

Albemarle County Planning Commission
May 22, 2018

The Albemarle County Planning Commission held a public hearing on Tuesday, May 22, 2018, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Julian Bivins, Pam Riley, Vice-Chair; Jennie More, Daphne Spain, Bruce Dotson and Bill Palmer, UVA representative. Absent was Karen Firehock.

Other officials present were Megan Nedostup, Principal Planner; Amelia McCulley, Director of Zoning/Zoning Administrator; Elaine Echols, Chief of Planning; Andrew Gast-Bray, Assistant Director of Community Development/Director 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.

Public Hearing Items

SP-2018-00001 Keswick Hall and Golf Club

MAGISTERIAL DISTRICT: Rivanna

TAX MAP/PARCEL(S): 080000000008Z0; 080000000060A0; 08000000000900

LOCATION: 3733 Keswick Road

PROPOSAL: Amend previously approved SP200800042 to relocate and expand the spa and fitness center, add a pool bar, expand the energy plant, add a new maintenance and laundry building, relocate the existing restaurant in a stand alone building, and add a wing to the existing inn for 38 additional rooms (a total of 86 rooms). In addition, site changes to parking and circulation are proposed.

PETITION: Clubs and Lodges; Swim, Golf, Tennis or similar Athletic Facilities; Restaurants, Taverns and Inns under Section 10.2.2 of the zoning ordinance by special use permit on approximately 174 acres.

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

OVERLAY DISTRICT(S): Entrance Corridor, Flood Hazard

COMPREHENSIVE PLAN: Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots)

POTENTIALLY IN MONTICELLO VIEWSHED: Yes

Megan Nedostup presented a PowerPoint presentation to summarize the staff report for SP-2018-00001 Keswick Hall and Golf Course for the Commission's consideration.

This is an amendment special use permit for Keswick Hall and Golf Course. In an overview on a vicinity map she pointed out the property location and Interstate 64,

Louisa Road, Black Cat Road on the east side, the Inn, the Golf Club and the buildings that exist in an aerial view as well. Keswick Hall has a long history and built and used as a hunt club and resort prior to the Keswick Estate Subdivision. In 1978, a special use permit was approved for the Inn and accessory uses for swimming pools and tennis courts. In 1985 a special use permit for residential lots and at that time a central system for water and sewer were both approved. In 1986 a special use permit was approved for the golf course. Then in 1993/1995, special user permits were approved for additional subdivision lots. In 2000 a zoning text amendment was approved to allow the inn to expand and along with that during that same year the special use permit was approved to allow the expansion of the to a total of 123 rooms. At that time a condition of the special use permit for phased transportation improvements a right turn and left turn taper were conditioned and approved with that special use permit. Then in 2008 an amendment to that special use permit was approved to modify the phases and allow the spa to be open to the public; a total of 123 rooms with 48 existing; 23 in the first phase and 52 in the second phase and so the same transportation improvements remained with that second phase at the 75th room.

The next slide shows a plat of Keswick Estate that gives you an idea of the subdivision and where the Inn is located in relationship to the subdivision. The Inn does have an access through a gate at Black Cat Road as well.

DETAILS OF THE PROPOSAL:

The applicant is proposing to amend SP-2008-42 to allow for the following changes:

- Reduce the maximum number of rooms from 123 built in two phases to 86 total in a single phase;
- Move the freestanding spa and fitness center including eight new treatment rooms which will be open to the public to a different location on the site – it is actually four additional since there are four existing treatment rooms;
- Replace an area shown for cottages with a new wing for rooms to the inn;
- Replace the existing Fossett's restaurant with lobby and conference space;
- Replace the existing Fossett's with the same number of seats (165) including a bar and outdoor seating in a new building adjacent to the clubhouse;
- Move the maintenance/laundry building to different location on the site;
- Realign the parking and circulation including a new service entry off Keswick Road near the energy plant; and
- Remove the requirement for traffic improvements at Route 22 and Route 744, which are currently required with the construction of the 75th room.

Just to walk you through the previously approved plans, SP-2000 to orient you she pointed out Keswick Road, Club Drive and the existing Inn and Clubhouse. In 2000, there was phase 1 with a wing with 28 rooms and phase 2 had cottages around the property with 47 rooms. In 2008, the plan was amended to remove the wing, phase 1

included six separate buildings that would have 23 rooms, and phase 2 would be cottages with 52 rooms.

The next slide is the concept plan for the their proposal they are going back a little to the 2000 plan where the additional 38 rooms are going to be located in a wing; the new Fossett's separate building is shown as #3; a pool bar that was actually approved with prior special use permits will be located in the greenish blue area; the energy plant expansion location; spa and fitness center location in #8 and the laundry and maintenance facility in #11. The next slide is an illustrative plan showing how the buildings may develop on the site. She pointed out the wing off the existing Inn, the Fossett's Restaurant, energy plant, spa and fitness center and the laundry and maintenance facility.

In the staff report, there are two important impacts that occur with the proposal the water and sewer and the traffic. As a rule public water and sewer is not provided in the rural areas and the expectation is that new uses should not create a need for public water, sewer or a central system. In this year starting in 1985 and then again in 1992 Keswick Estate received approval for a central water and sewer system sufficient to serve both the existing 48-room Inn and the 124 residential lots. An updated water and sewer study was submitted and the report showed that there would not be sufficient capacity for both the Inn and residential lots at full build-out. The applicant offered to install the improvements necessary to allow for the Inn and residential build-out to occur including a new well, a storage tank and pump. Because the approvals have been previously given with prior special use permits that allow for both residential and Inn use staff is recommending conditions that address these two items. The items are the Inn must be limited to the existing permitted capacity as expansion of this system is not permitted for an Inn and restaurant use in the rural areas under the section of the Zoning Ordinance and any expansion of the system must be for the residential uses only. This limitation is seen in condition #3 in the staff report and the triggers before any certificate of occupancy are given for the new rooms and the Inn we need to have the approved plans from the Department of Health, Fire Rescue and Board for the installation of those systems. The triggers for when those improvements are to be made are recommended in conditions #4 and #5 of the staff report. The new well will require expansion of the central system, which the Board of Supervisors will need to approve later, and we have not received a request at this time.

The second impact of the proposal is for the traffic, specifically as it relates to additional traffic being added to the intersection of Route 22, Louisa Road and Route 744 Hunt Club Road. A brief summary as this condition for the transportation improvements is an existing condition for which the current owner purchased the property knowing that these improvements would be required. This condition has been in existence since the special use permit in 2000. We do recognize that due to the additional legal information, the Inn may not be responsible for the entire cost of the improvements; however, there is an existing safety issue at the

intersection and the proposal is exacerbating the problem by adding traffic to the intersection. Lastly, there is no solution currently to mitigate the impact and due to the applicant's tight timeline in analysis and discussion regarding our portion we have not had time to explore.

Ms. Nedostup said again she would like to point out the intersection on the map and photos and that Kevin McDermott, transportation planner, is going to come up and talk in more detail about the traffic.

Kevin McDermott, Transportation Planner, said he wanted to give a little more detail on what we were looking at when we were evaluating the traffic impacts related to this proposal. First, we looked at the safety problem at Louisa Road that was identified by the Department of Transportation primarily through its presence on what they referred to as the potential for safety improvements list. He said this list evaluates all the public road intersections in the nine counties and City of Charlottesville that are within the VDOT Culpeper District. He said it looks at those through normalizing factors such as the traffic volumes on the road, the type of intersection, the type of road and then looks to see if there is higher than average crash rate going on there. As a result, this intersection did fall within that PSI list. We also went back to the Department of Transportation and they took a second look at this and the District Engineer and our Resident Engineer both looked at it and confirmed that there is an identified safety issue occurring there at that intersection. He said you see the crashes and he had the seven-year total of crashes there. He pointed out that the 2011 and 2012 we did not have the full reports for but we checked everyone to make sure it was occurring at the intersection and likely was a rear end collision for waiting for someone to turn there. Therefore, if you go through the descriptions of all of these crashes it is attributed to turning movements and it is the turning movements at that intersection that are causing this safety issue.

Mr. McDermott said the traffic analysis that was conducted by the applicant performed capacity and turn lane warrant analysis based on the cuing that was expected to occur if this proposal went forward. They evaluated the peak hour travel and peak hour turning movements on the road and found that minor cuing would occur if it was approaching the threshold where we would require turn lanes but it did not cross that threshold. Although he wants to point out that warrants can be met also through safety issues just like when we look at if we are going to put a traffic signal in we would not just look at the number of vehicles making turns we look at safety issues and see if a traffic signal could address that traffic issue. Therefore, we want to look at the safety issue at this intersection as well. He would say that poor operations can lead to safety concerns but it is not always the case sometimes safety issues can result outside of that. Of the ten crashes that occurred out there over that seven-year period not a single one actually occurred during the peak hour travel so our evaluation of this wanted to look at the entire day's movements at that intersection so how many turns occurred throughout the day. The proposed use in a resort is not really a peak hour generator they tend to generate their higher traffic off peak hours so it would make sense that during the peak hour they probably would not meet the warrants for turn lanes.

Mr. McDermott said the peak hour was the only thing that was provided within the report and so we did pull that up to take a look and see what percentage of peak hour turning movements would occur with this proposal. You can see the first column is the background traffic and projected growth over two years and we expect 18 turned in the a.m. peak hour and that is combining the left and right turns at all movements there. So 18 in the a.m. and 28 in the p.m. peak hour and the projected site generated trips would be 10 in the a.m. and 10 in the p.m. total movements. Therefore, that results in a 56% increase in turning movements at that intersection in the a.m. of 56 in the p.m. Once again, we think it is probably generating a higher percentage of traffic off peak but it is just to give you an idea as to where they sit on that forward. The traffic did provide the estimated daily trips generated by the new uses and the directional distributions. Therefore, you can see that they are expecting 25% trips come to and from the north on Louisa Road, 45% from south on Louisa Road and 30% from east on Black Cat Road. The ADT numbers that were evaluated in this TIA, which is the average daily traffic, shows the hotel would generate about 310 trips and the spa about 80 trips. The 80 trips was an estimate that we came up with because the ITE tables do not provide spa as a use. Therefore, that totals about 390 new trips generated by the hotel. He said looking at the 25% and 45% that are coming from Louisa Road, which would mean that we are looking at approximately 273 new trips added to that turning movement per day. We believe that the additional turning movements would result in increase in the likelihood of crashes. So the Department of Transportation and in the County's analysis we would recommend that the mitigation for that increase would be construction of a left turn lane or a right taper. He said he would be available for questions.

Ms. Nedostup said to summarize our conclusions that are factors unfavorable that the applicant wishes to remove that existing condition requiring the road improvements for Route 22 and Route 744, which has a history of crashes. Again, the condition for the transportation improvement is an existing condition, there is an existing safety issue at this intersection and the proposal is exacerbating the issue by adding traffic, and currently we do not have a solution to mitigate this impact. She said number #2 even though previously approved it has become clear that additional water sewer capacity is needed, which is not in keeping with the recommendations in the rural area of the Comprehensive Plan and the remedy would require expansion. Number #3, the commercial use does not promote the agricultural and forestall policies of the Comprehensive Plan. Number #4, the plan shows disturbance of critical slopes, a waiver has not been requested to date, and minor changes to the concept plan need to be made. Therefore, at this time staff cannot recommend approval of the special use permit.

Mr. Keller invited questions from the Commission for staff. Hearing none, he opened the public hearing and invited the

Mr. Keller invited further questions for staff. Hearing none, Mr. Keller opened the public hearing and asked the applicant to come forward.

Valerie Long, with the law firm of Williams Mullen, said we are here representing the applicants and the owners of the property tonight Historic Hotels of Albemarle and Keswick Club, LLC the

principles of which are Robert and Molly who are here tonight. We also have just about everyone from our project team including the architects from the firm of Hart Howardton and all of our engineers who have been looking at the civil engineering, the traffic issues and the water system. We also have my colleague Ashley Davies, our land use planner, so hopefully between all of us we can address any questions that you may have or any issues that may come up.

Ms. Long said staff indicated the issue the history of the approvals in the past and she would go over those very briefly as well but she also wanted to show more of the images that we have. She presented a PowerPoint presentation and noted in the summary of this special use permit request that the project already has approvals to expand the same number of rooms that are proposed. She said the real only difference is we are requesting permission to shift the location of the new wing of rooms to a different location, which is the same location that was approved with the 2000 special use permit, relocate the existing Fawcett's Restaurant from inside the hotel to a space between the pool and the club and to increase the spa facility from 4 rooms to 8 in a new location. She pointed out it is actually already permitted to be 13 rooms.

Ms. Long said that Keswick has a storied history and has been evolving over many years. She said the property was built in 1912 and it has been a country club since 1948 and a golf course since the fifties. In the slides, it shows when the property was purchased by Sir Ashley and it was in a severe state of disrepair and significantly deteriorated. They purchased it and turned it into a hotel that was later expanded; Orient Express owned and operated it for many years and not the Hardy's and their entities own it.

Ms. Long said the next slide showed some of the historical images that our architects shared with us and they have been working with these images extensively to really understand the evolution of the property over the years, its many uses and the character of it. She pointed out the image for when it was purchased by Sir Bernard Ashley; some of the images for when it was used as a country club back in the fifties and here where the golf club is now there was a famous round metal pool in the area. She said today it includes a hotel, golf club, golf course, and there are 125 residential lots and an on-site community water and sewer system. She said there are 48 rooms in the hotel today and are all contained within the existing hall, they have meeting and banquet facilities in the lower level, several dining outlets, tennis courts and a spa and fitness facility – a very small one inside the existing golf club house. She said they have the pro shop, the clubhouse, full golf course and several swimming pools.

Ms. Long said as staff indicated the zoning in the rural area does permits upon approval of a special use permit a swim, golf, and tennis facility as well as restaurants and inns under certain circumstances? This has been approved for this use since 1978 and again was reapproved in 2000 and 2009 and this is an aerial view of what is here today. She said we have a number of maps that are all going to be oriented in this same direction. The current special use permit that was approved with a 2008 application number but was approved in 2009 allowed for the existing 48 rooms to increase by 75 rooms to 123, again a larger spa and also authorized a pool and banquet facility. She said next is an overlay of the 2000 approved plan showing those

elements in which she noted the area where the inn was approved to be located in 2000. She said it was the exact same location we are proposing to locate it today. She pointed out the original proposed location for the spa and the 2008 approvals with that plan overlaid the new rooms were shown in those locations instead of in the original 2000 plan the idea was to have smaller cottage style rooms instead of a single wing. The owners now recognize that the most logical location is to have the room back in the original 2000 location. She pointed out the proposed wing location and that the 48 rooms in the existing hotel some of them will be removed from the existing hall because they will be expanded and so more of the new rooms will be located in the wing. She noted that some of the rooms in the existing hall are extremely small and so they are renovating those and improving the bathroom facilities to handicap accessibility and so forth.

Ms. Long pointed out the location of the new rooms consistent with the 2000 special use permit and this is the location for the new replacement of the Fawcett's Restaurant, which again is currently located inside the hall and they are just moving it to a new location between the pool and the existing golf club. She pointed out the location of the spa and probably a fitness center will be located. She noted this is a rendering by the architects looking at the back of the hall from the golf course showing how they envision this will look. She said the Hardies and their architects have taken great care to design the expansion in a way that will not overwhelm the existing hall, be subordinate to it, work with the terrain and kind of step down the existing hill and it is also designed to break down the massing and appear to be a couple of smaller buildings instead of a single massive one. She pointed out the approximate location where the new restaurant would be located.

Ms. Long said this is the proposed new concept plan that would be in place if the amendment is approved. She pointed out the location for the new wing, the spa, a new restaurant and we are also proposing a new facility for laundry and maintenance to remove those uses from the existing hall. She said we do want to flag for you that we are proposing to actually expand this area just a little bit so we have more flexibility for where the new laundry and maintenance facility will be. She said the Hardy's started realizing that maybe having it right next to the tennis courts might not be the best idea so we have shown this image to staff and submitted it but we did not want to spring it on anyone later so we are just flagging that. She said we are still staying out of the stream buffer that is related to that. She said we also have a critical slopes waiver that we will be applying for, all of the slopes are man-made and all left over from the construction of the existing improvements.

Ms. Long said we discussed a little bit about the water and she was happy to get more into the details. She said we have our water infrastructure expert here from Timmons Group; but the important thing is that the Hardy's agreed to go ahead and expand the water system so that there is no question that there will be sufficient water to serve all of the undeveloped lots in the community. She said that would include all the residential lots as well as the hotel and restaurant. There is already sufficient capacity to expand the hotel, relocate the restaurant and add the few extra spa rooms. There were some concerns about whether there would be enough long term for the undeveloped lots and we did not want there to be any concerns so

they have gone ahead to make that commitment and investment to expand the system and that process has begun.

Ms. Long said we very much would like to talk more about the traffic issues and we have our traffic engineer here. She said Mr. McDermott mentioned that there is minor cueing that will result from the additional trips; it is an extraordinary small number. She said the delay right now is .5 seconds and that will increase to .7 seconds; it is a .2 of a second increase in the delay and the cue length is one foot. So there are impacts that have been identified by the traffic study; the turn lane warrants are not met; turn lane warrants are not run during the off-peak hours and they are only run during the peak hours. She said all the intersections will continue to operate at the same level of service, many of which are A level of service. There is no impact from the traffic of the project that has been identified. Ms. Long said as she has discussed extensively recently with staff the controlling legal standard is that to require the construction of an off-site improvement there must be a finding that the improvement are substantially generated by the proposed development. Therefore, we contend that standard has not been met.

Ms. Long said she would go quickly through some of the economic development issues. She pointed out that we have been communicating these issues with the County Economic Development Department but the number of employees will substantially increase as well as the tax base. The owners voluntarily contribute to Monticello for every room that they rent every night. So obviously with the increase in rooms that contribution will increase, just about double, and have a substantial positive impact on the local tourism. She said it really drives tourism substantially in the area and obviously it will be an improved local amenity for the community. So again we would be happy to answer any questions that you may have and particularly on the traffic issue we are very prepared to address all of the issues that staff raised and have all of our experts here. We would obviously like to reserve our five-minute rebuttal time to address any comments from the public. She asked to add one more item, Mr. Chairman. We have been in discussions with the representatives of the Keswick Estates Owner's Association and we have had several meetings with them. She said one of the issues we have been discussing with them extensively is a request they have had for the owners to make some improvements essentially a gate entry system that is located between the hotel and the residential development and we are be happy to talk more about that.

Mr. Keller asked that they hold questions until they hear from public and asked Ms. Riley to take charge.

Ms. Riley invited public comment.

Roger Brink, President of the Keswick Estate Owners Association for the residential community adjacent to Keswick Hall said In the interest of time he would like to say that the estate residents over all are supportive of the expansion of Keswick Hall. He said however, we do have a couple of important items that are critical to our community one being the water issue. He said at this point, as he understands, that has been addressed. The item that he wanted to

focus on is that we request an additional entry gate to be installed adjacent to our existing entry gate at our west entrance. We request confirmation that the gate installation is complete before a certificate of occupancy would be issued for any new rooms at Keswick Hall. As it was mentioned earlier, we did share this request with the applicant; we have had some conversations as late as today; we do not have agreement but we are hopeful that the discussion will lead to a solution.

Mr. Borsink said the expansion of Keswick Hall will add considerable traffic to the resort and increase the already traffic congestion at our west gate which is the entrance to our residential community. He said the departure from Keswick Hall and Golf Club guests that are traveling east towards Richmond enter our residential estate at the west gate and drive to Black Cat Road to access I-64. That increase in traffic will exasperate the delays and backups at that single entry gate location. The west gate entry and exit consists of only two gates, one for entry and one for exit, there is no gate house there or security guard. He said entering at the west gate by residents is done by an easy pass device but any guests from the Hall and the Club have to call in from a call box that creates significant backup at many times. Therefore, we are requesting that an additional entry gate be installed to eliminate that because right now it is a problem with doubling the capacity of the hall and the surrounding facilities it is going to make the situation even worse. He said so the increased traffic around the loading dock area, the new spa, the fitness center and the increased number of guests using the west gate requires a solution. He said adding a second entry gate at the current west gate location will eliminate a substantial amount of the traffic issue; and, he respectfully ask the Planning Commission for your favorable consideration of our reasonable request.

Betsy Casteen said my husband and I bought a property at Keswick Hall in 2005 and live two houses in from a gate so see all the traffic that goes by. She said that it is very important that we have a gate that owners can use separately from having to wait and come through if you are doing commercial business or you are going to a hotel. Having said that she said they are supportive of what the Keswick Hall owners have done since they have been very responsive to us and thinks we have the water issue resolved. She said in fairness the traffic that a lot of the turns that we see onto Hunt Club Road are actually going to other activities not necessarily the hotel as the hunt club has a huge horse show they just did this weekend and there was a lot of traffic. She pointed out those events happen just a couple times a year. She said we are supportive of this but think because of the increase traffic within the hotel and coming onto the estate we would like to see if we could work out some situation that helps with the gate for the owners.

Ms. Riley thanked the speakers and invited further public comment.

Hearing none, Mr. Keller invited the applicant for their follow-up.

Ms. Long said that she just wanted to elaborate a little more on the turn lane issue. In addition to what she had already stated, VDOT has been very clear that the reason for their initial recommendation for the turn lanes was entirely based on what they have determined is an

existing crash history. She said they would actually dispute that there is an actual crash history but there is no actual definition of what constitutes a traffic crash history either so it is subjective. Regardless of that, that is an existing situation and there are no impacts that this project is creating that is substantially generating the need for that impact because VDOT has said it is an existing need that is already there. She said staff has indicated that we are going to exasperate the problem and we are adding ten turns during the peak hour in each direction. She said the warrants are not met and we used all the standard processes, had a professional traffic engineer prepare it and had it reviewed by VDOT. She said the warrants are not met and she did not think there was any dispute in that regard. She said impacts are measured by reductions in levels of service and we do not have that – they are measured in additional cueing length and we do not have that – and they are measured in additional delay time and we have it - it is .2 seconds additional one foot additional on the cue.

Ms. Long said she would argue that is de minimis to almost nothing so impact has been identified, and so we believe that it does not meet the legal standard to require it as a condition of approval since it is an off-site improvement. But, she would also like to point out some of the practical issues even in addition to the fact that the legal standard is not met there is not existing right-of-way to install the turn lanes. She said we had our traffic engineers at Timmons Group prepare an analysis and there would be the need for 1.78 acres of privately owned land to be acquired from three different owners. She noted one of those parcels or owners is in dispute; it might be CSX or the Keswick Hunt Club; it is unclear and significant title research would need to be done. The owners do not have condemnation authority so they cannot unilaterally acquire the property. VDOT has said they will not acquire the property using its condemnation authority and they have said they are not willing to invest their resources at this time in the improvements; it is on the Potential For Safety Improvements List, which is called the top 100 list and has 103. Ms. Long said she spoke extensively with Joel DeNunzio about it and his comments were that is a public project and eventually that project will rise up on our list and we will use our powers of condemnation if necessary and we will use our public funds to install those improvements but we are going to do it eventually. She said he also confirmed that there are not geometric issues with the intersection such as insufficient sight distance. She noted as you saw from the photos there was lots of sight distance but there is no weird vertical curves or anything that make it a dangerous intersection and it functions very well. She said we are not adding or creating any problems to exasperate the situation. She said Joel has indicated in on conversations that perhaps one of the solutions that could be just as effective as turn lanes would be to look at signage in the area and see if some additional signage could be added. His comment was in looking at the crash data that it is all due to driver inattention and people are not getting T-boned it because drivers are not paying attention and when someone slows to turn left they are running into them. Ms. Long said we ask for your support in removing that condition from the list of conditions if the Commission is inclined to recommend approval and would be happy to talk further about it.

Mr. Keller invited questions for the applicant.

Mr. Dotson asked Ms. Long about her reaction to the request from the property owners for the second west gateway.

Ms. Long replied that we have talked extensively with them and appreciate obviously how strongly they feel about it and the Hardy's are very committed to ensuring that the gate system works well for everyone. She said they own over 40 lots, 45 or 46 lots unsold lots so they have every incentive similar to the owner with the existing residence to ensure that the gate system is functional, convenient and attractive. They are in the midst now of working on with their design professionals the actual designs of the hotel, the new spa, the new restaurant and they are at the very early stages of figuring out the details on colors and things like that. They very much envision looking at the west gate as part of that comprehensive look but focusing their attention and resources right now on the hotel and spa so they can get those buildings up and running and generate some revenue. However, part of their overall plan they are going to work with their design professionals and take a fresh look at their entire approach – they are sort of entrance corridor to the entire property how they relate to the gates, landscaping and the various buildings with the parking. She said they have said they are willing to commit to looking at the west gate and a potential third lane for sure, it is absolutely what they want to do; they just don't know how that is going to fit in with the rest of their plans because they have not developed those plans yet. So what they have asked is for some flexibility to be able to study it over the next 12 to 18 months as they continue their work with their design professionals to figure out what is the best solution for the entire community in the area and it may well be that it is a third lane. She said we certainly appreciate that seems very logical that probably will be the solution but they are hesitant to commit to that as an absolute knowing that they really want to have the options. They do not know what options are on the market and so they just said we are willing to commit to it but they do not want to commit to an element of the design when they have not started the design process yet.

Hearing no further questions, Mr. Keller closed the public hearing to bring the matter before the Commission for discussion and action.

Mr. Dotson said he had a question for the county attorney, the condition for the additional lanes for the traffic improvements has been in the two previous special use permits and does that change the legal situation regarding off-site improvements since it has been there for quite a few years.

Mr. Blair replied this is confusing and if you look in the staff report both the 2000 and 2008 conditions speak to a February 21, 2001 letter from R.P. Ball of the Virginia Department of Transportation. He said not being here in 2000 or 2008/2009 he thinks what he can surmise is at the time VDOT had a traffic study based on the conditions listed here that they believed did warrant those improvements. He said It is my understanding the current applicant provided a new traffic impact analysis and based on that analysis through the warrant system VDOT made an opinion that the warrants and the trip generation themselves "did not activate the need for those improvements" in and of itself based on the traffic analysis provided by the applicant. Mr. Blair said he would ask Mr. McDermott for some clarification here.

Mr. Blair said Ms. Long is correct there are two cases one a Virginia Supreme Court, the Cup case that she referenced as well as a U.S. Supreme Court case called the Koonce case. He said the Koonce case said there had to be nexus between your traffic impact and the government demand is what he thinks the terminology the U.S. Supreme Court used and a rough proportionality between the impact and the government demand. He said the Cup case talked about a reasonable relationship between the impacts and conditions. So in 2000 and 2008/2009 he thinks the constitutionality of those conditions may have been prepped on that 2001 letter from R.P. Ball that relied on different traffic data. Now the current applicant has presented data that contended, and again he would ask Mr. McDermott and VDOT seems to state, "does not activate the need for these improvements." He said he knows that is complicated but he hoped that does explain why there may be a change as to the legal standard.

Mr. Blair said what Ms. Nedostup was talking about in her report the reason there is not anything in the current staff report to address the impacts as county staff sees it is that rough proportionality standard or reasonable relationship standard whether you are talking U.S. or Virginia Supreme Court, staff believes there is a traffic impact. He said VDOT has stated that the need for the previous improvements the right hand taper lane and the left turn lane they don't see in the current data before them the need for those improvements. He said but staff is still seeing an impact and believes there should be some condition that does address the impacts that staff has measured but he would ask Mr. McDermott if he could talk about VDOT's current analysis of the situation.

Mr. McDermott pointed out that VDOT representative Adam Moore, the Assistant Resident Engineer, is here and can speak on behalf of VDOT Residency on that point.

Adam Moore, VDOT Assistant Resident Engineer from the Charlottesville Residency, said we look at two conditions, the operational condition which is what has been mentioned as the warrants and other conditions like safety. He said in this instance our recommendations were based on the safety concern. He said as was mentioned by the applicant the intersection is on the PSI Top 100 List and what that means is that the intersection in the nine county district are evaluated based on their type and normalized. He said in this instance the crash data is normalized against a three-legged intersection with staff control where the major road is a minor arterial. He said from that analysis you would get an expected number of crashes and what we see here is that 3 out of the last 5 years it has been in the Top 100 List of Crashes more than expected. He said so that forms the basis of our recommendations for improvements.

Mr. Dotson said just to follow up he was a little unclear whether you are saying there are not sufficient warrants or there are improvements that you are recommending.

Mr. Moore replied that the warrants are based on an operational analysis which would mean that the drivers would experience delays because of the additional traffic. He said as the applicant said there was minimal increase in delay and cue length at the intersection in the

peak hour which is what was provided in the study. He said so from an operational sense we would not expect minimal or no additional congested. He said that does not mean that you would not expect an increase in crashes overall.

Mr. Spain asked are there other localities in which the private sector has been expected to provide a solution for this safety issue that you have described.

Mr. Moore replied that he did not know of any cases off the top of my head, safety concerns are very frequently the basis for VDOT's recommendations for improvements but assigning responsibility is very much a land use task that falls on the localities.

Mr. Bivins asked staff to go back to the accident table. He said if he was understanding this correctly you are saying for the last 3 out of 5 years that basically 6 accidents is put in the top 103.

Mr. Moore replied that is correct as compared to other intersections of this type.

Mr. Bivins said that was for three-legged intersections. He asked how this would rate in the County of Albemarle.

Mr. Moore replied it was probably in the top 20 but was estimating because he did not have the full list with me. He noted also that there is zero crashed in 2017 but there also has been four crashes already in 2018 and so what you experience is a lot of fluctuations at intersections like this and that is why we look back at least five years in assembling those lists.

Ms. More asked for clarification because we are talking about existing safety conditions and in your letter, VDOT is recommending the turn lane would that recommendation be made regardless of this development and so it is on the list already.

Mr. Moore replied that was right.

Ms. More asked has there been any analysis on the part of VDOT about whatever traffic impacts this development might have in making this more unsafe or creating an expressed need to have improvements done there or does it just stay in the same place it is on that list.

Mr. Moore replied that you would expect additional crashes with additional traffic going through an intersection, but where that would rank it in comparison to the many other intersections that were studied is hard to say. He said but if you are looking specifically at the intersections you could reasonably expect more crashes to occur with additional traffic.

Mr. Dotson said he had a follow up question for Mr. McDermott since the county attorney indicated that we have new information and TIA traffic analysis. He said in my reading of your memo you indicated that sort of the reference point of that study was some fairly recent data once it was known that the club and the hotel was going to be modernized and therefore

closed down for a while that perhaps that was not the best benchmark period to use. He asked if he could elaborate on that.

Mr. McDermott replied yes, when the initial traffic counts were done it was in November and at that time the club was about a month away from closing down for that year and we were concerned that perhaps it was generating less traffic by that point than it would typically have seen at that time. He said that could have been the reason why there were fewer turning movements seen in that traffic assessment versus the traffic counts that were done back in 2000. So that was the concern and we are just being cautious with the numbers but we accepted that they are closed and like you said the cueing is not necessarily what we are concerned about here, it is just an increase in the numbers of turning movements at that intersection which we believe would increase the likelihood of crashes.

Mr. Dotson asked if there are any other assumptions because the thing that is often true is experts use the same methodology but start with different assumptions and therefore they come up with different conclusions. He asked are there any other assumptions that were made in the traffic impact analysis that you might question and substitute different assumptions.

Mr. McDermott replied that when we scoped the traffic analysis we were not fully aware of the scope of the improvements that were going on there. He said he would just caution that the numbers were being conservative it is probably the least amount of traffic that he would expect this development to generate as opposed to being at the high end of the expected amount of traffic.

Ms. Spain said there was mention that the applicant's study really only looked at the peak hours and it did seem to reference in the staff report that there was a concern that were the traffic for this particular location might be in off-peak hours. She asked how does that factor into the question of the validity of their report.

Mr. McDermott pointed out the type of use that this is generating we do not expect to see it generating the most amount of traffic during that a.m. or p.m. peak hour. He said you see a lot of weekend use and it is reflected in the crash data that we see. He said mentioned none of the ten crashes that we see there actually occurred during the two peak hours that were analyzed. He said the type of use is something that you see very few people going at 7:30 to 8:30 a.m. and 4:15 to 5:15 p.m. which were the peak hours that they analyzed in the report. He said most of the trips that is generated are outside of that but aside from that it is still an increase just in the peak hour of an average of 44 percent more turns at that intersection.

Ms. Spain asked him to comment on Ms. Long's suggestion that signage might be a possible solution to this. She asked has that been tried in other localities.

Mr. Moore replied there are current advisory signs in place near this intersection and our traffic engineering section is currently reviewing to make sure that everything that should be there is

there and in the right place. He said he did not have the results of that review today but that is something that they are working on currently but he does know that there are intersection advisory signs with speed plates out there right now. He pointed out that is typically the first signs that would be installed.

Mr. Keller asked that the Commission move beyond the traffic issue.

Ms. More said on page 4 of the staff report you note that prior to completion of staff review of the last submittal the applicant requested a Planning Commission public hearing date set and normally outstanding issues would be worked out prior to a public hearing. However, because of the applicant's requested hearing date several issues remain unresolved and then you go on to describe those. She said this is one of those issues.

Ms. Nedostup replied that was correct.

Ms. More said what she was hearing from the applicant is about a conversation with Joel but she does not have that in front of me and asked if that is something she had.

Ms. Nedostup replied that information was discussed in a meeting on May 11 a few days before the staff report was due; however, she did not have anything in writing.

Ms. More said that she sees the point the applicant is making but she does find it curious that it was in two previous special use permit this was not an issue but it is now. She could accept some explanation as to that but was not comfortable without having all of that information in front of us recommending anything otherwise than it just stay and the applicant would have time to work with staff prior to the Board hearing to have that information provided.

Mr. Bivins asked staff if Ms. Long's comment satisfied her comment on page 8 of the staff report about critical slopes. He said Ms. Long's comment was that critical slopes and conceptual grading have both been updated but a detailed critical slopes waiver request will accompany our site plan review process.

Ms. Nedostup replied no, typically, there are two options you can submit a critical slopes waiver with a special use permit request because it ultimately needs to be approved by the Board. She said that is a process staff recommends, but they could wait until the site plan but we are recommending that it happen concurrently with the special use permit.

Mr. Keller said in terms of the Comprehensive Plan, rural areas and appropriate uses with the question of scale that this applicant is actually reducing the number of rooms which in theory would be reducing the amount of water usage this however has a golf course which is an intensive water user and so he wondered if you have thought about groundwater and groundwater depletion and those kinds of issues with the intensity of having a subdivision and a resort that has a pool and golf course. He asked about alternative ways such as cisterns.

Ms. Nedostup replied that in prior special use permits for this use that working with the Home Owner's Association (HOA) there was a plan to reduce the watering and irrigation of the residential uses. She said the applicant can speak better to this but she thinks that is still in place where there is limited use on watering of residential lots. She said staff looked at the water study in looking at what they were projecting for the capacity with their first phase she did not go into detail in here. She said in their first phase report 1a with these improvements that they are proposing they are almost at the capacity currently permitted just for the inn and so once you add in the residential uses it would be above and beyond the capacity. She said since there was prior decisions made to allow the Inn and residential uses to use the system staff continued that line of thinking that allowing capacity to expand for just the residential uses would mitigate the impact to those residences.

Mr. Keller questioned the restaurant and moving the location and asked staff to remind us of how restaurants in the rural areas works.

Ms. Nedostup replied that this has been historically an approved use so if this were a new use in the rural areas a restaurant would not be a recommended use but since under the Zoning Ordinance restaurants, taverns and inns under specific without going beyond capacity for water and sewer are permitted. She said it falls under that for this restaurant and they are not increasing the number of seats in the restaurant; it is remaining the same and they are just moving it to an outside building.

Mr. Keller said he was thinking about the next public hearing and the issue of whether things would be grandfathered in the existing location or on that parcel. He said this is a case of where in effect you are saying it is grandfathered because it is on the parcel but it is asking for a move of location within the parcel. He said we all have to grapple with that in the bigger issue.

Ms. Nedostup replied that was right.

Ms. Riley said related to that though in this particular grandfather situation in your staff report on page 6 you say that the result of the study was that the current system does not have sufficient capacity for both in the proposed uses and the residential units that build out. She said staff has some previous conditions in here from before but essentially, you put a note in here that a separate request will be needed to allow for expansion of the central system for the residential lots and the Board would consider that request at a future date. She questioned it said even though the study shows that there is not sufficient water in the current system.

Ms. Nedostup pointed out there is sufficient water for this use but it impacts the residential uses so the residential lots that are undeveloped would not have capacity. She said that is why the condition is that they build to capacity basically for the residences to mitigate that impact.

Ms. Spain asked did the applicant's offer to expand the central water system come in after this report was written.

Ms. Nedostup replied no.

Ms. Spain asked even with the applicant's offer to expand it you still have concerns that are among the number first on unfavorable factors.

Ms. Nedostup replied that was right because of the Comprehensive Plan with uses in the rural areas.

Mr. Dotson questioned if what he is hearing at this point there is a little bit of additional data and mapping that might be provided but that the key issue that separates the staff and applicant at this point is the traffic condition and everything else has been agreed to, and Ms. Nedostup replied that was correct.

Mr. Keller asked if there was a motion.

Ms. Spain moved to recommend approval of SP-2018-0001 Keswick Hall and Golf Club with the recommended changes. She said wait a minute that we still have not resolved the traffic issue and asked Mr. Blair how to amend that condition.

Mr. Blair said let's talk about that because if you look at the recommended action there are two changes listed and then conditions listed by staff. He said condition #2, related to traffic impacts would retain the current condition for the applicant to construct the right turn taper and left turn lanes. He said so if you moved for recommendation of the conditions as before you under the recommended action then in effect the right turn taper and left turn lane construction would still remain a condition for the applicant to fulfill for this special use permit.

Ms. Spain asked if she can say in conditions with the deletion of the second condition.

Mr. Blair relied yes, if the Commission wishes to delete that second condition, he would recommend that you make a motion to delete that second condition and then proceed from there.

Ms. Spain said she withdraws this recommendation and make a motion that the Commission consider deleting condition two.

Mr. Bivins seconded the motion.

Mr. Keller invited discussion.

Ms. More said that she does not support deleting that condition and thinks there is a way for the staff and applicant to get there since with information from Joel and a little more time it is possible.

Mr. Dotson said he would agree with Commissioner More and have a question for the County Attorney. He said in his legal explanation you talked about proportionality and it seems that it is all or nothing as being presented here, either the applicant provides all of the improvements or under this motion, the applicant provides nothing. He asked is it possible not tonight but perhaps when this goes to the Board to have some more proportional way of addressing this issue.

Mr. Blair replied that he had spoken with the applicant's representative today as well as staff and he thinks certainly the Commission will make its recommendation tonight but he thinks there is going to be additional conversations between staff and the applicant about this proportionality issue. He said he did not want to speak for the applicant but based on conversations today he thinks it is fair to say that based on their timeline for construction they would obviously prefer for condition 2 to be deleted, but regardless they would like a recommendation from the Commission tonight and not a deferral.

Mr. Keller asked if there was any more discussion before taking a vote.

Ms. Spain said she would like to say why she thinks it is realistic to delete that condition. She said VDOT has said it does not warrant it where it is not warranted although it is a safety issue and that they will be paying for it eventually. She said however given the difficulty of what the applicant has described in acquiring the rights to that property to make it happen quickly that she thinks if VDOT is not willing to invoke that eminent domain and make those claims on the property now then why should the private sector be expected to be able to do that. Ms. Spain said so she too thinks something can be worked out whether it is signage or what have you but would like to see the ability to proceed with this because everything else has been addressed.

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

The motion passed by a vote of 2:4. (Keller, Riley, More, Dotson no) (Firehock absent)

Mr. Keller asked for another motion.

Ms. Spain moved to recommend approval of SP-2018-0001 Keswick Hall and Golf Club with the recommended changes and conditions outlined in the staff report.

Ms. More seconded the motion.

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

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

Mr. Keller thanked the applicant and the members of the audience for speaking. He said this request would be going to be the Board of Supervisors for their consideration at a date to be determined.

The Planning Commission took a break at 7:22 p.m. and the meeting reconvened at 7:31 p.m.