Albemarle County Planning Commission
February 7, 2017

The Albemarle County Planning Commission held a public hearing on Tuesday, February 7, 2017, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Karen Firehock, Vice-Chair; Pam Riley, Jennie More and Mac Lafferty. Absent was Daphne Spain and Bruce Dotson. Bill Palmer; University of Virginia Representative was present.

Other officials present were Chris Perez, Senior Planner; J.T. Newberry, Senior Planner; David Benish, Chief of Planning; Sharon Taylor, Clerk to Planning Commission and John Blair, Deputy County Attorney.

Call to Order and Establish Quorum:

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

From the Public: Matters Not Listed for Public Hearing on the Agenda.

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

Public Hearing Items

SP-2016-00025 Regents School of Charlottesville
MAGISTERIAL DISTRICT: Samuel Miller
TAX MAP/PARCEL: 059000000023G1
LOCATION: 3045 Ivy Road, Charlottesville VA
PROPOSED: To omit condition #9 of SP2014-5 (the SP shall expire on Aug 13, 2017). Removing the sunset clause will allow the school more time to find a suitable location to relocate. No increase in enrollment or modifications to the school are requested.
PETITION: Chapter 18 Section 23.2.2(6) of the Albemarle County Code, which allows for School of Special Instruction
ZONING: CO Commercial Office – offices, supporting commercial and service; residential by special use permit (15 units/acre)
OVERLAY DISTRICT(S): Entrance Corridor and Critical Slopes.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Area 1 - Rural Areas – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots)
(Chris Perez)

Mr. Perez presented a PowerPoint presentation to summarize the staff report for SP-2016-00025 Regents School of Charlottesville.

On the vicinity map Mr. Perez pointed out the Christian Aid Mission parcel that Regents School of Charlottesville is located on is tax map 59, parcel 23G1. It is a 12-acre parcel that is commercially zoned surrounded by various commercial zonings as well as rural area zoning.

The proposal before us today is the applicant is requesting to remove condition #9 the expiration date of the special use permit which was placed on the last special use permit, SP-2014-5. This condition was placed on the special use permit to grant the school the requested increase in enrollment back in 2014 and allow the county a chance to reevaluate the special use permit with the requested enrollment as well as the two traffic access management strategies, condition #2 and #3.

Back in 2014 the Board of Supervisors set up this check in period at two-years, which we are going through now. They wanted to get this in there before the ultimate five-year period had lapsed to make sure that they could assess the traffic impacts as well as any safety concerns that might have developed by these two access management strategies they were requiring. This proposal does not propose to increase any enrollment or modify the school in any way.

For the check-in condition, #2 and #3 were aimed at mitigating traffic safety concerns. Condition #2 has been complied with as functioning as intended. As you can see in the picture, that is the modified entrance with what they call "pork chop" only allowing right-out at the entrance requiring vehicles that want to go back to Charlottesville to take a U-turn at one of two locations, Location A and Location B. Location A is St. Peters Attic, which is about a mile from Regents School. Location B is All Saints' Anglican Church. The school has a legal agreement with that church for a turnaround location and is approximately 1.5 miles from the school. There are no crashes related to the school with the modified entrance. There were no identified hotspots towards the west where these locations are at for the turnarounds and the right out appears to be working fine. There have been no complaints of illegal left turns to my knowledge.

Condition #3 was to implement a vanpool. The intent of that was to reduce the number of vehicle trips in and out of the school. The program seems to be working well. The school currently has one van, which hold 14 students. They have purchased a bus that will be holding 48 students and they have capacity to fill that immediately as of 2017.

The factors favorable, which he just talked about, were:

1. There were no crashes at the entrance;
2. There were no hotspots identified the west of the school, and
3. The two strategies, condition #2 and #3 appear to be working fine.

The factors that were unfavorable were:

1. There has been insufficient time to fully assess the long-term traffic impacts of the site. The Board requested five years; and the applicant is prematurely asking for two years getting rid of the condition, which goes against what the Board initially requested.
2. Removing the sunset clause allows the use (private school) to locate here indefinitely at the current enrollment levels regardless of any safety concerns that might become evident in the four years.

Staff recommends to comply with the five-year time frame that the Board initially wanted to extend it out four years based on how long it takes for traffic data to be publicly released as well as how long it takes for the applicant to come back and request that the condition be relieved or omitted.

Mr. Perez said that he would be happy to answer questions.

Mr. Keller invited questions for staff.

Ms. Riley said your recommendation goes against what the Board of Supervisors originally set in place, the five-year timeframe. She asked if staff could us a little rationale for the timeframe you are suggesting.

Mr. Perez replied that his timeframe does not really go against the Board's rationale or anything; it lines up perfectly with what the Board said of five years. He explained the two-year timeframe was the check-in period, but for how long it takes to get through the special use permit process we wanted to allow the applicant additional time. The reason why five years matters, as shown in the slide, is back in 2014 the Board requested it so they could check in on this project and make sure that the safety concerns were being mitigated by these two traffic-calming situations. The second, our transportation planner has reviewed this and suggested that five years of crash data is appropriate to allow potential safety hazards to become evident as well a five year is a standard relied upon by traffic engineers to analysis traffic accident trends for existing site conditions.

Mr. Benish pointed out at this point in time we have about two years of information or one full school year so this allows that five year period.

Mr. Keller said he had a question for Mr. Blair about the special use permits and running with the property beyond the current owner. We have an applicant that is in the process of looking for another site so if we approve staff's recommendation, for instances, does that mean that the next property owners will have the same abilities given the conditions that are listed.

Mr. Blair replied that they will and if you were to approve staff's recommendation those issues would last until 2021.

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

Valerie Long, an attorney with Williams Mullen representing the applicant, Regents School of Charlottesville, said joining her this evening is Courtney Palumbo, Head of School; two members of the Board members of Regents School, Mr. Don Woodsmall and Mr. Don Richardson; our traffic engineer, Bill Wrench and my colleague Nicole Scroll. She said hopefully we have everyone covered for any questions you may raise.

Ms. Long thanked Mr. Perez for his guidance and support over not only the last eight or so months while we have been working on this, but he has been handling these applications for several years now. As noted in the staff report this is actually the fourth time that Regents School has come forward with special use permit applications as the school has grown. She thinks Mr. Perez covered all of the issues, and we have been very pleased to see how well the traffic mitigation measures implemented as conditions of approval have been working.

Ms. Long said she would go through the few slides she had very quickly, but please stop her if there were any questions. This is just a quick summary. The school originally started in the City of Charlottesville at Jefferson Park Baptist church with just seven students and they came forward with a special use permit in 2012 and allowed to have up to 60 students. In 2013, that number increased, but it did not focus on students it was total persons including teachers and staff of 96. Their growth continued and in 2014, the increase allowed up to 130 for this current school year. Since then their growth has continued to grow and while they have been looking for a more permanent location in the meantime they were able to reestablish an upper school back at Jefferson Park Baptist Church in the city. Therefore, they have essentially moved some of the older school grades over to that school so the Ivy Road location is just part of their school. Therefore, what we are here today for is to request that you eliminate the so-called sunset clause, which would have the special use permit expire later this year.

Ms. Long said assuming you are familiar with this location; it is the property that is owned by the Christian Aid Mission right on Route 250 in Ivy near the intersection and the traffic signal at Broomey

Road. This is how the enrollment has changed over the years in the slide that shows the years, the number of students that were allowed at the Ivy Road facility and at the Baptist Church facility. Therefore, they started at 7 students and then 15 students at the church and then after they obtained their special use permit in 2012 that allowed for 60 students they had 50 students. In 2013, that number increased to 96 persons, and they had 76 persons. In the 2014/2015 school year, they allowed up to 98 students and they had 86 students. In 2015/2016, they allowed up to 130 students; and, they were very close to that limit that year at 126 persons. That was also the first year they reestablished the upper school with 17 students at the city location. This year they have fewer students at Ivy Road, but more students at the Baptist Church location. So the good news is things tend to be working well. They continue to grow and have lots of support from their families. A lot of their growth is eternal as we call it; it is younger siblings from the same family who were enrolling into the school.

Ms. Long noted there have been many questions over the last few months about the numbers of families, the car pools and vanpooling. So we thought since statistics might be helpful for you: There are 63 families with children at the Ivy Road location and as you can see, 11 of those use the vanpool. The van picks up children at Walmart and every morning a parent volunteer drives the van. Obviously mostly students who live in the northern side of the county or even further north use the van. A number of the students are children of employees of the school. Even though some children don't ride the vanpool, many of them carpool together. Therefore, we are happy to say that we have far fewer actual vehicle trips coming to the site everyday than there are number of students. There are also a number of students who live west of the school, in Crozet or further west in Ivy, who are able to turn right out of the school site to head west without

Ms. Long said the 2014 special use permit did implement several conditions among others requiring that left turns be prohibited out of the site so the school constructed a so called "pork chop" to prevent that maneuver. They implemented the vanpools and there was a sunset clause implemented to provide the Board an opportunity to check in on the status of the traffic, and she will discuss that more of that in a moment the questions about the years and the time-period. You can see the concrete, they call it a "pork chop" and she is not sure what else to call it. She pointed out it does not entirely restrict them, but it strongly discourages them. There is also markings on the pavement and signage about no left turns.

Ms. Long said as stated there is an agreement with the All Saints Anglican, which is where most of the families turn around now. She noted families actually did not turn around at the St. Peters Attic; they did for a time; but there is another antique store just past that called Ann and George, but they do not use that anymore and just use the church location. The other thing that has probably made the biggest difference is Ms. Palumbo's work with all of the families and teachers to build a culture of compliance. The families are invested in the success of this school and the continuation of the school at this location until they are able to find a more permanent location elsewhere. Therefore, the families all understand how important compliance with the special use permit conditions are adhered to and work very hard to self-police themselves and each other to ensure that. She pointed out Ms. Palumbo implements all sorts of measures from reminders from email, newsletters, signage, and track license plates. She noted it is working out very well and we are not aware of any problems as Chris indicated.

Ms. Long pointed out and explained a diagram showing how they handle drop off and pick up. She explained that the parents pull in here at the drop off, and they usually have about two cars at once dropping off. They have parent volunteers who stand there to help the kids and make sure they get back to the front door safety. They use to have drop off a little bit more in front of the door but they worried that would create backups so they wanted to get the cars a little further off of 250 for drop off. Then the parents circulate around the other buildings on site and come out and turn right to head west on 250. So far it is working well, and as indicated we had a traffic study update prepared that confirmed that there are

no backups with traffic leaving or entering the site with no other traffic situations or safety concerns demonstrated.

Ms. Long pointed out pictures showing parents helping the children out of the school and kids walking back towards the front door. As discussed, we have a vanpool now and the school is very excited. The vanpool has been so successful that there is actually a waiting list for it. Therefore, they went to the effort and raised more money and actually purchased an old school bus and repainted it; and actually have a parent just certified. She pointed out the challenge was they could not use the bus right away because they did not have a parent or any volunteers or employees who had a commercial driving license which is required for a bus. However, they had a parent volunteer to get their certification and so they are ready now to start implementing that bus that will hold 48 students total. Therefore, that will only further support their vanpool efforts and reduce the number of vehicle trips coming and going to the site each day.

Ms. Long said the challenge with the existing sunset clause is that it just creates great uncertainty for the school. It is very difficult for the parents who want to plan to know whether their children will be able to attend Regents in the fall. At this point, the school board members and administration are working very hard to find a new permanent location. However, it is extremely challenging to find any land in the designated development area that is zoned. There are actually very few places zoned for private schools, and most areas require a special use permit. They have attempted to acquire a couple of different locations already without success. Both of those locations would have required special use permits; so we need some time built in. It is difficult for them to plan how many classrooms, how many teachers they need, and it is a distraction from their mission of education.

Ms. Long said our request is that currently staff recommendation is to extend the sunset clause for another 4 years; we are asking as an alternate that you just eliminate the sunset clause. The Board and the minutes reflect this. Originally, the Board members proposed a two-year sunset clause; they thought that would give enough time to assess the traffic data. Then at one point, a Board member suggested they need five years, but it was not five years to look at traffic data it but to give them more time to find a new location. They ultimately settled on three because their concern was well let us do three years because we want to make sure that if there is a big traffic problem that turns up we want to be able to address it and not have our hands tied. So we agreed to that condition as sort of a compromised position, but our traffic data demonstrates that there have been no issues in the 2 ½ years that the school has been at this higher capacity. We are not aware of any problems and we now have the bus that will further provide more students the ability to ride the bus to school and further reduce the vehicle trips. Therefore, we think if anything the situation will become even safer with the reduced vehicle trips. Therefore, we would request that you eliminate the sunset clause together at the end of the three years, which is what the Board's request and condition was. Alternatively, we have proposed a solution somewhat similar to say the sunset clause would continue for the four years or the three years, whichever you support, but it would automatically expire at the end of that time. What we are trying to avoid is having to have the school have to come forward yet again with the fifth special use permit amendment because that is what it would require. To request that sunset clause be removed we would have to submit another application, fee, and another set of traffic data. We think if the trend continues there are no traffic issues identified that would be equally supportive of the public safety and welfare to allow the sunset clause automatically to expire. She noted their traffic engineer could speak to it and his suggestion was the term to use a group of accidents that are directly attributable to the school use. Ms. Long offered to answer questions either now or at the end of the public hearing on that issue.

Mr. Keller invited questions for applicant. There being none, he opened the public hearing for public comment.

Ms. Firehock invited public comment. Seeing no one, the meeting moved to applicant rebuttal.

Mr. Keeler invited the applicant to come forward for rebuttal.

Ms. Long said she would be happy to answer questions unless there are particular comments.

Mr. Lafferty said just as a matter of disclosure he did go to the public meeting that was well handled. He thinks the right-hand turn is enforced, unfortunately he does not believe that going down 250 heading west and then doing a U-turn is the most valuable way of doing that, but it works. At the time he went to the meeting, they did not have a CLD and now they do so they can put the big bus into going. There was a problem mentioned about the noise, but that has nothing to do with this discussion. There was a problem with the deceleration lane with the people going to Broomley Road were not familiar with people stopping at the Regent School, but thinks that is a matter of education for the Broomley Road.

Ms. Long offered to explain that on the aerial map, and thanked Mr. Lafferty for mentioning that. Therefore, to orient everyone she pointed out 250 and Broomley Road where there is a light and the entrance to Regent School. There is a deceleration lane that starts pretty far back so that any vehicles that are turning into the school go ahead and get into that decal lane to turn in. However, the challenge is that so do some of the folks who are turning onto Broomley Road, and because that has been there longer they drive right through so sometimes people who are going to Broomley are not prepared for people who are turning into the schools. She said they are planning to talk to VDOT about perhaps some signage here to just remind folks that the school entrance is coming and people get more used to it in that location. She noted no one indicated that an inherent problem due to the school; it is just a matter of people slow down when they are turning and be prepared to give people time to turn into the school if that is where they are going.

Ms. Riley asked what the long-term plans for the school are since currently they are under a condition of no new enrollment; and they are looking for a new site. She asked the school's long-term vision in terms of enrollment numbers and if they are thinking about bringing the high school and lower school back together.

Ms. Long replied that she would answer this and ask Ms. Palumbo to correct her if she is not correct. In an ideal situation, they would have a single school with both upper and lower schools together in a single location. They would like an area that has playing fields, a gymnasium and more modern classroom facilities with a little bit of elbowroom for their students. They have small classrooms, which is part of their design, and it is working very well. She was very pleasantly surprised and impressed when she first toured the school of how well they have made use of an administration building that was not designed for a school. However, they have bigger goals and they are challenged with families who have additional children growing into the school. However, long term they could be higher up to 200 and somewhere in that even larger. If there is a larger demand and interest in the school they would like to be able to accommodate it; they know they cannot do that at this location. They are now at 130 and some people have asked when you will come back and ask for 150 or 200. They cannot do that even if they wanted to here because the septic system on site limits their ability to have any more. Therefore, there is room for maybe one more classroom of families before they get up to 130, but even that they are constrained. They are very full. So hopefully long term they are continuing to look for locations. They have had a couple of wonderful locations that would have been great; but unfortunately, they need time to obtain a special use permit for their school. So for instance one location the school looked at that would have been perfect they lost the contract because they asked for a 9-month contingency period in order to go through the special use permit process and they lost the property to another buyer who was willing to buy it with a much shorter study period. Therefore, those are the challenges involved and there is a shortage of properties that work for a school that are not already developed. However, they are continuing to look

and raise money. They know this is not a long term solution but they are obviously committed to ensuring that while they are there that the conditions remain safe not only for their students and their families but for all of the residents nearby and everyone else using Route 250.

Ms. Long asked to add one other thing about the U-turns. She shares Mr. Lafferty's comments as she thinks the school and their families would share as well that the U-turn situation is not ideal. However, they do have a good arrangement with the church to U-turn safely there. However, the good news with the bus being able to come on line this semester they will have even fewer families that need to go through that process of turning right because the families who live west and just keep going most likely won't be using the bus since that picks up at Walmart. Therefore, that will further reduce. The van seats 14 students right now and the bus seats 48. Therefore, that is a huge increase in the number of children that will be able to be accommodated on that bus. Therefore, we think that will further help.

Mr. Keller said he had one question since he thinks Ms. Long actually just made the point that concerns me when you talked about how this solution works for this entity. He thinks they have shown that this is working quite well and that you have made real efforts to be creative in dealing with the transportation issues that confront the site. He requested Ms. Long to clarify again the alternative of completely doing away with the condition.

Ms. Long explained that the condition now says that it will expire in August 2017. Therefore, that already makes the school nervous because they already are in the process of now in February enrollment for the coming fall. So it is very disconcerting to not know for sure whether they will be able to be there in August or not. I hope that you all will not kick them out before then. Therefore, the condition would expire so what staff has recommended is that it just continue so change the date from August 2017 to August 2021 to be four more years. It helps and if that is the best we can do, we will take it. However, what that requires is sometime in about August 2020 that we start this process all over again. We have a pre-application meeting with the county staff; we submit a special use permit application to amend that condition; and, that is assuming we do not find a new location to move. Therefore, we hope this problem is moot, but we have to keep our options open. We would submit a new special use permit application with a $2,000 fee; they may want to get me involved again; we may have to get our traffic engineer involved again to do another study; to amend it we have to come before the Planning Commission, have a meeting with the staff, and have another neighborhood meeting. It is a lot of process, a lot of time and a lot of money for a non-profit Christian school. Therefore, if that happens and all goes well it will be a repeat procedure of what we have been through in the past year. We update the traffic study; it says there are no problems; we check with VDOT and the county traffic engineer who says there is no problems, staff sees if there are any comments from neighbors; we have a neighborhood meeting; we don't hear anything, all goes well and the Board would agree to eliminate that sunset provision. Therefore, we will take that if that is our best choice.

Ms. Long said instead, we would say please just go ahead and eliminate it because the Board said three years and we will be at three years. If not, instead of saying that we have to come back in four years and affirmatively request and apply to amend that condition phrase it to say in essence so long as there is no traffic problems directly associated to the school the sunset clause will expires after three or four years. Therefore, that gives the county the mechanism and the comfort of knowing that if a problem does crop up the county can say there is a problem. For example, if the U-turns are not working; there is some traffic hotspot that has been created; there is some patterns of collisions we can directly tie to them to the school you can say the school has to pull back on your enrollment; you have to implement some other measure to address this problem; or, we are not going to allow your special use permit to continue you are going to be done at 2021. If that is the case, the school will the first ones to say they do not want a problem either. Therefore, if there is an actual traffic problem that is attributable to the school they will be the first ones to want to step in and remedy that problem. But, if there is not a problem identified, if all

continues to go well, the staff can confirm they have not heard anything from VDOT; we could even update the traffic study to demonstrate that if that would help to give them some data to rely on we are just saying then it could just expire automatically. The difference for us is it does not require us to go through this process again at great expense.

Mr. Lafferty asked when the bus is in operation it will still have to make the right hand turn and do a U-turn on 250 and Ms. Long replied correct, at the church.

Mr. Lafferty asked do you anticipate any problems there, and Ms. Long replied we do not because they have the agreement with the Anglican Church to allow that so we think it is better to have a bus with 48 students and fewer families doing that.

There being no further questions for Ms. Long, Mr. Keller closed the public hearing to bring the matter back before the Commission. He said he had a question, again, for our counsel in response to the last point that the sunset clause would expire, which would mean that future users/owners of the property would have all of these rights run with it. He asked is there an opportunity to have it stop with this party; in Virginia law can we do that.

Mr. Blair replied that he was not aware we have the ability to that to make it a party specific special use permit. He thinks just the name itself it is about the use rather than the owner.

Ms. Firehock noted we have had this conversation on this because people will say well you know I am going to operate in a certain way.

Mr. Keller pointed out they don't know if they will have a responsible party in the future and that is part of our future planning responsibilities. He noted that they have three alternatives. One is to drop the condition just as it is. The second is to do the extension, but the extension goes away if there are no problems in the present, in terms of the five years or whatever. The third is to accept the staff proposal. He asked if that is the way, the other commissioners see it, and asked staff to put the recommendations on the screen.

Ms. Riley commented that she has the concerns that the two had expressed if we lift this and it goes with the land then really there may not be a future user that is going to be as responsible as this one.

Ms. More said she feels somewhat agreeable to the suggestion of saying if there are not traffic issues that are attributed to the school, but it still puts us back in that same situation. She really feels torn in that way because she finds that not to be an unreasonable request. However, with what you said and what counsel advised it does concern me with the implications down the road as Pam said if there is not such a responsible use in place.

Mr. Keller asked what is the comfort level from administrative law for how far out one can go in granting this extension of time for a special use permit before it becomes a kind of by right in effect for the land anyway. In other words, could we put a ten-year time period on it so they could go through two cycles if they needed to in looking for new property, and he was assuming that legal and planning staff have talked together and that is how you have come up with the recommended time frame.

Mr. Perez pointed out the time frame that staff recommended was actually just following the Board's guidance from back in 2014 for the five-year time frame. This two-year check-in and five-year timeframe was discussed so we are just following through with that five years.

Mr. Benish noted it was based on having five years of data, which there is a time lag for that data. However, whether it is five, six or seven it provides for additional information. Therefore, there is not a hard and fast that it has to be five or it could be more. However, that is what the logic was based on enough time out that we had a ponderous of information more than just one school year. So far, they have been performing well so you would hope that at the end of that five-year period we continue to have that information. However, five, six or seven is probably less important; it is having enough information over time to be sure there are not traffic issues

Mr. Blair said to answer your legal question a special use permit is a legislative action. So obviously, there are vested rights that attach, but I think you can set time limits obviously, on when those rights would expire with the permit. He did not think there was a trip wire that says if you grant a ten-year special use permit that somehow that becomes an eternal special use permit. Again, it is a legislative decision at your pleasure that you had the right to set those things.

Mr. Lafferty asked if a new owner takes possession and their traffic is going to be substantially different than what is involved now is there any way the county can protect themselves.

Mr. Blair asked what do you mean by a greater traffic count than what is currently.

Mr. Lafferty replied yes, our primary challenge is the health and safety of the public.

Mr. Blair said in that scenario all the conditions would still be applicable exclusive of condition 9 all other 8 conditions would be applicable. In Attachment A you have the nine conditions listed and for instance condition 8 in no case shall the total number of people, students and school personnel utilizing the school building exceed 150. Mr. Blair said if the question is what if somebody wanted to use the property pursuant to this permit and have a 300-person school they could not unless they came in to amend that aspect of the special use permit.

Ms. Firehock said as an example, let us say another owner comes and establishes a school there successful in their attempt as the current applicant to get a new location and another one comes in. One condition is that they shall have maintained a vanpool – condition #3, so the new person would have to maintain a van pool but let's say they are not very diligent and everyone likes driving their own car so only two people ride in the van and they don't have a bus, etc. In other words, we cannot assure that the level of performance of a future applicant even meeting all of these conditions will be the same quality and level of adherences as the current applicant. Therefore, she was not comfortable with having a special use permit condition such as the sunset; however, that is just my take on this. In addition, other factors could change around that site in terms of traffic and density of use that would cause traffic problems to occur that are not occurring now even if the applicant continues to behave exactly as they have. Therefore, she would be more comfortable having more years of traffic data and having a time in which the applicant comes back to us; and, so that is where she stands.

Mr. Lafferty asked do these conditions restrict the property to the use of a school, and Mr. Blair replied no and asked what the property was zoned.

Mr. Perez replied that the property was zoned CO.

Mr. Benish agreed that the property was zoned CO, and so there are by-right uses on the property and this special use permit is just for this use.

Mr. Blair noted that this is kind of an additional use to the already by-right uses permitted for the property.

Mr. Benish noted that it places those restrictions on that additional use the special use permit provides. However, other by-right uses can take place on this site.

Ms. More questioned if we say it goes to August 2021 and that allows this time to play out in which there is ample time for studies for everyone to feel comfortable, an applicant has to come back, and do they ask then for that to be removed because it has been shown that there are not issues.

Mr. Perez replied yes, that is what they would do at that time.

Ms. More asked then would the special use permit with that removed would still carry on to a potential other occupant.

Ms. Firehock agreed that was right and pointed out that they would be making the decision that everything seems like it could work out or whatever the reason.

Ms. More suggested that the first problem is the original timeframe given did not allow for enough time for the studies to the conducted which has caused them to have to come back. She thinks it is important to point out they hope to move; and, she hoped that they can move before then but if they were not able to move before then or they are there for that long and all of this plays out and they are back, and essentially that clause would go away and the same problem. Therefore, she did not think that should be a rationale in that we are worried it could carry on to a future owner in the event. If they find a new location, it is really about the safety and time that needs to be given because ultimately that clause could be removed down the road and it could pass on to another owner without that clause. She said the bigger issue is making sure there is ample time for the full staff assessment.

Mr. Lafferty said he was also concerned because he thinks it is punitive to make them come back and go through the process again with all of these, such as hiring an attorney and stuff like that. So he would like to see some way that we could say it can be done administratively or if it is proven that, there are no infractions in the five- or four-year study that it is approved so we can either extend the study or give them more time so that they can do proper planning.

Ms. More questioned if there is a way to say that to allow the transportation planner to have the five-year crash data and the full five-year study. It sounds like there are only two full school years of study that has taken place.

Mr. Benish noted that it was two years and one full school year he thinks is what we have. He pointed out to Mr. Blair the concern would be that it sounds like that condition is allowing for an administrative action of a legislative decision which he was not sure how that could be done. However, he thinks that they could certainly look at whether that is feasible between now and the Board just to fully vet it. However, he was not sure how we would do that.

Mr. Blair replied that is right and he was about to say the Sinclair decision he thinks there would be an issue of allowing staff to in effect make what is a legislative determination to say we will extinguish this condition without any input from the Planning Commission or the Board of Supervisors. He does not ever want to tell a client no, you cannot do that if there is a possibility; but, he really thinks Sinclair ties your hands. He said you could set an expiration date for a special use permit, which would just extinguish on the date, but you cannot allow staff to have some ability to make that call of when it ends when it does not based on my reading of Sinclair. He said it probably steps over the launch.

Mr. Firehock said in my opinion she thinks that extending this until August 13, 2021 is ample time for them to both search for a new school hopefully or for us as a county to have enough data to make a reasonable and informed educated decision about whether this site makes sense. She finds that the U-turn solution with the church, a second party agreement, is rather ineloquent; she is glad it is working in this difficult; but it is not something that she would necessarily recommend as a permanent plan for managing traffic out of this site. Therefore, she was not comfortable with the administrative approach and she agreed that it actually would not be legal. Therefore, she was ready to recommend approval.

Motion: Ms. Firehock moved to recommend approval of SP-2016-00025 Regents School of Charlottesville with the conditions outlined in the staff report with a modified condition #9 from SP2014-5 as follows: *"SP-2014-5 shall expire on August 13, 2021"*.

Ms. Riley seconded the motion.

Mr. Keller asked for a roll call.

The motion was approved by a vote of 5:0:2 (Dotson, Spain absent)

Mr. Keller noted that SP-2016-000025 Regents School of Charlottesville would be moving forward and he just wants to say we really appreciate the efforts made in dealing with transportation in this congested area. He remembers because he was on the Planning Commission the last time we had this discussion and there was a great deal of concern about the turns in and out of that and from what you are telling us you have done a really fine job in trying to deal with that. He said the Commission wishes Regents School well in trying to find a new site. Thank you.

The meeting moved to the next item on the agenda.

SP-2016-00022 Boys and Girls Club – Southwood Expansion
MAGISTERIAL DISTRICT: Scottsville
TAX MAP/PARCEL: 090A1-00-00-001D0
LOCATION: 387 Hickory Street
PROPOSAL: Amend the existing special use permit for a community center (SP201200009) to serve up to 200 children at any one time and to permit an approximately 2800 square foot modular building above the existing basketball court
PETITION: Community center under Section 14.2.2(1) of the Zoning Ordinance
ZONING: R-2 Residential - 2 units/acre
OVERLAYS: Entrance Corridor, Steep Slopes (Managed and Preserved)
COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01 – 34 units/ acre);); supporting uses such as places of worship, schools, public and institutional uses, neighborhood scale commercial, office, and service uses in Neighborhood 5 of the Southern and Western Neighborhoods Master Plan
(JT Newberry)

J.T. Newberry presented a PowerPoint presentation to summarize the staff report for SP-2016-00022 Boys and Girls Club – Southwood Expansion.

Overview of Request

- Boys and Girls Club is requesting to expand the existing community center with an approximately 2,800 square foot modular building and increase the permitted enrollment from 120 children to 200 children.

Relevant History

There have been two previous special use permits granted for this community center. The last one in 2012 expanded the number of children from 80 to 120. The other piece of history he wanted to note was the Board's resolution in October to endorse a collaborative relationship with the Southwood Community. Habitat for Humanity will be presenting a broader master plan vision for the entire Southwood area hopefully sometime later this year.

- **SP200700062** – Special use permit for 1,400 square foot expansion of existing community center at 387 Hickory Street, including play area improvements for the Boys and Girls Club (BGC).
- **SP201200009** – Special use permit for expansion of the BGC to increase the number of children allowed from 80 children to 120 children (see conditions in Attachment B).
- **September 20, 2016** – Application submitted
- **October 5, 2016** – Resolution of intent adopted by Board of Supervisors endorsing a collaborative relationship between the County and Habitat for Humanity in redeveloping Southwood.
- **November 30, 2016** – Community meeting held

Overview of Existing Area

Southwood is one parcel and you can see in yellow on the slide all the mobile homes there today. He zoomed in on the east corner where the community center is located at the corner of Bitternut and Hickory. In an aerial view of the site, he pointed out in 2007 the special use permit permitted the community center as well as a portion of the building and the special use permit in 2012 allowed building.

Today we are discussing the proposal for the modular building in the back. The view has a few different things from the concept plan that was included in the staff report. The applicant and I discussed today that this updated drawing has a ramp on the edge of the building. There are some additional plantings for screening around the edge of the building. Then also going back to the broader view, the entrance from the parking lot exists today and it would remain under the proposed plan. The concept plan included in the staff report shows that area closed off and some parking spots there. He wanted to quickly note the minor differences in the concept plan.

As you saw in the staff report staff found two favorable factors.

- This proposal will provide additional capacity for comprehensive youth development services in the Southwood community.
- This proposal will provide a larger community center/meeting place for the entire Southwood community.

- No unfavorable factors were identified.

The special use permit conditions were amended from the 2012 special use permit so the underlined text is that which has been added and the text that has been struck through would be removed in the new special use permit conditions.

1. Development shall be in general accord with the concept plan titled "Southwood Boys and Girls Club Expansion" dated April 13, 2012 and the concept plan "Southwood Boys and Girls Club Expansion" dated January 27, 2017 (hereafter "Concept Plans") as determined by the Director of Planning and the Zoning Administrator. To be in general accord with these Concept Plans, the proposed buildings and existing building renovation uses shall reflect the following major elements within the site essential to the design of the site, as shown on the Concept Plans:

- ▶ Location of buildings, uses, and structures, inclusive of the minimum setback for the new structure from Bitternut Lane must be 15 feet (as approved under SP201200009)
- ▶ Location of parking areas
- ▶ Location of outdoor play area

2. Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance; and
3. The parking study is based on a maximum of 200 children. There shall be no more than 200 children at any one time served at this location of the Boys and Girls Club.

Staff recommends approval of this request and the next slide contains the recommended motions.

Mr. Newberry offered to answer questions.

Mr. Keller invited questions for staff.

Ms. Firehock asked where the play area was located on the site.

Mr. Newberry pointed out the existing outdoor play area; the majority of which is paved and at one time was marked for a basketball court. He said it primarily is used now for soccer, but the applicant could speak to all the different ways it is used. The play area has some existing chain link fence around the perimeter. One of the concerns that we discussed with the applicant and discussed at the community meeting was the distance from the edge of this playing area to the proposed modular building. The applicant can go into more detail, but you can see on the slide a detail for a pole mounted net and my understanding is it will be about 10' or so between the edge of the playing service and any permanent improvements associated with the modular building just to give some overflow area for the children playing.

Mr. Keller opened the public hearing and invited the applicant to come forward and speak.

Craig Kotarski, a civil engineer at Timmons Group representing the applicant, said they have been working with the Boys and Girls Club as they are the tenant on this property that Habitat currently owns. As you are aware, Habitat is currently going through this master planning phase and at some point most likely this year he believes that will be brought before you. As far as the special use permit is concerned currently the Boys and Girls Club has approximately 100 students that are on their waiting list. As J.T. mentioned this would allow the special use to extend from allowing 120 students up to 200 students allowing them to nearly eliminate their waiting list. He wanted to point out a couple of things because there was some late changes, which he believes are minor. However, he wanted to make them clear to the Commission from what was originally in your packet versus what J.T. was showing previously.

One, we did change what was sort of a deck that was around the modular building and instead created ramp and that gives an accessible route down to the basketball playing area. Additionally, the building was also moved back from the existing asphalt. It was moved 6.75'. There is a note on the concept plan that points that out. That was in coordination with Habitat since we wanted to be a good tenant and part of this community. That was discussed. One of the reasons is the court still does have basketball lines on in although the population mostly uses it for soccer. Again, we wanted to provide runoff area and create as safe an area as possible for play. The community did not want to damage a new building, and that was one of the reasons that the net was added. Some of the kids just voiced concerns and we wanted to be responsive to that.

The additional item that I would also note is we did add additional screening. One of the things that if you did look at an aerial image that you would see a dust cover or a dirt cover of the basketball court. One of the issues that we have is that hillside, the area where the modular building would be placed essentially there is a lot of runoff that occurs. There have been some issues in kind of establishing any kind of plantings or anything in that area. So what we are looking at doing is hoping to eliminate that issue and keep the court a little bit cleaner by providing some storm water, a small channel on both sides to pick up storm water kind of underneath the decking as well as above on the upper side of the modular building.

Lastly, what he would just point out is we made some changes to the parking plan. One of the changes that was made was as J.T. described it the connection remains to Bitternut that was a request from Habitat that remain. Then, we also widened the parking spaces to be 10', which actually puts this into conformance versus asking for some sort of condition. This puts us in conformance with the zoning, which we show a 20' drive aisle with 10' wide parking spaces versus previously we were showing 9' parking space, which would require a 24' wide drive aisle. That essentially describes the differences with what was in you packet versus what is currently before you. If there were any questions, he would be happy to answer them.

Mr. Keller invited questions for the applicant.

Mr. Lafferty asked the height of the retaining wall.

Mr. Kotarski replied the retaining wall is somewhere in the neighborhood of 3' to 5' depending on where it is. One of the issues of moving that building back a little bit is we did have to incur some cost of the retaining wall. One of the issues obviously with what is happening at Southwood with Habitat is they wanted to move forward because of the population primarily the Southwood population would be served with the open spaces now at the Boys and Girls Club. However, they also wanted to ensure that they were able to take whatever the investment is in primarily the modular building itself and put it on another site when the time is right three, four years from now or whatever it may be. So that was a consideration in kind of working with Habitat trying to find the right medium as far as how far to push it back not to incur too many costs from like a wall cost where you can't really take that with you when you leave.

Mr. Keller invited public comment. There being none, he invited the applicant back for rebuttal.

Mr. Kotarski said he should have mentioned James Pearce, the Director of the Boys and Girls Club, who is here as well.

Mr. Keller invited further questions for the applicant.

Ms. Firehock said you mentioned the parking spot width was brought to 10' to be in compliance and then you had to widen the travel lane in the middle.

Mr. Kotarski pointed out we are using the existing asphalt. So currently, the existing asphalt has no striping or very limited striping. There are about 12 spaces that are striped. Therefore, it is very inefficient and one car could end up taking up three parking spaces. Therefore, we are showing striping that is in accordance with the parking study that was done and submitted as part of the application. We are still meeting the requirements from the parking study, which was 36 parking spaces. We did reduce from 40 parking spaces on the original application to 36, which obviously is what happens when you go from 9' wide spaces to 10'. However, we were also working with the current width of the pavement. So the current width of the pavement allowed for a 20' drive aisle and then 18' deep stalls.

Ms. Firehock said so you are not changing the actual footprint, and are just changing the striping.

Mr. Kotarski replied that was correct, but there is a small addition of asphalt on the east side of the property, which is shown shaded in an area of 3 to 4 parking spaces. However, otherwise it is just striping.

Ms. Firehock said if she understood the illustration correctly, obviously you have to put a retaining wall to deal with the erosion and you are trying to get away from the space they are playing on. She asked is it on top of the area that was shown in the aerial as sort of the dirt looking area.

Mr. Kotarski replied yes.

Ms. Firehock asked how you are going to capture the storm water and are you going to use a French drain or something small that you could sneak in there.

Mr. Kotarski replied right now there is a drainpipe that is shown as a dashed line that is on the upper end of the building, and so that will have catchments in it and also the roof will be tied to those catchments. So all of the area where the roof is currently is just falling on that hillside and making its way across the basketball court. Then underneath of the decking there will be a small swale and in this image is shown as a dashed line with an arrow that will be underneath the decking to move that water away and get to kind of come out versus to come across the basketball court.

Mr. Lafferty asked what preventions will there be to keep kids from falling off the retaining wall.

Mr. Kotarski replied there would be a couple of things. One there will be staffing in place to ensure where kids are located. One of things we did look at is different locations and staffing was key where staff could be placed so that they were not too far away, that they were not too separated, that they were not down the hill, so on and so forth. This made the most sense from a staffing perspective. As far as the retaining wall is concerned, there are requirements that above 42" required a pedestrian guardrail. So anything over 3 ½ feet will have to have pedestrian rail on top of it per Code.

Mr. Keller closed the public hearing to bring the matter before the Commission for action and discussion.

Ms. Firehock said she was tickled that this project eliminates the waiting list because no one should have to wait to get into the Boys and Girls Club.

Ms. Riley concurred. She said being in my district and presented at the CAC she thinks generally, there is just great enthusiasm for this project. She did not hear any concerns from anyone through the CAC or in the surrounding area.

Motion: Ms. Riley moved to recommend approval of SP-2016-00022 Boys and Girls Club – Southwood Expansion with the conditions outlined in the staff presentation.

Ms. Firehock seconded the motion.

There being no further discussion, Mr. Keller asked for a roll call.

The motion passed by a vote of 5:0:2 (Dotson, Spain absent)

Mr. Keller noted that the request would be going to the Board of Supervisors in a timely manner.

Committee Reports

Mr. Keller invited committee reports. The Commission suspended the committee reports due to the lack of a full board.

Review of the Board of Supervisors Meeting – February 1, 2017

Mr. Benish reviewed the actions taken by the Board of Supervisors on February 1, 2017.

Old Business:

Mr. Keller asked if there was any old business.

a. **Revised agenda layout for verification**

Mr. Keller asked for comments and feedback on the revised agenda based on their comments with the changes shown in red.

The Commission agreed with the revisions staff made to the agenda as shown in red; Mr. Keller suggested keeping the comments highlighted in red, and Mr. Benish agreed to look at keeping the color to make it easier for people to pick it up.

Mr. Keller suggested omitting the consent agenda if nothing on it and to consider a change to the By-Laws.

Regarding guidelines and how people identify themselves, the Commission discussed Mr. Palmer's question of whether speakers should be asked to state their name and address. Mr. Blair noted that part of the rationale is it is helpful to know who is from the district or not; it also may be the case of wanting to follow up with somebody; however, it is at the pleasure of the Commission. Ms. Firehock suggested to leave it as an option to the speaker and not to require it. The Commission agreed to leave it to the speaker's discretion.

Mr. Benish noted that Mr. Dotson asked for an explanation of the applicant's time in process that these guidelines don't do because you give the applicant 10 minutes plus a 5 minute rebuttal and he does not think that is in these guidelines. In that context Mr. Dotson suggested we could add that so that the public understands why they are giving more time and maybe we could put a sentence in to discourage to limit anybody associated with the application to that ten-minute timeframe. Mr. Benish said he would work on that.

New Business

Mr. Keeler asked if there was any new business.

- Tentative business schedule was distributed.
- Mr. Benish noted that next week's meeting is on the Rio 29 Small Area Plan, and the report the Commission will be getting is essentially the report that is going to the Board of Supervisor scheduled for March 1. As soon as the report is available, the Commissioners will be notified.
- Commissioners Riley, Lafferty and More asked for hard copies of the reports particularly the maps, diagrams and color copies.
- There is no February 28 joint meeting with the School Board.
- Ms. Firehock will not be present at next week's meeting.
- The next Planning Commission meeting will be held on Tuesday, February 14, 2017.

There being none, the meeting moved to adjournment.

Adjournment:

With no further items, the meeting adjourned at 7:23 p.m. to the Tuesday, February 14, 2017 meeting at 6:00 p.m. at the County Office Building, Second Floor, Lane Auditorium, 401 McIntire Road, Charlottesville, Virginia.

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David Benish, Secretary

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

Approved by Planning Commission
Date: April 18, 2017
Initials: SCT