

**Albemarle County Planning Commission  
January 6, 2009**

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, January 6, 2009, 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, Bill Edgerton, Linda Porterfield, Eric Strucko and Calvin Morris. Absent was Jon Cannon. 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; Summer Frederick, Senior Planner; Rebecca Ragsdale, Senior Planner; Joan McDowell, Principal Planner; Wayne Cilimberg, Director of Planning and Greg Kamptner, Deputy County Attorney.

**Call to Order and Establish Quorum:**

Mr. Cilimberg, serving as temporary chair, called the regular meeting to order at 6:05 p.m. and established a quorum.

**Election of Officers: Chairman and Vice-Chairman:**

Mr. Cilimberg opened nominations for the election of Chair of the Planning Commission for the upcoming year.

Mr. Morris nominated Eric Strucko to be Chair.

Ms. Joseph seconded the nomination.

Mr. Cilimberg asked if there were any other nominations. There being none, he closed the nominations and called for the vote.

The nomination of Eric Strucko as Chair of the Planning Commission for 2009 carried by a vote of (5:0:1). (Mr. Strucko abstained from voting for himself.) (Mr. Cannon absent)

Mr. Cilimberg turned the meeting over to Mr. Strucko.

Mr. Strucko then asked for nominations for Vice Chair of the Planning Commission for the upcoming year.

Ms. Joseph nominated Jon Cannon to be Vice Chair.

Mr. Morris seconded the nomination.

Mr. Strucko asked if there were any other nominations. There being none, he closed the nominations and called for the vote.

The nomination of Jon Cannon as Vice Chair of the Planning Commission for 2009 carried by a vote of (6:0). (Mr. Cannon absent)

Mr. Strucko next asked for a motion to set the Commission's Meeting Time, Day, and Location for the upcoming year. He noted that the Commission had some discussion about this at the last work session.

Mr. Cilimberg noted that he included the dates on the schedule for 2009 at which any site plan or subdivision could be appealed or called up for review. The discussion at the work session was about the possibility of having those two dates specified also for public hearings and then potentially having a third date as a work session date each month.

Ms. Porterfield suggested that they cancel the last Tuesday of every month on their calendar to start out with. The only days that are affected on Mr. Cilimberg's schedule are the 24<sup>th</sup> of November, which is Thanksgiving week and the 22<sup>nd</sup> of December, which is Christmas week. She suggested if possible that the issues be scheduled for the week before.

Mr. Cilimberg said that the 22<sup>nd</sup> of December is not the last Tuesday of the month, but it is Christmas week.

Ms. Porterfield suggested that they cancel the last Tuesday of December and also get rid of Christmas week. Thanksgiving week is the last week of November. They would still have four months, not including December, that have five Tuesdays.

Mr. Morris asked to at least reserve the distinct possibility for staff to call a meeting on that fourth Tuesday if necessary.

Mr. Fritz noted that staff might need to come back to the Commission and adjust the schedule and add a submittal date, which might be on the second Tuesday instead of the first or third. Staff might need to make adjustments.

Mr. Kamptner noted that the Commission always has the ability to add meetings to its calendar.

Ms. Joseph agreed with Mr. Morris that they keep the last Tuesday if they need it. She would hate to have a really long meeting if they get a lot of submittals. She supported the idea of having at least two meetings for regular items and one for work sessions. Then the other floating Tuesday could be used if they needed it.

Ms. Porterfield noted that was basically what she was suggesting. It would include Mr. Cilimberg's schedule, which is two meetings per month plus an empty date. All she was suggesting was to take out one meeting per month so the Commissioners could make personal plans. She acknowledged that it might not always work, but at least the Commissioners would have a better idea of what dates are available.

Mr. Loach said that the suggestion was reasonable as long as the option is open to move into those slots if necessary.

Mr. Edgerton said that there were lots of reasons to adjust it backwards and worth discussing. He would love some input from staff. One of the things that happened in the past year, which he found beneficial, was that as pressure from the development community waned the Commission had the opportunity to address several back logged issues. Before making this decision, it would behoove them to determine if they can do constructive work for the county in planning issues that are adjustments to ordinances or amendments to the Comp Plan -- things that continuously seem to be set aside because of time restraints. If they have some time he would like to seize the opportunity to put it to the best use they can.

Mr. Cilimberg suggested that right now based on the volume of applications, having two meetings per month following the schedule handed out with the adjustments in November and December as Ms. Porterfield suggested seemed reasonable. Having those two meeting dates established and knowing they can deal with both appealed items as well as public hearing items on those dates should work for the foreseeable future in terms of taking care of that business. If the application load gets very heavy, then they might not have that luxury any more. He thought that having a third meeting in the month reserved for work sessions to deal with policy items or some of the real planning-type issues is good idea. It will help staff in scheduling the meetings. Leaving the other Tuesday open as over-flow dates will work. There are two adjustments to the schedule for the November 17 and December 15 meetings. Only if volume gets high would staff need to add anything.

Mr. Fritz noted that two meetings per month would be crucial to make sure applicants can make frequent applications and staff can manage our own work load in making the meetings.

Mr. Kamptner noted that the Commission has the option of calling a special meeting at any time.

Mr. Cilimberg noted that another item the Commission discussed at the work session was the possibility of having the work session meeting start earlier.

After discussion the Planning Commission agreed not to start the work session meeting any earlier than the regular 6:00 p.m. starting time.

Mr. Strucko reiterated that the proposed schedule would be the first three or four Tuesdays of the month, depending upon the month. If the month had five Tuesdays, the first and third Tuesdays would be for site plans and subdivisions and the second Tuesday would be for work sessions.

Mr. Cilimberg noted that it does not work that way all year because of the application schedule for site plan and subdivisions. The schedule distributed in the packet had the two dates in the month that they would need to make sure they meet with the understanding that the 24<sup>th</sup> of November and 22<sup>nd</sup> of December are going to change to a week earlier. Then beyond that they would add the Tuesday between those meeting dates as their work session date except in November and December in which it would be the first Tuesday.

Mr. Strucko added that the Commission would reserve the right to call up a meeting on any other Tuesday.

Ms. Porterfield suggested that the motion be to use the schedule submitted by Mr. Cilimberg plus the Tuesday between the monthly schedule except for Thanksgiving week and Christmas week, which will be moved up one week.

Mr. Morris noted that they would always have the option of adding a meeting.

Ms. Porterfield said that the work session would be the one in between each of the monthly meeting if at all possible.

Mr. Cilimberg noted that in November and December because there is no week in between would be on the first Tuesday.

**Motion:** Mr. Morris moved and Ms. Porterfield seconded approval of the schedule as submitted in the packet plus the Tuesday between the monthly schedule except for Thanksgiving and Christmas week, which will be moved up one week with the caveat that the Commission always has the option of adding a meeting.

The motion passed by a vote of 6:0. (Mr. Cannon absent)

#### **Adoption of Rules and Procedures:**

Mr. Strucko next asked for a motion to adopt the Commission's Rules of Procedure for the upcoming year. He noted that the Rules of Procedure had been distributed to the Commission.

**Motion:** Ms. Joseph moved and Mr. Morris seconded adoption of the Rules of Procedure for 2009 as outlined in the Planning Commission's packet.

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

Mr. Kamptner asked that they go back to something regarding the meetings. The Commission needs to vote on the time and location for the meetings.

**Motion:** Ms. Porterfield moved and Mr. Morris seconded that the Planning Commission's meeting time and location for 2009 remain the same at 6:00 p.m. in the auditorium on the second floor, County Office Building unless changed for purposes of the meeting.

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

- There are two meetings per month reserved for public hearings and site plans and subdivisions requested for PC review, and one additional meeting per month reserved for work sessions. All meetings are scheduled to begin at 6:00 in the COB Auditorium, subject to adjustments in time and location from time to time based on the topics on the agenda.

#### **Committee Reports:**

Mr. Strucko asked for committee reports from the Commissioners. There being none, the meeting continued to the next agenda item.

#### **Other Matters Not Listed on the Agenda from the Public:**

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

#### **Public Hearings:**

##### **SP-2008-00052 Forest Lakes Office Park (Sign # 96 & 103)**

PROPOSED: Special use permit request off-site parking and dumpster pad.

ZONING CATEGORY/GENERAL USAGE: R15-Residential: compact, high-density residential (15du/acre).

SECTION: 18.2.2.16 Stand alone parking and parking structures (reference 4.12, 5.1.41). (Added 11-7-84;Amended 2-5-03)

COMPREHENSIVE PLAN LAND USE/DENSITY: Transitional in the Hollymead Community

ENTRANCE CORRIDOR: Yes

LOCATION: Southeast corner at intersection of Timberwood Boulevard (SR 1721) and Worth Crossing (SR 1722).

TAX MAP/PARCEL: Tax Map 46B4 Parcels 7B and 7C

MAGISTERIAL DISTRICT: Rivanna

(Summer Frederick)

##### ***DEFERRED FROM THE DECEMBER 9, 2008 MEETING***

Mr. Strucko recused himself from this item since he was employed as the Chief Financial Officer for the UVA Health Services Foundation which occupies the property that is the subject of this transaction. (See Attachment - Statement of Disclosure) He noted that the Commission would have to select an Acting Chair due to the absence of the Vice Chair for this item.

**Motion:** Ms. Porterfield moved and Ms. Joseph seconded that Mr. Morris act as Acting Chair for this item.

The motion passed by a vote of (6:0).

Mr. Strucko stepped down as Chair at 6:23 p.m.

Mr. Morris, Acting Chair, asked for the staff report.

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

- The request is for approval of existing parking spaces on a lot with no primary use (stand-alone parking). There is a medical office building currently located on site. The staff report was given at the last meeting and nothing has changed. The request was deferred at the December 9, 2008 meeting. The proposal is consistent with the original concept for development.
- Staff finds that the proposed special use permit meets the requirements of County Ordinances and recommends approval for stand-alone parking in accord with Section 18-4.12.11.

Ms. Joseph noted that last time the landscaping was in the wrong place.

Ms. Frederick said that approval of the special use permit would abate the current violations.

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

Benton Downer, of Downer Realty, said that he was one of the managing partners of HighLife LLC and was present to answer any questions. They are in the process of filing some site plans on this project. But due to some economic issues they have not moved forward with the site plans. The violation occurred at some point in creating the subdivision. When this parcel was originally formed it was 5.7 acres in parcel. When they closed on the property it is as they see it today. They were not cited with the violation until post-closing, but he did not remember exactly when that occurred.

Mr. Morris invited public comment. There being none, the public hearing was closed and the matter brought back before the Planning Commission.

Ms. Porterfield questioned if in the foreseeable expansion to the area they will overbuild the existing parking.

Ms. Frederick replied that they will have to include more parking. Any further development on this property will be subject to a new site plan approval in which parking requirements for that proposal will have to be met in order to be approved.

**Motion:** Ms. Joseph moved and Ms. Porterfield seconded approval of SP-2008-00052, Forest Lakes Office Park for stand-alone parking in accord with Section 18-4.12.11.

The motion passed by a vote of 5:0:1. (Mr. Strucko abstained.)

Mr. Morris said that SP-2008-00052, Forest Lakes Office Park would go before the Board of Supervisors at a date to be determined with a recommendation for approval.

Mr. Strucko returned to the meeting as Chair at 6:29 p.m.

### **Regular Items:**

#### **SDP-2008-00169 Eckman Property (AT&T CV379) – Preliminary**

The request is for approval of a treetop personal wireless service facility with a steel monopole that would be approximately 75 feet tall (23 feet below the height of the tallest tree within 25 feet), with equipment cabinets located at the base of the tower on a concrete pad. This application is being made in accordance with Section 10.1.22 of the Zoning Ordinance, which allows for Tier II wireless facilities by right in the Rural Areas. The property is 1.357 acres, described as Tax Map 87B, Parcel 4, is located in the Samuel Miller Magisterial District off of Monacan Trail Road [Route 29], and is zoned RA, Rural Areas and EC, Entrance Corridor. The Comprehensive Plan designates the property as Rural Area in Rural Area 3. (Megan Yaniglos)

Ms. Yaniglos presented a power-point presentation and summarized the staff report. (See staff report)

- The is a proposal for a Tier II personal wireless service facility with a 75 foot tall steel monopole and three flush-mounted antennas. The proposed site is located in the southwest corner of the intersection of Route 29 South and Taylor's Gap Road. This site is located as such that the topography allows for the owner/applicant AT&T to obtain the coverage they need along Route 29 and therefore the proposed monopole is 24 feet below the height of the reference tree. The ground equipment and monopole will be screened by vegetation.
- On page 5 of the staff report there is an error stating that a wood fence would surround the facility. However, staff found that evergreen vegetation would be sufficient in this case. The Architectural Review Board approved that suggestion as well. The monopole will be painted brown to further minimize the visibility from the Entrance Corridor and surrounding parcels. A

balloon test was conducted. It was determined that the proposed pole would be visible for a relatively short period of time basically at the intersection of Taylor's Gap Road and Route 29. An ARB application was received. The ARB has approved the location based on the lack of visibility from Route 29.

- Staff recommends approval of this personal wireless facility. Staff and the Architectural Review Board found that no visual impact with the additional facility, which is 75' from the proposed tower and the existing tower, is about 80' in height. In the staff report there are some photo simulations done by the applicant.

Mr. Strucko invited questions for staff.

Mr. Edgerton asked why the two towers could not be co-located. He asked if the proposal was a wholly separate facility.

Ms. Yaniglos replied that this proposal was a separate facility and suggested that the applicant answer the question about co-location.

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

Katie Carmichael, representing the applicant AT&T, presented a PowerPoint presentation and explained the proposal.

- Others present were Jerry Sharp, with FAI a contractor for AT&T and Ms. Carmichael's collegiate Valerie Long. AT&T is proposing to improve the wireless telecommunication coverage for its customers in Albemarle County. Coverage in the Route 29 area is poor and many customers experience dropped calls or can't even initiate a call. The facility would provide coverage to the travelers along Route 29 who are experiencing a significant hole in the coverage along Route 29. Route 29 is a major thoroughfare for Albemarle residents and small businesses. Wireless service in this area is important.
- AT&T carefully chose this location. It first looked at existing towers or structures that it could co-locate on. This location is adjacent to a gas station. The pole is 75' in height, but is 23' below the reference tree. Co-location is always AT&T's first choice for a new location. Since there is an existing tower in the area AT&T conducted signal-strength tests simulating co-location on the existing facility and the signal test failed. The branches of the adjacent trees blocked the signal strength for the Route 29 area, which is the major coverage area.
- The reference tree is 98' tall. AT&T also looked at raising the pole height of the existing pole and determined that it is not actually the height of the existing tower that is the problem, but the trees in the siting of the tower on the property. By simple shifting and moving a tower in front of the trees, they were able to get in front of the branches that blocked the signal and cover Route 29 both north and southbound. So co-locating on the existing tower actually does not work. The ARB had a similar conversation about co-locating and concluded that the low height, the minimal area of visibility and the backdrop of trees were significant for them. Ultimately, the ARB unanimously approved the application as proposed.
- When traveling on north and southbound 29 the site is not visible. So there is only a small area where the site is actually visible. The proposed tower is 23' below the reference tree and the planting of the mature Virginia Cedars proposed will minimize the visibility from the Route 29 area.

Mr. Edgerton asked if when this tower is built will there be opportunity to take the antenna off the existing tower and co-locate it on this one so that there is only one tower at this gas station parking lot.

Ms. Carmichael replied that there would be opportunities for co-location, but it would depend on whether the signal would work for the other carrier and whether they would want to co-locate on the new pole.

Mr. Edgerton asked who the other carrier was, and Ms. Carmichael replied it was Intellos.

Mr. Edgerton noted that it seems silly to have two towers at same the location on the same highway.

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

Mr. Loach asked if there was a way they could place a condition on the approval that this was the limit for this area and allow no more towers.

Mr. Kamptner said that the Commission cannot impose a condition in their review of the Tier II. Visibility is always evaluated on a case-by-case basis under the Tier II analysis. Once an application is for the third wireless facility within 200' of the other two, the application becomes a Tier III application, which is a special use permit application. The next tower within 200' will require a special use permit.

**Motion:** Mr. Morris moved and Ms. Porterfield seconded to approve SDP-2008-00169, Eckman Property (AT&T CV379) – Preliminary for a personal wireless facility.

The motion passed by a vote of 6:0.

Mr. Strucko noted that SDP-2008-00169, Eckman Property (AT&T) was approved.

### **Public Hearing Items:**

#### **SUB-2008-00109 Bellair Subdivision**

The request is for final plat approval to create 2 lots on 2.428 acres. The property is zoned R-1 Residential. The property, described as Tax Map 76C-02 Parcel 1 is located in the Samuel Miller Magisterial District on Deer Path Road [Route 809] approximately 750 feet from the intersection with Old Farm Road [Route 846]. The Comprehensive Plan designates this property as Neighborhood Density in Urban Area 6. (Megan Yaniglos)

Ms. Yaniglos presented a pp presentation and summarized the staff report.

- This is request for a final subdivision plat to create 2 lots on 2.428 acres in the development area. The parcel is located adjacent to the Bellair Subdivision and was given preliminary approval in February 2008 with conditions. The plat has been reviewed and has met all of the requirements of the ordinance as well as the conditions of preliminary approval. Therefore, staff recommends approval.
- Ms. Joseph had additional questions on the site. The minimum lot size for the R-1 zone is 45,000 square feet. A building site can contain the drain field. The building site minimum is 30,000 square feet, which they are meeting.

Ms. Joseph asked if that is something that the Health Department considers. She noted that the entire area was all uphill and questioned how the drain field could be located on the site.

Mr. Fritz noted that the drain field can be at a higher elevation than the house. They would have to use a grinder pump to use that.

Ms. Joseph noted that her expectation was that the plat would show an area that could be measured that was 30,000 square feet and not shown as arrows.

Ms. Yaniglos noted that during the preliminary plat there was administrative approval of the building site modification of shape because of the odd shape and the restraints on the site with the water features. The administrative approval was given at that time. Generally a building site needs to be dimensioned in a rectangular 5 to 1 30,000 square feet. But, because this is an odd shaped and it was administratively approved that building site requirement be waived.

Ms. Joseph noted that if she went to buy this lot and wanted to build a house she needed to know where she could put the house. With arrows shown on the plat it was not clear where she could put a house on this. She was looking for something a little more specific.

Mr. Fritz noted that there was a line on the plat that did not contain metes and bounds. But, the buildable area was pointing to a line that goes around the property on both parcels. He acknowledged that Ms. Joseph was correct that the plat did not contain a metes and bounds description.

Ms. Joseph said that it was like a setback line. She asked if anywhere within that line it was buildable.

Mr. Fritz replied that was correct.

Mr. Edgerton asked if there was any prohibition against building in wetlands.

Mr. Fritz replied that if wetlands were identified as a resource in the WPO they could not build on them.

Mr. Edgerton said that it appears that wetlands take up a considerable part of the building site particularly on the lower lot. He asked if they have a determination of the wetlands. If that is the case they don't have a buildable lot.

Mr. Fritz replied that the site on the lower lot was measured out by the surveyor at 30,330 square feet and stays away from the wetland area.

Mr. Edgerton said that he was having trouble seeing that line because it looks like it goes through the wetlands. He asked if there are no wetlands shown in those 30,330 square feet.

Mr. Fritz replied that was correct.

Mr. Edgerton asked if the drain field can be located in that building area.

Mr. Fritz replied that is correct.

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

The applicant did not have anything to add and did not want to make a presentation.

Mr. Strucko invited other public comment.

Joel Loving said that he lived across the road from the lot that Mr. Harding and Mr. Bonner wish to split in two. He displayed a drawing on the screen from the document camera showing the property being proposed to be split in two by Mr. Harding. According to his calculations regarding critical slopes, ponds, streams, marshlands and drain fields these are about the only two locations left to build the two houses. Essentially they will be inserting a duplex into the neighborhood. He wanted the Commission to picture what it looks like globally. In their minds it is certainly not pretty. It is obvious that the neighbors as well as the Bellair community in general are all opposed to this proposal. They would not have spent so much time, energy and their own resources on this had they not felt that it in their interest as well as the county's to allow such an environmentally bad proposal to survive. On this existing lot they want to subdivide in two there is a large pond, multiple streams, several critical slopes and delineated wetlands. There is barely enough room for one home. The developers have reduced the size of the drain fields which would force the builders to ultimately install pre-treatment type non-traditional septic systems. Attachment G of the staff report is a letter from the District Health Department. On the last page in the next-to-the last sentence it says that the subdivision approval is issued in reliance upon the certification that approved lots are suitable for traditional systems. If the proposed septic fields are part of a non-traditional septic system then how can they possibly issue approval for splitting this lot into two? These are not traditional systems. There are still many questions that have not been answered to their satisfaction. The neighbors in Bellair absolutely do not feel this proposed subdivision can be anything but trouble for them down the road and absolutely bad news for this environment.

Mr. Featherstone, an abutting property owner, spoke in opposition to the request. He noted that Lane Bonner is not involved with neighbors on Deer Path Road, but his plans will drastically change the neighborhood. There is major concern for Mr. Bonner's plan for the primary and reserve drain fields



associated with the proposed lots. If successful, Mr. Bonner will be soon advertising six small lots in a Bellair neighborhood previously known for permitting only one building per substantially larger lot. The proposal has upset the entire neighborhood.

Carolyn Homes, an adjacent property owner on the adjoining lot north of the site under consideration, asked that the Commission to look at the wetlands. From previously mowing the grass in the area she felt that the wetlands as marked are not complete. There is more that would be considered properly wetlands than is noted on the drawing. Therefore, she questioned that the 30,000 square foot required building area is accurate. It would be a nice lot for one house. She really questioned if it was appropriate to have two houses.

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

Mr. Morris asked if the engineering staff has taken a look at this property.

Ms. Yaniglos replied yes that as noted in the staff report Tamara Ambler had reviewed the proposal and had been in contact with DEQ and the Army Corps of Engineers before she left the county staff. Glenn Brooks, County Engineer, and a representative from the Health Department if there are questions.

Mr. Morris invited Glenn Brooks to address the Commission. Specifically based upon what the gentleman showed on the overhead if in engineering staff's opinion does this meet the criteria as far as septic systems and so on?

Mr. Brooks replied yes that it does.

Ms. Joseph asked if he had read the letter from the Health Department. Mr. Featherstone has referenced part of that letter in saying that "the subdivision approval is issued in reliance upon a certification that the approved lots are suitable for traditional systems. However, the actual system designs may be different at the time." This subdivision approval does conform to the requirement of local ordinances. So they don't have approved septic systems at this point.

Mr. Brooks replied that was correct.

Ms. Joseph said if they find out because of the soils or whatever that they can't do traditional system, when does this process stop.

Mr. Brooks replied that would be at the building permit stage. Typically if they have to do a non-traditional system, they would have to come back and ask permission from zoning. He suggested that Mr. Fritz could elaborate on that. It is a waiver or modification process with the Zoning Administrator.

Mr. Kamptner suggested that he start by explaining what a traditional or non-traditional system is. That terminology is new to him. He was familiar with conventional and non-conventional. But, traditional and non-traditional is a new set of terms.

Mr. Fritz said that the county is going to be looking at whether or not it meets our definition of a conventional system.

Mr. Kamptner noted that the county's definition of a conventional system allows pre-treatment.

Mr. Fritz pointed out that Mr. Brooks is not the best person to explain what the health department is talking about in terms of traditional and non-traditional. The Health Department representative would be the best person to answer this question.

Mr. Edgerton asked to go back to Mr. Morris' questions. In several places in the staff report, they are assured that all of the conditions have been met because of the certification of the applicant's professional engineering staff. He asked if the county engineering staff verified these findings.

Mr. Brooks replied yes that they have been out to the site.

Mr. Edgerton asked if he felt confident that there really are 30,330 square feet of buildable area.

Mr. Brooks replied that he did not check that. He checked whether the streams and quantity of wetland are represented correctly and he felt confident that they were. During a wet time, not all wet areas are wetlands. If anything, he felt that it had been a little overzealous.

Ms. Porterfield asked staff to point out the buildable area and if the applicant was using the portion of the lot that comes to a point to generate extra square footage. She asked if that is done very often.

Mr. Fritz pointed out that the previous Chief of Current Development granted a modification on behalf of the agent as to the shape that is traditionally a rectangle 5 to 1. The entire building site is not where the house is necessarily built, but also includes all of the other things such as a garden and outdoor living area. He agreed with Ms. Porterfield that they were not going to build there. The representation that was shown in the photograph by the first speaker is probably a fairly accurate representation of where the actual buildings will more than likely go given the location of the soils that have been identified as the drain fields and know what the setbacks are.

Ms. Porterfield asked if there is any concern when working in an established neighborhood when these type of lots are created out of something that was much bigger and really thought to contain but one house and then suddenly the house that could be built are going to be in front of the adjacent homes that have been there for a long time. She asked if there is any consideration.

Mr. Fritz replied that if lots meet the minimum requirement staff must approve the subdivision. What traditionally happens is that there is another restriction that comes into play. They have had cases where the lots were on private roads. That is not the case here.

Mr. Loach noted that in the letter from the Health Department it says the subdivision approval does conform to the requirements of local ordinance. They are relying on staff saying that the pre-treatment is applicable and all right.

Mr. Fritz noted that they have a good relationship with the local Health Department. Staff has met with them several times to explain what our current ordinance is, which is different from some of the state regulations are. Their charge is to review the plats sent from the county against our ordinances and tell us whether the Health Director can give approval, which is required. That is what they are reviewing it against. So they are saying that it meets our regulations.

Mr. Loach noted that one of the remarks was from Marjorie Moji where she talked about liabilities and responsibility. He asked if they use alternative systems is there any additional liability on the part of the county.

Mr. Kamptner replied no that there is no liability to the county.

Ms. Joseph asked if they received any information on the soil testing or a soil scientist's report to designate where these are.

Ms. Yaniglos replied that they did receive a soil's report which was passed on to the Health Department. The Health Department reviewed the soil's report, which generated all of the letters.

Ms. Porterfield asked staff where they were with the number of lots that this particular applicant is having before the Commission. She asked if this was the last of them or is there more.

Ms. Yaniglos replied that this would be the last lot before the Planning Commission. There is one lot to the south of the existing house lot that has been preliminarily approved and now is in final approval which

does not need to come back to the Planning Commission. Staff has not received anything for the middle lot as far as a subdivision. The one in the middle is proposed to stay as is.

Mr. Loach thanked staff for the information. He understood the neighbor's concern, but felt that staff has done due diligence in their staff report.

**Motion:** Mr. Loach moved and Mr. Morris seconded to approve SUB-2008-109, Bellair #1 – Final Plat.

The motion failed by a vote of 3:3. (Mr. Edgerton, Mr. Strucko and Ms. Porterfield voted nay.)

Mr. Kamptner said that failure of a motion to pass would be the effect of the denial of final plat. The Commission is required to articulate the provisions of the Subdivision Ordinance that have not been complied with in order to deny the plat. In this case this is a final plat. There were five conditions. The staff report identifies that all of those conditions have been satisfied. So in order for the Commission to justify its denial the Commission needs to articulate which of those conditions have not been satisfied. That needs to be based upon evidence in the record.

Mr. Strucko encouraged the Commissioners who voted nay to look over these conditions.

Mr. Edgerton asked Mr. Kamptner if it would be a legitimate reason to deny that they are concerned about the Health Department's report about the possibility that they will have to use non-conventional systems. They have not had any verification that will not be the case. It would have to go back to zoning. He asked why approve something if they don't know if it meets the zoning. It does not meet the zoning if they can't fit the traditional septic sites on there. That seems to be a very real issue even by the Health Department's review. Until they have that verification, he did not know how they can in good conscious support this.

Mr. Kamptner noted that it looks like Mr. Fritz is formulating a response and he would let him go first.

Mr. Fritz noted that what the ordinance requires is that we receive approval from the Health Department of the suitability of the soils for a conventional drain field. The request that they send to the Health Department asked them to say is this site suitable for drain fields meeting the requirements of the ordinance. In this particular case, they went above and beyond that. In condition 2 they asked the director to be mindful of other features on the site above and beyond what they normally would request. They have received the approval from the Health Director that the soils on the site are suitable.

Mr. Edgerton asked if the letter on November 17 is the approval.

Ms. Yaniglos replied yes.

Mr. Edgerton noted that it is the same letter that says this subdivision may contain lots that do not have approved site for on site sewage. It says in certification of the approved lots this subdivision approval is issued in reliance upon the certification that the approved lots are suitable for traditional systems. However, actual system designs may be different at the time of construction. What he was nervous about was that they were relying on this and the Health Department has not verified this as they hoped they would.

Mr. Fritz pointed out that Jeff McDaniel of the Health Department is here and may be able to help clarify that.

Mr. Strucko asked Mr. McDaniel to come forward and address the Commission.

Jeff McDaniel said that he had personally been on these lots looking at the setbacks from the streams. They have reviewed the soil reports that have been turned in to the Health Department by the engineer regarding three different kinds of systems all that meet the definition of traditional according to the agreement they have worked out with the county. They will be using what one would probably consider the old fashioned septic tank and drain fields on one of these lots to start with. That proposal is in writing

and the Commission has received copies of it in previous packets. The reserve for that one is a drip probably a drip disposal fields. The second system is a pre-treatment unit which allows for much smaller square footage of drain field with a similar reserve. They have seen the same systems being proposed on these lots that should fit within those footprint areas for the primary and reserve drain fields that are shown on the plat. They approved those same kinds of systems in this subdivision and in every other subdivision in Albemarle County and have for the past ten years.

Mr. Edgerton asked if the second system he described, which is the non-traditional is that going to require zoning sign off.

Mr. McDaniel replied no.

Mr. Fritz noted that it meets the definition of the traditional system.

Mr. McDaniel said he understands his concern because traditional, conventional and all of that was written many years ago. They have worked it out amongst themselves within the years as to what do you mean by that. He understood that it was a subsurface system.

Mr. Edgerton noted that the last paragraph was a real concern.

Mr. McDaniel said that he left that sentence in the letter because it is the same as all of their subdivision approval letters whether it is here or anywhere in the county.

Mr. Fritz said that they had cases in the eastern part of the county in Slate Hill where they have received health department approval of what is required that is not the final design of the system that when they ultimately went to design the system they were not able to get approval of a system and had to recombine the lots.

Mr. Edgerton said that would seem to be a mockery of our system if that happened in this particular case. He did not believe that they were ever given the full chronology of why whoever made the decision that the irregular shape was not acceptable. He asked who make the decision.

Mr. Fritz replied that John Shepherd made that decision.

Mr. Edgerton questioned why that was concerned to be acceptable in this situation.

Mr. Fritz replied that he would have to ask him.

Ms. Porterfield asked if staff has field verified all of the sizes on the plat. Mr. Brooks said that he looked at things on the lot, but he did not look at specifics.

Mr. McDaniel replied yes that he had pulled a tape from the culvert that comes under Route 29 to the 50' building setback line, from creeks and to the reserve drain field line. On the lower lot is says buildable area 30,330 square feet. That is a drain field area there. That drain field area could be extended to within 5' of that property line. It is a 20' setback line. In other words they are required to put the drain field and residence in a buildable area, but when it comes to approving the septic permit that drain field can go as far as 5' to a property line. So there is a little more room there than is being shown for the drain field between those two lots.

Ms. Porterfield asked if he was aware that the neighbors are quite concerned about the flow from these lots on down stream to their other water features that are in the area.

Mr. McDaniel said that he had been working in public health for 33 years and that is hi primary concern. This meets the regulations. When they do pre-treatment they are going to do a lot to clean up the effluent that is being put in that area and that is why there is a reduced footprint size.

Mr. Morris thanked Mr. McDaniel for his comments.

Mr. Strucko said that they can't state their reason why the three Commissioners would vote for denial. He asked Mr. Kamptner how they would proceed.

Mr. Kamptner replied that first there would be a motion to reconsider if that is the Commission's desire.

**Motion for Reconsideration:**

Mr. Morris moved and Ms. Joseph seconded to reconsider SUB-2008-109, Bellair #1 – Final Plat.

The motion passed by a vote of 5:1. (Edgerton voted nay)

Mr. Strucko said that SUB-2008-109, Bellair #1 – Final Plat was back up for consideration by the Commission.

**Final Motion:** Ms. Joseph moved and Mr. Morris seconded to approve SUB-2008-109, Bellair #1 – Final Plat.

The motion passed by a vote of 5:1. (Edgerton voted nay)

Mr. Strucko noted that SUB-2008-109 Bellair #1 – Final Plat was approved.

Ms. Joseph asked Mr. Fritz if he said that sometimes at building permit stage the parcel will have to be recombined. She worries that if these parcels are sold now separately and they get someone who goes in to try to get a building permit thinking that they have a buildable lot and they don't. Therefore, they are stuck and won't be able to get a building permit.

Mr. Fritz said that they have had similar situations also where the health department regulations have changed. The lots were in existence and the health regulations changed over time. They may approve a plat today and three years from now the health department regulations change and they increase the depth of the soil and the distance between ground water in particular. That is what actually created the problems in a couple of lots that he could think of.

Ms. Joseph said that is kind of disturbing because one would expect if they get a soil's report and they had this designated on a plat and buy this piece of property she was going to feel pretty good that she could get a septic site on it.

Mr. Fritz noted that the only way one would be able to answer the question that she and other may have would be to require either the final design be approved or that the system actually be installed. One would actually get that approval of the system on a lot that might not be built on for years or they get a design approved and the regulations may change ten years from now when one finally goes to build on it. But that would be the next step to get beyond just an analysis of the soil. But, it would be to actually have the system designed. What the ordinance requires now is an analysis of the soil and the suitability of the soil for drain fields. It is not that the design that they have gone in and actually excavated for and put the system in. It does not go that far. It is the first analysis.

Mr. Edgerton said this has been approved and does not go to the Board of Supervisors. He asked if an adjoining property owner could make an appeal to the Board of Supervisors.

Mr. Kamptner replied no that only the owner who has been denied or if the Commission were to impose conditions that were objectionable that it could be appealed to the Board.

Mr. Edgerton said that there is no appeal to this.

Mr. Kamptner replied that there was not.

Ms. Porterfield requested that when staff has something like the request for these irregularly-shaped lots,

they need to think a little bit ahead to see what that decision could do when the issue comes before the Commission. She thought that this one decision had made a major impact on this application.

Mr. Fritz noted that it was the building shape or lot configuration modification that was approved.

Mr. Edgerton asked if the Commission could request that an explanation be given so that they could understand this later.

Mr. Kamptner replied yes that the Commission could always ask staff to provide that if there was anything put in writing or to explain it.

Mr. Edgerton asked that staff provide an explanation to the Commission since without that variance being granted by Mr. Shepherd what they just voted on would never have been possible.

The Commission asked staff to provide it an explanation of the administrative waiver granted for building site shape in writing or at a future meeting.

**The Planning Commission took a break at 7:22 p.m.**

**The meeting reconvened at 7:32 p.m.**

**Public Hearing Items:**

**SP-2008-00059 Luxor Commercial (Sign # 9)**

PROPOSED: Extension of time allowed to establish Special Use Permit (previously approved as SP 2007-017/ SP 2005-002)

ZONING CATEGORY/GENERAL USAGE: PD-MC Planned Development Mixed Commercial - large-scale commercial uses; and residential by special use permit (15 units/ acre)

SECTION: Section 25A.2.2 of the Zoning Ordinance which allows for veterinary offices and hospitals within PDMC zoning

COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential - residential (6.01-34 units/acre) and supporting uses such as religious institutions, schools, commercial, office and service uses in Pantops (Neighborhood 3) of the Development Area.

ENTRANCE CORRIDOR: Yes

LOCATION: The 1.377 acre property is located on the north side of Route 250 (Richmond Road) and east of Rolkin Road, between Montessori School and Aunt Sarah's Restaurant.

TAX MAP/PARCEL: Tax Map 78, Parcel 55D

MAGISTERIAL DISTRICT: Rivanna  
(Rebecca Ragsdale)

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

- This request is for an extension of time allowed to establish a special use permit for a veterinary office within the Luxor development. The property is zoned PD-MC as approved in 2005. This is one of the concurrent special use permits for the veterinary office that went along with the rezoning. In August 2007 the special use permit time period was extended for two years. The applicant is nearing site plan approval for this phase of the project, but the special use permit is set to expire before site plans will be approved and the special use permit can be vested. There is a request to extend the time period again for 48 months.
- There were conditions with the approval of the veterinary special use permit. Condition 3 was modified with the last approval in 2007 since the trees that were shown in the application plan. The trees were located adjacent to Route 250. There were proffers that the trees would be preserved and certified by an arborist and preservation measures in place. But, the trees did not survive. There is an alternative planting scheme under review with the site plan before the ARB in which both trees are to be removed. That is the only modification since 2005. That is the only change in the conditions relative to the veterinary use.

- Staff has found that a modification to Section 5.1.11(B) should also be approved by the Planning Commission.

***b. For soundproofed confinements, no such structure shall be located closer than two hundred (200) feet to any agricultural or residential lot line. For soundproofed confinements, noise measured at the nearest agricultural or residential property line shall not exceed fifty-five (55) decibels; (Amended 11-15-89; 6-14-00)***

- The building in which the veterinary office would be located is less than 200 feet from the adjoining R6 Zoning District boundary to the east. This area of R6 zoning is right-of-way for a road located between the Luxor Commercial Development and the Aunt Sarah's commercial property. The veterinary office will be located as originally proposed and will still comply with the soundproofing requirements of Section 5.1.11.
- Staff has found no unfavorable factors to this request and recommends approval of SP 2008-059 for the veterinary office, with the following conditions of approval, with updates to conditions in ***bold italics***:
  1. A separate entrance and exit shall be provided for the clinic in accordance with Section 5.1.11d;
  2. No outdoor exercise area shall be permitted;
  3. The veterinary clinic shall be located in building 4, ***as shown on the plan entitled "Application Plan for Luxor Commercial Center", prepared by Rivanna Engineering, dated October 13, 2004, last revised July 25, 2004 and;***
  4. Architectural Review Board issuance of a Certificate of Appropriateness;
  5. ***Special Use Permit 2008-059 shall be valid for forty-eight (48) months from its date of approval.***
- Staff recommends a modification of Section 5.1.11(b) to allow the veterinary office to be located in a building less than 200 feet from the R6 zoned property line to the east.

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

Mr. Edgerton asked if there has been any concern expressed about the building being less than 200' from the residential property.

Ms. Ragsdale replied no that it is in the same location as approved in the rezoning in 2005.

Ms. Porterfield asked if 48 months seems to be a reasonable amount of time.

Ms. Ragsdale replied that zoning staff they did not expect any changes with this section of the ordinance.

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

Denise LaCour, applicant, said that they are very close to receiving their jurisdictional approvals. They received verbal approval from Rivanna Water today. They have had some major trunk lines that run through that site. They had to get Rivanna's approval before the county's and hope to have that one by tomorrow. If all goes well they hope to have a signed site plan within the next two weeks. With that being said, they all know what the financial world is about. That will be their next hurdle. She did not anticipate needing the 48 months, but felt it was prudent to go ahead and get it to prevent having to come back to the board. Her client is very anxious to get in there. He is currently leasing at his veterinary practice space and would like to own his building. She was going out to bid with their construction plans next week. Therefore, they are moving as quickly as possible. She made the request because she could not commence significant construction by mid-February. Regarding the residential next door, it has not been explained that it is an access easement that was originally granted many years ago from Ashcroft down to Route 250. So there will be no residential buildings that can be built there unless all the owners in Ashcroft agree to waive that access. She doubts that will every happen. The yellow shown on the application plan will be a road that will go up and join Rolkin Road behind the Rite Aid. The access

easement into Ashcroft was granted many years ago and the county persuaded them to have another access point. But that was never formerly vacated.

Mr. Morris noted that was the road used for construction when Ashcroft started.

Ms. Joseph asked about the situation with the trees.

Ms. LaCour noted that the two trees were supposed to be bonded under their original approval. They had a certified arborist come in who noted that the trees were not healthy. That was proven to be the case when they had a wind storm come and one of the trees fell down across Route 250. In one of their approval processes they asked if they could go ahead and replant the tree with the submitted landscaping plan. The ARB recommended that they remove the single pine tree because it could be a danger to the buildings.

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

**Motion for Special Use Permit:**

**Motion:** Mr. Morris moved and Ms. Porterfield seconded, for approval of SP-2008-00059 Luxor Commercial subject to the conditions as set forth in the staff report, as amended

1. A separate entrance and exit shall be provided for the clinic in accordance with Section 5.1.11.d;
2. No outdoor exercise area shall be permitted;
3. The veterinary clinic shall be located in Building 4, as shown on the plan entitled "Application Plan for Luxor Commercial Center", prepared by Rivanna Engineering, dated October 13, 2004, last revised July 25, 2004;
4. Architectural Review Board issuance of a Certificate of Appropriateness; and
5. Special Use Permit 2008-059 shall be valid for forty-eight (48) months from its date of approval.

The motion passed by a vote of 6:0.

**Motion for Modifications:**

**Motion:** Mr. Morris moved and Ms. Porterfield seconded to approve the modifications of Section 4.1.11(b) for SP-2008-00059, Luxor Commercial to allow a veterinary office to be located in a building less than 200 feet from R-6 zoned property line to the east.

The motion passed by a vote of 6:0.

Mr. Strucko noted that SP-2008-00059 Luxor Commercial and modifications would go before the Board of Supervisors on January 14, 2009 with a recommendation for approval.

**SP-2008-00042 Keswick Hall/Club (Sign # 3 & 31)**

**PROPOSED:** Amend SP 2000-33 to allow modifications to the master plan related to the timing (phasing) of development: move 5 guest rooms from Phase I to Phase II; a larger spa moved from phase II to phase I; add two tennis courts and amend condition of approval to allow spa to be open to the public.

**ZONING CATEGORY/GENERAL USAGE:** RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)

**EC Entrance Corridor - Overlay** to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access

**SECTION: 10.2.2(2) Clubs, lodges, civic, patriotic, fraternal** (reference 5.1.02)

and **SECTION 10.2.2 (27B) Restaurants and inns** that are: Nonconforming uses, provided the restaurant or inn is served by existing water and sewerage systems having adequate capacity for both the existing and proposed uses and facilities without expansion of either system

**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: 701 Club Drive; east of Louisa Rd. (Rt. 22) at Hunt Club Dr. and east side the intersection of Hunt Club Dr. and Keswick Rd. (Rt. 731)

TAX MAP/PARCEL: 80-8Z and TMP 80-09

MAGISTERIAL DISTRICT: Rivanna

(Joan McDowell)

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

The request is to construct a 13-room spa to be open to public and Keswick Club guests in Phase I; defer construction of five guest rooms to Phase II; construct two tennis courts in Phase I and omit wing to existing Inn to construct six guest villas containing multiple guest rooms

Since 1978 the Keswick Inn and Club has received approval of several applications as shown in the attachments to the staff report. The property has a 75-room inn, golf course, restaurants, spas, tennis courts, swimming pools and subdivisions for 111 single-family lots. It has a central water/septic system that serve the Keswick properties. There is a conservation easement on the south side that separates the Keswick property from I-64 and from the residential to the south.

What is being proposed with this application is to construct a larger spa in a separate building away from the Inn itself to allow for 13 treatment rooms and change the phase II that was approved with the Master Plan in an earlier application to be part of phase 1, which is current phasing. It would allow the spa to be open to the public because it was restricted to Keswick guests and members in the Master Plan. It would defer construction of five guest rooms that were allowed with phase I to go into phase 2 and to allow construction of two of the tennis courts in phase 1 instead of phase 2. The area is wooded and virtually invisible from any adjacent lots.

Staff has identified the following factors favorable to this application:

1. The proposed construction of a larger spa, two tennis courts, and the modification of phasing would not cause an expansion of the central water system or require that road improvements be completed with Phase I instead of Phase II construction.
2. The buildings proposed with this special use permit would not be visible from the public right-of-way or from adjacent residential properties.

Staff has not identified any factor unfavorable to this application.

### **RECOMMENDED ACTION:**

Based on the findings contained in this staff report, staff recommends approval of SP-2008-00042, subject to the conditions as listed in the staff report. Amendments to the conditions approved with SP 2000-33 are shown as underlined (new) or strikethrough (deleted).

Mr. Strucko asked if there were any questions for staff. There being none he opened the public hearing and invited the applicant to address the Commission.

Richard Carter, attorney representing the applicant, agreed with the staff report. Currently they have four spa rooms at the club building. Keswick Inn is not only a first-class but a world-class hotel. Therefore, they need to provide more spa rooms for people who are going to be there. Originally they were approved for the spa, but that was going to be in phase 2. Now they would like to move the spa into phase one. In order to do that they would give up five rooms that were approved in phase one and move those five rooms to phase two. The spa, as the report shows, will not generate any traffic. Anyone getting a spa treatment at the prices being charged will not create any rush hour traffic to get one. There is no water problem. Water has been an issue in the past for Keswick; but, they have hit a huge aquifer that they are very proud of and water is not an issue there anymore. The spa rooms will use very little water. Therefore, there is no traffic or water problem. The spa will be first-class. He offered to answer any questions. Others present to answer questions include Mr. Brent, Director of the State Development, Marilyn Gale of Roudabush and Gale and their engineer.

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

Ms. McDowell pointed out one change in the conditions because engineering is not a separate department anymore.

Ms. Porterfield noted that the Keswick Country Club was one of the country clubs that helped Glenmore Country Club out when they were redoing their greens. Glenmore members were allowed to go over and use Keswick. She asked if the county is going to look at that as invitees. She was looking at the terminology in condition 5. She noted that a number of the clubs in the area helped Glenmore out for about eight months while the course was closed.

Mr. Carter asked to speak to that issue. He pointed out that the three major clubs in the area Glenmore, Farmington and Keswick have always had a reciprocal agreement. They have always taken the position that people from other clubs would be invitees.

Ms. Porterfield agreed as long as the applicant was happy with that language.

**Motion:** Ms. Porterfield moved and Mr. Morris seconded, for approval of SP-2008-00042 Keswick Hall/Club subject to conditions as set forth in the staff report, as amended

1. The Keswick Estate shall be developed in general accordance with the plan titled Keswick Estate Conceptual Long Range Master Plan, prepared by Roudabush, Gale and Associates, dated December 18, 2000, as amended by Keswick Hall Master Plan, prepared by Train & Partners + Mario di Valmarana, received September 14, 2008. (Attachment A).
2. No building permits shall be issued for Phase II improvements beyond those improvements approved with SP 00-33, as shown on the plan titled Keswick Estate Conceptual Long Range Master Plan prepared by Roudabush, Gale and Associates dated December 18, 2000, and as amended by SP2008-42 and as shown on the plan Keswick Hall Master Plan, prepared by Train & Partners + Mario di Valmarana, received September 14, 2008. until all road improvements described by the Virginia Department of Transportation letter from R.P. Ball dated February 21, 2001, and included as Attachment B have been completed (not bonded) to the satisfaction of the County Engineer and the Virginia Department of Transportation.
3. No unplatted property shall be subdivided and no approved subdivision plat shall be recorded unless the applicant demonstrates to the satisfaction of the Planning Commission, that the existing central water system, approved under Permit Number 2003400 issued by the Virginia Department of Health, Division of Water Supply Engineering, dated January 7, 1998, or as such permit is amended or such subsequent permit approved by the Virginia Department of Health, Division of Water Supply Engineering, and the Board of Supervisors, is available and adequate to serve all of said lots, as well as all existing improvements, associated uses, and platted lots, without compromising on-site and adjacent off-site well water supplies. Nothing herein shall guarantee approval of such amendment or permit. In making this demonstration, the applicant shall use test procedures approved by the Virginia Department of Health and the County Engineer;
4. If the central water system must be expanded to meet existing or future demand, the applicant shall seek and obtain all necessary approvals for expanding the system from the Virginia Department of Health and the County Board of Supervisors;
5. Except for any restaurant and spa on the property open to the general public, Keswick Hall and its associated facilities shall be used only by the guests of the inn and their invitees, and members of the Keswick Country Club and their invitees; and
6. Each plat of division of any lands shown on the plan titled "Keswick Estate Conceptual Long Range Master Plan", prepared by Roudabush, Gale and Associates, dated December 18, 2000 shall include the following statement if those lands are not within a jurisdictional area and will not be served by a public water or sewer system: "On the date of approval of this plat by the agent, the lands being divided are not within a jurisdictional area and public water and sewer service are not available."

The motion passed by a vote of 6:0.

Mr. Strucko noted that SP-2008-00042 Keswick Hall/Club would go before the Board of Supervisors on January 14, 2009 with a recommendation for approval.

### **CCP-2008-00003 Morven Meeting Barn**

Review for Compliance with Albemarle County Comprehensive Plan

Proposal by the University of Virginia Foundation to enlarge the Morven Meeting Barn to provide ADA restrooms and a kitchen. The Barn is to be used by UVA for meetings and social events, with attendees transported to the site by bus and/or van. The subject property consists of Tax Map 91 Parcels 21 and 21B and is located west of Rt. 795 James Monroe Parkway at Morven Drive. The property is in the RA Rural Areas zoning district and has a Rural Areas land use designation in the Comprehensive Plan. (Joan McDowell)

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

- **Proposal:** Remodel an existing building on the Morven Farm into a meeting, gathering place; add handicap bathrooms and a catering kitchen for the University of Virginia functions
- **Factors Favorable:**
  1. Bus and/or van transportation to and from events would be provided by UVA
  2. Meetings/gatherings limited to UVA functions
- **Factors Unfavorable:** No unfavorable factors
- **RECOMMENDATION:**

Staff recommends that Planning Commission find this use complies with the Comprehensive Plan subject to the conditions listed above.

  1. The construction of the additions to the Meeting Barn is in general accord with the First Floor Plan Scheme B, Johnson, Craven & Gibson Architects, dated September 3, 2008 (Attachment B).
  2. Group transportation is provided to and from the Morven property by the University of Virginia for Meeting Barn attendees of meetings and events.
  3. The meetings and events held in the Meeting Barn are not open to the general public.
- However, they do have yearly garden tours that the public goes to. Staff did not think that the Meeting Barn consistency application had anything to do with the garden tours,

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

Bill Cromwell, Real Estate SA Manager for the University of Virginia Foundation, said that Morven Farm is under his responsibility and as seen from the slides this is a very special place. The University Foundation would do everything in their power to keep it a special place. They support staff's recommendation. However, on items 2 and 3 they think they need a little more thought given to that. They have different types of groups that will be coming to the facility. All of the groups will be academic. It will be a retreat environment. It will probably attract people not only from the University but educational areas similar to the financial ministers that came from other countries. Those kinds of groups are probably not suitable for shuttle bus. He was concerned that by circumstances they might violate that condition. They would like to have the Commission relax that and trust the University Foundation to make sure that the groups are transported to and from the facility in the best way practical. They don't want to create a situation with the traffic. It is not generally open to the public. It is a gated community. If someone goes out to the site, they should not be able to get in. He asked that the Commission consider that. They are willing to work with staff to come up with a transportation management plan of some kind. If they can get approval today, then they can go on to get the building permit. Prior to their certificate of occupancy, if necessary, they can work something out regarding transportation. There are too many variable to the different events held at night and on weekends. They do hope to have very high-level meetings at this property, which could involve people of various states and national leaders. They appreciate the Commission's help and would ask for their support on this request without the condition to have group

transportation. Originally he was concerned with condition 3 because it would impact the garden club, but Ms. McDowell cleared that concern up.

The Planning Commission discussed their concerns about the traffic on the rural roads generated from the potential public events. The conditions were modified to address those concerns as noted below.

**Motion:** Mr. Morris moved and Mr. Loach seconded, for approval of CCP-2008-00003 Morven Meeting Barn that the Planning Commission finds this use complies with the Comprehensive Plan subject to the conditions recommended in the staff report, as amended.

1. The construction of the additions to the Meeting Barn is in general accord with the First Floor Plan Scheme B, Johnson, Craven & Gibson Architects, dated September 3, 2008 (Attachment B).
2. Transportation to and from the Morven property for Meeting Barn attendees of meetings and events shall be subject to a transportation management plan approved by the Planning Director.
3. The meetings and events held in the Meeting Barn are open to the invitees of the University of Virginia.

The motion passed by a vote of 6:0.

Mr. Strucko noted that CCP-2008-03 Morven Meeting Barn would be reported to the Board of Supervisors.

#### **Old Business**

Mr. Strucko asked if there was any old business.

- Mr. Morris thanked everyone for their support last year while Chair.
- Ms. Joseph thanked Mr. Morris for his excellent service as Chair in 2008.

There being no further old business, the meeting proceeded.

#### **New Business**

Mr. Strucko asked if there was any new business.

- Staff asked that Commissioners provide their cell phone numbers to staff in case of a meeting cancellation due to the weather.

There being no further business, the meeting proceeded.

#### **Adjournment**

With no further items, the meeting adjourned at 8:30 p.m. to the Tuesday, January 13, 2009 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)