

**STAFF PERSON:** YADIRA AMARANTE  
**PLANNING COMMISSION:** 2/4/03

**SDP 02-128: FAULCONER CONTRACTOR'S OFFICE AND EQUIPMENT STORAGE YARD  
PRELIMINARY SITE PLAN**

**APPLICANT'S PROPOSAL:** The applicant is requesting approval of a preliminary site plan to construct a 15,540 s.f. maintenance shop, 3 (three) 4,320 s.f. pole barns for storage, 1 (one) 3,032 s.f. office building and 1 (one) 3,512 s.f. office building, in phase 2, for the purpose of operating a contractor's office and equipment storage yard, (Attachment A).

The property, described as Tax Map 58, Parcel 37 contains 27.37 acres, and is located in the Samuel Miller Magisterial District on Morgantown Road [Route # 738] approximately 1-1/8 miles west from the intersection of Morgantown Road and Route 250 at Ivy. The property is zoned LI, Light Industrial and the Comprehensive Plan designates this property as Rural Areas in Rural Area 3, (Attachment B).

**CHARACTER OF AREA:** Parcel 37 is currently a heavily wooded vacant lot with several small streams flowing throughout which drain into Ivy Creek. The parcel is located within a small industrial park which currently houses a child daycare center, and several commercial/warehousing facilities. The area immediately surrounding the industrial park contains the Virginia L. Murray Elementary School to the east, small residential parcels to the north, large vacant and/or residential parcels to the west, and a C & O railroad line to the south. All the parcels surrounding the industrial park are zoned RA, Rural Area.

**PLANNING AND ZONING HISTORY:**

For a synopsis of the zoning history of this site by the County Attorney see Attachment C.

1970: On July 16, 1970 the Board of Supervisors (BOS) heard ZMP-129-W.T. Dettor, Junior, a request to rezone 48 acres from A-1 Agricultural to B-1 Business and 12 acres from A-1 Agricultural to RS-1 Residential. Since this proposal involved a major element of the upcoming Comprehensive Plan adoption (the establishment of the Ivy Community and subject parcel within an area recommended for heavy industrial uses) the subject parcel was rezoned to B-1 Business and RS-1 Residential. Also heard this day was CU-140-W.T. Dettor Jr., for a conditional use permit to allow a wholesale food distribution warehouse in the B-1 Business zone approved above.

1970: The first Comprehensive Plan of Albemarle County was adopted in 1970. That plan shows the establishment of the Community of Ivy to be developed with areas of high, medium and low density residential, a central shopping and business district, and light and heavy industrial uses. There was an area immediately west of State Route 676 on State Route 738 which was slotted for heavy industrial uses.

1975: On October 22, 1975 the BOS heard and approved ZMP-332: William T. Dettor, Jr., a request to rezone TMP 58-37 and 37B (parcel 37 is subject parcel) from A-1 Agricultural, RS-1 Residential, and B-1 Business to M-2 Manufacturing. Mr. Dettor requested the rezoning in order to expand on his established warehouse business on Parcel 37B. At the time the Comprehensive Plan suggested that this area, because of its access to rail transportation, be developed as heavy industry. With a favorable recommendation from the Planning Commission (PC), the BOS approved the request to rezone the parcels to a less intense M-1 Manufacturing instead of the M-2 Manufacturing zoning requested.

1977: The Comprehensive Plan continues to show Ivy as a growth area and requires industrial uses

within its boundaries.

1980: In 1980 there was a comprehensive rezoning of the County. The subject parcel was rezoned to the new LI – Light Industrial zoning district. Both the M-1 zoned property and 200’ A-1 zoned buffer strip, approved under ZMP-332 above, were designated for LI on the proposed 1980 zoning map and approved as such.

1982 (and as amended in 1984, 1985, and 1986): The Comprehensive Plan downgrades Ivy’s status from Community to Village. This amendment to the Comp Plan acknowledged that many of the growth goals of the previous decade’s Comp Plans had been fulfilled and recommends a significant reduction in the land area designated for growth within Ivy as well as recommending only low density residential and commercial uses within its boundaries.

1989 – Ivy Village is fully developed as recommended by previous Comprehensive Plans and is no longer designated as a growth area.

2001: Application for SDP 01-037 – Falconer Construction Office and Shop Preliminary Site Plan was received on April 23, 2001 and later withdrawn on November 11, 2002.

2001: In June of 2001 the Director of Planning and Community Development requested an Official Determination of Use to find if the proposed “Falconer Site Plan” represented uses consistent with a Contractor’s Office and Equipment Storage Yard. On June 26, 2001 the Zoning Administrator did opine that the “...activities proposed for the new site in Ivy, are currently permitted by right in this zoning district...” (Attachment D). On July 23, 2001 abutting property owners appealed this decision to the Board of Zoning Appeals (BZA). On September 11, 2001 the BZA affirmed the Zoning Administrator’s opinion, (Attachment E). That decision was restated in a letter to appellants dated October 2, 2001.

**COMPREHENSIVE PLAN:**

The site is located within Rural Area 3, in an area currently designated as Rural Area by the Comprehensive Plan. Staff has cautiously determined that this proposal does not comply with the Comprehensive Plan. The Open Space Plan identifies no significant resources on the subject property.

**REASON FOR PLANNING COMMISSION REVIEW:**

The applicant’s proposal includes several waiver requests. (1) Request to waive Section 4.2.3.2 of the Zoning Ordinance which prohibits earth-disturbing activity on critical slopes, (Attachment F); (2) request to waive Section 4.12.6.2 of the Zoning Ordinance which prohibits one way circulation patterns, (Attachment G); (3) request to waive Section 4.12.6.5c of the Zoning Ordinance which discourages curvilinear parking, (Attachment G).

With Commission approval of the above-mentioned waivers this preliminary site plan would have been eligible for administrative approval. However, in accordance with site plan processing procedures, set forth in Section 32.4.3.5 of the Zoning Ordinance, Planning Commission review and approval of the proposed site plan is being requested by neighboring property owners, (Attachment H).

**STAFF COMMENT:**

Staff will comment on the **Waiver Requests** (1. Critical Slopes, 2. One-way Circulation, and 3. Curvilinear Parking), and **Neighboring Property Owner Concerns** separately.

## **DISCUSSION:**

### **Waiver Requests**

1. Critical Slopes: Staff has addressed the critical slopes concerns directly through the analysis provided herein and with the standard review that is applied to all site development proposals. Proper reconstruction of slopes and establishment of vegetation in the disturbed areas will be effective in preventing the movement of any significant amount of soil. Other aspects of site design, such as the design of stormwater detention facilities and erosion and sediment control measures, are subject to Engineering Department's approval for effectiveness in addressing concerns with excessive run-off and siltation throughout the entire site.

The applicant proposes to grade existing critical slopes. Areas of critical slope comprise approximately 4.40 acres, or 16% of total site area. These slopes are mostly associated with the two stream valleys that traverse the site. Section 4.2.3.2 of the Zoning Ordinance restricts earth-disturbing activity on critical slopes and Section 4.2.5.2 allows Planning Commission modification of this restriction upon finding that strict application of the restriction would not forward the purposes of the Zoning Ordinance.

The plan shows that about 35%, or 1.53 acres, of existing critical slopes will be disturbed by the proposed construction. This disturbance is in the form of grading for building and parking pads and driveways. Approximately 0.63 acres of the critical slope disturbance is due to driveway construction. Engineering staff has determined that this disturbance is "necessary to provide reasonable access to the site" and that "there is no reasonable alternative location or alignment to provide access to the useable portions of the site" and recommends approval of the waiver request, (Attachment I).

The Department of Planning and Community Development's analysis of this request gives consideration to the concern of a possible loss of aesthetic resources. Aside from those slopes being disturbed for access purposes, grading for the maintenance shop and surrounding gravel yard will disturb the greatest amounts of critical slopes. However, the critical slopes on this part of the site comprise the sides of a dirt borrow area utilized during the 1987 construction of an addition to the warehouse located on Parcel 37B, (the old Dettor/Edwards building). Because this disturbance was manmade, none of these slopes are delineated on the Open Space Plan's Composite Map, therefore, Planning staff finds no substantial loss of aesthetic resources and also recommends approval.

Along the lines of critical slopes, the site plan is also showing significant areas where critical slopes will be created. Most of these are associated with the construction of access ways and will be benched and stabilized with natural ground cover.

2. Curvilinear Parking: Section 4.12.6.5c of the Zoning Ordinance states that "Where practical considerations warrant, the Commission may authorize other angled, curvilinear, and/or parallel parking". Engineering Staff has indicated that the radii for the curvilinear parking are sufficiently large and that it should pose no internal circulation conflicts. The parking spaces are of adequate size (generally 9' x 18'), the travel aisle widths adjacent to these parking spaces are appropriate (24'),

and there is adequate sight distance. The Engineering Department has reviewed this proposal and finds no conflict with the proposed layout for curvilinear parking (Attachment J). Therefore Planning Staff recommends approval. It is important to note that staff has requested and the Commission has recommended removal of this restriction in a recent zoning text amendment related to parking.

3. One way circulation: In an attempt to reduce additional and unnecessary grading, the applicant has proposed a one way circulation aisle along the front of the Faulconer office building. The Commission may approve one-way circulation in “such case where the same is necessitated by the peculiar character of the site or of the proposed use. In such case, the commission shall require installation and maintenance of control devices such as bypass lanes, signage, pavement markings and physical barriers as deemed reasonable.” In this case the peculiarity of the site is that it the useable portions of the site will be graded very close to a mandatory 30’ buffer. In order to pull back necessary grading from the buffer, the applicant has proposed to cut a parking lot travel aisle in half (to 12’) in order to save that additional 12’ of grading. The Engineering Department has reviewed the applicant’s waiver request for safety and compliance with sound engineering practices and has recommended approval, (Attachment J). The applicant is also proposing installation of several traffic control devices including pavement markers and signage, therefore staff recommends approval of the waiver. It is important to note again that staff has requested and the Commission has recommended removal of this restriction in a recent zoning text amendment related to parking.

### **Neighboring Property Owner Concerns**

Staff has received numerous letters from abutting property owners and concerned parties, including the County Superintendent’s Office, Virginia L. Murray Elementary principal and PTO, Millstone of Ivy preschool, and the Route 250 West Task Force, identifying concerns they have about the development of this site by Faulconer Construction. These letters and questions are presented as Attachment K. Instead of trying to relay each concern and/or question verbatim, staff has attempted to condense all questions/concerns which are similar in nature into one issue. These issues will appear *italicized* with staff’s response immediately following.

***Is the proposed use allowed on this site:*** *Many questions have been posed which contend that Faulconer’s proposal is not a by-right use in the LI zoning district, that in fact it is a heavy industrial use and its operations are inappropriate for the area. There have also been claims that certain land use restrictions (specifically undisturbed buffers) imposed at various times during the site’s long zoning history should continue to be enforced.*

As stated earlier, the Zoning Administrator has determined, and the BZA has affirmed, that all activities proposed by the current site plan application are in fact activities associated with a contractors office and equipment storage yard as defined by the County Code and allowed in lands zoned LI – Light Industrial. Further, records show and the County Attorney concurs that any and all undisturbed buffers or agriculturally zoned strips of land on this site were eliminated during the 1980 comprehensive rezoning of the County.

***Cemetery on the site:*** *There have been claims that a cemetery exists on this site.*

There are no burial sites shown on the current site plan. There are no burial sites shown on any other site plan submitted to the County for review within the industrial park. Staff has made limited field visits to the 37+ acre site as part of the review process and no burial sites have been identified and no one making the claims has volunteered to point out a burial site.

***Conflicts with truck traffic:*** *The bulk of citizen concerns center around potential dangers posed to pedestrians, motorists, and school buses along Morgantown Road by very large and heavy construction equipment which Faulconer employs in the operation of their construction business.*

Faulconer Construction has stated that they primarily use cars, pickup trucks and SUV type vehicles for their yard and office operation, however, in addition, they use dump trucks, tree spade trucks, a flatbed truck and two tractors that pull lowboy trailers (Attachment L). All of these vehicle types are common to contractor operations such as Faulconer. The widest of their vehicle types measure approximately 100", the same as a school bus. Potential conflicts between large vehicles and regular motorists trying to pass at the same time are a reality. However, this reality exists with or without the proposed development. Big and heavy truck traffic is not new to this road. As early as the 1970's Tillman Road between Route 250 and Morgantown Road was improved in order to accommodate the warehousing/distribution traffic of Dettor, Edwards and Morris. VDOT states that that operation was to be served daily by four (4) tractor-trailer trucks, twenty-two vehicles owned by the plant for local distribution, and it employed approximately fifty persons. Since the closing of Dettor, Edward's & Morris the size and frequency of bigger trucks traveling along Morgantown Road has diminished even though a pulp wood operation on Rte. 679 frequently uses Morgantown and Tillman Roads.

The current pavement width of Morgantown road is anywhere from 18' to 20.5' throughout its length. It is constructed on a rural cross section (no curbs, no gutters, no sidewalks). It has three outlets to Route 250, one each at its most eastern and western points and one via Rte. 676 (Tillman Road). Sight distances at two of these intersections with Route 250 need improvement. As late as July 2001 VDOT stated that the westernmost intersection of Rte. 738 and Rte. 250 did not meet the minimum standard for sight distance. Sight distance at the Rte. 676 and Rte. 250 intersection has since been improved and is closer to the 550' minimum. The only intersection which surpasses sight distance standards is the easternmost Rte. 738/250 intersection at the Ivy railroad overpass. VDOT has stated that the accident rate over the last 11+ years is less than the statewide average for secondary roads, (Attachment M).

Since 1999 residents of Morgantown Road have been meeting with officials from the County and VDOT in order to get their existing traffic problems resolved. Some scenarios include reducing the speed limit, stopping through traffic, closing the westernmost intersection with Rte. 250, enforcing the current speed limit, enforcing stopping for stopped school buses, restricting through trucks, and painting side and centerline stripes on the road. The relocation of Faulconer to this site has rekindled and heightened citizen concerns. Suggestions have ranged from stopping development because of existing road conditions to restricting truck travel in front of the school or during drop-off/pick-up times to requiring that the applicant make any necessary off-site improvements.

Staff concurs that existing road conditions are not optimal, however, the County does not have the authority to require off-site road improvements as a condition of approval. The Zoning Ordinance limits site plan review to safe and convenient access, circulation, parking and pedestrian ways proposed on-site only. Staff relies on VDOT recommendations and thus far, VDOT has recommended approval of this application requiring improvements only to the entrance of the site on Morgantown Road.

The County's Transportation Planner is working with VDOT to keep trucks from crossing in front of the elementary school by requesting signs which would direct trucks from Rte. 250 to the industrial park through a certain route. The success of this endeavor will depend on the adequacy of the two other outlets (west on Morgantown and Tillman Road) to safely get trucks to and from Rte. 250. Given the limited sight distance at the western outlet and given that the Tillman Road/Rte. 250 intersection has other limitations, even though recently improved for sight distance.

***Certified Engineer's Report:*** *Many citizens are of the opinion that the County should not take action on this project until it has had a chance to review the report.*

A certified engineer's report will outline (1) what kinds and amounts of materials will be kept on site and methods of containment and (2) measures to control noise, water, and air pollution. The County cannot require a certified engineer's report until the final site plan process. However, staff requested and the applicant has supplied the County with a very preliminary and generalized list of the types of materials which will be stored on site and how the materials will be contained (Attachment N). The Department of Engineering and Fire/Rescue Division review and approval of the report's submittal will address storage of potentially dangerous materials. It should be noted that the applicant has agreed to a site plan condition which would prohibit storage of explosive materials on-site.

***Runoff and potential groundwater contamination:*** *Many concerns have focused on the concern that materials stored on site might spill and contaminate the groundwater and neighboring wells or flow into the two streams located on site thereby contaminating nearby Ivy Creek.*

Water quantity and quality measures are major factors of the Engineering Department's review. Stormwater management/BMP plans and computations will be required prior to final site plan approval to ensure that all runoff generated on-site will be contained/treated on-site before being released back to the environment. Also, disturbed stream buffers will be mitigated to assist in the process of controlling and treating runoff and a permit from the Army Corps of Engineers will be required. Well water monitoring is not part of the County's review process. During final site plan review the Health Department will be required to review and approve all wells and drainfields located on-site. Part of this review includes provisions for groundwater protection.

### **RECOMMENDED ACTION:**

Staff has reviewed this request for compliance with the provisions of the Zoning Ordinance and recommends approval of the proposed site plan (SDP 02-128: Faulconer Contractor's Office and Equipment Storage Yard Preliminary Site Plan) with conditions and recommends approval of waivers of Sections 4.2.3.2, 4.12.6.2 and 4.12.6.5c of the Zoning Ordinance with conditions.

The Planning Department shall not accept submittal of the final site plan for signature until tentative final approvals for the following conditions have been obtained. The final site plan shall not be signed until the following conditions have been met:

1. The outfall from the proposed oil/water separator will require a permit through the Department of Environmental Quality (DEQ). An alternate would be a zero discharge system that would require period transport of wastewater to a treatment plant. The DEQ permit or a new zero discharge system will be required for final site plan approval.
2. A full certified engineer report will be required prior to final site plan approval. It must meet the standards of Section 18-4.14.8 of the Zoning Ordinance. Of particular importance will be descriptions of proposed activities and processes on the site and measures to control noise, water, and air pollution. Please note that the Engineering Department will not serve as the certifying engineer for this information.
3. An erosion control plan, narrative and computations. [18-32.7.4.3, 17-203]
4. A completed application and fee for erosion control and stormwater management. [17-203, 17-303]
5. A stormwater management/BMP plan and computations. Computations must include water quality, and detention routings for the 2yr and 10yr storms. [17-304]
6. A mitigation plan for stream buffer disturbance. [17-322]
7. A completed stormwater management facilities maintenance agreement and fee. [17-323]

8. Drainage computations. [18-32.7.4, Policy]
9. Retaining wall plans and computations certified by a professional engineer for walls over 5 feet in height. [Policy]
10. VDOT approval of construction that affect right-of-way.
11. The proposed road servicing the development must have an approved road name labeled on the final site plan. [E911 policy]
12. Submittal of a Landscape Plan in conformance with Section 32.7.9 of the Zoning Ordinance. The Landscape Plan shall include a tree conservation plan. [18-32.7.9]
13. Health Department approval of all well and drainfield locations. [18-32.7.5.3]
14. Plan note: "Storage of dynamite blasting caps and other explosives is prohibited on this site. For the purposes of this condition storage shall mean the existence of these materials on the site for more than four (4) consecutive hours on any one day."
15. Three loading spaces are required. Two loading spaces are required by the gross square footage of industrial use and one loading space is required by the gross square footage of office use. Please note the required and provided number of loading spaces on the cover sheet and show, label and dimension all loading spaces on the plan. [4.12.7.2]
16. Show the location of all outdoor lighting on the plan. [32.5.6(n)]
17. Provide a description and photograph or diagram and show the location of each type of outdoor luminaire that emits 3,000 or more initial lumens. Please be aware that installation of such luminaires in the future that are not shown on this plan shall require an amendment to this plan. [32.6.6(j)]
18. Include a photometric plan on the site plan demonstrating that parking area luminaires are in compliance with 4.17.4(b). [32.6.6(j)] [4.17.4(b)]

**ATTACHMENTS:**

- A. Vicinity Map
- B. Reduced Preliminary Site Plan
- C. Zoning history synopsis by the County Attorney dated 12/12/01
- D. Official Determination of Use by Zoning Administrator dated 6/26/01
- E. BZA Action Letter affirming Zoning Administrator's determination of use dated 9/12/01
- F. Applicant's request for Critical Slopes Waiver dated 11/11/02
- G. Applicant's request for Curvilinear Parking and One-way Circulation Waiver dated 11/11/02
- H. Abutting Property Owners request for Planning Commission Review (3 letters) dated 12/30/02, 1/7/03, and 1/13/03.
- I. Department of Engineering Memo regarding Critical Slopes Waiver Request dated 1/27/03
- J. Department of Engineering Memo regarding Curvilinear Parking and One-way Circulation Waivers dated 1/27/03
- K. Citizen Letters expressing concerns with the proposed development.
- L. Applicant's letter outlining types of vehicles to be used dated 6/7/01
- M. Accident Data Summary for Morgantown Road dated 7/01
- N. Applicant's preliminary list of types of materials to be stored on-site dated 7/10/03