Albemarle County Planning Commission
December 11, 2007

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, December 11, 2007, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Marcia Joseph, Chairman, Duane Zobrist**,** Jon Cannon, Bill Edgerton, Pete Craddock, Eric Strucko and Calvin Morris, Vice-Chairman. Mr. Strucko arrived at 6:03 p.m. Mr. Cannon arrived at 6:05 p.m. Mr. Zobrist arrived at 6:08 p.m. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Other officials present were Bill Fritz, Chief of Community Development; David E. Pennock, Principal Planner; Joan McDowell, Principal Planner; John Shepherd, Manager of Current Development & Zoning; Wayne Cilimberg, Director of Planning; Scott Clark, Senior Planner; Judith Wiegand, Senior Planner; Jonathan Sharp, Engineer; Gerald Gatobu, Planner; Rebecca Ragsdale, Senior Planner and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Ms. Joseph called the meeting to order at 6:02 p.m. and established a quorum.

Other Matters Not Listed on the Agenda from the Public:

Ms. Joseph invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved to the next item.

Review of Board of Supervisors Meeting – December 5, 2007.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on December 5, 2007.

Regular Items:

SDP-2007-00082 Patterson(Verizon)Tier II PWSF-Final
The request is for approval of a treetop personal wireless service facility with a steel monopole that would be approximately 117 feet tall (10 feet AMSL above the height of the tallest tree within 25 feet), with a 12'x 30.42' x 10.58' (W x L x H) shelter/equipment cabinet. 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 contains 13.382 acres, described as Tax Map 71, Parcel 37J, is located in the Whitehall Magisterial District and is zoned RA, Rural Areas and EC, Entrance Corridor. The Comprehensive Plan designates the property as Rural Area in Rural Area 3. (Gerald Gatobu)

Mr. Gatobu presented a Power-point presentation and summarized the staff report.

- The request is to install a Tier II personal wireless service facility consisting of a 91' tall steel monopole with associated antennas, ground equipment, shelter and fence. This site development plan went before the ARB on October 15, 2007. A balloon test was conducted on September 12, 2007. The balloon was flown at 10' above the tallest tree. There is an existing 12' gravel driveway. No grading or tree removal is proposed. Staff recommends approval at 10' above the reference tree. The Architectural Review Board has granted approval with conditions at the proposed height of 10' above the tallest tree. The Planning Commission has the ultimate decision under Section 5.1.40.d to approve the tower at 10' or 7' above the reference tree.

Ms. Joseph pointed out that the note on the site plan indicates that there will be some grading. Therefore, it needs to be changed to say that no grading will occur. She opened the public hearing and invited the applicant to address the Commission.

Steve Blaine, attorney representing Verizon Wireless, introduced their team Kathy Faulconer, Head of

Real Estate for Verizon in Virginia; Stephen Waller, Site Acquisition Consultant with Wireless Resources, Inc. and Maynard Sipe, attorney with Verizon Wireless. The request is in the nature of a waiver to achieve a 10' approval above the nearest tree. He noted that the Commission can make that finding based upon the information that has been provided tonight, which includes the staff report, testimonies and photographs. The key finding is that there will be little or not material difference in the visibility of the pole at the proposed 10' height rather than the default or 7' height. The illustrations prove that out. In addition, they can make that finding based on the fact that the ARB has also weighed in on this and has approved and recommended the project with the 10' limitation. Finally, the staff report noted that the existing pole is of comparable height to what they proposed, which was approved by the Board of Supervisors for 10'. He agreed that the point about the grading needs to be clarified. There is minimal grading. It looks like a 1' contour is going to have to be smoothed out on the site. The benefit of their team is that they can find these locations that have the minimum impact on visibility and requires the least amount of disturbance.

Ms. Joseph invited public comment. There being none, she closed the public hearing to bring the matter before the Planning Commission.

Mr. Shepherd asked if the grading that is shown on the plan permitted if no trees are removed, and Ms. Joseph replied yes.

Motion: Mr. Morris moved, Mr. Zobrist seconded, for approval of SDP-2007-00082, Patterson (Verizon) Tier II PWSF – Final with the height to be up to ten (10) feet taller than the tallest tree.

The motion for approval passed by a vote of 7:0.

Ms. Joseph stated that SDP-2007-00082, Patterson (Verizon) Tier II PWSF – Final was approved.

SDP-2007-00048 Crozet Gateway Center – Final

The request is for final site plan approval for the construction of two (2) buildings for commercial and office use on 1.99 acres zoned HC Highway Commercial and EC Entrance Corridor. This request includes a request for a waiver in order to allow shared parking within the site. The property, described as Tax Map 56, Parcels 32 and 32A are located in the Whitehall Magisterial District in the northeast corner of the intersection of Route 240 (Brownsville Road) and Route 250 (Rockfish Gap Turnpike). This is currently the site of a convenience store. The Comprehensive Plan designates this property as Crozet Community. (David Pennock)

Mr. Pennock presented a power point presentation and summarized the staff report. (See Staff Report)

- This is an appeal by the applicant of a final site plan review for SDP-2007-00048 Crozet Gateway Center. The proposal is for two buildings totaling almost 30,000 square feet, which would be a combination of office and commercial use. The most recent plan includes some storage area.
- The applicant has appealed the project due to the need for a modification for a reduction in parking. The applicant in response to the review of the final site plan submitted a request for a modification to allow the reduction of parking. The original reduction would have been for approximately 45 spaces. That was reviewed by the Zoning section of Community Development and was denied.
- The applicant then modified the request. The current modification would be for a reduction of about 19 spaces. The applicant's justification includes data from the Urban Land Institute and some other analysis performed by the engineer for this project. Again, it was reviewed by the Zoning section and denial of the request was based on two factors: 1. No unusual circumstance that was presented that indicated that the requirements of the Zoning Ordinance were incorrect. 2. It is a tight enough site that there is really no additional area available if the parking that is provided proves to be inadequate for that to be taken care of later.
- This was an appeal of the final site plan. The section of the ordinance that allows for parking reductions and modifications also allows an appeal of the denial of the modification by appealing the whole site plan. That is why the action requested would be approval of the site plan. As part of that the Commission can consider the same modification that was reviewed by Zoning, which would be a modification to allow reduction of 19 spaces on this site under the current plan.

Without the approval of the modification staff can't recommend approval of the site plan. That is the reason for the appeal today.

- Bill Fritz, Chief of Zoning, who did the analysis of the review of the modification request, was present.

There being no questions for staff, Ms. Joseph opened the public hearing and invited the applicant to address the Commission.

Sam Saunders, Civil Engineer of Timmons Group, represented the applicant which is the Yousef family. Amy Georg, of Timmons Group, is also present. He highlighted the points made in a letter he sent to the Commission regarding the modification request. (See Letter dated 11-26-07 to Ms. Marcia Joseph, Planning Commission Chair dated November 26, 2007 from Samuel E. Saunders III, P.E.)

- The crux of the appeal tonight is the shared parking that they have proposed all along. The request is for 16 percent reduction in the required parking. Their analysis indicates that it could really be more, but they have backed off that in the process. They believe it is a viable proposal and that the sharing between office and retail makes a lot of sense. This project was proposed from day one with the shared parking. All of the preliminary applications show the shared parking. A lot of the thought process was that it would fit into the community better. They would not be building all of this parking that was going to just sit there. It would be environmentally negative and really would not enhance the community. The shared parking is a part of the economic model that this project has proceeded with.
- In August, 2006 a preliminary plan was submitted. Staff reviewed that plan, which included shared parking. The square footage has changed a little bit, but not much since then. No concerns were expressed by staff regarding the shared parking. It was not part of the staff comments. His client came out of that meeting with the understanding that he could proceed and was told to move forth to the Architecture Review Board.
- He hired an architect and prepared for that submittal. He also changed some of his business operations in anticipation of this project moving forward. They did a lot of work with the Architectural Review Board to get the plan to their satisfaction. That Certificate of Appropriateness came final in June of this year. In anticipation of that they submitted their final plan in May to staff for review. Then comment came back in June that they needed a critical slopes waiver, which had been submitted earlier, but apparently did not get processed. The Planning Commission approved that waiver in July.
- While their final plan was being reviewed staff came back and said that they need to provide justification for a critical slope waiver. They thought this issue was settled back in August of the year before. They provided that information. They used publications from the Urban Land Institute, which talked about shared parking. That was their basis for justification. That was denied in August. They spent a lot of time with staff trying to work through how they could make this work. In late September their client made a compromise and cut out half of the office space. That is the latest calculation that they went through.
- In the process they have been working with all of the staff agencies to get their approvals from Engineering and the Service Authority. Those things are all lined up. They did a late comment from VDOT. They have to address a few minor things. But other than that this plan is ready to be approved. He felt that this was a viable plan. His client has proceeded in good faith with a good plan and an understanding that it made sense and it was viable with the County. Mr. Yousef and his family plan to own and operate this. They want to do something nice for their family and community. They hope that this comes together nicely.
- Regarding the conditions, the conservation checklist and the condition about modifying the square footage they think those will not be applicable. Hopefully they can work through that with staff. He asked the Commission to approve the request.

Ms. Joseph asked if there were any questions for Mr. Saunders. There being none, she invited public comment. There being none, the public hearing was closed and the matter before the Commission.

Mr. Strucko asked how many parking spaces are required for the proposed use.

Mr. Pennock replied that under the current proposal it would be 118. That counts a 2 space sharing that would be allowed for the storage to be shared parking with the office/retail requirement.

Mr. Edgerton asked if he was correct that before the adjustment of dedicating what had been office to storage that the first calculation at the top of page 3, which showed 143 spaces, would be required. He asked what kind of enforcement exists, if any, for being sure that the storage space proposed will not become office after the buildings area built.

Mr. Fritz replied through the zoning clearance process. He noted that if they saw it operating without a zoning clearance it would be a zoning violation.

Mr. Cannon said that the concept that was operating behind the applicant's request is shared parking. He asked if that was a viable concept for staff. He asked if staff was rejecting the concept or are they rejecting the application.

Mr. Fritz replied that they were approving a small amount of shared parking. In the applicant's justification they were stating that the storage use would be primarily for the businesses that occupied the site. Therefore, staff did not contribute any additional parking. The applicant said that the parking is being met because the office is there and already has it parking. They also need to provide parking for the storage itself, which was a reduction of two spaces. The applicant requested a bigger reduction in shared parking. Staff was unable to make a positive finding because there was no overlap that would justify shared parking.

Mr. Cannon said the applicant's basis for requesting the additional credit for shared parking is there is a Cinergy between uses that will reduce the need for parking. He asked if that is correct.

Mr. Edgerton replied that was how he saw it. He complimented the applicant for their excellent work in using the Urban Land Institute's information in trying to determine the parking standard for this particular use. They provided that information. Staff's analysis of the information provided was there was not a sufficient overlap or Cinergy there to justify shared parking. The information that they are providing, in his opinion, is excellent information for a potential amendment of the parking standards of the ordinance. But, it did not give the information staff needed to justify shared parking.

Mr. Cannon asked if staff's conclusion was that the applicant's data might have supported credit for shared parking in the amount that they claim, but not under the ordinance.

Mr. Fritz replied no, noting that perhaps our ordinance requires more parking than needed.

Mr. Cannon asked if they have to read it that way.

Mr. Fritz replied that was the way staff was reading it. The debate has not occurred as to whether the Urban Land Institute's parking figures should be accepted or not. They have gone through the public process to put parking standards in the ordinance. Staff is using those parking standards as being correct. The applicant provided some excellent information to begin the conversation, in his opinion, about whether they should look at changing their parking standard. Because that conversation has not gone through the public hearing process he had to use the parking standards in the ordinance.

Mr. Cannon asked if there might be some flexibility in the existing ordinance where they can choose to exercise that flexibility to accommodate a different approach.

Mr. Fritz said that they turned down the request and the applicant has the right to appeal. The appeal is before the Commission. In his opinion, the Commission could adopt a shared parking standard. The Commission could say yes they think there is a shared Cinergy here and they have provided some information based on the Urban Land Institute's mix of uses and you could approve that. He did not think there was nothing stopping them.

Ms. Joseph said that they are trying to promote walkable Crozet. They are trying to reduce car trips. They are trying to encourage people to do something like that if they are working there to use the retail space.

Mr. Fritz said that staff had looked at those things, too. There are no other commercial areas near by that also have parking that are within a walkable distance. That made staff reluctant to account for a larger development in the downtown where they are having the shared experience. That is one of the difficulties. The other difficulty is listed in the staff report that he wanted to emphasize. When they have granted reductions in parking they have looked to see if there is area on site for additional parking should the need arise. There is no additional area for parking on this site.

Mr. Cannon asked who would bear the burden if they granted it and found out that they were wrong.

Mr. Fritz replied that the possibility exists that if there is no adequate parking that people will get creative in parking by parking in isles and reducing the safety factor there. Also, people could park in travel ways, entrance areas and on street parking that is not adequate. Therefore, it could create some safety issues. Also, parking in grassed areas could create other problems and erosion issues.

Mr. Craddock asked how many spaces they were talking about, and Mr. Fritz replied 19 spaces.

Ms. Joseph noted that she has always thought they ask for more parking than is needed in most areas. Therefore, she did not have a problem with this request.

Mr. Fritz said there is no question that staff had been very conservative with the numbers. He thought this was their first appeal on this ever.

Mr. Zobrist said that there was no where for them to go if they were wrong. All someone needs to do is drive by Brownsville Market at night to understand what it means to have no parking. This is going to be a large development with 30,000 square feet of office space plus commercial space. It is going to draw a lot of people. This is the only place to park unless you park on Route 250 or line up on other streets. He did not know enough about the demands of this business to make a good judgment on whether 18 spaces would make a difference. There is not place for them to go if they are wrong.

Mr. Strucko noted that there was not a lot of creative space in that corner for people to get creative with in parking. This intersection has a light and was very busy. He agreed with Mr. Zobrist.

Mr. Edgerton felt that staff has given them the appropriate recommendation based on what the ordinance says. It says that this proposed use with this square footage needs this particular amount of parking spaces. Nineteen missing spaces would be substantial. The applicant could meet the requirements by reducing the amount of square feet proposed. He is choosing to maximize the site. There is no back up plan for additional parking if it was found to be necessary. They have no way of knowing what activities are going to be occurring in these buildings. They could make a good argument for shared parking if the uses proposed were occurring at different times. But, businesses and retail are the typically going to be operating at the same time. The applicant could have reduced the proposed square footage, but did not choose to do so. There is no where for them to go if it does not work. The analysis is that per the Urban Land Institute recommendation they meet more than would be appropriate assuming that a determination of uses could qualify for shared parking. He asked if that was correct.

Mr. Fritz replied that based on the information submitted and their interpretation of what they said yes.

Mr. Edgerton said that it has not been adopted by our ordinance or our practice. Therefore, he was struggling with it.

Ms. Joseph noted that was why the Commission has the ability to weigh these things. Regarding Brownsville Market, there is no entrance there and was probably not approved by a site plan. There is not enough parking there to meet their needs.

Mr. Edgerton said that by approving this request they would be encouraging this development at a greater scale than staff tells us can support it.

Mr. Morris said that he was troubled with the high number of parking spaces. If wrong there is no way to take corrective action. He shared their concerns, but asked where they go. He saw no problems in reducing it, but by 19 spaces is a lot.

Mr. Fritz pointed out that there is a shared parking component to this, but also a reduction in parking. It is difficult to separate the two components. Staff has agreed that the storage use can use shared parking. Staff's determination was based on the ordinance standards. He has not gone through all of the information submitted from the Urban Land Institute and could not say whether he agreed with it or not. He did respect the Urban Land Institute.

Mr. Craddock noted that this was the gateway to Crozet and the regulations should respect that.

Motion: Mr. Zobrist moved, Mr. Strucko seconded, for denial of SDP-2007-00048, Crozet Gateway Center, for the reasons identified in the staff report.

The motion for denial passed by a vote of 5:2. (Ms. Joseph and Mr. Morris voted nay.)

Ms. Joseph stated that SDP-2007-0048, Crozet Gateway Center – Final was denied. This item can be appealed to the Board of Supervisors within ten (10) days.

SDP-2007-00104 Church of Jesus Christ Latter-Day Saints – Minor Amendment

The request is for approval of a waiver to allow disturbance of critical slopes related to the construction of a regional storm water detention pond that will serve adjacent development. This property is described as Tax Map 32, Parcels 17 and 17E3, and is zoned RA, Rural Areas and EC, Entrance Corridor. The property is located in the Rio Magisterial District. Access to this property is approximately 0.75 miles from the intersection of Seminole Trail [Rte. 29N] and Airport Road [Rte. 649]. The Comprehensive Plan designates this area as Industrial Service in the Hollymead Community. (David Pennock)

Mr. Zobrist disclosed that he was a member of the Church of Jesus Christ Latter-Day Saints and has represented the church. He disqualified himself and left the room even though the church is not the real party in interest.

Mr. Pennock presented a Power-point presentation and summarized the staff report.

- The sediment basin would take care of the erosion now and then would be converted to a stormwater facility. The current application was submitted in October for a regional facility, which would serve not only the church, but also some of the undeveloped property that the proposed Timberwood Boulevard would provide access to. The regional facility would be located farther back and treat a larger quantity of water, but it would also disturb some small areas of critical slope.
- Typically stormwater management facilities can be exempted under our ordinance. Section 4.2 allows the construction of those facilities even on critical slope. However, the caveat is that there has to be no alternative location. In this case the only plan that would be served by the basin at this time would be the church. Since the church already had an approved facility obviously there was an alternative location. Therefore, staff was unable to administratively grant the waiver for disturbance of critical slopes in order to allow the construction of the basin. That comment was made during the review of the basin. It actually came in under a Water Protection Ordinance plan independent of the church. The church would be the only site plan served by that parcel at the moment. That is the nature of the request.
- In the context of a larger plan for this area it may be that location could have been exempted. But, without that analysis staff can't recommend approval of the basin as an administrative waiver. Jonathan Sharp, engineer, can provide more technical details.

Ms. Joseph invited Mr. Sharp to address the Commission's questions. She asked if the sediment basin started out with the erosion control sediment basin and then retrofitting to the bio-filter.

Jon Sharp, with engineering staff, replied that was correct. He pointed out that further down the hill it was proposed to be a retention pond. It would first serve as the sediment basin throughout the construction phase and then after stabilization it would become a retention pond. The retention pond would serve as water quality and quantity. It will be a different type of basin from a bio-filter, but would achieve the same removal rate. He noted that the church would serve the church as well as the additional roughly 8 acres.

Mr. Strucko asked if in his opinion the proposed off-site sediment basin is sufficient to handle 80 percent impervious surface for that entire area.

Mr. Sharp replied yes. He noted that the original sediment basin was designed to handle the church.

Ms. Joseph opened the public hearing and invited the applicant to address the Planning Commission.

Nathan Blackwell, engineer, said that the location of the off-site sediment basin for the church was originally done when the site was developed while working with Allan Schuck. They used that site for the sediment basin until a future regional pond could be developed and implemented. The proposed pond will treat the stormwater management and the water quality just the same as the bio-retention would. It has a four-bay at the front. It will be a type three retention pond, which will hold water and remove the appropriate phosphorus removals that DCR requires. They don't have a site plan for the additional undeveloped areas on the site. Each one of those will come before the Planning Commission for review. Staff will be able to make sure that the run-off leaving that site is properly treated in that pond. They designed it for 80 percent impervious upstream of the 12 acres to make sure that they had adequate coverage of that. Each one of those will have to be reviewed and made sure that pond is meeting what it needs. This is the best location for the pond. The amount of critical slopes to be disturbed is small and patchy area. Therefore, they would ask for approval of the waiver.

Ms. Joseph asked when they plan to construct this.

Mr. Blackwell replied that currently the sediment basin is in. That is there as a temporary measure to remove erosion and sediment run-off from leaving the site. It has not been converted into a permanent facility. They will have to put in the other structure before they would be able to remove the temporary sediment basin. They will have to take out the earth and structure including any vegetation in the area. Right now it is just a wet pond. They are keeping a buffer from the creek. Therefore, no trees will be removed along the creek. No trees will be replanted on the berm, but they will meet all of the regulations.

Ms. Joseph invited other public comment.

Wendell Wood said that when the church purchased the property it was believed at that time they were on a little faster track and would be developing immediately. Therefore, he gave them an easement, which is now the temporary pond. It was not anticipated that they could get their pond in and meet their time frame. Now their time frame has been extended and they have been able to plan for the regional pond, which only requires one land disturbance. It has always been planned that temporary pond would come out one day. They agreed to do it because they thought the construction would be quicker. The Commission will have the opportunity to review the future development in that area.

There being no further public comment, Ms. Joseph closed the public hearing to bring the matter before the Planning Commission.

Ms. Joseph invited Mr. Sharp to come forward. She asked if there would be a tree conservation plan that would make sure that nothing was removed that did not have to be as a result of this.

Mr. Sharp replied that would be a site plan question.

Mr. Pennock replied that the current application is a Water Protection Ordinance application only. So the site requirements for a landscaping plan and tree conservation plan would not apply to this. The future development of any of the other properties would require it.

Ms. Joseph noted that since the applicant is asking for a waiver for critical slopes it might be nice that in granting the waiver they also agreed to do a conversation plan and make sure that trees are not removed that did not have to be removed.

Mr. Penock replied that he understood that conditions could be added to waivers.

Mr. Kamptner noted that conditions can be imposed as part of a critical slopes waiver. But, it needs to be tied to the impacts resulting from the disturbance of the critical slopes.

Mr. Craddock asked if the pond has to set 100' from the stream

Mr. Sharp said that there is no steam buffer on that stream. The facility would not be allowed in the stream, but it is not a Water Protection Ordinance buffer.

Mr. Craddock asked if it could be 25' from the stream

Mr. Sharp replied that it could be.

Mr. Cannon asked what the proposed setback is.

Mr. Sharp believed that it was a 100' buffer. Therefore, it was probably close to 100' from the stream.

Mr. Blackwell said that they would agree to a 50' tree buffer.

Ms. Joseph supported the request for the 12 acre drainage area. She liked the fact that they put in the 100' buffer and was sorry that they were backing off of it. It is extremely important to keep this away from the stream. With the request for a critical slopes waiver she expected the applicant to do something that will protect the environment or mitigate the effects of disturbing these critical slopes. She suggested that they stay 100' away from the stream and that any vegetation of significant be treated with respect and preserved.

Motion: Mr. Strucko moved, Mr. Morris seconded, for approval of SDP-2007-00104, Church of Jesus Christ Latter-Day Saints – Critical Slopes Waiver with the following conditions.

1. Vegetation shall be provided all around the proposed facility and the 100' buffer to be maintained between the storm water management facility and the stream and be depicted to maintain the natural vegetation that exists within that buffer zone as much as possible.
2. The disturbance shall be minimized to access the facility.

The motion for approval passed by a vote of 6:0. (Mr. Zobrist abstained.)

Ms. Joseph stated that SDP-2007-00104, Church of Jesus Christ Latter-Day Saints – Critical Slopes Waiver was approved.

The Planning Commission took a 10 minute break at 7:26 p.m.

The meeting reconvened at 7:36 p.m.

Mr. Zobrist returned to the meeting.

Public Hearing Items:

SP-2007-00041 Collin Gallahue - Violin Maker (Sign # 8)
PROPOSED: Home Occupation to permit a violin making operation in an accessory structure on a 131 acre property

ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre)
SECTION: 10.2.2 (31) Home Occupation Class B
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre)
ENTRANCE CORRIDOR: Yes____No_x__
LOCATION: 6551 Heards Mountain Rd. (Rt. 633), Covesville
TAX MAP/PARCEL: TMP 97 - 24
MAGISTERIAL DISTRICT: Samuel Miller
(Joan McDowell)

Ms. McDowell presented a power point presentation and summarized the staff report.

- This is a special use permit for a home occupation, class B. Mr. Gallahue would like this home occupation to be able to make and sell handcrafted musical instruments from his home in an accessory structure. He specializes in musical instruments, but there are a limited number of instruments made because they are hand made.
- There will be some sales at the site. He is estimating in a good year 36 instruments per year. It is a very limited business.
- This is 131 acre property located at 6551 Heards Mountain Road. The property is very isolated.
- The business is limited to the making and repair of musical instruments. She explained the location of the property.
- Staff recommends approval of the request. She asked to change condition 1 to add "and sales" along with making a repair in case there is some question in the future.

Ms. Joseph opened the public hearing and invited the applicant to address the Commission.

Collin Gallahue said that his application was fairly self explanatory. There is an existing accessory structure on the property that is close to the house where he resides. He is seeking a permit so that he can make and sale equipments out of that shop.

Mr. Cannon asked if the sale would be of the violins that he makes on the site.

Mr. Gallahue replied yes.

Ms. Joseph invited other public comment.

Will Rieley, a resident of the Samuel Miller District, spoke on behalf of this project because this is exactly the kind of ancillary use that is appropriate in the rural area. There is already a banjo maker near Heards and all they have needed is a violin maker. He asked that the Commission look favorably on this request.

There being no further public comment, the public hearing was closed and the matter before the Commission.

Motion: Mr. Strucko moved, Mr. Morris seconded, for approval of SP-2007-00041, Collin Gallahue – Violin Maker, with the recommended conditions, as amended.

1. SP 2007-41 is limited to the making, repair, and sales of musical instruments.
2. No employees shall be permitted, without approval of an amendment to this special use permit.
3. Storage of materials shall be entirely within the accessory building, as shown on Attachment A.

The motion for approval passed by a vote of 7:0.

Ms. Joseph stated that SP-2007-00041, Collin Gallahue – Violin Maker will go before the Board of Supervisors on January 9, 2008 with a recommendation for approval.

SP-2007-00044 Charlottesville-Albemarle SPCA (Sign # 74)
PROPOSED: special use permit for outside fenced dog exercise areas, also for potential adopters to socialize with dogs. No residential units proposed.
ZONING CATEGORY/GENERAL USAGE: C-1 Commercial--retail sales and service uses; and residential use by special use permit (15 units/ acre).
SECTION: 22.2.2.13. Animal Shelter, uses permitted by special use permit in Commercial district.
COMPREHENSIVE PLAN LAND USE/DENSITY: Transitional- neighborhood-scale commercial uses, offices, townhouses and apartments (6.01-34 units/acre) in Neighborhood 1.
ENTRANCE CORRIDOR: Yes____No X
LOCATION: 3355 Berkmar Drive, Charlottesville, VA, approximately 1100 feet north of intersection with Woodbrook Drive.
TAX MAP/PARCEL: TMP 45-86
MAGISTERIAL DISTRICT: Rio
(Judy Wiegand)

Ms. Wiegand presented a power point presentation and summarized the staff report. (See Staff Report)

- The purpose of this special use permit is to allow construction of outside fenced exercise areas for dogs at the SPCA's current facility on Berkmar Drive. It is a 6.5 acre site that fronts on Berkmar Drive.
- The Comprehensive Plan designates the land use in this area as being transitional. The project is in compliance with the Comprehensive Plan land use designation for this area.
- Staff reviewed the plan and pointed out the location of the exercise areas along the sides. The special use permit is for permission to put in the fenced exercise areas that are shown in blue on the plan. The fencing is part of the proposal.
- Staff has analyzed the proposal as shown in the staff report.
- The applicant is requesting 2 waivers:
  - Section 5.1.11.a requires that any structure that is an animal confinement that is not sound proofed be at least 500' from the lot line of any residential district. Since most of the SPCA's property is surrounded by an R-6 District this requirement would apply.
  - The second part requires a 6' high solid fence be constructed around any non-sound proof confinements, which would include these fenced areas.
  - It is staff's opinion that the 500' requirement would basically prohibit any construction of these areas outside these exercise areas because there is no place to put them. There are already some fenced areas out there, which have not been a problem since the original special use permit was adopted and this facility was built. There is a condition in the current special use permit that would be maintained in this one that no animals would be outside between the hours of 10:00 p.m. and 6:00 a.m.
  - The second part of this waiver for the 6' high fence is that the applicant is planning on a black chain link because it is easy to clean and easy to see through. The solid fence would be cost prohibitive. This is being funded by a donor. For safety reasons the staff and volunteers need to be able to see what is happening in these exercise areas. Staff and volunteers will be walking animals there. There is also a place where people who are looking to adopt a dog can go out to one of these areas with the dog and their family can see how they interact with the dog. If there ever were any problems, then the staff would like to be able to see through into the fenced area. The SPCA also noted that it improves the character of the surrounding community to see the activities with the dogs in the fenced areas and the care that is given to them.
  - The second waiver requested is a waiver from the residential district 20' setback. The applicant is requesting the waiver to accommodate the fencing along the right side of the property that is adjacent to the property owned by Foundations, LLC. The path comes right out to the fence. It is the intent of the SPCA to keep the path inside the fence so that the dogs that are walked on the path would be inside the fence. That is why they have requested a waiver from that setback requirement.

- Factors favorable:

- The proposed dog exercise areas are an appropriate addition to the current facility. They are means of enhancing the lives of the dogs and improving their chances of adoption.
- The proposed exercise areas will provide a safer and more comfortable environment for staff, volunteers and potential adopters to take care of and interact with the dogs.
- The dog exercise areas have been designed with the surrounding community.

- Unfavorable favorable:
- Staff has identified no factors unfavorable to this application. Therefore, staff recommends approval of the request with the 6 conditions as stated in the staff report with an amendment. Staff has revised the wording that was in the staff report for the second condition after discussing it with zoning. The original condition refers to the Department of Building and Zoning, which has been changed. The language suggested was "fund raising activities and other special events shall not occur unless a zoning clearance has been issued by the Department of Community Development." A zoning clearance is the method used for any kind of annual fund raising event held by the SPCA. That would essentially have the same impact as the condition in the staff report, but it is worded a little bit differently here.

- Staff recommends approval of the two waivers.

Ms. Joseph asked if there were any questions for staff.

Mr. Strucko asked if any of the adjacent landowners have been notified.

Ms. Wiegand replied that the normal adjacent landowner letter was mailed.

Ms. Joseph asked if all of the fencing was chain link.

Ms. Wiegand replied that the fence along the Berkmar Drive frontage is proposed to be a better looking 4' high aluminum fence, but still something that can be seen through. The rest of the fence would be chain link.

Ms. Joseph asked if staff has a graphic that shows what the nice fence looks like, and Ms. Wiegand replied no.

Mr. Strucko said that the ordinance requires a 6' high solid fence 360 degrees around the area.

Ms. Wiegand replied that the fence would have to go all the way around the exercise areas. It requires that these areas have a 6' high solid fence, which is why they have requested a waiver so that they can turn it into a chain link that they could see through.

Mr. Strucko said that it is possible for them to achieve their means asides from letting the community see the dogs interact with each other and potential owners by having a solid fence on the property line and the other 3 sides being chain link.

Ms. Wiegand replied that it could be, but pointed out that the property is surrounded by basic residential zoning. The uses in this area, as stated in the staff report, are a mixture of commercial and office primarily. There are no homes adjacent to this.

Ms. Joseph noted that homes could be adjacent to this.

Ms. Wiegand replied yes if the property redeveloped.

Ms. Joseph asked if staff has discussed with the applicant the potential of using vegetation to help soften the chain link fencing.

Ms. Wiegand noted that the tree conservation area would be outside the fence. Therefore, the fence would be hidden by it along one portion and around the back. It is staff's understanding that the chain link fencing will blend into the green.

Mr. Strucko asked what kinds of uses are immediately adjacent to this parcel.

Ms. Wiegand replied that the Foundation, LLC is a day care. There are a couple vacant properties along the edges. There are a couple properties listed as industrial. There is some property owned by VDOT for the proposed western by pass along the edge. There is nothing there except a couple VDOT trailers. Basically there are only a couple residences in the larger area around it.

Mr. Craddock said that to the left of the property is some commercial property, Print source.

Ms. Joseph opened the public hearing and asked the applicant to address the Commission.

Susanne Cogan, Executive Director of the Charlottesville Albemarle SPCA, said that others present today are Susan Slanger, landscape designer and Beth Markus. Elizabeth Markus is the donor of this project. She approached the SPCA about a year ago and said that she would like to make a donation to the SPCA for the purpose of enhancing the overall well being of the dogs at the SPCA. She wanted to do this in memory of her husband who had recently passed away and was a dog lover. They are currently on the SPCA property. They have volunteers walking dogs all the time out there. The real purpose of the project is to actually make that safer for the dog walkers and the community around us. Right now they have no fencing on the project. The fencing along the front is going to be the decorative fencing. The chain link fence is for the smaller dog walking pens. There is currently a buffer on the back side already of trees that they had put up. There are some evergreens to protect the property next to it from the view of those already. The fencing would be consistent with the property across the street at Planet Fun. It is the same type of fencing except theirs would be 4'. It is intended to help make the dog paths safer. The area will be helpful to exercise the dogs and make it safer for the community. They have some pens right now that are chain link. They want to enhance the overall well being of the dogs. They are planning to put in some really nice leveled out walking paths to make it safer for everyone. It would be cost prohibitive to put a concrete block all the way around the property. This project would enhance the overall community. They intend to do this so it blends in with the rest of the community and make it very aesthetically pleasing.

Mr. Zobrist asked if the dog would not be put out by themselves without a handler.

Ms. Cogan replied no, that the dog would only go out with volunteers and staff. They may put a couple dogs out there to play with each other, but they will be watched. They will never be left overnight out there unless some one drives on the property and dumps a dog.

Ms. Joseph said that the noise factor was behind the regulations.

Ms. Cogan said that this would help the overall noise level at the SPCA by allowing the animals to get more exercise.

Mr. Strucko noted that the noise was for adjacent properties and not within the building. He asked if the day care center was visible from the site.

Ms. Cogan said that the day care center was not visible. There is nothing that prevents them from walking dogs now. This proposal would enhance the safety to make sure the dogs could not get to the day care center.

Mr. Strucko questioned what would happen if there was a redevelopment on the adjacent property to residential. Those pens are right along that line. If they grant the waiver to the setback that noise issue become real short of not having a 6' high cost effective wooden fence in between the 2 parcels to mitigate the potential noise.

Ms. Cogan said that the problem with the wooden fence is that they need to have a fence that would also be safe for the animals. Wood is a porous surface and can't be sanitized. That is why they don't want a wooden fence in addition to not being able to see through it. From an animal shelter's standpoint they actually may have issues with respect to the State Veterinarian and whether that is an appropriate surface to put on their shelter.

Mr. Strucko noted that the wood fence would mitigate the sight and sound. Then they would have a chain link fence within the boundary to do their activity. He was looking at it from the outside in. He was looking at it as a potential resident in an undeveloped parcel looking into the SPCA piece. They don't necessarily have to have a wood fence as part of the dog pen. But, it certainly would be a sight and sound barrier between their activity and a residential function. That is the point of the 500' setback.

Mr. Zobrist asked if the applicant would be amendable to an additional condition to the special use permit that stated that dogs would not be put outside for storage unsupervised or for extended periods of time. His concern is that if they don't have a volunteer one day and there are 10 dogs that get put out there and left for 4 or 5 hours.

Ms. Cogan replied that was fine, but that was not their intention.

Mr. Zobrist suggested the condition that the dogs would not be placed for extended periods of time or unsupervised in the dog areas and that they would be accompanied at all times by staff or volunteers. He suggested adding during daylight hours.

Ms. Cogan suggested supervised by staff or volunteers.

Ms. Zobrist replied that he was in favor of dog runs, but understands that is that the right type of facility for that. He had no problem as long as everyone walking a dog is supervised.

Ms. Cogan said that the wording was changed from one of the conditions that dealt with fund raising activities. They said then "other special events." She suggested the wording of "other similar events." They have adoption events all of the time.

Ms. Joseph noted that "special events" references the Zoning Ordinance. That is where that wording came from. She felt that they were talking about other fund raising events and that she was probably covered.

Ms. Joseph invited other public comment.

Susan Joiner, landscape designer, said that there was a 20' buffer area around the entire property. That area where the dog pens are is located 20' from the property line. In addition, there are existing evergreen trees that are going to be transplanted onto or right at the property line, which will buffer and provide the same kind of visualization block as fencing, would do. She felt that the evergreen trees would work just as well if not better than fencing. The pens are not right on the property line and there is a shield over them.

Ms. Joseph asked if there was other public comment. There being none, the public hearing was closed and the matter was before the Commission.

Mr. Strucko said that his concern is the noise mitigation. What they are proposing here is chain link pens 20' from a property line that will contain dogs that will be allowed to act freely as they want. The potential for a possible noise issue is there.

Ms. Wiegand said that there are some pens out there now. There are 2 in the back and couple pens along the side. They have not been a problem to the neighborhood as far as staff knows at this time.

Mr. Zobrist asked if they could make it subject to the sound ordinance. So if the noise starts to exceed it that a neighbor could complain and have it investigated.

Ms. Wiegand replied that those regulations are currently in place.

Mr. Kamptner said that the noise ordinance does not pertain to barking dogs. A barking dog ordinance has been considered by the Board of Supervisors, but has not been adopted at this point.

Mr. Strucko agreed with the suggestion of limiting it to daylight hours. The visibility issue goes hand in hand with the noise for the adjacent property owners. He felt that the 20' buffer with the evergreens could serve as mitigation.

Ms. Wiegand noted that the situation proposed is for dogs to be outside under controlled circumstances. The dogs would be inside or outside in acceptable hours. There has not been a problem within the last 2 years.

Mr. Cannon said that he was comfortable that under these conditions they were allowing a situation that is different from the worse case addressed by the regulations by limiting the hours when dogs can be out there, by requiring that they be attended and by proposing a different purpose that is not to have the dogs live out there but exercise out there. He agreed that dogs that are moving usually are not barking.

Mr. Cilimberg noted that actually one of the regulations is for the confinement in an enclosed building from 10:00 a.m. to 6:00 a.m. That is actually in the ordinance. That condition really is replicating the ordinance. Daylight can be before 6:00 a.m. Therefore, daylight is a subjective judgment. It would be easier to put it based on hours than daylight because that becomes a subjective judgment. In relieving certain condition regarding the relationship to a residential property line, if they were to grant the waivers, then conditioning for the confinement to be greater than 10 p.m. to 6 a.m. is an offset to that.

Mr. Zobrist asked how many dogs they expect to have outside at once.

Ms. Cogan said that it would depend if they had the dog walkers to put out there. But, the dogs would be playing.

Mr. Zobrist asked what time they start walking dogs.

Ms. Cogan said that they are open from 8 a.m. to 6 p.m. Then 4 days a week they are open from 8 a.m. to 7 p.m.

Mr. Zobrist said that 8 p.m. to 7 a.m. would be okay to put in the conditions.

Mr. Kamptner pointed out that dog barking was an exempt sound in the noise ordinance.

Mr. Zobrist asked what is going to happen 5 to 10 years from now in the area. He questioned what would happen if the noise problem became a nuisance in the future because of the large number of dogs.

Mr. Edgerton noted that potential problems will be covered by the proposed conditions. The animals would be supervised in these areas. Also, the hours of operation will be limited. He felt that would solve the potential problem of dogs being left outside for indefinite time periods. With those conditions he felt that they have addressed the major concern.

Mr. Strucko suggested that they consider adding the condition that trees be planted along the upper right side of this property to mitigate the impacts. Then he would be comfortable in granting the 2 exemptions.

Motion: Mr. Strucko moved and Mr. Morris seconded, for approval of SP-2007-00044, Charlottesville-Albemarle SPCA, with the conditions recommended in the staff report, as amended.

1. Planning Department approval of a tree conservation plan for the areas located along the Berkmar Drive road frontage in order to preserve existing trees and provide shade and shelter for people and animals.

2. An evergreen screen consisting of a double row of trees planted 15' on center, to conform with ordinance requirements, shall be provided between the dog pens and the adjacent residential property.

3. Fundraising activities and other special events shall not occur unless a zoning clearance has been issued by the Department of Community Development.

4. The site shall be developed in accord with the attached site plan entitled "Charlottesville/Albemarle S.P.C.A. ZMA 2000-005, SP 2000-022, Revised November 6, 2007."

5. Animals may be walked and/or exercised outside only between the hours of 8:00 am and 7:00 pm. While animals are outside, they must be supervised.

6. Uses shall be limited to an animal shelter and a veterinary hospital with associated offices only.

7. Fencing shall be of the material identified and installed in the locations shown on the plan entitled "Charlottesville/Albemarle S.P.C.A. ZMA 2000-005, SP 2000-022, Revised November 6, 2007."

The motion passed by a vote of 7:0.

Action on the Waivers:

Motion: Mr. Morris moved and Mr. Edgerton seconded, for approval of the waivers to the 500-foot setback and solid fencing regulations and to the 20-foot residential setback requirement for SP-2007-00044, Charlottesville-Albemarle SPCA.

The motion passed by a vote of 7:0.

Ms. Joseph stated that SP-2007-00044, Charlottesville-Albemarle SPCA, would go before the Board of Supervisors on January 9, 2007 with a recommendation for approval with conditions.

SP-2007-00042 Grace Baptist Church (Sign # 38)
PROPOSED: New church with seating for 280 persons.
ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre);
SECTION: 10.2.2.35, Church building and adjunct cemetery
COMPREHENSIVE PLAN LAND USE/DENSITY: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre)
ENTRANCE CORRIDOR: No
LOCATION: Watts Passage Rd (Route 600), approximately 1,750 north of the intersection with Pritchett Ridge Lane.
TAX MAP/PARCEL: Tax Map 33 Parcel 56
MAGISTERIAL DISTRICT: Rivanna
(Scott Clark)

Mr. Clark presented a power point presentation and summarized the staff report for the special use permit request for a new church in the Rural Areas. (See Staff Report) The proposal is for a relatively large church on a five acre parcel in the Rural Areas. Staff was concerned with possible impacts on wells and septic fields on the adjacent parcels. Staff recommends approval of the special use permit with the conditions listed in the staff report to hold the conditions on the site as shown on the plan and that a detailed tree conservation plan be included in the site plan review to ensure the screening of the neighboring properties.

Ms. Joseph opened the public hearing and invited the applicant to address the Planning Commission.

Johnny Hartless, Pastor of Grace Baptist Church, explained the history of Grace Baptist Church from its start from 2002 until now. Their current attendance is 112 persons. Currently they are renting a space in a strip mall facility. They purchased this land on December 1, 2005 with the expectation of building a permanent home for Grace Baptist Church in the near future. They have read staff's recommendations and totally agree with and would comply with all of them. Their site engineer Brian Smith was present to answer questions.

Ms. Joseph invited public comment.

Georgeann Roberts said that she lived right next to the empty lot. Primarily water is a major concern. She had a well drilled in 1989 that netted two gallons per minute. Since then she has run out of water probably 100 times. She had her well hydro-cracked two years ago and it produced four gallons per minute. Therefore, she disagreed with the consult on the water out there. There is not a lot of water in this area. The size and location of the church was a concern because it would be in her side yard. She was concerned with having a neighbor where she parks her cars.

William Cummings, an adjacent property owner, noted concerns about the effects that a church of this size would have on the existing wooded neighborhood. He asked that an independent study be done. He had equal concerns about the lighting plan and the prospect in the future of a daycare center or private school being added. He asked that the County require an independent study. He hoped that the Commission would consider his concerns and either this application or table it to get more information on the well and septic, lighting plan and the plantings.

Tom Cabala, a resident across the street at 433 Watts Passage, said that he had just purchased this property earlier this year. He was shocked when he received information that a facility of this size was being put right in the middle of an agricultural rural area. He experienced first hand the water problems that exist out there. He moved in and within one week's time had no water because the well was dry. He knew his neighbor had to drill a second well. There are some water concerns. He was also concerned about the traffic.

Brian Smith, engineer for the project, asked to clarify some information that the Commission might not have received since he gave it to Mr. Clark several days ago on the soils. They had an ASOE go out and take a look at the soils to see if they would be suitable for a conventional septic field. The ASOE indicated that the soils would be acceptable for traditional soil. They also had hydrologist geologist, Nick Evans, take a look at the site concerning the water. Mr. Evans said that the likelihood is very minimal on the impact on the neighbors with their well water.

Mr. Clark noted that in the summary of Dr. Evans' report says the likelihood of impacts of the proposed church regarding the existing wells and septic fields on adjoining parcels is very remote. That is included in attachment D of the staff report.

Mr. Strucko noted that he also wrote that it would be advisable for Grace Church to verify groundwater availability on site before proceeding with construction.

Mr. Smith agreed that would be a good idea.

Ms. Joseph closed the public hearing to bring the matter before the Planning Commission.

Mr. Morris said that he could not vote for this right now until information is obtained saying that they have water.

Mr. Edgerton feared that this lot may be too small to support this church and the anticipated growth with water being a real issue and the effects on the neighborhood.

Ms. Joseph said she did not anticipate something this large in the rural areas. There is a problem with how the proposal relates to the neighborhood. She invited the applicant to address the Commission.

Mr. Harding said that they want this church to go forth. They had talked about the possibility of a somewhat smaller church building. The proposed structure is 100' X 107'. They have talked about reducing it to 80' instead of 100' wide. They would be willing to make that change if it would help. That size would still accommodate a maximum of 280 people because the sanctuary size would not change.

Mr. Strucko said that with the intense use and size of parcel he was not sure if a church was a compatible use on this property.

Mr. Craddock noted that water is a concern, but they were saying that the chance of having water problems is remote. Therefore he took the church's side. They should be allowed to build the church to the size that they are looking for now, and not build a small church and then have to come back in five years and go through the process again. He felt that they were saying that the chance of having water problems was remote.

Mr. Zobrist concurred with Mr. Craddock.

Mr. Morris said that he was concerned with the church sinking a lot of money, time and effort before they have a test well. He would like to see them defer, but it was the applicant's choice.

Mr. Zobrist suggested that the church check on the well and come back.

Mr. Cannon noted that water and size were the two issues. The pastor has offered to work on that.

Mr. Edgerton noted that the size is an issue. To act responsibly the Commission needs the church to tell us what size they ultimately hope to achieve. Currently there are 112 people in the congregation. They are asking for twice that size. Since it is a substantial increase in size he hoped that the church could scale back the size a little bit. Due to the scale with the size of the property if the applicant is inclined to defer and make some adjustments he would be looking hard to see what sort of efforts they make to buffer the impact of what they propose on the adjacent neighboring properties.

Mr. Cilimberg noted that the two concerns he heard was not just the size of the structure, but also the size of the capacity of the sanctuary, which are concerns for at least some of the Commissioners.

Mr. Strucko noted that intensity of the use and parking needs was a concern.

Mr. Cilimberg said that parking is a function of the sanctuary size.

Ms. Joseph asked if the applicant would like to request a deferral to another date so they could find out more about the water and perhaps reduce the size of the building.

Mr. Harding agreed to Ms. Joseph's suggestion to request a deferral.

Mr. Cilimberg suggested an indefinite deferral since they don't know how quickly the applicant can get the information together and make any changes they may want to make.

Mr. Harding noted that they plan to drill a well before getting into construction anyway. They would be willing to modify the size to the building. But, they would hate to turn people away, but would be willing to work with them.

Ms. Joseph noted that they were suggesting some sort of buffer with their neighbors.

Mr. Harding said that they were willing to fill in whatever they need with vegetation to protect that.

Motion: Mr. Strucko moved, Mr. Zobrist seconded, to accept the applicant's request for indefinite deferral of SP-2007-00042, Grace Baptist Church.

The motion passed by a vote of 7:0.

Ms. Joseph stated that SP-2007-00042, Grace Baptist Church, was indefinitely deferred.

The Planning Commission took a break at 9:06 p.m.

The meeting reconvened at 9:17 p.m.

ZMA2007-00016 Watkins Route 250 Rezoning (Sign # 95)
PROPOSAL: Rezone 3.0 acres from R1 - Residential (1 unit/acre)
to HC Highway Commercial which allows commercial and service uses; and residential use by special use permit (15 units/ acre) for a Landscape Contracting business
PROFFERS: No
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Community of Crozet; CT-3 Urban Edge: single family residential (net 3.5-6.5 units/acre) supporting uses such as religious institutions and schools and other small-scale non-residential uses
ENTRANCE CORRIDOR: Yes
LOCATION: 5168 Rockfish Gap Turnpike/Route 250 West, east of Radford Lane & adjacent to Clover Lawn
TAX MAP/PARCEL: Tax Map 56, Parcels 107C & 98D
MAGISTERIAL DISTRICT: White Hall
(Rebecca Ragsdale)
APPLICANT REQUESTS DEFERRAL TO A DATE TO BE DETERMINED

Ms. Ragsdale presented a Power Point presentation and summarized the staff report. Originally staff thought that it would be an item requesting deferral. But, there is a request from the applicant that the public hearing be held and there is a lot of public interest in commenting on this proposal.

- This rezoning request was heard on October 30, 2007 as a work session. The request was for 3 acres to be rezoned in the Crozet development area for a landscape contracting business, which is currently located on Route 20 South in the Rural Areas. The use is not allowed in the Rural Areas zoning district. Staff presented some photographs of the current visit on Route 20.
- Staff summarized some of the issues that were discussed at the 10/30/07 work session discussion. Staff posed a question to the Commission in order to have a discussion about the Crozet Master Plan designation for the property. There was a request for non-residential uses at this site because it is designated CT-3. Those areas in the Master Plan were anticipated to have some non-residential uses. Staff has not had any requests in Crozet for non-residential uses. That discussion was held last time and there were some mixed opinions within the Commission. But, they agreed that the applicant should refine their concept. The Planning Commission's guidance was to pay particular attention to traffic impacts and scenic impacts to Route 250 as well as the adjoining residential uses at Clover Lawn. One of the key considerations as staff brought forward for discussion last time was what would be the allowable and appropriate uses on the site.
- Since Mr. Watkins' proposed business does require Highway Commercial zoning they have approached this project and discussed with him that there would be very few uses within that actual zoning district that staff felt would be appropriate for the site. Mr. Watkins has been indicating a willingness to submit proffers to commit to only those uses that they thought would be appropriate.
- Staff mentioned the traffic impacts, other Commissioner comments and public concerns. There were various opinions expressed. It was staff's opinion that it was a transitional use between the mixed use CT-4 area of where Clover Lawn is located and the Rural Area.
- The parcel in back has some steep slopes and a stream buffer. They talked last time about the applicant providing assurances in the concept plan that those areas would not be disturbed and environmental features would be protected. They also talked about interconnections and the recommendation for the buffer along Route 250. Again, this is the development area boundary.
- They talked about the CT-3 designation last time. There are some recommendations for limited non-residential uses from the table from the Master Plan, which indicates uses like retail, retail with residential above, child care centers, green houses and places an importance on protection

of the Route 250 Corridor. It also provides the broader perspective for providing for non-residential uses in Crozet so that it is self sufficient. That was one of the themes of the Master Plan.

- The Business Development Facilitator is present if the Commission has any questions about the economic development policy or some of that perspective regarding this rezoning. That was a major theme in the public comment that the Commission received in the packet and what staff has heard from Mr. Watkins.
- Staff did not have time to provide a full staff report for this evening. An update was given about where they were within the review process, which gave an indication of why they had let Mr. Watkins know that staff felt that a deferral was appropriate.
- Since the work session a revised concept plan was submitted on the 13th. Coming out of that review staff realized there were a number of items that need to be worked out and addressed that staff felt would be better served doing that before a public hearing. On the revised there are areas shown for plantings adjacent to Clover Lawn, provisions for the buffer against the Rural Area property that requires a buffer and outdoor storage in the front of the parcel of nursery stocks, compost and top soil, etc. Then all of the parking and service vehicles or landscape contracting vehicles would be parked in the back with the existing house preserved.
- Based by further review by the Zoning Administrator it was determined that this type of outdoor storage since it was located in the Entrance Corridor required an additional action or application for review of a special use permit. That was one of the outstanding items noted. Since the determination was made the applicant was able to get the special use permit application in. The special use permit would require full Architectural Review Board review, which is scheduled for December 17, 2008. The staff report is available for the ARB. The Design Planner has not indicated any objection to the special use permit. Staff wanted to make sure that the ARB comments or recommendations were provided for in any plan revisions.
- The applicant has submitted a waiver request. There are some additional items that staff has requested for the plan. Some of these are review comments and things they had discussed previously with the applicant. Some of it was in response to new information. It includes things like clarifying where the preservation areas area and what would be provided in the outdoor storage areas. Two more major things related to the items that are outstanding were making sure that they do provide for storm water on the plan and where that would be located so that they know it would be workable plan that would be approved with the rezoning. Also, staff needs to know where the Route 250 right-of-way is or having an idea of whether or not the applicant could accommodate required improvements on Route 250. There are 2 reviewers that provide comments on transportation being VDOT and the County Engineer. VDOT has not indicated that a turn lane was needed, but the County Engineer had recommended that they consider requiring that as part of this rezoning. That was one of the outstanding items from last time. The County Engineer still feels that it is an appropriate safety improvement for this rezoning and provided some additional information as to how VDOT's criteria is more limited. They have the same review criteria essentially as they would for their own projects that they would expend public funds. They make their decisions on whether to require those types of improvements based on warrants or incident reports. The County Engineer indicated that they had an opportunity as a County in taking a more proactive approach with these legislative decisions in getting additional improvements that VDOT was not able to.
- At the time staff sent the status report via email they did not have proffers that addressed the use limitations on the site. Since the time they do have proffers. But, staff has not had time to review them. They are generally consistent with the suggestions that had been given to the applicant in terms of what uses would be permitted on the site. But, again staff has not had time to review them. There is an additional proffer related to buffering around the property. Staff's recommendation was for deferral, but the applicant would like to hold the public hearing.

Ms. Joseph asked if there were any questions for Ms. Ragsdale.

Mr. Morris asked if the entrance shown on the drawing indicate the VDOT recommendation or the County Engineer's.

Ms. Ragsdale replied that this plan reflects the 100' taper and entrance the VDOT suggested had suggested would be sufficient to accommodate the use and not providing for the turn lane.

Ms. Joseph noted that it looked like a lot of the landscaping is off site.

Ms. Ragsdale replied that is correct. Prior to making these revisions showing these things to the concept plan they did talk about the applicant getting permission and the flexibility they had in working with the Clover Lawn owner. That is something staff would follow up on in terms of making sure that they have an agreement with Clover Lawn to provide that as well. It is an outstanding issue.

Mr. Cilimberg noted that it needs to be clarified that on the western side or the Clover Lawn side they would have the opportunity and permission to do landscaping off site. That is still an outstanding issue and one of those things that they hoped to take care of before the public hearing. That is one of the reasons for the recommended deferral.

Mr. Strucko questioned the proffer statement in Attachment G concerning the proposed uses. He asked if any of the proposed uses require public water and sewer, require a turn lane and require the property to meet certain standards. He was assuming that some of the business opportunities that will remain require customers moving in and off of this site such as a farmer's market or a business and professional office.

Ms. Ragsdale said that another outstanding item is whether the application plan would be proffered. They discussed that issue with the applicant. So they have reviewed this with an assumption that the applicant would be proffering this application plan and that they would preserve these uses for in the future, but that it would be rezoned to allow the landscaping business.

There being no further questions, Ms. Joseph opened the public hearing and invited the applicant to address the Commission.

Scott Watkins, owner of the landscape business and the parcel on Route 250, said that he was present tonight to try to seek an accord that will help keep their business in the County. Approximately 2 years ago he was cited by the County zoning administrators for operating their business in the rural area where they have had it for the past 18 years. The reason was that their landscaping business was deemed not to be agricultural; and, thus cannot be in the rural area. He was further informed that the only 2 classes of land that were suitable for the business was either Light Industrial or Highway Commercial. He was also informed that he needed to vacate their present location. He appealed to the Board of Zoning Appeals and lost by a 3:2 vote. Since that time he has been served to appear in Circuit Court even as they have worked to find a new location. The County has extended grace to them as their rezoning request moves along. Should the request be denied he was not sure how much additional grace will be given. In accordance with the County's guidelines they are trying to move their business from the rural area to the growth area where the County says it should be. Industrial property is in short supply in Albemarle County and is priced beyond his reach and most other small businesses. Therefore, they are trying to rezone a parcel in the growth area which is affordable and one that is contiguous to and visually dominated by other commercial parcels.

Mr. Watkins continued that they are aware of the concerns associated with this rezoning request. There are issues of precedent for possible future use of the land and the unsightliness along the Route 250 Corridor. He offered a measure of assurance that they would do their part as good neighbors and work to protect and enhance the view shed along Route 250. They will respect the desires of the various community groups to keep Route 250 as rural as possible. After the work session they prepared a list of proffers that eliminate most of the uses that would normally be associated with Highway Commercial. In addition, he would like to strike 3 more tonight being Section 24.2.1, 31, 33 and 43, which are retail nurseries and greenhouses, wayside stands and farmer's markets. While all these uses are compatible with the CT-3 urban edge he wants to eliminate these to address the concerns of the Commissioners expressed at the work session that they eliminate uses that would generate more traffic than could be expected under the current zoning. They would like to ensure the Commission that their intention is to limit to the use to that which they need for their business and only those additional uses recommended by

staff to preserve some reasonable flexibility for the long term use of the property and allow for future public facilities. They believe that requiring a turn lane, for example, when VDOT does not recommend it, and a water and sewer hookup when the use will not increase or justify it would actually put additional pressure for a more intense use of the property in the future. Not building an unnecessary turn lane will preserve the character of the 250 Corridor much better and would be an impediment to more intensive development of the site in the future.

Mr. Watkins said they appreciate Ms. Ragsdale's hard work and staff's recommendation for denial because certain pieces of this proposal are not in place at the current time. Most of these seem rather incidental to what he thought was the core issue, which is whether or not the use of this site is appropriate. Although it is recommended that they defer they would like to push on for a number of reasons, mostly because this process is creating a financial hardship. They cannot move off the current property until they can move onto another property. Also, they have invested a great deal of time and energy up to this point. They have addressed staff's concerns for adjustments in the proffer plan, which he put on everyone's desk. Mr. Rieley is present tonight and would be happy to discuss these adjustments to the plan. There are many members of the public that are in support of their plan. He asked the Commission to allow their business to continue in on this property by moving their request forward.

Ms. Joseph pointed out that her frustration was that they all thought that this was going to be deferred, which includes members of the public that wanted to get a staff report. It was not a staff report. They normally don't receive information the night of the meeting either for something as important as a rezoning. She felt that it puts the public at a disadvantage also because they all thought that it was being deferred, too. So people were scrambling to find out what was going on. She was just voicing her frustration for what happened.

Mr. Watkins said that it was recommended to them late on a Friday afternoon a week ago this past Friday that they defer. He conceded and over the weekend decided to change his mind and gave notice early the following week. It was not as though they had deferred this for a week or two. It was just a matter of one working day.

Ms. Joseph invited other public comment.

Scott Peyton, life long resident of Western Albemarle and President of Scenic 250, asked to make some brief comments about process. As Ms. Joseph observed it has been very challenging. He received a mailed official notice of this meeting Friday that this issue was to be deferred to a time to be determined. The on again off again nature make it very challenging for the public and compromising the opportunity for public input. He did not see how this evening could be considered a legitimate opportunity for public hearing because they have not even seen what some of the proposed items are. So the comments he was making this evening are based on the information that he had most recently available. Scenic 250 is opposed to in principle to any rezonings from Residential to Highway Commercial along the 250 West Scenic Corridor west of Charlottesville because of the negative impact that they feel such rezonings would have on the scenic quality of the Corridor. All that being said they were willing and prepared to look at this rezoning request with an open mind. Scott Watkins met with the Scenic 250 Steering Committee back in the summer. They had a very open and free exchange of ideas. At that time they expressed some legitimate concerns that they had with Mr. Watkins. The process moves on. They additionally this past week meet adjacent to this property to look at some detail as to what types of accommodations and treatments of the property could render this an acceptable proposal and use in their mind. At that time they did not have available proffers or a current site plan. So that is only available to them this evening. The proposed uses are still so broad as to constitute in their mind a spot rezoning. That is a great concern from the issue of precedent. The site plan makes inadequate accommodations for screening with regard to the Scenic Highway. They are sympathetic to Mr. Watkins business situation. They feel that it would be a more appropriate approach for Mr. Watkins to pursue a zoning text amendment because there are needs for service industry uses in the County. It would be a better opportunity for the County to look at a range of uses that would be appropriate in the Rural Area that would allow Mr. Watkins to continue his business at its current location. Perhaps the County could allow a grace period while Mr. Watkins pursues that process.

Kirk Peterson, resident of Crozet, said that he has known Mr. Watkins for 15 years. He rented a house on Mr. Watkins' property. So he lived on the property and saw all of the activities that went on at the site. Usually the issues in zoning are what would be the visual impact of the proposed use, the traffic impact, the light and sound impact and if it is an appropriate use for the site. Based on his experience quite contrary to the pictures shown the Watkins property was lavishly landscaped and very carefully attended to. His property was well maintained. In terms of traffic there was very little. He saw the crews go out in the morning and come back at night. Most of the deliveries are large bulk deliveries that come in infrequently. So there is very little traffic that moves in and out of the site. There is simply no sound or light pollution because trees don't give off much light. The site would be filled with plants and greens and was very attractive to look at. He felt that it was a very appropriate use for the site.

Sue Rearious said that she moved to Albemarle County over 10 years ago from northern Virginia. She applauded the master planning process in Crozet to bring the various groups together to really figure out how to grow well. She spoke in support of the nursery business. It is consistent with what she understood the master plan was for being in a growth area. This business does not compete with downtown Crozet.

Warren Byrd, resident of White Hall District, said that personally and professionally as a small business owner as a landscape architect and as one of the many co-authors of the Crozet Master Plan he spoke in full support of the rezoning request. This is a use that is consistent with the CT-3 designation. The site is perfect for this because it was on the edge of this small Neighborhood Center. He spoke with Ken Swartz, his collegiate, about this request and he agreed that in reviewing it that it was an appropriate use given the applicant's willingness to proffer the many exceptions in terms of what would not be allowed here as Highway Commercial. He hoped that the Planning Commission sees this in a supportive light.

Mike Wheelright, resident of Mill Creek South, said that he was both a planner and a landscape architect and had worked with Mr. Watkins on several projects. He urged the Planning Commission to support the rezoning.

Chris Ross, a teacher at Miller School for he past 10 years, spoke in favor of the rezoning request. He noted that he had known Mr. Watkins for 25 years.

Barbara Westbrook, native of Crozet, supported Mr. Watkins' landscaping business as long as his vehicles are not visible from the highway. She felt that he would actually improve the appearance of that property. Usually she has been opposed to any more commercial business on Route 250 because of all of the traffic, but she did not think that is going to be a problem here. There should be some requirement if this business is sold that the property will either revert back to its present state or some provision be made that no new commercial moves into that spot. She presented photographs of Clover Lawn that currently has been unsightly for being on a Scenic Highway with all of the banners in the grassy area right along Route 250. Her understanding was that these banners are only allowed 4 times per year for 15 days, but these have been up since September. She questioned why Clover Lawn was allowed in the first place. She felt that Mr. Watkins' business would be beneficial to the area.

Ellen Waff, an adjoining property owner to the east since 1986, spoke against the rezoning request. With all due respects to Mr. Watkins' family business, she was not in favor of supporting this rezoning. It would be precedent setting and total disregard to the promise by the County that there be no additional Highway Commercial other than the existing grandfathered parcels. She was concerned about the water. Many neighbors have wells as she does. She felt that this nursery holding area would use a ton of water. If that were the case and the request was approved she would strongly suggest that he be made to connect to public water. Also, with respect to the proffers she has not seen all of the proffers. The ones that she has seen she would suggest that the proffer for other uses should be very restrictive if not limited to the applicant's use as submitted. With respect to the traffic and the discussion on the deceleration lane she felt that they would not want that.

Anita Jacobson, an adjacent property owner, objected to having a commercial business next to her home. She looks out her property right onto the house. Mr. Watkins has suggested that the stand of trees on the

east side that he was going to plant some trees on her side. Since it would take many years before the trees would be big enough to screen the house, she did not think that made sense. She did not believe that the traffic would be as minimal as he says. She moved into a residential area and would like for it to be kept as residential.

Mike Marshall, Chairman of the Crozet Advisory Council, asked to repeat what Scott Peyton said about the process. He was contacted today by some members of the Council. He checked the website at 3:30 p.m. and this was shown as a deferred item. He told people that it was a deferred item and not to worry because they could still talk about it. He did not realize that it was going to be talked about until he saw Mr. Peyton. He came for the Crozet Gateway decision. Mr. Watkins did meet with the Council. He felt that the problem was with the County for putting him in this predicament. He operated his business peacefully for 18 years and then discovers that he is in violation of a rule. He felt that it may be the rule that needs to be looked at. At the meeting people were sympathetic to what was happening to Mr. Watkins. They would love to see his business in Crozet. But, he was a little bit worried about the precedent setting this would create in approving this property to Highway Commercial. Given the contacts he had today he felt that a lot more people would have shown up to speak tonight negatively about it had the impression not been created that there was no public hearing. He opposed this property being rezoned to Highway Commercial given the larger context of the Master Plan.

Chris Stewart, resident at Clover Lawn, spoke in opposition to the request because his townhome was adjacent to the property. He opposed the location for he parked vehicles, which was approximately 40' or less to his house. If this approved, they want to make sure there is some type of mitigation to minimize noise to their townhome. He felt that the turn lane is a bad idea and not needed. He agreed that this property is going to get developed, but should be developed smartly. He felt what Mr. Watkins is proposing is pretty good as long as the proffers are adhered to.

Ms. Joseph closed the public hearing to bring the matter before the Planning Commission.

Mr. Morris said that this was not an easy issue that is before us. But, based upon everything heard he felt that this is the best use of this particular piece of land. It transitions beautifully from the commercial on into the rural area. As presented with the proffers and so on he can support this.

Mr. Edgerton noted that they have received a lot of support for Watkins. He felt that their business as proposed on this site would fit. He was struggling with the fact that rezonings go with the land and not with the individual. He would be comfortable supporting this with a proffer that stated that the Highway Commercial be limited to what Mr. Watkins is proposing on this property. He would only support the deceleration lane only if the Watkins are asking for a full fledged Highway Commercial rezoning. If it was going to be limited to the proposed use, which would have less of an impact than the by right use, that he would support no deceleration lane. He felt that the Waff's deserve some consideration. He would like to see a greater effort in beefing up the border next to the Waff's property. If the Watkins wants to do this business he suggested that should be what they proffer, which would not leave the door open for other commercial activities that could set a dangerous precedent.

Mr. Strucko agreed that was a pivotal point. He supported the Scenic 250 and what they have worked so hard to do. It is very important to the community that the principles of Scenic 250 are kept and met. The pivotal point is attempting to accommodate the use while maintaining the principles of Scenic 250. If they can get the applicant to proffer only one use, Section 24.2.1(17) home and business services such as ground care, cleaning, exterminators, landscaping and other repair and maintenance services. That is the official category. Some people may think that is too broad, but he would suggest that to be considered.

The Planning Commission discussed the outstanding issues and suggested that the applicant defer the request.

Ms. Joseph asked Mr. Rieley if he would like to speak.

Mr. Rieley said that Mr. Watkins is in complete accord with the sediments that have been expressed relative to limiting the use to his proposed use. That is what is objective has always been. There are a couple of items in the list that are not there because Mr. Watkins put them there. They are there because they are provisions for public facilities, such as Sections 24.2.2.1.36 and 24.2.2.1.35. In additional to that the provision for storm water management facilities shown on an approved final site plan, and Tier I and Tier II Wireless Facilities are required. Mr. Watkins would be happy to proffer away everything except the use that he wants and the uses that he has to allow for government facilities or because the FCC requires it.

Mr. Edgerton asked if they would be willing to beef up the buffer.

Mr. Rieley replied yes. In addition, the plan does not show planting in the right-of-way. He believed because there was a guardrail there that they can plant all the way up that slope to the back of the guardrail with a VDOT permit. Mr. Watkins is more than happy to do that if VDOT will agree to it. Therefore, they would be happy to beef up the perimeter planting.

Ms. Joseph asked about the area to the west where there is planting shown off site.

Mr. Rieley replied yes, that Mr. Watkins has an agreement with the adjacent land owner to allow planting in that area. It will allow a lot more buffering than otherwise would be necessary.

Ms. Joseph asked if he had a written agreement.

Mr. Watkins replied that he did not. He noted that Benton Downer is the owner of the commercial section of Clover Lawn. He pointed out that he had a verbal agreement, but nothing in writing.

Ms. Joseph pointed out that on a rezoning that a written agreement would be required. She said that the request is so incomplete and would require the Commission to send a list of items to be changed to the Board.

Mr. Zobrist suggested that they ask the applicant to take the time and get it right. There are a few questions that need to be answered first, such as going to the ARB.

Ms. Joseph noted that he would have to come back to the Commission on the special use permit for outdoor sales and display. The other issue is the water and sewer hook up.

Mr. Edgerton agreed that the water and sewer needs to be addressed. During work session the initial suggestion was that this proposed use would not require enough water to suggest that public water would be level. But if it went up to a certain level it would be mandated.

Ms. Joseph noted that they need to know what his water consumption was going to be.

Mr. Cilimberg said that the special use permit for outdoor storage would be necessary for the Board to act on the rezoning if it was shown on the plan. At some point that special use permit needs to catch up with the rezoning. Staff recommended deferral so all of this could come together so action could be taken by the Board.

Ms. Joseph asked if the applicant would be willing to defer it so the special use permit and rezoning could be heard together.

Mr. Watkins said that he was willing to defer.

Ms. Joseph asked if there was a time frame for the special use permit.

Ms. Ragsdale replied that the date has not been set, but it would probably be at least the end of January.

Mr. Cilimberg noted that the ARB would hear the special use permit next Monday. He would expect that both the special use permit and rezoning could be heard by the Commission on January 22 or 29 and then the Board in March.

Mr. Watkins asked that it move as quickly as possible.

Mr. Zobrist asked if the County could give Mr. Watkins additional time on his violation.

Mr. Kamptner said that the County deferred the zoning enforcement case through late March. He would expect they would continue it again.

Motion: Mr. Strucko moved, Mr. Zobrist seconded, to accept the applicant's request for indefinite deferral of ZMA-2007-00016, Watkins Route 250 Rezoning.

The motion passed by a vote of 7:0.

Ms. Joseph stated that ZMA-2007-00016, Watkins Route 250 Rezoning, was indefinitely deferred.

Old Business

Ms. Joseph asked if there was any old business.

Due to changes in the agenda there is no 4:00 p.m. work session next week.

There being no further old business, the meeting proceeded.

New Business

Ms Joseph asked if there was any new business. There being none, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 10:36 p.m. to the Tuesday, December 18, 2007 meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)