Albemarle County Planning Commission
August 12, 2008

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, August 12, 2008, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Marcia Joseph, Thomas Loach, Linda Porterfield and Calvin Morris, Chairman. Absent were Eric Strucko, Jon Cannon, Vice Chairman and Bill Edgerton. Julia Monteith, AICP, non-voting representative for the University of Virginia was absent.

Other officials present were Gerald Gatobu, Senior Planner; Judy Wiegand, Senior Planner; Wayne Cilimberg, Director of Planning; Bill Fritz, Chief of Current Development and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Morris called the regular meeting to order at 6:00 p.m. and established a quorum.

Committee Reports:

Mr. Morris invited committee reports.

- Ms. Joseph reported on the PACTEC Committee and MPO Tech Committee. During the PACTEC Committee meeting, discussion was held regarding what the University is doing with transportation including making the Fontaine Research Park more accessible to pedestrians and bicycles and the CTS bus system, which is free for staff and students. The University also is planning to install LED lighting in an area to see how it works. The MPO Tech Committee was given the opportunity to look at the new modeling that consultants put together for VDOT and the Transportation Improvement Program document was distributed.
- Ms. Porterfield reported that the Historic Preservation Committee met. The committee wanted the Planning Commission to know that the Piedmont Area Preservation Alliance is planning its first preservation week for Friday, April 3 to Thursday, April 9, 2009. The committee would be interested to know if the Planning Commission would like to do any particular type of event, etc. for this week. If not, the Historic Preservation Committee will represent the Planning Commission with their event. The Committee's focus will be on "Lost Albemarle," Albemarle County's lost historic resources. If any Commissioner has any ideas the committee would love to hear from them. Staff will be asked to inform the Planning Commission of the scheduled events ahead of time. Mr. Morris asked Ms. Porterfield to find out if the Committee had any recommendations on how the Commission could be involved so that the PC could discuss those recommendations under New Business at some point in the future.

- Mr. Morris reported that the Eastern Connector Committee will meet on September 4 from 2:00 to 4:00 p.m. in the room across the hall from the auditorium. The consultants will focus on the presentation they plan to take to the City Council and the Board of Supervisors in late September and early October. The meeting is open to the public, but no public comment will be taken.

There being no further committee reports, the meeting moved to the next item.

Other Matters Not Listed on the Agenda from the Public:

Mr. Morris 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 – August 6, 2008

Mr. Cilimberg reviewed the actions taken by the Board of Supervisors on August 6, 2008.

Consent Agenda:

Approval of Minutes
October 9, 2007 & July 26, 2007

Mr. Morris noted that both items are minutes from 2007. In that the PC has the bare quorum and two members will abstain due to being appointed in January 2008, he asked Mr. Kamptner if it would be better to postpone action until next week.

Mr. Kamptner replied that the fact that two Commissioners were not on the Commission at that time does not prevent them from voting on the minutes. This is because the Commission acts as a Commission and not as individual members. So there is no requirement that any Commissioner be present for those meetings. If those Commissioners do wish to abstain, there is no reason why the minutes can't be set for a later meeting when there is a larger body present.

Mr. Loach and Ms. Porterfield asked that the minutes be pushed to the next week.

Motion: Ms. Joseph moved and Mr. Loach seconded to defer the consent agenda to the next meeting.

The motion passed by a vote of 4:0.

Mr. Morris noted that the consent agenda items will be moved to next week.

Items Requesting Deferral:

SDP-2008-00012 South Pantops Condos – Preliminary

The request is for preliminary site plan approval for construction of 125 dwelling units on 13.116 acres zoned R-15 Residential. The property, described as Tax Map 78 Parcel 20 is located in the Rivanna Magisterial District on South Pantops Drive approximately 800 feet from its intersection with State Farm Blvd. The Comprehensive Plan designates this property as Urban Density in Urban Area 3. (Patrick Lawrence)

Mr. Morris noted that the applicant has requested indefinite deferral of the request.

Motion: Ms. Joseph moved and Mr. Loach seconded to approve the applicant's request for indefinite deferral of SDP-2008-00012, South Pantops Condos – Preliminary as recommended by staff.

The motion passed by a vote of 4:0.

Mr. Morris said that SDP-2008-00012, South Pantops Condos - Preliminary was indefinitely deferred.

Mr. Fritz noted that there may be several members of the public interested in the South Pantops project who may have come not knowing that it was going to be deferred.

Mr. Morris reopened the public hearing and invited public comment. Several individuals were present for informational purposes. There being no public comment, the public hearing was closed. He noted that the matter was indefinitely deferred and would be readvertised.

Regular Items:

SDP-2008-00097 Couch Property-Boyd Tavern (Verizon Wireless) Tier II

The request is for approval of a treetop personal wireless service facility with a steel monopole that would be approximately 100 feet tall (545 feet AMSL) and 10 feet AMSL above the height of the tallest tree within 25 feet and with a 12'x 30' x 10.92 (W x L x H) prefabricated shelter/equipment cabinet. This application is being made in accordance with section 10.2.1.22 of the Zoning Ordinance, which allows for Tier II wireless facilities by right in the (RA) Rural Area. The site contains 3.06 acres, and is described as Tax Map 94, Parcel 34. The property is located on Black Cat Road [State Route 616] approximately 300 feet from the intersection of Black Cat Road [State Route 616] and Further Lane [Private].The site is in the Scottsville Magisterial District and is zoned RA Rural Area and EC, Entrance Corridor. The Comprehensive Plan designates the property as Rural Areas in Rural Area 2. (Gerald Gatobu)

Mr. Gatobu presented a power-point presentation and summarized the staff report. (See power-point presentation)

- The proposal is to establish a telecommunication facility consisting of a 100' tall monopole with an equipment shed. This tower location is on the Entrance Corridor. A determination was made by Ms. Maliszewski, Design Planner for the ARB that it was beyond 500' of the Entrance Corridor. Therefore, it did not need an Entrance Corridor review.

- There will be an extension from the existing driveway to the tower location, which is in a wooded area at the rear of the lot. Installation of the tower will require one tree to be removed. A tree conservation plan will be prepared by a certified arborist. The site will be maintained in accordance with the plan. A balloon test was done. The balloon was visible across the road from the neighboring property. The balloon was not visible from either Route 250 or I-64. Staff's main concern was the neighbor across the road. The applicant talked to the neighbor and explained the proposal.
- Staff recommends approval of this personal wireless service facility at 7' above the reference tree. Visibility of the tower will be mitigated by lowering the tower from the requested height of 10' above the reference tree to 7'. There is a fall zone easement being negotiated between this property and the adjacent property. The clump of trees that Ms. Joseph asked about was actually within the fall zone area of this tower.

Mr. Morris invited questions for staff.

Mr. Loach asked if the neighbor looked at the balloon test.

Mr. Gatobu noted that Mr. Coach talked to his neighbor and explained what was happening on the property.

Ms. Joseph asked why the facility was so close to the property line and if trees that were off site were being relied upon to help screen the pole.

Mr. Gatobu replied that they were relying on the trees off site to help screen the pole itself. The clump of trees helps screen the tower from adjacent properties. If the clump of trees were taken out, the tower would be visible from the adjacent properties.

Ms. Joseph asked if the easement being negotiated would also state that these trees have to remain on the other person's property.

Mr. Gatobu replied that the applicant could put in their easement agreement that the trees never be taken out because that would affect the visibility of the tower. Approval by the Commission is based on the limited visibility created by those trees. He felt that this was a legal issue the applicant could work out.

Mr. Morris opened the public hearing and invited the applicant to address the Commission.

Maynard Sipe, attorney for Verizon Wireless, said that he was present with Stephen Waller, consultant with Verizon Wireless, to speak for the request. The applicant agrees with staff's findings on pages four and five of the staff report that discuss how minimal the visibility is and that there will be no impact on the open space resources in the rural area. They accept staff's recommendation for 7' above the reference tree, and ask for the Commission's approval.

Ms. Joseph asked if the fall zone would include an easement to keep those trees that are off site.

Mr. Sipe pointed out that at this moment they don't have that arrangement, but they could go back to that land owner and discuss it. The land owner was amendable to the fall zone easement so they think the owner might be amendable to preserving the trees. On the property, there are woods behind and to the north of the tower site. The other neighboring parcels have wooded areas that screen the tower site from Route 250 and other properties. It is not that they are relying on just a few trees because there is a large extent of woods.

Mr. Fritz said that the ordinance requires that all trees within 100' of the tower not be removed regardless of whose property those trees are on. So if the applicant failed to get an easement to preserve the trees within 100' on the adjacent property and if that property owner were to cut the trees, this pole would need to come down.

Mr. Morris invited public comment. There being none, the public hearing was closed to bring the matter before the Commission.

Ms. Joseph asked staff to clarify that it was in the ordinance that this easement is required and it does not have to be a condition of approval because it has to happen.

Mr. Fritz said that the preservation of trees within 100' has to happen. The easement has to happen because they did not request a waiver.

Ms. Porterfield asked if preserving the trees was a liability on the adjacent property owner. If the adjacent neighbor cut a tree down, is it their problem or a problem for the applicant.

Mr. Kamptner stated that the ordinance says that the "applicant" shall not remove any trees within 100'. Approval of this permit does not mandate actions on the part of the owners of parcels 34C or 29A.

Mr. Fritz noted that the ordinance has always been interpreted that way (i.e., to mean that even if somebody other than the applicant removed the trees, such as the owner of the abutting property within 100 feet of the facility), the applicant would be in violation of the regulation. The conservation plan shows all the trees on the site whether remaining or being removed. If the applicant is showing that the trees won't be removed, then the applicant would be in violation of their conservation plan if those trees were cut down. If the trees are removed, the applicant is not in keeping with the conservation plan even if they are not responsible for the removal. Staff would recommend strongly that the applicant get an easement agreement regarding maintenance of the trees in the conservation plan.

Mr. Gatobu asked if maintenance of the trees can be added to the private fall zone easement agreement.

Mr. Kamptner replied in the affirmative. For Tier II facilities, the Commission by ordinance cannot impose conditions but can strongly encourage the applicant to address this issue in the easement document.

Ms. Joseph strongly encouraged the applicant to address this issue in the easement document.

Motion: Ms. Porterfield moved and Mr. Loach seconded to approve SDP-2008-00097, Couch Property-Boyd Tavern (Verizon Wireless) Tier II as recommended by staff.

The motion passed by a vote of 4:0.

Mr. Morris said that SDP-2008-00097, Couch Property-Boyd Tavern (Verizon Wireless) Tier II was approved. It will not be heard by the Board of Supervisors.

Public Hearing Items:

SP-2008-00021 Co-Construct
PROPOSED: Home Occupation, Class B to allow up to 2 employees associated with a internet-based home business ZONING CATEGORY/GENERAL USAGE: PRD, Planned Residential District, with Proffers : residential (3 - 34 units/acre) with limited commercial uses. SECTION: 19.3.2 Home Occupations, Class B. COMPREHENSIVE PLAN LAND USE/DENSITY: Crozet Master Plan Neighborhood Edge CT3 - predominantly residential uses (net 3.5 -4.5 units per acre, 6.5 units per acre if accessory apartments added for 50% of the residential stock) in Neighborhood 7. ENTRANCE CORRIDOR: No. LOCATION: 1814 Clay Drive, Crozet, VA 22932, in the Waylands Grant subdivision, off of Jarman's Gap Road (RT 691), approx. 700 ft from the intersection of Crozet Ave (Rt 810). TAX MAP/PARCEL: 55D-49. MAGISTERIAL DISTRICT: White Hall. (Judy Wiegand)

Ms. Wiegand made a power-point presentation and summarized the staff report. (See power-point presentation)

The purpose of this special use permit is to allow an existing internet-based business now operating under a Home Occupation, Class A permit to add up to two employees.

Applicant's Proposal:
- Now operates an internet-based business that provides project management software for home builders and remodelers. Sells subscription access to its website.
- Business is growing—needs up to two employees.
- Regular business hours 8 am – 6 pm, Monday – Friday.
- Employees will park in the driveway.
- No customer/client visits to the home.
- No signs or other exterior changes to home.

As an attachment to the staff report there is a neighbor's letter in support of the request from the occupant of the other side of the duplex. The business will primarily be conducted in the basement. Wayland's Grant has single-family and duplex homes.

Factors Favorable:

1. This home occupation provides a useful service to home builders and remodelers.
2. Allowing the owner to have up to two (2) employees not living in the home will offer employment to two people.
3. There will be no impacts on surrounding properties.

Staff has not identified any unfavorable factors.

Staff recommends approval of the special use permit subject to the conditions listed in the staff report.

Mr. Loach asked if there are a maximum number of employees before it changes to another grade.

Mr. Cilimberg noted that the ordinance allows up to two non-family employees, which can be modified by the Planning Commission.

Mr. Morris opened the public hearing and invited the applicant to address the Commission.

Donald Wyatt, applicant, represented the request.

Mr. Morris invited public comment. There being none, he closed the public hearing to bring the matter back

Motion: Mr. Loach moved and Ms. Joseph seconded to recommend approval of SP-2008-00021, Co-Construct with the conditions recommended by staff,

1. This Home Occupation, Class B, replaces Home Occupation, Class A (HO 2005-00260).
2. There will be no more than two (2) employees, other than members of the immediate family living on the premises.
3. The Home Occupation will not use more than 500 square feet of the home at 1814 Clay Drive.
4. There will be no customer/client visits.

The motion passed by a vote of 4:0.

Mr. Morris said that SP-2008-021, Co-Construct will go before the Board of Supervisors at a date to be determined with a recommendation for approval.

Old Business:

Mr. Morris invited old business. There being none, the meeting moved to the next item.

New Business:

Mr. Morris invited new business.

Ms. Joseph noted that on Pantops someone was aggressively pruning trees. Part of the site plan ordinance contemplates a certain amount of growth per tree. In fact, site plans have to indicate how big tree canopies are projected to be in ten years. This needs to be a certain percentage of the site. She asked how this incredibly intensive pruning can occur. She questioned whether those having the pruning done were violating their site plan. Additionally, she worried about the trees being pruned so aggressively during the current very dry conditions.

Mr. Kamptner said that he would follow up with Current Development regarding this.

Mr. Cilimberg agreed to include the magisterial district on the Commission's schedule as requested by Ms. Porterfield.

Two joint meetings of the City/County Planning Commissions are being planned; one in the fall regarding affordable housing and the other in the winter regarding planning for density. The first meeting is tentatively planned for the fourth Tuesday of October, subject to confirmation from the City.

Mr. Morris noted that there is a concern that the action memos from their meetings are being sent while members are on vacation. He asked if this was a problem. He noted that he had been absent at times and would personally prefer not slowing the process down.

Ms. Joseph noted that the whole idea is to get this information out to the applicants in the action letter from the Planning Commission. She felt that they need to get it out as quickly as they possibly can.

Mr. Morris asked Ms. Taylor if she was getting enough input or feedback from people who are in fact in the area.

Ms. Taylor replied that she did not always receive feedback from every Commissioner.

Ms. Joseph said that she only responds when she wants staff to consider something or it is confusing. If it was okay, she did not respond.

Ms. Taylor noted that if she did not hear back from any Commissioners, it was assumed to be okay.

Mr. Morris noted that in other words silence is approval.

Ms. Porterfield noted that her only suggestion might be if there is a week during which the Commission meeting is cancelled due to potential lack of a quorum that might not be a good week to ask for responses because Commissioners might not be available to respond. For instance, last week she was not on the internet to check messages due to her travel location.

Ms. Joseph suggested that the Commission consider a request by Rich Collins to come and give a synopsis on the progress of the ASAP study. The County has funded part of the study to determine the carrying capacity of Albemarle County or how many people can actually live here without taxing services such as water, etc. The Commissioners suggested that it be placed on a short Commission agenda in the future, and Marcia Joseph agreed to work with ASAP and staff to schedule.

Due to the full agenda next week, Mr. Morris asked any Commissioner who would be absent to contact him or Wayne Cilimberg.

Adjournment

With no further items, the meeting adjourned at 6:50 p.m. to the Tuesday, August 19, 2008 Planning Commission Meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

_____

V. Wayne Cilimberg, Secretary

(Recorded and Transcribed by Sharon Claytor Taylor, Clerk to Planning Commission and Planning Boards)