Albemarle County Planning Commission
April 22, 2003

The Albemarle County Planning Commission held a worksession, meeting and a public hearing on Tuesday, April 22, 2003 at 4:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were Rodney Thomas; Pete Craddock; Bill Edgerton and William Rieley, Chairman. Absent from the meeting were Tracey Hopper, Vice-Chairperson; William Finley; and Jared Loewenstein.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; and Elaine Echols, Principal Planner.

Call to Order and Establish Quorum

Mr. Rieley called the meeting to order at 4:12 p.m.

Worksession – ZTA-03-01 Relegated Parking – Modifications to the Zoning Ordinance to achieve relegated parking in accordance with the recommendations of the Land Use Plan. (This item was referred to the Planning Commission from the Board of Supervisors on 2/5/03). (Elaine Echols)

Mr. Rieley stated that when this matter came to the Planning Commission last, the Commission asked that they have a worksession that would be dedicated to simply listening to what anybody had to offer. He pointed out that was what they were going to do. As a prelude to that, he asked Ms. Echols to give a brief review of the information that was presented previously as a background for the discussion.

Ms. Echols stated that they were exploring some different ways to achieve relegated parking and have came up with three options. She pointed out that Valerie Long had asked staff to do some illustrations. Those illustrations have made it a little clearer as to what was intended with the three options which staff has previously described to the Planning Commission. What they had originally intended with the relegated parking before they got into the dominant feature language was that the buildings would be in front and would be the thing that you would see from the street in terms of the orientation of the building and parking to the street. The parking areas could be either behind the building or to the side of the building, but it would have to be behind the building line. The parking could not be in front of the building or any closer to the street than the building line so that it was either a back or a side situation. On a corner, you would not have parking surrounding the building, but you would have the building in the corner and then the parking could be either to the side or to the back. The illustration example shows to the side, to the back and to the corner situation. She pointed out that there was a sidewalk assumed. There is a comment in my notes about berming being inappropriate in here. The reason why that is the case is because they were looking for a pedestrian orientation here. That is option A. Option B is a little bit different. There are more than three options. Other people may come up with other options that work better or you may want to do some combinations. Option B talked about relegating parking depending on the use itself and the needs of the use. Typically in an office and multi-family, people do not come and go as much as in a retail situation. Typically, offices are employment areas where people come and stay for 8 hours and maybe leave for lunch. The multi-family has a similar situation in that people are parking there and they are not buying and selling things. In these two situations, you might have parking that would be relegated to the side or to the back. With regard to retail, it might be a use that needs some parking in front in which case you would put some of the parking in the front, but most of the parking in the back. Obviously, there are variations on this one that could happen. Option B also suggested that there are some uses that really need to be supported by parking and loading functions. The example staff gave here was a warehouse where you probably don't have a pedestrian orientation because that is a vehicular type of traffic generation and not a retail or sales with people walking in and out all of the time.

People would not be dealing with the warehouse activities on foot. It is a possibility that someone might want to walk to work. By and large, the activities of the site because of the truck traffic would perhaps give you a situation like this. Option C could go with either option A or B. What option C is about is something that the Planning Department thinks is very important, particularly with some of the rezonings that the Commission is currently considering. Option C suggests that there are certain roads in the County that have characteristics that are not pedestrian friendly to begin with and are probably not going to be terribly pedestrian friendly in the foreseeable future. Route 29 is the primary example where you have eight lanes of traffic including the turn lanes, which makes it very scary for pedestrians. In this type of situation you might have a berm between the road and a path. The path would not necessarily be a straight sidewalk between the street and the building and maybe because you have that kind of a situation where you don't have pedestrian orientation, you might allow for some of the parking to be in the front and to the side. This example might not look that way, but it is not attempting to put all of the parking in the front. It is having a portion of the parking in the front and the majority of the parking to the side.

Mr. Rieley opened the public hearing so that anyone that wanted to, could address these issues. He stated that there were a few people signed up to speak. Normally on public hearing items the Commission limits the speakers to three minutes each. Since they do not have a huge number of people present and they would like to hear what people have to say, he asked that the secretary set the timer for five minutes per speaker. He stated that the first speaker was Neal Williamson.

Neil Williamson stated that he serves as the Executive Director of the Free Enterprise Forum, which is a public policy think tank in Albemarle County. He stated that he appreciated the comments included in Ms. Echols report. The Free Enterprise Forum believes the issue of mandatory relegated parking to be significantly complex and best handled by a committee of potentially affected parties. The three essential areas of their concern are safety, congruency with the Comprehensive Plan and feasibility. He noted that he would attempt to touch on each of these topics in his allotted time, but felt that it would be made clear by his remarks as well as by the remarks of others that there are significant issues that are intricate that require additional study. Providing for the safety of our citizens is the essential role of local government. Mandatory relegated parking in any form will push some citizens to the rear and side of a given business. If this business has evening hours, this will put these citizens at a greater risk as by design the ordinance seeks to, "not be seen from the public road or adjacent area." Historically, parking facilities that includes lots as well as garages represent the third most frequent place where violent crime, rape, robbery and assault occur. By merging newer ministries in the theory of crime prevention through environmental design, Albemarle County can develop parking solutions that result in a safer community. The theory of Crime Prevention Through Environmental Design CPTED was done by Professor C. Ray Jeffrey and was made popular by criminologist Timothy Crow. The National Crime Prevention Institute defined the CPTED concept as, "the proper design and effective use of the built environment can lead to the reduction in the fear and incidence of crime and an improvement in the quality of life." One key element in CPTED is natural surveillance including clear visibility from the store, the sidewalk, the parking area, the passing cars and the retention areas. All of these should be visible and not hedged off or fenced off. In addition, under territorial reinforcement it is recommended that, "the parking area should be clearly visible from the building and/or street." Under the banking area, this crime prevention theory suggests that all ATM's should be located in the front of the bank buildings where visibility is best. If the bank is located on a corner under the current plan, once you receive your cash from the ATM you will be forced to walk back around the building to a parking lot that is obscured from public view. CPTED has been endorsed by a number of localities as well as the United States Conference of Mayors. He noted that he supplied a copy of this research to the Clerk. Citizen's safety should be given a higher priority in the consideration of these solutions. With regard to the Comprehensive Plan, the forum recognizes that the plan has principles that have been adopted by the County. In her memo, Ms. Echols cites two sections of the Comprehensive Plan that endorse relegated parking. The Free Enterprise Forum is concerned that the mandatory relegated parking may place the principle of relegated parking above the other

principles. He asked the Commission if this is the spirit of the Albemarle County Comprehensive Plan. On page 19 of the land use plan, the Comp Plan reads, "However, it is recognized that as individual proposals are considered all of the principles of the Neighborhood Model listed in the general land use standards below may not be equally applicable to any specific proposal. The Comp Plan continues to recognize that there are multiple applications of the principles of the Neighborhood Model and a balanced, rational and reasonable application of these principles is expected." If relegated parking is given this high level of priority; it will be at the cost of the other principles that are also so important to new urbanism theory. If a site plan must respect the relegated parking ordinance over the principle that reads that the site plan must respect the terrain and pedestrian orientation, the unintended consequence may be that the other fundamental principles are relegated to the rear along with the parking. Finally, regarding the practical impacts of the proposed design, he would ask that each Commissioner examine the parking designs and explain where and how the loading dock will be manned and how deliveries will be made. Will these deliveries be required to swerve through the congested parking area and effectively create a new dangerous situation? Safety, practicality and adherence to the goals of the Comprehensive Plan all compete with the priorities critical to the evaluation of any proposed solution. Those who will be charged with their implementation, such as the shop owner, the developer, the planners, and the engineer's best understand these issues. The issue is very complex. Prior to the creation of any mandatory relegated parking ordinance, the Free Enterprise Forum supports the creation of a relegated parking committee as the best way to understand the needs of the entire community. (The report entitled, Crime Prevention Through Environmental Design: Durham Guide to Creating a Safer Community by Durham City and County CPTED Private Sector Taskforce in Durham County, North Carolina is attached.)

Andrew Dracopoli, representative for Worrell Land and Development Company and Peter Jefferson Place, stated that he had a particular focus on this because he was looking at Option C. In Ms. Echols report, she talks about Route 250 as being a highway that Option C would probably apply to as being a total highway oriented road when you get to Peter Jefferson Place. It is not a pedestrian road. He reminded the Commission that they actually had a very lengthy consultation with the Architectural Review Board over the placement of the first building at Peter Jefferson Place. Originally they had planned to put the first four-story building on the corner of Route 250, but the ARB said that they definitely did not want a four-story building sitting on Route 250. The ARB felt that was too large of a building to have on the street frontage of Route 250. They worked around the design and ended up coming up with the design where building one was located in the most relegated location that it could be on the lot that it was on which was the decision of the ARB. He noted that now they actually like the location of the building since it relates to the lake that was immediately behind it. The lake is a significant entity to the tenants of the building. The parking lot is obscured considerably from Route 250 with berms and the natural landscaping on that topography. He feared that if they do not allow the developers, planners, and the ARB the flexibility to say that on this site this looks like the best solution. Then they would be allowed to relegate the parking not so much by the location of the building, but how they hide the building from the street or how they develop the site plan specifically. There are going to be consequences that will not be good for the County. He stated that his suggestion is that yes, he understands the County's desire that when you drive into Charlottesville on a Entrance Corridor that you don't see seas of parking on either side of the road. He felt that it could be done by careful site planning in conjunction with the Planning Department and the Architectural Review Board. He stated that he would like to see whatever resolution they come up with provide flexibility for the planners. If necessary, the site plan can come back before the Planning Commission to review particular issues on a site by site basis in addition to the ARB. Then the Planning Commission could confirm that the proposal is a better solution than relegating the parking to the rear. He pointed out that they would like the hotel to sit on the lake and serve as an amenity. The lake would become a wasted amenity if the hotel were placed on Route 250 because the big parking lot would be between the hotel and the lake. He asked that they allow flexibility.

Lisa Glass, representative for the Albemarle County School system, stated that the schools' staff has some concerns, which she would like to express. On November 7th, a letter was sent from the Chairman of the School Board to express the School Board's concerns regarding the functionality of the facility specifically security and safety of the students. The basis premise of a site plan layout for a school includes single point surveillance and consolidating all of the access points into one place. On August 22nd, a letter was written by Mr. Reaser to the Planning Commission. It made similar statements regarding relegated parking. The main consideration in the design of a school site is safety. The design goal is to minimize the points so that you have a quick surveillance and are able to provide a more secure environment. They also pointed out that the conflict between organizing the land use and the school's intent to provide a functional safe school with some coordination of security. At a minimum that letter requested that a modification of the relegated portion of the parking ordinance be based not only on the intent of the chapter, but on health, safety, welfare, and security. She noted that they also had some additional concerns that were shared with staff that were not included in any of those letters. One is that the Virginia State Crime Prevention did a study for the Monticello High School when that plan was submitted. One of their reiterations was the 3:10 rule on the landscaping to make sure that the grounds of the school are easily observable. You do not want to have trees planted so that you can't see the building and you can't see access points. Another item is the CPTED, which was mentioned by another person previously. Two of the seven principles of CPTED state that people feel unsafe when they can't see where they are going and people feel unsafe when they can't see other people and other people can't see them. Potentially relegated parking can put you in that situation. Last, she would ask that they take into consideration when you require relegated parking to consider a building's function and its safety requirements, other mandates such as the State Department of Education's mandate on the school plan, and the existing development on adjacent properties. She stated that she would like to work with staff as necessary to come to a better resolution.

Jo Higgins stated that they have already had some discussion concerning CPTED. She pointed out that she left some excerpts of the crime prevention booklet with the secretary. She noted that in her investigation she found that one word was left out that was included in the ordinance. It states that this ordinance is intended to improve public health, safety, convenience and welfare to citizens of Albemarle County. It also goes on to talk about the needs for agricultural industry and business recognizing future growth. She felt that was the reason there were a lot of people present today. There are publications for review. She noted that she left a list of documents to review. Many of the references in these books talk about the positions of buildings and other structures and the interior and exterior designs such as color, lighting, entrances, exits and landscaping. Specifically, there are two things that are affected by the decisions of planners, designers and law enforcement officers. That is the probability that a crime will occur in the public's perception of community safety. She felt that they have heard that today. While alarms, cameras and guards can mass the symptoms, they can never resolve problems in the building's location and design which provide criminals an opportunity. Why it is not used more often, it goes on to talk about communities don't know about it and they don't understand the relationship between crime and the quality of life issues. Possibly in Albemarle County, we have not gotten where this becomes primarily important. As you increase the density of development, as you are considering with many of the town centers and such, the more urban neighborhoods that you are seeking will have both desirable elements and undesirable elements. She felt that statistics would show that crime increases in those situations. She noted that natural surveillance has already been discussed which relates to the public's perception of safety and also to the safety itself. Nobody wants to go behind a building or a heavily screened area especially after dark. This is basically the death toll for downtown type malls since people don't go there at night as per. Ocar Newman who published in the '70's the *Defensible Space – Crime Prevention Through Urban Design*. His work is a foundation for a lot of the environmental design. He worked primarily with public housing. He found that the crime rate goes up when visibility goes down. There are two things she wanted to bring up. The Zoning Ordinance and the Landscape Ordinance is discussed in a lot of locations. It says that it usually contains requirements that

conflict or limit the opportunity to apply these principles. One of them is the natural access control, natural surveillance and another when it is specifically noted as parking at the rear of lots. Landscape Ordinances talk about minimal sizes for landscaping, but not maximum so that the screening is not too heavy. Also you eliminate the opportunity for surveillance with fences, berms, and walls, and trying to hide dumpsters you also provide opportunities. Since safety and convenience are two important aspects of the purpose and intent of the zoning ordinance, these things should be considered. The needs of the business at each location is to provide adequate safe and convenient parking where the business can monitor the front door for internal security in the parking lot for both the safety of their patriots and the security of their own establishment. The goal to diminish the impact of large parking lots and make them less dominant is an important aesthetic issue for the County. But why not let design features to break up the size of the parking lots balance the aesthetics rather than mandate the location behind or adjacent to structures. She echoed what the previous people have said in that they were not looking for a mandate. They were looking for some guidance as to what the end result would be, but don't tell us how to get there. Although you probably won't hear today from specific retailers or users, many have a certain list of criteria when they consider a site. She pointed out that the Commission only sees this with a site plan or special use permit, but if something like this is mandated the Commission will not see them at all because they will only consider sites where these types of restrictions are not mandated. Therefore, they were asking for flexibility.

Ron Keeney, of Keeney and Company Architects, stated that he had been a licensed architect in town for the last 20 years, licensed in three states and holds his national license. He estimated that he had 15 to 20 commercial projects a year under his responsibility for those last 20 years. He believed that what the Commission was looking at here addresses the outside of a building. He asked that they pause and think about it from the inside out for a moment. The nature of the business that you put into one of those red squares will drive how the parking works for that building itself. For example, a fast food restaurant like McDonalds can readily use relegated parking and have doorways on three sides and people can come in from any point and wander across the dining room and get to the sales counter, pick up their food and sit down. However, a high quality restaurant has a single point of entry because they have a host or a hostess that meets you at the door and deliberately restricts you at that point and takes you to a table. If you bring a second doorway into that business, it fouls the flow of the business up and causes issues for that restaurant. So even something as simple as that or one door or three doors with one or three banks of parking can make a difference. In terms of commercial stores, they have very similar conditions. A small convenience store generally has a sales counter in the center of their sales room and they can deal with people coming in and going out because they can control that small sales floor. Specialty stores that have a higher level of stock tend to put a sales counter at their front door where it deliberately allows the owner to serve as a gatekeeper. He can stand between his stock and the doorway and control the people that go in and out and keep them from wandering out a side door with their valued stock in hand. If you go to something as large as a big commercial user from the grocery stores to the Wal-Mart and Kmart, they all demand that their internal arrangement be such that they have a bank of registers between the sales stock and the front door. It absolutely demands security wise dealing with three or four doors to be difficult for them unless they can literally hire the sales crew to stand around those doors and police them. Last but not least, they have gotten additional security interest with 9/11. He stated that the Albemarle County Office Building was a prime example. There are eleven doorways in and out of this building and right now ten of them are locked. All of the access, with the exception of the employees, is focused at one end of the building despite the setup of what might be termed relegated parking all the way up and down the side that used to have handicap spaces. All of the access is located at one end and it all focuses on the parking lot and that is the way that the people who run this building thinks this building should be set up. He pointed out that what happens internally affects where the parking needs to be. He asked that they keep it in mind that there are businesses in those boxes and they would rather that you don't dictate to them where their front door is located.

Mr. Rieley stated that was everyone on the sign up list. He asked if there was anyone else who would like to address the Commission.

Dave Phillips, CEO of the Charlottesville Area Association of Realtors, stated that he also served on the Management Committee for the Free Enterprise Forum. He stated that he was here today to talk about flexibility and perceptions. He pointed out that flexibility in business is very important. It is also important in successful governments. He asked that for this and every other regulation that is placed on the business community, that the Commission give maximum flexibility. He noted that one size does not fit all and flexibility is needed to make sure that the businesses are successful, which bring in tax revenue for the government. He encouraged the Commission that whatever solution they came up with that it be as flexible as possible and allow businesses to work within your stated objectives and within their business needs. He stated that even reading in the newspapers there is clearly a perception that Albemarle County is anti-business and they need to be very careful with that perception whenever they were dealing with a regulation like this. While at a Chamber of Commerce breakfast with a lot of politicians from all over the region, the ones from outside of Albemarle County were blasting Albemarle County for being anti-business. He noted that it was embarrassing to be there and hear all of these outsiders spouting out their perception of how Albemarle County existed. He pointed out that there have been some people from the City that have blasted Albemarle County because they said that it took them 30 days to approve the Best Buy site plan and it has taken three years to do a plan in Albemarle County. He acknowledged that there were reasons for different things and he certainly did not mean to compare that to apples and apples, but those are the perceptions that are out there. If we continue to pass regulations that businesses perceive as being anti-business, such as a mandatory regulated parking ordinance, then he thought that they were doing a disservice to all of the citizens of the County. We depend on these businesses to be successful to provide us services and a tax base that will keep us from having to pay absorbent individual taxes. He encouraged the Commission to be careful with this ordinance as well as any other ordinance and do whatever they can to change that perception that is out in the field because it is already damaging the County and they cannot afford to allow that to continue. He stated that he appreciated the Commission's consideration of all of these points of view and all of the hard work that they have put into this.

Chuck Rotgin, a principle for Great Eastern Management Company, stated that this issue has been on the forefront for over a year as they have gone through the public hearing process with the Neighborhood Model with the parking ordinance and he appreciated the opportunity to provide another point of view. Their organization has thirty years of experience in the development business during which they have dealt with the entire anchor or major tenants that have been referenced tonight. He noted that they think they know what they will accept and won't accept. More importantly they have the experience of ongoing management and maintenance of the commercial areas and they are the ones that get sued all of the times for problems. He suggested that the idea of relegated parking for the reasons that have been brought up today are real problems in the security and ongoing maintenance of commercial areas. In the last three years he has spent a lot of time traveling mainly throughout the southeast and looked at about twenty different communities trying to come up with new ideas on how they can improve the design of developments that they have in mind. On a couple of those trips they have even had County and staff people with us. He noted that he has never seen any situations where relegated parking has worked in the way that it is perceived. He noted that they have seen situations where it has not worked. That does not mean that there are not situations where the relegated parking concept has not been successful. In a rural area such as Albemarle County, we have not seen one area where the relegated parking concept has been successful, but they would like to see it and certainly would like to be able to emulate things that have been successful. He stated that he had one copy of an email that was sent to the members of the Board of Supervisors back in February from the President of Sun Trust Bank that speaks to relegated parking. In addition, he had a letter that was written to Bob Tucker, which was distributed to members of the Board from Kroger Company. He read from the Kroger letter as follows, "Kroger has operated stores in

Albemarle County and the City of Charlottesville for over twenty (20) years, not to mention Kroger's presence throughout the United States with over two-thousand stores and the success of our business continues to revolve around the convenience of our site. This convenience not only includes visible, accessible locations but readily available parking. Kroger's success in the Charlottesville market has led us to seek an additional store location along Route 29, north of the Airport Road area, to serve the growing residential population of northern Albemarle and surrounding counties. However, this pending legislation requiring relegated parking would create insurmountable problems for Kroger's operating format. While this neighborhood/parking concept is being talked about in planning circles in a number of other areas, Kroger has not seen any situations where such a scheme has worked and Kroger's corporate officials would have a very difficult time approving such a site. "In conclusion, he noted that he received an email from Jay Jessup last week on this very issue. He asked me to drive by the corner of Greenbrier Drive and Pepsi Place. Yesterday he drove by the site and looked at the grading that has been done on the Senior Housing Facility that is located where relegated parking became an issue. As he said, the people were from out of town and were ready to lose their license for beds and they had no choice but to accept what was required from them from the staff's perspective. The site that he saw was very difficult. He saw a hillside that had been cut away so that the front of the property could be raised. There was a bank of 10 to 12 feet with the building sitting up on top. He noted that it was not very attractive and he suggested that the Planning Commission visit the site while they are considering this. Obviously, there is other design areas where relegated parking would work. He felt that the key with respect to parking is that there be maximum flexibility because there will be situations where the idea of relegated parking will prevail.

Tom Loach stated that as a member of both DISC I and II, he would just remind the Planning Commission that these decisions on relegated parking were not made in a vacuum. They were made in consultation with the development community with adequate representation on both DISC II and I. He pointed out that they had a lengthy discussion about relegated parking during the latter part of DISC I so it is not that this has not been talked about. The other thing was that they knew with the change in paradymn going from development as they knew it residentially to going to a DISC Model that there was going to be resistance to change. They knew that there was going to be a need for people to see things being done in a different way. When it gets down to relegated parking, the question is not what the commercial entity wants, but what this community wants. It seems that in the context of the Neighborhood Model with the approval of both the Planning Commission and the Board, that this was what they presented with regard to the parking. He stated that change is difficult, but it did not mean that change is bad. He pointed out that if they asked the residential residents to make changes according to the Neighborhood Model, then they could do the same for businesses.

Valerie Long strongly echoed Mr. Dracopoli's and Mr. Phillip's suggestion for the need and importance of flexibility in the ultimate drafting of the regulations. There have been a number of instances she had been faced with similar to that which involved the first building in Peter Jefferson's Place where you had the ARB insisting upon a particular outcome that was extremely inconsistent with strictly written provisions of the Zoning Ordinance. She pointed out that they were dealing with a situation right now for a client where the ARB is expressing a desire for some flexibility in the ordinance language that is not there now. It has resulted in an unfortunate situation. They were trying to work that through and it raises the issue and reminds us of the importance in flexibility. The County, businesses and the members of the public would all benefit to have a system that has a little bit of flexibility in it so that you can explore the options that are the most appropriate for each individual business or proposal on a case by case basis. She did not think that it was inconsistent with the goals of relegated parking and that there be some flexibility in there. When Ms Echols was describing the various options, she mentioned with regard to offices that, in general, those employees at office buildings come and stay there roughly 8 hours a day. She reminded the Commission that the definition of offices in the ordinance that currently exists includes medical offices. One of their major clients is the hospital and it has a number of medical offices throughout the County and it was important to keep in mind when you

are working on this that medical offices in particular have patients coming and going all day long. This is particularly true given the new sort of managed care environment that they are all in. Patient appointments are being scheduled very close together in 15-minute increments and sometimes smaller. Therefore, you have a lot of overlap of patients coming and going, which was why there was a greater need for parking for certain medical practices. The same could be said about other types of professional offices that are also contained in that definition. Other professional offices include law firms, financial planners, accountants that are all offices where they have clients and customers coming to their business frequently throughout the day. She felt that it was important to keep that issue in mind. Mr. Loach made a good point in that the issue of relegated parking was not conceived in a vacuum. It was part of a larger list of principles, as we all know. She felt that it was important to keep in mind that those principles were conceived, implemented and adopted as part of the Neighborhood Model. Myself and others have tried to remind the Commission and the Board in many instances recently that the Neighborhood Model was not intended to be the only model of development. Relegated parking is very appropriate in the context of the Neighborhood Model style of development when you put that element together with the other twelve principles as possible. Not every project in the development area will be a Neighborhood Model. She did not feel that it was appropriate for every project to be a Neighborhood Model style of development. She stated that they would say they would encourage applicants to meet those principles to the extent reasonable and possible, but again it was important to step back and recall that the concept of relegated parking came up in the context of the Neighborhood Model development.

David Sutton, President of Tiger Fuel Company, stated that he had some concerns with the concept of relegated parking. From a very broad overview of relegated parking, it does present some particular concerns to our industry. The notion of relegated parking is a good one. As a life long resident of Charlottesville and Albemarle, he would also like to see the oceans of parking in the large parking areas be less visible. He felt that was a desirable goal. He pointed out that his concern was how this proposed ordinance would apply to the convenience store and retail gas industry. By its very definition, our industry is dependent on vehicles coming to quickly fuel and then leaves the site. It is also dependent on the convenience and by definition that was the industry that they were in. The customer makes their decision on whether a location is convenient and desirable by driving by on the road and looking. Often that decision is made by being able to look into a store to see if the store is well lit, well attended, clean and to see if there are other people in the store. They depend upon this to decide if this is the type of store that they want to stop at. They ask if it is safe, well populated and a place that they could go in and feel comfortable. In addition, the parking in the front of the store, is crucial to their industry. In the past they use to count on the sale of gasoline as the major part of their profits. That is no longer the case. If they don't drive the sales through the interior of their store, then they don't make any profits. It is very fundamental to their industry that the person who wants to shop in the store can park and has easy access to the store. This is to attract and accommodate the customer that maybe is not buying the gasoline, but just buying soda, etc. It is getting more and more of those type of customers. The other issue of concern is that if the parking was relegated that they would have to have two entrances to the store, a front and rear. This is a significant safety risk. Most of their stores do not have two entrances for that very reason. The stores that do have two entrances, they lock the back entrance during a large part of the night for security reasons. He questioned where they would take deliveries. He pointed out that they have to keep the spaces in front open for their customers. With their current design, they try to design a back door for deliveries. He noted that he was unsure how that would work if they were trying to push the building up to the curb. Another concern deals with the security of the employees from a safety standpoint. He pointed out that he constantly has inquiries from our employees that they are concerned about having to leave our place of employment and walk to a distance parking spot to get into their car. When the employee's shift is over at 10 or 11 at night they are very concerned about the safety risk of walking across the parking lot to go to where their car was left at the start of the shift. If this parking was even more remote and further removed from visibility from the street, then he felt that safety risk was greatly increased. This issue has been exuberated by the

lighting ordinance because their employees were very afraid to walk out from underneath the canopy because the lighting was not strong enough to protect them. In many instances he has his employees calling their spouses to pick them up because they are afraid to leave their car in the designated parking area and make the trip over there. The issue would also apply to our customers. He felt it was an allocable goal, but he had difficulty seeing how to make it applicable to an industry that is dependent on vehicles and the customer base that drives the street in order to look into the store to see which stores they want to be in. He hoped that the legislative process or the hearings that they chose to come up with for the final ordinance would take into account how it would specifically apply to the retail gasoline and convenience store industry. To say that it will apply to everybody and therefore they have a level playing field is not necessarily true.

There being no further public comment, Mr. Rieley closed the public hearing. He stated that the Commission has heard some excellent comments and themes that they can all mull over until the next time that they get together. He thanked everyone for coming and sharing his or her thoughts with us. He felt their points were good and sensible ones and points out what a complicated issue it is. He stated that the Commission would do their best to take them into consideration. He stated that the Board would take a break at 5:05 p.m. and would reconvene to the regular meeting at 6:00 p.m.

The meeting adjourned at 5:05 p.m. to the regular meeting that starts at 6:00 p.m.

REGULAR MEETING
Albemarle County Planning Commission
April 22, 2003

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, April 22, 2003 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were Rodney Thomas; Pete Craddock; Bill Edgerton and William Rieley, Chairman. Absent from the meeting were William Finley; Tracey Hopper, Vice-Chairperson; and Jared Loewenstein.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; Greg Kamptner, Assistant County Attorney; Steven Waller, Senior Planner; and Elaine Echols, Principal Planner.

Other Matters Not Listed on the Agenda from the Public

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

Review of Board of Supervisors Meeting – April 16, 2003

Mr. Cilimberg summarized the actions of the Board of Supervisors on April 16, 2003.

Consent Agenda

Ivy Creek Agricultural Forestal District Review – Review of the Ivy Creek Agricultural/Forestal District in accordance with Section 3-204 of Chapter 3 of the Albemarle County Code, which requires periodic reviews of Agricultural/Forestal Districts. The district, which includes 476.099 acres, consists of the following described properties: Tax Map 44, Parcels 20, 20A, 20B, 20C, 20D, 20E, 20F, 20G, 21, 21D, 21I, 35, 35A; Tax Map 45, parcels 3C, 4C, 5F, 5F4, 7A. No additions to the District have been proposed. The District is located in the Jack Jouett Magisterial District on Rt. 676 (Woodlands Road), approximately one mile from the intersection of Route 676

and Route 743. The property is zoned RA Rural Areas. The Comprehensive Plan designates this property as Rural Area. ***PLANNING COMMISSION TO REFER REVIEW TO THE ADVISORY COMMITTEEE***.

SUB 02-315 Ashcroft, Phase 2, Section 4 Private Road Request - Request for re-authorization of an already built private road to serve 13 proposed lots on 302.779 acres. The property is zoned PRD (Planned Residential Development) and is described as Tax Map 78A, Parcel 1 in the Rivanna Magisterial District on Lego Drive off of Hansen Mountain Road which is off of Route 250 (Richmond Road). The Comprehensive Plan designates this property as Neighborhood Density in Neighborhood 3. (Yadira Amarante)

Approval of Planning Commission Minutes – March 11, 2003 and March 25, 2003.

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

Mr. Edgerton seconded the motion.

The motion carried unanimously (4:0). (Hopper, Finley, Loewenstein - absent)

Deferred Item:

Approval of Planning Commission Minutes - February 4, 2003.

Mr. Edgerton moved to accept the amended minutes of February 4, 2003 as presented.

Mr. Craddock seconded the motion.

The motion carried unanimously (4:0). (Hopper, Finley, Loewenstein - absent)

Items Requesting Deferral

SP-03-07 Greenbrier Service Center Amendment (Sign #43) -Request for special use permit to allow an expansion of motor vehicle sales and rental in accordance with Section 22.2.2.8 of the Zoning Ordinance which allows for motor vehicle sales and rental. The property, described as Tax Map 61, Parcel 148, contains 0.71 acres and is located in the Rio Magisterial District on Rt. 650 (Gasoline Alley) approximately 100 feet from the intersection with Rio Road. The property is zoned C-1 Commercial. The Comprehensive Plan designates this property as Community Service in Neighborhood 2. (Francis MacCall) ***APPLICANT REQUESTS DEFERRAL TO MAY 20, 2003.***

Mr. Rieley opened the public hearing and asked if anyone wanted to address this issue. There being none, he closed the public hearing to bring the matter before the Commission.

Mr. Thomas moved to accept the applicant's request for deferral of SP-03-07, Greenbrier Service Center Amendment, to May 20, 2003.

Mr. Edgerton seconded the motion.

The motion carried unanimously (4:0). (Hopper, Finley, Loewenstein - absent)

SP-2002-079 Old Trail Golf Club Entrance (Sign #21 & 51) - Request for special use permit to allow a stream crossing for access to the proposed Old Trail Golf Club in accordance with Section 30.3.05.2 of the Zoning Ordinance which allows for 30.3.05.2. The property, described as Tax Map 55, Parcel 17B1 and 71 and Tax Map 56, Parcel 41, contains 2.07 acres, and is located in

the White Hall Magisterial District on Rt. 250 (Rockfish Gap Turnpike) across from the entrance to Western Albemarle High School. The property is zoned R1 Residential and R6 Residential. The Comprehensive Plan designates this property as Neighborhood Density in the Crozet community. (Scott Clark) ***DEFERRED FROM THE MARCH 4, 2003 PLANNING COMMISSION MEETING. APPLICANT REQUESTS DEFERRAL TO JUNE 17, 2003.***

Mr. Rieley opened the public hearing and asked if anyone wanted to address this application.

Mr. Tom Loach stated that he was aware that the special use permit for the golf course has passed, but his concerns regarding the stream crossings is where the roads will connect. He voiced concern that Jarman Gap Road was going to be opened first for the development of not only the golf course, but the larger development that is going to follow. The Commission is aware

of the three active developments on that one road being Gray Rock, Wellons Grant and the more recently approved Barginman Park. There was some dissent on the part of the public as far as the road improvements because those road improvements were suppose to be this year and now have been put off until at least 2005 by VDOT due to funding problems. He asked that the Planning Commission take these into consideration when making any judgements regarding roads and the stream crossings because Jarman Gap Road cannot take much more. He asked that the Commission not allow a connection to Jarman Gap Road until there is a current infrastructure, which is consistent with the Neighborhood Model. He suggested that the entrance to this and everything else to be off of Route 250 particularly for getting the golf course under way. He asked that Route 684, Three-Mile Branch Road, not be used during the construction of this.

Mr. Rieley asked if anyone else wanted to address this issue. There being none, he closed the public hearing to bring the matter before the Commission for possible action.

Mr. Edgerton moved to accept the applicant's request for deferral of SP-2002-079, Old Trail Golf Club Entrance, to June 17, 2003.

Mr. Craddock seconded the motion.

The motion carried unanimously (4:0). (Hopper, Finley, Loewenstein - absent)

SP-02-080 James E. Shifflett Bridge Replacement (Sign #46) - Request for special use permit to allow replacement of a low-water crossing with a bridge in accordance with Section 30.3.05.2.1.2 of the Zoning Ordinance, which allows for water-related uses (such as boat docks, canoe liveries, bridges, ferries, culverts, and river crossings of transmission lines of all types) in the floodway. The property, described as Tax Map 7, Parcel 57, contains 15.137 acres, and is located in the White Hall Magisterial District on Rt. 628 (Simmons Gap Road) approximately 0.2 miles from the point where Rt. 628 crosses the Greene County line. The property is zoned RA Rural Areas and FH Flood Hazard Overlay. The Comprehensive Plan designates this property as Rural Area. (Scott Clark) ***APPLICANT REQUESTS DEFERRAL TO JUNE 17, 2003.***

Mr. Rieley opened the public hearing and asked if anyone wanted to address this issue. There being none, he closed the public hearing to bring the matter before the Commission for action.

Mr. Thomas moved to accept the applicant's request for deferral of SP-02-080, James E. Shifflett Bridge Replacement, to June 17, 2003.

Mr. Edgerton seconded the motion.

The motion carried unanimously (4:0). (Hopper, Finley, Loewenstein - absent)

Public Hearing Item:

SP-02-081 Philip Haney-Crown Tower Piney Mountain Amendment (Sign #47 & 48) – Request for a special use permit to allow the co-location of an array of nine (9) additional antennas at approximately 93 feet on an existing tower 146-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 their appurtenances in the Rural Areas. The property, described as Tax Map 21, Parcel 10, contains approximately 10.31 acres, zoned RA, Rural. This site is located in the White Hall Magisterial District, on the western side of Rt. 606 (Dickerson Road), approximately 1/8 mile south of the intersection with Rt. 641 (Frays Mill Road). The Comprehensive Plan designates this property as Rural Areas 1. (Stephen Waller)

Mr. Waller stated that the applicant is proposing to co-locate a fourth set of non-flush antennas on an existing tower that is located at property described as tax map 021, parcel 10 containing 10.31 acres, zoned Rural Areas. The facility at this site is accessed from a gravel road within an existing easement that is approximately one-quarter of a mile northeast of Piney Mountain Road and the northwest intersection with State Route 606. Staff recognizes that this site is in the Mountain Resource Area for Piney Mountain. That resource area is identified as the 800-foot contour and this site is actually located at the 945 contour level. The site lies outside the Entrance Corridor Overlay District, but the upper half of the tower is visible from the Entrance Corridor for Route 29. Because of that, staff has recommended several conditions that are in line with the conditions that were recently approved for another tower that was within an EC. The other was subject to a similar request and had similar circumstances. That includes the condition # 8 that would limit this tower to a total of 4 vertical arrays of panel antennas and also no additional relay satellite or microwave dish antennas. There are currently two sets of relay dishes on the tower and also three other sets of non-flush mounted antennas. Because of the County's preference for flush mounting, that was the recommendation by the ARB for that similar condition to limit them to a total of 4. If you have any other questions regarding the staff report or the recommended conditions, he would be happy to answer them.

Mr. Rieley asked if there were other questions for Mr. Waller. For clarification, he asked if the existing relay dishes would not be removed.

Mr. Waller stated that they would not be removed.

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

Mike Buddy, of Omni-Point Communications, stated that he did not have anything to add, but would be happy to answer any questions.

Mr. Rieley asked if anyone else would like to address this application. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Thomas asked if there were currently 3 antennas on the tower with a limit of 4.

Mr. Waller stated that there were three arrays and with the conditions as they are currently written, this would be the fourth set of panel antennas. The conditions would also allow them to keep those two dish type antennas that are already located on the tower as well. Another carrier is using those.

Mr. Rieley stated that when he referred to a similar application, could he please refresh his memory of where that one was located.

Mr. Waller stated that was the Joseph Wright and David Turner application where the tower was located off of Airport Road and was visible from Route 29.

Mr. Rieley stated that it was a very good staff report and lays out the issues very well. He stated that with these existing towers that they would never approve today, at what point do they stop layering on panel after panel and they get more and more visible. The complicating issue is that not only is this raising the bar, but also the panels are not flush mounted which they would normally require. Also, it was visible from the EC and was in the Mountain Protection Area. That combination of things makes me come down on the same side as the previous one. He stated that he was not in favor of these additions to the existing towers that are much larger than the ones that they would approve today. The question is if I would prefer that these be on an additional wooden pole somewhere else because that is the trade-off. The answer is yes that he would prefer that it be on another wooden pole elsewhere. The question is where do you draw the line.

Mr. Thomas stated that anytime they keep from putting up another pole that he feels they are ahead of the game.

Mr. Craddock stated that last time there was some discussion about the pyramid of tower and how far out the panel would go.

Mr. Kamptner stated that there was a condition that restricted the new array from extending beyond the distance of the existing tower.

Mr. Rieley asked if that was in these conditions.

Mr. Edgerton stated that the ARB, in their letter referred to the Wright and Turner tower, stated that the protrusions of antennas from the tower shall be no greater than that of the existing antennas and be minimized as much as possible.

Mr. Kamptner asked if there was any condition restricting the existing arrays distance from the structure.

Mr. Waller stated no that there was not.

Mr. Kamptner stated that the original special use permit had no conditions that dealt with the size of the antennas or how they were going to be mounted. He asked if this special use permit was amending the existing permit or was it merely for the additional array.

Mr. Waller stated that it would amend the existing special use permit and was why some of the original conditions were being restated.

Mr. Kamptner stated that a condition limiting the antennas to the size they are now could be added.

Mr. Thomas stated that they should not exceed 7 feet in height and 2 feet in width.

Mr. Rieley stated that maybe this requires an additional condition beyond b that is talking about new antennae. He suggested that the existing antennas should not be expanded beyond 7 feet in height and 2 feet in width if they fit that criterion.

Mr. Kamptner asked if they knew the size of the existing antennas.

Mr. Waller stated that the plans only give the proposed dimensions for the new antennas and not the existing ones.

Mr. Rieley stated that maybe that is not as important as the distance from the tower that is dealt with in c. He suggested an additional sentence or condition saying that the existing antennas shall not be expanded beyond the old ones. He noted that it would be nice if it states what they actually are instead of the existing distance.

Mr. Thomas asked if the other antennas were to change if they have to come back for a special use permit.

Mr. Kamptner stated that the way it currently was written they would not have to come back. There aren't conditions that deal with the existing towers as far as their sizes, location on the structure or the distance out from the tower

Mr. Rieley asked Mr. Buddy if he had this information.

Mr. Buddy stated that he did not have the specifics on this tower. He noted that in May the Commission was going to have several applications where an existing carrier on an existing tower were coming before you to amend special use permits to trade out antennas and ground equipment where the technology has changed. He stated that he was not sure if it was in the original conditions, but knew it was in practice from what he could tell.

Mr. Waller stated that those towers were coming before the Commission next week. Those amendments were required because of the way the conditions were done at that time they tied them to the specific sizes that were shown on the original plans. He pointed out that the Zoning Department determined that those amendments were required. Those towers were done more recently than this one.

Mr. Cilimberg pointed out that this was a different situation.

Mr. Rieley stated that it was the consensus of the Commission to ask Mr. Kamptner to articulate a condition beyond c. to cover the expansion of the existing antennas.

Mr. Kampnter asked if that condition would be for the Board's consideration.

Mr. Rieley suggested that they take a stab at it.

Mr. Edgerton stated that the condition should require them to not be able to expand the existing array without coming back to the County for a special use permit.

Mr. Rieley asked that Mr. Kamptner tidy up that condition before it goes to the Board.

Mr. Thomas moved to approve SP-02-081, Phillip Haney-Crown Tower Piney Mountain Amendment, subject to the conditions recommended by staff with one additional condition 3c, which would require any alteration of existing antennas to be permitted with a special use permit.

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, Crown-Piney Mountain," last revised on December 12, 2002.

2. The tower shall not be increased in height.

3. The additional array of panel antennas may be attached only as follows:

a. All equipment attached to the tower shall be painted 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. The antennas shall be set at the minimum distance that is allowed by the mounting equipment, and 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 and dishes attached to this tower may be replaced administratively, provided that the sizing, mounting distances and heights of the replacement equipment 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. The note on page Z-2, which implies that the size and height of the antennas may be adjusted to meet RF requirements, shall be deleted from the construction drawings or amended to remove this consideration for size and height.

4. 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.

5. 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.

6. 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.

7. 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.

8. The tower shall be limited to a total of four (4) vertical arrays of panel antennas. No additional relay, satellite or microwave dish antennas shall be permitted on the tower.

9. This special use permit must be amended to allow the three existing arrays of panel antennas to be: (a) relocated on the structure; (b) modified to increase the number or size of panel antennas; or (c) modified to increase the distance of the panel antennas from the structure.

Mr. Craddock seconded the motion.

The motion carried unanimously (3:1). (Rieley – No) (Hopper, Loewenstein, Finley – absent)

Mr. Rieley stated that this item would go to the Board of Supervisors on May 7th.

Old Business

Mr. Rieley asked Mr. Kamptner as a point of clarification concerning a discussion regarding the Faulconer Construction project, which was pertinent anywhere in the County, if a waiver is denied can it be appealed by the applicant to the Board of Supervisors. If the waiver is not granted the adjacent property owners do not have the same right of appeal to the Board of Supervisors. He asked if that was correct.

Mr. Cilimberg stated that was correct.

Mr. Kamptner stated that was correct because it was the right of the denied applicant to appeal and not aggrieved neighbors.

New Business

Mr. Cilimberg stated that there has been a request for a Planning Commissioner to serve as a liaison with the newly created Mountain Overlay District Committee. This committee will be looking again at our overlay district proposal. That work will not begin until July. The Board is in the process of seeking applicants and making appointments to that committee.

Mr. Rieley suggested that the Commission start thinking about this for discussion at next week's meeting.

Adjournment

With no further business, the meeting adjourned at 6:33 p.m. to the next meeting on April 29, 2003.

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V. Wayne Cilimberg, Secretary

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