Albemarle County Planning Commission
March 25, 2003

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, March 25, 2003 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Finley; Jared Loewenstein, Acting-Chairman; Rodney Thomas; Pete Craddock and Bill Edgerton. Absent from the meeting were Tracey Hopper, Vice-Chairman and William Rieley, Chairman.

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

Call to Order And Establish Quorum

Mr. Cilimberg called the meeting to order at 6:00 p.m. He stated that the Commission needs to elect an acting-chairman.

Mr. Thomas nominated Mr. Loewenstein as acting-chairman for tonight's meeting.

Mr. Craddock seconded the motion, which was unanimously (5:0) approved.

Other Matters Not Listed on the Agenda from the Public

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

Review of Board of Supervisors Meeting – March 19, 2003

Mr. Cilimberg reviewed the Board of Supervisors actions of March 19, 2003.

- Fontaine Avenue Condos was deferred after the public hearing was held at the applicant's request until April. The applicant will try to address the issues related to that project.
- White Gables Special Use Permit was approved with basically the same conditions that the Commission recommended. There was a slight modification to one condition to make it clearer as to how that condition would be applied.
- The Crown Orchard Tower on Carter's Mountain was approved as the Commission recommended.
- The Neighborhood Model Zoning District was approved.

Consent Agenda

SDP-02-327 Landon White (Lots B1 & B2) Final Plat – Request for authorization to allow a private road. (Yadira Amarante)

SUB-2002-108 Open Lands Access Waiver – Request, pursuant to Section 14-505(C), to allow a lot to access only a public road. (Francis MacCall)

SDP-02-134 Village Homes II Final Site Plan – Request for Planning Commission approval of a waiver to allow disturbance on critical slopes and a private road serving a residential subdivision. (Stephen Waller)

Approval of Planning Commission Minutes – February 11, 2003

Mr. Thomas moved to approve the consent agenda as presented.

Mr. Edgerton seconded the motion.

The motion carried unanimously (5:0). (Hopper, Rieley – absent)

Previously Reviewed Item:

SUB-03-021 Chimney Rock Final Subdivision Plat – Request for final plat approval to create four (4) lots and an 82.016 acre residue on 105.849 acres. The property is zoned RA – Rural Area. The property, described as Tax Map 18, Parcel 21 is located in the White Hall Magisterial District west of an extension of State Route 1573 (Windrift Drive) west of the Windrift Subdivision. The Comprehensive Plan designates this property as Rural Areas in Rural Area 1. (Yadira Amarante)

Ms. Amarante stated that the last time the Commission saw this project was on October 1, 2002. At that time the Commission approved the preliminary plat and approved a request for private road approval. At that time the Commission requested the final plat to come back for approval and that the bonding option for the improvements on that project be removed. The final plan is before the Commission tonight. Staff is recommending approval of the final plat with the conditions listed in the staff report. The applicant is also requesting that they be allowed to bond the improvements to the road and all of the requirements that are required by the Engineering Department as well as the paving of the road. One of the conditions for the preliminary plat is that the easement with RWSA be recorded prior to the plat being recorded. For some reason the RWSA would like for the plat to get recorded first so that they can put a date of the final plat in the easement. Staff is recommending approval of all of the requests from the applicant and recommends approval of the final plat as well with the recommended conditions.

Mr. Loewenstein asked if there were questions for staff. There being none, he opened the public hearing on SUB-03-21 and asked if the applicant is here and would like to make a statement.

Greg Brill stated that his wife and he have brought this request before the Commission again. The only thing that they wanted to do was to have an opportunity to show the Commission what the Chimney Rock Subdivision and their farm looks like. There has been a little bit of confusion as to what this project has been from the beginning. This was due mostly to their poor communication and not understanding exactly what was before them since they were not developers. He presented some slides of their farm and the building sites so that the Commission could gage more accurately if they have followed through on the spirit and the letter of the request and whether they are in keeping with the rest of the beauty of the Albemarle County area.

Mr. Rieley asked if there were questions for the applicant.

Mr. Thomas asked what was the width of the cleared area or path.

Mr. Brill stated that it was the width of a track loader, which is how it was cleared. He stated that the path was used for horseback riding and walking for personal use. The property is very dense and the path was put in so that they could walk the perimeter of the property.

Mr. Finley asked what is the width of the roadway and the ditch line.

Mr. Brill stated that the road itself is 14 feet. He asked Tom Gale to respond to the question.

Tom Gale, of Roudabush and Gale, stated that it was a 14-foot roadway with 4-foot shoulders and ditch lines. There are several areas that need to be modified slightly. From an erosion control point of view, the road is in perfect condition. The Engineering Department did an inspection and we did some road plans and identified several fairly minor items that need to be addressed ultimately for the road to be accepted by the Engineering Department.

Mr. Edgerton asked if this walking and riding trail is designated on the plat?

Mr. Brill stated that it was not.

Mr. Edgerton asked if it were going to have an easement for the benefit of the homeowners.

Mr. Brill stated that the easement would only be for private use.

Mr. Loewenstein stated that he had one speaker signed up on this item. He asked for Mr. Schroloft to come forward to address the Commission.

Nick Schroloft stated that he was speaking as one of the persons interested in purchasing one of the lots in Chimney Rocks Subdivision. He stated that his family of five, including in-laws, have sold their homes and have been waiting for 1.5 years for Chimney Rocks Subdivision to be approved so that they can build their separate homes there. He pointed out that they were on the verge of losing the services of their trusted builder due to the amount of time that it has taken for this land to be approved. Their ability to build their dream home was tied to the interest rates and no one knows if they will increase in future months. He asked that the Commission take the recommendation of the Planning Department to approve the final plat and allow the bonding of the road.

Mr. Loewenstein asked if there was any one else who did not sign up who would like to speak to this matter. There being none, he asked Mr. Bain if he would like to address the Commission for the applicant.

Ed Bain, attorney for the applicant, stated that he was here on the behalf of the Brills just to basically answer any questions from a legal standpoint if necessary. He stated that this has been a long process for everybody. He pointed out that the bonding provisions are there and you have used them numerous times in subdivisions. He stated that the Brills are happy with the comments made by staff. He pointed out that they could tell from the attachments that all of the work except the road has basically been done. The road maintenance agreements have been submitted to staff, which was part of the final plat approval. He respectfully asked that the Commission go ahead and follow the recommendations of the staff so that the Brills' can bond the road and begin the process of getting the final plat done and the final road built.

Mr. Loewenstein closed the public hearing to bring the matter back to the Commission for discussion and action.

Mr. Finley stated that it has been a long time coming, but it seems to be in order.

Mr. Thomas agreed with Mr. Finley that it has been a long time, but he thought the applicant has jumped through all of the hoops. He pointed out that he would agree to the bonding of the road and the improvements.

Mr. Loewenstein stated that personally he would concur because he felt it was the right approach to take. He stated that the staff has done a good job with this.

Mr. Craddock stated that it was a lot better this time than previously.

Mr. Edgerton asked why they were concerned previously about the bonding.

Ms. Amarante stated that it was a recommendation by one of the Commissioners.

Mr. Thomas stated that Mr. Brill had a hard time getting everything together. There were some problems that he had to overcome. He stated that, in his opinion, Mr. Brill has overcome the problems. He stated that was why the Commission had asked to look at the request again.

Mr. Finley made a motion for approval of SUB-03-021, Chimney Rock Final Subdivision Plat with the recommended conditions in the staff report as follows:

1. Allow bonding of private road improvements including paving.
The Planning Commission allowed the road improvements, required by the Engineering Department, to be bonded with the following conditions:

(1) Submit a completed bond request form to the Engineering Department for a bond estimate.

2. Allow the deed of easement with the RWSA, that serves as the stream buffer mitigation plan, to be recorded at the County Clerk's Office immediately after the plat is recorded at the County Clerk's Office.

3. Approval of the final plat
The Commission finds the proposal in compliance with the provisions of Chapter 14, the Subdivision ordinance and Chapter 18, the Zoning Ordinance and therefore, recommends approval of the Chimney Rock Farm Final Plat, SUB-03-021, with the following conditions:

1. The final plat shall not be signed until the following conditions are met:
   a. Engineering Department approval of:
   1) Any road improvements deemed necessary by the Engineering Department must be built or bonded prior to final plat approval.
   2) The easement granted to the RWSA shall be appropriately noted/displayed on the plat.

   b. Department of Planning and Community Development approval of:
   1) Label the 50' easement or r-o-w, which goes through TMP 18-82, as what it is and whether it is existing or proposed. [14-302(F)]
   2) Change note #10 so that it states that the Residue also has a building site. [14-302(N)]
   3) Change note #9 to state (1) How many development rights are left with the residue parcel; (2) the acreage limitation when that development right is used (31 acres minus 26.1171 acres). [14-302(o)]
   4) Change note #8 to state "Lots 1 through 4 may not be further divided." [14-302(o)]
   5) Change the setbacks note on Sheet 1. Rear setbacks are 35'; side setbacks are 25'. [14-303(G)]
   6) Submit a road maintenance agreement. This agreement shall be subject to County Attorney review and approval. [14-313]

Mr. Thomas seconded the motion.

The motion carried unanimously (5:0). (Hopper, Rieley – absent)

Mr. Loewenstein recommended that the applicant check with the historic resources member of the staff in the Planning Department, Margaret Maliszewski, because it is possible that there is something on file from an earlier time that you might find interesting. He suggested that the applicant get a second opinion about stabilizing the chimney.

Deferred Items

SP-02-65 Brown Auto Park (Structured Parking (Signs #30, 31& 37) – Request for special use permit to allow a parking structure as shown on a preliminary site plan, SDP-02-105, in accordance with Section 23.2.2.12 of the Zoning Ordinance which allows for parking structures located wholly or partly above grade. The property, described as Tax Map 45, Parcel 68D4 and 68D6 is located in the Rio Magisterial District on Rt. 29N, on the northwest corner of Hilton Heights Drive and 29 North, in front of Sam's Club. The Comprehensive Plan designates this property as Regional Service in Neighborhood 1.

AND

SP-02-46 Brown Auto Park (Outdoor Display of Vehicles) (Sign # 30, 31 & 37) – Request for special use permit to allow a car dealership with outdoor display of vehicles in accordance with Section 30.6.3.2.b of the Zoning Ordinance which allows for outdoor storage, display and/or sales which would be visible form an Entrance Corridor.

AND

SDP-02-105 Brown Auto Preliminary Site Plan – Request for preliminary site plan approval for a car dealership to include 56,490 square feet of building on 3.25 acres zoned Highway Commercial (HC) and Entrance Corridor (EC). The request includes a waiver to disturb critical slopes and a special use permit for outdoor storage of vehicles in the Entrance Corridor and structured parking. (Margaret Doherty)
DEFERRED FROM THE FEBRUARY 25, 2003 PLANNING COMMISSION MEETING

Mr. Loewenstein stated that they would take all three items together.

Ms. Doherty asked that they first correct the site plan number to SDP-002-105 on the staff report and the most recent agenda. The applicant proposes to develop this site as shown on the tax map on the board for use for one or more automobile dealerships. The plan includes the outdoor display of vehicles and a parking structure. The proposal is divided into two phases. Phase one includes the construction of the parking structure that will include sales and service of vehicles on both the first floor and the mezzanine level and display of parking on two floors above. This phase also includes a right in only entrance from Route 29 North. Phase two includes a second sales building and ground level display parking along Route 29 North and Hilton Heights Road. This phase also includes a right in and right out entrance exit onto Hilton Heights. The Planning Commission did hold a work session on this item a few weeks ago and we went over most of what is in the staff report. She pointed out that very little has changed except that they went to the ARB and received a recommendation of no objection and some conditions of approval. Those have been included as conditions of approval. There has been one change since then in that they have received a new site plan. The new site plan was received on Monday and it was distributed this evening for the meeting. She suggested that this site plan serve as the concept plan that will be tied to the special use permits for outdoor display and for the parking structure. But, because this site plan has not been reviewed by the Site Review Committee, she asked that the preliminary site plan be approved administratively after the special use permits are done so that they can send this through one more round of review by the Engineering Department and so on. The last time they saw a site plan was in January and a different Engineering firm did it. There are significant differences between this one and that one. She did not think it was anything that the Commission needed to see again because there were only minor changes. She stated that what needed to happen was that the first condition for both special use permits where it says that the site shall be developed in general accord with the attached Daggett and Grigg architectural plan entitled Brown Auto Park dated January 15, 2003 and the next phrase would be added, "and the Daggett and Grigg Site Plan entitled Brown Auto Park dated March 20, 2003." That condition should be attached to both special use permits as a concept plan. One aspect of these plans which is different that you might want to think about is that there are new retaining

walls and there are some sidewalks that are now missing. She pointed out that the sidewalks could be taken care of easily when it goes back through. She stated that she was the only one that had seen this site plan, and questioned whether the ARB has seen the plan. The site plan has to go back to the ARB anyway and would have to go back through the Site Review Committee. This is just a concept plan and is in general accord.

Mr. Loewenstein asked if there were questions for staff. There being none, he opened the public hearing on these applications and asked if the applicant was present and would like to make a statement.

Jim Grigg, of Daggett and Grigg Architects, stated that he had several boards that he would like to put up front for review. He felt that it would help them understand a little more. He stated that when they brought the project to the work session on February 25th, they were able to explain to the Commission the scope and concepts of the proposal. The approach to the phase one building would be a facility or two franchises that would essentially be a three-level parking structure that would act as a car dealership on the ground level, two levels of parking on the roof top level and then a structured level above that. All of it would be taking advantage of the slopes that are there. He pointed out that there was about a 60-foot grade change across the property from Route 29 up to the entrance to the Doubletree. This facility will basically be terraced into the hillside, which would be the phase one building. Then there would be a site on the corner that would be left for the phase two stand alone dealership with on-grade display parking to serve it as well as customer parking and so forth. He felt that the project has a lot of merit because they believe that almost two-thirds of the parking associated with the dealership for display, storage and everything else would not be visible from the Entrance Corridor. They propose to put 180 cars on the roof and then another 130 on the top level of the deck. Also, they plan to relegate some of the employee parking in the phase two parking behind the proposed building. The site plans for phase one and phase two are being reviewed tonight, even though they don't have a building yet for phase two. What has happened relevant to the site plan and the parking issue is that they have a January 15th plan that was submitted to the ARB, which was reviewed, and they have no objections to the plan. On February 6th, the County changed its parking regulations on how to calculate parking for car dealerships. In order for the special use permit to be clear, they need to reduce and clearly delineate where the display parking is going to be located. They also need to show customer parking and the other parking as required by the ordinance. Staff has requested that they redo the site plan so that what they were looking at tonight would clearly show all of the display parking that the special use permit will provide for. In addition, it will show the required parking based on the size of the dealership based on the number of service stalls, service bays and the total square footage of display and storage parking. All this was implemented after January 15th. There were a number of recommendations associated with the recommendations of approval. He noted that they were generally okay with all of them. The one condition that was a little unclear was the one that talked about adding additional landscaping or a planting island for the phase two site. They had added an island, which was the reason they bought them the colored green drawing that shows a new island for the phase two site. They have squared up the corner of the parking there so that it no longer matches with the McKee Carson site plan. He stated that they felt that both of those changes were positive in terms of adding more landscaping and screening for the display parking on the corner. He pointed out that they think they have done everything that the ARB requested. He pointed out that he was a little uncomfortable going back to the ARB in an open process. They would like to get the concept plan approved tonight because this was a fairly specific approval. He stated that they went over the proposal at the work session noting that the building on these drawings has been moved 20 feet south in order to improve the grade conditions adjacent to the Doubletree parking lot. He pointed out that they would use a higher parapet on top to screen the cars from view.

Mr. Loewenstein asked if there was any one else who would like to speak to the request.

Katie Hobbs, resident of Albemarle County and a member of the ARB, stated that the ARB was talking about the size of the planting islands so that that they were big enough so that the trees could be clustered.

Mr. Loewenstein closed the public hearing to bring the request back before the Commission for discussion and an action. He stated that initially when the Commission reviewed this that they liked it and felt that it was moving in the right direction. The applicant has made several changes to the plan. He stated that the staff report alludes to the question of what will happen in the number of conditions involved and what degree of comfort they have with that.

Mr. Finley asked what was is changing.

Mr. Loewenstein asked staff to summarize what the applicant was up against to go forward.

Ms. Doherty directed the Commission to pages 12 and 13 of the staff report of attachment B, which is the ARB action letter. The conditions of approval for the preliminary site plan are just so numerous and they include items, which could move the building around or change the plan to review the building design so it provides human scale. They need to coordinate the architectural building footprint and courtyard location on the site and the landscape plans. One of the problems was that McKee Carson prepared the site plan and Daggert and Grigg produced an architectural plan, which did not match. What the ARB was commenting on might have been different from what the Site Review Committee was looking at. Staff was very concerned about this and noted it in the staff report, but in the end the plan that was produced last week by Daggett and Grigg could serve as a concept plan for the special use permits. Staff feels that as long as there is not more display parking in any future plan that the Zoning Administrator could find future plans generally in accord with this plan. If more landscaping has to be provided by the ARB or if the display parking is reduced by the ARB or if more sidewalks have to be put in for the site review committee, that the Zoning Administrator could still find the site plan in general accord with this plan. It would not preclude more display parking for a bigger parking structure for a special use permit item. There is still work to be done, but she did not think it would change the special use permit.

Mr. Loewenstein stated that the site plan was probably the major issue. They have the option of seeing the final site plan come back to us as well.

Mr. Kamptner asked if the display-parking plan is going to be included in the Commission's conditions or just the site plan. He stated that would tie down where the display parking would be located. He pointed out that any changes to the display parking would have to be in general accord with the plan.

Ms. Doherty stated that staff was recommending that the Commission tie the special permits to three plans: the architectural plans, the site plan, and the display-parking plan.

Mr. Edgerton asked if they tied the architectural drawings to the approval, what is that going to do with the ARB concerns. He pointed out that the ARB was asking that the building be redesigned to reflect the historic architecture of the County.

Mr. Kamptner stated that condition #1of SP-02-46 states that the site shall be developed in general accord with the architectural plans. He stated that those are on pages 17 through 31.

Ms. Doherty suggested that they add language as to architectural elevation. She pointed out that they asked the applicant to defer until they could get these plans straightened out. They decided not to so staff has been struggling with this. The architectural plans are what the ARB is recommending with no objections. The site plan and the display parking plan deal with the general accord of the site being developed in the display areas.

Mr. Kamptner stated for the purposes of the special use permit, the architectural plans being considered show the types of improvements and the general layout, and not the specific architectural fixtures and design elements, and things like that. The design elements include the color, motif, the materials and all of that and are typically within the purview of the ARB. If they are overlapping, then they need to pull them apart.

Mr. Edgerton pointed out that Mr. Grigg stated that they have changed the design of the building. He questioned if the changes would be less appealing to the ARB.

Mr. Loewenstein stated that there were some vague things in here about the ARB's remarks that trouble him a little bit in connection with the building design. He pointed out that he did not know what the ARB's condition meant to revise the building design other than the fake pediments and the standing seam metal roof. He wondered if they had anything more relevant in mind. That is such a broad sweeping statement that it could come back looking like almost anything. He stated that it troubled him in the staff report where it states that staff had trouble matching the architectural drawing to any specific plan. He asked what would happen if they wait for the results from the ARB first.

Ms. Doherty pointed out that the Board date was set for April 16th and she was unsure of the ARB's next meeting date.

Mr. Thomas asked what the problem was with recommending it now like staff has suggested.

Mr. Loewenstein stated that they need to refer it to something.

Mr. Kamptner stated that looking at the ARB's comments, which start on page 12, most of their comments deal with site plan conditions 1 through 8 at the top deal with the special use permits. Looking through those rather quickly, he stated that he was not sure if the conditions recommended there conflict in any material way with the special use permits they are considering.

Mr. Loewenstein stated that was probably true. He pointed out that he was not as troubled about that as the other things.

Mr. Kamptner stated that there was a critical slope waiver, which was the key thing in front of the Commission. He stated that the Commission needed to be comfortable that the ARB conditions are dealt with on the final site plan.

Mr. Loewenstein stated that the Commission could ask that the final site plan come back for review if they were concerned with some of the points that they cannot resolve. He stated that if they can approve the preliminary site plan, then they can work out a way to tie it to specific documentation and then the final site plan can come back to them for additional adjustment.

Mr. Finley stated that in general accord gives some flexibility.

Mr. Loewenstein asked that Mr. Kamptner tell the Commission how much flexibility that gives them from a legal standpoint. He noted that it sounds like they have some, noting that at the final they could look at it.

Mr. Kamptner stated that they would be looking at two things. One would be to confirm that the final site plan is satisfying all of the ARB's concerns and all of the other requirements of the ordinance.

Mr. Edgerton stated that he was not comfortable approving something when he was confused about what he was approving.

Mr. Loewenstein suggested that they put it in the conditions.

Mr. Loewenstein asked Mr. Grigg to come back up for a moment.

Mr. Grigg stated that he was comfortable and confident that whatever style this building ends up taking on, whether it has the metal screen roof or the parapet to screen the parking on the roof, that they will be able to come up with a satisfactory design that will meet the approval of the ARB. You all should know that the ARB has different opinions. He noted that the Chairman thought it would be better to go with an earlier scheme that they had shown which tried to integrate the building more successfully from his perspective, and they were going to at least accommodate him in that way and go back with a couple of notions. He stated that either way would be okay with them and they were confident that they could get through that process. He stated that they were far enough along in the process to be able to say that what they saw on the boards was what they wanted to do. He acknowledged that they have to go back to the ARB and if they have not made the islands big enough to satisfy their final review, then they will have to work with them on that basis. He stated that they were anxious to get the Commission's approval of the display parking and the appropriateness of the structured parking and leave the final architectural design details to the architects and the ARB. He stated that they would be happy to come back with the final review if necessary.

Mr. Finley asked if they all agreed that condition #1 needs to add site plan and display parking.

Mr. Loewenstein stated that they discussed that earlier and agreed to that. He felt that the problems with sequencing could be successfully resolved. He felt that the applicant has shown a lot of good will and cooperation in this process. He noted that the comments of the ARB have been very helpful and has really helped flush this out. He felt that they should be able to move ahead with the conditions as discussed. He stated that they also might want to consider whether they want to see the final again at the end to make sure that everything turns out as envisioned from this point forward.

Mr. Thomas asked that they request the final to come back before them.

Mr. Loewenstein asked for separate motions.

Action for SP-02-46:

Mr. Thomas moved for approval of SP-02-46, Brown Auto Park (Outdoor Display of Vehicles), with the conditions recommended by staff with modifications to conditions 1 and 3 as follows:

1. The site shall be developed in general accord with the attached Daggett & Grigg plans, for Brown Auto Park, entitled *ARB Package*, dated January 15, 2003, *Site Plan*, dated March 20, 2003, and *Display Parking Plan*, dated March 20, 2003.
2. Vehicles shall not be elevated anywhere on site (through the use of racks or other lift devices);
3. Vehicles shall be displayed only in areas indicated for display shown on the attached Daggett & Grigg display parking plan, entitled "Brown Auto Park" dated March 20, 2003.
4. Reduce the amount of ground level vehicle display, to the satisfaction of the Architectural Review Board.
5. Planting islands in the display area east and south of the phase 2 building shall be increased in size to allow for true clustering of trees. Clusters shall be compose of a combination of conifers and broadleaf evergreens; and

6. In Phase 1, provide all landscaping except for interior plantings associated with Phase 2.

Mr. Finley seconded the motion.

The motion carried unanimously (5:0) with the conditions as previously stated.
(Ms. Hopper, Mr. Rieley – absent)

Action for SP-02-65

Mr. Finley moved for approval of SP-02-65, Brown Auto Park (Structured Parking), with the conditions recommended by staff with a modification to conditions 1 as follows:

1. The site shall be developed in general accord with the attached Daggett & Grigg plans, for Brown Auto Park, entitled *ARB Package*, dated January 15, 2003, and *Site Plan*, dated March 20, 2003.
2. Materials for the parking deck and for the structures over the service exit lanes shall match showroom materials. Painted and raw concrete is not appropriate.
3. The design of the building shall be revised so that parked vehicles will not be visible on the rooftops of the structures over the service exit lanes;
4. Provide an informal planting of mixed evergreen trees along the north side of the Phase 1 building;
5. Further reduce the impacts of lighting, including the rooftop pole lights and wall mounted lights above the showroom;
6. The design of the Phase 2 building shall be compatible with the Phase 1 building, as determined by the ARB; and
7. Adjust the parking schedule to the satisfaction of the Zoning Administrator, as described in a memorandum, dated March 18, 2003.

Mr. Edgerton seconded the motion.

The motion carried unanimously (5:0) with the conditions as previously stated. (Hopper, Rieley – absent)

Action on Preliminary Site Plan SDP-02-105

Ms. Doherty asked that the Commission send the preliminary site plan back to staff to be approved administratively. Staff will send the critical waiver request as a consent agenda item when they feel comfortable that the critical slope waiver that they are recommending matches a plan that they can tie it to.

Mr. Kamptner stated that staff needs to analyze the new plan that was submitted.

Mr. Loewenstein stated that made good sense. He asked for a motion for deferral of the preliminary site plan recognizing that the critical slope waiver would be coming back before the Commission as a consent agenda item. He pointed out that staff would administratively approve the preliminary site plan and then bring the final site plan back before the Commission.

Mr. Kamptner pointed out that the second clause answers the question, that it can not be any farther out than the existing antenna.

Mr. Thomas made a motion to request that the approval of the preliminary site plan come back before the Planning Commission.

Mr. Loewenstein stated the motion was not correct.

Mr. Kamptner stated that he was requesting that the preliminary site plan come back to the Commission for consideration after being further reviewed by staff.

Mr. Loewenstein stated that the preliminary site plan will go back to staff to be administratively approved and then the Commission will see the final site plan. He stated that the critical slope waiver would come back before the Commission as a consent agenda item.

Mr. Benish asked that the Commission leave the critical slope waiver out of the motion.

Mr. Thomas made the motion as previously stated by Mr. Kamptner.

Mr. Edgerton seconded the motion.

The motion carried unanimously (5:0). (Hopper, Rieley – absent)

Mr. Loewenstein stated that the SDP-02-105 would come back to the Commission and the special use permits would go to the Board on April 16th.

Public Hearing Items:

SP-02-070 Rivanna Ridge SC-Bank Drive-in window (Sign #23, 25, 94) - Request for approval of a special use permit to allow a drive-in window serving a bank, in accordance with Section 25A.2.2 of the Zoning Ordinance, which allows for drive-in windows and other special uses serving by-right uses allowed in the C-1, CO and HC districts. The property, described as Tax Map 78, Parcels 73A2, contains 2.64 acres, and is located in the Rivanna Magisterial District on the south side of Rt. 250 East (Richmond Road) at the intersection with Rolkin Road (private). The property is zoned PD-MC, Planned Development-Mixed Commercial and EC, Entrance Corridor. The Comprehensive Plan designates this property as Regional Service in Urban Neighborhood 3.

AND

SP-02-076 Rivanna Ridge SC – Restaurant Drive-in window (Sign #23,25, 94) – Request for approval of a special use permit to allow a drive-in window serving a fast food restaurant, in accordance with Section 25A.2.2 of the Zoning Ordinance, which allows for drive-in windows and other special uses serving by-right uses allowed in the C-1, CO and HC districts. (Stephen Waller)

Mr. Waller stated that the applicant's proposal for the special use permit shows the bank, the fast food restaurant and a full service restaurant on the out parcel located at the Rivanna Ridge Shopping Center. This site was last approved through the Giant final site plan at Pantops. Both the bank and the fast food restaurant have drive-through windows. The applicant's request is for two special use permits to allow those drive-through windows under Section 25A.2.2 which allows drive-through windows associated with uses by-right in the Planned Development-Mixed Commercial zoning district. In addition these uses are allowed by right in the PD-MC zoning district. Staff has recognized that banks and fast food restaurants are also recommended as primary uses in the Regional Service Land Use Designation under the Comprehensive Plan. Staff has also recognized that the ARB has reviewed the construction activity for this proposed development and recommends approval with some conditions that have also been included in

staff's recommendations regarding the location of screening, signage and the location for the canopy for the bank. Staff recommends approval of this request with conditions that are found on page 6 of the staff report. He stated that he would be happy to answer any further questions about this request.

Mr. Loewenstein asked if there were any questions for staff.

Mr. Craddock stated that condition # 2 says that the drive-through shall be limited to three lanes that follow through to the teller and ATM machine and an additional lane for a by-pass. Then when you go down to condition # 6, it states that the drive-through structure shall not exceed three lanes. He asked what that was talking about.

Mr. Waller stated that was referring to the three service lanes. He pointed out that the lanes were as shown in the information.

Mr. Loewenstein pointed out that condition # 6 was talking about the actual structure itself. He asked if there were other questions. There being none, he opened the public hearing and asked if the applicant would like to address the Commission.

Joe Luce stated that he was present on behalf of the applicant, GSF Realty. He stated that he would be happy to answer any questions.

Mr. Loewenstein asked if there were questions for Mr. Luce. There being none, he asked if there was any one else present that would like to speak. There being none, he closed the public hearing to bring the request back to the Commission for discussion and action.

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

Mr. Finley made a motion for approval of SP-02-070, Rivanna Ridge SC-Bank Drive-in window with the conditions recommended in the staff report.

1. The drive through lanes shall be designed in general accord with the improvements that are shown on the preliminary site plan, entitled "Preliminary Site Development Plans for Rivanna Ridge Shopping Center", last revised on January 13, 2003.
2. The drive-through shall be limited to three (3) lanes that follow through to the teller windows and the ATM machine, and an additional lane for bypass traffic.
3. Signage and pavement markings shall be provided at the entrance and exit points of the drive-through lane, subject to Engineering Department approval to ensure appropriate and safe travel patterns.
4. This site shall be subject to the Architectural Review Board issuance of a Certificate of Appropriateness.
5. The drive-through structure shall be located on the south side of the building as illustrated on the site plan.
6. The drive-through structure shall not exceed three (3) lanes.
7. The architectural design, material and detailing of the drive-through structure shall match that of the main bank building.
8. Evergreen screening trees and/or shade trees and evergreen shrubs shall be planted along the eastern property line.
9. The planting strip to the west of the drive-though lane shall be planted with evergreen screening trees and/or shade trees and evergreen shrubs.

Mr. Craddock seconded the motion.

The motion carried unanimously (5:0) with the conditions as previously stated. (Hopper, Rieley – absent)

Mr. Thomas made a motion for approval of SP-02-076, Rivanna Ridge SC-Restaurant Drive-in window with the conditions recommended in the staff report.

1. The drive through lanes shall be designed in general accord with the improvements that are shown on the preliminary site plan, entitled "Preliminary Site Development Plans for Rivanna Ridge Shopping Center", last revised on January 13, 2003.
2. The drive-through shall be limited to a single lane that follows through to the pick-up window and the bypass lane extending to the southern parking lot.
3. Signage and pavement markings shall be provided at the entrance and both exit points of the drive-through lane, subject to Engineering Department approval to ensure appropriate and safe travel patterns.
4. The menu board shall be installed at the south end of the fast food restaurant, and not on the main travelway of the drive-through, which extends between the northern and southern portions of the parking lot.
5. This site shall be subject to the Architectural Review Board's issuance of a Certificate of Appropriateness.
6. Awnings, canopies, signs, lights and other elements associated with the drive-through use shall be coordinated with the appearance of the building and shall not be the focus of the design, as determined by the ARB.
7. The planting strip located to the east of the drive-through lane shall be planted with evergreen screening trees.
8. The planting strip located to the west of the drive-through lane shall be planted with evergreen screening trees and/or shade trees and evergreen shrubs.

Mr. Craddock seconded the motion.

The motion carried unanimously (5:0) with the conditions as previously stated. (Hopper, Rieley – absent)

Mr. Loewenstein stated that this matter has been approved and will go before the Board on April 16th.

SP-2002-078 Joseph Wright & David Turner – Crown Tower - Request for a special use permit to allow the co-location of an array of nine (9) additional antennas at approximately 120 feet on an existing tower 150-foot tall tower, with additional ground equipment. 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 32, Parcel 41, contains approximately 7.75 acres, zoned RA, Rural Areas. This site is located in the Rio Magisterial District, on the south side of Airport Road, approximately 1/8 mile west of the intersection with U.S. Route 29 North. The Comprehensive Plan designates this site as Office Service in the Piney Mountain Community. (Stephen Waller)

Mr. Waller stated that this request is to allow the co-location of a fourth array of antennas on an existing 150-foot tower. This request includes additional ground equipment consisting of 3 cabinets approximately 5 feet in height on a new 10' X 20' concrete pad within an existing fence compound for a personal wireless service facility. The applicant with this request would like to install those antennas at 120 feet on that existing antennae and that would be between the two lowest sets of the existing ones on the antenna. The ARB had reviewed this request and recommended approval with conditions that would limit this tower to a maximum of four arrays of antennas. This would be last antenna allowed on this tower. That action was made because the applicant is requesting to install these with triangular standoff brackets that are similar to the ones existing on the tower. Staff has reviewed this as a request for the installation of a tier three facility in accordance with the Personal Wireless Service Facilities. Staff recommends approval with the

conditions as recommended by the ARB and with an additional condition regarding the future requirements for installing additional screening should a road that is currently being proposed to pass this property from the Hollymead Town Center and connecting it with Airport Road is built. That language has been added to condition # 6. The original condition # 6 limited the applicant from the cutting of the trees within 200 feet of the facility at the time that the facility was installed. Staff has found no evidence that any trees within 200 feet have been cut since it was installed, however if that road is built the ARB identified that there would be some need to add some additional screening and recommended that staff add this condition. Therefore, that is why staff added that language to that condition. He stated that he would be happy to answer any questions.

Mr. Loewenstein asked if there were any questions for Mr. Waller. He asked if the language in condition # 9 should include the word existing in front of tower.

Mr. Kamptner asked if he meant adding the word "existing" in front of both references to tower in that condition.

Mr. Loewenstein stated that was correct.

Mr. Kamptner stated that in the context it was the existing tower.

Mr. Waller stated that the ARB reviewed the plans on the work that needs to be done and the special use permit. He pointed out that the ARB had a specific set of recommended conditions for the special use permit, but they were also subject to the final approval of the ARB Design Guidelines.

Mr. Kamptner asked staff a question about condition # 4c that says that the antennas shall be set the minimum distance that is allowed by the mounting equipment. He asked if it would have the same triangular array as the existing tower.

Mr. Waller stated that the information that was provided in this packet only shows the top panel view of what the structure looks like. In researching the other antennas, it only showed the top down view so that the only thing you can tell is that it is a triangular type of bracket that is already there.

Mr. Loewenstein opened the public hearing and asked that the applicant come forward to address the Commission.

Mike Buddy, of Omni Point Communications, stated that he did not have anything to add, but he would be happy to answer any questions. He stated that the information on the existing equipment was received from the tower owner, Prime Communications. According to their records, the mounting bracket that they are using is also being used by two of the other carriers on the tower. He stated that they were going to use the exact same bracket and the only thing that would make a difference is the taper of the tower, which they have no control over. There is a carrier below theirs that has a wider taper on the tower. As the tower goes up it gets slimmer. Therefore, they would be installing at a slimmer height using the same equipment. He noted that it was under the assumption that the towers would not stick any further out that what is on there now.

Mr. Loewenstein asked if he had any idea of what that is because when he looked through the information he could not find it.

Mr. Buddy stated that on different points on the tower the arrangement of the triangular antenna versus the array of what our antennas are trying to cover, he thought the distance was anywhere

between 5 and 9 feet. In other words, because there is a different standoff in different locations because of the orientation of the tower versus the orientation of the antennas.

Mr. Waller pointed out that in some similar situations, they had a condition where the applicant would provide staff information with the building permit as to what the standoff of the lower bracket is to make sure that this bracket is no farther out than that. He noted that could be added to the conditions.

Mr. Loewenstein stated that presumably then what he was saying that it works if it is not any larger than that. He asked how long has the array below where you would be has been up.

Mr. Buddy stated that the only thing he knew about the tower was that it was built in 1997. He pointed out that the 1997 Code allows up to three carriers. There is a good chance that two of the existing carriers did not come before the Planning Commission or the Board of Supervisors if they installed before the tower ordinance was rewritten.

Mr. Finley asked if they own all the land within 200 feet of the tower.

Mr. Buddy stated no that they don't own any land.

Mr. Loewenstein pointed out that the applicant would only lease the land.

Mr. Buddy stated that condition goes back to the original tower. He pointed out that during their installation they would not be removing any trees.

Mr. Finley asked if easements are required to prevent the tree cutting.

Mr. Waller stated that no easement were required when the original tower was built. He stated that if the applicant was doing any structural changes to the tower as far as increasing the height of the tower or something that would require a special use permit, then they would probably require them to obtain an easement for the fall zone of the tower. He stated that because the tower was already there and it was going to remain at the same height that staff would not recommend that requirement.

Mr. Loewenstein asked if there were other questions. He asked if there was anyone else present to speak. There being none, he closed the public hearing to bring the request back to the Commission for discussion and action.

Mr. Thomas asked if the tower has a light on the top of it.

Mr. Waller stated that the tower was not lit at this time.

Mr. Loewenstein stated that the tower was visible because he drove past it everyday. He noted that one of these days that parcel would have so many things on it that you won't see the tower.

Mr. Kamptner stated that this tower was one of the last towers over 100 feet that was approved. He stated that after that the applicants started coming forth with the tree top towers.

Mr. Loewenstein stated that with three existing arrays, he felt that one more array is probably a small increment visually.

Mr. Thomas pointed out that it was better than creating another antenna or pole.

Mr. Loewenstein stated that the new policy encourages the co-location on towers.

Mr. Thomas moved for approval of SP-2002-078, Joseph Wright & David Turner – Crown Tower with the conditions as recommended by staff.

Mr. Craddock seconded the motion.

Mr. Loewenstein stated that the motion included no change in the language of the conditions of approval.

Mr. Benish stated that a question actually started with Mr. Kamptner and he assumed that it was in regards to the interpretation of that one condition # 4c in terms of how that is actually measured.

Mr. Kamptner pointed out that the second clause answers the question that it can not be any farther out than the existing antennas.

Mr. Benish stated that was measured from the face of the antenna. He pointed out that with a tapering antenna that it could actually be at a greater distance, but the outside face would be equal.

Mr. Loewenstein stated that the outside face of the new array would be no farther away from the face of the existing frame of the antenna.

Mr. Thomas stated that the second line says that in no case shall any of the new antennas project from the structure to a distance that is greater than that of the existing antennas.

Mr. Loewenstein stated that staff wanted to clarify whether that is adequate to resolve this. He noted that the second part really says it all. He stated that condition # 4c would start with "In no case . . ."

Mr. Kamptner asked if they are planning on installing antennas that are less than the maximum distance allowed. He pointed out that if they need to go out as far as the others, then he felt that the first clause could go.

Mr. Loewenstein asked the applicant to come back up to clarify this.

Mr. Buddy stated that they were going to be using standard industry brackets that every carrier in the nation uses. He pointed out that the same manufacturer that made the tower in the first place manufactures the brackets. At least one of the other carriers on that tower is using the exact same bracket. The antennas are pretty much flush on the bracket itself. The only concern that he had was that the orientation of the triangular sectors might not match up exactly with what is on there already. In other words they might be offset a little bit that might have a point out further.

Mr. Loewenstein stated that one of your corners might exceed the center of the faceplate below it or above it.

Mr. Waller stated that they may not exceed their point on the corresponding corner.

Mr. Buddy noted that the long face of the bracket was 12 feet long. He stated that if it was pointed directly back at the tower, it would be 12 foot maximum. He stated that would not happen.

Mr. Waller suggested that for enforcement purposes they should strike that first section of condition # 4c.

Mr. Loewenstein stated that it was the consensus of the Commission on condition # 4c that the first portion be struck and that "In no cases . . ." was where it would now begin.

Mr. Thomas altered the motion for approval of SP-2002-078, Joseph Wright & David Turner – Crown Tower, to include the amended condition # 4c.

1. All work shall be done in general accord with that described in the applicant's request and site construction plans, entitled "Omnipoint Communications CAP Operations - Flat Branch," last revised on November 27, 2002.

2. The tower shall not be increased in height.

3. This site shall be subject to the issuance of a Certificate of Appropriateness by the Architectural Review Board.

4. The additional array of panel antennas may be attached only as follows:
   a. All equipment attached to the tower shall be painted dark gray to match the color of the tower. The cables extending from the ground equipment may remain black.
   b. The antennas shall not exceed seven (7) feet in height and two (2) feet in width.
   c. In no case shall any of the new antennas project from the structure to a distance that is greater than that of the existing antennas.
   d. The antennas subject to this approval may be replaced administratively, provided that the sizing, mounting distances and heights of the replacement antennas are in compliance with these conditions of approval and in accordance with all applicable regulations set forth in Section 5.1.40 of the Zoning Ordinance.
   e. The note on page Z-2, which implies that the size, height and direction of the antennas can be adjusted to meet RF requirements, shall be deleted from the construction drawings or amended to remove this consideration for size and height.

5. With the exception of the safety lighting required by Federal Aviation Administration regulations, outdoor lighting shall be permitted only during maintenance periods; regardless of the lumens emitted, each outdoor luminaire that is not required for safety shall be fully shielded as required by Section 4.17 of the Zoning Ordinance.

6. No existing trees within 200 feet of the facility shall be removed for the purpose of installing the proposed antennas or any supporting ground equipment. Should any of the trees within 200 feet of the tower be removed for the purpose of creating a public or private right-of-way, the party or company holding the tower in ownership shall install trees to adequately screen the facility's ground equipment from adjacent properties and roadways.

7. The current owner and any subsequent owners of the tower facility shall submit a report to the Zoning Administrator by July 1 of each year. The report shall identify each personal wireless service provider that uses the facility, including a drawing indicating which equipment, on both the tower and the ground, are associated with each provider.

8. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes 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.

9. The tower shall be limited to a total of four (4) vertical arrays of panel antennas. No satellite or microwave dishes shall be permitted on the tower.

Mr. Finley seconded the motion.

The motion carried unanimously (5:0) with the conditions as previously stated. (Hopper, Rieley – absent)

Mr. Loewenstein stated that the special use permit would go to the Board on April 16th.

Old Business

Mr. Finley asked what the status was of the Mountain Overlay District.

Mr. Benish stated that the Board of Supervisors has decided at this point not to schedule the public hearing. The Board asked staff to come back with information regarding the establishment of a committee to review the ordinance as proposed. The intent is to provide for an opportunity for that committee to come back with a potential ordinance that is more accepted and addresses the issues of concern that were raised. Staff has been working on that type of concept and will advise the Commission of the outcome.

Mr. Thomas stated that Mr. Craddock and myself have been invited to visit Florida this Friday afternoon by the Regency Group and the Dierman of the Hollymead Town Center. They will be looking at a Regency developed shopping center area that is similar to what is going in at Hollymead.

New Business

There being no new business, the meeting proceeded.

Adjournment

With no further business, the meeting adjourned at 7:55 p.m. to the next meeting on April 1st.

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V. Wayne Cilimberg, Secretary

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