Albemarle County Planning Commission
April 20, 2010

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, April 20, 2010, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Russell (Mac) Lafferty, Ed Smith, Thomas Loach, Chairman; Linda Porterfield, and Don Franco. Absent were Calvin Morris and Duane Zobrist, Vice Chairman. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

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

Call to Order and Establish Quorum:

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

Other Matters Not Listed on the Agenda from the Public:

Mr. Loach 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 – April 7, 2010 and April 14, 2010.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on April 7, 2010 and April 14, 2010.

Items Requesting Deferral:

SP-2009-00034 Re-Store'n Station (Sign # 33 & 36)
PROJECT: SP200900034 RE-STORE'N STATION
PROPOSED: Use of more than 400 gallons of groundwater per site-acre per day for convenience store.
ZONING CATEGORY/GENERAL USAGE: HC, Highway Commercial - retail sales and service uses; and residential use by special use permit (15 units/ acre); EC Entrance Corridor - Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access
SECTION: 24.2.2.13, Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre in development lots)
ENTRANCE CORRIDOR: Yes
LOCATION: US 250 (Rockfish Gap Turnpike) approximately 1,600 feet (0.3 miles) west of Western Albemarle High School
TAX MAP/PARCEL: Tax Map 55B Parcel 1
MAGISTERIAL DISTRICT: Whitehall
DEFER TO JUNE 8, 2010 TO ALLOW APPEAL OF ZONING ADMINISTRATOR'S DETERMINATION TO BE HEARD BR THE BOARD OF SUPERVISORS.
(Summer Frederick)

Mr. Fritz noted that staff has requested a deferral to June 8th because State law will not allow this hearing until the Zoning Administrator's determination has been heard.

Mr. Cilimberg noted that the special use permit request will have to be readvertised because the second ad did not run properly. Therefore, the Planning Commission does not have to open for public comment.

Mr. Loach invited public comment. There being no public comment, the matter was before the Planning Commission for action.

Motion: Mr. Franco moved and Ms. Porterfield seconded to allow deferral of SP-2009-00034 Re-Store-n Station to June 8, 2010 in order to allow appeal of the Zoning Administrator's determination to be heard by the Board of Zoning Appeals.

The motion passed by a vote of 5:0.

Mr. Loach said that SP-2009-00034 Re-Store-n Station was deferred to June 8, 2010.

Regular Item:

SDP-2010-00014 Silo Replacement – Wilson Ready Mix
Request in accordance with Chapter 18 Section 4.10.3.1 for approval of a modification to allow a silo structure to be located no closer in distance to the property line than the height of the structure. The proposed silo is approximately seventy-six (76) feet in height and is located forty-three (43) feet from the property line. The property, described as Tax Map 32, Parcel 22C1 is 2.0 acres and is located in the Rio Magisterial District on the west side of Seminole Trail [SR 29], approximately 450 feet north of its intersection with Northside Drive. The property is zoned Heavy Industrial (HI), Entrance Corridor (EC), and Airport Impact Area (AIA). The Comprehensive Plan designates this property as Industrial Service in the Hollymead Community. (Megan Yaniglos)

Ms. Yaniglos presented a Power-Point presentation and summarized the staff report.

- The request is for approval of a modification to allow a silo structure to be located closer in distance to the property line than the height of the structure. The proposed silo is approximately seventy-six (76) feet in height and is located forty-three (43) feet from the property line. This is located at the Wilson Ready Mix site on Route 29 North.
- The proposed plan was included in the staff report in Attachment A.
- Chapter 18 Section 4.10.3.1 (b) of the Zoning Ordinance requires that a silo shall not "be located closer in distance to any lot line than the height of the structure." The Planning Commission can waive or modify this requirement provided that it "determines that the public health, safety or welfare would be equally or better served by the modification or waiver" per Section 4.10.3.1 (c).
- Staff has identified the flowing favorable factors to allow the proposed silo to be located 43 feet from the property line. Staff has found that the proposed silo would equally serve the public health, safety and welfare.
    1. The property and the adjacent property for which the setback modification is needed are both zoned Heavy Industrial.
    2. A structure could be located at a height of 65 feet immediately adjacent to the property line without a setback, which is only 11 feet shorter than the proposed silo. Also, the proposed silo is setback 43 feet from the property line.
    3. The recently prepared Industrial Land Survey noted that limited Heavy Industrial land is available. Therefore, this use has limited options to relocate due to limited inventory of Heavy Industrial land. Granting this modification where no health or safety concerns exist would advance the public welfare by making efficient use of Heavy Industrial land which is a limited resource in the County.
- Staff found no factors unfavorable.
- Staff recommends approval of the silo located and shown on the plan in Attachment A with the following condition.

    1. The silo shall be constructed in general accord with Attachment A.

Mr. Loach invited questions for staff.

Mr. Lafferty said that it seems like they can grant a modification if it is a health, safety or welfare concern. He questioned how it fits in.

Ms. Yaniglos replied that it actually states or equally serves the health, safety or welfare of the existing condition.

Mr. Fritz pointed out staff was saying that the public health and safety are equal regardless of where it is. Having the silo closer or farther back did not have any plus or minus to public health or safety. But, staff is finding that it better serves the public welfare to grant this modification because it allows for a more efficient use of a limited resource in the County for Heavy Industrial Land.

Ms. Porterfield asked if the same person owned the adjacent parcel where the fall zone was located.

Mr. Fritz replied that the adjacent parcel was owned by a different property owner, Mr. Hall. The subject property is owned by Augusta Land Development Company.

Mr. Kamptner asked if the boundary shared by the Hall property was the only one in question, and Mr. Fritz replied yes.

Ms. Porterfield asked if they are potentially creating an exception that could be a problem in the future since the Commission had been talking about fall zones for a considerable amount of time in regards to cell towers and wind turbines.

Mr. Fritz noted that staff evaluated that. The fall zone would actually be on to the building that was shown in the photograph, which would tend to keep it from falling on to the other property because it would fall on its own building and absorb. The likelihood of failure is low. Secondly, the building as shown displays that there is building in the way.

Ms. Porterfield suggested that if the Commission passes the request that it indicate such so it does not look like they are getting away from the fall zone.

Mr. Fritz noted that the waiver would be specifically for what is shown on their application. The Commission can note that if they want. But, the application is what they have before them and automatic. Staff discussed that and felt it was not a concern.

Ms. Porterfield reiterated that structurally speaking staff would expect if the silo would fail it would fail onto the building that would absorb.

Mr. Fritz agreed because the other building is located there, which the silo would have to get through first.

Ms. Yaniglos noted that a structure could be built to a height of 65' right up to into the property line.

Mr. Fritz said if the applicant reduced the height of the silo to 65' it could be built right on the property line. The only reason the modification is needed is because the silo is over 65' in height, which automatically kicks in the one-to-one setback. At 65' the setback is 0. At 66' the setback is 66'.

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

Since there was no one present to speak for the applicant, Mr. Loach invited public comment.

Ray Beard, owner of Cedars Hill Mobile Home Park, which was directly north of the subject property, asked how it would affect the mobile home park. He asked which property line the silo was adjacent to.

Mr. Fritz noted that the modification request was to the south property line. The silo meets the setback from the mobile home park. The modification is only needed from other Heavy Industrial property since it meets the setbacks to the residential property.

Ms. Yaniglos pointed out the silo is approximately 200' from the mobile home property.

There being no further public comment, the public hearing was closed and the matter brought back before the Planning Commission for action.

Motion: Mr. Smith moved and Mr. Lafferty seconded for approval of SDP-2010-00014, Silo Replacement – Wilson Ready Mix subject to the conditions as set forth in the staff report.

1. The silo shall be constructed in general accord with Attachment A.

The motion was passed by a vote of 5:0. (Zobrist and Morris absent)

Ms. Porterfield asked that the justification should clearly note that the fall zone is not needed because staff indicated if the silo would fall it would come down on the existing building.

Mr. Loach noted that SDP-2010-00014, Silo Replacement – Wilson Ready Mix was approved and does not require approval by the Board of Supervisors.

Old Business

Mr. Loach asked if there was any old business.

- Monthly PC schedule to be distributed.
- Materials for SP-2009-00034 Re-Store'n Station should be kept.

There being no further old business, the meeting proceeded.

New Business

Mr. Strucko asked if there was any new business.

- No Meeting on April 27th.

There being no further business, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 6:19 p.m. to the Tuesday, May 4, 2010 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)