Albemarle County Planning Commission
May 30, 2000

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, May 23, 2000 at 6:00 p.m. at the County Office Building – Charlottesville, Virginia. Members attending were: Mr. William Finley, Chairman; Mr. Dennis Rooker, Vice-Chairman; Mr. William Rieley; Ms. Tracy Hopper, Mr. Rodney Thomas; Mr. Pete Craddock; Mr. Jared Loewenstein. Other officials present were: Mr. Wayne Cilimberg, Director of Planning and Community Development; Mr. Greg Kamptner, County Attorney, and Ms. Elaine Echols, Senior Planner.

Approval of Minutes – May 16, 2000
The Commission moved, seconded and unanimously approved the minutes of May 30, 2000 as amended.

Other Matters Not Listed on the Agenda from the Public
Mr. Gordon Anderson addressed the Commission to discuss the conditions at Four Seasons Learning Center. Mr. Finley informed him that public comment could be given at the time the Commission considers the item on its agenda, later in the meeting.

Consent Agenda:

SDP-00-059 Birckhead Off-site and Cooperative Parking – Request to approve off-site and cooperative parking under Section 4.12.3.3 and 4.12.4 of the Zoning Ordinance.

SDP-00-045 Crutchfield Corporation Major Amendment – Waiver Requests – Proposal to construct additional parking and building which requires a waiver to allow building on critical slopes [4.2.3.2], a waiver to allow grade in parking areas to exceed 2% cross-slope [4.12.6.3.b], and a waiver to allow cooperative parking [4.12.4].

Mr. Rieley asked that SDP 00-045 be pulled from the Consent Agenda for discussion.

Mr. Rieley expressed concern about the staff engineering comment that it's the county's practice to exempt critical slope disturbance in stormwater management facility construction. He expressed further concern that the report considers the facilities utilities. He stated that the facilities are not utilities, and also mentioned that the issue of grading on critical slopes came up in another recent application, and "not one person in the room raised the issue that this is a utility.…I think if this is a policy, it ought to be brought up, and discussed, and we ought to determine whether or not it should be exempted for critical slope disturbance because of that."

Mr. Rieley stated that his third concern is "it doesn't make any sense to exempt something that does as much disturbance on critical slopes as a stormwater management facility…we can't evaluate this proposal without a thorough discussion of that issue." He added, "I don't think we can act fairly on this proposal until we have talked about that issue."

Mr. Rieley also mentioned that the Commission's packet contains a series of "completely illegible drawings. "There's no way that we can make intelligent determinations based on this kind of graphic material."

He suggested that the Consent Agenda item be held over until these issues are addressed.

Mr. Rooker agreed. He noted that the issue of whether a stormwater management facility is considered a utility has been raised in the past, but there has never been definitive determination on whether it is.

Mr. Kamptner commented that the staff report doesn't state the applicable standard accurately. He mentioned that both Sections 4.221 and 4.222 – which are the two provisions that determine whether it is or isn't served by a simple sewer system – contain exceptions for access ways, public utility lines, and stormwater management facilities and the like necessary to provide reasonable usage of the property where no reasonable relocation exists. "There has to be a factual determination in each case whether or not a stormwater management facility in a critical slope area is the only place it can go."

Mr. Rieley said, "That discussion is not in this staff report."

Mr. Rooker stated that Mr. Rieley's concerns are not a comment on the merits of this particular application, but are just procedural points.

Ms. Hopper said that the theme that this raises, is the issue of critical slopes, and whether they're best addressed through a Resolution of Intent or in the draft design manual. She suggested that the Commission have a worksession on critical slopes because "it bogs us down repeatedly."

Mr. Finley asked what the timing of considering this particular application is.

Mr. Cilimberg suggested reconsidering the item at their next meeting.

MOTION: Mr. Rooker moved, Mr. Loewenstein seconded approval the Consent Agenda with SDP 00-045 removed, to be considered at the Commission's June 6 meeting. The motion passed unanimously.

SDP 00-044 Covenant School Upper Campus Preliminary Site Plan - Waiver Requests to allow disturbance within a portion of the 20-foot buffer, cooperative parking and parking more than 500 feet from the athletic fields.

Items Requesting Deferral:

SP-00-007 Church of the Cross (Sign # 44) - Request for special use permit to allow a church in accordance with Section 13.2.2.10 of the Zoning Ordinance which allows for a church in an R-1 Residential District. The property, described as Tax Map 46 Parcel 26F, contains 20.36 acres, and is located in the Rivanna Magisterial District on Ashwood Boulevard at the northwest corner of Ashwood and Kendalwood Drive near Forest Lakes South. The property is zoned R-1 Residential. The Comprehensive Plan designates this property as Neighborhood Density in the Hollymead Development Area. *Applicant requests deferral to June 27, 2000.*

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

MOTION: Mr. Loewenstein moved, Mr. Rooker seconded approval of deferral of SP 00-007 to June 27, 2000. The motion passed unanimously.

Deferred Item:

ZMA-00-002 Four Seasons Learning Center (Sign #62 & 63) - Request to amend the conditions of Four Seasons Planned Unit Development (PUD) to establish setbacks for a .25 acre parcel currently developed and used as a day care center. The property, described as Tax Map 61 X1, Parcel 5 is located in the Rio Magisterial District on the corner of Lakeview Drive and Four Seasons Drive, approximately one-quarter mile from the intersection of Four Seasons Drive and Rio Road. The Comprehensive Plan designates this property for Urban Density Residential use (6-34 dwelling units per acre in what

Development Area One. *Accept withdrawal as building code and zoning services has determined application is not necessary.*

Mr. Cilimberg explained that staff had been working on this application with the understanding from Zoning that it was a necessary application because of setbacks in Four Seasons. He reported that it was determined late last week by the Building Code and Zoning Services Department that the application was not necessary, as there are no setbacks in Four Seasons. Mr. Cilimberg said that the setbacks that have been used have been based on prevailing trends in the setbacks that have been established for different uses in the area.

Mr. Loewenstein asked if it was normal for the Commission to take action on withdrawals like this.

Mr. Kamptner said that it has been handled both ways, either by vote, or just simply crossing it off the agenda.

Mr. Cilimberg stated that Planning staff wanted the Commission to understand what was going on.

Public comment was invited.

Mr. Gordon Anderson, a resident of Lakeview Drive, addressed the Commission. He stated that the landscaping in the area is unsightly, mentioning that there are currently just dandelions and onions growing there. Mr. Anderson suggested that a landscaping plan is needed. He also pointed out that the description of the property needs to state that the property is approximately ¼ mile from the intersection of Four Seasons Drive and Rio Road, not Hydraulic Road.

Mr. Cilimberg mentioned that the landscaping will be part of the site plan.

MOTION: Mr. Rooker moved, Mr. Rieley seconded approval of acceptance of the withdrawal of the request.

SP-00-01 Crozet Commons (Clifford Fox) (Sign #86) – Request for special use permit to allow a residential use in a commercial zoning district in accordance with Section 18.22.2.2.6] of the Zoning Ordinance which allows for residential uses in a commercial zone. The property, described as Tax Map 56A2 Parcel 1-31, contains 1.37 acres, and is located in the White Hall Magisterial District on Three Notch'd Road [Route # 240] approximately 1.2 miles from the intersection of Rt. 240 and Rt. 250. The property is zoned C-1 Commercial. The Comprehensive Plan designates this property as Rural Area. *Deferred from the April 18, 2000 Planning Commission.*

Ms. Echols presented the staff report, noting that the application is for a mixed-use development for this property, which is currently zoned C-1. She said that the applicant has presented a conceptual plan for the property. Ms. Echols stated that staff is usually looking at issues of compatibility, but in recent years has reviewed proposals with analysis of form as well as function. She said that staff has reviewed this request for conformity with the Land Use Plan, with the Crozet Community Study, and with the neighborhood model proposed by DISC, and with the Zoning Ordinance in normal assessments for special use permits.

Ms. Echols explained that in the Land Use Plan, this is not included as part of the development area. The property is shown as Rural Area, but has zoning of C-1 left in place in 1980 because there were existing uses on the north side of Three Notch'd Road, and some undeveloped parcels that seemed to make sense to retain zoning. She emphasized that while technically, this application is not in keeping with Land Use Plan, it is in keeping with the Crozet Community Study, which the Land Use Plan references. Ms. Echols

mentioned that this area was included in the Crozet Community Study as part of a downtown area of mixed-use commercial and residential development.

Ms. Echols said that staff has looked at the proposal to see if it is in conformity with the Crozet Community Study. As for the Board of Supervisors request, staff has compared the proposal with the Neighborhood Model (DISC document), and has found it to come close to meeting most of DISC's 12 principles. Additionally, staff reviewed the proposal for the usual compatibility issues, and developed a list of conditions that would protect the residential uses in conjunction with the commercial uses, and would tie the development conceptually to the plan. She said that staff has discussed all of the conditions with the applicant.

Mr. Finley asked why the medical center was not approved.

Ms. Echols responded that medical centers dictate more intensity than what you find in a small mixed-use development. She noted that staff is recommending that medical office be allowed, for use between 8 a.m. and 5:30 p.m.

Mr. Cilimberg pointed out that the conditions are mis-numbered.

Mr. Rieley asked where the maximum number of ten dwelling units came from.

Ms. Echols responded that the applicant showed ten units, and staff attempted to find a good mix of residential and commercial. She added that the R-15 density that would be achieved is about ½ the density that could have been achieved if it were all developed residentially.

Mr. Rieley asked if there was a minimum amount of residential development.

Ms. Echols replied that the applicant did not propose a minimum. She added that the applicant could do a straight commercial project with a by-right use with C-1 and a site plan.

Mr. Rooker asked what the purpose is in having the restrictions of one building based upon the uses in another building.

Ms. Echols responded that staff was concerned about more intensive uses being at the rear of the parcel. "If we have the residential uses in Building B, we felt that anything that were more intensive would have to go past those residential uses, and into that space in the back. There could be some compatibility problems with more intensive uses."

Mr. Rooker said that it seems to be a disincentive to residential when significant restrictions are put in.

Ms. Echols mentioned that there would be some commercial uses that would be more traffic intensive, and potentially have some noise associated with them. She indicated that staff received some comments from zoning, who asked staff to try to find uses that would be most compatible to minimize the number of complaints for excessive noise and traffic. Ms. Echols added that zoning was concerned about inclusion of a health club, because of traffic and traffic conflicts at certain hours. She said that zoning was also concerned about large restaurants being in the back because of delivery trucks, etc.

Mr. Rooker commented, "I don't necessarily see a reason to further restrict Building C, based upon its horizontal proximity to potential commercial uses in a development that is being developed…as a mixed-use, where we have already imposed restrictions on use that apply generally throughout the property."

Mr. Rieley said, “It also seems to preclude residential use in Building C.”

Mr. Rooker said that since it’s reasonable to limit certain activities in the complex, it seems to me that 11 might be eliminated. “I don’t see a reason to impose further restrictions on Building C, just because Building B may have residential in it.”

Mr. Finley commented, “There may be some businesses that attract residents, and others that detract. But that’s what [the applicant] has to work out – a balance. I feel he should have the freedom to do that.”

Ms. Hopper asked if there was a way to access Building C more directly than to have to go past A and B.

Ms. Echols said that inter-parcel connections are shown on the plan, and are recommended to provide access to the east and west as well as north and south.

Mr. Rooker commented that this is not a site plan, but is just a schematic.

Ms. Echols noted, “There are some things that are fairly well tied into this plan right now, and it was based on site plan for a different use at this location.”

Public comment was invited.

Clifford Fox, representing Clayson Land Trust, addressed the Commission. Mr. Fox said that they would like to have as much flexibility as possible with the mix of residential and commercial. He said that they would like to try to reduce the limitations in Item 11, or eliminate that all together. Mr. Fox said he has tried to identify what a health spa is, as it is a C-1 classification, but there is no zoning definition for it. He mentioned that parking is one of the major issues that has driven the site plan; there is a sewer line that can’t be built on under all the pavement, which drove the site design. Mr. Fox noted that the back building is 2000 square feet, and stated that there is a similar athletic facility called Lifelines off of Barracks Road. He mentioned that the Zoning Ordinance has noise levels that can be enforced if noise is an issue, adding that traffic may not be an issue with this size of development.

Ms. Hopper said that it would be nice to have a gym within walking distance to residents, but expressed concern about traffic back to building C, as there is no separate access to the building.

Mr. Fox presented a rendering of the entire commercial area, pointing out the location of the parcel in proximity to Crozet Pizza and the fire station. He said that an interparcel connection would hopefully go all the way back to Crozet Shopping Center. Mr. Fox pointed out a stream on the property, noting that one of his goals is to have the building oriented to a park. He said that Building C could contain a small restaurant, with a small health spa, with the idea of lots of pedestrian movement instead of automobile traffic.

Mr. Rooker asked if Condition #6 eliminated any other specific use that Mr. Fox found troublesome.

Mr. Fox responded that there is a local theater group in Crozet looking for a home, but there was some concern about noise amplification. He added that the concern raised about a service station was not really warranted, because market forces would probably not make this an acceptable use anyway.

Mr. Rieley asked what was on Lot 30.

Mr. Fox replied that Lot 30 contains an abandoned house on 3.6 acres, with 1.75 acres developable, and the remainder undevelopable. He added that they wanted to allow for the possibility of plant nursery.

Ms. Hopper asked Mr. Fox to point out the location of other residential properties nearby.

Mr. Fox described the location of other residential properties.

Ms. Hopper asked how many pedestrians would be around to use the facilities.

Mr. Fox mentioned that there is a comment sheet included in the Commission's materials, which includes signatures from several merchants along Route 240 in support of the project.

Ms. Hopper asked if the issue of affordable housing would be addressed in this proposal.

Mr. Fox said, "I think there's room in this product type to be within the definition of affordable housing. I don't think it will all be affordable, but I think there is some part of it that could be affordable."

Mr. Rieley asked if he would be happy with a condition stipulating this.

Mr. Fox responded, "Not at this time."

Mr. Rieley asked if the drawing accurately reflects the location of Ms. Brown's house.

Mr. Fox replied that it does, adding that here driveway encroaches on this property by approximately 5 feet. He stated that the development would not affect her access. "It's just extra paving that she has, it's not going to impact her utility."

Mr. Finley asked about the theater group that wants to locate there.

Mr. Fox responded that the group is a community theater, Live Arts-type group. He added that no one wants any loud noise there. He suggested that amplification be defined somehow.

Mr. Rooker said he did not find it objectionable to have a community theater group located here. "I think we'd want to be careful not to prevent that." He added that maybe the Noise Ordinance is sufficient to address the noise level.

Mr. Fox added that the Crozet Community Study recommended a Civic Center for this parcel.

Ms. Hopper asked what the discussions have been about developing a linear park in Lot 30.

Mr. Fox said that as a real estate broker, he has that parcel listed for sale. He said that you can park on it but the topography is so steep that it has very little utility, adding that the property may be best used as green space.

Ms. Hopper asked if the buildings can be moved closer to the road.

Mr. Fox responded that the county ordinance stipulates that you can't have a building closer than 30 feet from right-of-way.

Mr. Rieley asked if this could be waived.

Mr. Kamptner responded that the Board of Zoning Appeals would have to grant a variance.

There being no further public comment, the matter was placed before the Commission.

Mr. Rieley commented that this is a "terrific proposal," and agreed with Ms. Hopper that it would be nicer if it were closer to the street. He said that the Commission needs to acknowledge that the property currently has C-1 zoning, and this proposal is "taking a giant step in the direction that we'd like to see things move." Mr. Rieley added, "I don't think we need to further restrict property, I think we need to make it possible for these kinds of projects to succeed, and offer all the flexibility we reasonably can."

Mr. Rooker agreed, suggesting elimination of "b" and "g" from Condition #6, adding that a health facility would make the site more appealing, especially if the county is looking to cut down on use of automobiles.

Mr. Finley commented that it would be nice to have a setback waiver.

Ms. Hopper asked if there needs to be a restriction that allows community theater but not a movie theater, providing that the amplification is not excessive.

Mr. Loewenstein asked if there was anything separate in the Noise Ordinance to address this type of sound.

Mr. Cilimberg replied that the ordinance treats sound as sound, and doesn't differentiate.

Mr. Loewenstein commented that the community theater is "a perfectly reasonable use for this kind of development." He added that the Commission may not be able to go any further with imposing noise restrictions, beyond what already exists in zoning. Mr. Loewenstein asked how the application could be restricted to allow a community theater, but not a movie theater.

Mr. Rooker suggested having a restriction stating "no movie theaters."

Ms. Hopper asked if the owner knows the definition of affordable housing as being $75,000 - $125,000. She asked if it might be possible to dedicate a couple of the units to being affordable housing.

Mr. James W. Newman, Jr., owner of the property, addressed the Commission. He said that he has not yet priced out the development, and is not sure how much the units will cost. "They may all be affordable under that definition." He added that it is Mr. Fox's dream to have this type of development, which may be more affordable than an average single-family house.

Mr. Fox asked if the Commission would allow a Vinegar Hill-type theater, noting that the parcel is not large enough to accommodate anything else.

Mr. Thomas asked what the problem would be in having a movie theater in one of the buildings.

Mr. Rieley responded that his concerns are: the volume of buildings that would be consumed by one use would diminish the quality of the mixed-use development; and the fact that a movie theater use would require parking that would only be used for a small part of the day.

Mr. Loewenstein commented, "It is actually difficult economically to make a movie theater of that small size viable from a financial aspect. I think it would almost have to be larger than would be good for this development."

Mr. Fox said that having multiple uses – including community theater and a small theater – might make it viable.

Mr. Rooker said that he would prefer to have Mr. Fox come back with a specific proposal for that use, if the need arises.

Mr. Craddock commented that Vinegar Hill with a restaurant combination is a great idea.

MOTION: Mr. Rooker moved, Mr. Rieley seconded approval of SP 00-01 with conditions modified as follows:

- Removal of Condition # 6b
- Rewording of Condition # 6c to state "movie theaters"
- Removal of Condition # 11

The motion passed unanimously.

ZTA 00-005– To amend Chapter 18, Zoning, of the Albemarle County Code as it relates to nonconforming structures, uses and lots in Section 6.0. *Deferred from the May 16, 2000 Planning Commission meeting.*

Mr. Kamptner presented the staff report, noting that this is a follow-up to the Commission's May 16th public hearing on this ordinance.

Mr. Kamptner said that he has revised Section 6.4.C to clarify how nonconforming lots can be combined or have boundary lines adjusted so they can be used.

Mr. Rooker stated that Mr. Kamptner seems to have adequately addressed issued raised by the Commission at the public hearing. He commented that there is a typographical error in the discussion section.

Mr. Loewenstein said he appreciated staff's work on the ZTA.

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 00-005 as presented. The motion passed unanimously.

CPA 2000-04, Historic Preservation Plan - Proposal to amend the Albemarle County Comprehensive Plan with an updated and expanded Historic Preservation Plan, which provides a framework for protecting the County's significant historic resources.

Mr. Finley emphasized that this public hearing is for the Historic Preservation Plan, and the hearing for the ordinance would be held later in the summer.

Ms. Pickart presented the staff report, noting that the Commission reviewed the Plan in January. The Historic Preservation Committee addressed comments made by staff, and is now returning to the Commission with a revised plan.

Ms. Pickart added that the Committee also worked with local groups to attempt to representatives from local groups in an attempt to reach common ground on a variety of issues. She said that those meetings resulted in additional changes to the plan, which are outlined in a memo provided to the Commission. Ms. Pickart said that Jim Eddins will represent the Committee in speaking tonight.

Mr. Eddins (Attachment "A") mentioned that recent newspaper articles on Memorial Day stressed the importance of recognizing history and historical figures. Mr. Eddins stated that historic resources serve as visible reminders of our community's cultural heritage. "There already there. We don't have to build them, and we cannot replace them. We just have to protect them." He said that historic building structures and sites are indelibly associated with the stories of Albemarle County people who built, lived in, and used these structures across the ages. Mr. Eddins said that our cultural heritage and natural beauty differentiates Albemarle County from all other places.

Mr. Eddins stated that the bulk of the Historic Preservation Plan emphasizes education, and stresses the importance of protecting a broad spectrum of historic resources. He added that the plan provides a comprehensive, structured framework of some 59 recommendations in support of the county's already established goal of protecting its significant historic and cultural resources. He mentioned that the recommendations include programs combine education, regulation, voluntary action, owner participation and incentives. Mr. Eddins noted that the proposed Plan recommends adoption of a Historic Overlay District ordinance, which will be considered after the plan is approved. Mr. Eddins said that the proposed Plan is needed to provide a coherent policy document now that protects historic resources for future generations. He concluded that the Committee recommends that the Commission take the two actions listed, adopt the Historic Preservation Plan as a component of the Comprehensive Plan, and amend the text of Chapter 2 of the Comprehensive Plan.

Mr. Eddins stated that the Committee has been aided by the regionalization of the state Department of Historic Resources. He mentioned that Bob Carter, Director of the Department's Capitol Regional Preservation office – which includes Albemarle – will be addressing the Commission tonight.

Mr. Rooker commended Mr. Eddins and the Committee on their work on the Plan. He noted the comment in the Plan that says there is not known example of an effective voluntary historic preservation ordinance in Virginia, and asked for some background on investigation into other historic preservation ordinances and plans that exist around the state.

Mr. Eddins said that there has been an organization established with the DHR at Mary Washington College. He explained that they have started to accumulate all the various historic preservation plans from all Virginia localities. Mr. Eddins said that they also looked at plans and ordinances from elsewhere, but they don't all have Virginia's enabling legislation. Mr. Eddins said that the Lynchburg voluntary ordinance has been in effect for a few years, but has been found to be honored more in breech than in observance, and that locality is moving to make their ordinance mandatory.

Mr. Rooker asked if it was a fair statement that the Committee's research indicates that there are very few non-mandatory historic preservation ordinances around Virginia.

Mr. Eddins stated that that is the case.

Mr. Finley asked if that means that since so few owners carry out the recommendations, they are against it.

Mr. Eddins acknowledged that that might be part of the reason, adding that it might also have to do with the economics of it.

Ms. Hopper asked how far Albemarle County was from meeting the requirements for the certified local government program.

Mr. Eddins stated that the key provision that Albemarle doesn't have is the call for review of new construction in a historic district. "We felt that it would be more palatable in Albemarle County if we did not have that aspect of it." He added that the Committee has been criticized by those who are staunch preservationists, because of the allowance in the Plan to build things that may be inappropriate in a historic district. Mr. Eddins added that there is an initiative currently underway in the DHR to review the certified local government rules which may allow counties such as Albemarle to qualify for some aspect of CLG grants. "We felt that this was the best way to go for now."

Mr. Finley said that the enabling legislation does not mention landscape, but this plan done.

Mr. Eddins responded that the Plan ran it by the county attorney, and the Committee's interpretation is that if the landscaping is assessed at the time that particular property is designated, and is part of what makes it historic, then you could include landscaping. "Otherwise, you'd be in the position of designating the whole county."

Mr. Rieley said that the Plan speaks to Historic landscape, not Historic landscaping, which people think of as planting.

Mr. Robert Carter, representing the Virginia Department of Historic Resources, addressed the Commission. He said that a Comprehensive Plan should address historic resources, which the state encourages by providing matching grants, through technical assistance, and through development of models. Mr. Carter said that some resources in Albemarle are of state, national, and global importance. He added that the Committee for this Plan felt a strong sense of responsibility and stewardship to preserve a remarkable legacy. Mr. Carter said that the Committee carefully considered a nationally accepted model for historic preservation, which outlines10 critical elements of a good preservation plan, adding that this plan meets all 10.

Mr. Carter commented that in Virginia, the state's role is to support, encourage, and stimulate, but the role of protection is assigned at the local level to the county and its governing bodies. He stated that this plan discusses, examines, and recommends financial incentives that do exist or could exist, and recognizes this as a policy issue for the county. Mr. Carter said that the plan features a very comprehensive view of the relationship between historic preservation and education, because the Committee recognized how important it is to educate the community about the value of historic resources, and the benefits of those resources to the community.

Mr. Carter said that the plan also presents a clear statement of priorities and proposed action steps for implementing the plan. He commented that the committee came up with very balanced plan for a rural county with richness of historic resources that is undergoing tremendous growth, by looking at a broad range of preservation tools and techniques, incentives, education, as well as implementing legislation.

Mr. Carter concluded by commending the Committee on behalf of the DHR for their outstanding work. "I think Albemarle has an opportunity to be a leader in Virginia…in the actions taken on this plan and on its recommendations." He mentioned that the DHR stands ready to assist the county in implementing the Plan that the county will adopt.

Mr. Rooker asked Mr. Carter if he agreed that a successful plan of this type needs to have a mandatory aspect to it.

Mr. Carter responded that a clear consensus emerged from work on the certified local government program – which included meetings of local planning officials from Albemarle and other localities – that a preservation ordinance was a very sound part of a preservation program. He added that his personal opinion in reviewing the example of other localities is that voluntary ordinances do not work. Mr. Carter emphasized that there is often misunderstanding about what it means to be in a historic district, and encouraged the county to adopt an ongoing, active education program. He suggested having a hardship provision that is defined in a way landowners can understand.

Mr. Finley asked if Monticello is private or public.

Mr. Carter responded that Monticello is private, but the representation on its board is very broad.

Mr. Finley asked if it would be in the Historical Overlay District.

Mr. Carter said it is quite possible to be a candidate for designation.

Mr. Rieley commented that it would be on the top of the list.

Ms. Hopper asked Mr. Carter if he has seen examples of voluntary ordinances that do not work.

Mr. Carter replied that the Lynchburg ordinance is the only one he is aware of that is not working.

Public comment was invited.

Ms. Imhoff, CEO of Monticello, addressed the Commission. She clarified that Monticello is managed by the Thomas Jefferson Memorial Foundation, a private entity.

Ms. Imhoff read a letter from Monticello's President, Daniel P. Jordan (Attachment "B"), who could not attend the meeting.

Mr. Doug Gilpin, Board President of the Preservation Alliance of Virginia addressed the Commission. He stated that the Alliance works with businesses, local governments, and citizens to promote historic preservation, adding that the Alliance represents over 160 member organizations, many of them being cities and counties across Virginia. Mr. Gilpin emphasized that the Alliance works to help communities recognize the benefits of historic preservation, including the fact that historic sites can be an effective tool in the marketing of a locality. He noted that properties in historic districts appreciate at a greater rate than non-historic residences, as the marketplace recognizes the short and long-term economic value of historic properties. "Preservation is economic development," Mr. Gilpin added.

Mr. J.J. Murray, speaking on behalf of Citizens for Albemarle, addressed the Commission. He read from a prepared statement (Attachment "C").

Ms. Katie Hobbs, Chair of the Natural Resources Committee of the Charlottesville/Albemarle League of Women Voters, addressed the Commission. Ms. Hobbs stated that the League continues to support the adoption of a historic preservation ordinance and its inclusion in the Comprehensive Plan. Ms. Hobbs asked the Commission amend the Comprehensive Plan with an updated and expanded Historic Preservation Plan as presented.

Mr. A.C. Shackleford, President of the Albemarle County Farm Bureau, addressed the Commission. He stated that the Farm Bureau supports preservation of historic features, but has concern about the definition of historical preservation as a need. Mr. Shackleford stated that there is a higher value on ownership and individual needs, expressing that he is alarmed by what ownership may mean to an "overzealous future Commission." He said that the fact that the county has so many historic features without a mandatory ordinance is a testament to the value of a voluntary plan. He said that the examples of properties that have been preserved are at the higher end of economic scale, adding that "those of us who don't represent the high end need to make a living on our land. We may not be able to afford the maintenance and preservation of these features." Mr. Shackleford suggested providing financial incentives – such as tax relief and conservation easements – instead of mandates. He added that the rural setting is not preserved by mandate.

Ms. Hopper asked what the Farm Bureau's position would be if there were a program to help defray the costs.

Mr. Shackleford said that this is what they are asking for, help in preserving structures deemed historic.

Mr. Bob Watson addressed the Commission, and read a prepared statement (Attachment "D").

Ms. Mary Joy Scala, a former staff member that worked with the Historic Preservation Committee, addressed the Commission in support of the plan. She said that the Historic Preservation Committee is extremely committed and dedicated, and worked extremely hard to produce a plan that met the goal of protecting resources in the community, while meeting the special needs of the community. She added that they struggled over a 5-year period to produce a plan that would be fair to everyone. Ms. Scala said the Plan is extraordinary, very creative, and thoughtfully written. She urged the Commission to recommend approval of plan.

Mr. Paul Brockman addressed the Commission. He reported that he established Historic Falls Church Inc., which is a private non-profit historic preservation organization which existed to operate a revolving fund for historic preservation of threatened properties, and to acquire, hold and administer historic easements in lieu of a city ordinance. He mentioned that until recently Falls Church only had a resolution similar to part of this plan which designated significant sites. Mr. Brockman encouraged the Commission to adopt the plan, but said he would not speak to whether the ordinance should be mandatory or not. He said that the voluntary approach in Falls Church was much more appropriate because it allowed property owners to give easements and realize significant tax benefits. Mr. Brockman said the tax benefits over first three years totaled over $2 million, and brought $500,000 to the people who gave the easements. He noted that the easements could be conveyed to the Virginia Historic Landmark Commission. Mr. Brockman encouraged the county to "avoid the standoff" between the defenders of property rights and the people who want the preservation.

Mr. Finley asked if the landowners could voluntarily give the easement, without any mandates.

Mr. Brockman responded that the properties were identified as historic, and his group educated and solicited the landowners on donating the easements.

Ms. Jodie Webber addressed the Commission. Her comments are attached (Attachment "E").

Mr. DeForest Mellon addressed the Commission. He stated that if the county does not take action by ordinance to protect these irreplaceable structures, they will not survive the commercial viewpoints that abound in a growing community like Albemarle. Mr. Mellon encouraged the Commission to adopt the Plan with all of its provisions intact.

Mr. Tom Olivier addressed the Commission. He stated his support for the Historic Preservation Plan. Mr. Olivier said that physical reminders such as historic resources help us maintain senses of place and continuity. In counties like Albemarle, where there has been so much recent immigration, historic resources are especially important. He encouraged maintaining a sizeable cross section of buildings of earlier times so that young people can know about the past. We should keep examples of modest structures, so that we can understand how all people lived in the past. Mr. Olivier said that voluntary protections will not achieve all of these goals, and there needs to be a community-wide process for identifying historically valuable structures, and some organized process for finding means of conserving them.

Mr. Jeff Werner of the Piedmont Environmental Council, addressed the Commission, stating the PEC's support for approval of the Plan. Mr. Werner said that he holds a masters from U.Va., and received a certificate in historic preservation. Mr. Werner said that PEC encourages public participation in all matters that impact the community, but stated that "we must stand firm against efforts to incite the public with misleading information." Mr. Werner said that there was a recent Charlottesville Observer article that stated there is no provision for input or consultation from property owners before designation, and the Charlottesville Area Association of Realtors has warned members that the owners of historic properties will face an ordinance that will allow the government to essentially "seize land if it has historic significance." Mr. Werner asked audience members in support of the Plan to stand, adding that the concerns raised about the proposed ordinance "simply do not exist." He encouraged the Commission to challenge these assertions and not allow the opposition's effort to generate "property rights hysteria" and allow it to overshadow the facts and intentions of this proposed Historic Preservation Plan. Mr. Werner added that he lives in a historically designated home that has a preservation program that is far more strict than the proposed plan.

Mr. George Larie addressed the Commission, stating his support of the plan. He mentioned that he moved here 8 years ago because of the natural beauty and historic significance of the area. Mr. Larie said that at the present growth rate, the population will double every 25 years. He urged the Commission to the Plan, as it is essential to preserve the character and nature of the area.

Ms. Francis Lee-Vandell said that there are some farmers who may not benefit from an easement, as it may not help them with their taxes.

Ms. Pickart provided a statement from Charlottesville area Realtor Martha L. Gleason. (Attachment "F").

A complete list of speakers is attached (Attachment "G").

The Commission took a brief recess, then reconvened.

Mr. Finley began the discussion. He expressed concern that the Plan might limit a property owners control over his own property. He asked what it would cost to be in an overlay district, and how the approval process would work.

Mr. Kamptner mentioned that it would be similar to the ARB process, where certificates of appropriateness are granted.

Mr. Finley commented that he was born in a historical house. He stated that he thinks it is good to have historical buildings restored and maintained, and mentioned that this has been done in Albemarle without government intervention. He said that while he believes in preserving historical rights, he also believes in

property rights and individual rights. "When I read the word mandatory, I get a bit leery or shaky…. I tend to go along with several speakers that want a voluntary tone to this."

Mr. Rieley said that the issue of voluntary/mandatory needs some clarification, noting that the Plan has been very thoroughly worked and reworked to minimize the mandatory tone, and is merely an attempt to determine what should be preserved. He stated his interpretation of the Plan as analogous to the Entrance Corridor Overlay District, with virtually no prohibitions at all. Mr. Rieley added that even the category in the Plan addressing the destruction of irreplaceable resources has an escape clause, if the landowners don't have the money to maintain the property. He said that when it comes time to craft the actual ordinance, he hopes it will address how new construction takes place in a way that can be compatible and still respect individual property rights. Mr. Rieley commented that "this plan is an amazing document" that hopefully will be followed quickly with a historic site survey to begin to build the next round of properties that the county will help owners protect.

Mr. Finley expressed concern about the Plan's mention of archeological features needing protection, stating that those features could be located anywhere on someone's property. "What control does a property owner have over any of that?"

Mr. Rooker said, "If it's under your cornfield, it doesn't prevent you from continuing to grow your corn….there's nothing in the proposed plan that says you couldn't build a house on top of it. It would identify the site, and do some categorization of what's there." Mr. Rooker mentioned a recent application before the Commission by an owner of a large farm that was seeking expanded uses that would help generate revenue to maintain the property. "There's a provision in this [plan] that recommends that very thing." Mr. Rooker said that plan recommends re-examination of the current zoning ordinance, which in some cases "virtually guarantees continued deterioration." The plan recommends additional provisions to allow more varied uses in historic properties.

Mr. Rooker commented, "One of the things this [plan] specifically speaks to is increasing the potential economic return to owners who maintain historic properties." He mentioned that following this plan might help address the difficulty in maintaining the family farm.

Mr. Finley said that most people that come up in public hearings are in the affirmative. "You can't count speakers in a public hearing to say the public favors or doesn't favor anything."

Mr. Rooker stated, "All we can do here is what we think is in the best interest of the county, and not necessarily take a survey and find out how the public might vote on a particular item."

Ms. Hopper said that the distinction Mr. Rieley made was very helpful, stating that designation of defining what is in a Historical Overlay District is one stipulation, whereas defining how it is regulated is something entirely different. "This plan doesn't suggest a mandatory prohibition of anything…other than identifying what is in a Historic Overlay District, that's the only 'mandatory' provision in this plan that's being recommended."

Mr. Rieley mentioned that some of the strategies in the plan are a little bit different than the overall text. He added that the summary strategies contain language that is even more moderate than that in the general body of text.

Mr. Rooker emphasized that the plan was formulated over 5 years, and involved "substantial compromises" along the way. "I don't think [what we're seeing] is the recommendation of those the most interested in protecting historic resources at the greatest cost to personal property rights. What I think

we're seeing is a compromise that was reached on the Committee, after long deliberations and hearing [opinions] from all sides."

Mr. Rieley commented, "That's really apparent."

Mr. Finley said that the owners of historic properties seem to have "no real teeth at all to stop anything." He continued, "It's the Committee who makes the decision and makes the recommendation to the Board…the owner has no veto power whatsoever, and it's his property."

Mr. Rieley said, "You're talking about regulatory provisions of an ordinance that we haven't seen yet."

Mr. Cilimberg commented that the Commission still needs to have discussions about any regulation through Zoning Ordinance Amendment. "Zoning by its nature is not voluntary….when the Entrance Corridor District stuff was before you, just recently, people were being zoned, and they weren't asking to be zoned."

Mr. Craddock stated that he was born and raised in Albemarle, lives in a home that his family has owned since before the Civil War, and is very interested in historic preservation. He said that while he is concerned about mandatory aspects and property rights, he feels that "now we have a pretty good plan in front of us," and expressed his support of the plan.

Mr. Loewenstein said that he has been meeting with the Committee for the last five years, and commended them on their work on the Plan. He emphasized that "we are not considering the ordinance, we are considering the plan." Mr. Loewenstein said that it is important to distinguish between strategy recommendations in the document and specific requirements. He stated that "one of our greatest challenges as a community is to find ways to manage growth responsibly and fairly and accommodate growth so it does not destroy the heritage of our past."

Mr. Loewenstein continued, "The very things that have attracted people to Albemarle – which include our history, our scenic and historic vistas, our rural areas…have brought new investment into this community, they've brought growth into this community, they've brought tourism. All of those things can…destroy a large measure of our historic resources in an alarmingly short period of time." He added that he has seen a considerable number of historic resources disappear in his 40 years here. "I don't think that short term economic interests should be allowed to prevail against a greater social benefit for the long term future. These are the resources that this Historic Preservation Plan seeks to help protect. I think balance is the key here, and I think the Committee worked hard to strike a balance to minimize any kind of negative impact on property owners…while at the same time doing the best possible job of protecting those resources for future generations."

He concluded by "strongly and warmly encouraging our consideration of this."

Mr. Loewenstein noted that there would be an opportunity during the ordinance discussion to address individual property rights, adding that "at some point social responsibility overtakes individual rights." Mr. Loewenstein mentioned statements made by John Locke and Benjamin Franklin supporting this point.

He commended the Historic Preservation Committee for their work on the Plan.

MOTION: Mr. Rooker moved, Mr. Rieley seconded approval of adoption of the Historic Preservation Plan as a component of the Comprehensive Plan as presented, and amendment of Chapter 2 of the Comprehensive Plan to correspond to the updated text in the Historic Preservation Plan by making the changes recommended by staff in their report.

Mr. Rieley expressed his thanks to the Committee.

Mr. Thomas agreed.

Mr. Finley said that he supports historic preservation, but said that historical rights for individuals are not fully guaranteed in the plan.

Mr. Cilimberg thanked Mary Joy Scala and Margaret Pickart for their work.

Commissioners shared his commendation.

The motion passed in 6-1 vote, with Mr. Finley dissenting.

Old Business

There was no old business presented.

New Business

Ms. Hopper mentioned that she would like to have further discussion on critical slopes issues that seem to arise frequently in the Commission's deliberations. Mr. Cilimberg noted that staff is working on several issues/applications that involve critical slopes and setbacks, which would soon be coming to the Commission in worksessions. He added that work on the design manual would also raise these issues. Mr. Cilimberg said that next week, staff would attempt to clarify with the Commission the application for critical slopes provisions for stormwater facilities, and if it is considered to be a utility.

Mr. Craddock thanked Mr. Cilimberg and Mr. Finley for attending the tri-county meeting in Scottsville.

Mr. Cilimberg mentioned that on the afternoon of Wednesday, June 7th, the Commission and the Board will hold a joint worksession and public comment on the DISC recommendations.

There being no further business, the meeting was adjourned at 9:25 p.m.

The meeting was adjourned to 6:00 p.m. June 1st at Monticello.

_____

V. Wayne Cilimberg
Secretary