Albemarle County Planning Commission
October 14, 2003

The Albemarle County Planning Commission held two work sessions on Tuesday, October 14, 2003 at 4:00 p.m., at the County Office Building, Room 235, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Chairman; Rodney Thomas, Vice-Chairman and Pete Craddock. Absent from the meeting were Bill Edgerton, William Finley and Jared Loewenstein. Mr. Craddock arrived at 4:35 p.m. Mr. Kamptner arrived at 4:45 p.m.

Other officials present were David Benish, Chief of Planning & Community Development; Susan Thomas, Senior Planner; Elaine Echols, Principal Planner; Juan Wade, Transportation Planner; Steven Allshouse, Fiscal Impact Planner; Anh Thai, Intern; and Greg Kamptner, Assistant County Attorney.

City Commissioners present included: Kevin O'Halloran, Chairman; Eldon Wood, Karen Firehawk, Cheri Lewis, Jon Fink and Mary Hughes, Ex-Officio.

Call to Order and Establish Quorum:

Mr. Rieley called the regular meeting to order at 4:05 p.m. He stated that a quorum was not present, but that the Commission would not take any formal action.

Mr. O'Halloran, Chairman of the Charlottesville Planning Commission, called their meeting to order at 4:06 p.m.

4:00 Work Session- Room #235:

CPA-03-02 Fifth Street /Avon Street Mixed Use City/County - Proposal to change the Comprehensive Plan, Land Use Plan designation, from Industrial Service to Regional Service, to allow development of a mixed-use complex including community and regional level retail and service, multi-family housing, industrial service, connector road, employment, and open space and park land uses. The property, consisting of approximately 89.4 acres, is described as Tax Map 76M(1), Parcels 2A, 2B, 4A, and 11E, and located in the Scottsville Magisterial District between Rt. 631 (Fifth Street Extended) and Rt. 742 (Avon Street), immediately north of Interstate 64. (Susan Thomas)

Mr. Rieley welcomed the City Commissioners to the meeting. He stated that it was good to have the City involved in this process since he felt that the City's perspective was essential to review this project. He stated that the Commission was looking to them for insight in what role this project should have in implementing the City's Corridor.

Ms. Thomas, Senior Planner, stated that she was working on this project and would provide an overview of the proposed project. She stated that the City's perspective was really essential to a thorough review of this project. She stated that this joint session would help them a lot as they move through reviewing this project. She pointed out that they were looking to the City Commissioners for guidance in what role this site can and should have in implementing the City's Corridor Plan. She stated that this was a very difficult site to understand from a topographic standpoint. Although the site has extensive public exposure, it actually has three designated entrance corridors touching it, which includes Avon Street Extended, I-64 and Fifth Street Extended. The undisturbed state of much of the surface makes it really hard to see. In a July work session the Commission had indicated that they would like to see a more detailed concept plan because the applicant's plan was very general. She stated that was discussed in detail with the applicant on several occasions, but at this point staff has not received a detailed plan. She stated that the Commission also asked the applicant to consider preparing a cross-section of the site so that they could see how the applicant's grading plan would impact the site. She pointed out that the applicants indicated that they plan to level the entire site, and therefore did not see

the point in going to the time and expense of preparing the cross-section. In this review and the one they did from 1997 to 1999, the Commission and staff have always been interested in finding a way to work with what is already going on at the site in terms of natural features. The specimen trees and the rock outcropping are a very beautiful area that they have designated as a preservation tract in the language they previously drafted as an amendment to the Comprehensive Plan. Staff is still interested in that. It is rare to have a site in such an urban location that is still so relatively undisturbed. She pointed out that on the western part of this site, which is on the Fifth Street side, there is an opportunity to use some natural features in a very interesting way, if that is the consensus of the Commission and ultimately the Board of Supervisors. This would be as opposed to a more conventional approach where the applicants would grade everything and build from the ground up. She stated that the constraints on the site were really opportunities. This development could be an award-winning site if they could find a way to work around those features. She presented a power point presentation to point out the topography on the site. She pointed out the hill adjacent to the interstate which she felt was the key to protecting the natural qualities of the I-64 Corridor. She noted how much higher the landfill area was and that a lot of this area was fill material that she suspected came from the I-64 construction. She pointed out the existing road to the Grand Piano and Furniture Warehouse, which was a road that could be improved and remain very much in its present alignment. Staff recommends that road to be incorporated into the design for the site because it was a useable and existing road. The Engineering Department has strongly recommended that they try to use the existing crossing and not do another crossing because, of course, every bridge is damaging. She noted that this creek has taken a beating over the years from lots of different factors. But whether or not a second crossing is ever constructed, staff feels that this road should be incorporated because it would be good to have a circulation system on a site that offers options, particularly if you have different uses. Regarding a mixture of uses, she pointed out that she had always seen this area that looks across at Willoughby as the most appropriate area for residential, which would take advantage of the scenic qualities of the creek. She recommended not putting the residential on the old landfill site. She pointed out that the Avon Street frontage was certainly not something that they needed to preserve in terms of the existing natural features because it has already been disturbed. Therefore, that would be another site, with the proper engineering, that might be very good for large footprint retail. She stated that the site could accommodate a lot of different uses if they were organized and arranged properly. She stated that it was not the easiest site because it was not a flat piece of ground and has lots of constraints. Moving ahead in the interest of time, she stated that Steven Allshouse was present and would provide a short presentation with an update to the retail demand analysis. She pointed out that a model of the site had been prepared by Ann Thai of their staff, which she felt was very useful in their review of the constraints on the site.

Steven Allshouse, Fiscal Impact Planner, stated that several years ago, when several large retail projects were proposed for the County, the question came to him about the amount of retail space that the County could absorb. He pointed out that he came up with two separate estimates. One estimate was what he called the baseline figure. The second estimate was what he called the capture estimate. The baseline figure was estimated through a statistical technique called linear regression analysis. He stated that what he found was that there was a very large correlation between aggregate regional income and the amount of square footage of retail space that gets built in the County. He pointed out that there was a lag of about two years between changes in income and the amount of retail square footage in the County. From that he took the time span of 2002 to 2011 and found that about a million square feet of retail space was what the market could support. He stated that this year he was asked to update the report that he did two years ago. He stated that he revisited just the baseline numbers and found that he still got the million square feet plus of retail footage that the market could support in the County within the next ten years. This figure does not include any capture square footage.

Mr. Rieley asked if his estimate included the City and the County.

Mr. Allshouse stated that his estimate was for the County only, but he did take into account that people do shop in the City as well. He pointed out that he was asked what would be the impact on the County.

Ms. Thomas asked the applicant to do a quick update on the status of the project because there was some new information. She suggested that after the update that they would go to the questions that Frank Cox posed by email.

Mike Fenner stated that he was with the Cox Company, which was a planning and engineering firm located in Charlottesville. He pointed out that Steve Blaine was also present. He stated that they both represented the New Era Property who submitted a Comprehensive Plan Amendment back in the summer. He pointed out that there was an important development that he wanted to bring to their attention. He stated that initial phase of the process was always going under the assumption that there would be a development for the replacement of the existing Grand Piano Warehouse Facility, which was centrally located on the site, with the Dominion Power Regional Operations Center. He pointed out that a preliminary site plan with a special use permit for a communications tower was submitted back in the summer. During the past couple of weeks they have determined that this would not be the site that they would chose for the Dominion Power Facility. He pointed out that this would change their land use plan drastically that was submitted with the CPA. He stated that they would not be able to show the Commission anything today with more detail. Hopefully this will enable them to do something a little more creative in terms of the mixed uses. He stated that in regards to Mr. Cox's email and the jurisdictional issues that there were a couple of things that they would like to hear the Commissioners' thoughts on today that would help them move forward. Most critically is the relationship of transportation to the site from both the City and the County. He pointed out that on their plans they have shown a connection for a southern parkway to provide access and connect Avon Street Extended with Fifth Street Extended. He stated that they have worked closely with County Staff and VDOT. He pointed out that they had received feedback from VDOT and that idea has some merit. He stated that they would like to hear some feedback today from the City and County on what was the appropriate alignment for that road, and more precisely where is the appropriate spot to connect to Fifth Street. Initially back in the summer the alignment that they chose to explore provided a connection through the existing Bent Creek Road Bridge alignment. He stated that their initial road alignment was based on the fact they could support that within the property that the applicant could control. He stated that they would be glad to look at a different access point. VDOT has expressed some concern with respect to distance between signals. He pointed out that they have begun an analysis to have the structural engineers look at the capacity of the existing bridge at Bent Creek Road to see if it could support the regional traffic flow that would be projected with the connector road. He noted the concerns that they had initially in terms of the alignment through Bent Creek Road. He pointed out that they felt that the location of the rock outcroppings and the tree resources identified by staff were limiting them in terms of being able to open up access to the interior of the site to provide for what they thought was the highest and best use of the site. In addition to transportation, they would like to hear the Commission's thoughts on various land uses and what they think would be appropriate. He stated that they recognize that Moore's Creek would play an important role in terms of the City/County relationships. He asked what the expectations might be for stream enhancement and for open space. He asked what the expectations might be for allowing City residents to have a connection to the stream. He stated that he had tried to cover some of the points Mr. Cox made in the email and would be happy to answer any questions.

Mr. Rieley stated that there seems to be two key elements to this as Ms. Thomas pointed out. The first key element is our Engineering Department's strong preference for utilizing the existing bridge. The existing bridge leads to a light on Fifth Street and its use would eliminate the need for a new major facility. The second key element is utilization of some extent of the existing alignment that goes back to Grand Piano. The use of a good portion of this road's distance seems to make a lot of sense particularly in light of the strategy of having several low key, low speed roadways to knit areas together and minimize the impact rather than several large roads.

He stated that alignment had a great deal of appeal as a way to get Fifth Street to Avon Street without going through a parking lot that the shopping center controls. That is not to say that a major connection might not go through a parking lot of a shopping center, but it certainly should not be the only alternative. Another issue related to that, which is mentioned in Mr. Cox's list of issues, is the protection of Moore's Creek and the strategies for dealing with that.

Mr. Thomas agreed that the protection of Moore's Creek needs to be a joint effort in order to protect both sides of the creek.

Karen Firehawk, City Commissioner, stated that she was familiar with the property. She stated that any project that would put a connection between Avon Street and Fifth Street Extended would in general make her happy. She stated that connection has been needed for a long time and it would take care of a lot of traffic that goes up and down Avon Street. In terms of connectivity, she felt that it made a lot of sense. She questioned how much the traffic would increase in terms of what was put on the site since Dominion Power was no longer going there. She pointed out that it could be something that was a significant traffic generator. She asked that the applicant give them some sort of sense of traffic volume.

Mr. Fenner stated that from their traffic study they believe that this road would capture in terms of 24 hours between 8,000 and 9,000 vehicle trips per day. He pointed out that translate into 700 to 800 vehicles during peak hours. He pointed out that study was done in the summer and that included a large volume of regional retailers, Dominion Power, 25 townhouses and a major food store. At that time the traffic generated by that was 12,000 to 13,000 vehicle trips per day. He pointed out that the traffic generated would depend on what the actual uses were, but this information would give them a ballpark figure.

Ms. Firehawk asked what the applicant was proposing to do with the stream particularly because it has suffered a lot of erosion from storm water. The Planning District is getting ready to restart and to take a look at the TMDL of the creek, which was the total maximum daily load that exceeds the State's standards. She pointed out that a mitigation plan would have to be developed to restore it. She asked if the applicant has been talking with the Planning District about that. She asked if they have any thoughts on a buffer or if they would do actual restoration on the creek.

Mr. Fenner stated that they plan to provide a significant buffer on the stream, but they have not begun any specifics on the stream mitigation plans.

Ms. Firehawk stated that they were curious about what was in the old landfill on the site. She stated that David Hirschman's memo did not indicate that he observed any seepage, but pointed out that you would not always see that. She asked what would happen if something were dug up. She asked what the applicants have done in terms of environmental assessment. She noted that they might run into some strange things. She asked if there would be any liability issues to the City as the past owner.

Mr. Fenner stated that he was not an expert on this subject, but he did know that the existing owner has some very good extensive records about the past studies on the site. He stated that part of the past negotiations with the owner was that the applicant has done some soil engineering studies on that. He stated that was not his area of expertise, but that there is a great deal of information available on that.

Ms. Firehawk asked if there have been any ground water wells dug, and Mr. Fenner stated that there have not.

Ms. Firehawk stated that in order to develop the site that they would probably have to do a lot more extensive studies on that part of the site.

Mr. Fenner stated that they see this as an urban project. He pointed out that there certainly needs to be a balance in terms of respecting the existing environmental factors and also recognizing the fact that it was only a few appropriate infill sites left in the urban ring that could house the type of development being proposed by the applicant. He stated that was going to be a challenge.

Ms. Thomas stated that she looked forward to working closely with the applicant in the future. She pointed out that they have gotten some good ideas from today's session.

In summary, the Albemarle County Planning Commission held a joint work session with the City of Charlottesville Planning Commission on CPA-03-02, Fifth Street/Avon Street Mixed Use City/County. The work session was held to obtain the City's perspective and insight into what role this site can and should plan in implementing the City's Commercial Corridor Plan. Staff provided an overview of the proposal and presented a power point presentation and model to assist the Commissioners in understanding the topography and interior features of the site. Steven Allshouse, Fiscal Impact Planner, summarized the findings in his original retail demand analysis and the recent update. The applicant provided an update of the proposal and answered questions. In addition, the applicant provided several questions in order to hear the City's perspective on several specific issues. The Planning Commissions discussed the proposal, answered the questions and provided comments and suggestions, but took no formal action.

The first work session ended at 5:15 p.m.

The next work session began at 5:20 p.m.

Draft United Jefferson Area Mobility (UnJAM) 2025 Plan – Review of Plan principles and projects. (MPO Staff)

Present from the City of Charlottesville were Jim Tolbert and David Beasley. Harrison Rue and Mary Hughes were present from the MPO.

Mr. Craddock arrived at 5:30 p.m.

Harrison Rue presented the draft plan of the United Jefferson Area Mobility (UnJAM) 2025 Plan and handed out some information. (See the attached information.) He focused on what was new and different in the plan as he went through the project list that indicated where the money would be allocated and spent. He stated that VDOT was now saying that they could use the roadway money towards stand-alone bike path projects. He pointed out that they also made a determination that instead of having to beg for a road to build a sidewalk and bike paths that all roads and streets will be built with them unless the locality requests do not include sidewalks. He pointed out that on a lot of the County roads that they would probably request not to have sidewalks because it would be a very expensive part on some of the rural roads. He asked for comments and suggestions tonight and through email noting that the MPO Policy Board will be making the final decision on Wednesday night. There will be an open house on Thursday, November 20th at their office from 3:00 to 9:00 p.m. A power point presentation will be given to present the plan and a summary of the plan will be provided. A work session will be held at the Senior Center on November 18th from 7:00 to 9:00 p.m. that will focus on what people think is the most important things to implement right away. He invited everyone to attend these meetings.

The meeting adjourned at 5:58 p.m. to the regular meeting at 6:00 p.m. in Room # 241.

The meeting convened at 6:12 p.m. in meeting room # 241.

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, October 14, 2003 at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Chairman;

Rodney Thomas, Vice-Chairman; Pete Craddock and William Finley. Absent from the meeting were Bill Edgerton and Jared Loewenstein.

Other officials present were David Benish, Chief of Planning & Community Development; Elaine Echols, Principal Planner and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Rieley called the regular meeting to order at 6:12 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, he stated that the meeting would move on to the next item. He stated that the Commission would hear the summary of the Board of Supervisors meeting under old business and move directly into the public hearing items for North Pointe.

Public Hearing Items:

ZMA 000-009 North Pointe PD-MC (Sign #97, 98, 99)- Request to rezone 269.4 acres in the Entrance Corridor (EC) zone from RA Rural Areas to PD-MC with special use to allow a mixture of commercial and residential uses with a maximum of 893 residential units, approximately 664,000 square feet of commercial and office space, a 250 room hotel, and approximately 177,000 square feet of public/semi-public uses. The proposed residential density, allowed by this rezoning, would be approximately 3.31 dwelling units per acre (gross). The property, described as Tax Map 32, Parcels 20, 20a, 20a1, 20a2, 20a3, 22h 22k, 23, 23a, 23b, 23c, 23d, 23e, 23f, 23g, 23h, 23j and 29i is located in the Rivanna Magisterial District north of Proffit Road, east of Route 29 North, west of Pritchett Lane and south of the Rivanna River. The Comprehensive Plan designates this property as Regional Service, Office Service, Urban Density (6 - 34 dwelling units per acre) and Neighborhood Density (3 - 6 dwelling units per acre) in the Hollymead Community. (Elaine Echols)

AND

SP 02-072 North Pointe Residential Uses Request for special use permit to allow residential uses in accordance with Section 25A.2.2.1 of the Zoning Ordinance which allows for residential uses in a PD-MC Planned Development Mixed Commercial zoning district. (Elaine Echols) ***DEFERRED FROM THE SEPTEMBER 9, 2003 PLANNING COMMISSION MEETING.***

Ms. Echols summarized the staff report. She stated that the Commission has seen this project a number of times and they actually held a public hearing last December on it and four work sessions. The Commission has provided guidance to the applicant on things that they would like to see in this particular development. She stated that the staff report was very short because of all of the information that the Commission has received previously on the project. She noted that they would discuss what has changed since they saw this project last. She asked to draw the Commission's attention to the depiction of the development located on the board behind Mr. Rieley and staff's site plan, which is colored slightly differently. The purpose of the site plan located on the right is to show the critical slopes, and also to have a record of the particular plan that was considered at this meeting. The plan has had a few minor changes that have been made to it since you last saw it. There has been a roundabout added that has been shown on the plan at Proffit Road and Leake Road. There have been conceptual storm water plans and and calculations provided. There is clear conceptual grading behind several of the buildings. She pointed out that she found out that there has been even more grading than she realized behind the main shopping center area as it backs up to the mobile home park and then down away past where the library was shown. The long building, which would be north on the map and actually east of the school, has had some regrading done in that area. Then down at the submittal entrance there has been some additional grading done. Staff has received some more detailed

plans on that to try to minimize the 2:1 slopes and bring them to 3:1 and even less in some places. There has also been provided a provision of setback information and building line information by housing types that staff has been waiting for. With regards to the plan, there is not a whole lot more that has changed than what you have already seen on this plan to this point. Staff also received a new set of proffers, which have some changes that she would like to note. There is now a proffer for a park and ride facility. There is a proffer of cash to advance funding of a portion of the design for Proffit Road improvements to support the roundabout at that location at Leake Road and Proffit Road. There is $150,000 towards a traffic signal and roundabout construction, which was in a previous proffer towards a signal at that location. There are now provisions for two emergency access points along Pritchett Lane from the development. She stated that if she was reading the proffers correctly, the 3 percent of the dwellings are affordable housing and would not now require a Community Development Authority. The elementary school site now includes the grading, but is still in the same area that was shown previously. There is also the public right-of-way dedication to adjoining parcels. Staff has been asking for the right-of-way dedication instead of just an easement to two adjoining parcels. They have also proffered an overlot grading plan in addition to the other things that they had previously proffered. She pointed out that there have been some changes since they last saw both the plan and the proffers. By and large the design of the development has not changed and the staff continues to have some concerns with both the proffers and the plan both in terms of design and in terms of some of the things that are shown on the plan. She noted that the concerns have been laid out in the summary of the staff report, which she would not go through because she anticipated that the Commission has read those. She noted that she would be happy to answer any questions that the Commission might have at this time on the staff report. She stated that the applicant would like to provide some information after they were done.

Mr. Rieley asked if there were any questions for Ms. Echols. There being none, he opened the public hearing and asked if the applicant would like to address the Commission.

Chuck Rotgin, Great Eastern Management, asked to be allowed to provide some closing remarks at the end of the public hearing.

Mr. Rieley pointed out that he would be allowed some time at the end of the meeting.

Mr. Rotgin stated that he had accompanying him tonight, in addition to other Great Eastern representatives, some of the consultants and professionals that have worked with them over the last several years in putting this plan together. He stated that included Ron Keeney, from Keeney and Company Architects; Joe Wallace, from Wilbur Smith and Associates Traffic Engineers and Consultants; and Cecil Sears, formerly with Integral Realty Associates, who is now an independent economic consultant who authored the fiscal impact report that the Commission received a copy of in August. These individuals will be available to answer questions during the Commission's deliberations. He thanked staff for her gracious manner in dealing with them over the last five months because he knew it had not been easy. He stated that they knew that she has made an attempt to be fair and believe that they have at least boiled the issues down to now a matter of design and form. The remaining items can be worked through in discussions with staff and the County Attorney's office and at the site plan and the subdivision review stage. He thanked Mark Graham who has been given a very difficult position of trying to pick up after Kim Cameron, the County staff engineer reviewing the North Pointe plans for the last twelve months. He pointed out that she left the County's employ before finishing the revised plans. Mr. Graham has not had the benefit of attending numerous meetings that had been held over previous months and the engineering speed memo that he understands was produced in just two days was a part of the staff report package was initially of considerable concern to them. However, Mr. Graham graciously reviewed the memo with them and they believe that he now agrees that many of the comments in the working of Kim's earlier report have been satisfied and that the rest are minor and can be resolved as the process moves forward. But obviously the Commissioners may want to query him on that. Finally, thanks to the Commission members for sitting through the series of North Pointe work sessions held during the summer and for the Chair's allowing us to participate

on an interactive basis. All of this input has been helpful and the revised plans reflect many of the comments and requests, but he was not going to be so presumptuous to say that it was a new plan. Northe Pointe is combination of years of planning going back to 1980. After considering the future land use needs in this area, the County and the Planning Commission after a series of work sessions and public hearings in 1993 and 1994 added the northeast quadrant of the intersection of Proffit Road and Route 29 to the Hollymead growth area. As the colored land use map shows and the staff and the Commission have acknowledged the board had designated these properties for residential use and for regional service use. This property is located virtually an equal distance between Charlottesville's urban commercial area and the growing Ruckersville area and Green County. The regional service area called for in the Comprehensive Plan is intended to serve not only this immediate community, but also the extended community into the neighboring Counties. In conceiving North Pointe they have been faced with some real challenges. First and perhaps the most important is that they are ten miles from the urban core and still in a relatively rural area and what they have worked from a design standpoint within or near the urban core and they believe the Neighborhood Model concept absolutely will work there. It is problematic for an area as far out as Airport Road. In addition to the desires of the market place that must be addressed, they were dealing with a very oddly shaped parcel that is typical Albemarle County topography. It is long and thin and divided in its length by the low flat creek. It is bounded by Pritchett Lane on the east, which was a high ridgeline. It is bounded on the north by the Rivanna River, which was very low with a number of high bluffs in between. The northern end adjacent to the river has the most severe topography as staff has indicated and also has the most important pristine vegetation. He pointed out that it was going to be very difficult to build roads between the peaks and valleys located on the property. The center section located behind the Chairman is distinctly pitched from side to side from the low creek bed of Flat Creek up to the ridgeline at Pritchett Lane. The relatively flat southern end is the area that most readily accommodates the larger flat sites demanded by the larger regional retail commercial activities where those larger stores require substantially flat parking areas adjacent to the stores. This is also the area where the County staff has determined that the streambeds and erosion valleys are the most degraded on the property. He pointed out that their proposed design has reflected these natural definitions. They also have in terms of challenges the school administration's desire not for a neighborhood school as the Neighborhood Model might suggest, but for a large flat pad site for a regional school and there are simply are no naturally flat sites anywhere on this property. The desire of the County and VDOT for a traffic alternative road parallel to Route 29 is basically in conflict with the Neighborhood Model concept. They are also trying to respect the agreement that the Board of Supervisors has with the Pritchett Lane neighbors in limiting access while at the same time recognizing the importance of emergency fire and rescue access. Very important also are the costly proffers that the County and VDOT desire to fix the existing major roadway problems that are not directly related to North Pointe. They are also proffering significant school and library sites for which the overwhelming majority of the users would be from outside the North Pointe community. And finally, this site is an isolated island bound on the south by the Hollymead, Forest Lakes area which is nearly complete, on the north by a river, on the west to the soon to be 8-lanes in some cases with turn lanes on Route 29, and on the east by the hard growth area boundary line. In sum, they are not dealing with the set of perimeters that were ideal for the Neighborhood Model. As a result, North Pointe is not the traditional Neighborhood Model envisioned by some as the form of development that should be the only appropriate one in Albemarle County. Their proposed town center, however, is an example of the neo-traditional and new urbanism design with two-, three- and four-story buildings and relegated parking with pedestrian oriented features. It is deliberately placed between large stores in the residential areas to foster the sense of neighborhood. He stated that they have nonetheless as set forth in the language of the Comprehensive Plan considered all of the Neighborhood Model principles and incorporated most in varying degrees across the entire site. They believe that North Pointe fulfills the goals of the Board of Supervisors as expressed when they appointed the DISC Committee to develop ways to encourage high-density development within the growth areas. The higher quality mixed-use fixtures of North Pointe are a bonus in the kind of smart growth pattern configuration that discourages the sprawl of individual large lot development. The density of the residential portions of North Pointe is approximately 5 units per acre, more than double the

density achieved from the original Hollymead and Forest Lakes areas. This higher density is what County planners as an element of the Neighborhood Model have desired. They believe that it is very important for the control of growth in Albemarle County to recognize that North Pointe is the prime and logical location for the extension of the communities of Forest Lakes and Hollymead. The overall Hollymead Growth Area is within a few months of being essentially out of residential building lots for single-family attached or detached. This is occurring just at a time that the employees at the National Ground and Intelligence Center, Crutchfield, the Charlottesville-Albemarle Airport and the user airlines, and UREF's North Fork Research Park are all looking for housing in the immediate area. There are many new jobs anticipated in the North Fork Research Park and the Piney Mountain area. Realtors and builders alike tell us that this area of the County is now perhaps the most preferred of any market in the area. The revised layout and the mix of housing styles and price points reflect what local homebuilders have told us the customers want to purchase. The commercial area at the southern end of the property reflects what the large retailers have told us will work successfully for them. The adjacent multi-story mixed use town center bank buildings are frankly a marketing concern and a risk. Richmond, northern Virginia, Washington, the Maryland suburbs and many areas of the southeast that they have visited do not have any truly successful implementations of this town center concept. Nonetheless, they are committed to try this design even if it struggles for a while. The smaller stop shops in the town center will maybe draw the larger anchor stores to be successful, just like the smaller stores in the southern portion of the proposed Albemarle Place need to draw the larger stores of the northern portion of that development. Members of the Commission have previously acknowledged this fact. He thanked the Commission for the opportunity to speak.

Mr. Rieley thanked Mr. Rotgin. He stated that there was a sign up sheet with several speakers signed up. He stated that the first speaker was Sam Craig.

Sam Craig stated that he operates Craig Builders who was a small homebuilder in this community. He stated that he was here to speak in favor of this project. He pointed out that they build only a small percentage of the total market. He felt that after 25 years that he had a feel for what the market is. He asked to reiterate two points very briefly. The first point is that as builders they were seeing that they were running out of lots in areas such as this. Forest Lakes has been extremely successful and has served a great demand. It is coming to an end very quickly as is Dunlora, Forest Ridge, and several other developments. Selfishly, he stated that they have a concern. Unselfishly, he felt that it created other problems. Point two is that he has not been building a whole lot in this particular area of North 29. He stated that he could speak from a competitive nature that he has lost a lot of sales to this area because people say that this is where they want to live if they have a choice. He stated that this was one of the high demand areas. The Route 29 North Corridor for many reasons, shopping, jobs, schools, local of many things is a highly demanded area. He felt that this demand would only get stronger as the Research Park develops. He thanked the Commission for hearing his input.

Mr. Rieley stated that the next speaker is Charlie Tractra.

Charlie Trachta stated that he was not here to ask them to or not to vote for this project. He stated that he also was not here to talk about the issues of school critical slopes, transportation, etc. What he would like to ask is why won't the County try to get the communities and the developers to talk to each other. It seems that the County wants its adversarial venue to continue. While most of us understand that growth will happen, they need to try to make it happen so that it makes sense. Over the years concerning issues such as this, he has never seen anyone come in here and leave unscarred. The community feels that the County has sold them out, while the developers feel that their rights as landowners have been walked on. He stated that they both were right. Before the Planning Department brings any recommendation to this Board or any other, the communities and developers must have the opportunity to talk even if they don't want to. He asked what if this community and the developers here tonight were only a few issues away from agreeing, then wouldn't you like to know. He asked if they would rather have an application in front of the Commission where there were only one or two sections or

issues to be worked out or do you want to have the whole packet that you have to fight through. It is time to think outside of the box or Albemarle County will become like northern Virginia, California, Long Island and all of the other areas which most of us have moved from. Without compromise he felt that they were all losers. He stated that it was up to the Commission to make sure that Albemarle County is the winner and that the communities and the developers share in the victory.

Stratton Salitus stated that he lived in the City of Charlottesville, which was completely within the County of Albemarle. He stated that he had concerns about this most recent sprawl explosion, which was taking place in the County. He noted that North Pointe was one of these projects that he was referring to. Other developments include Hollymead, the Village of Rivanna at Pantops, and on Fifth Street they are seeing a great deal of development planned for this community. Along with North Pointe, they were seeing a lot of sprawl development. He stated that what he meant by sprawl development was that it was a place that you have to drive to. This currently is one of those places. For starters, there is no quality public transportation to North Pointe. The people who will be living in North Pointe with 4 percent of affordable housing are not going to see the type of transit options available to them. Instead of depending on things like the Route 29 by-pass and the Meadow Creek Parkway to allow us to continue building developments like this, which reduce and degrade our water supply and air quality that immobilizes older and younger people. This causes auto accidents which kill and injure many people. Ultimately, this will raise taxes by providing a more spread out type of development, which requires greater infrastructure costs. He stated that he was in favor of the park and ride lot as discussed today in terms of the proffer. He asked that this committee demand transit proffers from the developers instead of road proffers. He felt that they would then see a better form of development or one that more closely follows the Neighborhood Model's intention, which does not include big boxes and huge parking lots.

Kay Slaughter stated that she was speaking for the Southern Environment Law Center. She asked that the Commission recommend denial of the rezoning and critical slopes waiver for North Pointe on the grounds that the project does not adhere to the twelve principles in the Neighborhood Model as incorporated into the Comprehensive Plan. She noted that denial was appropriate because the project would cause traffic snarls and unacceptable levels of service for regional and through traffic on Route 29 and create a surplus of space beyond the retail capacity and to degrade the Rivanna River and its streams. The staff report details how North Pointe fails to follow most of the twelve principles of the Neighborhood Model. She pointed out that they mention the following six principles: mixed use, neighborhood friendly streets and paths, buildings and spaces of human scale, relegated parking, respect for terrain, and parks and open space. The North Pointe project does not have the mixed use development contemplated by the Neighborhood Model with various kinds of housing segregated from one another, and most residences would be three-quarters of a mile or more from the closest store. Thus this continues the dependence on the automobile even within the project rather than creating neighborhood friendly streets and paths to the shopping areas. While they commend the developer for proposing housing on the upper floors of the town center, the project remains primarily an auto dependent strip development without buildings and spaces of human scale and relegated parking. Most important North Pointe necessitates three new traffic lights beyond Airport Road plus a turn lane from Airport Road for approximately one-mile. Clearly traffic impacts of this project would be substantial not only for area drivers, but also for through traffic. North Pointe adds three new lights, which along with those planned at Best Buy, Albemarle Place and Hollymead creates eight more lights on Route 29. In addition, North Pointe would create an unsustainable amount of retail. According to the County's fiscal analysis there is a regional need for one million square feet of additional retail over ten years. With Hollymead and Albemarle Place, the County plans more than 1.5 million square feet. Best Buy has 45 thousand square feet under construction with 25 thousand square feet more planned in the City. With North Pointe with over 582 thousand square feet for retail, the area would have more than 2.3 million square feet of new retail, which is more than twice the amount that the report said the area could sustain. This does not count other retail square footage under development such as Comdial, the Dominion

site on Hydraulic, and the Brass, Inc. site on Fifth Street. The two final criteria are the site planning that respects terrain and parks and open space. Many critical environmental resources would be impacted by the project. The 1998 Thomas Jefferson Planning District Study of the Rivanna warned of the impacts of unplanned development. This project ignores the recommendations for protecting the river and instead proposes to pipe stream and level steep slopes for conventional development thereby degrading up stream portions of the Rivanna like the lower portions that are now on the State's dirty water list. In a few years, Albemarle taxpayers will have to find funds to clean up the river. The quality and quantity of the open space in parks are not well defined and do not offset this damage. Instead, they ask that they recommend that the Board of Supervisors follow the Neighborhood principles and expedite the master plan for Route 29 North and focus any community development authority on additional transit service for the corridor.

Ann Mallek stated that she lived in Earlysville and was present representing the Earlysville Area Resident's League. She stated that based on studying more than 50 pages of applications, proffers and staff recommendations, she urged the Commission to deny the approval of this application for North Pointe. This is a rezoning for a town center, but it does not live up to all of the standards of the town center that they would like to see. The County is just beginning to implement this model and it needs to keep these standards high. The developers across the street at the Hollymead Town Center showed cooperation and moderate generosity in the end. They must accept no less form these petitioners. These are our main concerns. The Earlysville Area Resident League members believe that preservation of open space and the rural quality of life are important. One goal of the Neighborhood Model is to create livable communities to draw residents away from the Rural Areas. At 20 percent the single-family housing level in here seems to be too small to provide desirable alternatives to the Rural Area. They hoped that the affordable housing would be much closer to the 15 percent suggested by the staff rather than the 3 percent of the 893 units, which was proposed in this petition. Who will assure that these housing goals are carried out? The proffers do not say. The design fails to create a community because it places the residential areas all at one end of the project rather than throughout. This makes it unfeasible to walk to the stores. To live in this high-density area and still have to drive over one mile to the grocery store defies reason. The site should be redesigned to place the residential units around the commercial areas and be more in accordance with the Comprehensive Plan. The owners repeatedly propose that funds from the CDA be used to supply their infrastructure, which owners should be providing. These funds should be used off the premises to offset the transportation and other demands that this project places on the rest of us. Staff has proposed $110,000 rather than the $25,000 proffer. Much more substantial effort should be required from the owner to pay their way for this project. The owners repeatedly propose turning over parts of the projects such as lakes and public spaces to the County for maintenance. Why are these not the responsibility of the Neighborhood Association or the developer? These spaces are not providing services to County residents at large. The proffers are supposed to help the County and not add to our burden. The amount of commercial and office space, 660,000 square feet added together seems far in excess of what is needed. She asked why they should build more when the County Fiscal Planner says that we will need no more than one million square feet within the next ten years. The math that she read shows between 2 and 3 million square feet is already in the paperwork north and south of town on Route 29. Many of these properties do not require rezoning. There is more severe grading shown than is justified by this design. The owners do not respect the open space areas and infringe on it during construction. Then they say that they cannot make interconnections across the project because they are protecting open space. Again, the design must be changed to respect the critical slopes and open spaces marked by the County on the Open Space Plan. If this land is not suitable for development of this type, then it should not be used. There is no good reason to put land and water resources at risk. Steep slopes, drastic grading and the inherent run-off created by construction should not be allowed to jeopardize the Rivanna River. Lastly, the proffers are qualified with potential changes or reservations "as markets will allow or funded on account receivable basis." She stated that it appears that we, the County residents really do not know what kind of project they were getting or how much money they will receive. This is a moving target and makes the planning process a

mockery and is defensive to the public who tries to study it. Please reject this proposal until complete answers are received, corrections are made and cooperation from the owners is provided.

Mr. Rieley asked if there was anyone else present to speak regarding this application. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Rotgin asked for time for rebuttal. He stated that there was no way that he could accurately rebut all of the comments that were made tonight, although they were prepared they could not do it in five minutes. If during the deliberations of the Commission, if the Commissioners feel that it would be appropriate to ask us questions, then they would be happy to address those. There is not one morsel of what Kay Slaughter said that is fact. The issue of the CDA is extraordinary complication and they were responsible for that being complicated. He asked that the Commission asks him questions asked about that and he would be happy to clear that issue up. The fact is that the proffers that they have offered are far, far in excess of either Hollymead Town Center or Albemarle Place. Rather than get into all of these issues, he asked to just list some positives. They are prepared to address each of the negatives that staff had suggested in the staff report, and again would be happy to entertain questions on those. He stated that there were a couple of positive things and he thanked Ms. Echols for listing them in the staff report. He stated that they were a planned development rather than a piece-mill development. It is reflective of about twenty years of land assimilation. He stated that they do have a mixture of housing types. In addition, they have a mixture of price points. In the central parts of the community they have a mixture of the various types of housing. There has been nothing like this built in Albemarle County. The location of the amenity areas assures that the residents will have opportunities within walking distance. The streets are proposed as urban cross sections with street trees, sidewalks and curbs and gutter. North Pointe Boulevard is a spine road that is parallel to Route 29 north, which is a critical road in addressing the issues of Route 29 traffic congestion. The school site is offered in fee simple as a graded site. Based on the cost of the Baker Butler School it is probably on the neighborhood of two to two and a half million dollars. Yet Al Reasor has told us that there won't be a third of the students in the school that come from North Pointe. The affordable housing is proffered and no one has ever-proffered affordable housing. He pointed out that they did that over a year ago. There are two extremely important pluses. First they have proffered an enormous amount of road improvements. As a result of what they have suggested, and what the University and Hollymead Town Center has agreed to do, Route 29 is going to be six lanes with private funds from South Hollymead to the entrance of Lewis and Clark. The state would not have enough money in the next 25 years to undertake that project, and that is needed now we are told. Finally, as far as the fiscal impact report is concerned, after all costs are taken out, which includes the fire & rescue, the school costs, etc., North Pointe will be a net 3 million dollar positive annually to the County. He asked to sum up by saying that at times during the work sessions several Commissioners said that it was important that North Pointe was treated fairly. While they were the first of the large developments to file for rezoning back in August of 2000, they find themselves last in the cue for approval. Both Hollymead Town Center and Albemarle Place have secured various Planning Commission and Board approvals with exactly the same large store, parking in front layouts of the regional service areas requiring significant grading and spring piping as North Pointe. But neither has offered proffers as significant as those offered by North Pointe. He pointed out that Albemarle Place was approved by the Commission with incomplete proffers and no VDOT agreement for signalization on Route 29 at their entrance. He stated that he hoped that the issue of fairness would remain on the table as they deliberate their application. He asked to make two additional points. One, they do have a power point presentation to answer some of the questions, if the Commission feels it would be appropriate. Secondly, based on the comments that were made tonight, he asked that they be allowed to work with staff over the next two weeks and the County Attorney's Office to finalize the proffers, which was not something that happened with the other two competing projects. He stated that they would be happy to agree to a two-week deferral if the Commission thought that would be appropriate. Again, he hoped given the comments made by the public

tonight, he would hope that they would give them an opportunity to answer questions as they deliberate.

Mr. Rieley stated that they would now close the public hearing and bring the matter back to the Commission for discussion and possible action.

Mr. Thomas stated that he had one question about what the actual zoning was on the entire piece of property.

Ms. Echols stated that a large portion of the property was Rural Areas and the requested zoning was PD-MC with a special use permit for the residential uses.

Mr. Finley stated that there were some critical outstanding issues that included steep slopes, streams and pollution of the river. He asked if the runoff and sediment control measures required during construction would prevent the pollution of the river?

Ms. Echols stated that the stream valley in this area was one of the important ones in this area. She pointed out that this stream rated the highest on the County's stream assessment study. Therefore, staff has concerns about how the amount of development going on through here is going to impact the stream valley. There are mass measures proposed in this area, but it was going to take out a good deal of what is already in this particular area. She pointed out the closeness of the units to the set of critical slopes. She stated that there was not enough space in that area to get any kind of erosion and sediment control measures in before these things start going down the hill. She pointed out that in this particular area it was not very workable. She stated that staff has some questions about this area. In one of the rendition of the plan, this area was pulled up a little bit, which pulled the units off of the critical slopes somewhat, and you can see that those are protection. She noted that there was a potential for the road and site grading that goes on in this area to get down on to these particular slopes. The open space plan suggests that these are significant features that relate to the Rivanna River. She pointed out that these were the critical slopes that staff was most concerned about. There are other critical slopes on here in the shopping center area and other locations. There are some attempts to try to preserve these because there are also some wetlands in this particular area, but staff is mainly concerned in the back because the resources were going to be lost. She pointed out that anywhere there were house sites that there was some critical slope waivers that are needed. The critical slope waiver is not necessary for the utilities or the roads. She stated that staff knows that the grading that was shown on this plan is going to have some significant impacts on these particular areas that are shown in the open space plan, and that was where staff's concern was.

Mr. Finley asked if after construction the slopes would be restored.

Ms. Echols stated that after the slopes have been graded over that the slopes would be reconstructed to a different slope. She pointed out that there were several options that the developer has to redesign the site to more in keeping with the Comprehensive Plan. She stated that one of the positive aspects to this development was that there was a mixture of housing types, but it was sort of the organization of it that staff would like to see redone. She pointed out that having all of the uses concentrated together in one area does not promote the best pedestrian environment.

Mr. Craddock stated that one of the speakers was talking about the developers and the neighbors getting together. He asked if staff knew of any meetings that they have had with the neighborhoods.

Ms. Echols stated that there had been some neighborhood meetings about two years ago.

Mr. Don Wagner stated that they had three meetings with the neighbors. He pointed out that they had asked the neighbors if they wanted to meet again and they said no.

Mr. Craddock stated that another point that was brought up was about public transit. He asked how far out on Route 29 does the public transit go now.

Mr. Benish stated that they have been running the Big Blue Service, which was a morning and evening service that goes up to Paran Church. He noted that it has been kind of tentative as to its viability. He stated that as far as he knew that it was still operating.

Ms. Echols pointed out that the developer has tried to make accommodations for bus service for some point in the future when having eight bus stops throughout the development provided it. The bus stops are actually shown on the plan. Staff feels that it is premature to show the bus stops on the plan and would ask that they be worked out on any plan in the future. Staff would like to recognize the commitment to provide those bus stops through the development, which was something, that staff does not always see.

Mr. Craddock asked when this plan would be reviewed by the ARB?

Ms. Echols stated that as it was proposed now, the ARB would not look at the plan until they get a site plan for something in the development. She stated that the developer has declined to take the plans to the ARB as a rezoning, which was what staff normally sees. The developer would prefer to take the individual site plans as they come in to the ARB so that the ARB would see it at that time.

Mr. Craddock asked if staff had any comments on the use of the CDA to pay for basically the developer's infrastructure?

Ms. Echols stated that the intent of CDA was to allow the developer to do more than he would normally do, but that was not the way that the Board has been looking at the need for a CDA. She stated that based on what the Board has done previously, they would infer that the Board would prefer that the participation in the CDA be for traffic improvements on Route 29.

Mr. Finley asked what was proffered for traffic improvements on Route 29?

Ms. Echols stated that there were a lot of proffers for traffic improvements on Route 29. She stated that most of them would be requirements, but the benefit of noting them down as proffers was so that everybody was clear on what has to be done. She pointed out that this was done with Hollymead Town Center, but she was not sure if it had been done with Albemarle Place yet. She asked that they look at page 34 of the staff report where they could see the transportation proffers. She stated that what they are proffering to do transportation wise, that were things that were necessitated by the development itself, is to add a third lane on Route 29, to signalize at least two entrances, and to deal with the vertical curvature on the opposite side from their development. He pointed out that was something that would have to be worked out with UREF since they have some commitments to some improvements on Route 29 as well. She stated that they were also talking about providing funding for design work for Proffit Road from the intersection of Route 29 up to Worth Crossing and then also some money to pay for either a signal or a roundabout at that particular location. One of the things that they would have to do to get their entrance permit to do the signal and the additional lane work was to close down one cross-over across Route 29 at Cyprus Drive and then build another road.

Mr. Finley asked how does this compare with other projects?

Mr. Benish stated that he might need some help from Mr. Graham since they have worked on this together. He stated that for the Hollymead Town Center the applicant has proffered cash towards the study for the Route 29 improvement. He pointed out that they were talking collectively about multiple applications in the Hollymead Town Center, which was complicated to break it out by each applicant. He stated that they proffered about 2,000 feet of additional lane construction on

Route 29, the construction of a road east to west from Route 29 to Route 606, and the construction of parts of an internal roadway system not dissimilar to this internal roadway system. There are comparable comparisons towards improvements like those proposals. Some of those improvements that the Hollymead Town Center is developing include improvements that arguably would have been requirements of the construction. But, the improvements either fell within a gray enough area that it was beneficial to have them proffered or at least established a clear time frame for their construction or development. He pointed out that those were the key points in terms of Hollymead Town Center. He stated that what has not been done with either development is significant regional improvements that go beyond the immediate areas, but that was what the CDA contributions as Ms. Echols alluded to were to try to address. The Board of Supervisors really wants the CDA approach to address those regional issues or those significant enhancements on the site that are well above what would normally be constructed or developed on site that had some overall larger community benefit. But, by and large those CDA's are seen for those regional improvements.

Ms. Echols stated that on page 38 of the staff report there is an attachment B that shows the proffers. The applicant proffers to apply to the Board of Supervisors for the creation of a CDA for the purpose of issuing tax exempt bonds to fund the construction of certain public improvements both internal and external to North Pointe. The proposed proffer would include but not be limited to improvements to existing public roadways, the installation of public utilities and storm water management facilities, construction of public streets and funds for the construction of other public improvements including but not limited to schools, libraries, police, fire and rescue facilities and encumbers.

Mr. Finley stated that the applicant stated that no other project had proffered affordable housing. He asked if that was correct.

Mr. Benish stated that in terms of proffers he could not say off the top of his head, but they certainly have approved affordable housing projects. Those are projects that were done under Section 8. But in terms of literally proffering a commitment to affordable housing, he could not recall any.

Mr. Finley stated that the Housing Committee was recommending 15 percent, but there has not been any formal action of that committee report yet.

Mr. Benish stated that was correct.

Mr. Thomas asked how much affordable housing has been proffered, and Ms. Echols stated that 3 percent had been proffered.

Ms. Echols pointed out that over the past number of years they have received rezonings where people did not proffer affordable housing and said that they were going to provide it. She noted that has not always panned out that affordable housing was provided. She stated that this was something favorable in this rezoning application that the applicant was proffering affordable housing.

Mr. Craddock asked if 3 percent was 25 units?

Ms. Echols stated that it was low.

Mr. Thomas asked if the applicant would proffer more affordable housing if Mr. White's recommendation would be more than 5 percent. He asked if that was a possibility.

Ms. Echols stated that she did not know. She suggested that he ask the applicant.

Mr. Thomas asked the Chairman to be allowed to ask Mr. Rotgin a question, and Mr. Rieley agreed.

Mr. Thomas stated that the Commission was waiting for Mr. White to give them the amount that they would be recommending for the percentage of affordable housing. He asked Mr. Rotgin if he would consider increasing that percentage?

Mr. Rotgin stated that he was not going to say no, but would point out that the affordable housing issue was a complicated issue because the program needed to be worked out. He stated that they had to find some way for that housing to remain affordable. There is currently no vehicle for doing that. He pointed out that he was a great believer in affordable housing and has supported lots of things for affordable housing. He felt that was something that they need to work with the County about. He stated that negotiating proffers is not at the top of his list, but it was probably a reality. He pointed out that reality would start tomorrow afternoon in the County Attorney's office. He voiced concerns about how to keep affordable housing affordable during resale of the property.

Mr. Thomas asked Mr. Rotgin to give some feedback on the CDA.

Mr. Rotgin stated that they had a problem with the CDA's because they were the ones that created that vehicle in the first place in this community over a year ago. He stated that unfortunately they did not do enough homework on the issue. Several weeks ago they realized that for the County to benefit from the CDA the development needs to be fully developed. The revenue that comes in from the CDA only comes in as development occurs. He pointed out that development was not going to occur tomorrow or the day after tomorrow. The commercial end in North Pointe was probably ten or twenty years. He stated that Hollymead Town Center would probably be about the same, but it might be a little quicker for Albemarle Place. He stated that if you took 600,000 square feet of commercial buildings that would be within the Community Development Authority, that would equate to about $130,000 to $140,000 a year of revenue for the County. But, that revenue is not going to come in for years, and it might be ten to twenty years before that total amount is recognized. He stated that their feeling was that $130,000 to $140,000 would only finance about a million and a half or two million dollars worth of infrastructure improvements by the County. He stated that the County would be much better served if the developer comes in and the private owner says that you know if they could have the tax exempt bonds for the entire infrastructure, then they would up the proffers. He stated that he was not just building a thousand feet of highway on either side of the entrance like Hollymead Town Center has done, but he would go to Proffit Road and 3-lane Route 29 all the way to Lewis and Clarke Drive. The idea is that he did not think that the County is going to benefit from the CDA the way that they have led the County to believe and they thought that the County might benefit. He stated that it was left up to them to try to sell that presentation to staff and that the County might decide that they don't care and just want to control the CDA's. He stated that in that case they would have to take another look at it. He stated that their absolute intent in structuring the Community Development Authority the way they did was that they think that the County is far better off with the CDA structure the way they have proposed it than it would be the way that it has now been implemented. He stated that they felt that the County ought to go back to Hollymead and Albemarle Place and opt to change the way the CDA's are administered there. He stated that it was a complicated issue, but he did know a lot about finances and felt that it was going to work.

Mr. Thomas asked Mr. Rotgin if he would be willing to participate in the CDA and the proffers.

Mr. Rotgin stated that he was not sure that they could superimpose the CDA's that way. He stated that he had a conversation with Bonnie French, who was the McGuire & Woods attorney in Richmond who was the probably the foremost authority on CDA's in the State. He pointed out that Ms. French was very concerned that the way that the CDA's are being styled may not work in the market place. For instance, the County has to re-impose the 25 cents tax rate each year in

the CDA. He noted that Ms. French says that she does not think that was something that can happen. He stated that it was a complicated issue. He stated that they were saying that instead of paying the County $130,000 or $140,000 that they would maybe give them $20,000 in 2005, $40,000 in 2006, $80,000 in 2007 and gradually going up to $130,000 or $140,000 that they would put in a million and a half or two million dollars worth of excess proffers right now. They would do it with roadwork, schools, libraries, Proffit Road and a number of other ways.

Mr. Thomas stated that under the projected time for the building of the highways and the traffic studies, he was saying that they would have a possible ten- to twenty-year build out. He asked if that money would do the infrastructure a lot of good ten years from now even though they were proffering other things.

Mr. Rotgin stated that he was suggesting that it was better for them to do it now. He stated that if they ended up spending two million dollars more on infrastructure improvements today, that he was saying that was worth a whole lot more to the County than $140,000 a year beginning seven or eight years from now.

Mr. Finley stated that under items of concern that item 12 was traffic impacts, which are significant, and the proffers to mitigate the impacts are not fully sufficient. He asked with what they were doing within the development if that in part would mitigate the expected traffic impacts.

Mr. Rotkins stated that there were two aspects of the traffic proffers. The first aspect is internal and the other one is external. From the internal standpoint, the main proffer that they were making was the spine road that starts at Proffit Road and goes all the way to the Lewis and Clarke entrance. He stated that Ms. Echols was correct that the topography in this area is the worst of any place on the site and was challenging. The School Board wanted this site for the Baker Butler Elementary School site first. Then the School Board wanted this other site. He pointed out that they said fine even though they felt that it was not a great location for a school. Then the School Board went to the Highway Department who told them that it would cost two and one-half million dollars to build that roadway to accommodate that school. Then the School Board said that they could not afford that. He stated that the point that he wanted to make was that if this area was developed by itself it would be developed with a private road that cul-de-sacs with no interconnection. He stated that their proffer was that they were going to make the interconnection that the Highway Department and the County wants which will provide the true interconnectivity with the parallel road east of Route 29. He stated that it would be just like Berkmar Drive in the city west of 29 that provides parallel access. He pointed out that staff and VDOT did a terrific job back in November of spreading the 29 North Corridor and coming up with a system of parallel roads, which would take the traffic congestion off of Route 29 as it relates to local people. He pointed out that on the East Side Hollymead Town Center and UREF are doing the same thing. Ultimately, with this spine road there will be a system of parallel in this area of Route 29 similar to Berkmar Drive. He pointed out that Hillsdale Drive Extension is also being considered. The first proffer internally is for this spine road, which is a very expensive road. The second proffer deals with off-site improvements, which includes the Route 29 North improvements. Rather than as other large developers have done that have similar projects by coming in with an intersection and a stoplight and going 1,000 feet this way and 1,000 feet the other way, they have suggested that they be allowed to go to Proffit Road and finish that work all the way to Lewis and Clarke. He noted that was the external proffer. He stated that they could make a real argument that North Pointe is not going to put much traffic on this road. He stated that they have conducted a back test going back to 1986 in front of Seminole Square and they looked at the traffic on Route 29 at that point and what the projected traffic would be in the year 2001 with just background growth and assuming the uses within Seminole Square. He stated that there were 43,000 cars a day on Route 29 in front of Seminole Square in 1986. Assuming no Seminole Square the traffic count would have grown to 58,320. With Seminole Square it was projected to grow to about 83,000. He pointed out that in 2001 there were only 58,000 cars per day on that road, which was less than what was expected with just the background growth. He stated that VDOT grossly understates the amount of capture of people driving by that are already

on the road and grossly understates the amount of internal capture where someone goes to the grocery store and other businesses in the same center. He stated that what they were doing was going to mitigate all of the issues that relate to North Pointe and they were going to solve the problems that are out there now including a serious safety problem with vertical curve.

Mr. Rieley asked if anyone else present would like to speak on North Pointe PD-MC. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and possible action.

Mr. Thomas stated that the applicant has done a good job with the topography that they have had to work with. He stated that it might not be by the Neighborhood Model or conducive to all of the critical slopes, but they will be coming back with a less critical slope after they are flattened down. He stated that with that being said that he would still like to see a little more interconnectivity within the project.

Mr. Craddock stated that he agreed with Mr. Rotgin's suggestion that they defer for two weeks so that some of these issues could be worked out. He asked if the applicant was willing to take a deferral.

Mr. Rieley stated that there were a lot of loose ends. Mr. Rieley stated that on his part it was not the loose ends that he was worried about. He asked first to complement staff on a spectacular job of sorting through a series of complex issues, which included both design issues and practical issues dealing with proffers to grading. He pointed out that staff very fairly listed the positive and negative aspects of this project. He stated that some of the positives ones that he noted as they went through this were the spine road as Mr. Rotgin described were indeed a very positive element for this plan. He stated that they should be designing all of their new projects with multiple connections and multiple ways of getting through it. He stated that this was a good start in that direction. He stated that the proffering of affordable housing he thought was laudable even though he agreed with the point that was explicit in Mr. Craddock's question about three percent that it was not enough. He pointed out that Mr. Rotgin's answer to Mr. Thomas' question on whether it could be raised was not yes, but not no. The proffering of the school site is indeed a very positive move in the right direction and the fact that it was a graded site that changed from the initial submittal. He stated that he was glad that this is a planned project rather than than a piecemeal one. The applicant has made a number of refinements to the plan and many of them have been improvements. This is as Mr. Rotgin very honestly pointed out was essentially the same plan that was rejected by the Planning Commission by a 7 to 0 vote. He stated that his concerns about it have remained fairy consistent through the previous public hearing, four work sessions and now this second public hearing. He stated that it was not as Mr. Rotgin said that they were down to simply a matter of the design form. He pointed out that was not so because it was very much an issue of the quantity of the commercial development and its configuration as well of both the area and in the amount for this particular site. Furthermore, he felt that it was way too much relative to the amount of residential in the area. He noted that Mr. Craig made an excellent point and Mr. Rotgin in the past has made a very compelling case for additional residential opportunities in this area. He stated that he felt that they both were quite right about that because they need not only more housing in this area in general, but they also need more variety. Mr. Craddock was quite right that you don't take much of the development out of the Rural Areas by building townhouses because most of the people that are looking at the Rural Areas as a place to live are not potential customers for townhouses. The form is still a major issue. This is a typical sprawl pattern with a gratuitous town center in the middle, but not adjacent to the housing where one would expect it. He stated that was the biggest disappointment. He pointed out that the positive thing that he said was that this was designed all as one piece. He stated that it does not matter if it is designed as one piece if you end up with a piece-mill design that does not achieve what you can achieve by designing it all as one piece. He stated that they have had four work sessions where some Commissioners have requested a fundamental reordering of this site much along the lines that staff has argued for and these have not been forthcoming in plan after plan. There are other issues relative to the grading and interface with the

natural grades. He noted that he would not go into detail on that, but he did think it was hard to argue that you can't make an interconnection between streets on one part of the site while you can literally flatten acre upon acre at the other end of site. He stated that it would not come as a surprise to anyone that as previous public hearing and work sessions that they have had that he did not think that this should be the basis of a rezoning as it was currently designed and he could not support it.

Mr. Finley pointed out that when Mr. Rieley mentioned the 7:0 vote, which he did not vote no because of the design, but because it had not been communicated and incorporated enough with staff. Regarding the issue of excessive footage, he pointed out that if the market was not going to make money, then the tenants are not going to come here.

Mr. Rieley stated that if that was the basis for zoning changes that they would never turn down a zoning request because everybody thinks that their project is going to make money. He pointed out that this project was many times more valuable as commercial property than it was as Rural Area property. He stated that all they had to do was take the rezoned property to the realtor to turn a profit. He stated that whether or not this area can support the level of commercial developments that they have already approved, on the boards and in the works looks to him that it was about three times what their Fiscal Impact Analysis person has told us.

Mr. Thomas questioned if this property was developed would it be beneficial to the County tax wise. He stated that if the project does not totally develop out then his proffers might be more valuable to the County that way if the back portion does not develop all the way out. He stated that way the County and the State Highway Department would get the third lane and it would not be necessary to have it. He stated that there were a lot of issues that need to be worked out that includes the affordable housing and the interconnectivity. He stated that he agreed with the spine road.

Mr. Finley stated that he agreed with Mr. Craddock that the applicant needed a deferral about two weeks to go down the list of concerns to try to work them out.

Mr. Thomas agreed.

Ms. Echols asked that as the Commission contemplates that with the applicant if they would also get a clarification on the time frame. She pointed out that he has a work session scheduled with the Board of Supervisors on November 5th. The timing for getting these things worked out in advance of that meeting or in advance of the meeting on November 12th was going to be too compressed for staff to be able to work anything out. Even with the two-week delay, that only gives staff one week to be able to sort through everything and that includes their time to resubmit. She pointed out that there was not a lot that staff could do within that time period and get something in writing for the Commission.

Mr. Rieley asked the applicant if they would expand their time frame to give staff an opportunity to work with the applicant to make some changes.

Mr. Craddock suggested that the item be deferred for a month.

Mr. Benish stated that a month would give staff 2 to 3 weeks to do the work.

Mr. Rieley asked Mr. Rotgin if he would request a deferral for a month.

Mr. Rotgin stated that they had tried to secure a December date with the Board, which was not available to them. He pointed out that the only date available was in November. He asked that they stick with the two weeks. He asked that a Commissioner ask him about the retail sales since he could clarify the issue. He felt that it was the most critical question that was before the group.

He stated that it was the commercial that pays for the proffers and not the residential. If the commercial uses are not there, then there is no money to pay for all of the proffers that they have made. The residential lots cannot afford to build that spine road and what is happening on Route 29 North. He stated that Steve Allshouse, the Fiscal Impact Planner, prepared a report two years ago in connection with the Albemarle Place project. At that time Mr. Allshouse said there would be a need for about 2 million square feet of retail space plus or minus. That included a recapture of leakage that there was business in Charlottesville that was going outside of Charlottesville to buy. He stated that he was not sure how it originated. He stated that back in May, as a result of North Pointe, staff asked Steven Allshouse to revisit that issue. He revisited that issue and issued a supplementary report early in the summer. He stated that Mr. Allshouse said that he thought that only a million square feet of commercial space can be supported because he had no way to confirm the leakage. He pointed out that they had some slides that they put up on the board in a previous work session, and they would happy to do that again.

Mr. Rieley stated that so far he had only repeated what he had said in the work session. He asked that he provide them with new information.

Mr. Rotgin stated that he did have new information. He stated that he was at a fiscal impact committee meeting last Wednesday with Mr. Allshouse. He pointed out that Mr. Allshouse confirmed that he was not saying that there is not a need for additional retail as a result of leakage, but what he was saying was that he could not measure it. He pointed out that they had their consultants in the parking lot of the Short Pump Shopping Center last Saturday. There were 32 jurisdictions represented by car decals. Albemarle County had the fifth highest number of cars of any jurisdiction that was in that parking lot. There is an enormous amount of leakage out of this community because we don't have the right stores. He noted that they were not going to put a spade in the ground unless they had a tenant, which was the same for Hollymead Town Center. He stated that there were hundreds of millions of dollars of retail sales that were going outside of this community now that would stay here if they had the stores. That is the reason why they feel there is a need for the commercial space. He pointed out that he had some more information that he could share.

Mr. Rieley stated that three Commissioners have suggested that the applicant take a deferral for a month to continue to work on this, but the applicant has declined that offer.

Mr. Rotgin stated that they would accept one or two weeks. He asked if they could have the next hearing on November 4th that was the day before the Board meeting, which would be a three-week extension.

Ms. Echols pointed out that if they do that then there is no opportunity to provide any information to the Board from the Planning Commission other than their action.

Mr. Rotgin stated that they would probably have two work sessions with the Board and he would accept the fifth as an introductory meeting with whatever information that staff puts together.

Mr. Benish stated that he needed to understand that two weeks is better than no week if they were trying to allow for some time for some improvements. But it just does not allow for a lot of time and it starts to bump up against the protocol to get people information. If that is more desirable than an action tonight, then staff would make the best of that time that is available, but they just want all of the parties to understand that is a limited amount of time to stay with protocol and get things done. He noted that was the main point here, but that they would do their best.

Mr. Rieley stated that they appreciate staff's flexibility. He asked if they wanted to go back to two weeks?

Mr. Craddock stated that if the applicant wants to go back to two weeks and he can do some improvements, then he was in favor of that. But if they were going to get the same thing in two weeks that they got tonight, he would call for a vote and he would vote against it.

Mr. Finley asked if he was saying if the applicant does not produce the information, then staff can not get it to us.

Mr. Craddock stated that was correct. He stated that if the applicant can get the information to staff, but staff does not have adequate review time, then essentially they were looking at the same thing again. He pointed out that he had hoped that there would be enough time that all of the proffers and everything that has been talked about tonight could be looked at and reevaluated. If staff feels that they can't get it done in two weeks, then they will come back with the same thing that they have tonight.

Mr. Finley stated that apparently the applicant feels that they can get it done, but the question is staff time.

Mr. Thomas agreed with Mr. Craddock that if it comes back to the Commission the same way that he would vote against it. He stated that his concern was what happens if it does not get completed and the applicant does not have the opportunity to get all of these changes made. He asked where they would go then.

Mr. Kamptner stated that they could delay it further or send it on to the Board with the risk that the Board is going to look at the application and decide that it is not complete and send it back to the Commission yet again. He pointed out that those were the options.

Mr. Finley asked how the system worked for setting the request for a November Board of Supervisors date. He asked if that was fixed in concrete and can't be changed.

Mr. Benish stated that was the date that the applicant has asked for. This is the applicant's public hearing and this application has been in for a pretty significant amount of time. If he wants his day before the Board, then he felt that was his prerogative to call the questions essentially and have this move forward to the Board of Supervisors. The applicant is offering the two-week delay and it depends on what their expectations are coming out of that two-week delay. He pointed out that his opinion was that if they were expecting any significant change in the plan that it would take much more time to review and to go back and look at the detailed plan changes. If they were looking to come back with perhaps some minor changes, but primarily focusing in on the proffers and getting the proffers in orders and addressing some of the deficiencies that were defined there, then there was a possibility to work that out. He stated that he could guarantee them that they would not be able to give the Commission any information in advance. Staff will come to the meeting with what the status of the plan is at that time. There is really no guarantee that the language will have been completed at that point in time. There is also this timing issue as a function of what your expectations are. If the Commission really hopes that there is going to be more substantive changes, then those substantive changes will really take a lot of work time. Staff normally gives the other agencies with expertise, such as the Engineering Department to look at the drainage issues, a couple weeks to get the plan back with their comments. He noted that they might not be able to resolve those, but they would come back to them with the progress that might be incomplete.

Mr. Finley stated that he was not looking for a redesign.

Mr. Thomas agreed and noted that the interconnectivity was his main concern along with getting the proffers nailed down. He stated that he would like to call the applicant back up for a question. He stated that he was not treating himself fair if he tried to do it in a two-week period. He asked Mr. Rotgin if he would consider extending the time frame for more than two weeks and maybe

move the date with the Board to accommodate the changes that they would like him to make as well as what he wants done also.

Mr. Rotgin stated that they filed this application in August of 2000 and they need to go to the Board this year. He pointed out that they would have liked to have a December date, but it was not available. Conceivably it could come up available. He stated that they could fix the proffers and would start on it tomorrow. As Mr. Benish said, they might not agree on everything, but the proffers will be fixed and you will know what those are. He pointed out that they could address whatever questions the Commission might have. He stated that everybody has their own ideas on what they would like to see things look like. He stated that they have talked to a lot of people and have done a lot of traveling. As far as the basic plan is concerned, it is not going to change much. As far as the slopes and the things that Mark Graham is going to be concerned about, such as the water not going into the river untreated, those sort of things will all be worked out. For the reasons that he has set forth, it would be unfair for everybody to think that the plan is going to be substantially changed. This is what the retailers have told us that the market is. From thirty years of experience, they know what the market is. He stated that the benefits of North Pointe to the community, and Mr. Craddock made a good point about the number of single-family houses, was something that they could talk about. As Ms. Echols said in her staff report, they went back and took single-family houses out and ended up with multi-family houses in order to increase the density because that was what they thought the County desired for that area. He stated that they would fix the proffers in two weeks and some of the nuances, but there would not be a major design change. Also, they will address some of the questions that were brought up tonight.

Mr. Thomas asked if it was necessary for them to discuss any of the things that they had discussed prior so that the plan could be improved.

Mr. Rieley stated that it was appropriate for him to make clear what it was that he hopes comes back in two weeks.

Mr. Thomas stated that he would like to see the space in the CDA is possible and not a redesign, but some additional interconnectivity.

Mr. Craddock asked when the ARB would look at the project.

Ms. Echols stated that the only time the ARB would be looking at this is when the site plans come in, which was the way that by right development works.

Mr. Finley stated that they should look at the grading.

Mr. Craddock asked that they look at increasing the amount of affordable housing.

Mr. Rieley asked if the Commissioners were concerned about number 4, the quantity and quality of parks and open spaces unknown.

Mr. Craddock stated that he would like to see that quantified, but also anything that they could do on that issue.

Mr. Rieley stated that the opportunities for interconnected streets were missed in several places due to the applicant's desired form of conventional development. He asked if that concerned anybody.

Mr. Thomas stated that was part of his concerns with interconnectivity. He asked staff if there was more interconnectivity what would it do to the applicant's part of the design. He asked if they would have to get into more critical slopes.

Ms. Echols stated not necessarily. She stated that it was real hard to speak from this particular design about how to provide more interconnectivity because there are more options. The one that they see that was pretty obvious is this one here. There are some trees in this area that the applicant wants to retain. The standard grading practices that are used around here don't result in trees being saved. The applicant has told us that he has worked that out with his builders, but staff sees that all of the time. Staff sees proffered plans that says there will be no disturbance of areas and the next thing is everything is cut down. They have a lot of difficulty. The only way that they could assure that is if the applicant were to provide the conservation plan, but from staff's perspective they think that this interconnectivity is just not going to work, but to help make more connections in through this area. Staff feels that one side of the site's interconnectivity works well except for pulling it more off of the slopes. Staff is all right with leaving this area alone providing that they could get the minimal disturbance of the wet lands.

Mr. Thomas suggested knocking one of those mixed use building out.

Mr. Rieley stated that # 12 traffic impacts are significant and proffers to mitigate the impacts are not yet fully sufficient. He presumed that was implicit in your motion.

Mr. Finley stated that he was in agreement with what he was talking about because that in itself would mitigate the traffic impact.

Mr. Rieley pointed out that they were talking about the proffers.

Mr. Finley stated that if what they were doing to mitigate could be included in a proffer, then that would be fine.

Mr. Thomas felt that it could be included in a proffer.

Mr. Craddock stated that was all hand in hand with #13. He suggested that the applicant get #12 and #13 straight.

Mr. Rieley asked if there was further discussion on the motion and the second.

Ms. Echols stated that she had heard the Commissioners talking about the housing mix. She asked if they were looking for a different type of housing mix than was currently in this land use table.

Mr. Rieley pointed out that was an important point since Mr. Rotgin had indicated that was an area in which he saw some potential flexibility.

Mr. Finley stated that according to what Mr. Rotgin said that he went to townhouses to get more density and had presumed that was what staff had called for.

Ms. Echols stated that she did not recall that staff had asked him to do that.

Mr. Rieley asked if there was a feeling that this should be a part of this.

Mr. Craddock stated that he would like to know if there was a possibility of getting more single-family homes in there. If the whole idea is to save the rural areas and single-family houses are what go into the rural areas, then that is what you would want to look at.

Mr. Thomas noted that it would lower the density. He asked if they wanted more density.

Mr. Craddock stated that there might be some places in there that single-family houses would be more appropriate than multi-family. He stated that he did not know, but felt it was just something else to take a look at.

Mr. Finley suggested that the applicant take a look at that issue during the two-week deferral.

Mr. Thomas stated that he had one clarification on page 6, in the fourth bullet down, the school proffer is good for approximately five years. If the County does not accept the dedication for a school site, it could alternatively accept it for a park. He asked if that was appropriate to put approximately in there or was that just giving the option of going less or more just in case.

Ms. Echols stated that there was some issues with the proffer itself that they wanted to get clarified as to what the intent is. That is our big issue. Staff would like to have a proffer that would allow them to take it within a certain period of time even though they may not have decided that it was time to build a school. That would be staff's preference. She stated that staff did not know if that was what the applicant intended because it has not been written that way up to this point. Staff would want to make sure that they understand what his intend is and have it written correctly. If it were a requirement of the proffer to be written so that it was within a short time period that they would have to commit to build a school, then they would not be very happy with that proffer. Staff does not anticipate the need for that school to be there except for a longer period of time. The school personnel told us that they thought twenty years. She stated that if they had to commit to build a school, then they ought to have a longer sunset of twenty years. She stated that the idea was that within five years they would have to commit to build a school or take $500,000. But, what the school personnel have also told us was that they don't think that is a reasonable amount of money. She noted that by the time they needed to build the school that is not going to be what it costs to purchase the land.

Mr. Finley asked if staff has talked with the applicant about moving the sunset ahead.

Ms. Echols stated that staff has said that in the last three staff reports. She pointed out that the applicant might be happy with the way it was written now and staff was all right with that, too. The time frame during which they have been able to talk to the applicant about the kinds of changes that he is requesting has been too short. Up until this point, the best that they could do is to respond to what is in front of us because they don't have the time to negotiate in order to get something finished and put in a written form to get out to somebody. She stated that staff needed to get the proffer clarified.

Mr. Thomas agreed that proffer needs to be worked out.

Mr. Craddock agreed with Mr. Thomas.

Mr. Rieley stated that he was going to vote in favor of this motion in support of his colleagues desire to see these issues crystallized. He stated that he did not believe that this plan would come back in a form that he would be able to vote in favor of it. In fact, Mr. Rotgin has as much as said that they are not going to make substantive changes in the plans. Therefore, he did not expect to vote in favor of it.

Mr. Finley made a motion to grant a two-week deferral for North Pointe Development, as requested by the applicant, to allow time for the applicant to work on the outstanding issues.

Mr. Craddock seconded the motion.

Mr. Kamptner clarified that the motion was to defer the special use permit, the rezoning and the critical slope waiver to the October 28th meeting.

Mr. Finley and Mr. Craddock agreed with Mr. Kamptner.

The roll was called.

The motion carried unanimously (4:0). (Loewenstein, Edgerton – Absent)

Mr. Rieley stated that the rezoning, the special use permit and the critical slope waiver have all been deferred until October 28th.

Old Business:

Mr. Rieley stated that he had no idea what one of the speakers, Mr. Trachta, was talking about regarding having neighbors involved in projects. He applauded the applicant for North Pointe for getting in touch with their neighbors early and being available to them. He pointed out that neighborhood descent has never been an issue on this project. Furthermore, he recalled this Commission on at least one-half a dozen occasions deferring projects and sending it back to the developers and telling them to go talk with their neighbors. He asked if there was any other old business. There being none, the meeting proceeded.

New Business:

Mr. Rieley asked if there was any new business. He stated that the Board of Supervisors Meeting Report was next.

Board of Supervisors Meeting Report – October 1:

Mr. Benish summarized the Board of Supervisors actions on the October 1 meeting.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 8:15 p.m. to the October 21, 2003 meeting.

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V. Wayne Cilimberg, Secretary

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