Albemarle County Planning Commission

September 24, 2002

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, September 24, 2002 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were Jared Loewenstein, Chairman; Rodney Thomas; Bill Edgerton; William Finley; Tracey Hopper; Pete Craddock and William Rieley, Vice-Chairman.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; Michael Barnes, Planner; Amelia McCulley, Director of Building Code & Zoning Services/Zoning Administrator; Jan Sprinkle, Chief of Zoning Administration; Mark Graham, County Engineer; and Greg Kamptner, Assistant County Attorney.

Other Matters Not Listed on the Agenda from the Public:

Mr. Loewenstein invited public comment on other matters not listed on the agenda. There being none, the meeting proceeded.

Consent Agenda:

Williamson Building Site Waiver – Request for a building site waiver, pursuant to Section 4.2.5, to allow encroachment into the one hundred foot buffer of a tributary stream to a public drinking water impoundment. (Margaret Doherty) (Tax Map 060C, Parcel E8)

Mr. Thomas moved for approval of the consent agenda as presented.

Mr. Craddock seconded the motion, which carried unanimously. (7:0)

Mr. Loewenstein stated that the agenda has been changed to move the Parking ZTA up to be heard after Albemarle Place.

Item Requesting Deferral:

CPA –01- 04 Albemarle Place – Change the land use designation in County Comprehensive Plan, Land Use Plan from Industrial Service to Regional Service for Parcels 19A and 19B of Tax Map 61W, Section 3 to support an eventual rezoning from LI, Light Industrial to PUD, Planned Unit Development, for the purposes of creating a mixed residential, office, and commercial development. (Michael Barnes) **DEFERRED FROM THE AUGUST 6, 2002 PLANNING COMMISSION MEETING**

Mr. Loewenstein stated that the public hearing would not be opened for public comment. He noted that previously they had received public comment and held several work sessions. He asked if staff had additional information that they are going to provide. He stated that if there were questions for staff, then they could get those answered. He stated that if there were questions other that, then they would decide what they wanted to do.

Michael Barnes stated that staff has provided an executive summary. He summarized the major four points covered as follows:

1. Response to the concerns about the Department of Environmental Quality pump comments related to the streams on the site.

2. MPO study that is being contemplated for this area.

3. The revisions requested by Mr. Edgerton have been incorporated into the staff report. He noted that in Attachment B7 were the two points that he asked to be included which were underlined.

4. A letter came from the City updating their most recent position on the Albemarle Place project.

He stated that the basis issues that were raised during the review of the CPA have been addressed with the proposed text amendment in front of you. Therefore, staff recommends approval of ZTA-01-04 with the attached text and map.

Mr. Loewenstein asked if there were any questions for staff.

Mr. Rieley stated that he would like to ask Mr. Rue a question concerning the traffic study.

Mr. Loewenstein noted that they do have a status report in the staff report.

Mr. Rieley stated that he had a couple of questions that went beyond that.

Mr. Loewenstein asked when they get to the rezoning stage how closely does the language in that section tie us to the specific submission, master plan or the existing document that they have seen from the Albemarle Place applicant so far.

Mr. Barnes stated that what staff was trying to get there is in the key words are generally articulated. He noted that this was to allow some flexibility, but yet capture the essence of what is in this picture. He stated that the intent is that if this development went away and we had to get another one that they would be able to say that this is what they were looking for. He noted that a picture was worth a thousand words. He noted that there was definitely some flexibility there.

Mr. Loewenstein stated that they want to make sure that they did not put the cart before the horse. He noted that some of the things that are generally articulated are things that might not be taken up in detail before they get to a rezoning application. He questioned if they were boxing themselves in by using this language in a CPA.

Mr. Kamptner stated that this is part of the Comprehensive Plan, which is a policy document to guide the Commission.

Mr. Cilimberg stated that it would not be considered in isolation of all of the other recommendations here, particularly Section C and what it covers is going to have to be looked at in combination. More specific development proposals would be reconsidered during the rezoning process.

Mr. Loewenstein suggested that they change the word desired to the word possible on page 12, top paragraph, and number 4. He stated that they have not determined the desired form, character, etc. officially.

Mr. Rieley stated that he had a long list of items to review and this was on the list. He asked that they go through this from the beginning. He stated that his concern about B4 is more fundamental and really goes back to the second work session. He stated that it was apparent that they had a diagram from the staff and an illustration from the applicant that were fundamentally at odds with each other. In addition, there are lots of details on that plan that they have called into question from time to time. There are some that they would talk about later on tonight. He questioned the wisdom of inclusion in reference to that plan. He felt that they were skating on pretty thin ice when they put two documents in that are directly contradictory to each other and then endorse both of them.

Mr. Edgerton concurred with Mr. Rieley's point. He noted that he had been struggling with this because there was much about the proposed plan that they have been concerned about. Specifically, they have been concerned about the big box that stays there even though with staff's help they have drawn a line excluding that. He noted that it still stays there. He stated that he had a great deal of difficulty with the big

box being part of the amendment. He stated that the developer through his agent has indicated that the big box is a critical part of this plan. He stated that personally he would not be able to vote for a plan that requires a big box. He noted that it was totally contrary to what they have tried to do with the Neighborhood Model. He stated that there were other things about this plan that he was struggling with. After rereading the document, he deleted the entire paragraph four. He stated that he left the diagram (C7) that staff left in because he felt that it did fit with what they talked about as far as the Neighborhood Model and the interconnectivity. He pointed out that he would hate for the Commission to send a signal to the public or developer that they were comfortable with things that they were not. Therefore, he saw no value in leaving these diagrams in this amendment. He noted that they have not addressed the impact on the adjoining neighborhoods. He stated that he was very comfortable with the document without that in it. He suggested that they make the Comprehensive Plan Amendment without this specific project and not make it tied to this specific project, but make it tied to what we want to happen on that site.

Mr. Finley asked if he meant to take out everything except C7, and Mr. Edgerton stated yes.

Mr. Edgerton stated that he felt that they have something that adequately reflects their intent at this point. He noted that staff has assured them that they will deal with the details later. He stated that they don't show sensitively to adjoining properties when the diagram shows parking garages along Hydraulic Road at a scale that does not even remotely resemble the neighborhood across the street. He noted that the traffic problems are a concern, but will have to be dealt with later. He favored looking at the CPA as just an amendment and not a project specific amendment. He suggested that they stay focused on that.

Ms. Hopper stated that on that same point, attachment F7 does define an important concept that they have talked about. Concerning the ceiling of the square footage of the buildings in the Comprehensive Plan, they said that however in certain instances a larger footprint could be integrated and they could do that, and F7 would be an example. She noted that was a useful example. She stated that she had no problem with D7 and E7 being attached if a couple of things could be adjusted to the pictures. She stated that the northern section should not be included. She stated that it should be as the land is now. The example is in the box. She stated that the big box and the sea of parking should not be in the picture. The other issue that Mr. Edgerton referred to about the scale of the parking garages to the rest of Hydraulic Road is something that they need to talk about and how that photograph should be adjusted to be sensitive to that. He stated that was part of an important principle and part of what they want in the Comprehensive Plan Amendment. She suggested this as a middle ground for the issue.

Mr. Thomas disagreed because he felt that the northern part should be a part of the COMPREHENSIVE PLAN AMENDMENT because it was still zoned Light Industrial. Along the line of the big boxes, he thought that they had all of that figured out in the design. He agreed that if it was larger than 65,000 square feet, that it would be designed to appear like a smaller structure. He stated that if you have two 35,000 square foot buildings setting side by side, that still is going to be 70,000 square feet no matter whether it is one-story or two-story. He felt that the design would take care of the big box appearance.

Mr. Loewenstein stated that it could still be included in the COMPREHENSIVE PLAN AMENDMENT.

Mr. Craddock stated that getting back to your point about the word desired or possible, he noted that he has said from the beginning that he liked the south and the west ends of the project. The north end of this still bothers him and a lot of the Commissioners. The change of the word desire to possible is an example of one way that it could be developed, but not necessarily the way.

Mr. Rieley stated that the principle that Ms. Hopper raised in trying to identify pieces that we can endorse as examples that not necessarily adhere to a specific location as a specific proposal on this piece of property is a tenable one for a Comprehensive Plan Amendment. That seems to fit better than a specific proposal if it was the spirit of the B4 language. He noted his difficulty with F7 was that it incorporates one of the areas that he has the most difficulty with. For the last several weeks they have been discussing relegated parking. He stated that they have right along Hydraulic Road two surface parking lots right in front of the buildings. He supported the general idea of picking out a piece that they like to incorporate as

an example without relativity to a specific location, but that particular one bothers him. He suggested that they cut the line more narrowly.

Mr. Finley suggested that they say articulate character and distribution rather than the desired form. He suggested leaving out the two words.

Mr. Rieley stated that if these drawings are included the way they are, there is not much in the way of language change that you can put in that would prevent people from saying here is what you have passed.

Mr. Loewenstein stated that they have three alternatives in leaving it the way it is, changing the language in some way and perhaps changing some of the graphics or taking out B4, E7 and D7 altogether and maybe F7 as well.

Mr. Rieley asked Mr. Barnes how much square feet the D3 anchor retail represents on attachment F7.

Mr. Barnes stated it was about 140,000 square feet on two stories with 70,000 square feet per floor.

Mr. Rieley stated that it was just over the 65,000 square feet.

Mr. Edgerton stated that he had great difficulty in trying to figure out what great value they had in including these drawings. He stated that they have a good document without them.

Ms. Hopper noted that particularly with the second bullet.

Mr. Edgerton suggested that they include C4, which describes our willingness to be flexible with the magical 65,000 square foot footprint. He proposed taking out paragraph four entirely and with that taking out the three attachments that reference the specific plan that they have some conflict with.

Mr. Loewenstein added that the last bullet under C4 also references attachment F7, which would be deleted as well.

Mr. Edgerton summarized the proposed changes as follows:

- Delete D7, E7 and F7. Then under General Recommendations, on page 10, first paragraph, last sentence would state D7 and not G7.

- On page 12, delete paragraph 4 at the top of the page. Then renumber the remaining to 4) and 5).

- On the last bullet on C4, delete the reference to F7 and cross out the last sentence and leave the first sentence in.

- On page 16, top right hand corner where it says attachment G7, change it to B7.

He stated that he did not think that this limits their ability to work with the developer to go ahead with the project as discussed. He felt it was consistent to what they have agreed to.

Mr. Rieley stated that there are a few more issues here. He made the following suggestion: On page 10, this relates to the traffic study that should be underway. He noted that he was struck that this whole issue of transportation does not have the word interchange in it anywhere. This is something that has been looked at over a twenty year period and he did not think any study has been done on this area that suggests that this intersection can be raised to an acceptable level of surface without some kind of

interchange. He noted that it was absent from this COMPREHENSIVE PLAN AMENDMENT. He felt that they need to deal with it forth rightly and should say that it is one of the alternatives for the eventual disposition of this intersection. Any development of this property should allow for such a resolution both in terms of its initial planning and at the rezoning stage dedication of sufficient property to allow it to happen. Now is the time to address it. There is no value to ignoring something so fundamental at this stage of the process.

Mr. Thomas asked if he was just saying that it is just an alternative to look at it.

Mr. Rieley agreed. He stated that they have enthusiastically endorsed the idea of this study to help it get going and all of the preliminary indications that have been done up to this time, including VDOT's analysis, have shown the most likely scenario as some kind of a grade separated traffic interchange. If they approve a Comprehension Plan land use change for this property without acknowledging that and building that in to the Comprehensive Plan Amendment in some way, he felt it was ultimately irresponsible.

Mr. Edgerton suggested the following:

- On page 11, paragraph, after the word improvements on the third line, add a comma and possibly including a grade separated interchange, and setting aside sufficient right-of-way. .

Mr. Cilimberg stated that there was actually some language in there that got cut off when the document was copied.

- Mr. Barnes stated that the last time they considered this Comprehensive Plan Amendment, if you will go to the top of page 11 in your document, you will notice that the previous two lines above the Hydraulic/Route 250 were mistakenly left off which should be added back in as follows, "As part of an integrated system, improvements in this area may use urban grade separated interchanges as warranted to facilitate the movement of traffic. In particular. ."

Mr. Rieley stated that was an important item and agreed with the suggested language change in item 4 since it mentions setting aside sufficient right-of-way.

Mr. Edgerton stated that would send an important signal to the City concerning this issue.

Mr. Rieley stated that on Page 11, the last sentence in 3 says that this crossover should be closed upon the creation of the ultimate connection at Seminole Square/Sperry Marine/Route 29 intersection. He noted that he agreed with that, but wondered what the mechanism was to assure that. He asked if there was a way in which that kind of thing was enforced.

Mr. Barnes stated that it would be in the VDOT right-of-way. He pointed out that they pulled this language from the Hollymead Comprehensive Plan Amendment that was adopted. That was based on the same type of premise because they needed to have a crossover and could have it, but it may be closed at such time the grade separator interchange happens.

Mr. Rieley asked if it was clear that there would be some sequencing of events as implication for the development on this site. If expensive improvements and the whole plan were built around this interchange, it will be very difficult to get that changed in the future. He felt that the acknowledgment that is a temporary connection should have implications and should be reflected in the site plan itself. He asked if they could say that in the site plan proposals under the rezoning. He stated that the site plan was not an acknowledgement in this plan as he reads it.

Mr. Loewenstein pointed out that this was ultimately a VDOT call. He stated that he did not disagree with him in principle, but he was just wondering how best to accomplish it.

Mr. Cilimberg stated that what this paragraph intends to say is that there is one intersection that is considered to be the desirable one. There may be this new crossover established, but that should not continue to exist when we are able to utilize the Seminole/Sperry crossover for the access to the western side of Route 29.

Mr. Rieley stated that he was going for essentially the same point that he was getting about planning around interchanges in place. We should acknowledge what the long-term vision is and stipulate that the short-term development has to be subordinate to that long-term vision. He noted that he would like to state that explicitly.

Mr. Cilimberg stated that if they get Sperry in for redevelopment, they have something that was specifically saying how that should happen. He noted that was where it would occur.

Mr. Rieley pointed out not only on Sperry, but there were implications on this project for connections and the way that development should anticipate the long-term connections. The danger is if they approve it without the interchanges in anticipation of this connection, but it does not happen now. Then it develops in such a way that there is a built in resistance to changing it later if we don't insist that we are planning on it now. He stated that you would not want to build a commercial building in the path of the anticipated roadway that is going to go to the new location because that would be one more obstacle to overcome when you are trying to do the right thing in the long term.

Mr. Barnes stated that in our opinion to see this work, the post office entrance would become a right in right out entrance. In taking his point, whatever happens as far as site development on either the Sperry site and/or the Albemarle Place site could not preclude the possibility that would then become the main entrance or the focal point.

Mr. Rieley stated that by stating it explicitly they were giving everybody a heads up that this is the plan and this is what you work to.

Mr. Finley asked which pages that were proposing to leave.

Mr. Loewenstein stated that they were proposing to leave C7 that was the transportation grid. He asked to hear the rest of the possible changes.

Mr. Rieley felt that it was best for the group to discuss the changes rather than just mailing them in.

- On number 3C, he suggested, "Projects should orient buildings to major roads, **with priority to the existing street network,** both interior and exterior to the super block to the maximum extent possible in order to create the appropriate streetscape."

- Certainly correct number 1, compatibility with adjoining uses across the road.

Regarding C4, Mr. Rieley stated that it seems kind of fluffy. He stated that it seems to talk about making a big building something that it was not. He suggested that they be more demanding on the issue of large scaled buildings in these development areas. He disagreed with dressing up the façade of a big box deal with the fundamental problem. When we cross the 65,000 square feet threshold, they should be establishing an expectation that they go to multi-level stores. He noted that this language was far weaker than the language that they passed for the Fifth Street Comprehensive Plan Amendment. He stated that they were quite explicit about an expectation that buildings in the excess of 65,000 square feet would be multi-story. He noted that not only would they get buildings to look like what they actually were, but in fact they would be getting the substantive benefits of multi-story building which was one-half the roof or one-half the imperious parking. If they combine that with more of a demand for structured parking and be more demanding on storm water issues, then they begin to make a substantial change in the pattern. He

stated that this was a big issue. He suggested that staff pull out the language used for the Fifth Street project and email it to the Commissioners for review for use in this project. He stated that he did not object to the language if it was supplemented with substantive language.

Mr. Loewenstein noted that they might be able to work with the language that they already have. He questioned whether the two-story mandatory approach is always necessary to achieve the kind of result that they wanted to achieve.

Mr. Rieley stated that he felt that they needed language in the Comprehensive Plan Amendment that creates the expectation that when one exceed the 65,000 square foot threshold that we are then looking at multi-story buildings. He stated that the language in the Fifth Street Comprehensive Plan Amendment was balanced and reasonable. Continuing the model of the conventional big box with the sea of parking is not healthy for our community, and they need to try to break that model. He pointed out that they have the Neighborhood Model, which was an excellent tool to use to do that.

Mr. Thomas stated that he did not think it should be limited to 65,000 square feet.

Mr. Rieley suggested that uses be added to number five.

Mr. Loewenstein disagreed with adding uses since he preferred that they not box themselves in.

Mr. Rieley stated that the uses should be compatible with the adjacent property uses.

Mr. Edgerton suggested that the buildings along the street exteriors should be compatible with the existing development opposite the proposal. This would display their desire to try to be respectful of the value that is already there which they would want to maintain.

Mr. Loewenstein stated that they need to try to decide how to proceed.

Mr. Rieley asked that the Commission receive a fresh copy of this without the illustrations to review.

Mr. Edgerton asked that a marked up copy be provided.

Mr. Rieley stated that they need to review the Brass, Inc. language.

Mr. Cilimberg suggested that staff email the Brass, Inc. language to the Commission and forward the additional information for discussion at next week's meeting.

Mr. Craddock asked where the water issue comes into play in this project.

Mr. Cilimberg stated that the water resources and capacity would have to be reviewed under the Comprehensive Plan. He pointed out that he could not answer the question on how the drought would affect this particular request.

Mr. Loewenstein stated that the choice was whether they would defer this to next week or the week after since the City was scheduled to vote on the traffic issue.

Mr. Rieley suggested that they wait until the City votes on the traffic study concerning grade separated interchanges if it means that they delay this discussion for one week.

Mr. Loewenstein asked how many Commissioners would like to defer action on this until next week. He stated that it appears that the majority of the members wanted to hear this next week. He stated that they would not take action on this request tonight and review the proposed changed at next week's meeting.

In consensus, the Commission asked staff to provide information from the Fifth Street Comprehensive Plan Amendment and a listing of their recommended changes to the conditions.

Mr. Loewenstein stated that the Commission did not take any formal action tonight.

The Planning Commission took a ten minutes recess at 8:10 p.m.

The meeting reconvened at 8:30 p.m.

Ms. Hopper stated that since no formal action was taken on Albemarle Place, that she would like to make an argument that they defer action until October 8th instead of October 1st for the benefit of cooperation with the City. She asked that the Commission reconsider that and take another formal action to continue it to October 8th.

The Commission discussed the pros and cons of waiting until after the City votes on the traffic study.

Ms. Hopper moved to defer CPA-01-04, Albemarle Place, to the October 8th meeting.

Mr. Rieley seconded the motion, which carried (4:3). (Thomas, Finley, Craddock – Nay)

Work Session:

ZTA-01-09 Parking – Repeal Section 4.12, Off-street parking and loading requirements, and all of its subparts; repeal Section 4.13, Parking and storage of certain vehicles, and all of its subparts; add new Section 4.12, Parking, stacking and loading, including subparts; and amend Section 3.1, Definitions, Section 15.2.2, By special use permit, Section 16.2.2, By special use permit, Section 17.2.2, By special use permit, Section 18.2.1, By right, Section 18.2.2, By special use permit, Section 19.3.2, By special use permit, Section 20.3.2, By special use permit, Section 20.4.2, By special use permit, Section 20.5.2, By special use permit, Section 22.2.1, By right, Section 22.2.2, By special use permit, Section 23.2.1, By right, Section 23.2.2, By special use permit, Section 24.2.1, By right, Section 24.2.2, By special use permit, Section 27.2.1, By right, and Section 28.2.1, By right; of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would establish new parking, stacking and loading regulations applicable to new uses, structures and parking areas, redeveloped sites, and preexisting and approved parking, stacking and loading areas; define certain terms used in new Section 4.12; and delineate in which zoning districts parking may be a primary use by right or by special use permit. (Jan Sprinkle/Elaine Echols)

Ms. Sprinkle stated that this was the third work session on parking. She presented the staff report. She noted that one change had been made in staff's recommendations regarding parking structures in the PRD and PUD. Staff suggests that parking structures be by right in the PRD and PUD zones. She noted that if the Commission agrees with that change, then staff would change the text language. She stated that a letter from Al Reaser, of the Albemarle County Schools, had been received requesting that the schools be exempted from a number of the parking regulations.

Mr. Rieley stated that he had received several emails from Marcia Joseph asking for some additional consideration for parking for rural area churches.

Ms. Sprinkle stated that they could put in the parking schedule that churches would either meet the 1 to 3 for the larger churches or the 1 to 4 for the smaller church OR the church bring us a parking study that shows what their real need is. She stated that it would not have to be done by a traffic engineer. She stated that they could bring us that they have and then staff would consider the proposal.

Mr. Loewenstein stated that flexibility for that kind of use in the Rural Areas makes a lot of sense.

Ms. Sprinkle stated that keeping it confined to the Rural Areas would really help.

Ms. McCulley, Director of Building Code & Zoning Services/Zoning Administrator, was present.

The Commission held discussion on the proposed parking zoning text amendment.

Ms. Hopper moved to approve ZTA-01-09, Parking, with the following changes:

1. Maximum allowable percentage above the minimum required parking be changed to 15 percent. (Section 4.12.4.a)

2. On relegated parking, looking at subsection C on page 2 of the packet, Orientation to buildings, that language be adopted but it be specified that it does not apply to areas that are designated Rural Areas in the Comp Plan. (Section 4.12.5.c Orientation to buildings located in designated Development Areas)

3. Parking lots as primary uses and Parking Structures by-right in PRD and PUD. (Section 19.3.1 and 20.3.1)

4. Churches would be allowed to reduce the parking based on a study that they would provide to the Zoning Administrator. The study does not have to be done by a traffic engineer.

5. Delete parking as special use under 19.3.2 and 20.3.2. Amendments to 19.3.1 and 20.3.1 to allow parking structures by right.

Mr. Kamptner stated that when you delete parking by special use permit under Sections 19.3.2 and 20.3.2 and amend Sections 19.3.1 and 20.3.1 to allow parking structures by-right, there is going to be a time period where parking is a stand alone use allowed for those two districts until the amendment is approved. He noted that this would need to be advertised.

Mr. Thomas seconded the motion, which carried unanimously (7:0).

Mr. Loewenstein stated that no date has been set for the Board of Supervisors hearing.

Ms. Sprinkle stated that November 6th has been reserved for a work session with the Board of Supervisors.

Public Hearing Item:

ZTA 02-003 – Uses – Amend Sections 2.1.1, Use, Occupancy and Construction, and 3.1, Definitions (definition of "accessory use, buildings or structure"), of Chapter 18, Zoning of the Albemarle County Code, to restate and continue the existing rule that a lawful accessory use must be located on land zoned to allow the primary use and must comply with the zoning regulations applicable to the land on which the accessory use is located. (Amelia McCulley)

ZTA 02-004 – Stormwater Management Facilities – Amend Sections 10.2.1, By right, 12.2.1, By right, 13.2.1, By right, 14.2.1, By right, 15.2.1, By right, 16.2.1, By right, 17.2.1, By right, 18.2.1, By right, 19.3.1, By right, 20.3.1, By right, 22.2.1, By right, 23.2.1, By right, 24.2.1, By right, 27.2.1, By right, and 28.2.1, By right, of Chapter 18, Zoning, of the Albemarle County Code, to authorize stormwater management facilities that are shown on approved final site plans or subdivision plats as a by right use of a parcel. (Amelia McCulley)

Mr. Loewenstein stated that they had two zoning text amendments to consider together.

Ms. McCulley presented the staff report. (See the attached staff report.) She stated that ZTA-02-003 Uses, was a housekeeping item which was to further clarify an existing rule that a lawful accessory use must comply with the Zoning regulations applicable to the land upon which it is located. The most substantive change relates to ZTA-02-004, Stormwater Management Facilities, which relates to the location of stormwater facilities and essentially it is to list it as a use and allow it by right in every district and by special use permit in the Rural Areas district. The reason listed under public purpose to be served has already been discussed with the adoption of the resolution on August 26th. At that time one of the

comments was that we should be mindful of policy implementations in terms of the impact of the rural areas. A staff work team of Engineering, Planning and Zoning met to discuss it. Their conclusion was that there really are not significant concerns or issues related to the location of stormwater facilities in the development areas, but there may be some in the Rural Areas. It may not be appropriate to have it by right in the rural areas because not every rural area property would be appropriate for just any stormwater facility, which in some cases could really could be an industrial type of facility visually and in terms of scale and so forth. To better administer it, staff recommends that it be by special use permit in the rural areas. That will allow a couple of things. They hope that it will limit the proliferation that the use of rural areas property for this type of facility. It will allow us to evaluate any impact on the agricultural use of that property where it is being located or on adjacent properties. Secondly, it gives you the discretion to include any approval conditions, which could dictate the location, size, design and screening of that use. After going through all of the criteria that they have to review for all zoning text amendments, she finds that the impact was really limited. There was really none in terms of the accessory use zoning text amendment because it was a housekeeping amendment to an existing regulation. In terms of the stormwater facility, the impact is really on one hand it should really clarify things because it has been inconsistent in the past and will make for a more even interpretation and application of the regulations. The special use permit requirement, which may not arise very often, is one which will involve more staff time than a by-right use that does not go through the public hearings. Therefore, there are those implications. Staff is recommending that the Commission approve the text. She asked to delete alternative one since alternative two covers everything. In terms of Section 2.1.1 alternative two, nonconforming uses in structures as provided in this chapter is what staff recommends that the Commission adopt.

Mr. Loewenstein asked if there were questions for staff.

Mr. Thomas asked if on the resolution of intent, they had approved the stormwater management by right and staff has changed it to be by special use permit.

Ms. McCulley stated that was correct. At the time of the resolution of intent, the staff work team had not yet met to discuss the policy implications and formulate a recommendation. She noted that it was written as you said at that time that it be allowed as a by-right use in every district. This is probably one of the fastest zoning text amendments that they have ever done. She noted that there was no legal defect in this and they had the staff work team assess it to come up with that recommendation.

Mr. Cilimberg stated that it was advertised by right and could go more restrictive legally without readvertising.

Mr. Thomas asked if there were any activities going on right now that would be affected by this.

Ms. McCulley stated that the two cases that are pending include the Shadwell Market rezoning. This zoning text amendment would not resolve their issue in that they have more than stormwater facilities. If they get the rezoning approval, then it would allow them to do what they are proposing. The other case is the Blue Ridge Site Plan Amendment to expand the stormwater facility, which is approved in the RA property under a prior approval many years ago. At this point, staff recognized that approval was an error and they need to allow to remain, but they could not allow another error to expand the stormwater pond. Therefore, they would either have to rezone, scale back the stormwater pond to the existing approved size or apply for a special use permit for the stormwater facility in the rural areas.

Mr. Thomas asked if it would be a regional type of stormwater facility.

Ms. McCulley stated that it would serve more than the Blue Ridge HC, but Mr. Graham's staff has analyzed this pretty extensively. They have discussed the idea of that being a County owned facility because a public use is allowed in every district. Mr. Graham can certainly answer any questions.

Mark Graham, County Engineer, stated that the proposed facility is actually an expanded facility that

came in with the intent to serve both the Clover Lawn and Blue Ridge developments. It also addresses a stream buffer mitigation that is required by them. The Blue Ridge site plan is impacting the stream buffer, and as allowed under the Water Protection Ordinance, you can have that encroachment if there is an acceptable mitigation to the engineering. They have worked through that arrangement with them. Beyond that it could potentially provide some benefit for the area outside of that area, but it was not that significant. In looking at it they did not identify any downstream issues or any overriding any existing uses out there where this would provide a significant public benefit. As such, they could not recommend that it be a County owned and maintained facility.

Mr. Cilimberg stated that this was for freestanding stormwater facilities on separate parcels.

Mr. Loewenstein opened the public hearing and asked for public input. There being none, he closed the public hearing and brought the matter before the Commission for discussion and action.

Mr. Thomas moved for approval of ZTA-02-003, Uses, with the one change on page one of the Ordinance draft.

Mr. Edgerton seconded the motion, which carried unanimously (7:0).

Ms. Hopper moved for approval of ZTA-02-004, Stormwater Management Facilities, as presented.

Mr. Thomas seconded the motion, which carried unanimously (7:0).

Mr. Loewenstein stated that these two items would go before the Board of Supervisors on October 9th.

OLD BUSINESS:

Mr. Loewenstein stated that they needed to confirm the two (2) members of the Planning Commission who will meet regularly with staff to provide input on the Rural Areas section of the Comprehensive Plan. He stated that there were two volunteers at the last meeting which were Ms. Hopper and he. He asked if there was anybody else who was interested.

Mr. Finley stated that he would like to serve on this committee.

Mr. Edgerton moved to appoint Mr. Finley and Ms. Hopper as the two members who will meet regularly with staff to provide input on the Rural Area section of the Comp Plan.

Mr. Craddock seconded the motion, which carried unanimously (7:0).

NEW BUSINESS:

Mr. Loewenstein asked if there was any one else present to speak concerning new business.

In consensus, the Planning Commission agreed to meet at 4:00 p.m. on October 1st for a work session.

ADJOURNMENT:

With no further business, the meeting adjourned at 10:15 p.m.

V. Wayne Cilimberg, Secretary

Recorded and transcribed by Sharon C. Taylor, Recording Secretary.