Albemarle County Planning Commission
December 4, 2001

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, December 4, 2001 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were Dennis Rooker, Chairman; William Rieley, Vice-Chairman; William Finley, Rodney Thomas, and Pete Craddock. Other officials present were Scott Clark, Francis MacCall, Yadira Amarante, Elaine Echols, Greg Kamptner and David Benish.

Mr. Rooker called the meeting to order and established a quorum.

Other Matters Not Listed on the Agenda from the Public

Mr. Rooker asked for additional items from the public. There being none, the meeting proceeded.

Public Hearing Items:

a. **Sugar Hollow Addition Agricultural/Forestal District** – Addition of five parcels totaling 132.251 acres to the Sugar Hollow Agricultural/Forestal District. The proposed addition is located on Route 614 approximately 0.25 miles from its intersection with Rt. 674. The existing district contains 4,793.488 acres. (Scott Clark)

Mr. Clark presented the staff report.

Mr. Rooker said that it looks like a nice addition to the district.

Mr. Rooker opened the public hearing on this item. There being no comment, the hearing was closed.

Mr. Rieley moved for approval.

Mr. Thomas seconded the motion, which passed unanimously.

b. **Moorman's River – Withdrawal Agricultural/Forestal District** – Withdrawal of 43.577 acres from the Moorman's River Agricultural/Forestal District is located in the Jack Jouett Magisterial District on Route 601 approximately .75 miles from its intersection with Route 676. (Scott Clark)

Mr. Clark presented the staff report.

Mr. Rooker opened the public hearing.

Mr. Robert Harris, one of the heirs, said that the land is sellable as it is, but it will restrict the number of buyers as part of the district. There are interested parties, but they want division rights with the property. He said that they did not realize that there was a time limitation on withdrawal. He said that they would go by the committee's recommendation if necessary.

Ms. Kristy Nelson is a neighbor. She submitted a petition opposing the premature withdrawal of the property from the district. She stated that the neighborhood concern is that there is a developer who is interested in acquiring the property for development. The neighbors recognize that there may come a time when we cannot prevent the development of this parcel. Perhaps a suitable buyer will come in the meantime who will buy the whole property. She said that the property has only been listed for a couple of weeks. Allowing this withdrawal would render the County's land use restrictions meaningless.

Mr. Rieley asked Ms. Nelson which property she lives on.

Ms. Nelson pointed out her property and that of her father.

Mr. Rieley verified that her property was not in the agricultural/forestal district.

Ms. Nelson replied that was correct, that she and her father are on 4-acre lots that were subdivided years ago.

There being no further comment, the hearing was closed.

Mr. Rooker said that the committee recommended against approval. The land was inherited in 1995, so they had until 1997 to take it out of the district. There have only been a couple of times when someone who didn't make the deadline was allowed to withdraw. He said that he does not see where the property has been actively marketed for a period of time and it cannot be sold as is. One of the advantages of the district is that you get favorable tax treatment. He said he sees no clear-cut guideline by which we should deviate from the committee's recommendation.

Mr. Rieley said he agreed. He said he is sympathetic with the applicant, but the 10-year threshold is an important one. He said he thought the integrity of the threshold should be maintained unless there is an extraordinary circumstance.

Mr. Finley stated that there was no requirement for the property to remain in the district upon inheritance.

Mr. Rieley stated that they had two years to withdraw.

Mr. Finley pointed out that the applicant said that they did not know it was in the district.

Mr. Rieley replied that was correct.

Mr. Finley asked if the property was sold while in the district, would the buyer be able to withdraw the property in 2003.

Mr. Rooker replied yes. He pointed out that a buyer would be able to withdraw at the end of the ten-year period.

Mr. Finley stated that a buyer could buy now without division rights at a lower price. He verified that the division rights would be restored upon withdrawal.

Mr. Rooker said that assuming there are two or three buyers, it should effect the market value of the property. He said he sees no compelling reason to deviate from the rules in this instance.

Mr. Finley said that they inherited it and did not choose to put it in there and according to the letter they did not know it was in the district.

Mr. Rieley pointed out that if they had inherited the property with an easement, it would not negate the validity of the easement, or anything else that's attached.

Mr. Craddock asked how people would know that it is in the district.

Mr. Benish replied through the appropriate deeds or family knowledge. There is no notification from our office, as we would not necessarily know of the death.

Mr. Thomas said he thought that would be the attorney's responsibility.

Mr. Rooker said they would find out the same way a potential buyer would find out. He said that this does not appear to be a situation in which there is hardship. The committee came to the same conclusion.

Mr. Finley asked why he assumed they had been marketing the property over the last several years.

Mr. Rooker said he assumed that they haven't. We know it has recently been placed on the market. There is no indication that this property has been on the market for 3 or 4 years and gone unsold.

Mr. Rieley said unfortunately, if the criteria are maximizing the economic gain from the sale of the property, it applies to every property on the maps.

Mr. Thomas stated that it's unfortunate that the heirs missed that window.

Mr. Rooker pointed out that was 4 years ago.

Mr. Rieley moved for denial of the request.

Mr. Craddock seconded the motion, which passed by a vote of 3-2 with Mr. Finley and Mr. Thomas voting no.

c. **ZMA-2001-013 C.F. Hall Land Trust (Sigh #75 & 76)** – Request to rezone 2.77 acres from R-2, Residential to R-10, Residential to allow the division of one parcel into two parcels. The property currently contains two dwelling units. The property is currently in the name of a Trust and the trustees are requesting to divide the property into two separate properties each with a dwelling. The current R-2 zoning does not allow the subdivision. The property described as Tax Map 56A1-1 Parcel 37 is located in the White Hall Magisterial District on McComb Street at the intersection of McComb Street and Blue Ridge Avenue. The Comprehensive Plan designates this property as Neighborhood Density, recommended for 3-6 dwelling units per acre in the Crozet Community. (Francis MacCall)

Mr. MacCall presented the staff report.

Mr. Rieley asked when the R-2 zoning was applied to this property and why it was applied in a situation that made it immediately non-complying.

Mr. MacCall replied that he was not quite sure.

Mr. Benish replied that the rezoning was done in the 1970s and he is not clear why those properties were zoned R-2. He said he thought this was part of the original zoning of that area.

Mr. MacCall said they had some suggested proffers that could be addressed during the public hearing.

Mr. Rooker stated that the commission normally likes to have the proffers to look at.

Mr. MacCall circulated copies of the proposed proffers.

Mr. Benish said that applicant has indicated that they are more than willing to work with us to provide the appropriate proffers.

Mr. Finley asked what the reason was for requesting the proffers.

Mr. MacCall said that staff thought of it as a guarantee that use stays as generally as the rest of the area, as a single family dwelling. There were a couple of uses in the R-10 that were listed. The lot size essentially takes care of that by only allowing one dwelling on that lot.

Mr. Rieley stated that the last provision in the proffers states that the special use would now be associated with the uses in R-10. He asked Mr. MacCall if he knew the difference between the special uses that would apply under R-2 and R-10.

Mr. MacCall said the he is not sure offhand.

Mr. Benish pointed out that R-2 is pretty limited in terms of the special use permits.

Mr. Rooker pointed out that the proffer is that they would only be permitted the special uses that would be permitted under R-2.

Mr. Rooker opened the public hearing.

Ms. Catherine Bentley said that she is asking for approval so that they can improve their homes, as the loans cannot be approved as a Trust. She said they would also like to individually own their homes.

There being no further comment, the hearing was closed.

Mr. Rieley said it seemed perfectly reasonable to him. He said he wished there were some process to do this that did not require an application process.

Mr. Finley moved for approval with proffers.

Mr. Thomas seconded the motion, which passed unanimously.

SUB-2001-215 C.F. Hall Land Trust – Request for final plat approval to create 2 lots on 2.77 acres. The property is zoned R-2, Residential. (Francis MacCall)

Mr. Rieley moved for approval of SUB-2001-215, subject to approval of the rezoning by the Board of Supervisors.

Mr. Craddock seconded the motion, which passed unanimously.

Regular Item

a. **SUB 2000-201 Chimney Rock Final Plat** – Request for plat approval to create 5 lots 5.22 acres on an internal private road. Property is located on approximately 105.849 acres zoned RA (Rural Area). It is described as Tax Map 18-Parcel 21 and is located west of an extension of State Route 1573 (Windrift Drive) west of the Windrift Subdivision. This property is located in the White Hall Magisterial District and is designated for Rural Area uses in Rural Area 1 of the Comprehensive Plan. (Yadira Amarante)

Ms. Amarante presented the staff report.

Mr. Thomas asked if there was any water in the outflow.

Ms. Amarante replied very little.

Mr. Steven Voler said that there is some flow in the channel from the dam. He is not sure of the source.

Mr. Rieley asked if the pond was full.

Mr. Voler replied that the pond is nowhere near full. He said that it probably never would be.

Mr. Rooker pointed out that the dam was built in violation of state law. He asked what process do we have to hold the contractor accountable who performed this work.

Mr. Kamptner replied that the state could do it because this was an agricultural dam when it was originally constructed.

Mr. Voler stated that the regulatory authority falls with the state. He said that there is some correspondence with the state. They are trying to find an amicable solution before taking any kind of legal action.

Mr. Rooker stated that the staff report said that the dam constituted an unauthorized discharge of fill material into a tributary of Buck Mountain Creek. He asked if that was a violation of County ordinances.

Mr. Voler replied that it was a violation of the Clean Water Act, which was a federal issue. When we became aware of it, we notified the state and the federal government. The US Corps of Engineers then retroactively wrote a permit to allow the impact. The state has not resolved their issues yet.

Mr. Rooker asked if staff was saying that without restructuring, the dam would not comply with our stormwater management control ordinances.

Mr. Voler said that as far as our desire for state compliance, that is part of general policy. Part of it is our desire to stick with that policy, and then there are specific site issues with the County in terms of the stormwater use of the pond.

Mr. Rieley said that the owner has a dam that's too big for the watershed. That is not a public hazard in and of itself.

Mr. Voler stated that there is not anything that is a particular hazard except for the civil matters. The State has some problem with permitting a dam that is too big for the watershed.

Mr. Rieley said he was surprised that there weren't fines given for excavating to this extent without a permit.

Mr. Voler said he addressed this issue to a neighbor. He said that because this was initially perceived as an agriculturally exempt activity, the landowner was not in violation with the County when the work was done. When they applied for subdivision, they were in violation from that point on.

Mr. Rooker asked when the dam was built and when they applied for the subdivision.

Mr. Voler replied that the dam was built in early 2001.

Mr. Rooker stated that the excavation caused a discharge of materials into Buck Mountain Creek, which flows into the reservoir. Sedimentation is one of the biggest problems we have in the reservoir. This is a very serious matter.

Mr. Finley asked who would determine the capacity that's been lost.

Mr. Rooker replied that he didn't know that we could attribute a specific quantity to the building of this dam.

Mr. Rieley asked for what period of time should erosion control measures have been in place after it became apparent that this was a subdivision.

Mr. Voler said that the site was stabilized before the subdivision came in, so at that point there was nothing for us to ask them to stabilize.

Mr. Rooker asked what this look back provision is.

Speaker replied that it specifically refers to private roads. It has to do with agricultural roads that were built for an agricultural use. If the final plat is received within 24 months of the beginning of the road construction then the agricultural exemption is no longer valid.

Speaker said that they have to have an erosion control plan that is approved.

Mr. Rooker stated that the question now is the stability of the road that's in place. He asked if there were any stability recommendations.

Speaker said that in September there were some areas where grass had not been established. He said that he did not know how far along anything is with the drought.

Mr. Rieley stated that in this case, we have no way of verifying that the essential construction techniques were followed.

Mr. Voler replied that they have submitted asphalt road information. As part of our inspection, we would be verifying the techniques used.

Mr. Rieley asked would you do core samples and compaction tests.

Mr. Voler replied that they would

Mr. Rieley verified that the applicant would pay for them.

Mr. Rooker asked if they were comparing the theoretical private road to the public road, or are you comparing what's already been done to the public road.

Mr. Voler said that their engineer was taking into account the as built cross sections.

Mr. Finley asked if there was a requirement for an engineer to be involved in the building of a dam for an agricultural use.

Mr. Voler replied that that might fall within the state guidelines.

Mr. Rieley said he thought that it wasn't a requirement, but that the plans have to be approved.

Mr. Craddock asked about erosion control.

Mr. Voler replied that with the agricultural exemption, they are exempt from County erosion control standards.

Mr. Rooker asked about the letter from the DEQ, which requires a permit for excavation activities. He asked if there was any reason why there would not have been a permit required.

Mr. Voler said that he is not familiar with that regulatory permit. The state would have to enforce that. We can contact DEQ to investigate. It is not our policy to approve things that are in violation of state and federal laws.

Mr. Kamptner replied that we could base our denial on the subdivision ordinance. They are interrelated.

Mr. Rieley said he had a similar concern about the private road. We are in a catch-22 in which engineering cannot begin to review the plans until the concept is approved by the planning commission. He asked if there was a way to have engineering look at some of these issues before we vote.

Mr. Rooker opened the public hearing.

Mr. Greg Briehl, the owner of the property, reviewed the history of the property (attached). We found several deep ravines and valleys, 2-3 feet deep, within that bowl, which made traversing the property difficult. They met with a County extension agent on two occasions to look at ways to best improve the property. He began the process of clearing the land of scrub. They spoke with a civil engineer at the

beginning of the construction of the dam. The engineer felt that the dam was over engineered, but he felt that it would fill up. Mr. Briehl asked about permits and the agricultural exemption. They did have silt fences up through the construction of the dam. He went by the recommendations of people around him in regard to permits. Their costs became higher than anticipate, so they looked at ways to offset some of those costs. That's where the idea for the sale of the lots came into play. No hardwoods were taken off the property, with the exception of those removed for the road. We were careful to seed straw and do as much as possible to maintain the area. We received a letter from the County with their concerns about the dam and we were compliant with that. We did armor the downstream spillways. This is not an attempt to hoodwink the County or to be bad neighbors, but rather we began with a family farm that became too expensive and were looking for ways to offset the costs. We do believe that the pond will fill and do plan to use it for irrigation and recreation.

Mr. Rooker asked if there are any animals on the land.

Mr. Briehl replied that currently there are none. We have not sold any hay off of it because of the drought.

Mr. Finley asked who engineered the dam.

Mr. Biehl replied Wendell McDaniel.

Mr. Rieley asked if Mr. McDaniel is a registered engineer.

Mr. Briehl replied that he was not.

Mr. Rooker asked if the Lutheran Church had anything to do with this property.

Mr. Briehl replied that they did not.

Mr. Rooker verified that the church has no ownership interest in the property.

Ms. Patricia Swygert is a neighboring landowner who shares a large border with the landowner. The Briehl's did offer to build me a road to the far side of the property. The road was already in the planning process at the time. She is very concerned as she has two streams that are fed from the springs on his property. One has no water coming through it. It is a pile of sediment and sand. The other one has suffered from the proximity of the construction. She is appalled by the blatant disregard for the ordinances of the County, State and Federal governments. The County staff has been helpful, but they feel that their hands are tied. She has also met with the County extension agent, and would ask you to consult with him regarding his recommendations. She is the one who contacted DEQ. The erosion and sediment control screening form, was completed after the fact, all the work had been completed. At the time it was signed, it had already been graded for the house, which the form specifically prohibits.

Ms. Joy Matthews is also a neighbor. She clarified the issue about the dam. It was built and dam safety was notified after the fact. The Briehl's were aware of the state regulations after a meeting that we had with them in August. The County needs to make sure that violation is taken care of. If that lake were to fill, then it has not been properly inspected and we don't know if it was properly engineered. The dam needs to be reduced or removed.

Mr. George Matthews feels that the neighbors have been grossly deceived. The initial discussion indicated that an agricultural plan was in the Briehl's mind and that there would be a small agricultural pond. He does not feel that this qualifies as an agricultural pond. We have no objection as neighbors of the Briehl's selling some of their property, but we do feel that the existing dam should be sufficient reason for the permit to be denied at this time.

Mrs. Kim Briehl is one of the owners of the land. She apologized to the neighbors that were offended. She hopes that another picture of the land might develop by the telling of the story. Generally the only

area cleared resembles a rolling pasture in a bowl area. More of the total acreage that is left is in hardwoods. We have basically brought out the essential beauty of the land. They may not have followed the letter of the law, but she believes that they followed the spirit of the law. She said that she understands the concerns and welcomes any studies that need to be done. The County staff has recommended approval with conditions pending restructuring of the dam. She requested approval of the application with conditions pending that additional studies be done. She believes these studies would be beneficial to the DCR. We will do whatever we need to do to meet his satisfaction. It does seem necessary to have these studies done.

Mr. Briehl stated that they have a video record of the building of the dam and the engineering of the road.

Mr. Rieley asked who was the engineer on the road.

Mr. Briehl replied the Roudabush and Gayle supplied the engineering information.

Mr. Rieley asked if they had done plan and profile for the roadways before it was built.

Mr. Briehl replied that they did not.

There being no further comment, the hearing was closed.

Mr. Rooker said that he is not comfortable voting to approve this in the current state. The applicant could take a deferral until the actions are taken and we can see how this will impact stormwater management. In his view, the applicant has the right to exercise his division rights, but we need to make sure the regulations are being complied with.

Mr. Thomas asked if we could request that the dam be brought back to 25 feet.

Mr. Rieley said that his preference would be for a thorough engineering and hydrologic study to be completed. He would hate for us to establish a height based on fragmentary information. He said he was uncomfortable with the evocation of John Greene's name. Mr. Greene knows that a 40 foot dam needs a permit. Mr. Rieley doesn't believe that he would not inform someone of that fact. He is very much in favor of this being deferred. Further, the private road needs to be evaluated. We need plans, profiles and comparative analyses. We should not reward someone for ignoring the law.

Mr. Rooker asked if the applicant would agree to an indefinite deferral.

Mr. Briehl replied that he would.

Mr. Finley asked what's to be done that hasn't been done. The State and corps of engineers are already aware of the problem and given their advice. Engineering gives their requirements in the conditions.

Mr. Rooker said that Mr. Rieley just listed a couple of items that we would like to see. There are some other items that are mentioned in the conditions that we should have before we approve.

Mr. Rieley stated that there is no reason an exemption should be made in this case.

Mr. Finley asked if this plat is not considered to be the final site plan.

Mr. Rooker replied that it is the final plat. He said the plat was before us by request of the neighbors. What we are saying is that we would like to see some of these items before we give our approval.

Mr. Finley pointed out that the application says that the final plat shall not be approved until the conditions are met.

Mr. Rooker stated that there are two items before us, one being the private road, and the other is the approval of the plat. Several commissioners have indicated that they are not comfortable approving this plat in it's current state.

Mr. Finley asked if the applicant knew specifically what he had to do before returning.

Mr. Rieley moved to accept the applicant's request for an indefinite deferral on this matter.

Mr. Thomas seconded the motion, which passed unanimously.

Work Session

a. Rivanna Village at Glenmore

Mr. Craddock removed himself from this discussion because he is president of the Board of the East Rivanna Fire Department.

Ms. Echols presented the staff report on this issue.

Mr. Rooker asked about the statement "under conventional development pattern the traffic generation would likely be even higher". If that's the case, then it would seem that traffic, with respect to this case, should not be a significant issue.

Ms. Echols replied that this would have an impact on Route 250. There have also been several members of the public who have expressed their concerns about the impacts to Route 250.

Mr. Rieley said that statement took him. He asked Ms. Echols how confident she was of that statement.

Ms. Echols replied that the mix of uses within a village will take trips off the road, that people would normally be taking back into Charlottesville.

Mr. Rooker said that was really the hope of neighborhood model development. He said that we really need to look at internalization and the trips that would be shortened by people who would be able to utilize the facilities at this development. He asked if these figures were based upon a traffic study.

Ms. Echols replied that it was.

Mr. Rieley asked if the buffer were significantly increased, wouldn't that provide an opportunity for continued day lighting of the stream.

Ms. Echols replied that you can't have this particular development and have day lighting of the stream. You can have a development with a buffer, but it wouldn't look like this. The stream is on the edge near Route 250, but it traverses the property as it goes to the rear.

Ms. Echols said that we were looking at this trying to give a recommendation and found it somewhat difficult. There really isn't a way to have the stream exposed if the form and intensity are appropriate. There may be some in between stages. The runoff from the development will severely impact the quality of water in the stream. Even if you had the development at the upper end of the recommended density, you would lose the quality even if it is day lighted.

Mr. Rooker asked if you pipe the stream in that location, can you provide a better buffer. He asked if there was some way, with piping that you could berm that area, so that you provide a better buffer to the neighborhood. In viewing this property, the neighbor's primary concern is the extent of the buffer.

Ms. Echols stated that with sufficient distance between the property line and the parking area, those impacts could be mitigated.

Mr. Rooker said that if the stream is going to be piped, there would need to be some significant, mature planting and berming, if appropriate. We need to look at some significant measures to buffer that existing neighborhood.

Mr. Thomas agreed with Mr. Rooker on the buffer.

Ms. Echols continued with her presentation.

Mr. Rooker asked for comments on the proposed density.

Mr. Rieley said he is struck by the interrelationship of all of these things. The difficulty is that all of the issues we have some concerns about relate to the amount of paving. We may have to reduce the density a bit in order to achieve an interface with the existing neighborhood. It would be great to know what the massing is and how tall the buildings are. That relates to the impact on viewshed for Monticello. In order to make a final determination on the density; we need to consider all of those things. There is nothing fundamentally overblown about the density as a target, but it may have to be modified a bit to meet these other considerations.

Ms. Echols asked if that could be something appropriate to the comprehensive plan or to the rezoning.

Mr. Rooker suggested that it would be something to look at in the rezoning. 17% open space is positive aspect of the application. As the plan gets massaged, if there is any way to reduce parking, that might go up a little bit.

Ms. Echols stated that staff has been looking at different ordinances that deal with open space, how much is appropriate and it what form. 20% is an amount we see often, but it doesn't have to be in unpaved areas.

Mr. Rooker asked if they were counting only unpaved area in their computation.

Ms. Echols replied that she did not know.

Mr. Rieley said it would be nice to have a standard for that. Sidewalks and plazas should be considered as open space.

Ms. Echols stated that it was a question of whether or not they counted some of the perimeter green space. It's hard to say what qualifies when you are trying to put it in an ordinance.

Mr. Rooker said that this property is in a more rural setting than the Sperry property or downtown. It seems that they are approaching what you would expect to see in a development of this type.

Mr. Finley asked if the 17% was of the total area.

Ms. Echols replied that it was.

Mr. Finley asked if all the lakes were part of the open space.

Mr. Echols replied that it was.

Mr. Rooker said that we might have the applicant give a little more information on the open space.

Ms. Echols continued her presentation.

Mr. Rooker said that one thing about the Monticello viewshed is that the important factor is what it is they see.

Mr. Thomas wondered if they were seeing the entrance to Rivanna Village or some of the houses in Glenmore.

Mr. Rieley said that his concern was that to the greatest extent possible, we don't get surprised. He said it would be nice to know the massing of the building and the view from Monticello. The landform by Monticello's viewshed analysis is not visible. Depending on how tall the building is, we can simulate the view. It would be nice to get a sense of scale and what it's going to look like.

Mr. Benish stated that it looks like only the western corner around the circle is visible.

Mr. Rieley replied that that was in the landform, but that might be different if you build a 6-story building in that area. It would be nice to have an analysis focusing on building height and mass.

Mr. Rooker said that there is no expectation that we will regulate the growth areas from the standpoint of not allowing anything to be built that can be seen from Monticello. What is important is scale and the minimization of impacts. To the extent possible, we should preserve the aesthetics of the viewshed.

Mr. Rooker asked for the applicant's input.

Mr. Frank Cox represented the applicant. The County has recently obtained more detailed topographic mapping, which means that we can be more precise. In conjunction with the rezoning package we submitted in April, we developed a grading plan, which can be digitized. We estimated that the total green space on this project would be somewhere in the range of 17%. We did not go into it with any specific goal in mind.

Mr. Rieley asked if he recalled what was included as open space.

Mr. Frank Cox replied that they included only the green area.

Mr. Rieley verified that it excludes all paved areas, including sidewalks and plazas.

Mr. Cox said that was correct. He stated than an over reliance on a set figure for open space gets you into a bit of a problem unless you consider what the activity areas are. Rather than having a fixation on green space, perhaps the focus should be on activity space.

Mr. Rooker verified that 17% open space does not include any of the paved areas.

Mr. Cox said that the calculation was an estimate.

Mr. Rooker asked if the commission had given substantial enough guidance tonight.

Ms. Echols said she thought they had said is that you want to see something about building heights and massing as it can be viewed from Monticello.

Mr. Rooker said that the issue has come up as to the appropriate time to look at that. He said that the comprehensive plan change might not be that point.

Mr. Rieley said that would be fine, as long as we make it clear that we remain concerned about the adjacent properties and transitions. If we had those kinds of caveats in the comprehensive plan language, it does not have to be resolved at that level.

Mr. Benish said that the next step would be to start working on that language. He could not remember how we had left the agreement to pick up the rezoning. This type of information is zoning level detail.

Mr. Rieley stated that we have clearly asked for some new things. There are some things that the applicant has supplied with a long time ago that he has forgotten. It would be nice to have a refresher.

Ms. Echols said that everyone should have a copy of the binder.

Mr. Rieley said or even get another copy.

Ms. Echols said that she would supply another copy.

Mr. Rooker asked what is the timetable in terms of the rezoning and changes to the zoning ordinance. We need to move forward with speed.

Ms. Echols replied that we have an outline with specific dates. We will be meeting with the applicant tomorrow. There may also be some other zoning districts that could be modified to accomplish all or part of this.

Mr. Rooker said that an applicant would be well-advised to take whatever route they can take to accomplish the neighborhood model principles. It's unfortunate that what we are looking for is a primary ordinance for these things to fall under. He hopes that we can move forward with some speed. What we are trying to accomplish is not something that hasn't been done elsewhere. It seems that it should be moving forward faster than it is.

Ms. Echols replied that there are significant policy issues that are being proposed here, not the least of, which is whether or not you approve private roads in a public setting. We are trying to get that question up to you in a work session.

Mr. Rooker said that whatever it is, it's open. He would like the process moved along quickly. He does not want to try to shoehorn developments to fit within the regulations.

Mr. Benish replied that we are working on it to the extent our resources can accommodate it.

Mr. Rooker stated that when we had our last meeting, we talked about having a draft in December.

Mr. Rooker said it would be helpful to provide additional copies of the booklet.

Mr. Benish pointed out that there is an absence of information regarding the level and character of improvements to Route 250. Those are less directly impacted by this proposal. We think it is something that we need to consider. The timing is a little bit awkward. We can't really wait.

Mr. Rieley verified that Mr. Benish was speaking about the specific character, scope and scale. When changes were made to Route 250 West, a task force was appointed. Is there any initiative underway to move those concerns ahead?

Mr. Benish replied not at this time.

Mr. Rieley asked if he knew when that would happen.

Mr. Benish replied that there is currently no program money for 250 East improvements, other than at the intersection with Route 22. He said he did not know what the status is.

Mr. Rooker pointed out that there is a long list of improvements that have been recommended and some of those things are covered by existing agreements. Most of these items are not in the six-year plan, so we do not have any plan for utilizing state funds to accomplish these improvements. He suggested that at some point we might want to focus on those that relate to the rezoning. He asked if Mr. Benish was suggesting we look at a separate transportation component for this area.

Mr. Benish said that all of the profiles typically have some recommendation for transportation improvements. He said that his concern here is what type of message we want to send to VDOT, how does it respect sensitive properties, which are just as important. At some point in time, we have to send a message, generally, about what our expectations are.

Mr. Rieley said that it is important to set the table, that is the missing piece.

Mr. Benish stated that staff would work towards that. We will be bringing you information that goes beyond the comments on this area.

Mr. Thomas said that was more than necessary at this point and should include the Fluvanna traffic.

Mr. Rooker stated that we want make sure that development and improvements fit into the larger scheme of what we want for this area.

Mr. Rooker said that the next step is that staff will return with proposed language for a comprehensive plan change for this area.

Mr. Rieley asked when the public hearing would occur.

Mr. Rooker asked if the plan was to have a worksession on the comprehensive plan language and then the public hearing.

Mr. Rooker said that the commission would like to have the language and a worksession and then schedule a hearing on the language.

Mr. Benish said that staff won't be able to turn this around before January 15th, which is a busy meeting. We will try to advance this as quickly as we can. He asked if we could advertise the public hearing in advance of the worksession in order to move it forward. The earliest would be January 15th or the week after.

Mr. Rooker said that was a reasonable timeframe and it would be fine to also advertise the public hearing.

Old Business

Mr. Rooker asked where we stood on the Peter's Mountain tower.

Mr. Benish replied that he did not think they would have the information together in time.

Mr. Rooker said that the rural area section of the comprehensive plan is another item that we would like to see move along. We haven't really gotten to the meat of the issue. We have covered the general principles. In terms of what we are doing right now, it seems that we need to look at some strategies to encourage rural preservation developments. The RPD should be something we look at making easy, simple, and perhaps something that can move forward as a matter of right.

Mr. Benish replied that it was a priority on staff's part as well. He is not sure that we can make that a mandatory option. It is something we are trying to look at.

Mr. Benish stated that the commission would be having a worksession on groundwater protection.

Mr. Craddock asked about the status of the historic preservation ordinance.

Mr. Benish said that the Board adopted a plan and asked the committee to establish an action agenda for implementation. That committee came back with a list of 12 items that set priorities. A new committee has just been appointed this month. There will be a meeting set for the beginning of the year. When the Board adopted the preservation plan, they set the expectation that the voluntary measures should be

addressed prior to an ordinance being established. Our goal now is to take the lead on that project and try to get those action items taken care of.

Mr. Rooker verified that the Board never voted on it.

Mr. Benish replied no, but there is a game plan for implementation.

Mr. Kamptner distributed the Albemarle County Land Use Law Handbook to the commissioners.

Mr. Rooker expressed his concern about the lack of clarity of the role of the ARB.

Mr. Kamptner stated that he would be doing a training session with them at their first meeting in January.

New Business

With no further business, the meeting adjourned at 9:05 p.m.

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V. Wayne Cilimberg, Secretary

Recorded and transcribed by Lynda Myers, Recording Secretary