Albemarle County Planning Commission
April 5, 2005

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, April 5, 2005 at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Rodney Thomas, Marcia Joseph, Vice-Chair, Jo Higgins, Pete Craddock and Bill Edgerton, Chairman. David J. Neuman, FAIA, Architect for University of Virginia and Calvin Morris were absent.

Other officials present were David Benish, Chief of Planning & Community Development; Stephen Waller, Senior Planner; Juandiago Wade, Transportation Planner; Rebecca Ragsdale, Planner; and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Edgerton called the regular meeting to order at 6:05 p.m. and established a quorum.

Other Matters Not Listed on the Agenda from the Public:

Mr. Edgerton invited comment from the public on other matters not listed on the agenda. There being none, he stated that the meeting would move on to the consent agenda.

Consent Agenda:

Approval of Planning Commission Minutes: November 16, 2004; January 4, 2005; February 8, 2005; February 25, 2006 (Retreat); February 26, 2005 (Retreat).

Ms. Joseph asked to pull the minutes of November 16, 2004 because she had not had a chance to review them. She moved for approval of the consent agenda with the exception of the November 16, 2004 minutes.

Mr. Craddock seconded the motion.

The motion carried with a vote of (6:0). (Morris – absent)

Regular Items:

SDP 2004-118 Esmont (Brochu) – Nextel VA272: Request for approval of a treetop personal wireless service facility with a wood monopole that would be approximately 103 feet tall (7 feet AMSL above the height of the tallest tree within 25 feet), with ground equipment in a 37.6 square foot and 8.625-foot tall cabinet placed on a concrete pad. This application is being made in accordance with Section 10.1.22 of the Zoning Ordinance, which allows for Tier II wireless facilities by right in the Rural Areas. The property, described as Tax Map 127 - Parcel 40A1, contains approximately 16.324 acres zoned Rural Areas and Entrance Corridor. This site is located in the Scottsville Magisterial District on Irish Road [State Route 6] approximately 2 miles west of the Town of Scottsville. The Comprehensive Plan designation for this property is Rural Areas 4. (Stephen Waller)

Mr. Waller summarized the staff report. This is a request for approval of a Tier II Treetop Personal Wireless Service Facility with a monopole that would be approximately 103 feet tall and approximately 1 foot higher than the tallest tree within 25 feet as measured above sea level. The proposed site of this facility is located approximately 21 feet below the top of Old Green Mountain at a ground level elevation of 759 feet. Staff has analyzed this request and finds that the application is in compliance with all relative requirements of Section 5.1.40 of the Zoning Ordinance. Staff notes that during two separate field visits a red balloon was flown at the proposed height of the monopole for this facility and it was only visible from two near by sites. For both of those locations it was visible near the same height of the tree tops that surround the site and the ridge line. Based on these items staff has recognized no unfavorable impacts that will result from the approval of this request and staff recommends approval. In response to the email that he received from Ms. Joseph last week he has provided a paint chip sample of the color that is being

proposed by the applicant as well as another sample of a color called twisted branch that was approved for some other recent proposal if the Commission wants to have that discussion.

Mr. Edgerton pointed out that the agenda references a wood monopole, but the application indicates a metal monopole.

Mr. Waller stated that it was a metal monopole. If there are any further questions he would be happy to answer them. In addition, the applicant's representative is here if the Commission has any specific questions for him.

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

Ms. Joseph asked to clarify that it was not so much the color so much, but it was the finish. A matte finish would be less likely to be reflective than a satin finish, which was her main complaint.

Mr. Waller stated that if that color is acceptable that it was probably possible to get it in a different finish or something similar to that. He pointed out that the java brown was the color proposed by the applicant.

There being no further questions for Mr. Waller, Mr. Edgerton opened the public hearing and asked the applicant if they would like to address the Commission on this application.

Carl Taskus, representative for Nextel, stated that basically Mr. Waller has done a good job and he would be happy to answer any questions. He pointed out that the application did say that a satin finish would be used, but they would change it to a satin finish and paint it whatever color that the Commission felt was appropriate.

Mr. Thomas stated that # 6 stated that it was not to be more than 7 feet taller than the tallest tree, but then later on it says that the Commission may approve it to be 10 feet taller than the tallest tree. He asked if they were prepared to make it 7 feet or 10 feet.

Mr. Taskus stated that it would be 7 feet.

Mr. Edgerton asked if there were other members of the public present that would like to address the Commission on this application. There being none, he closed the public hearing to bring the matter back before the Commission.

Ms. Higgins stated that on page 27, which is sheet C-2 of the Draper Aden plan where the pole description is, it says Sherman Williams satin. Therefore, she asked that they make a note that should be changed to matte.

Ms. Joseph asked to clarify one thing concerning what Mr. Thomas asked about regarding the 7 or 10 feet. In the staff report it says that the monopole will only be a foot taller than a nearby 100 foot tall Oak tree. Therefore, they are only going up a foot.

Mr. Waller stated that was correct.

Mr. Rieley stated that he assumed that would be the height and not the 7 feet.

Mr. Waller stated that it would not be the 7 feet. He stated that the applicant had attempted to meet all of the requirements from the ordinance generally. The original site that they saw was only at 4 feet above the tallest tree within 25 feet. The applicant was just trying to demonstrate that they were willing to meet the minimum standards, but they were actually exceeding the minimum standards in this case.

Mr. Thomas stated that the application was really in good order and only needed some clarification on the height above the trees. He moved for approval of SDP-2004-118, Esmont (Brochu) – Nextel VA272 subject to the recommended conditions.
Ms. Higgins seconded the motion with the provision that the satin finish be changed to matte finish. She asked if Mr. Thomas would accept that as a friendly amendment to his motion.

Mr. Thomas agreed to the friendly amendment.

The motion carried by a vote of (6:0). (Morris – Absent)

Mr. Edgerton stated that SDP-2004-118, Esmont (Brochu) –Nextel VA272, was approved and would not go before the Board of Supervisors.

Public Hearings:

HO 2005-042 Favero Home Occupation Class A: The applicant is requesting a modification from Home Occupation Class A (HOCA) standards for the number of vehicle trips per week to the home for private piano lessons in accordance with Section 5.2 of the Zoning Ordinance. The specific modification under 5.2.2.1.D of the Zoning Ordinance refers to the number of vehicle trips allowed. The home is located at 137 Spring Mountain Road in the Mill Creek subdivision. The property is described as Tax Map 90C Parcel 119 (TMP 090C0-00-00-11900) in the Scottsville Magisterial District. The property is zoned Planned Unit Development (PUD). The applicant is allowed to see seven clients per weeks under current HOCA standards. The applicant is requesting a modification to see up to 25 clients per week. (Juandiego Wade)

Mr. Wade summarized the staff report. The applicant is requesting a modification from the Home Occupation Class A supplementary regulations for the number of vehicle trips per week for private piano lessons as a Home Occupation. This request does not qualify for a Home Occupation Class B because it was going to be completely with in a home and there are going to be no additional employees as part of this request. The County typically approves Home Occupation Class A requests administratively, but because of the additional number of trips the Planning Commission can approve that. The supplementary regulations governing Home Occupations allows the zoning administrator to do them administratively, but staff wants to come to the Commission to give their analysis on the impact of the traffic. Staff did some analysis by doing some uses that are by right like a daycare that allows up to 5 children a day. That can generate an additional 20 trips per day in addition to that which a home would normally make associated with a home. This use will generate an addition 12 trips per day in addition to those normally associated with a home. This is under the worse case scenario because the applicant has indicated that some of the clients may walk there, which reduce some of the number as well as the applicant will not be driving creating additional traffic because he will be working from the home. Based on the analysis, staff has recommended approval based on all of the analysis done with the 7 conditions proposed in the staff report. The applicant is here and he has reviewed the conditions and is in support of them. Staff did get so comments on condition 4 from Mr. Kamptner, but did not get it in time to make that change. He asked Mr. Kamptner if he wanted to elaborate.

Mr. Kamptner stated that his comment on condition 4 was that for families that have multiple siblings that were going to be making 1 trip or that the children were going to be walking with back to back lessons that it seemed to be overly restrictive to require the 15 minute time break.

Mr. Thomas asked if that would have anything to do with condition 1 because it restricted the applicant to no more than 4 clients. He asked if condition 1 should be changed since there might be 2 children coming together in 1 vehicle. He asked if that would be counted only as 1 client.

Mr. Wade stated that Mr. Favero might want to speak to that, but that he would only be able to teach one child at a time. The main reason for that condition was for the number of vehicle trips per day. If two children came in one car, then that is not a concern to staff because that was only one vehicle trip. The reason for the condition 4 regarding the separation is because there was a concern that usually the clients would get there a few minutes before their scheduled appointment and there would be two cars there. Staff just wanted to have some type of separation there. That was the only concern. He pointed out that he has visited the site and they were able to put several vehicles in their driveway and it was located in a cul-de-sac. Therefore, it really would not be a big concern if one car is there for five or ten minutes and there is some overlap. Staff does not think that would be a big issue. Therefore, condition 4 could be eliminated or modified based on the Commission's preference.

Mr. Edgerton stated that this property was located in the Mill Creek Subdivision. He asked if there were any covenants in the subdivision that need to be honored here or do we know.

Mr. Wade stated that he was not sure because that was not something that the County enforces. If it is then the applicant would certainly have to take that up with the homeowner's association. That is something that they could speak to when it comes up.

Mr. Edgerton stated that he noticed in the application that they have requested to go until 10 p.m., but staff's recommendation was for 8 p.m.

Mr. Wade stated that staff felt that 10 p.m. was a little too late.

Mr. Edgerton asked if all of the adjacent owners were notified.

Mr. Wade stated that staff did notify all of the adjacent owners and no one has contacted staff.

Ms. Higgins stated that on condition 7 it says that all parking shall take place off street and shall be on site. Then it says unless specifically authorized by the Zoning Administrator. She pointed out that she did not understand why it would say unless specifically authorized. She asked what would be the case to put that wording in there and what was staff's thought behind it.

Mr. Wade stated that the last part was added on by the Zoning Department. He felt that they wanted that flexibility because there may be some circumstances where they would allow some off street parking. But, he did not think that it would be necessary because the driveway could easily fit three cars and the applicant only has one.

Ms. Higgins stated that her question was more on the framework that it is located on a state road and a cul-de-sac. People do park on the cul-de-sac, and they are adding a condition that the parking be located on the site. She questioned when the Zoning Administrator review would kick in if someone parks on the cul-de-sac.

Ms. Joseph stated that it would be reviewed if the Zoning Administrator received complaints. One possibility would be if there were too many people coming to the site.

Ms. Higgins stated that it was very nebulous. She asked if no on street parking is a typical condition placed on these types of requests.

Mr. Benish stated that they have just started to do these conditions and want to try to keep them somewhat standardized. It is reflective of the Zoning Department's concern about the parking if there were any complaints. Basically this would require the parking to be provided on-site, but gives the Zoning Administrator that option to say in this particular case that off-street parking is acceptable in case there is a complaint.

Ms. Higgins asked if they have the enabling authority to say that people cannot park in the state right-of-way. She pointed out that people do park in the roads and cul-de-sac. She felt that they were overlapping with something else. In a lot of cases they are saying that on-street parking is a good thing and now in this case they are saying no on-street parking and it is really the state right-of-way that is a Police enforcement kind of thing.

Ms. Joseph felt that it was kind of a heads up in case to see if the use has become too intense.

Ms. Higgins stated that if all of the other conditions are abided by that she did not think that condition 7 does anything. If the applicant parks their vehicle out in the street she did not think it would be a reason for the Zoning Administrator to start some enforcement.

Mr. Rieley stated that was a good point if it was not illegal to park in the street.

Mr. Edgerton stated that he did not think it was illegal.

Ms. Higgins stated that it would not be illegal unless it was posted for no parking.

Mr. Benish stated that they still have parking requirements that they apply on any site plan conditions as to where that parking should be located. Staff does not always assume off-street parking. Staff does not feel like this is a significant issue from the planning perspective. He felt that it was a safe guard to parking issues. Staff does not feel that it is a crucial thing. This is sort of a new thing that the County has started doing in which Zoning and Planning are starting to look cautiously at.

Mr. Rieley asked if there have been any complaints that have led to this condition.

Mr. Wade stated no. He felt that the Zoning Department at the first draft felt that the conditions were good, but would be difficult to enforce. A lot of these things would not take place unless there is some type of complaint. Initially, staff wrote the condition that all parking shall take place off-street. But, when they gave it to Zoning for review they added that extra part in.

Ms. Higgins stated that if it was illegal that someone could call the Police Department regarding vehicles parked in the cul-de-sac. She felt that if they write a condition that they should make it enforceable if it was needed.

Mr. Benish stated that if it was based on that use and if they have parked cars cued up classes, and then he felt that the Zoning Administrator feels that it is an impact based on the use that is being reviewed here. Therefore, he felt that is where they see that issue. Just as a general rule a pretty fair volume of Zoning's complaints are parking complaints. Therefore, he felt that they are very protective of parking issues. He stated that he could not say that Zoning has had complaints about this type of use, but is just cautious about parking in the cul-de-sac.

Mr. Edgerton asked if they took off the last part of the condition if it would make their job easier. If the permit was very clear that all parking should be on-site, then it would be the end of the conversation.

Mr. Benish stated that the remedy would have to be through another modification of this home occupation as they are giving the Zoning Administrator administrative discretion. If it is not an issue, then the whole issue should be taken away. Then they could just let existing space take care of it. If they want to be very protective, then they take the last part of that condition off. If they want to give the Zoning Administrator some flexibility to interpret that condition, then they need to leave that last sentence on.

Ms. Higgins suggested that they hear from the applicant. She asked if they want to put some wording into the 15 minutes between clients on condition 4 to say unless family members are scheduled or if ride sharing is anticipated or something that implies that they come in 1 vehicle.

Mr. Benish suggested that the Commission eliminate condition 4.

Mr. Craddock asked if the applicant sells his home and another piano teacher came in there can they assume that home occupation.

Mr. Kamptner stated that when a land use permit is created, it runs with the land.

Ms. Higgins suggested that condition 1 be modified to specifically indicate that it is for piano lessons.

There being no further questions for staff, Mr. Edgerton opened the public hearing and asked the applicant to come up and address the Commission on this application.

Mathew Favero represented the application.

Mr. Rieley asked if he had any problem with specifying that the request is for piano, and Mr. Favero stated that he did not and would actually prefer that.

Ms. Higgins asked if he agreed with all of the other conditions, and Mr. Favero stated that he did.

Mr. Edgerton asked if there were any members of the public that would like to address the Commission on this application. There being none, he closed the public hearing to bring the matter back before the Commission.

Ms. Joseph stated that this application fulfills the Neighborhood Model. She moved for approval of HO-2005-042, Favero Home Occupation Class A, with the conditions recommended in the staff report, with the exception of the deletion of condition 4 and the addition of piano lesson in condition 1.

1. No more than four clients per day shall have piano lessons on these premises during the following six days of the week: Monday-Saturday;
2. No lessons may be scheduled or held on the premises on Sunday;
3. No Clients can be on the property before 9 a.m. or after 8 p.m.;
4. ~~Appointments shall be scheduled with a minimum of 15 minutes between clients so that no more than one client or client vehicle will be on premises at a time;~~
5. Only one client shall be seen at a time;
6. No additional employees other than members of the single family dwelling on the premises are allowed to participate in this home occupation; and
7. All parking shall take place off-street, and shall be on this site unless specifically authorized by the Zoning Administrator.

Mr. Craddock seconded the motion.

The motion carried by a vote of (6:0). (Morris – Absent)

Mr. Edgerton stated that HO-2004-042, Favero Home Occupation Class A was approved and would not be going to the Board of Supervisors.

SP 2004-041 Cricket's Baked Goods and Catering: Request for a special use permit to allow a Home Occupation Class B for a Catering business in accordance with Section 10.2.2.31 of the Zoning Ordinance, which allows for Home Occupations Class B. The property is described as Tax Map 105, Parcel 46, contains 13.68 acres, and is zoned RA, Rural Area and EC, Entrance Corridor Overlay. The proposal is located at 3047 Thomas Jefferson Parkway (Route 53), east of the intersection of Thomas Jefferson Parkway and Buck Island Road (Route 729), in the Scottsville Magisterial District. The Comprehensive Plan designates this property Rural Area. (Rebecca Ragsdale)

Ms. Ragsdale summarized the staff report. She passed out an update to the staff report to provide some corrections. There was a misunderstanding between staff and the applicant as to what portion of the accessory structure, which was called the garage building that they wanted to use for the catering kitchen. Staff has noted which pages have changed, which she will go over as she goes over the staff report.

The property is located on Route 53, Thomas Jefferson Parkway, past Monticello a good ways near Buck Island. It is a 13 acre property that currently has a residence and garage building. The applicant currently bakes in the kitchen of the residence and sales the items such places like City Market. But, she would like to expand the food items that she sales and also would be offering catered items. It is a 13 acre property and the structures sit up on a hill off of the road. It is a fairly wooded area off Route 53. As far as the history of the property, the house was constructed in 1975. There is a little area called Green Heights to the south of the property where there are a few houses, which are through the woods from this property.

The Comprehensive Plan does have language in it that now relates to home occupation that they are to be of a scale and intensity appropriate for the rural areas. In this case there will only be one other employee. There may be other members of the household that reside there. They have conditioned the request that there shall be not employees or customers coming to the property. One of the other reasons for the conditions regarding customers and employees relates to some of the review comments that staff initially received from VDOT regarding the need for a commercial entrance and that it did not meet the site distance requirements and the width was not adequate for a commercial entrance. But in further

conversations with VDOT they were comfortable with not requiring those upgrades to the entrance if it was conditioned so that there was no greater vehicle traffic. It is also a requirement of Section 5. The applicant does not plan on having any deliveries, any special trucks to bring the food items or supplies. They would just use their personal vehicle and make their deliveries when they are out and about in general is the plan. As far as the structure requested for the home occupation, staff provided a picture of it and also an overview aerial of the property where it is located. It is not near any other residences. But what the applicant would like to do is that one-half of the building is already finished and has a sink and the other one-half is not finished and has some farm equipment. The applicant would like the possibility of using the whole building for the kitchen. On the tax records that building is 384 square feet in size and the dwelling is about 1,170 square feet. There is the regulation for home occupations that there will not be more than 25 percent. That building, if they use the whole building, will be about 30 percent more. Therefore, the applicant would like that flexibility for this business. Staff does not see any reason why that would have any detrimental effects from the exterior of the red brick building that you can't really see from the other properties. Staff recommends approval of this request. Staff could not identify any significant impacts from the surrounding properties. No comments have been received from the neighbors. Staff did recommend conditions for the approval. The vehicular traffic is limited with the conditions. Condition 2 was revised to specify that the maximum square footage would be 385 square feet instead of the 290 that was recommended in the previous staff report. After speaking with the Department of Agriculture she found that they require yearly permits for the items sold at City Market. The applicant is familiar with the USDA permitting requirements. It is envisioned that they will submit their proof of updated licenses when they apply for their clearance for this use. Number 5 specifies that the Applicant shall obtain a zoning clearance and provide documentation of all necessary Health Department approvals prior to using the garage kitchen or implementing this requested special use permit. The Health Department has reviewed the request regarding the well and septic capacity to handle the additional water usage related to the kitchen, and they have approved that. The final approval has not been issued, but the requirements will be for the commercial kitchen space located on the property. That is what the Health Department will also permit. Then they have the Department of Agriculture that also issues permits when you go to sell items at the City Market. The City Market also has requirements. She pointed out that she was not sure if the applicant sells items at other places.

Mr. Edgerton stated that if the special use permit is granted, then #5 says that the applicant will apply for a zoning clearance or amendment.

Ms. Ragsdale stated that the applicant will go to the Zoning Department where they need to fill out a form for a zoning clearance for the use that is part of the final sign off to check these conditions. The applicant will submit the documentation of all of the various agency approvals for the use with the zoning clearance.

Ms. Higgins stated that it says that no business signs shall be permitted. The attached regulations for Class B Home Occupations say that the outside appearance does not change, but that a Class B may erect one Home Occupation Class B sign. She asked if there was a reason in this case that they cannot have a sign.

Ms. Ragsdale stated that as a benefit to the applicant the business sign might provide additional advertising, but since they did not have any customers coming to the site staff added that to the condition so that it limits as far as preserving the Route 53 Entrance Corridor Overlay District and the rural character. That way the additional signage would not affect the rural character of the area and not clutter up the highway. She pointed out that was certainly at the Commission's pleasure to allow that.

Ms. Higgins stated that because it allows a sign in the regulations for a Class B Home Occupation that she was assuming that there was a sign regulation that limits it to something very small. She noted that she was not saying that it needs one, but if they are putting it in the ordinance and then taking it out by condition is that something that is typical.

Ms. Joseph stated that one of the good things not having a sign there is that you might encourage people in there if their entrance is not good.

Ms. Higgins stated that was a good point. But, she was just trying to make the point that in this case drive by traffic would be lured into a residential driveway, which they don't typically require a commercial for a

Class B Home Occupation anyway, because of the lack of outside traffic. She agreed that in this case it might make it different than another case.

Ms. Joseph requested to ask a question for Mr. Kamptner. When she is looking at Section 5.2.2.1.a on page 4 she asked if the Commission could make this size the size that they are allowing it because it says it cannot be more than 25 percent of the floor area, but in no event shall it exceed 1,500 square feet. She pointed out that she was confused.

Mr. Kamptner stated that any regulation in Section 5 can be modified.

Ms. Ragsdale pointed out that square footage is with an approved modification.

Mr. Rieley stated that the maximum area was 1,500 square feet. He stated that condition 6 appears to have nothing to do with the land use of this property, but relates to the sales off-site.

Ms. Ragsdale stated that condition 6 originated with the Zoning Department. Zoning made the comment that led her to believe that Zoning looks for this when these types of zoning clearances come in.

Mr. Rieley stated that it seems that if the activity was consistent with the activity level then why was it any of their business where the items are sold.

Mr. Edgerton stated that he did not think it had anything to do with the special use permit because if that was required by law, then that is required by law. He pointed out that if that was not true then he would prefer to leave that condition out.

Mr. Craddock pointed out that was his question in if they have to have USDA approval to sell something to City Market.

There being no further questions for staff, Mr. Edgerton opened the public hearing and asked the applicant if they would like to address the Commission on this application.

Rodez Anderson stated that he and his wife, Patricia Anderson, were present to speak for the application. He pointed out that they just came to answer any questions.

Mr. Edgerton asked if he had any problems with the recommended conditions.

Mr. Anderson stated that they did not. He asked if condition 5 meant that after everything was done that someone had to approve it before they moved in. He asked if that was basically what that says.

Mr. Edgerton stated that was correct.

Mr. Rieley asked if he anticipates a situation in which he might need to expand the 385 square feet.

Mr. Anderson stated that he did not anticipate any expansion beyond what they could see right now. He pointed out that the garage was not going to get any bigger.

Mr. Edgerton asked if there were other members of the public present that would like to address the Commission on this application. There being none, he closed the public hearing to bring the matter back before the Commission.

Ms. Higgins asked if the home office had been included in the square footage.

Ms. Ragsdale stated that the applicant had indicated that there was no designated space. Since the garage was 384 square feet that would only allow then 1 foot extra. She pointed out that there was no defined area within their house where they have an office.

Ms. Higgins suggested that some additional square footage be added at least for a 5' X 5' room for an office.

Mr. Rieley agreed with Ms. Higgins. He stated that they have routinely when the application is so much under the 1,500 square foot maximum approved these applications for more than just the minimum requested if for nothing else than to prevent someone having to come back in for a special use permit modification if they wanted to make a reasonable extension to this. He suggested that the square footage be approved for around 500 square feet.

Ms. Higgins stated that if the applicant decided to convert a small 10' X 10' room in the house for a 100 square foot office, then that would be allowed.

Ms. Joseph agreed to the increase in square footage.

Ms. Higgins made a motion for approval of SP-2004-041, Cricket's Baked Goods and Catering, subject to the conditions recommended in the staff report; with the exception that condition 2 be amended to say may not exceed 500 square feet and the deletion of condition 6.

1. No business sign shall be permitted.
2. The aggregate area of the use, including both the home office and the garage kitchen may not exceed 500 square feet.
3. No employees shall be permitted other than members of family residing in the dwelling on premises.
4. No customer visits to the site shall be permitted.
5. The applicant shall obtain a zoning compliance clearance and any necessary Health Department approvals prior to use of the garage kitchen for this home occupation.

Mr. Rieley seconded the motion.

The motion carried by a vote of (6:0). (Morris – Absent)

Mr. Edgerton stated that SP-2004-041, Cricket's Baked Goods & Catering was approved and would be heard by the Board of Supervisors on June 8, 2005.

ZTA 2004-006 Historic Center and Community Center: Amend Section 3.1, Definitions; add Section 5.1.42 Historical centers; and amend Section 10.2.2, By special use permit, Section 12.2.2, By special use permit, Section 13.2.2, By special use permit, Section 14.2.2, By special use permit, Section 15.2.2, By special use permit, Section 16.2.2, By special use permit, Section 17.2.2, By special use permit, Section 18.2.2, By special use permit, and Section 19.3.2, By special use permit; of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Section 3.1, Definitions, by amending the definition of "community center" and by adding a definition of "historical center"; add Section 5.1.42, Historical centers, to establish supplementary regulations pertaining to the prerequisites for and the operation of historical centers including regulations concerning the size of new historical center structures and the rehabilitation of, or construction on, historic structures used for historical centers, minimum side yards and rear yards, requirements for site plans, items for display, primary and accessory uses, daily operations, special events and festivals; and amend Section 10.2.2, By special use permit (Rural Areas-RA), Section 12.2.2, By special use permit (Village Residential-VR), Section 13.2.2, By special use permit (Residential-R-1), Section 14.2.2, By special use permit (Residential-R-2), Section 15.2.2, By special use permit (Residential-R-4), Section 16.2.2, By special use permit (Residential-R-6), Section 17.2.2, By special use permit (Residential-R-10), Section 18.2.2, By special use permit (Residential-R-15), and Section 19.3.2, By special use permit (Planned Residential Development-PRD) to allow historical centers, historical center special events, and historical center festivals within such zoning districts by special use permit. (Rebecca Ragsdale)

Ms. Ragsdale stated that this was a zoning text amendment that the Commission passed a resolution on back in June, which originated with the Lewis and Clark Exploratory Center's request for a historical center type of use. In reviewing that it was found that the Zoning Ordinance was somewhat inadequate in allowing such a use. Therefore, this zoning text amendment is to improve the definition of community center and allow for historical center uses to interpret the many historical resources in the County, which right now museums are allowed in commercial zoning districts, but residential and rural areas zoning districts are left out as far as allowing historical resources interpretation. The Commission has been

reviewing this item since June. The Commission held a work session in September and then also in January to discuss the proposed ordinance amendment. They received comments from the Lewis and Clark applicants for the special use permit where this request originated, the Historic Committee and some others, which has resulted in the drafted ordinance language which allows for historical centers in the rural area and also in the residential zoning districts. This was drafted in a way that these would most likely be in the rural areas where the majority of the historical resources are located, but there also may be cases where you have rural area zoning be it in the development area or residential zoning districts that also have sites where they may want to have a historical center. This would be allowed in the supplemental regulations, which could be modified as you discussed at the last work session to 1,500 square feet total for building interpretative space and then 10 percent of that in accessory uses. A floor plan would be submitted detailing the uses with the special use permit application. Accessory uses may include but are not limited to administrative office uses and shop facilities, such as gift shops, book stores, and accessory food sales such as luncheonettes, snack bars, or refreshment stands. They had discussions at the last work session about what to call these since they did not envision a full scale restaurant. But, that comes from the ordinance language for restaurants.

The supplementary regulations specify that the items for display will have historical significance. It is a very conservative approach with the supplemental regulations. The definition for historical center itself includes what is defined as a historic resource instead of having that in the supplemental regulations and having the historic preservation committee interpreting that. Also, this allows for applicants for these historical centers to request by special use permit the ability to have special events, which would be something that is less than 150 people and by invitation only, such as a conference or reception of some sort that is intended to be supportive of the historical center's mission. It also allows them the ability to request at the special use permit stage to have festivals which may be multi-day and open to the public for events which provide additional exhibits or things related to the historical period or the historical center use. Those are the highlights. The ordinance has tried to address all of the comments that staff has got and take the conservative approach that these would most of the time be located in the rural areas, but since they are supplemental regulations that there may be flexibility through the special use permit process to modify them.

Mr. Edgerton asked if any Commissioners have any questions for Ms. Ragsdale.

Mr. Rieley stated that the definition of historic center seems to have changed since their last discussion.

Ms. Ragsdale stated that the definition has been made more concise and consolidated. Historical center defines what the use is and what an historic resource is. This was taken from the definition that the Commission saw from the Historic Preservation Committee. It was a one page sheet, which she did not provide. The definition was tightened. The second portion of the definition describes what themes there might be in the history of Albemarle County. Therefore, that was not included. Mr. Kamptner did a lot of work on tightening this definition.

Mr. Kamptner stated that the reason that they did it was because it relied too heavily on the input of the Historic Preservation Committee. Ultimately, this will have to be a determination made by the zoning administrator. Once she does that she can, of course, consult with committee members or anyone else who can provide expertise. Therefore, they recognized that and tried to make sure that what they have here is concise in terms of the process.

Mr. Rieley stated that under the definition of historical center the word "feeling" and "yielding" should be deleted. He suggested that the definition not be so mushy.

Mr. Kamptner stated that hopefully the definition will not come up too often. But, when Ms. McCulley makes determinations she relies on a lot of different resources. With some of these terms in here they can fully expect that members of the committee may be consulted.

Ms. Higgins stated that on item 5.1.4.2.i.2, instead of saying that, "the owner shall" that it should say, "the application shall describe the nature of the special events." She suggested deleting ". . , and when applicable, how they would promote the mission of the historical center." She felt that suggested that some type of judgment was going to be made.

Ms. Joseph stated that she was curious as to how a wedding could promote a mission.

Ms. Ragsdale stated that this request had gotten farther along than they had gotten with the other special events request. Where this special event definition and the examples originate is with what is included with farm wineries. When they talk about special events they do reference weddings. In this case, and with farm wineries, weddings are accessory. Whereas, with Ms. Randolph's case they are looking at it and evaluating what it is going to be tied to as far as being a use that is permitted in the RA zone without being tied to these other things directly. She pointed out that it is the use.

Mr. Rieley stated that there were places all over the County where this could apply. Because it is attractive to have weddings to raise money, he did not think it should be an automatic thing. In looking at provisions to allow weddings he felt that it should be a separate special use permit process.

Ms. Joseph suggested that the wording from the winery section might not fit in this because it is a whole different animal from a vineyard. It is a historical center.

There being no further questions for staff, Mr. Edgerton opened the public hearing and invited the applicant to address the Commission on this zoning text amendment.

Ms. Joseph pointed out that the County is the applicant.

Fran Lawrence stated that he was here with Jane Henley, who is the President of the Lewis and Clark Exploratory Center, who is here in support of the zoning text amendment. This has been a long process and they appreciate the Commission allowing them to have some input. They did not have input in the last definition. What staff did on that was to basically make it more restrictive and not less restrictive. He stated that as he reads it that the difference between a festival and a special event is that the festival seems clearly to be tied directly to the mission of the center. It seems like the special event is a little less closely tied. Wineries were all located in the rural area and were an agricultural use. But, to really work they had to have some festivals, i.e. wine festivals, and also they need to have some special events to make it work. He felt that was where it came from. The thinking would be that the special event would be only twelve times a year. What other people tell us who are trying to make this kind of thing work is that they need the income from that. So he recognized their concern about that, but as he sees it the special events would be less directly connected to the mission perhaps than the festivals would be. They are told that the kind of thing that they are that is helpful for us to survive. Their most critical concern is the language that they understand is going to be part of the supplement regulation that says newly constructed structures for historical centers shall be limited to 1,500 square feet. This room is about 22' X 46'. He noted that 1,500 square feet would be 30' X 50'. They recognize the concern. At one point the draft came to them at 2,000 square feet in the rural area as identified in the Comprehensive Plan. Everybody realized that would not work. When they come back to the Commission for a special use permit, they will tell them that they are actually in the rural area, but in the Comprehensive Plan they are in the development area, which they will argue makes them somewhat different. But, their thought was that you have 2,000 structures and houses and 400 sites that are archaeological otherwise. This includes battlefields, river sites, and potential Native American burial sites on which no structures are located. It seems to us that the 1,500 square feet contemplated a Pine Knot situation where they have an important historical structure and you did not want to overwhelm it with new buildings. For example, the Lewis and Clark proposed as their tentative plan which actually has their building almost underground with a sod roof. Therefore, you would not be able to hardly see it. The second part about what they plan is that Lewis and Clark were big. There were big grizzly bears and big pier boats. Although they will be asking for more space then maybe they think is appropriate, they will be telling them that it is not going to be that intense because one-fourth of their building is going to be filled up with the keel boat that they are building. So it seems that some better language with respect to the building size would be to talk in terms that newly constructed structures for historical centers shall be limited in size so as to be appropriate in scale to the historical resource or so as to be appropriate in scale and intensity to the historical resource. Therefore, you could look at that both in terms of what it looks like from the outside and how much open space is there inside. If they have a 10,000 square foot building that is filled up with an 8,000 square foot boat, you are not dealing with space that you could fill with people. He pointed out their boat was not going to be that big. That was their concern. They recognize that the 1,500 square feet can be modified

as part of their process. But, it seemed that it might be better started out with language that addresses the object of the 1,500 square feet. If there are any questions, he would be happy to answer them.

Mr. Edgerton asked if there were any questions for Mr. Lawrence.

Mr. Thomas asked if he was specifically speaking about the application that they were going to submit or just in general in what they were looking at for the ZMA.

Mr. Lawrence stated that what he was addressing in general is the concept that the new buildings on historical structures ought to be scaled in intensity not to overwhelm the historic structure. If it was a building like Pine Knot or if it was a historical plantation building, then they would not want any structure at all. They would probably not even need one. But, if it was a battle field of 50 acres of nothing, then in order to have an interpretative center there you would have to have thousands of square feet and it would not take away from the battle field. Their thought was that the language would be better if they talked about the scale and intensity. They think that will help them as Lewis and Clark, but they would say that would make the ordinance better altogether. Therefore, he was speaking today not only for Lewis and Clark, but that also they were looking at this hopefully to convince the Commission that the ordinance that will help them will also help other people.

Kay Slaughter, a resident of Charlottesville, stated that she agreed with what Mr. Lawrence said. She stated that she wanted to give the Commission a little reminder that they realize that the Commission was trying to fashion this for more than just their project. But, since their project sort of brought it forward that she just wanted to remind them again that they have been working on this project since 1997. It was initiated by the City and the Board of Supervisors asked to be involved. So they have been working over the years since then to identify the site. In July, 2003 they signed the lease with the City and the County for this site. She hoped that they would consider what Mr. Lawrence said about the scale and the intensity in general even when you are talking about the accessory uses and you think about ten percent for other than educational uses for a small office. Their project is focusing on the historical aspect, but they are very interested in the natural resources aspect and the river. Certainly there is always the possibility that they might want someone like the Rivanna Conservation Society to share space with them. They are focusing on their project and just thinking ahead on those things. With the 1,500 square foot maximum that would very difficult to do. She pointed out that she understands that they could come back and request this under the supplemental regulations. This is something sort of new and she had tried to understand that from talking to the staff. Staff has been very helpful, but it makes her nervous because these are regulations after all and appear to be the starting place. Certainly their facility would need to be more sizeable than that for all the obvious reasons, including the keel boat.

Mr. Edgerton asked if there were any other members of the public that would like to address the Commission on this matter. There being none, he closed the public hearing to bring the matter back before the Commission for possible action.

Ms. Higgins stated that things could become historic when they are about 50 years old. Therefore, there might be something out there that might become historic.

Mr. Kamptner stated that to amend this ordinance now they would have to readvertise it if they were going to have it apply in other zoning districts.

Mr. Benish suggested that if the Commission was ready to forward this on to the Board that they should do so, but they could continue to discuss this and then bring the information back to the Board. If the Board feels that it is worth pursuing, then they can decide to do that.

Mr. Edgerton stated that the discussion could be held and an adjustment made between now and the Board meeting.

Mr. Benish stated that they could finish that discussion later. The Commission might look at that and decide that there is nothing to it anyway.

Ms. Higgins stated that this could be adopted. Then they might find that it worked so well where it is at

that it could be adopted by adding it to these other districts.

Mr. Edgerton stated that it sounds like that can be done between now and the Board's meeting.

Ms. Joseph asked that the Commission go over what they were eliminating.

After discussion, the Commission agreed to make the following revisions to the Draft dated 3/17/05:

- Under the definition of historical center the word "feeling" and "yielding" should be deleted.

- Section i(1) should read, "For purposes of this section, a special event is an event conducted at a historical center on a single day for which attendance is allowed only by invitation or reservation and whose participants do not exceed one hundred fifty (150) person: special events **are limited to** ~~include, but are not limited to, meetings, conferences, banquets, dinners, wedding receptions, private parties and~~ events conducted for the purpose of promoting the mission of the historical center."

- Section i(2) should read, "In addition to all other special use permit application requirements in section 31.2.4, the **application** ~~owner~~ shall describe the nature of the special events**.** ~~, and when applicable, how they would promote the mission of the historical center.~~

- Section i(3) should read, "The special use permit: (i) shall identify the number of approved special events per year, which number shall not exceed twelve (12): (ii) may authorize specific special events ~~(e.g., the "ABC XYZ wedding)~~, classes of special events ~~(e.g., "weddings")~~, or a combination thereof: and (iii) may include reasonable conditions relative to the special events as authorized under section 31.2.4.3.

- In Section j(2) change "owner" to "application" and delete the last clause, "and how they would promote the mission of the historical center."

- In Section j(3) delete the examples, "(e.g., the "ABC 200th Anniversary Festival") and (e.g., "ABC Festivals").

Ms. Higgins made a motion to recommend approval of ZTA-2004-006, Historic Center and Community Center, with the following modifications to staff's recommendations.

The following revisions should be made to the Draft dated 3/17/05:

- Under the definition of historical center the word "feeling" and "or possibly yielding" should be deleted.

- Section i(1) should read, "For purposes of this section, a special event is an event conducted at a historical center on a single day for which attendance is allowed only by invitation or reservation and whose participants do not exceed one hundred fifty (150) person: special events are limited to events conducted for the purpose of promoting the mission of the historical center."

- Section i(2) should read, "In addition to all other special use permit application requirements in section 31.2.4, the application shall describe the nature of the special events**.**

- Section i(3) should read, "The special use permit: (i) shall identify the number of approved special events per year, which number shall not exceed twelve (12): (ii) may authorize specific special events, classes of special events, or a combination thereof: and (iii) may include reasonable conditions relative to the special events as authorized under section 31.2.4.3.

- In Section j(2) change "owner" to "application" and delete the last clause, "and how they would promote the mission of the historical center."

- In Section j(3) delete the examples, "(e.g., the "ABC 200th Anniversary Festival") and (e.g., "ABC Festivals").

Mr. Rieley seconded the motion.

Mr. Edgerton asked if there was any further discussion.

Ms. Joseph asked if the Commission wants to ask staff to bring forward the concept of having this available in other commercial districts.

Mr. Edgerton stated that he was of the opinion that process was going to go on between now and the Board meeting.

Mr. Kamptner pointed out that to add a district it would have to come back to the Planning Commission for a public hearing. The rest of the ordinance could move on.

Mr. Edgerton stated that they would have to readvertise to add a district, but this portion could go forward.

Mr. Benish stated that all that he was going to do was get the Commission a zoning map so that they could get a sense of how many parcels that are out in the rural area. He felt that most of the Commissioners were seeing this as an opportunity where you might find that there are isolated zoning districts in the rural area. If the Commission after the review of that information wants to have further discussion, then staff will schedule another work session to see where to go from there.

The motion carried by a vote of (6:0). (Morris – Absent)

Mr. Edgerton stated that ZTA-2004-006, Community Center/Historical Center was approved and would be heard by the Board of Supervisors on June 8, 2004.

Old Business:

Mr. Edgerton asked if there was any old business.

Ms. Joseph stated that in reading through the minutes of the retreat there were a lot of things that they thought that they would have work sessions for and she just wondered if they should pursue some of those.

Mr. Edgerton stated that the Commission needs to come up with a prioritized list to give to staff. He felt that they need to decide what items the Commission wants to address first and then ask staff to help by working them into future agendas for work sessions.

There being no further old business, the meeting proceeded.

New Business:

Mr. Edgerton asked if there was any new business.

Ms. Higgins stated that there was something that was troubling her regarding affordable housing. She stated that every application goes through the affordable housing review. A recent application brought it home to her that they were going to see applications that the goal or lack thereof of affordable housing is going to become a significant issue and she did not know how the Planning Commission was going to be split and how the Board was going to handle it. She suggested that somehow alternative ways for new construction to support existing affordable housing be considered. Last week the Commission reviewed an application for Kenridge where the homeowner's fees alone were enormous. They were only considering the new costs of a house and she felt that applicant actually used an 80 percent on an average house cost, when it was suppose to be 80 percent of an income level. They were talking about over $200,000 and the last time that she heard it was still in the $185,000 to $190,000 range. But the

point being that with homeowner's fees being substantive and prohibitive that putting families at the affordable income level that they cannot sustain their existence in some of the neighborhoods that could evolve in very small locations. She stated that she had been more of a proponent to look at a development being a piece in a bigger share of an area. But, when you are talking in the Ednan/Kenridge area the homeowner's fees alone could put a financial burden that would make the person never qualify even for a $200,000 investment. That would knock it down to the $125,000 to $130,000 because if they have $200 a month in outside maintenance fees. She felt that they never look at that sustainable part of it. She suggested that there be a way to research alternatives and some of that could be to establish some way that the same developer could do some renovations of existing affordable housing and support a particular project with Piedmont Housing Alliance being an element of it. There is affordable housing out there that is actually decreasing in value and AHIP is one of the organizations that renovate houses. She suggested that there might be a way that there is a financial commitment or a labor commitment to offset this. When a proposal comes before the Commission that has no affordable units, then the Commissioner are torn whether to vote for or against it. Then they end up passing it on to the Board. Personally, she did not feel like putting a person of that income level into that particular neighborhood because it does not make sense to do that to a family because of the extra expenses associated with it. She felt that Old Trail has some issues with that, too, and they are struggling with trying to come up with a way to meet a 15 percent goals. These are developments that they want to have in the development area and have all of the elements, but are going to fall short. It just seems that there needs to be a creative way. She suggested that the County come up with a fund or a funding arm where they can do it financially. She felt that cutting a price of a house to put someone in there on day one when they can't afford to live there just does not make sense.

Mr. Edgerton stated that he also had problems with dealing with the immoral action of putting a family of limited means in a poorly constructed house where they cannot afford to pay the heating bill. There are folks that are working on creative ways to address this in developments. He stated that the dream was to have mixed income levels in a community. There was a community near Fredericksburg where they were assessing the higher priced properties and were building up a trust fund that would then be used to make subsidized loans to affordable families so that they could move into smaller units, which were incorporated into the design of the project with second story flats over garages and things of that nature.

Ms. Higgins stated that there has got to be another mechanism under new construction to create that sort of relationship to handle outside maintenance costs, etc. She stated that if they don't start it before these types of applications come before the Commission that everything in the development area, every interconnection, every buffer area you add and every sidewalk runs up the costs of every lot in that development. She felt that they have to recognize that there are certain costs that will be passed on to the person who buys the home.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 8:20 p.m. to the April 12, 2005 meeting.

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V. Wayne Cilimberg, Secretary

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