Albemarle County Planning Commission
March 28, 2000

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, March 28, 2000 in the County Office Building. Members attending were: Mr. William Finley, Chairman; Mr. Dennis Rooker, Vice-Chairman; Mr. Rodney Thomas; Ms. Tracy Hopper; Mr. Pete Craddock. Other officials present were: Mr. David Benish, Chief of Planning & Community Development; Ms. Amelia McCulley, Department of Zoning; Ms. Jan Sprinkle, Department of Zoning. Mr. Ted Glass, Planner; Mr. Steven Waller, Planner. Ms. Margaret Pickart, Design Planner; Mr. Greg Kamptner, Assistant County Attorney. Absent: Mr. Jared Loewenstein; Mr. William Rieley (attended meeting briefly).

Approval of Minutes – March 7, 2000
The Commission moved, seconded and unanimously approved the minutes as amended.

Other Matters Not Listed on the Agenda from the Public
None were offered, and the meeting proceeded.

Consent Agenda

Addition to Hardware River Agricultural/Forestal District – Proposal to add 153.48 acres in five (5) parcels to the Hardware River Agricultural/Forestal District. The properties descried as Tax Map 88, Parcels 20A, 20B, 20C, 20D, 20F are located both east and west of Seminole Trail (Route 29 South), just north of the intersection of Secretary's Road (Rt. 708) and Seminole Trail.

The Commission moved, seconded, and unanimously approved the Consent Agenda as presented.

Deferred Items:

ZMA-99-16 Glenmore Associates Limited Partnership (Sign # 60 & 61) - Request to rezone 37.96 acres from RA to PRD to add acreage to the Glenmore PRD, increase the maximum allowable single family units in the Glenmore PRD from 775 to 889, and to modify proffers. The properties, described as Tax Map 79, Parcels 28, 32, 34, 35, 35A and Tax Map 93, Parcel 62 are located in the Rivanna Magisterial District on Ashton Road approximately 0.7 miles from the intersection of Glenmore Way and Route 250 East. The Comprehensive Plan designates this property as Neighborhood Density Residential 3-6 dwelling units per acre in the Village of Rivanna. *DEFERRED FROM THE MARCH 21, 2000 PLANNING COMMISSION MEETING.*

SUB 00-018 Glenmore Scottish Homes Preliminary Plat - Request for preliminary plat approval to create 65 lots on 62.13 acres. The property is zoned PRD and RA and is requested for rezoning to PRD as an addition to the Glenmore development. The property, described as Tax Map 79 Parcels 28, 32, 34, 35, 35A; Tax Map 93 Parcel 62; and Tax Map 93A1 Parcel 1, is located in the Rivanna Magisterial District south of Ashton Road and opposite Darby Road in the Glenmore development. The Comprehensive Plan designates this property as neighborhood density with 3 - 6 dwelling units per acre in the Village of Rivanna. *DEFERRED FROM THE MARCH 21, 2000 PLANNING COMMISSION MEETING.*

Ms. Echols presented the staff report, noting that the proposal would add approximately 38 acres to the Glenmore development, which is in the Village of Rivanna. Referencing illustrations, Ms. Echols showed which parcels are slated to be added to the Glenmore development. She also pointed out a map showing those same parcels superimposed into the Glenmore Plan, and a subdivision plat to show how the land would be added into the development . Ms. Echols characterized the plan as a long and involved proposal because it is an ongoing planned development totaling 1167 acres; with the additional 38 acres, the development would total 1205 acres.

Ms. Echols said that the proposal would accomplish the addition of the 38 acres, and would increase the total number of units from 775 to 813. It would also remove a proffer for a public road construction and replace it with money so that the county could determine where a public road should be constructed in the Village of Rivanna, and use that money for master planning or design and construction of that public road. It would also extend the time period for installation of a signal at the intersection of Glenmore Way and Route 250, and would replace a proffer for traffic improvements on Route 250 from a maximum of $500,000 to a different way of determining the value of those improvements – at $1,300 per lot – for a total value of $273,000.

Ms. Echols noted that there is a general condition in Glenmore that open space links should be 30 feet wide; this proposal removes the requirement for the open space links width and also reduces the front yard setback from 20 feet to 10 feet in cottage units, and removes pedestrian trails shown on original application plan. Ms. Echols noted that staff has reviewed the rezoning and reviewed it in conjunction with the Comprehensive Plan; it does meet Plan guidelines. She added that it does not change any of the form of development – which is conventional – or increase density. Ms. Echols mentioned that DISC recommendations ask for a changed form at higher density; however, those recommendations have not been given to the Board.

Ms. Echols reported that staff recommends the additional 38 acres be approved as an amendment to PRD with the proffers in the attachment; before any additional acreage is requested for Glenmore, a master plan needs to be done that identifies where the additional land should be added to Glenmore, and what kinds of density is needed for the rest of the Rivanna Village.

Ms. Echols explained that the subdivision plat which accompanies the application plan shows a central green area, roads that are linked in two points, and lots of open space retained in environmental features.

Regarding the proffers presented, Mr. Rooker asked for some additional detail on why the staff reports state it is not in the county's interest to have the road built which was mentioned in the original proffers.

Ms. Echols explained that the original idea was that Ashton Road would be upgraded and dedicated for public use, with a public road in that general vicinity serving the Village of Rivanna. Ms. Echols said that several years ago, staff talked about the proposed location of that public road and where the roads would lead in the Village. She said that the proposed road proffered did not assist in providing interconnections in the village to and around the proffered

26-acre school site. Two years ago, the applicant asked about dropping the road proffer and offer the county money instead to make a more functional road for the Village of Rivanna. Mr. Kelsey walked the potential school site, which was determined to have environmental limitations on where a road could be placed. Ms. Echols said that Mr. Kelsey drew up two alternative designs for road locations which would provide access from Route 250 to the school site that could potentially connect up with Glenmore Way.

Staff viewed the replacement proffer as being more advantageous than upgrading Ashton Road to a public road.

Mr. Rooker asked if the proffer was equivalent in terms of dollar value.

Ms. Echols responded that the construction activities under the new proffer will be more expensive, but the money would be a significant contribution because it could be used for master planning.

Mr. Rooker asked about the proffer intended to replace the1990 proffer to provide $500,000 in traffic improvements on Route 250 East.

Ms. Echols responded that the existing sunset date is [2005]. She explained that the applicant was asked to extend that proffer, but he declined to extend it because he didn't think the county could get the road improvements in by [2005]. Ms. Echols said that that particular item in 1990 was very significant, and there was an expectation that Route 250 would be widened by the time the Glenmore project was ended. Staff negotiated a different time period and allotment for the $1,300/lot total, and felt that if the applicant were not willing to proffer the larger sum of money, the amount offered would be acceptable for other types of road-widening projects on Route 250. "If he had left the proffer in as it was and not extended the time period and it had run out, we wouldn't have gotten any money."

Mr. Rooker asked what the sunset provision would be on the new proffer.

Ms. Echols said the date would be 2010.

Mr. Rooker asked if the money would all be forfeited in 2010 if the widening doesn't take place.

Ms. Echols said the proffer (#8c) stipulates that the money would be for the CIP use for public right-of-way improvements on Route 250, or any other transportation-related improvements in the county's CIP related to the village of Rivanna and the Route 250 East corridor. "We would collect that money, and if it is not used for the purpose in this particular proffer, we would have to return it to Glenmore Associates or the designee."

Mr. Rooker commented that the potential uses are much broader under this scenario, so the likelihood of using the money would be much greater.

Ms. Echols agreed, adding that the time period is longer, and the uses stipulated are broader.

Mr. Cilimberg noted that it is possible that the money could be used for road improvements identified by a new master plan for the area.

Mr. Rooker asked about the second proffer, regarding the donation of 27 acres of land for a school. He asked for clarification on the reversion clause, which states that the county needs to request the land by April 12, 2010. "If the mechanism is requesting the land, why doesn't the county just request the land. It doesn't say they have to build a school within any particular period of time?"

Mr. Cilimberg responded that the county doesn't usually request the land unless there is an intended purpose, and there is some question about whether this is actually going to be a school site. While it's possible that the site could also be used for parks/recreation, the county wants to hold off until it's identified in capital planning. He added that the county should decide by the time specified what the land could or would be used for.

Mr. Rooker asked about the proffer regarding the fire station.

Ms. Echols said that proffer has already been taken care of.

Mr. Cilimberg mentioned that under Virginia law, exercising proffers of gift requires certain things to be done in planning work.

Mr. Kamptner noted that the proffers have to provide for the disposition of the property or the cash if it's not used for the proffered purposes.

Mr. Cilimberg confirmed that the 2010 date is far enough out.

Mr. Craddock asked if the $1,000 per lot mentioned in Proffer #4 is currently in escrow.

Staff confirmed that it is in the CIP, and has already been used for some of the improvements at Stone Robinson School.

Mr. Finley noted that the density is only 1/3 of what's recommended for this development.

Ms. Echols stated that this development area has some peculiarities. The village was designated with most of its potential for the Glenmore development, and the applicant will address why it is lower density. She acknowledged that staff has a lot of concerns about the development using a lot of land in a development area, but added that after this proposal goes forward, the time is now to do some master planning to see what the rest of the development can support in terms of density.

Ms. Hopper asked if the master planning was ever discussed as a proffer, to show the intention of having higher density.

Ms. Echols explained that staff asked the developer to use a higher density development in this particular proposal, but they declined. She said that the applicant's product caters to a particular

niche in the county that might take more pressure off of the rural areas than a smaller-lot development. Staff told the developer that he would need to come forward with more of a master plan for future developments in the area.

Mr. Finley commented that 2/3 more of the land would be coming out of the rural area.

Ms. Echols stated that the land is all in the development area, although it is rural in appearance.

Mr. Rooker asked about Proffer #7 regarding the time limit, and asked what land that refers to?

Ms. Echols said that the proffer pertains to the strip of land between "A" and "B" on Ashton Road.

Mr. Rooker asked if Ashton Road is still a possibility, and if the county still has a mechanism for acquiring the right-of-way.

Ms. Echols replied that the right-of-way is still proffered, and the road serves about six lots now, not including the ones proposed for inclusion in this rezoning. She mentioned that she has received calls from residents of Ashton Road asking about the impacts of this particular development, and staff has been told that this does not change their access in any way. Ashton Road is a privately held right-of-way which is proffered to be turned over and made public.

Mr. Rooker asked of the part of the road proffered to be made public is the portion serving the six lots.

Ms. Echols responded, "It does not extend beyond that."

Public comment was invited.

Mr. Frank Kessler, the applicant, addressed the Commission, noting that there have been a lot of major changes to this plan.

He explained that early in the planning for Glenmore, he met with Mr. Keeler and VDOT, who told him it was important for him to contribute, which he agreed with. Mr. Kessler said he agreed for a percentage of traffic generated to be contributed to the road, and set a limit to ½ million dollars. He said that VDOT then came back and said they wanted to extend the road and the time. Mr. Kessler said he then offered $1,300 per lot. He noted that the original proffer was only to be used for four-laning from Shadwell Store to Glenmore Entrance.

Mr. Kessler said he then met with staff, and explained the situation and the new $1,300 amount, stating that the money could be used for anything, similar to his contribution to the school escrow. He noted that the time limit's intent is to prevent VDOT or the county from contacting his family in the future about a promise to pay.

He stated that the land he has proffered to donate to the county includes a 100-foot strip along the Rivanna River for 100 feet for 5 miles; however, the previous county attorney raised

questions about liability. Mr. Kessler said that it is not his intention to take away the 27 acres, although the property might provide opportunities for some development, as it will have water and sewer. He mentioned that the land could also be used for a park or light commercial area. Regarding the removal of pedestrian paths, Mr. Kessler noted that the original plan was done for a change in the Comprehensive Plan; at that time he worked out all the details before it came to the Planning Commission. When the land planner did that plan, he illustrated all the possibilities of path locations, not their exact placements.

Mr. Kessler emphasized that he has never stood in front of Board or Commission with a plan that did not work out well, and mentioned his group's Spring Hill neo-traditional high density style of development. He emphasized that when dealing with homes of $400,000 to $700,000, you may not get 3 to 6 units per acre.

Mr. Rooker asked if all the houses enter from the same gated entry.

Mr. Kessler confirmed this.

Using an illustration presented, Mr. Kessler showed sketches of home plans. He pointed out that the homes have one driveway with less impervious surface, and courtyard styling, enabling use of smaller lots.

Mr. Finley commented that it would be hard to reach the goal of higher density with houses of that cost.

Mr. Kessler responded that there is always going to be an upper-end price range, and those homes will require at least an 80 to 100 foot lot. He said that the concept of 3 to 6 dwelling units is wonderful, but terrain in Albemarle is a limiting factor. Mr. Kessler added that the other important factor is what the market for homes dictates. He said that he received much criticism for developing Rosslyn Ridge, Harmony and Winn River in the rural areas.

Ms. Hopper asked Mr. Kessler if he would be attempting higher density if Glenmore after this particular section is developed.

Mr. Kessler said that he needs to get enough units in Glenmore to support the country club, and he thinks this proposed development will achieve that. He said that he owns 400 acres of additional land in the Glenmore area, but that will probably not become a part of Glenmore because it will overload the club facilities. Mr. Kessler stated that meeting the 3 to 6 dwelling units per acre requirement would dictate a different type project with lower-end homes and duplexes. He added that he supports the DISC concepts.

Kat Imhoff, Chief Operating Officer of Monticello, addressed the Commission. She pointed out the anticipated impact of this project to the Monticello viewshed. She said Monticello officials have spoken with Mr. Kessler about the project, and would like to see as many trees as possible retained on the site. Ms. Imhoff said that they would like to see earthtone materials for the roofs and houses, adding that the homes now on the Glenmore golfcourse "really stand out." Ms. Imhoff added that they are also concerned about increased traffic on 250 East, but don't want

those concerns to translate into making Route 250 a four-lane highway. Ms. Imhoff pointed out that Dan Jordan, Monticello President, sent comments to Mr. Finley which mentioned Shadwell's place in the National Register of Historic Places. Ms. Imhoff said Monticello officials hope Shadwell will be developed as a tourism destination point. "We want to see that area remain very friendly, very much a local road, and not become an interstate highway with excessive widening."

Bob Lightengood, who represents three parcels served by State Route 1054, known as Glenmore Way on Ashton Road, said his property line is located 75 to 80 feet from the State Route. "I'm concerned about any changes to our ingress and egress that may take place there."

Mr. Rooker asked if there would be any change to the ingress and egress there.

Ms. Echols said no.

Mr. Kessler re-addressed the Commission. He said that the Glenmore convenants and restrictions prevent him from taking down any tree larger than 6 inches within 20 feet of the house, adding that it is a heavily wooded area.

Mr. Finely asked about the facilities being overloaded.

Mr. Kessler clarified that the facilities he was referring to are the Glenmore country club facilities.

Mr. Rooker asked if this development in Glenmore could strive to achieve earthtones and more muted structures, as Ms. Imhoff pointed out.

Mr. Kessler said that all of the homes in the Scottish home theme would be tan or light cream, with black roofs. He explained that perhaps the ARB can help address the visibility issues, noting that once someone buys a house that's already in the open, they have property rights.

Mr. Rooker said he is satisfied with the responses to his questions on proffers, and feels that the changes being made are in the best interest of county.

MOTION: Mr. Rooker moved, Mr. Thomas seconded approval of ZMA 99-16 with the proffers as presented. The motion passed unanimously.

MOTION: Mr. Thomas moved, Mr. Rooker seconded approval of SUB 00-018 as presented. The motion passed unanimously.

SDP 00-008 Blue Ridge Juvenile Detention Facility Preliminary Site Plan – Critical Slopes, Off-site Parking and Cooperative Parking Requests. *DEFERRED FROM THE MARCH 21, 2000 PLANNING COMMISSION MEETING.*

Mr. Waller presented the staff report, explaining that the approval of the site plan requires Planning Commission approval of waivers associated with critical slopes on the site. He explained that critical slopes on the site cover approximately 1.6 acres of the total site, with the total site at 7.7 acres. Mr. Waller said that Engineering staff has analyzed the request and has identified that while there is potential for movement of rock with the creation of such large slopes, there are also methods to reduce the potential for the movement of rock and siltation. Mr. Waller also noted that approval of the site plan also requires waivers for off-site and cooperative parking, which would be shared with the Juvenile Detention Facility and the Albemarle-Charlottesville Jail.

Ms. Hopper asked what the extend of grading would be on the artificial slopes.

Mr. Waller pointed out on a map presented where the proposed grading is.

Mr. Craddock asked about the new building in the Fed Ex area, and asked if it would be impacted by the grading.

Mr. Waller responded that analysis did not cover whether or not that property would be impacted, but the county's project does include a stormwater detention facility that should contain most of the runoff. He added that the National Guard Armory site, which is located up the hill from this site, is also going to be tied in to the stormwater detention facility.

Mr. Rooker asked if the critical slopes waiver request have been reviewed by Engineering to the extent that the five items that are the purpose of the critical slopes restrictions are being met. He asked about the rock movement.

Mr. Waller said that it would be appropriate for Glenn Brooks of Engineering to respond.

Mr. Brooks stated that there has been no discussion of rock, but they have addressed surface stability and erosion of the slopes. He said that Engineering found that there were things that could be required at the final plan state – such as special plantings on the slopes, mattings during construction, silt drains, etc. – that would help address the erosion issues.

Mr. Rooker commented that he hoped what would be done on the site "would be a model of how we expect private developers to respond to critical slopes situations." He mentioned Mr. Brooks' presentation, which brought out the problem of creating slopes that are steeper than the slopes being disturbed in the first place, and said that perhaps the ordinance does not respond to adequately at this time. "I hope that the county, in performing this project, makes certain that excessive runoff is prevented, that [the slopes are properly tiered and landscaped], so we don't end up creating a situation that we scathingly criticize when private development engages in it."

Mr. Brooks said it is the intention of the CIP group to have exemplary sites. "Unfortunately, what you start with plays a big role. But we'll try."

Ms. Hopper asked if it is procedurally acceptable for the Commission to defer action on waivers until the final plat stage.

Mr. Kamptner said that it can be approved or considered at any time in the process.

Mr. Finley mentioned that the Commission previously approved some waivers on this application.

Mr. Rooker noted that applicants don't like to go all the way to the final site plan level only to find out that the basic scheme of the development is not feasible.

Mr. Cilimberg said that when the preliminary and final site plan processes were put in place, the intent was to provide information in the preliminary process that would be necessary for the developer to move forward with some idea that the final plan was approvable; the finite engineering would be done in the final plan based on the approvals from the preliminary process. "Typically speaking, unless there is an unusual issue in the preliminary process that needs final plan review by the Commission, we try to have those matters addressed in the preliminary process for just that purpose."

Mr. Rooker mentioned that he would like to see the application that is required by the ordinance, addressing specifically the points required, and then have engineering comment on that.

Mr. Cilimberg said that staff's goal is to provide that information, and told Commissioners that the report on this site had been sent to them.

MOTION: Mr. Rooker moved, Ms. Hopper seconded approval of SDP 00-008 for waivers for critical slopes, off-site parking and cooperative parking as recommended by staff. The motion passed unanimously.

SDP-00-003 Walnut Hills Swim & Tennis Club Site Plan Waiver - Request for site plan waiver for Club House facility, pools, tot lot, tennis court and related parking on approximately 12 acres zoned RA Rural Areas. *DEFERRED FROM THE MARCH 21, 2000 PLANNING COMMISSION MEETING.*

Mr. Glass presented the staff report, noting that he had sent a full-sized copy of the plan and summary of items missing on the site plan waiver to Commissioners, as well as a letter from Clay Green of the Kessler Group asking for an additional waiver for the pool to be located closer than 125 from a dwelling on an adjoining property. He mentioned another report (Attachment "A"), which shows comparisons of site plan waivers from the last few years.

Mr. Rooker asked about the house within 125 feet.

Mr. Glass explained that the house doesn't exist at this time, but may be constructed at a later date within the subdivision.

Mr. Thomas commented that it was helpful to have a site plan they could read.

Mr. Rooker said that the letter dated March 23rd which outlines the differences between what is before the Commission and what is typically required in a full site plan is helpful.

MOTION: Mr. Rooker moved, Mr. Craddock seconded approval of SDP 00-003 for a site plan waiver and distance from the pool as recommended by staff, with Condition #1 as modified at the Commission's March 21, 2000 meeting, and Condition #4. The motion passed unanimously.

The Commission took a brief recess.

Public Hearing Items:

ZTA-00-003 Transmission Lines - An ordinance to amend section 3.0, Definitions, of Chapter 18 of the Albemarle County Code (Zoning) by adding a definition of "oil or gas transmission line."

Mr. Keeler described the ZTA as a "housekeeping amendment" to add a definition to the Zoning Ordinance of "gas and oil transmission line," that's consistent with the long-standing interpretation given to those terms by the Zoning Administrator. He referenced the proposed language as stated in the staff report.

Mr. Finley asked if an applicant would need a Special Use Permit to put in a new line.

Mr. Keeler said that they would need a special use permit, but distribution lines are allowed as a matter of right. He added that sewer and pump lines, interceptors, and larger facilities operated by the Rivanna Water and Sewer Authority require review for compliance with the Comp. Plan. He confirmed that the process for the transmission lines would generate a public hearing.

Public comment was invited. None was offered, and the matter was placed before the Commission.

MOTION: Mr. Rooker moved, Mr. Thomas seconded approval of ZTA 00-003. The motion passed unanimously.

ZTA-00-004 and ZMA-00-003 Entrance Corridor Roads - An ordinance to amend section 30.6, Entrance Corridor Overlay District, of Chapter 18 of the Albemarle County Code (Zoning) by adding to section 30.6.2, Applicability, Virginia Route 631 from U.S Route 29 North to Virginia Route 743, Virginia Route 743 from U.S. Route 29 North to Virginia Route 676, and Virginia Route 649 from U.S. Route 29 North to Virginia Route 606, and to amend the official zoning map to designate to the full depth of each parcel in existence on October 3, 1990 contiguous to the rights-of-way of such routes, or to a depth of five hundred (500) feet from such rights-of-way, whichever is greater, as being subject to the Entrance Corridor Overlay District.

Mr. Keeler explained that this is a Zoning Text Amendment, but the action to amend the zoning text also amends the zoning map by imposition of an overlay district to a depth of 500 feet of a proposed designated roadway. Mr. Keeler said that in some cases it is a significant depth; in other cases it is to a depth of 500 feet, adding that the real affect has to do with design where the

development is visible from the Entrance Corridor roadway. He emphasized that this does not affect single-family dwellings, and is not tied to road improvements. Mr. Keeler said that when the EC provisions were created in 1990 and the initial roadways were designated, none of these roads were categorized as arterial. The Code of Virginia specifically requires that the roads be arterial or highways; since the 1990 designation, the roads have been re-classified by VDOT to arterial status and are eligible for EC designation.

Mr. Keeler mentioned that all the roads, in staff opinion, do provide access from the Airport to the University, downtown Charlottesville and other historic areas and sites in the community, which is a second criteria for designation. Staff recommends that the Planning Commission recommend to the Board of Supervisors that Route 631 – from Route 29 North to Route 743; Route 743 – from Route 29 North to Route 676; an Route 649 – from Route 29 North to Route 606 be designated as Entrance Corridor roads.

Mr. Finley asked about the Agricultural/Forestal districts being exempt from the provision.

Mr. Rooker responded that the AF districts and residential uses don't come into the scope of the ARB.

Mr. Keeler explained that the residential is excluded, unless it's a type of residential development that requires a site plan.

Mr. Finley asked about the cost to the applicant for ARB review.

Mr. Keeler suggested that Ms. Pickart address that question.

Ms. Pickart explained that there is currently no fee required for building permit review, no fee for preliminary review of a site plan, a $160 fee for review of a final site plan, and a $60 fee for a sign review.

Mr. Finely asked if this would be a new cost.

Staff confirmed this.

Mr. Cilimberg noted that one of the effects of the application of this ordinance is that it kicks in one Special Use Permit requirement that doesn't exist for other roads – permission for outdoor storage and display. He explained that in addition for review of site plans under the ordinance, the ARB also makes recommendations regarding outdoor storage and display, which is ultimately a Special Use Permit that the Board has to approve.

Mr. Thomas asked if Route 649 would be four-lane from the Airport through to 29.

Mr. Cilimberg confirmed this.

Mr. Thomas asked who decided on the design for that road.

Mr. Keeler responded that several public meetings have been held on the plan, where public comment was received; several changes were made.

Mr. Cilimberg noted that right-of-way acquisition would be taking place in the next year. He explained that the project was developed under a contract for the county and VDOT under a contract that the Airport authority had with a consultant. Plans went through the normal VDOT process, and were approved by the Commonwealth Transportation Board this summer.

Mr. Thomas asked if the property owners were involved in the design.

Mr. Cilimberg responded that all property owners were notified of public hearings during the time of planning, and recalled at least three public hearings on the design of Airport Road. He said that the next step is right-of-way acquisition. Mr. Cilimberg mentioned that the road would be four-lane divided highway, with urban cross-section, sidewalks and bikeways, and perhaps landscaping.

Mr. Finley asked for clarification on the possible exemption of sites with a site plan waiver.

Mr. Keeler replied that in a site plan waiver, what is waived is the requirement of the applicant that there by a full-blown, engineered site plan. He added that this would be the case when information needed by Planning Commission and staff doesn't require the involvement of an engineer, such as a large tract in a rural area when an additional dwelling is desired. Mr. Keeler said that in the case of some churches where a small addition and parking spaces are applied for, the applicant would not need to go to the expense of retaining a consultant and developing a full-blown plan, because comments from VDOT and other agencies regarding commercial entrances have already been made.

Mr. Thomas asked about what affect the ARB would have on property owners already on the road who are being moved around because of the highway.

Mr. Keeler responded that he is not aware of any structures being taken in the widening project.

Mr. Cilimberg said that land only is being taken, parking is being affected, and there may be relocation of parking. If structures would have to be moved or demolished, the review would be different than what a new development would be along the corridor.

Mr. Keeler reported that when 250 East improvement was approved, there were several properties affected that had amendments to their site plan. Staff handled those cases administratively, before the ARB existed.

Public comment was invited. None was offered, and the matter was placed before the Commission.

MOTION: Mr. Rooker moved, Mr. Thomas seconded approval of ZTA 00-004 (Entrance Corridor Roads). The motion passed unanimously.

MOTION: Mr. Rooker moved, Mr. Craddock seconded approval of ZMA 00-004 (Zoning Map Amendment). The motion passed unanimously.

Work Session Items:

Mr. Keeler explained that in 1998, when the county code was re-codified, all chapters were re-codified including the subdivision ordinance, with the exception of the zoning ordinance. He said that staff has been working with some zoning items, as some provisions in the ordinance have been problematic.

Zoning Text Amendments For Civil Penalties – Provide for enforcement of specific violations by civil penalties.

Mr. Keeler reported that this ZTA is a new provision to the ordinance, as there is not currently a civil penalties division, and any enforcement beyond cooperation with the applicant is done in the courts.

Mr. Rooker asked if the amounts mentioned are the maximum fines permitted by the code.

Mr. Keeler confirmed this.

Ms. McCulley explained that the fines are broken down into $50 and $100 fine categories, and highlighted the most frequently occurring violations. She said that $100 violations such as use violations, locating a structure or improvement and disturbing critical slopes, cutting trees without a site plan, violations of off-street parking, violations of sign regulations, violations of the site plan ordinance, are very frequently occurring and can be more easily remedied this way. Ms. McCulley also mentioned $50 violations such as constructing an accessory building in a residential district in violation, uses and structures permitted in yards, etc. She explained that there is an initial fine; the second fine after a ten-day period is a $150 fine, which can accumulate up to a total of $3,000. At that point, or any time in the process, for more serious matters, the county can choose injunctive relief rather than tracking through multiple fines.

Ms. McCulley said that in speaking with other localities – including the City of Charlottesville – she has heard very favorable comments about how much time and money can be saved by using civil penalties to enforce zoning regulations.

She pointed out that using criminal procedures, the claimants names are protected under the Freedom of Information Act. In the future, zoning will take complaints anonymously to protect against retribution between complainant and violator.

Mr. Rooker pointed out that the complaint itself is just a mechanism for information, and the Zoning Department investigates each claim.

Mr. Finley asked if an offender would have to appear in court under the civil penalty scenario.

Ms. McCulley said that if they pay their fine, they do not have to appear, unless an injunction is filed. She mentioned that the department is going to have to exercise some judgement, and if they observe that steps are being taken towards compliance, it may not warrant additional fines.

Mr. Finley asked if the fine would be on their record.

Mr. Kamptner said that a civil penalty would not appear on the record, whereas the criminal proceedings are treated as any other misdemeanor offense.

Mr. Rooker pointed out that the civil penalty scenario allows the county to bring actions that do not become criminal matters.

Ms. McCulley pointed out that those violations not delineated as civil penalties will continue to be treated as criminal.

Mr. Rooker commented that the amendment is a good addition to the ordinance, adding that the procedure would be much more expeditious.

MOTION: Mr. Rooker moved, Ms. Hopper seconded a motion to move forward with a public hearing on the ZTA relating to Civil Penalties, and asked the Planning staff to set a date. The motion passed unanimously.

Resolution Of Intent To Amend Section 6.0, Nonconformities Of The Albemarle County Zoning Ordinance - Draft amendments to section 6.0 NONCONFORMITIES of the Zoning Ordinance.

Mr. Keeler explained that there are seven different actions being taken regarding nonconformities to address problems that have arisen since the adoption of the ordinance in 1980, particularly in regard to setbacks and individual houses. He added that some of these provisions have been suggested by the Board of Zoning Appeals, and there is a provision in state code that says if the BZA is faced with so many variance requests because of nonconformities, they can recommend amendments to the ordinance. Mr. Keeler noted that the BZA can recommend ordinance revision to address recurring problems resulting from decisions made under a previous ordinance.

Ms. Jan Sprinkle of the Zoning Department addressed the Commission to explain recommended changes.

Ms. Sprinkle pointed out a change in the definition for non-conforming use, clarifying principal and accessory uses. If a principal use stops, individuals cannot continue an accompanying accessory use. A purpose has been added to the definition – non-conforming uses, structures and lots are to be looked at in a manner consistent with sound planning and zoning principles. She added that the signs and flood hazard overlay nonconformities are dealt with in their own section, and do not come under this section. Ms. Sprinkle noted that the entire 6.0 section has been reorganized section so that uses, structures, and lots are spelled out separately.

Mr. Kamptner noted that nonconformities in the flood hazard overlay district are addressed separately because they have to go through the Federal Emergency Management Association, and that section will be dealt with when the flood hazard overlay district is revised.

Ms. Sprinkle added that the sign ordinance will also be revised soon.

Ms. Sprinkle pointed out that in Section 6.2 uses, zoning staff spelled out that individuals cannot change, enlarge or extend the area on the same lot for a non-conforming use, even if there are no structures involved. In the same section, staff has spelled out non-conforming quarries and cemeteries; in cases where a church cemetery exists in two separate parcels, but has never expanded onto second lot, staff has written the language to make sure that church does not have to go through the permitting process. Ms. Sprinkle clarified that if the church purchases a new lot after zoning ordinance date, September 1980, they cannot expand without special permit.

Mr. Kamptner noted that in a subsection of that section, one change needs to be made. He explained that once a non-conforming use shrinks their use for more than 2 years, they cannot go back to the larger non-conforming use.

Ms. Sprinkle mentioned that the BZA has asked zoning staff to change Section 6.3 (Structures). She explained that the idea is that non-conforming structure may continue if it is nonconforming because it does not comply to the front yard setback requirements of the Zoning Ordinance applicable to the district in which the structure is located, provided that the proposed enlargement or extension (1) is no closer to a public street or private road right-of-way than the existing non-conforming structure, or (2) is a minimum of 25 feet from the right-of way, and (3) applicable rear and side yard setback requirements are complied with, unless they can be reduced under the fire code section. She commented that this can apply to commercial and residential structures.

Ms. Sprinkle pointed out on a drawing that a structure totally within the 25 feet right-of-way would not be allowed to expand at all; a structure that straddles the 25-foot line could only expand behind the 25-foot line; a structure that would straddle the 75-foot setback in the rural areas on a public road could expand up to the front of the structure.

Mr. Rooker asked if in all cases, owners could repair and maintain their homes.

Ms. Sprinkle responded that in the case of some structures, structural repairs would not be permitted without getting a variance.

Mr. Craddock pointed out that there were a lot of houses built within that 25 feet, especially old houses build right on the road.

Ms. Sprinkle said that under the zoning ordinance from 1969 to 1980, there was a 30-foot setback in the rural areas; now homes built in that time can’t expand without a variance.

Mr. Rooker clarified that under the current regulations, structural repairs are prohibited without a variance, and the new language expands the cases in which repair and addition can be done without a variance.

Ms. McCulley pointed out that if a structure meets the 25-foot setback, it could extend as long as it remains 25 feet or further back.

Mr. Craddock commented that they could build an addition as long as it met the setback requirement.

Mr. Cilimberg mentioned that road widening might bring some previously conforming structures into non-conformity; those would be candidates for variance.

Ms. Sprinkle stated that Section 6.3.A, which addresses existing residential structures that don't meet the side setback, would allow for expansion in the rear and would allow for upward expansion beyond the 25 foot setback.

Mr. Rooker clarified that that is an expansion of what is currently permitted.

Mr. Kamptner commented that one limitation on that is that the single-family dwelling has to be a permitted use in the zoning district.

Mr. Finley asked how nonconforming structures would be affected by a newly created overlay district.

Ms. Sprinkle responded that a single-family residential would not be affected at all.

Mr. Finley asked about commercial properties.

Ms. Sprinkle replied that an overlay district for a commercial property would require that the building permit be reviewed by the ARB.

Mr. Rooker commented that regarding this particular ordinance, the location of an entrance corridor overlay district is irrelevant.

Ms. Sprinkle explained that Section 6.4 (Lots) is proposed to be changed so that a house being built or expanded does not have to seek a variance if the lot itself has become nonconforming.

Mr. Finley asked about replacement or expansion of nonconforming manufactured homes.

Ms. Sprinkle said that larger manufactured homes would be permitted in nonconforming situations, as long as the home does not become more nonconforming, provided it can meet setback and health department requirements. A new mobile home does have to meet health department requirements for a 100% reserve.

MOTION: Mr. Rooker moved, Mr. Thomas seconded approval of moving forward with a public hearing on the ZTA relating to Nonconformities, and asked the Planning staff to set a date.

Resolution Of Intent To Amend The Zoning Ordinance In Relation To Noise Regulations
Draft amendments to noise regulations in the Zoning Ordinance.

Mr. Keeler explained that when the county code was recodified in 1998, a section in the ordinance was adopted to address noise – but only "people noise," which is enforced by the police department.

He said that the noises to be addressed in the new provisions of the zoning ordinance would be "land use noises" such as machinery, sawmills, etc., which will be enforced by zoning.

Mr. Keeler mentioned that there are problems with existing provisions – the 1980 ordinance addresses primarily quarry operation noises, and limits in the current ordinance are already exceeded by background noise, and basically unenforceable.

Ms. McCulley demonstrated noise levels using a noise meter. She explained that much of the ordinance uses 40 decibels as the maximum allowable sound level; talking usually is 60-65 decibels. She explained that sound levels are measured in a logarithmic scale, and are not cumulative; it takes as much as 3 decibels difference between two sounds for the difference to be perceived, and as much as 10 decibels to be double the volume.

She said that sound is affected by wind, humidity, topography, temperature, and many other factors. Ms. McCulley reported that in a review of police calls for noise complaints, she found out that 90% of complaints are in the residential and rural areas, with 80% in residential districts, and 10% in rural areas. Overall, 57% of the complaints occur in residential districts at night. Ms. McCulley said that these complaints are addressed through a nuisance ordinance, enforced by the police department, which is not covered in this ordinance.

Ms. McCulley said that this ordinance is a measurement ordinance, with sound levels. She said that current regulations have noise maximums for a couple of specific uses, such as quarry operations, industrial uses, swim clubs, clubs and lodges, and commercial kennels. Ms. McCulley said that there is currently a 40 decibel maximum for those uses, and zoning is looking forward to getting something "more realistic" (higher) on the books. She noted that the proposed regulations have several exemptions, such as emergency operations, freedom of expression, agricultural activities, yard maintenance during regulated hours, etc.

Ms. McCulley said that there are four categories for implementing noise restrictions: rural areas and residential - with a 60-decibel maximum for daytime, 55 for nighttime; public space and institutional have a 60-decibel maximum for both times; commercial has a 65-decibel maximum for both times; industrial has a 70-decibel maximum for industrial.

She noted that there is a provision in the new language for existing sound sources that would be non-conforming to this regulation to continue. However, at the point at which the equipment

producing the sound is modernized, they must comply or receive a specific modification from the Planning Commission.

Ms. McCulley said her staff did a survey of localities in Virginia and in other states, and found what they are proposing to be the average in the four categories.

Ms. McCulley played some music to demonstrate differing decibel levels.

She mentioned that readings are taken at the side, rear or front property lines, or inside a unit adjacent to a sound source.

Mr. Finley asked about kennel sound limitations, and asked about existing kennels that are loud.

Ms. McCulley replied that dog-barking in a residential situation is exempt; in a commercial kennel situation – if it predates the regulation – the noise can continue. If it is a new kennel and is not complying, zoning should be involved.

Mr. Rooker asked about the provision for existing sound sources that do not comply with maximum sound levels established to not increase their sound levels.

Ms. McCulley said that they would be allowed to continue, but they could not increase their sound level.

Mr. Rooker commented that it would be difficult to prove that they are increasing their sound levels without prior measurement.

Ms. McCulley said that they are hoping that sound-attenuation techniques, similar to energy-efficient techniques, will be used in the future.

Mr. Finley asked about blasting during construction.

Ms. McCulley said that you can blast if you have a permitted stone-quarrying operation, and the Department of Mines and Mineral Resources establishes standards for vibrations and sound levels.

Mr. Finley asked about blasting on construction sites.

Ms. McCulley said that blasting for construction, demolition and maintenance activities are exempt providing that it is no earlier than 7 a.m., and no later than 10 p.m. She said that regulations for the quarries are applied differently.

Mr. Craddock asked about Luck Stone's noise, stating that their noise is quite loud, possibly exceeding the ordinance. He mentioned that in the Stone Robinson area, roof leaks are caused because the buildings are shifted slightly by the blasts.

Mr. Keeler responded that Luck Stone would be required to comply with state provisions; if the state fails to enforce the regulations, Albemarle cannot enforce them.

MOTION: Mr. Rooker moved, Mr. Thomas seconded approval of moving forward with a public hearing on the ZTA relating to Noise Regulations, and asked the Planning staff to set a date.

Mr. Cilimberg and the Commission thanked Ron Keeler for his 25 years of service to the county. Mr. Cilimberg noted that there would be a reception for Mr. Keeler on Thursday afternoon in the county building.

Old Business

There was no old business presented.

New Business

Mr. Cilimberg mentioned that DISC presents it's recommendations to the Board on Wednesday, March 29, 2000.

Mr. Cilimberg said that the Commission is invited to a joint city-county transportation meeting to be held Monday, April 10th at the Senior Center, 7:30 p.m.

There being no further business, the meeting was adjourned at 8:30 p.m.

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V. Wayne Cilimberg
Secretary