Albemarle County Planning Commission
September 16, 2003

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, September 16, 2003 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were Rodney Thomas; Bill Edgerton; William Rieley, Chairman; William Finley; Pete Craddock and Tracey Hopper, Vice-Chairman. Absent was Jared Loewenstein.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; Susan Thomas, Senior Planner; Joan McDowell, Principal Planner; and Greg Kamptner, Assistant County Attorney.

Call to Order And Establish Quorum

Mr. Rieley called the meeting to order at 6:00 p.m.

Other Matters Not Listed on the Agenda from the Public

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

Review of Board of Supervisors Meeting - September 10, 2003.

Mr. Cilimberg summarized the actions of the Board of Supervisors on September 10, 2003.

Consent Agenda

Approval of Planning Commission Minutes – July 22, 2003.

SDP-02-117 – Hollymead Town Center Area B Preliminary Site Plan - Critical Slope and Buffer Waivers

Mr. Rieley asked if any Commissioner would like to pull any of the items off of the consent agenda for discussion.

Mr. Edgerton stated that he was curious about the Hollymead Town Center, but did not necessarily want to pull it. He stated that the staff report mentions that the critical slopes and the regrading of the site, which was obviously going to be very significant, represents about 30 percent of the property. He asked if staff had any idea of how many acres of critical slopes were involved.

Mr. Rieley stated that the critical slopes were shown on page 13 and included all of the darker area, which looked like less than 1 acre. He asked Mr. Edgerton if he would agree to leave the item on the consent agenda if he was happy with the answer to his question.

Mr. Edgerton stated yes that he would be willing to leave the item on the consent agenda because he was just curious about the acreage.

Mr. Rieley asked for a motion on the consent agenda.

Mr. Thomas moved to approve the consent agenda as presented.

Mr. Craddock seconded the motion.

The motion carried unanimously (6:0). (Loewenstein – Absent)

Item Requesting Deferral:

ZMA-03-03 Eckerd Drug Store (Sign #73) – Request to rezone 1.79 acres from R-15 Urban Density to C-1 Commercial to allow a drug store with a drive through window. The property, described as Tax Map 78 Parcels 12, 12B and 55A4 is located in the Rivanna Magisterial District on Rt. 250E (Richmond Road), at the northeast intersection of Route 250 East and Rolkin Road. The Comprehensive Plan designates this property as Urban Density Residential, recommended for 6-34 units per acre in the Pantops Neighborhood (N3). (Tarpley Gillespie)

AND

SP-03-47 Eckerd Drug Store (Sign #73) - Request for special use permit to allow a drive-thru retail use in accordance with Section 22.2.2.10 of the Zoning Ordinance which allows for drive in windows serving or associated with permitted uses. (Tarpley Gillespie) ***DEFERRED FROM THE AUGUST 19, 2003 PLANNING COMMISSION MEETING.***

Mr. Rieley stated that Eckerd Drug Store has two deferred items that they are requesting additional deferral on. He opened the public hearing and asked if there was any one present to speak on the requests. There being none, he closed the public hearing to bring the matter back before the Commission for possible action.

Action on ZMA-03-03:
Ms. Hopper moved to accept the applicant's request for deferral of ZMA-03-03, Eckerd Drug Store, to October 7, 2003.

Mr. Edgerton seconded the motion.

The motion carried unanimously (6:0). (Loewenstein – Absent)

Action on SP-03-47:
Ms. Hopper moved to accept the applicant's request for deferral of SP-03-47, Eckerd Drug Store, to October 7, 2003.

Mr. Edgerton seconded the motion.

The motion carried unanimously (6:0). (Loewenstein – Absent)

Mr. Rieley stated that SP-03-047 and ZMA-03-03 were deferred to October 7, 2003.

Work Sessions:

Work Session – Rural Areas - The Planning Commission will hold a work session to discuss the draft of the Rural Areas Chapter of the Comprehensive Plan. The Comprehensive Plan establishes government policy to help guide public and private activities as they relate to land use and resource utilization. It is the basis for land development regulations and development regulations. The draft Rural Areas Chapter includes sections regarding the history of the Rural Areas; Trends in Development; a Vision for the Rural Albemarle County; Guiding Principles; Land Use Patterns, Density, and Residential Development; land preservation and conservation, Critical Resources, Fiscal and Tax Tools; Transportation; Water and Sewage Disposal; and Land Uses, including Agricultural, Forestal, Rural Preservation Developments, Crossroads Communities, and Alternative Uses. (Joan McDowell)

Mr. Cilimberg stated that staff wants to make sure that they have answered any questions and clarified anything of particular significance before going into the work sessions where the Commission would actually start making the decisions on what would be taken to public hearing. What staff has proposed was in the document before the Commission, which was what they ultimately wanted to go through. Then, staff will get some help to facilitate the Commission in

moving through the various sections to reach some consensus on how to take the various recommended policies to public hearing. Tonight, staff will focus on each section to make sure that they have answered any questions that the Commission has or provide any clarification on anything that might be at all uncertain. He stated that in concluding this work session staff wants to make sure how the Commission wants to proceed. There are a couple of options, but it is really up to the Commission. One is that you may want to receive public input before you actually go into more of a rigorous review. Or the Commission might just want to get into the rigorous review and count on your public hearing at the end to be the opportunity to receive public comment. He asked the Commission to think about those two options or any other approach that they might think of as well. Hopefully, tonight they would be able to wrap up making sure that there was a clear understanding about what was in the document, answering any questions that the Commission might have, and then looking ahead to the next step. The next step was to get this ultimately through the Commission's process and through the public hearing for a recommendation for the Board of Supervisors.

Mr. Rieley stated that one item along those lines was about the point at which they left off last time. He noted that they talked about the recommendation to continue to permit family divisions, but considered revising the time requirements for family ownership both before and after a division. There was some discussion about what some of us have regarded as the abuse of the family division component of our ordinances as they currently exist. He noted that it was our inability or unwillingness to regard what seems to somebody looking at the family division regulations from the outside to be a very clear case of utilizing that to circumvent the Subdivision Ordinance. He asked that they examine that in somewhat broader terms, adjust the time limits, and look at it in terms of its effectiveness, how much it has been used and whether it is a provision that indeed is doing more good than harm. He asked if anybody else had any thoughts about that.

Mr. Finley stated that he did not mind just looking at the family divisions, but pointed out that there are many people who do use family divisions legitimately. They want to give their relatives, child or spouse a piece of property and they have it surveyed for family division. For many people that was exactly what it was used for. He pointed out that there might be a few people that abuse family divisions. At one time they had a rash of family divisions coming through, but that was because of people trying to beat some kind of deadline. There again, maybe they had just been planning to do it and just busted the land up to get it approved. He felt that family division was very important and should be preserved.

Mr. Rieley stated that it would be very useful to look at how often it has been used and what the circumstances have been around it. It may be that the cases of abuse that come to mind are ones that could be solved with a very surgical change in the ordinance, but it may be that it is more difficult than that. He felt that it deserves serious scrutiny.

Mr. Edgerton stated that he agreed with both of them. He stated that the Commission should scrutinize the family division regulations since it has become a vehicle that is used. He noted that he was aware of a number of situations where he had talked to developers who have said that they subdivided property with a family subdivision. When he asked how he did that, then the developer told him that they just could not sell it for two years. He stated that the developers understand that. At one time there was no time limit. He agreed with Mr. Finley that this is an important opportunity for families to stay on their land. He felt that there might be a way to scrutinize it with an eye towards where it has been obviously just used as a vehicle to avoid proper subdivision of the land. He stated that he did not think that it would be very difficult to review recent uses of the family subdivision to determine which is which. He stated that he would welcome the opportunity to look hard at it and figure out what can be done so that it is truly used in the spirit of what it was intended.

Mr. Thomas stated that he agreed with both sides of that, too, but felt that they need to be very careful along the lines of scrutinizing it. He stated that he did not think that family divisions have

been continually abused, but that the rash of the divisions was just a reaction against the mountain top ordinance that was coming along, but never was materialized all the way. He agreed with Mr. Finley that he liked family rights too and wanted to protect the provisions, too.

Mr. Craddock stated that he would like to see the protection of those family rights, but would like to see the figures. If they were talking about lots of cases, then obviously there is a problem. But if it is just one every ten years or that type of scenario, then the surgical cut might be the way to cut those folks out of that but still preserve the family division.

Mr. Rieley suggested that it might be something that each parcel only has one option. Then someone could not subdivide for three children and then next week subdivide for three more children, and then sell all of the lots after two years.

Ms. Hopper pointed out that when she first got on the Commission they talked about this and decided to wait and scrutinize this during the rural area amendment. She felt that this was the right time and was just a matter of balancing the policies. She pointed out that there would always be loopholes, unfortunately, no matter how it was written.

Mr. Rieley asked if they were going to ask something specific of staff in the way of bringing them some information so that the Commission could more fully investigate this. He stated that he would just like to see basic statistics on how many times it has been used and what the circumstances were. He stated that he would like to know if statistics are available on how often the land is sold immediately after the two years and how often it is sold between two and five years.

Mr. Cilimberg stated that the data they would have would be on the number of family divisions, information on the number, and the number of lots created going back for any number of years. He pointed out that family division was a specific type of division under our ordinance.

Mr. Rieley asked if there was information available on how long people hold onto the land.

Mr. Cilimberg stated that there was no way to do that in the County records. He stated that it was not a part of the requirement of the division for the people to report when they sell. He asked Mr. Kamptner what he thought.

Mr. Kamptner stated that Ron Keeler did some research because he was looking for abuses of the family division, which was about four or five years ago. He stated that he did not know what type of data he collected or how he did it or whether it still exists. If you can identify the parcels that have been subject to family division, then you could go into the County's real estate records by tax map and parcel number. You would be able to at least see those on line where it shows the most recent conveyance and some other information. He suggested that they work with Gay Carver in Real Estate and she could probably give you the history of the transactions.

Mr. Rieley stated that should be pretty easy to compile.

Mr. Cilimberg asked that staff be given a chance to see how they could do it. He stated that it might be a sampling because to research a lot of divisions would be very staff intensive. He noted that right now they were down one planner that has been working with this. It will be a challenge to staff to complete the research and still keep on a good time frame with the Commission. Staff will certainly look in to the best way to at least give the Commission some indication of at least a sampling of the number that has been done.

Mr. Thomas stated that it would be unfair to look at this and make changes because it would be unfair to those persons who use it and don't abuse it.

Mr. Cilimberg stated that staff could go back to the last report that was done since that was a snapshot in time on how the family divisions were being used. The option was actually presented then on whether they should go to a longer holding term before the owner of the land could convey or sale. They actually talked about going out to as much as ten years at that time. The decision was made to go to two years. He stated that staff could go back to that report to see what kind of information was gathered to see what they could update.

Mr. Rieley stated that he thought they should be making decisions based on data. They all have kind of a sentimental view that grandpa wants to keep the children on the farm and gives them a 2-acre piece of property down in the corner and everybody lives happily ever after. In truth that might not be what is going on if they don't have the information available in making the decisions on information that is sentimental rather than factual. It would be nice to have that information.

Mr. Finley stated that they have a pretty tight set of guidelines for family division and the documents have to be notarized and so forth. He felt that the information that is required of the applicant gives a good indication if it is a legitimate family division.

Mr. Rieley stated that to his knowledge, they have a provision in their ordinance that says that family subdivisions cannot be utilized to circumvent the Subdivision Ordinance. He stated that he did not believe that anybody has ever investigated that provision.

Mr. Kamptner stated that they have had applicants who have said that they intend to convey the property to some third party after two years, after it is conveyed to his son. He pointed out that he did not know if those applications were stopped in their tracks or not. Once or twice a year there is an applicant who up front says that is what they want to do.

Mr. Rieley stated that Mr. Edgerton alluded to that practice. He stated that if they want to keep this component of the ordinance healthy, then they need to keep it clean and not let it be an easy mechanism to get around the Subdivision Ordinance.

Mr. Edgerton stated that on page 26, it suggested that the family division be extended, but he was not sure if that was the solution. He stated that one of the things that concerns him the most was that he would prefer to be working from some historical data County wide rather than from personal experiences. He recalled a situation in the past where the subdivision came before the Commission and was denied because the subdivision did not meet the Subdivision Ordinance. Subsequent to that, the owners resubmitted the same subdivision as a family division that was approved. He suggested that they figure out a way not to put the entire burden of the subdivision process on the family. He stated that he would like to make sure that they were at least not creating lots that are not satisfactory lots. That is one issue. The other issue is that if there is a way to track the conveyance, then he thought that they should pursue obtaining that information. He pointed out that he felt ill equipped to make a judgement on this until they were provided with some background data, but he did support taking this as an opportunity to tighten the regulations up.

Mr. Finley stated that it was a constitutional right on your personal property to be able to divide off land and give it to your family.

Mr. Rieley stated that the ordinances are crafted in such a way to have an intended effect and if they are having an effect that is different than that, then they should be revised.

Mr. Cilimberg stated that staff would get some information on exactly what the difference is in the family division and the conventional division. The reality is that the big difference was in the road standards. Otherwise, they have to follow development rights, lot sizes, and building site requirements, etc. That is what they were talking about in terms of avoiding the requirement of the conventional subdivision.

Mr. Rieley stated that it seems like an important issue and they touched on it last week.

Mr. Cilimberg stated that the Commission would need that information when they reached that part of the plan review.

Mr. Rieley asked that staff provide as much information that was reasonable.

Mr. Finley stated that in the report on page 2, staff gives the number of farms 50 acres or larger all the way up to thousands. He questioned whether the agricultural survey really gives the true picture of all the farms in Albemarle County. Staff indicates that 69 percent of the rural area in Albemarle County are 50 acres or larger, which gives a little bit of a different picture than looking at your graph.

Mr. Edgerton stated that the map in the back was what Mr. Bruce Dotson's memo was referring to.

Mr. Clark stated that the census only counts farms that have incomes of $1,000 or more.

Mr. Cilimberg stated that as with any census, it was only as good as the persons responding to it. He stated that staff was trying to reflect trends from the people responding regarding those kinds of operations over that period of time. It is as much to give a perspective as it was to create an absolute number.

Mr. Rieley asked if the $1,000 of income was adjusted for inflation.

Mr. Clark stated that he did not know how long they have been using the $1,000.

Mr. Rieley stated that if they don't adjust that, then that makes this more liberal and would actually make more parcels come in and not fewer.

Mr. Finley stated that in the minutes there was a discussion of individual Commission members that does not represent the consensus, which was what staff had said at the beginning. In reading the minutes, he did not think that any of the points that countered the document that he tried to make were even in this. He stated that the document said that as a whole that the timing and development rights were supported, but he certainly did not support that.

Mr. Rieley stated that was a good point that Mr. Finley makes. He pointed out that meeting summaries are often helpful and he appreciated the effort, but he did not feel they were necessary since they were having general discussions. The Commission was intentionally trying not to arrive at consensus on these points right now since they were holding off on that until they heard the public comment. After that Lee Catlin was going to come in and have a proper facilitated meeting. That being the case, he felt that it would be better to dispense with these and simply let the minutes speak for themselves. He felt that Mr. Finley was quite right that there were a variety of opinions expressed, and he felt that it was important to let the record be the minutes and not something else.

Ms. McDowell stated that staff wanted to get the Commission a quick summary before the minutes were completed. She pointed out that she just gathered everybody's notes together and this was what came out of that. She stated that they were quite right that the minutes would be reflective of the clear discussion of what occurred at the meeting and would be much more detailed than this. She apologized for not capturing all of the comments, but that she never intended that this take the place of the minutes.

Mr. Cilimberg suggested that for any future sessions that staff would allow the regular minutes to be provided for the Commission to review for the record.

Mr. Rieley asked if there were any other questions before they moved ahead with this.

Ms. McDowell stated that they were here to answer any questions that the Commission might have. She pointed out that they would go through the table of contents topic by topic, and if there were any questions, then staff would address them. Staff started reading the list of topics. One topic was consistency with other sections of the Comprehensive.

Mr. Cilimberg asked to note something there. It has been discussed on several occasions and staff has struggled a little bit on how to make this work for you. One particular section of the Comprehensive Plan now in place in Chapter 2 gets into a lot of issues that relate to the rural area. Staff has tried to make some ties, but it would be good to know if there is something that you need to really have in this section that would reflect the issues to ensure that they were hitting the right points. He stated that Mr. Rieley had mentioned conservation as an example that was a big part of Chapter 2. They did not want to repeat large portions of Chapter 2 in this section. He asked if the Commission had any suggestions.

Mr. Rieley stated that they have arrived repeatedly with the consensus here that both conservation and preservation, as defined by the County, need to be elevated to the same level as agriculture and forestry not only as general objectives, but as actual land uses within the rural areas. He pointed out that he would like to see several things. The first is that the terms need to be defined because the County defines those terms differently than Merriam Webster. He noted that there were important distinctions between how the County reviews the preservation of land and conservation of land. He asked that staff provide drafted sections that parallel the agricultural uses and the forestal uses for conservation uses and preservation uses. He suggested that staff begin with a definition of what Albemarle County means by conservation and preservation as a land use. Secondly, he hoped that the discussion of those would stress the importance of keeping blocks of rural land protected as a mechanism to where there was utility as conservation and preservation elements. He stated that the reason he thought that was there was a good deal of anxiety that the elevation of preservation and conservation to the level that they have asked that it be raised to is somehow a stalking horse for suburban development in the rural areas. He felt that they need to address that head on. One of the ways that he felt that they could address it was to make certain that it is clear that conservation uses and preservation uses require substantial chunks of rural land for the integrity, and they were not talking about people's backyards in a residential subdivision. He pointed out that there might be less erosion from a lawn than there is from a plowed field. That was not a philosophical foundation that they were trying to lay. He hoped that they could get those two sections in much the same terms as the agricultural and forestal sections were written before the Commission and the public have the public meetings and the facilitated meetings so that they can make some good sense out of them.

Mr. Thomas agreed and commended Mr. Rieley on bringing that up.

Mr. Finley stated that it would be good to know how much conservation is already going on. He stated that he did not see anything in the document about the preservation of rural area people and rural communities. He pointed out that the true rural citizen was a vanishing species. He favored supporting rural culture.

Mr. Edgerton stated that he was absolutely right. He applauded Mr. Rieley's suggestion that they should make sure that conservation and preservation are part of this discussion. As Mr. Finley points out, there is not a lot of that in the language of these chapters. One approach, in his reading of this, was for rural land uses to describe the commitment of the County's commitment for preservation, which could be beefed up or be a whole separate thing. There is overlap between conservation and agricultural use in many cases. Conservation does not necessarily stop the farming or the forestry. One of his concerns, from sitting on the Ace Committee, was that the standards that people come in and agree to, which preserves their land, and the County pays for those development rights that they are giving up in the conservation. That seems to be

the only thing that people are concerned about is the giving up of the development rights. The reality is that they can continue to farm and forest that land. When they tried to get into discussions early on about what were the standards of farming or forestry, they were directed to hold back because that was such a political issue. Forestry, depending on the kind of forestry, can be terribly detrimental to the conservation movement or effort. When the only standard that the foresters are held to is to identify best management practices that require some stabilization of stream banks, then they were kind of kidding themselves to say that they were conserving that land if that was all that they were doing. He stated that he wanted to preserve the rural Albemarle citizen, but frankly the rural Albemarle citizen is not going to be able to survive unless we preserve the land that supported that rural Albemarle citizen historically. He agreed with Mr. Finley that ultimately all of this is for the preservation of that quality of life that you are describing. It is something that the County has said that they want to do, but they keep bumping into it not working. That is why they were having the discussion tonight and why they were going back and looking hard at all of these words that are hopefully describing what their intent was. Subsequently, it would be followed by an ordinance that would give the County some protection so that future generations will have the same experience that past generations have with the rural experience in Albemarle.

Mr. Craddock stated that the critical resource inventory would be important in this whole plan. He pointed out that logging was by right now, which was just another income source for the people who own the land.

Mr. Rieley asked if they had a consensus that they would like staff to draft a couple of paragraphs that are parallel to agricultural and forestal uses for the Commission to wrestle with next time that they look at this.

Mr. Edgerton asked that there be one for each under rural areas land uses, and Mr. Rieley agreed.

Mr. Cilimberg stated that one thing that might be good in doing that would be to suggest how to incorporate that with a little bit of information pulled from Chapter 2.

Mr. Rieley suggested that they put those down as actual land uses and not general objectives, which would make a difference by putting them in a different context and on equal footing.

Mr. Cilimberg assumed that this was a higher priority than the family division information.

Mr. Rieley agreed.

Ms. McDowell stated that next was page 7, a vision for rural Albemarle. She asked if there were any questions about that.

Mr. Rieley asked if some of the sentiment that Mr. Finley expressed, which he felt that they all agree with, could be brought to bear on this section. He stated that it was the rural citizens being supported by a community meeting and well informed citizens of the rural area and the development area.

Ms. Hopper suggested that the second bullet from the bottom should be strengthened more.

Mr. Finley stated that this was a vision for rural Albemarle County. There are people who have had family visions for generations and this document is really going to upset a lot of those people. They have been planning for years what they are going to do, and then suddenly they will be told no that the maximum lot of 2.0 acres can't be done anymore. He pointed out that he might not be able to subdivide anything because they did not have a 50-acre lot. He pointed out that he never got a clear answer on how they would handle subdivision if you did not have 50 acres. He suggested that they make it have a little bit of a more down to earth flavor.

Ms. McDowell asked him to elaborate on what he meant by down to earth flavor.

Mr. Finley stated that there was a statement that the community meeting places support the rural citizen, but he felt that they needed more than that. It talks about doing things to help them survive on the farm economically and you say you want to preserve agriculture and the life style of rural people. Going through the document it was hard to find a whole lot that would improve the life style of the rural people. He pointed out that the rural people get nothing for their taxes. They don't have their roads paved and don't have sewers, etc., yet they pay the same taxes on their houses as anyone else does. All the money goes towards the growth area because growth areas cost money. He noted that the rural citizens were helping to fund growth areas.

Mr. Rieley stated that the answer to that is that there is a rural area left.

Mr. Finley stated that they did not think that this vision would mean a whole lot to some of the people in the upper regions in the lower hills.

Mr. Thomas pointed out that he thought he knew what Mr. Finley meant by the down home feeling. He stated that the 50-acre minimum is a bit ridiculous when it comes to speaking to the people who are in the rural area. It does control their property rights and the family subdivisions to these people who have lived in the rural areas all of their lives.

Mr. Edgerton stated that the first two bullets addressed exactly what he was concerned about. The first one was a pattern of land uses defined by farms as far as other natural elements and traditional crossroad communities. He stated that they were trying to figure out a way to preserve the rural experience. The farms don't operate without farmers, and the farmers can't farm subdivisions. He noted that was trying to protect the family farm.

Mr. Finley pointed out that this document tightens up the rural areas.

Mr. Edgerton pointed out that they were trying to tighten up the rural areas with the intent of trying to protect it. He stated that for generations there was no zoning.

Mr. Finley asked if the real intent was to protect the rural area person or because you want to see rural and scenic beautiful fields.

Mr. Rieley stated that he thought that it was both.

Mr. Finley asked if they were trying to run all of the rural area people in to the growth area and preserve the rural land for them to look at.

Mr. Cilimberg stated that they had hoped to not get into these discussions because they felt like that was going to be the energy of the meetings that you have facilitated. He pointed out that they did want to try to answer any questions about particular sections that might be pertinent and to make sure that they have addressed anything that they might need to know about. He asked that they get focused in that way. He pointed out that staff was trying to guide the Commission through the document topic by topic. He stated that it might be that they did not need to go through each section. He asked from what they had read, what were their questions that staff needs to answer for them. He asked if there were any other topics that had jumped out at them or that they did not understand.

Mr. Finley stated that the by right cluster development without a special use permit was going to be coming into force next year. He pointed out that he heard the statement in this room that they had to hurry to get this through before that date comes. He asked why they wanted to restrict now what the General Assembly was going to allow us to do by right, which would almost become

nonfeasible if you look at the 75 percent residue, 2-acre lots, and so forth. He stated that they were trading very little and giving a whole lot in terms of conservation development and rural conservation. He pointed out that they don't fully know what rural conservation means for the future.

Mr. Cilimberg stated that he was going to be involved in that discussion and they will want to address that particular section very specifically in that meeting. He stated that if this is not done as a plan by next July 1st, the cluster provisions are going to change anyway. So it is desirable to have the rural areas section done and have the ordinance changes made in accordance with that by next July 1st as they pertain to clustering. But if it is not finished, they will still have to basically drop the special use requirement for over 20 lots in a rural preservation development because the state has dictated that is what has to happen. So they will have to make that change no matter what. This could still be in discussion and going on and it may go beyond next July 1, but that is something that they will have to do to meet state requirements.

Mr. Finley stated that it says 50 acres or 75 percent of the parcel whichever is larger.

Mr. Cilimberg stated that was the specifics for them to discuss when they were in that particular session.

Mr. Edgerton stated personally in response to his question, and it was not part of the staff write up, but he found it very interesting and felt that it might be worth trying to incorporate a target or percentage of how much housing should be encouraged in the rural areas. He stated that everybody should have received a copy of Mr. Dotson's information on where they were and some comparisons with other communities that have done better or worse than they have. The key thing that he thought needs to be included in this discussion would be developing a target or percentage for how much housing should be allowed or encouraged in the rural areas. If they don't make a decision about that, then eventually the rural areas will disappear. He asked how much development of homes the rural area could take before it ceases to be a rural area. He pointed out that they have some interesting comparisons here. He suggested that information to be added to this document to explain the importance of that.

Ms. Hopper suggested that affordable housing be connected to that.

Mr. Craddock agreed with Mr. Edgerton in talking about what is the current capacity of the County to protect our water, the bio-diversity and things like that. He asked how many are going to be in the County when they have gone past that point of no return and become Fairfax. He asked if they would be there in ten years or when. The questions along those lines are what he would like to see.

Mr. Rieley asked if anyone has other specific areas of concern. He pointed out that they have talked about a few of them. Frankly, he really applauds the efforts in this draft and felt that it gets before them solid information, a sound vision and some proposals to consider that are not easy ones. He stated that they were there to grapple with these difficult issues to come to the best and most balanced resolution for them that they possibly can. He pointed out that the document raises issues that there are going to be a variety of opinions about.

Mr. Edgerton stated that on page 32, the third strategy suggests that they establish a residential lot threshold. He asked if that was what they were talking about as a carrying capacity for lots.

Ms. McDowell stated that was what they were talking about.

Mr. Rieley stated that he had heard requests for two things. One was for staff to research family division. Obviously, they know they will be dealing with whatever information is available. He stated that the more information they receive, the better.

Mr. Cilimberg asked if anything else comes to mind, please don't hesitate to email or call us before they get into the more intense sessions.

Mr. Rieley asked if the other Commissioners felt that they should have the public sessions next or whether they should get into their discussion a little bit further and bring the public in as they were hammering things out. He noted that he always likes to hear things as earlier as possible.

Mr. Thomas stated that he would like to have some more discussions like tonight, or at least one more meeting for discussion.

Mr. Finley stated that he would agree with that. He agreed that the public meeting should be held before they wrapped up everything.

Mr. Riley agreed. He felt that Mr. Thomas' suggestion was a very good one to get more additional information, then continue to talk about some of the issues that were raised tonight and where the most appropriate place to deal with those are within this document. Then the Commission can hear what everybody else has to say about it.

Mr. Cilimberg asked if they wanted the next session separate from the public input session.

Mr. Rieley stated that was correct and was what Mr. Thomas had suggested.

Mr. Cilimberg asked if they wanted what staff offered on preservation and conservation before public input, and Mr. Rieley stated that they would like it prior to public input so that they could discuss it first.

Mr. Cilimberg noted that the family division information might be better to have in later discussions.

Mr. Rieley stated that was fine.

Mr. Cilimberg stated that after the work session they would plan a public input session before they get into their facilitated sessions.

Ms. McDowell summarized that the Commission wanted at least one more work session to talk about things noting that they would have the conservation/preservation information to discuss before that work session. Then, they wanted a general public input session, the public hearing and then the facilitated session.

Mr. Rieley stated that he assumed that the public hearing would be the public input session.

Ms. McDowell agreed that the public hearing would be used for the public input session.

In summary:
The Planning Commission held the second work session on the Rural Areas to make sure that they had a clear understanding about what is in the draft of the Rural Areas Chapter of the Comp Plan. The Commission held a discussion with staff and provided comments and suggestions on the overall document and how they wanted the process to proceed. The Planning Commission requested the following information from staff: 1. Provide a draft for review concerning elevating conservation and preservation to the same level as agriculture and forestry as land uses in the Rural Areas, and 2. Provide information and statistics on family divisions. The next work session will be held on October 21, 2003. A public input session will occur after the next work session, which will be prior to the facilitated sessions. The Commission took no formal action.

The Planning Commission took a ten-minute break at 7:22 p.m.

The meeting convened at 7:44 p.m.

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The meeting convened at 7:44 p.m.

ZMA 2003-005 The Meadows Expansion - Request to rezone 26.843 acres from PRD, Planned Residential Development to PRD, Planned Residential Development to allow the addition of 40 new dwelling units at The Meadows residential community. The property, described as Tax Map 56 Parcels 14C and 14C1, is located in the White Hall Magisterial District on Crozet Avenue (Route 240] approximately 1/4 mile north of the intersection of Crozet Avenue and the Rockfish Gap Turnpike (Route 250 West). The 1996 Comprehensive Plan, Land Use Plan designates this property as Neighborhood Density Residential [3.01 - 6 DU/acre) in the Community of Crozet. (Susan Thomas)

Ms. Thomas summarized the staff report. The Meadows Expansion request would take the Meadows Senior Housing Community from 58 to 98 rental units by adding 40 new units on 28.843 acres. This project serves low and moderate-income seniors. The Meadows has been in existence for almost 20 years. It has been a very successful project that has become well integrated in the Crozet community. The project would infill the existing property by adding new cottages along the entrance road and among the existing four-plex cottages and the apartment building. There are a number of interesting and challenging issues with this project, and she hoped that they could get to all of them. She asked the Chairman if they could address the question of roads first since Jack Kelsey was here and he was able to make some comments about some of the engineering issues. As a bit of background, the proposed Crozet Master Plan recommends a connector road between the Meadows and the Old Trail development to the west. The proposed Master Plan shows the connector road skirting the south side of the Meadows property. As it turns out when staff visited the site and took measurements, it looks like the intersection of the proposed connector road and Crozet Avenue would not really be as good as using the existing entrance, which has better site distance. It still is not great, but it is acceptable. As stated in the staff report, the concept of the connector road as the Master Plan proposes it goes in the existing entrance and then departs from the entrance and circles around the developed part of the community. The plan shows the connector road as a fairly small road. On page 56 of the Master Plan it describes the drive as two lanes, 25 – 35 miles per hour, with one side being more urban and the other more parkway-like. In this case they have a lot of constraints. The presence of Slabtown Branch, which was located down the hill from The Meadows to the north, would have to be crossed at the rear of this site to get into Old Trail. Staff wants that crossing to be as low impact as possible because Slabtown Branch is rated as our number 1 stream in the Development Areas because of its good condition. On the other hand, the Master Plan is attempting to balance that with the desire to connect our neighborhoods to handle traffic and other sorts of impacts. The presence of Slabtown Branch might influence the road's design characteristics somewhat. This connector road, in the proposed Master Plan, is conceived as the first of several connecting points, and is premised on the goal of dispersing traffic throughout a system of smaller roads on both the east and west side of Crozet Avenue (and elsewhere throughout the community). It is viewed as one approach to managing the increase in traffic volume that will come with the buildout. Crozet Avenue is about as challenging a transportation issue as we have in the community of Crozet. It is an old, beautiful road that covers a lot of topography, there are numerous drainages crossed by it, there are some established settlements and building patterns, and there is not an easy connection point on either side of Crozet Avenue anywhere.

As a result of the site visit, staff determined that the existing entrance has better site distance than the intersection shown on the Master Plan would have. Staff would want to make that change in the adoption process to the Master Plan if the Commission agrees. Thus, staff recommends that the entrance remain, with the new road departing from the existing Meadows Drive alignment at a distance that allows for safe stacking of exiting traffic, etc.

The applicant does not want the senior community interrupted or placed at risk by such a connecting road. Staff understands the concern, but believes that the new road alignment could be designed to avoid the central portion of the site by routing to the north or to the south. Jack Kelsey and Glenn Brooks respectively have provided some preliminary engineering on those two alternatives – north and south - that he will explain.

In staff's opinion, the connector road is the most important issue on which the Commission is asked to weigh in at this work session. There are other interesting issues, but the connector road is a big one.

Jack Kelsey, County Engineer, stated that the Planning Department asked the Engineering Department to take a look at two possible alignments of a connector road just to see if it was feasible to put a road all the way through. Both of the possible alignments would use the existing entrance to the Meadows. One alignment swings to the north of the existing development and crosses Slabtown Branch and continues on up the ridge to where it would potentially tie into the Master Plan. The second proposed alignment follows along the south side of the existing development and threads through the "gauntlet" between one of the existing buildings and the ballfield. The northern route would create a fill area in the drainage channel and as presently conceived would encroach in the buffer by about 20 feet, but could probably be adjusted to pull some of that grading back. They tried to maintain at least 100 feet away from the buildings on one side and tried to minimize the cut slope on the uphill side closest to the buildings. That also generated some fill on the Slab Town Branch as well. It ended up with about a ten-percent grade. After looking at this, Jack Kelsey stated that it was certainly feasible that an alignment could go through here. With some more engineering work, they could probably fit it a little bit better to the terrain. The access to the Meadows community could also be taken from the new northern alignment, with a new entrance brought into it very reasonably. Not knowing exactly what category road this would be, Jack and Glenn aimed for a 25 – 30 miles per hour design speed on the roadway. They made a rough assumption that it would be 30 feet curb to curb, a 5-foot vegetative strip and a 5-foot sidewalk, just to give some type of width. He stated that the other alignment was to the south side of the existing Meadows and used the existing entrance, coming west from it using the minimum radius curve of 300 feet for a 30 mile per hour design speed. It came up through a ridge top and dropped down and again they tried to follow the terrain as best as possible through here to try to make sure that they kept the fill slopes out of the stream to the south. The tightest part was between the ballfield and the building that was currently shown as a 2-foot cut right at the very top. They tried to keep to grade as much as possible. The road fits through there, but any kind of river vegetation that might be there now buffering the ballfield from that building would certainly be impacted by the grading activity through there. The road cuts into the finger ridge and then crosses it. He pointed out that they were able to get 6.7 percent for the grade coming up on that side. The object was to try to show that there was an alignment that was at least feasible. As rough as the alignments and the grading are, they felt pretty comfortable that something could feasibly be done. Either one of these alignments would affect the new proposal submitted by the applicant because they were using the existing entrance. He pointed out that by swinging the alignment of the proposed connector road either to the north or to the south would still leave an area that could potentially be developed.

Mr. Edgerton asked why they would want to put more traffic on the existing entrance that had a horrible site distance.

Mr. Kelsey stated that staff and VDOT did go out and measure some of the site distance. They checked it in several places and actually found that the site distance was actually better at this location than it was at the other points. Staff did consider at one time showing an alignment departing from a point on Crozet Avenue north of the existing Meadows entrance. But if any entrance was put in there, they felt that the existing entrance should be taken out and Meadows Drive tied into it.

Mr. Edgerton asked if that was because of VDOT's desire not to have any more access, and Mr. Kelsey agreed that it was because of the close proximity.

Mr. Kelsey further stated that if they tried to put an entrance in at this location, there was a higher likelihood for stream impacts. He pointed out that there was so much difference in elevation between this point and the Meadows site that by the time that you got a road in here, your access road up to the Meadows would be extremely steep. Therefore, staff did not show that scenario using that location.

Mr. Craddock asked how many trips would be on this road.

Ms. Thomas stated that in VDOT's comments it says 3 ½ trips per day per unit, which was what the count revealed for the existing use. With the addition of the new units, it was sufficient to trigger the need for a left turn lane into the site that would help a little bit with Mr. Edgerton's concern. She pointed out that it was not the ideal site. The other thing that would help would be a site easement to the north on the west side of Crozet Avenue, which would require some trimming and clearing back of trees. She felt that would help a little bit, too.

Mr. Rieley asked Mr. Craddock if his question was relative to this road's projected traffic.

Mr. Craddock stated that depending on how much was developed, how much traffic was going to cut through the Meadows to save going all the way to Route 250.

Ms. Thomas stated that it might be tempting for Old Trail people to come through there during school peak hours in the morning because Route 250 has the appearance of being heavily congested in front of Henley, Brownsville and Western. She pointed out that it actually flows better than it looks. She stated that it does not do a tremendous amount for Old Trail because it is far enough to the south that it does not take you centrally out of the development. She stated that she could not imagine during times of normal flow on Route 250 that it would be so tempting. It ultimately might serve the Meadows residents more than we think right now because as Crozet Avenue becomes busier and the entrance more hazardous, just because of the volume on Crozet Avenue, it might be very tempting to go out through the back. There will be a signal at Route 250 where Old Trail comes out opposite the high school. Therefore, you would have a more organized traffic pattern. The other thing that might happen, which would be positive, is that as traffic volumes increase on Crozet Avenue perhaps the speed limit will be lowered and maybe people will actually adhere to it. That would be good because it was the speed of the traffic combined with everything else there that makes it difficult. The community center in the Meadows is used quite often, but is usually during off-hours. She felt that the combination of the left-turn lane inbound, and the existing decel lane southbound on Crozet Avenue into the site, access would work fairly well. She pointed out that it was the left turn in and exiting north that was difficult. Another thing that could happen is that VDOT might install a blinking light or something noting an upcoming intersection or some other device like that.

Mr. Rieley asked if there were other questions for Mr. Kelsey.

Mr. Thomas asked how close that road was in the back to the athletic fields.

Mr. Rieley stated that the road was a couple of feet higher. The ball fields were at approximately 674 and the road elevation was approximately at 676.

Mr. Thomas asked if the fields have the lights on it.

Ms. Thomas stated that from a planning standpoint, the northern route was much simpler because it does not involve adjacent properties. The southern route crosses a private parcel and then would cross the school parcel. Although it would not touch the ballfield, it would interrupt the

existing buffer there somewhat. That could be a negative thing for the residents because the lights are very bright. She pointed out that the northern route lies totally on the property. She pointed out that they were not expecting this applicant to build this road. She stated that the County merely wants to reserve a corridor for it that would allow a connection in the future. It would be a reservation that the County would call at the time of a public road project construction. In some ways the road, whether north or south, creates some opportunities for design in the lay out of the units on the site that might even be better than what was there now. The units would not have to line the road, but could be grouped or oriented in a way where they were more of a community of cottages and less strung along the entrance road. She stated that they have not gotten that far yet.

Mr. Rieley stated that Ms. Hopper would like to hear a little more about this from the people that live there. He pointed out that this was not a public hearing, but whenever a Commissioner requested it that the Commission would take public testimony.

Ellora Young stated that she was a County appointee to the Jordan Development Corporation who owns this property. She stated that her interest in this was solely for the safety and well being of their residents. She realized that the Commission has other issues that they would like to deal with, but hopefully she could address both her side and their side. She objected to the converging of traffic other than their residents at the Meadows using the road and entrance point. All of their residents were seriously elderly or handicapped. Some of the residents are blind, deaf, carry their oxygen tanks, and in wheelchairs. Due to this setting, a lot of them do a lot of outdoor living. The culture there is very bucolic and because of that they have a waiting list a mile long, which was why they have considered building more units to try to accommodate the low income people in the community. As you know, there is not a whole lot for that. She stated that the entrance was very dangerous when she comes north on Crozet Road and makes a left hand turn into the Meadows. If the oncoming traffic is a Suburban, you can see it maybe three car lengths away. If it was a small Kia or a Honda, you have less than a car length before you can see that road. She pointed out that the people in this community never follow the speed limits. She raised concerns about the increased traffic and that there was going to be deaths there. While they were not requested to build the road, they have been requested to build the other access lane and to foot that bill. From her viewpoint, their traffic has already decreased to compensate for the new buildings because the senior center has been moved out of the community building. They no longer have that traffic there several times a week for the senior center because it was now at Mountainside. She stated that the road was not needed at all because there are multiple roads that lead to Old Trail development. If they put in the suggested road, it was going to become the short cut to downtown Crozet. She felt that this would create a dangerous situation due to the increase in traffic and the increased speed of the cars since it was a short cut. She pointed out that their elderly were not equipped to handle that at all. They will not be able to hear the honking of the cars or be able to get out of the way with their oxygen tanks and wheelchairs. Whether they build new units or not or whether you rezone or not, she would request that they not put a road through there just because she liked their elderly safe.

Don Noble stated that he had worked at the Meadows for 19 years. He stated that he had been requesting a stop light at the entrance since the very beginning. He pointed out that VDOT had said that it was only busy during certain hours and that they could not have a light. There were a few accidents and he called VDOT again, but he said that the accidents were minor. He pointed out that it would be hard to get a light at that location. He stated that they have finally gotten many of the elderly residents to go outdoors and he was interested in their safety. He pointed out that putting a road through there was very bad and was against it.

Ms. Thomas clarified that the VDOT requirement for the left turn lane northbound on Crozet Avenue is not related to the connector road. It is related to the existing and future traffic on Crozet Avenue and the traffic generated by the 98 units that would result if this expansion request were approved. Therefore, it was not triggered by the Old Trail traffic. She pointed out that some type of fencing and landscaping could be placed along the edge of the road to be sure

that someone does not wander on to it. That would be part of the site design. She stated that the Master Plan recommendation for lower Crozet Avenue lies within Corridor 1, an Arboreal Gateway. A Corridor is described as having a more linear form of development and it was not necessarily what they want, but the reality is that over time some of the development that has occurred has pulled fairly close to the road for obvious reasons for exposure to traffic. That is not as true in this Corridor because the Meadows sits back pretty far as well as the residences across the road. She pointed out that if they adhere to the Master Plan, they would not want to pull the new units close to the street as opposed to what they were thinking about doing under the Neighborhood Model. This property kinds of sits there alone and is a little cut off from adjacent properties. If Old Trail were to be developed to the west with the purple district in the center, which would really be designed to accommodate some of the jobs inventory, she felt that it could be an "energy center" that would result in the Meadows having a different context.

Staff has identified the following factors favorable to this rezoning request:
1. Affordable senior housing is needed in the County.
2. The Meadows has coexisted well with its neighbors for the last 20+ years.
3. The proposed units continue the character of the existing community.

Staff has identified factors unfavorable to this request:
1. The proposal does not reflect a mix of housing types.
2. No amenities are proposed with the additional units.
3. The applicant's design does not include a connector road.
4. Should provisions be made for mixed use on the site, now or in the future?

During staff discussion, the issue was raised that a little convenience store or snack bar allowing residents to obtain some simple things might be desirable in the future. With 98 units and more people, it would certainly be nice because the way it was now the residents have to leave the site for everything. Therefore, most items have to be purchased off-site.

Ms. Thomas stated that there were certain questions included in the staff report that she would like the Commission to discuss.

Are pedestrian facilities on the site adequate? There are some sidewalks and paths, but with the expansion more are needed and the network should be made complete.

Is a perimeter pathway an appropriate amenity in conjunction with this rezoning request? Staff believed that this would be a healthy, relatively low cost amenity that would provide some public benefit as well. It could be argued that the sidewalk along the connector road performs a similar function, but in reality one is more transportation oriented and the other more recreational. The recreational pathway could connect with the existing trail behind the schools. She pointed out that there was a nature trail behind Brownsville and Henley that a lot of the people in the community like to use. Alternatively, a connector road and sidewalk could serve this purpose instead of the perimeter pathway. The sidewalk might be located on the inside of the road so that it would be convenient for residents as well as someone walking along the road coming from off-site. She stated that they need to design things to get people out to exercise because it would be to everyone's benefit. Public health specialists are noticing how our design is impacting our health. Therefore, that might be something that would support what Mr. Nobles was talking about, getting the residents out of their units and giving them a real destination or a pathway.

Is a reservation for a future road connection appropriate on this site, as called for by the Crozet Master Plan? Staff believes that it is appropriate and needed, and notes that the existing Comp Plan calls for interconnections to adjacent properties.

NEW QUESTION: Should a mixture of uses be provided on the site? Staff is not sure that it is needed now but the Commission may want to think about not precluding it in the approval language. Examples might be, snack bar or small store like you see in a university or even

airport setting – just necessities, cards toiletries, etc. Something like this might be very significant a few years down the road, esp. if additional density is encouraged.

Should more than one housing type be provided? Staff defers to the Commission. A mixture of housing can be very positive but this complex already creates a mix relative to adjacent housing.

Is the additional density appropriate on this site? Is it dense enough? Staff notes that the site could probably accommodate more density, but that density is likely to require a more urban form and character than the existing community. The road and adjacent stream valleys create a sort of isolation for this site, which may conflict with the concept of greater density. She asked if the property's rural nature make it better for a lower level of density.

Does the increase in density bring with it the need for more amenities for residents? As noted above, some recreational amenities that reflect the pedestrian nature of the community might be appropriate. The community center is an amenity, but the applicant does not technically provide that (the County manages it). Wood's Edge apartments, similar in some ways to this community, have a community kitchen that gets a lot of use. She pointed out that the senior population has some special needs, particularly those with disabilities that would influence the design type. She asked for input from the Commission.

Is the requested density sufficient for this site, relative to the recommendations of the existing and proposed Comprehensive Plan? There is enormous flexibility in the new Master Plan starting out at 4.5 dwelling units per acres up to 6 dwelling units per acre. Staff estimated in this request that it was about 3.5 dwelling units per acre gross density, noting that they don't have a complete application plan. The applicant's submittal does not meet all of the provisions of the Zoning Ordinance, which have an influence on staff's ability to recommend approval of the project. Beyond that, staff does not know what the developable amount of acreage is. She stated that when they net out the density of the existing it would be higher because there is a lot of steep slope.

Does this request impact existing programming and services provided to residents of the Meadows by community organizations? She stated that it definitely does just like any new senior complex would because people who would be living here perhaps lived with their families prior to this. If they did live with their families, those families likely would have been able to meet some of their needs for transportation and other things. It would be hard to say that categorically that would have no impact. It might not create totally new needs, but those needs might be occurring in a different context, impacting transportation, etc. With more residents living here, any services that are provided now will simply be in greater demand. The relatively disconnected location of the Meadows means that residents who don't drive can't easily access even those services that are close by. JABA has indicated a desire to collaborate with the applicant to talk on ways in which the two parties could meet service needs efficiently.

Staff notes that the connector road might be of real benefit to residents who drive or don't drive, depending on the ultimate mix of goods and services available at Old Trail. The intersection at Crozet Avenue, although functional in a technical sense, is not an easy one and with triple the volume of traffic, another route in and out would be very desirable.

Mr. Rieley suggested that the Commission go down the list of questions and provide some feedback to staff. He stated that the first question dealt with whether the pedestrian facilities on the site were adequate. He pointed out that the suggestion was that more could be added to what has been shown so far.

Mr. Edgerton and Mr. Thomas concurred.

Mr. Rieley stated that the second question was whether a perimeter pathway an appropriate amenity in conjunction with this rezoning request.

Mr. Thomas stated that it was.

Mr. Finley stated that not many of the residents there would use it. He asked if the pathway would be open to the public?

Mr. Rieley asked if staff was suggesting a pathway on this property not in a public right-of-way.

Ms. Thomas stated that was correct in that the pathway would cross the property. She felt that it would be more positive if they made the pathway available to the public. She pointed out that many members of the public who want to use those nature trails behind the schools already crossed this site. She pointed out that she knew people who use the path on a daily basis. If the pathway were routed properly around the edge of the property, that might be better than actually going through the parking areas and the sidewalks close to the cottages. The sidewalk that was associated with the connector road might form one part of it in the future when it was built. Although, the Commission might feel that it would be good to get a perimeter pathway that completely traverses the site right now because they don't know when that road was going to happen. She stated that she thought of it as a greenway trail that would probably have to be surfaced sufficiently so that elderly people could have some secure footing, but not a poured concrete sidewalk.

Mr. Finley stated that if the northern route road was built wouldn't the sidewalk rather than a concrete sidewalk be a pathway.

Ms. Thomas stated that was a possibility. She pointed out that staff has accepted that elsewhere, but sometimes they get in trouble with that because it does not stand up well to wear. Currently, staff was struggling on Hilltop because there was a crushed stone pathway that did not work well and was replaced with an asphalt surface. That was now crumbling and the grass was growing up through it. Staff was currently working on coming back in and having them do a concrete sidewalk. They have had three different sidewalks there and now are ending up with a regulation one.

Mr. Rieley asked if it would be possible to have a pathway that is part of this rezoning plan that could be folded into, if a public road was ever built, a sidewalk along a public road.

Ms. Thomas asked if it would have to be routed appropriately to serve as the sidewalk if and when the road comes.

Mr. Rieley stated no, but so that the sidewalk would be built with the roadway that would make the pathway unnecessary in that length. In other words, it would replace it.

Ms. Thomas pointed out that the pathway would be built first. She stated that the connector road would not be going into service tomorrow. Therefore, they would have to have sort of a phase 1 and a phase 2 of the expansion. Phase 1 might be what is happening now. Phase 2 might be what would happen when Meadows Drive goes away and becomes a spur off the new connector road freeing up some of the area that Meadows Drive currently occupies.

Mr. Rieley stated that his answer was yes to the question. The next question is whether a reservation for a future road connection appropriate on this site as called for by the Crozet Master Plan.

Mr. Thomas stated that yes it was appropriate.

Ms. Hopper asked staff to explain phase 2 when Meadows Drive would go away.

Ms. Thomas stated that it was a little confusing and that there were several options available. She stated that they would have to figure out once the new road replaces the existing road, how exactly these internal connections would be made. Therefore, you would really want to design for the connections now in phase 1 for that future phase. She stated that since there was no timetable for the new road construction, the applicant needed to be able to do something now. Staff does not know when this portion of Old Trail will develop. Obviously, it would not make sense to build the road until it connects to something. She suggested that the future part could be sort of the bonus density or it could possibly be something done elsewhere on the property. She noted that the applicant's current proposal was nothing like this because they don't include the connector road at all in their present plan.

Mr. Rieley stated that for future road connection Mr. Thomas says yes.

Mr. Finley stated that if the applicant plans to move ahead with this, that it really complicates the whole project.

Mr. Thomas felt that the designated road needed to be followed through with to provide that interconnectivity.

Mr. Edgerton stated that he was really struggling with this. He felt that a reservation for a future road is appropriate and very important. He pointed out that he was having a lot of trouble with the two scenarios that were very significant that are being proposed to us. He felt that if they share the entrance with the existing community it would require a total redesign, which is not that complicated. There should be some sensitivity to the fact that the whole reason that this road is being proposed is to try to work out a parallel connection to other parts of the growth area and if it works it is going to have a lot of traffic on it. That traffic is going to have a negative impact on the community unless there is some provision to give it some insulation from that. He pointed out that he visited the site and the houses were all four-plexes and were all one-story with little patios that would be staring at this road. He suggested that they figure out a way to have a reservation for this connector road, but he would like to give the existing community and the proposed development consideration and be as respectful as possible of it. He disagreed with the site distance that VDOT was using for the existing entrance. He stated that he would like to see something along the lines of the northern connection through the site with an access from Crozet Avenue located further to the north. That would allow them to use their property as they intended to use it, and would also allow for the interconnectivity that the County desires. If a spur connection is built later, he felt that it should be part of the public project. He pointed out that he had real reservations about the impact for these folks to have this road coming into their driveway as proposed.

Mr. Craddock agreed with Mr. Edgerton because his initial impression was that he would not want to see a road go through their neighborhood, but if an entrance could be moved further up north it would be better. He pointed out that Cresent Hall off of Monticello Road, that those folks couldn't walk across Monticello Road to get to downtown. He noted that is basically a bus ride. He felt that the traffic count once Old Trail opens up would be similar. If they can do the road without impacting the Meadows, then he would not mind seeing that.

Ms. Thomas stated that when they first started talking about this, that it is a tortuous situation no matter what. It was David Benish who suggested that one of the recommendations of the Crozet Master Plan could be that Crozet Avenue in this area undergo improvements to the existing curvature to not only allow what is being discussed, but to improve what is there now. All it takes is money, but the need is real. She felt that the problem was both the vertical and horizontal curvature, and could be improved if you could shave a little bit off of the top of it to improve the site distance.

Mr. Rieley pointed out that those types of improvements are done all of the time as a part of private projects to improve site distance. He asked if he was hearing correctly and if there was general agreement on this point. He stated that the connection is appropriate and very important. He felt that the Engineering Department has done exactly what they were asked to do and that was to show that it is possible, but not necessarily to give us the solution. He stated that further study should be made of the alignment and should be a collaborative effort between the applicant and the County. He felt that consideration should be given to a wide variety of options including improvements within the existing public right-of-way on Crozet Avenue. He noted that they would not be stipulating one way or the other, but simply saying that it should be studied to find the best place to come out.

Mr. Finley asked if the connector road would go across the Meadows property.

Ms. Thomas stated that the connector road would go across the property on the south side, which turned out not to be very good when they got out into the field. There are other kinds of site distance problems if you go to the south plus a drainage problem.

Mr. Finley asked how long they would be hanging there wondering what to do.

Mr. Rieley suggested that the applicant takes the advice from this work session to work collaboratively with staff to make whatever revisions are necessary to make these things work together before it comes to us as an official plan. He presumed that would be the way that the process would work. He stated that the next question was should more than one housing type be provided. He pointed out that he certainly did not have a strong feeling about this.

Mr. Thomas stated that if the public road was put in that it would be isolated by itself.

Mr. Thomas, Mr. Craddock, Mr. Finley and Mr. Rieley answered no to the question whether there should be more than one housing type.

Mr. Rieley stated that it should not be required and should be left up to the applicant. He asked is the additional density appropriate on the site? Is it dense enough?

Mr. Thomas stated that he did not have a real feel on what density should be there. He pointed out that the one important thing was to have sufficient density to keep it affordable.

Mr. Rieley stated that they were suggesting that there was room for additional density in the future. He asked if the increase in density bring with it the need for more amenities for residents.

Mr. Craddock stated that it would.

Mr. Edgerton suggested that there be a little convenience store.

Mr. Rieley asked if the requested density is sufficient for this site relative to the recommendations of the existing and proposed Comprehensive Plans. He stated that this relates to the previous question. He asked if the request impacts the existing programming and services provided to the residents of the Meadows by community organizations. He pointed out that it was very clear that it does. It means that there are additional people in place that will require those services.

Mr. Craddock stated that there would be a larger group of people requiring services.

Mr. Thomas stated that the obvious things would come forth such as the safety, transportation and pedestrian friendliness that would be a part of all of that.

Mr. Rieley asked if there were other thoughts. He stated that they have answered all of staff's questions. He stated that this was just a work session and that they would have a public hearing on this when it comes back to the Commission.

Mr. Craddock asked if Ms. Young had anything to add.

Mr. Rieley asked Ms. Young if she wanted to speak.

Ms. Young stated that she thought she heard Ms. Thomas talk about something that fits in with the ideals of the Crozet Master Plan, but she felt that there was a disconnect between that and what their kind of residents need. She asked what calculations VDOT would use in determining how many lanes are needed to come into the development due to the additional forty units. Are they considering that there will be an additional 80 cars coming in like a normal facility? The fact is that they have 58 units now and there are 12 cars. Therefore, that would generate another 9 cars. She pointed out that if there were several hundred more cars coming through this area from the Crozet community that it was going to have a great impact on this community. As far as their decision to pick only one type of housing, that seems to be what the community wants. They have an apartment building, which is two-story, that everybody wants to move out of into the cottages. Therefore, our proposed design has been for what the people that want to move in are asking us for. The residents like the pedestrian walkways. She pointed out that she has walked around the perimeter of the property to look for a pedestrian walkway along the edge of the woods. She found that the terrain was so steep that she did not believe that any of their residents could use it no matter how well it is paved. That is why some of those buildings only have two units - the terrain is steep enough behind it that the applicant did not feel comfortable with sending residents around to the back. Every unit that they looked at, they have asked could our resident with an oxygen tank comfortably get in and out. They try to encourage as much physical activity as possible, but they also don't want to send them off into a terrain where they could fall down a hill and no one would know it for a day. She pointed out that she spoke with the person who runs the greenway, and he was of the opinion that the greenway that would come up as a spur up behind that should not be there because that would encourage young children to come up. There would be a potential for them to harass the elderly, which they did not want to happen. They like the residents to walk around as much as possible, but the reason that they use the road is because it is really flat and there is no traffic. The road is like a sidewalk that a few of them drive on. They look forward to being able to discuss these issues with the County.

In summary:
The Planning Commission held a work session on ZMA-2003-005, The Meadows Expansion. Staff presented the proposal, which included information from the Engineering Department, and posed several questions to the Commission. The Commission held a discussion, took public comments, answered staff's questions and provided suggestions and comments, but took no formal action. It was the general consensus of the Planning Commission that the road connection is appropriate and very important. The Engineering Department did exactly what they were asked to do, which was to simply show that it is possible to make the road connection, but not to necessarily give us the solution. Further study should be made of the alignment, which should be a collaborative effort between the applicant and the County. Consideration should be given to a wide variety of options including improvements within the existing public right-of-way on Crozet Avenue. The Planning Commission would not be stipulating one way or the other, but simply saying that the connector road should be studied to find the best place to come out.

Old Business:

Mr. Rieley asked if there was any other old business. There being none, the meeting proceeded.

Mr. Edgerton asked for some clarification on the Faulconer project, and thought that old business was the appropriate time to ask for it. He pointed out that all of the Commissioners and some of the staff got copies of email that he received from a concerned resident of Ivy. He stated that he

was taken back by some of the telephone conversations that he had and the latest email that he got that quoted Mr. Rieley at the February 4th meeting of the Faulconer project. He noted that his recollection was a bit different from what was quoted. If he read it the way the residents of Ivy are reading it, then there is no way that the applicant could bring back another submission to this Commission because there is no way to develop the property without crossing that stream. He stated that he did not recollect that was what they were voting on. But if that was what they voted on, then he wanted to clarify that before they went into the meeting. He stated that it would behoove us to make sure that we are on the same page. He pointed out that he did not think it was fair to bring in the applicant to a meeting if the Commission was not going to consider and discuss the new proposal. He stated that he read the previous minutes and they did deny all of the three previous waivers one by one. But, then the applicant was asked if he wanted to defer consideration of the site plan, and they said yes. Then this statement was added, but he did not realize that they were voting to require only a proposal with no waivers.

Mr. Rieley stated that the most accurate way to put it was that they granted the deferral based upon the assumption that the reason for the deferral was to allow the applicant to come back with a plan that had no waivers. In other words, they had already acted on the waivers and that was the only reason why they were deferring the request.

Mr. Cilimberg stated that in next week's staff report they indicate that the Commission deferred at the concurrence of the applicant with the idea that they would bring back a site plan requiring no waiver. That is the record, but that does not permit them from coming back with a site plan that requires a waiver. That is not a binding action on your part that says that we will never entertain a site plan if you have a waiver because that is not possible. He pointed out that it was with the understanding that they would have that opportunity to work on a site plan that would not require a waiver and bring it back to you. As you will see with the information you get, there is a waiver necessary for a lesser area of disturbance. But, nevertheless, there is one critical slope waiver necessary that will be before you next week along with the site plan.

Mr. Kampnter pointed out that two of the previous waivers were no longer necessary because of the way the parking regulations were changed for one-way circulation and curvilinear parking.

Mr. Edgerton asked if the applicant would have to come back if there were no waivers for a by right development.

Mr. Rieley stated yes because a site plan is always subject to Commission review. He stated that the Commission denied all three of the waivers, but deferred the site plan.

Mr. Kamptner stated that the Commission deferred action on the site plan.

Mr. Rieley stated that the Commission deferred action on the site plan solely to allow the applicant to adjust the site plan so that they did not need any waivers, of which they had denied. Therefore, the Commission was kind of in an interesting position because they could very easily say the site plan does not meet the criteria for which they granted the deferral and they could act on it without the waiver. There would only be one conclusion with that. The other thing that they could do is just treat it as a new application although it was really a deferral. He asked if this has been advertised as a public hearing item.

Mr. Cilimberg stated that site plans are not advertised whether or not there is a waiver or if a full site plan is called to you. All adjacent owners are notified. Site plans under Virginia law are not subject to public hearing or advertising requirements. He asked for the future that they not refer to a site plan or a subdivision public comment period as a public hearing because it really is not under Virginia law. It is an opportunity for public comment that you at your own discretion allow for. In the real world those individuals don't see it differently because they don't understand it. He stated that this item is on the agenda for next week and staff has reserved the auditorium again. He stated that staff understands the Commission's reason for the deferral, but in

processing and bringing this back they have to bring it back in the form that they have resubmitted. He suggested that Mr. Kamptner speak to the Commission's action because he did not think they could simply deny a site plan for the purpose of it not meeting the purpose of the original deferral. The Commission would have to deny the site plan based on the site plan's specific reason that it does not meet ordinance requirements.

Mr. Kamptner agreed with Mr. Cilimberg and pointed out that they would be providing an explanation for next week. As part of the Commission's preparation, he handed out the Court's opinion letter to the Board of Zoning Appeals' appeal. Judge Peatross entered a decision about a week and a half ago. Two of the issues that are going to come up are the underlying zoning of the property and the 200-foot buffer. He stated that Bill was asked to contact County staff to try to address some of these issues. The representatives from the Ivy Community contacted Sally Thomas, who sent a letter to Ms. McCulley, the Zoning Administrator, to consider looking through the email's four questions:

1. the appropriateness of the 1980 zoning to rezone the A-1 parcel on the western portion of the parcel,
2. staff's action in preparing the 1980 zoning map,
3. whether the 200 foot A-1 parcel on the western side of the property was proffered by Mr. Dettor in exchange for the rezoning on the rest of the property, which he believed took place in 1970 or 1975,
4. and whether there is anyway for the County to return the A-1 zoning to the 200-foot buffer.

Mr. Kamptner stated that they have advised Ms. Thomas and the Zoning Administrator that under her authority she does not have the authority to answer any of those questions. What she can do is to provide the public with information that the property is zoned Light Industrial and it has been zoned that since 1980. That answers a number of these other questions. With respect to the appropriateness of the zoning, that was a legislative decision that was made 23 years ago. The challenge under this decision is 30 days from the date of the decision. He pointed out that they were not aware of any other way to challenge that decision. They also have not found anything that would indicate that the rezoning was inappropriate. The entire Faulconer property is identified as being LI under the official zoning map. With that it addresses the 200-foot buffer question. The new theory that has risen from the Ivy community is that Mr. Dettor proffered this 200-foot buffer when the land was rezoned. The proffers did not exist in Virginia at all until 1978 after these zoning actions took place. The way that they had looked at it up until now was that this 200-foot buffer was part of the conditional use permit for the warehousing use on the property. When the property was rezoned in 1980, that use still required what became a special use permit. The conditional use permit is still in effect to preserve that 200-foot buffer. If anything had of been proffered up to that point and even if the ability to proffer existed, it was wiped out at the comprehensive rezoning. When the Light Industry zoning district regulations were changed in 1986/1987, the warehouse use went from being a special use to a by right use. The conditional use permit became null and void. There was no reason for the condition because it was a by right use. To require that this condition apply to this piece of property where the joining would not be required of that condition would probably violate the uniformity requirement under the zoning enabling laws. He stated that they felt that both of those issues had been addressed. He stated that he wanted to give them this background and would probably go through it again next week.

Mr. Edgerton stated that if it had been an easement, then it would still be in effect.

Mr. Kamptner stated that was correct. He stated that the other thing with this conditional use permit was that it applied to the warehouse business and what they are proposing is not a warehouse use. The conditions that apply to any special use permit apply to that particular use and don't apply to every use that exists on the property. If you have a piece of property that has a special use permit for a veterinary office and you want to put a house on the property, then you are not subject to those requirements because you are not using the special use permit.

Ms. Hopper asked if the County could justify with a resolution of intent or something that they could do to justify moving to down zone because of public safety issues.

Mr. Kamptner stated that to down zone the property would be piece mill zoning because they were targeting a specific piece of property. There needs to be an identified change in circumstances since the date of the last zoning action or there needs to be a mistake in fact or fraud.

Ms. Hopper pointed out that she was not saying that was the way to go, but she was just curious about when you could ever do that. She stated that it was hard to think about approving a waiver with these terrible safety issues with this application.

Mr. Kamptner stated that he was not sure what safety issues she was speaking to.

Ms. Hopper stated that she travels those roads and that there are some big trucks on there now, but that there would be a lot more with this.

Mr. Kamptner stated that you have to first recognize that the legislative decision that the industrial uses in this park was determined 23 years ago. What you will have before you next week is a site plan which is ministerial relief and a waiver that only deals with critical slopes, which are going to total .99 acres out of the 27 some acres and they have a rational connection to that particular waiver.

Ms. Hopper asked if that school was there 23 years ago.

Mr. Craddock stated that Murray Elementary was, but not the pre-school. He stated that Mr. Dettor had his food business and beer businesses and had tractor trailers and beer trucks coming in and out. He stated that it was probably a more intense use back then.

Mr. Kamptner stated all of that land could be used for any of the Light Industry uses, some of which includes hospitals, etc.

Mr. Finley pointed out that the Commission routinely approves critical slope waivers, such as in Albemarle Place, even in the consent agenda. He felt that they have to be equitable.

Mr. Kamptner stated that they would go over this again at next week's meeting.

Mr. Cilimberg stated that staff would have Mr. Kamptner address this issue up front at next week's meeting.

Mr. Kamptner stated that what was in front of them next week should be whether or not the applicant has satisfied the five criteria under Section 4.2.5, Critical Slope Regulations. He pointed out that another issue that might come up next week included the gravesites located on the property. The applicant has identified the gravesites on the property and will put a fence around them. He pointed out that gravesites do not preclude development on a site. One option that the applicant has is to obtain a court order to remove the remains and relocate them. He pointed out that it sounds like the applicant can work around the gravesites.

New Business:

Mr. Rieley asked if there was any other new business.

Ms. Hopper stated that she had taken a job with a new law firm. Due to some legal ethics opinion that has been upheld so far, there is a conflict of interest that has come up with her being employed by this new firm that despite diligent efforts by her employer, she is not going to be

able to ignore that. Because of that, she is going to have to resign from the Commission as of September 30th.

Mr. Finley stated that he would not be at next week's meeting because he would be out of state.

There being no other new business, the meeting proceeded.

Adjournment:

With no further business, the meeting adjourned at 9:20 p.m. to the next meeting on September 23, 2003.

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V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon Claytor Taylor, Recording Secretary.)