the tower.

Mr. Edgerton stated that it seemed to be a reasonable suggestion to have both towers up for a specific period of time, but certainly after the analog is no longer in use that tower should be removed. Then the obvious question is why are we going along with allowing another tower. He noted that after all is said and done there will be two towers. He suggested that if they are all doing business together, why can't they work this out. He opposed allowing this type of situation in the future to allow others to increase the number of towers being put up.

Mr. Rieley stated that a private agreement is guiding this between two parties that the County does not have anything to do with. He noted that there is nothing to prevent them from making a similar agreement in the future and then coming back to use that as a mechanism to try to increase the number of towers. He suggested that when they build a tower that the old tower should have to come down.

Mr. Finley asked if Crown Orchard wants to use the existing tower again if they will have to get a special use permit.

Mr. Waller stated no because under our current regulations in Section 5.1.40 it allows by right up to three arrays of antennas as long as they are attached to a structure so that they are flush mounted.

Mr. Craddock stated that since the agreement was done so long ago, he doubted if they could do anything about this. He suggested that with the new towers they could have the wording in there that the tower will have to come down within ninety days or so.

Ms. Hopper asked if there were any more of their standard terms that ought to be in this.

Mr. Edgerton stated that they have the option of saying no that the tower cannot be located on this site.

Mr. Loewenstein noted that if this antenna did not go on this tower farm site, then another request on another property could be made. He agreed with Mr. Craddock that what happened in the past is going to be much more difficult to negotiate than what we can do from this point on. He suggested that they apply a description like that to the new tower that is being requested. Because this is a tower farm location, he had some difficulty in saying that he would never want to see that tower used again once this use has been abated. At some point they are going to get a request for another tower in there whether they tear this tower down or not. He noted that it might be nice to have a tower already there that they can hang things on that would not require additional construction. He felt that it was worth considering adding some language for removal of this tower, but he would be uncomfortable going any further with that.

Mr. Rieley stated that the new tower seems to have a much wider base and bigger profile than the previous one, which is of the approximately same height.

Mr. Waller stated that was usually the case with guide towers versus the lattice towers in that you will find that they have a wider base. During the preconstruction conference with the applicant, staff also provided information that dealt with the flight patterns of migratory birds and how certain types of towers can endanger them over a certain height. He noted that was one of the reasons that led them to decide upon a lattice tower. According to the information submitted, both of the towers are of approximately the same weight.

Mr. Loewenstein opened the public hearing on this special use permit, and asked if the applicant would like to make a statement.

Mr. Greg Duncan, representative for the applicant, stated that he had a letter from the Charlottesville Albemarle Regional Chamber of Commerce that was sent to the Chairman. He asked if they have received a copy.

Mr. Loewenstein noted that the letter had been received this evening.

Mr. Cilimberg stated that all of the Commissioners had received a copy of the letter.

Mr. Duncan stated that Congress and the FCC mandated the transition from analog to digital. In order to do that, they indeed need another tower. Their current tower will simply not hold an additional 4,000-pound antenna. The proposed antenna is 250 feet tall and the antenna they intend to put on it is approximately 50 feet in height. They agree with the staff's recommendations and especially item number 7 that he revised this evening. He thanked the Commission for their consideration of this, and that he would be happy to answer any questions.

Mr. Finley asked how long they need.

Mr. Duncan stated that they will need this to be done by December 31, 2006 or until 85 percent of their market is digital capable. He stated that they would be transmitting in both modes until then.

Mr. Edgerton asked if he could respond to adjusting the agreement about having the tower come down after they are no longer using it.

Mr. Duncan stated that they were contractually obligated to turn the tower over to Crown Orchard should they choose to exercise that right. He noted that the existence of this tower might eliminate someone else coming forward asking permission to put up another tower because there will already be one on the antenna farm.

Mr. Edgerton asked if the lease agreement on the new tower would have a similar clause that they would have to turn this tower over to them, and Mr. Duncan stated that there will not.

Mr. Loewenstein asked if there was anyone else present who wished to speak on this matter. There being none, he closed the public hearing and brought the matter before the Commission for discussion and action.

Mr. Rieley voiced concern about the private agreement between the owner and the applicant that the County had no control over.

Mr. Kamptner stated that the Commission has the ability in the context of addressing visual impacts, to not allow the certificate of occupancy to be issued for the digital facility until the analog facility is removed. He noted that they could do so because they were dealing with the cumulative effects of all the structures on the top of Carter's Mountain. He noted that they certainly were not bound by private contractual arrangements.

Mr. Rieley stated that it troubled him that the private contractual agreement would be the basis for their decision.

Mr. Loewenstein stated that he preferred to see a proliferation of towers in a location that is already compacted in that way, but there was a finite limit to this. He stated that dotting the towers all over the landscape presented a larger problem to him. He suggested that they condition this approval concerning the removal. If they ask them to remove the old tower, he felt that they would get another request for another tower on this site.

Mr. Finley stated that currently you could see nine towers on that site.

Mr. Kamptner stated that Mr. Duncan stated that they had to have the tower up and operating before December 31, 2006. He questioned whether the applicant could meet the typical condition of commencing the activity within the two years. He suggested that the Commission consider adding a condition that allows a longer period. He stated that the applicant needs to start this

construction or activity within twenty-four months under the Zoning Ordinance. He stated that under the Code, the Board has the ability to allow a longer period of time to commence the special use permit.

Mr. Craddock stated that this is a requirement for everyone, and; therefore, makes sense to allow an extension in the amount of time.

Ms. Hopper asked if the contract had a sunset date.

Mr. Duncan stated that it kicked in when they stop using the old tower, but there is no point in which it terminates.

Mr. Thomas made a motion for approval of SP-2002-043 with the conditions as recommended by staff with the alterations to conditions # 2, 4 & 7, and adding Mr. Kamptner's suggestion to grant a longer construction time.

Mr. Kamptner suggested the following language for the two conditions: The structure and activity authorized by this permit shall commence by (a particular date to which you might want to specify as) December 31, 2006. Removal of the new tower shall occur within ninety days of the expiration or termination of the digital use.

Mr. Thomas agreed to add the two conditions as suggested by Mr. Kamptner.

1. The facility including the tower and the ground equipment building renovations shall be sized, located and built as shown on the application plan, dated June 7, 2001 and last revised on March 14, 2002.
2. Prior to the issuance of a building permit, the applicant shall submit the final revised set of site drawings for construction of the facility. Planning staff shall review the revised plans to ensure that all appropriate conditions of the special use permit have been addressed.
3. The Engineering Department shall grant approval of an erosion and sediment control plan for this site prior to the issuance of a building permit.
4. The height of the tower structure shall not exceed 250 feet and the top of the digital antenna shall not exceed 300 feet above ground level. No equipment, with the exception of any FAA required flight safety lighting, shall extend more than 50 feet above the top of the tower.
5. No additional antennas that support services other than television broadcasting shall be attached to extend above a total height of 250 feet on the digital tower or the existing guyed tower that holds the analog antenna.
6. The width of each side of the tower shall not exceed thirty (30) feet at its base, and five (5) feet at the top.
7. Only those satellite and microwave dishes that are necessary to support the transmission of the digital television signal shall be permitted on the tower.
8. No guy wires shall be permitted.
9. Should the existing guyed tower that holds the analog antenna be used for mounting additional antennas after the analog signal is discontinued, the owner shall comply with the regulations for attachment of facilities to an existing structure set forth in Section 5.1.40c of the Zoning Ordinance.
10. The facility shall be disassembled and removed from the site within ninety (90) days of the date its use for digital television transmissions is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

11. The use, structure or activity for which this permit is issued shall commence no later than December 31, 2006. The term "commence" shall mean commencement of the structure that is necessary for mounting the digital antenna.

Mr. Finley seconded the motion.

Mr. Rieley stated that he was still troubled by a private agreement that does not have anything to do with the County as being the reason to leave something that should otherwise be replaced. Although Mr. Loewenstein makes a good point, he thought that leaving a tower with no use on the assumption that someone will come along sometime in the future to use it is a strong enough reason to require the removal of one of the towers. He pointed out that nobody knows the direction that technology will go in the future. He noted that he was not in favor of this under these circumstances.

The motion was approved (5:2). (Rieley – No, Edgerton – No)

Mr. Loewenstein stated that SP-2002-043 has been recommended for approval and will go to the Board of Supervisors on November 13th.

SP-02-14 Habitat Services – Garden - Request for special use permit to allow for outdoor storage, display and sales of landscaping materials, including mulch, compost, topsoil, firewood, fence rails, posts, lumber, trees, shrubs, plants, and various garden and landscape products, in accordance with Sections 30.6.3.2 and 24.2.2.8 (SP 02-42) contractors office and equipment storage yard of the Zoning Ordinance regulations in the Highway Commercial District and in the Entrance Corridor Overlay District. The property, described as Tax Map 78, Parcel 33B, contains 2.219 acres, and is located in the Scottsville Magisterial District on Route 250 East (Richmond Road), south of I-64, and adjacent to Seminole Produce.

AND

SP-02-42 Habitat Services Garden Center Contractors Storage – Request for special use permit to allow a contractors office and equipment storage yard, in accordance with Section 24.2.2.8 regulating contractors office and equipment storage yards in the Highway Commercial District. (Joan McDowell)

Ms. McDowell presented the staff report. Currently, the applicant is occupying the site as a wayside stand, which was permitted earlier this year. The Architectural Review Board has offered no objections to the special use permit, but they requested six conditions of approval which have been incorporated into the recommended conditions. As mentioned, it is a Highway Commercial zoning which is generally in conflict with Rural Areas land use. Highway Commercial zoning is usually more consistent with the development area land use. However, this is a request for a garden center and the construction storage yard would be located to the rear and screened from public view. Staff sees this as a good transitional use between intensive commercial and the adjacent rural area. The adjacent rural area to the east is Shadwell and was owned by the Thomas Jefferson Memorial Foundation. In addition, the garden center could support local horticultural products by selling those products. Staff recommends approval of both of these special use permits subject to the conditions contained in the staff report.

Mr. Edgerton asked if the property was on public water.

Ms. McDowell stated that he was using the Seminole Produce water and was also using containers to hold water if and when it rains. She noted that she was not sure if it was on public water.

As there was no further questions for staff, Mr. Loewenstein opened the public hearing on these two special use permits and asked the applicant to come forward to speak.

Stewart Stevens, applicant, stated that he started the project in February and it has become a lot more involved than he ever imagined it to be. He presented photographs, elevations and plans for review. He noted that he has tried to incorporate all of the concerns of staff and develop this in an appropriate way. He pointed out that he had a 90-day clause in his contract. Therefore, all the structures were built so that they could be removed within that time period. He noted some concern with several of staff's recommendations.

Mr. Craddock asked if Seminole Produce was on well water.

Mr. Stevens stated that when the property was subdivided, the piece that he is on has deeded rights to the well of the adjoining property and the owner has extended access through his hydrant which presently he tanks and transports to his site. He hoped to recycle the rainwater and minimize consumption.

Mr. Rieley asked Mr. Stevens to discuss his concerns about the recommended conditions of approval.

Mr. Stevens requested that a time be established for the operating hours. He asked to be given the longest day from dusk to dawn on June 21st from 5 a.m. to 9 p.m. He asked that to be the standard that they base the daylight hours on.

Ms. Hopper stated that he would be better off leaving the condition as it was at daylight.

Ms. McDowell stated that staff used what Mr. Stevens requested in his application. She stated that the Architectural Review Board did not examine this for outdoor lighting.

Mr. Rieley asked if there was anything else.

Mr. Stevens stated that there is mention of abandoning the wayside permit upon initiation of this permit, and he would hope that there would be some transitional accommodation for the business to proceed during this transition. He asked what the commencing of the permit meant. He asked if he could conduct all of the business that he would be doing as a wayside stand once this permit commences.

Mr. Loewenstein stated that he thought that was correct.

Mr. Kamptner stated that "commence" is defined as starting the lawful physical construction of any structure necessary, and the permittee has to "commence" within 24 months. He noted that if Mr. Stevens commences these special use permits and there are no structures involved, then it would be immediate.

Ms. McDowell noted that it was somewhat limited for a wayside stand since he was limited to sell what he produces on the farm.

Mr. Stevens stated that he was selling various landscaping plants.

Ms. McDowell stated that he does not need a transitional period since this would be an expansion of what is allowed to be sold at a wayside stand.

Mr. Loewenstein suggested changing the wording from commencing to completion of construction.

Mr. Rieley stated that everything is allowable under this special use permit and if the previous site development plan is only voided after this is in effect, then there is no point that Mr. Stevens can't do everything that he is doing now.

Mr. Kamptner stated that the wayside stand use was just merging into this use.

Mr. Loewenstein stated that they could just leave the language at it was and he would still be covered.

Mr. Kamptner stated that the wayside stand was authorized by a site plan.

Mr. Cilimberg stated that the wayside stand itself is expanding and he has applied for the special use permits to do that. A wayside stand cannot be any bigger than this. The applicant would still be selling within the area of the wayside stand, but also in the area covered by the special use permits. He will be commencing sales within an existing area as well as the construction of the newer buildings.

Mr. Loewenstein stated that the applicant should be covered and should not have to define that area any differently.

Mr. Stevens asked if they set the business hours during daylight hours that they take into consideration that the equipment storage aspect of the business in that he might go out early on the job and get back after dark. He noted that the only thing he would be doing was closing down the shop and not selling materials.

Mr. Loewenstein stated that if the retail operation were going to continue after dark, that this would raise lighting issue that would have to be reviewed by the Architectural Review Board.

Mr. Stevens stated that at this point he did not intend to hook up to electricity. He noted that when he does, then he would take care of these issues.

Mr. Loewenstein suggested that they clarify the existing language excluding certain equipment.

Mr. Cilimberg stated that SP-2002-42 was for the equipment. He suggested that they drop that reference out of condition 12 and only apply the daylight hours to the landscape sales.

Mr. Loewenstein stated that SP-2002-14 would be the only one that it would apply to. He asked if he had any other issues.

Mr. Stevens stated that the other concern relates to the visibility of stored material. He stated that if it was left to the ARB that he had a clear understanding. However, in the language that was presented here one area of concern has to do with the stacked wood. The ARB has approved the visibility of the stacked wood 30 feet back neatly stacked or contained in piles rising above and open in front. He noted that you would be able to see the wood. The language here implies that it is screened from any view from the Entrance Corridor.

Mr. Loewenstein stated that all of the Commissioners received an email from Marcia Joseph about this matter. As Mr. Stevens said, the ARB did not object to the sales and display. They were trying to come up with a way to suggest a text for a condition of approval that would be easy for staff to enforce. Among other things, that included discussion about the location of this particular material. She noted that the ideal condition would allow the applicant to change merchandise from season to season in the display areas and so on that it is attractive but does not present any sort of visual detriment to the Entrance Corridor.

Ms. McDowell stated that the ARB asked that their conditions be included in the conditions of the special use permit.

Mr. Loewenstein stated that there was some thought that the conditions about storage and display be easily and effectively managed and overseen that perhaps the language needs to be refined a little further.

Ms. McDowell stated that she had not received the email, and therefore did not have that information.

Mr. Loewenstein stated that after looking at the staff report, it appears that the intent of the condition address these issue sufficiently. He asked if there was anyone else present to speak regarding the applications. There being none, he closed the public hearing and placed the matter before the Commission for action.

Mr. Kamptner asked that condition 12 be amended so that it begins, "The use authorized by SP-02-14."

Mr. Rieley moved for approval of SP-02-42 Habitat Services – Contractors Storage and SP-2002-14 Habitat Services – Garden Center with the following conditions:

1. The site shall be developed in general accord with the site layout plan titled, "SP 02-14 Habitat Services Stewart Stevens Phase 1 and Phase 2" and dated May 28, 2002, and revised July 22, 2002.
2. The wayside stand permitted under SDP 02-42 shall be voided, upon the commencement of SP 02-14 and/or SP 02-42.
3. No tree removal or clearing shall be permitted beyond that expressly stated in the site layout plan titled "Site Layout Plan SP 02-14 Habitat Services Stewart Stevens Phase 1 and Phase 2" and dated May 28, 2002, and revised July 22, 2002.
4. A separation of a minimum of four feet between parking stalls and structures shall be required.
5. A final site plan approval shall be required.
6. Subject to the approval of the Architectural Review Board, the equipment storage area shall be screened to eliminate visibility from the Entrance Corridor
7. The height of stored equipment shall not exceed the screening.
8. Subject to the approval of the Architectural Review Board, the piles of landscape material shall be contained and displayed neatly and/or screened from the Entrance Corridor.
9. The area for the storage/display of non-plant materials (other than the 5 piles) shall be appropriately screened from the Entrance Corridor as determined by the Architectural Review Board.
10. Subject to the approval of the Architectural Review Board, the storage of landscape materials shall not occur within 30' of the front property line and must be appropriately screened.
11. The plant materials may be displayed within 30 feet of the front of the property line with the display approved by the Planning Department Design Planner.
12. The use authorized by SP-02-14 shall only operate during daylight hours.

Mr. Thomas seconded the motion.

Mr. Rieley stated that this was one of the most interesting historic sites in Albemarle County. He noted that one of Jefferson's caretakers lived on the property, and the land was actually surveyed by Thomas Jefferson.

Mr. Cilimberg stated that SP-02-42 does not need condition 12 and can be deleted.

Mr. Thomas accepted the deletion of condition 12 in his motion.

Ms. Hopper seconded the motion, which carried unanimously.

Old Business:

Ms. Hopper left the meeting at 8:55 p.m.

Café No Problem – Site Plan Extension (Wayne Cilimberg)

Old Business:

Café No Problem – Site Plan Extension (Wayne Cilimberg)

Mr. Cilimberg stated that in reality they have a site plan, Café No Problem, that was approved for five years that has been extended for an additional one month. He pointed out that the mechanism for obtaining an extension comes from the Planning Department with the Commission's approval. The one-month extension was previously granted to allow the applicant time to get with staff to find out if they sufficient grounds to justify a longer extension. He stated that in truth this did not happen. During the past week, the owner contacted the County again with additional questions. Mr. Fritz spoke with Mr. Cooper and advised him that he needed to request another extension. The applicant submitted the request with additional information on Friday. Staff has not had the opportunity to really research this in terms of how this plan might have been affected by other changes to the Zoning Ordinance since 1997 that potentially would require an altered plan. He noted that since 1997, there has been a change in the Water Protection Ordinance and the Lighting Provisions to the Zoning Ordinance. Whether or not these changes would have an effect on this plan, he could not say. He stated that staff brings this to the Commission tonight with that information. He stated that Mr. Fritz might have some additional information to add. The owner and the potential purchaser are present tonight and have a vested interest in obtaining this extension.

Mr. Loewenstein stated that this was not a public hearing item. He pointed out that the Commission received two emails today concerning this issue. The first email was from the Zoning Department and was received in the late morning, and the second email was received shortly after noon.

Mr. Cilimberg noted that the applicant's justification was provided on the application received on Friday. A site plan extension is necessary to conduct and complete details relative to a building permit. Financial arrangements are contingent on the details now being finalized. The contract purchaser is exploring downsizing the project. There is a potential that the site plan may need to get amended or altered based on what happens in the process between the owner and the contract purchaser.

Mr. Kamptner read Section 32.4.3.8.b of the Zoning Ordinance, which the Commission needs to use in its consideration. It reads, "Upon application of the developer submitted prior to the expiration of the final site plan, the Commission may grant one or more extensions of such approval of periods that the Commission may at the time the extension is granted determine to be reasonable, taking into consideration the size and the phrasing of the proposed development and the laws, ordinances and regulations in effect at the time for a request for an extension."

Mr. Rieley stated that they have an old site plan that is probably going to change and it was hard to justify giving an additional extension to this.

Mr. Craddock asked how long is long enough. He questioned how close to reality they were in getting something to actually happen at the site.

Mr. Thomas asked when the site plan expires.

Mr. Cilimberg stated that the site plan expires today.

Mr. Loewenstein stated that he was not going to open the public hearing on this item, but he was going to allow the applicant to briefly address the Commission.

Richard Cooper apologized that it has taken him so long to get this project done. In 1997 it was really uncharted water and did not know realize how many things he would have to negotiate. As to thirty days ago, the contract purchaser, Jeff Sobel, came forward. He pointed out that he has finished all of the structural drawings. He pointed out that he thought that his building permit would automatically extend his site plan and allow that to move forward. He stated that he went and did everything to get the building permit. Basically, as he understood it, he had a 22,060 bond to post for the erosion control. The name of the project has changed to the Mechums River Inn. He noted that he was very close to striking a deal with Jeff Sobel to move this forward. He has indicated that he wants to build a building one-half the size of the original proposal. He noted that they have two wells on the site currently and they have until July 1, 2003 to develop another well and have that on line. He stated that they would be happy to comply with the lighting ordinance. He noted that he would appreciate more time to complete this project.

Mr. Loewenstein asked how long it would be before they moved forward on this project.

Mr. Cooper stated that he did not have a crystal ball, but noted that Mr. Sobel was ready, willing and able. He pointed out that a lot of things have been put in to this plan. He noted that an extension of two years would allow time to have an operating restaurant on the site.

Mr. Bill Fritz, Development Review Manager, noted that he would have to review the new plan in order to determine if it was a major or minor amendment and what would be required during the review process.

Mr. Edgerton moved for denial of the request of a site plan extension for Café No Problem.

Mr. Rieley seconded the motion.

The motion for extension of the site plan was denied (4:2). (Finley – No, Thomas – No) (Hopper – Absent)

Adjournment:

With no further items, the meeting adjourned at 9:45 p.m. to the next scheduled meeting on October 22, 2002.

_____

V. Wayne Cilimberg, Secretary

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