Albemarle County Planning Commission
November 18, 2003

The Albemarle County Planning Commission held a work session on Tuesday, November 18, 2003 at 4:00 p.m., at the County Office Building, Room 235, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Chairman; Rodney Thomas, Vice-Chairman; Jared Loewenstein; Pete Craddock and Bill Edgerton. Absent from the meeting was William Finley. Mr. Craddock arrived at 4:50 p.m.

Other officials present were Susan Thomas, Senior Planner; Wayne Cilimberg, Director of Planning & Community Development; David Benish, Chief of Planning & Community Development; Elaine Echols, Principal Planner and Lee Catlin, Facilitator. Mr. Cilimberg arrived at 4:26 p.m. Ms. Echols arrived at 4:30 p.m.

Mr. Rieley called the meeting to order at 4:05 p.m. and established a quorum. He stated that the meeting would begin with the work session on the Crozet Master Plan Facilitated Session.

4:00 P.M. MEETING ROOM # 235 WORK SESSION

Crozet Master Plan Facilitated Session - CPA 2003-04 Crozet Master Plan - The Planning Commission will begin its consideration of the proposed Crozet Master Plan by holding a facilitated work session to review and discuss Section I of the Plan, for adoption as part of the Comprehensive Plan, Land Use Plan. Section I, also referred to as the Community Guide, and includes a broad overview of the planning process, context, recommendations by geographic sectors and function, and priorities for implementation. (Susan Thomas)

Ms. Thomas stated that this work session was the first of a series of facilitated work sessions in which potential changes to the Crozet Master Plan would be discussed and considered. During their previous informational meetings, the Commission focused on understanding the Plan and agreed to hold editorial comments until we were ready for a more structured format. Lee Catlin will be assisting us a facilitator for these sessions. Staff has provided a cover memo to the Commission that came with the packet. During their last discussion, staff suggested that with revisions, Section I of the Master Plan – called the Community Guide – could be adopted as the updated Community Profile, a component of the Land Use Plan that addresses Crozet specifically. (Each of the Development Areas has its own Community Profile.) Section I provides a broad overview of the planning process, context, recommendations by geographic sectors and function, and priorities of implementation. In the editing process, however, staff realized that the Community Profile may be easier to use if it also includes two additional, shorter sections, one addressing implementation strategies in detail, and one containing the design guidelines for development. Section I was intended to be more of an overview and adding all of the materials in that section would be very confusing. Since there are going to be many kinds of people using this document, staff feels that they need to include different types of levels of detail. Therefore, they should stick with the three sections, which will most likely be condensed from the original plan. She suggested using an ascending order of details for clarity. The original product from the consultant could be modified and what gets adopted into the Comprehensive Plan would be the official version. Staff does feel that pulling everything into section I might not be the clearest way. The Commission would focus on Section I at this meeting and on the other two sections at subsequent meetings. She stated that whatever version got adopted into the Comp Plan would be the official version. She emphasized that the entire plan would be referenced in the Comp Plan so that if somebody wanted to see what the original full study was could always go to this. She stated that it was kind of like the Neighborhood Model. She stated that she believed that they adopted Volume One as part of the Comprehensive Plan referencing Volumes Two and Three, and that seems to have worked quite well. She stated that the Commission would be making editorial changes to everything that was being adopted into the Comp Plan as they go through it. She noted that staff would then go back and adjust the master plan final report or the actual study to jive with whatever you change in the Comp Plan. She noted that they did not want something

in the Comp Plan and then something else here, but they would want to bring them into alignment. She felt that there might still be some detail here that might not be completely absorbed into the Comprehensive Plan. This is the original produce from the consultant, but this document would certainly be modified by staff, the Commission and the Board and then what gets adopted into the Comp Plan would be the officially version.

Mr. Rieley stated that he had a question about staff going back and revising the original report. There are some areas that may be at some risk, which are substantive issues. Many of the changes staff suggested in the language, clarifications or stylistic changes which he applauded. He wondered if those changes need to be taken back and restated in what the consultants said before.

Ms. Thomas stated that the question was whether something would be lost by not retaining the original form. She stated that they could always keep a copy of the original report on the shelve. She asked if there was value in having something that hangs together, which it was intended to do here and then make the change for the Comp Plan. Mr. Benish raised the question previously. For instance, she reordered the priorities for downtown east and west here.

Mr. Rieley stated that was in the substantive category.

Ms. Thomas agreed and asked if they wanted to make that change here so that they did not have things at odds.

Mr. Benish suggested that it was may be something that they need to figure out once they see how substantive the changes are because there is no wrong answer. They could have the document stand on its own with the Commission acting on substantive changes or they could try to keep them stylistically correct.

Mr. Rieley noted that he did not have the answer.

Mr. Edgerton stated that along those lines that he noticed that the chart did not make it into this document at all. He stated that if they come up with a new document that they need to be consistent. He suggested that they make a decision about this to avoid confusion.

Mr. Loewenstein stated that if there are substantive changes that will be part of the discussion, then he did not know how good he felt about altering the content of the original consultant's report. At some point they want to be able to say that this is the record of what the consultant's suggested. He stated that he was worried about a distinction here, but he was also worried about those cases where the changes were going to be substantive that he had to back and grapple with that a little bit.

Ms. Thomas stated that staff started to include the chart, but then she decided to find out if the Commission liked the reprioritization first and then she would reorganize the charts. She noted that the chart was very useful.

Ms. Lee Catlin, facilitator, stated that the first issue that they had discussed off of their list was the whole issue of congruency. She stated that issue was not something that they have to decide right now. But, it was something that they need to be conscious of as they go through this material. It was the issue of how much they do or do not need to make these two documents match in order to accomplish what they want it to. She stated that the Commission needs to stop at about 5:45 p.m. for dinner before their regular meeting at 6:00 p.m. The purpose and the outcome of the work session have been talked about and are very clear to us. She noted that this was very similar to what they had previously done with the Neighborhood Model. It was about taking a consultant's report and language and shaping and crafting it into something that is going to be in Comp Plan language and become a part of the Comp Plan as the Crozet Community Profile. She stated that they would try to do something along the same lines and use the same

process as before. She pointed to the flip chart and pointed out that the facilitator's best friend was the parking lot, which was where they would list unresolved issues. She asked that they realize that as they go through this that they may very well come upon some issues that they were not able to resolve today and would take too much time. Or there may be something that comes to mind as they were talking that was further on in the document and it was not relevant to what was right before them. She stated that they want to make sure that they capture all of that and that they work through that, but that they try to stay in a logical sequence moving through the document as they can. Therefore, they would be taking notes of things that come up that seem to be important or something that they need to spend some time on, but might not fit in the flow of the things that they are doing as they move through. Having said all of that and if there are not questions on how they were going to do this, then they would move forward. In the cover memo it stated that in the beginning of this document the first several sections are fairly introductory, historical and kind of processing in nature and did not feel like there was a whole lot of critical substance in there that they really needed to go through. She stated that they had asked if the Commission had minor changes, editing, or worksmithing in that section, that they let staff know about that in advance. She stated that the way they would work through the document was that she would say here is the section and this is what it is about and you see the changes before you that staff has suggested. She stated that if somebody has something, then let's talk about it. But if they don't, then they will assume that section is all right and then they would move on. She suggested that they start with Crozet Community Guide. She asked if there were anything that any Commissioner would like to react to.
She stated that there were no changes suggested until they got to Section E. Context for Place-Making Strategy.

The Planning Commission went through the document page by page and made comments and suggestions for changes.

Ms. Catlin stated that they had discussed everything in the Community Guide portion. She summarized the changes proposed by the Planning Commission as follows:

1. In Section D, incorporate some mention of Claudius Crozet in the history.
2. In Section E, the title was changed to Context.
3. The first sentence in Section E was changed to read, "This Master Plan Report is intended to build upon the Crozet community's identity, which embodies a collection of a unique places that vary in character and intensity of development ranging from small, almost rural hamlets to more urban neighborhoods and downtown."
4. The chart needs to be reinserted with the reorder of priorities with the suggested change by Ms. Thomas to change the last column from low priority to long term or future.
5. The Anhold study needs to be referenced more in the list on the bottom of page 5 and on several places on page 6 or cite it somehow before hand. The Crozet Parking Study should be referenced in the same way.
6. Under Crozet West, the introductory paragraph should be changed to read, "The development in the area west of Crozet Avenue should emphasize neighborhood related road creation and other improvements. Specific recommendations and tasks include the following:
7. On # 5 of the reorder of priority list, include some language about the capacity and make it clear that this would not apply to improvements related to safety within the existing capacity. A suggestion as made to add, "this does not apply to site distance and safety improvements." Another suggestion was to discourage improvements intended to increase capacity. Insert the word Road to Change # 5 to read of One Half-Mile Branch Road.
8. Under Crozet – East's priority list recognize that item # 1 be left as it was, but depending on Board action it might need some adjustment.
9. Regarding item # 2, take out Lickinghole Creek Bridge and create a new item # 3 that says construct Lickinghole Creek Bridge on a time line appropriate to demand. Then old item # 3 would then become item # 4 and instead of saying explore say construct the crossing. Item # 6 should be changed from "explore" to "construct" crossing.

10. On page 8 regarding the development area boundary decision, it should recognized that this group has taken action on that and should it be deleted from the plan because of that and that the Board still needs to make a decision. Depending on what the Board decides there, the Commission would revisit whether this was still an appropriate to have in this master plan. It was noted that this issue may become moot depending on what the Board does. The condition would be left in knowing that they would take another look at that issue.
11. On page 9 under Water number a) should be taken out and note that there is no cold water fishery in Crozet.
12. On page 10 under Business Community Recommendations the first sentence should be changed to read, " . . . the developments outlined within the Master Plan as part of the new development in Crozet."
13. On the top of page 11 there is a missing title for the three paragraphs. They will work on this section.
14. To deal with the location issue related to Eastern and Western Avenue and Main Street that section needs to be reworded a little bit to say that the proposed location to these and other streets in individual development areas may have to adjust based on timing, road engineering requirements, and other constraints and circumstances.
15. On page 13 under Parks and Recreation either under old # 4 or new # 5 you need to pull out and discuss the elements like squares and greens and so forth that we did not want to lump under parks. These elements are articulated in the Neighborhood Model. Some of those elements need to be pulled out to talk about the fact that they are knitted together broadly under the open space area.
16. Under Neighborhood Development at the bottom of page 13 starting the sentence with, "Building on existing centers . . ." and we discussed including acknowledging and complimenting the existing Neighborhood Centers.
17. On page 14 under Historic District Designations when discussing registering the Downtown and Yanceys Mills area we wanted to make area plural and change to Yancey Mill.
18. On page 15 under Transportation we flipped the primary road recommendations to make Western Avenue the A. and Eastern Avenue the B.
19. On page 16, which is the last page, item # 2 should be titled Bus Transit. At the end of that discussion work in the use of BRT bus transit as a term in that paragraph as it relates to the express bus services that was discussed.

Ms. Catlin asked if she missed anything. She stated that the conversation that they had in the beginning that they don't really need to resolve right now and will become clearer as they work through this is the issue of congruency. She asked if the Comp Plan language need to mirror the consultant's report or does the consultant's report stand as it is and doesn't necessarily have to match what the Comp Plan might be. .

Mr. Rieley stated that virtue in doing that is that it makes it very clear that this is language that is important and it is drawn from a consultant's report, but the order has changed and this is the thing that is the meat of it. He stated that the consultant's report was just something to be used as a background reference like a parking study.

Mr. Edgerton agreed.

Ms. Catlin stated that the feeling at this point is that the consultant's report should stay as is as a reference document and this stands on its own.

In summary, the Planning Commission held the first facilitated work session on the Crozet Master Plan. Lee Catlin facilitated the work session to assist the Commission in their review of Section 1 of the Community Guide. The Planning Commission completed the review of Section 1 and provided proposed changes to the document. Staff will make the changes and bring the proposed document back to the Commission for review. The Commission reached a consensus that the consultant's report would stay as it is as a reference document and the Guide would stand on its

own. The next work sessions were scheduled for December 9th and December 16th in order to finish reviewing the entire document.

The next work session will be on December 9th with another work session on December 16th. Staff is hopeful that they can get through the entire document by this date.

The meeting adjourned at 5:15 p.m. for a dinner break.

The meeting reconvened at 6:00 p.m. for the regular meeting in Room # 241.

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, November 18, 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; Bill Edgerton; Jared Loewenstein; William Finley and Pete Craddock. Mr. Finley arrived at 6:00 p.m.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; David Benish, Chief of Planning & Community Development; Elaine Echols, Principal Planner; Mark Graham, Director of Engineering; Stephen Waller, Senior Planner and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Rieley called the regular meeting to order at 6:05 p.m. and established a quorum.

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 consent agenda.

Consent Agenda:

Approval of 2002 Planning Commission Annual Report:

Mr. Rieley asked if any Commissioner would like to pull this item from the consent agenda for discussion. There being none, he asked for a motion.

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

Mr. Thomas seconded the motion.

The motion carried by a vote of (6:0).

Mr. Rieley stated that there were two deferred items that related to North Pointe, which the Commission has seen a couple times before for public hearings and several work sessions before that. He asked Ms. Echols to present the staff report.

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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, 23 f, 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 OCTOBER 28, 2003 PLANNING COMMISSION MEETING.***

Ms. Echols stated that she would not go through the entire staff report, but would just point out some of the key elements that may be relevant to the Commission's review and ultimate decision. She noted that the Commission has reviewed this proposal several times over the past year. When they last met staff had just received the revised plan and proffers the week before and had not had sufficient time to analyze it. Staff has now analyzed the plan and included a copy in the Commission's staff report. Staff has concluded that there have been two substantive changes, and maybe three. Ms. Echols said that the first change is the added interconnection from the most southern cul-de-sac down to the library area. Staff believes the added interconnection is a positive change. Also, the school proffer has been changed to add a 20-year sunset period as the Commission requested. Ms. Echols said there is more information on open space, but there continues to be a lot of outstanding items related to open space, which needs to be fixed. In staff's estimation, the plan and the proffers still need a substantial amount of work, which are not minor fixes. She pointed out that as late as 4:00 o'clock this afternoon, the applicant was negotiating with VDOT on ways to deal with Leake Road and the four-lane requirement for North Pointe Boulevard. Ms. Echols said she believed some things may have been worked out and others still need work. But, she said all of the items need to be written down so staff can see exactly what is on the table. Ms. Echols said that Mark Graham, our County Engineer, attended the meeting with the applicant and VDOT and he can speak to any of the transportation issues or changes if the Commission was interested in those.

Ms. Echols said that staff recognizes some members of the Planning Commission believe that the plan and most of the items in the proffers are generally okay. In the staff report, staff has identified the items that should be addressed in order for the Board of Supervisors to approve this rezoning and special use permit. There are nine items listed on page 13 of the report and those include all of the items in the attachments C and D. Staff is also recommending conditions for the special use permit for the residential uses if the Planning Commission wants to recommend this full rezoning and special use permit for approval. She pointed out that the Commission and applicant have just received copies of revised conditions that were in the staff report, but have subsequently been wordsmithed. Staff has also recommended adding a fifth condition that relates to the use of grinder pumps. This recommendation is a new condition that the applicant just found out about prior to the meeting. Ms. Echols said she tried to reach the applicant earlier today, but he has been tied up and has not seen the new recommended condition. She stated that the applicant and Commission might need to have some discussion on this proposed condition. Mark Graham, County Engineer can provide information. Ms. Echols said that there is one other item that staff would strongly recommend regardless of whether or not the Commission recommends this for approval. Staff recommends that any approved application plan have a notation that says, "Nothing in this application plan not meeting the minimum requirements of the Albemarle County Code or State Agency shall constitute a waiver of such requirements. The only minimum requirements waived are those expressly waived or modified by the Board of Supervisors under

the noted sections." She said that attention is called to this item because there are a lot of proposed standards on the application plan which do not meet current County or VDOT requirements. Ms Echols said that staff is trying to avoid future confusion over interpretation of approved plans since staff present for the rezoning may not be the same staff members who review the site plan and the subdivision plats. The time element involved in trying to figure out what was approved can sometimes be substantial. It is in the developer's best interest, as well as in the public's best interest, to be clear on what is being approved and what is not approved with this particular rezoning.

Ms. Echols said that staff believes the rezoning in its current form should not be approved. But, staff recognizes that there are members of the Commission who feel like this plan is appropriate and staff wants to assist the Commission in formulating their recommendations to the Board of Supervisors. Therefore, staff is here to answer any questions that the Commission might have.

Ms. Echols noted here that she had skipped over an explanation of the preservation and conservation area map posted on the board. She described the map and explained that the preservation and conservation areas are what staff is recommending as conditions for the residential uses with the special use permit. The areas in yellow represent proposed preservation areas and the areas in orange are proposed conservation areas. Ms. Echols said that staff has repeatedly brought this issue up in staff reports and wanted to reiterate for the applicant that these areas are very important environmentally, ecologically, hydrologically, as well as being shown on the County's Open Space Plan. The applicant is showing storm water facilities in those areas that are going to cause a substantial amount of disturbance. Ms. Echols said that several weeks ago, she and David Hirschman rewalked these areas just to be clear on the location of the preservation and conservation area boundaries. Ms. Echols said that staff drew the boundaries on the map and the lines are quite deliberate and not schematic lines as they are shown on the plan in the staff report. Ms. Echols said that the areas are shown on an exhibit in the staff report, but the broadness of the point of the pen would imply that there was about a 40 or 50 foot section where there is some variability about where the line is. Staff wanted to be very clear on the location of the line and to put it on the plan posted on the board. The preservation areas would allow very, very limited disturbance. She said that the preservation areas do not represent a totally undisturbed area because it is just not possible to have development in this area without doing some minor disturbance. Staff has looked at the plan to see if there are places for storm water facilities outside of the preservation areas and thinks that a minor redesign could take place to ensure that those areas are preserved to the greatest extent possible. The conservation area is a little bit different, she said. A protected perennial stream is located west of the middle entrance for which a 100 foot undisturbed buffer is recommended. Ms. Echols said that the County's Water Resource Manager would like to see that stream buffer with the least amount of disturbance possible rather than having disturbance take place and then going in for replanting. On the eastern side of the street, a 50' stream buffer has been proffered by the applicant on a portion of the stream that is perennial but not currently protected by the Water Protection Ordinance. The way in which the proffer for a stream buffer is written means that the buffer could be destroyed and then replanted, which takes away from the whole point of having a stream buffer. Staff thinks that there is going to be a need for a sewer line that goes in that general vicinity so that there will have to be some disturbance in that area. Staff still wants the least amount of disturbance possible. Staff would not recommend that they totally wipe out the area and then replant it. These items are included in staff's recommendations for the special use permit and also in the recommended changes for the proffers.

Mr. Rieley asked if there were any questions for Ms. Echols or Mr. Graham.

Mr. Edgerton pointed out that the map posted on the board was not the same one that the Commission received in their packets. He asked if the maps should match.

Mr. Rieley pointed out that the stream on the western side was shown differently.

Ms. Echols stated that the map should include more than the stream buffer that was colored and it should include all of the floodplain.

Mr. Edgerton asked which one was staff recommending.

Ms. Echols stated that it was the map that included the floodplain and the stream buffer.

Mr. Edgerton asked if she could tell him what the colors mean on the map.

Ms. Echols stated that the purple represents the slopes that were 25 percent or steeper. The yellow represents single-family detached lots. The orange represents attached units or duplexes. The brown represents townhouses and multi-family. The red represents commercial uses. The blue represents institutional uses. The gray represents the roads and the parking areas.

Mr. Edgerton stated that on page 12 of the staff report at the beginning of the recommended section that she referenced the State Code and case law saying that zoning decisions are to be based on sound zoning principles and then lists the 9 principles. He asked if those 9 principles were part of the State Code.

Mr. Kamptner stated that they were part of the Virginia State Code Section 15.2-2284 and were the factors to be considered during the review of a zoning map amendment.

Mr. Edgerton asked if the entire package was included in the State Code, and Mr. Kamptner stated that it was.

Mr. Thomas asked Mr. Graham to address recommendation #5 that was handed to the Commission as part of the special use permit conditions about the sanitary sewer and the other issue concerning the VDOT discussion.

Mark Graham stated that one of the important things with the sanitary sewer layout is that it is the applicant's idea of how the sewer should be arranged, which has not been totally bought into by the Service Authority. Specifically, the applicant is proposing two sewage pump stations. The Service Authority staff has indicated that they would like to see only one sewage pump station for this entire region that would allow them to abandon the existing Camelot station, which the Service Authority has a lot of problems with. That would probably mean putting a regional station in this area, Mr. Graham said. Instead of a line coming to a station here, (a point shown on the map), he said, the sewer would have to continue down Flat Branch and somehow connect across the North Fork and then run a sewer line down there (to another point shown on the map). Mr. Graham said it is all pretty conceptual at this point and he considered sewer layout to be a site plan issue that would have to be resolved. Mr. Graham pointed out that it does get important with regards to the preservation areas because the applicant may have to run sewer lines through areas where no disturbance is shown now. If the Service Authority requires it, Mr. Graham said he would consider that disturbance necessary to provide sewer service to this area. The Service Authority has very legitimate reasons for wanting to have only one sewage pump station in the area. That is an issue that would have to be resolved at the site plan stage. It would be difficult and impossible to try to resolve that at this point in time.

Mr. Thomas asked Mr. Graham to elaborate on the discussions with VDOT.

Mr. Graham stated that he would try to go down the list of transportation items in the staff report bullet by bullet. The first bullet relates to a four-lane spine road requested by VDOT, which was the primary item of discussion today. What the applicant and VDOT have agreed to is a four-lane road through the commercial area that would be constructed as two-through lanes with two lanes of parallel parking. In the future if it turned out that four lanes were truly needed, then the parallel parking could be removed. A two-lane roadway with two adjacent service drive lanes on each side would be carried through the town center area. The applicant and VDOT also discussed

carrying a four-lane section in the form of two lanes with two lanes of parallel parking on the rest of North Pointe Boulevard going up to Northwest Passage. Mr. Graham pointed out that everyone was not in agreement quite yet on Northwest Passage. Mr. Graham said that VDOT and the applicant talked back and forth quite a bit on the road section for Northwest Passage. The applicant was willing to provide a four-lane section on this road, but felt that he would be so constrained as far as developable area on this piece of property that they would have difficulty providing that four-lane section. Mr. Graham said he and VDOT have an issue with only a two-lane road because a four-lane road may be needed in the future. The only way to know if a four-lane road is needed is with a regional transportation study for this whole Route 29 North Corridor. Mr. Graham said that Hollymead Town Center and Albemarle Place both made significant contributions through proffers to that type of regional transportation study. Currently the Planning District Commission is working on a study that they call the 29H250 Study. The PDC is trying to take those monies that have been proffered so far and the County transportation funds that are available and see if they could expand this study to a regional transportation study. Until that regional transportation study is done, neither VDOT nor the County can say conclusively that a two-lane road is sufficient. He stated that a two-lane road for those sections of road was all that is required to support the applicant's use. The expansion to a four-lane road would be primarily related to a regional transportation improvement versus what is needed to adequately service this site. He said that on Northwest Passage, there is still had an unresolved issue on the timing for its construction. The applicant understands staff's concern and he plans to try to address that, but it has not been worked out at this point in time. VDOT's requirements for a right-turn lane on Route 29, in addition to the third northbound lane, has been worked out. But, staff has not received the approval in writing yet. As a result of the meeting, Mr. Graham said he felt that all of the latter issues had been worked out. Mr. Graham said that discussion was held on the proffers regarding the cross-section sheets. All parties agreed that the dimensions on the cross-section sheets should be dropped, he said. The cross-sections are illustrious for the purpose of showing where sidewalks, trees and the number of lanes and medians would occur. Mr. Graham said that he asked that the applicant not get into the specifics because the County and VDOT had a lot of issues there. For example, the sidewalks were shown as 4 foot, and the County's Design Manual calls for a 5-foot sidewalk. By January of 2005, VDOT is expected to have the 5-foot sidewalk as one of their requirements as well. Therefore, they were definitely heading to 5-foot sidewalks as being a minimum everywhere, Mr. Graham said. The final issue brought up was Leake Road, which was at the southern end of the site. There was a lot of discussion about what type of section should be there. The applicant was currently proposing a two-lane section with a median in the middle. Mr. Graham said that, as he said before, ideally VDOT wants to see four-lanes with the ability to create a four-lane roadway all the way from Lewis and Clark down to Proffit Road. The problem is that Leake Road is a 50-foot private road easement, Mr. Graham said. The applicant really does not have the ability to create the section that staff would like to see there and to do the kind of stream improvements that they think are appropriate with a development. Additionally, there is an issue with the intersection of Leake Road and Proffit Road. What the applicant has proffered right now is $54,200 for the design of road improvements in that area on Proffit Road and the intersection of Leake and Proffit to adequately serve the site plus fit into the future proposed Proffit Road improvements. The applicant has also proffered $150,000 for those future road improvements. What the applicant wants to do though, after the discussions today, is to revise that proffer. Basically the proffers currently do not have any provisions for the road improvements to actually be built. Given that the improvements for Proffit Road are on the six-year plan, these improvements might not be constructed until 2009/2010. Theoretically, the entrance to the development at this location could be built as early as next year if this development gets approved. Therefore, the County and VDOT might end up with a substandard situation. The applicant is looking at revising the proffers in that area so that the applicant would build the roundabout and one westbound lane on Proffit Road to be able to deal with the traffic situation. Mr. Graham stated that he concurred with VDOT that this arrangement would adequately deal with the demands that would occur from this development. He pointed out that was what they had discussed in a nutshell.

Mr. Edgerton asked if he understood correctly that one of the issues with Leake Road was that VDOT was requiring a four-lane road along here.

Mr. Graham stated that the applicant was willing to provide that.

Mr. Edgerton stated that the applicant only has the right-of-way for a two-lane road here.

Mr. Graham stated that there was a limited 50-foot easement there.

Mr. Edgerton stated that basically one of the major accesses to the property would go from a two-lane road to a four-lane road.

Mr. Graham stated that the number of lanes was still an unresolved issue. Ideally VDOT and the County would like to carry the same road section all the way down to Proffit Road. The applicant does not own that property, but he has the rights to it. The other issues that came up, which Mr. Graham noted was an oversight on staff's part, was the timing of when the Leake Road improvements would be done. He pointed out that staff had not addressed that issue earlier. Theoretically, this development could stand without 4- lanes and without the connection to Leake Road. That said, staff does consider the road to be an important connection and provide an important part of the transportation network. The applicant is willing to address that issue, but they have just not worked out all of the details on it.

Mr. Thomas asked Mr. Graham if he said that the applicant has the rights to that adjacent property.

Mr. Graham stated that he did.

Mr. Finley stated that Mr. Graham mentioned a roundabout in the westbound lane of Proffit Road. He asked if the roundabout would be moved east 100 feet.

Mr. Graham stated that the roundabout that the staff report spoke of was a different roundabout, which was proposed at the commercial entrance for the development. That roundabout was a point of discussion today, Mr. Graham said, but he did not think that VDOT got to a real point of saying that it was necessary to move the roundabout. The applicant and VDOT went back and forth, he said. The traffic analysis is showing that the distance is adequate right now and VDOT is obviously very concerned that the roundabout function. Since they have not seen many roundabouts on the ground, VDOT is nervous about what factor of safety is built into it. It was obvious to VDOT, Mr. Graham said, that one of the things that could happen is that the traffic could get backed up from Route 29 into that roundabout. If a backup occurred in the roundabout, VDOT would have to increase the green time for this commercial access road and reduce the green time on Route 29 which could affect the traffic moving up and down Route 29. He pointed out that this issue remains VDOT's primary concern.

Mr. Finley asked about the timing of the traffic study that ultimately determines if the applicant needs to provide more than two-lanes.

Mr. Graham stated he hoped it would be completed next year but that this study was still on the drawing boards. Staff has not gotten authorization from the Board of Supervisors to proceed with the regional traffic study, but Mr. Graham said he hoped to make that request in December. Once the Board gives the approval, then staff could enter into a contract to get this regional transportation study done. He stated that he would admit that it is a very difficult situation for the applicant because we cannot say for sure if they need to provide four lanes or not at this point in time. If a two-lane road were built, it could put VDOT in the position where the regional transportation study was constrained and then our solution would be constrained because they eliminated their opportunity to have that four-lane roadway.

Mr. Rieley thanked Mr. Graham for his presentation. He asked if there were other questions for the staff.

Mr. Finley asked if the handout tonight made any changes.

Ms. Echols stated that the only change made was the restriction on grinder pumps.

Mr. Rieley stated that they have had two public hearings on this item and he did not think there was any legal obligation that they open for another public hearing. He stated that his preference was to open it up as if it were a new application to give the applicant and the public sufficient time as if they were starting from scratch. There being no objections, he opened the public hearing and asked if the applicant would like to address the Commission.

Mr. Chuck Rotgin stated that he had some prepared remarks, but asked to digress for a couple of minutes. He stated that what Mr. Graham conveyed to the Commissioners is what occurred that afternoon, but Mr. Rotgin said he needed to provide some clarification. Mr. Rotgin said that the Northwest Passage Road was the only issue that they left unresolved as far as the four lanes were concerned. He said that there would only be 1,300 cars a day on that road. As a two-lane road, VDOT said that it could handle 10,000 cars. This whole issue of four-lanes versus two-lanes only comes up if some study in the future designates North Pointe Boulevard as the alternate to Route 29. He said they had made a good case on why that just is not going to happen. He pointed out that the road does not go anywhere up here and just stops (pointing to a place on the map). He pointed out that there was nothing down here (pointing to another place on the map) but Hollymead and Forest Lakes and there was no southern connection. He said that his thoughts were that if there ever was a true parallel road it would certainly be up at least this high or maybe more. But at any rate, the important point was that North Pointe Blvd. itself has very little traffic on it relative to the size of the roads that they have proposed. Mr. Rotgin said that he has another challenge, and he would ask the Planning Commission to perhaps discuss this later. He said that there is the contradiction of (the County) wanting them to have neighborhood friendly types of communities with two-lane highways. On the other hand, VDOT is trying to preserve four-lane right-of-ways at some future time to put through traffic through neighborhoods. He pointed out that these two goals were inconsistent and he would ask that the Commission consider that in their deliberations tonight. Mr. Rotgin said that before he began to make his prepared remarks he wanted to digress for another moment. He pointed out that the day following the last North Pointe public hearing; he called the Chairman of the Planning Commission. Mr. Rotgin said he told the Chairman that he (Mr. Rotgin) thought that he (Mr. Rieley) had acted within the purview of the Chair and quite appropriately when he banged the gavel for a five-minute recess after Mr. Rotgin was more persistent than he should have been. Mr. Rotgin said he read the Chairman a note that he carries in his wallet that his father wrote to him when he was a youngster. Mr. Rotgin said the note said, let the coach do the coaching, let the referee do the refereeing, and you do the playing. The Chairman of the Commission was the referee and he would try not to draw any more technical fouls and an apology was appropriate for the Commission. Therefore, Mr. Rotgin offered it.

Mr. Rieley stated that he would like for those comments not to be detracted from Mr. Rotgin's time.

Mr. Rotgin stated that they have reviewed Ms. Echols' staff report in which she has been fair. He said that she has styled the report in the fashion that it does note the changes needed to the plan and describes the staff's continuing concerns with it. It principally describes the issues that still need to be addressed. Mr. Rotgin said that while stating that staff cannot recommend approval, Ms. Echols' report does suggest that if the Commission should desire to recommend approval, a list of conditions should be attached to the action.

Mr. Rotgin said that he would like to talk for a minute about the 12 principles. He said that, on page 9 of the report, Ms. Echols begins to refer to those principles. He stated that he wanted to

state the operative Comprehensive Plan language as it relates to the 12 principles. He quoted, "It is recognized that as individual proposals are considered all of the principles of the Neighborhood Model listed as the general land use standards below may not be equally applicable to any specific proposal. All proposals will need to be considered in a more global context, particularly as they relate to the mix of uses. It is recognized that there are multiple applications to the Neighborhood Model and a balanced rational and reasonable application of those principles is expected." On page 10 of the report, staff states that they have complied with only 3 of the 12 principles being the provisions of sidewalks, clear boundaries with the Rural Areas and a mixture of housing types. Mr. Rotgin said that he respectfully but vehemently disagrees with the staff's opinion and offers the following. With approximately ten and one-half miles of paths and sidewalks interconnecting the community and the furthest north community only a 15-minute walk from the town center, North Pointe certainly has a pedestrian orientation. Therefore, Mr. Rotgin said that he believes the project adheres to a fourth principle. Mr. Rotgin said that the following connections have been made: Forest Lakes, Hollymead and the South Forest Lakes communities, the residential neighborhoods along Proffit Road to the East; the University of Virginia's North Fork Research Park to the West, and a very important possible second interconnection to North Fork via Northside Drive. He said that the incorporation of all of the reasonably achievable interconnections within the residential areas given the need to protect the environmental features; provisions for access easements to three adjacent separately owned parcels; and for emergency access to Pritchett Lane together with the inclusion of the public bus stops are combined to illustrate North Pointe's interconnected streets and transportation networks. Therefore, he submitted adherence to a fifth Neighborhood Model principle. Mr. Rotgin continued that the reservation of more than 40 percent of the residential areas in open space and proffers to dedicate considerable land to the County for greenways and appurtenant access easements, the agreement to embrace the concept of preservation and conservation areas together with the plaza areas of the town center suggests to him that North Pointe has satisfied the park and open space criteria. Therefore, he said, he submits adherence to a sixth principle. Mr. Rotgin continued that with neighborhood recreational areas and clubhouses, the proposed church, library and adjacent plaza, the elementary school and the amphitheater acting as a public gathering point for the residents of North Pointe and the overall community of North Pointe does provide neighborhood centers. Therefore, he said he submits adherence to a seventh principle. Mr. Rotgin said that the roadway designs with on-street parking together with reduced front building setbacks, the use of street trees, landscaping, streetlights, pocket parks and the two-, three- and four-story designs with the mix of uses in the town center all together provides buildings and spaces of human scale. Therefore, he said, he submits adherence to an eighth principle. Parking is provided on both the east and west sides of North Pointe Boulevard behind the town center structures. A number of alleys have been added in the residential sections to allow garages to be accessed from the rear and several buildings have been relocated adjacent to Route 29 with parking to the side and in the rear, he said. Mr. Rotgin stated that he has made a conscientious effort to address the relegated parking criteria. Therefore, he submits that the plan provides at least partial adherence to a ninth principle. Although tied to a Community Development Authority request, which will ultimately be a Board of Supervisors decision, Mr. Rotgin says he believes that North Pointe is the first development of any type in the County that has made a commitment to affordable housing. He pointed out that they were proposing a very expensive proffer that directly addresses North Pointe's adherence to a tenth principle. Mr. Rotgin asserted that the DISC Committee acknowledged that the Neighborhood Model would not apply to areas of Regional Service Uses except the southern portion of the property where the regional services will be located. Mr. Rotgin said that the North Pointe application plan limits the disturbance of critical environmental features of the rolling topography, the critical slopes, the woodlands, the wetlands and both intermittent and perennial streambeds in the northern part of the property. Staff in the current report has made additional protection recommendations, which Mr. Rotgin says he embraces including the designation of preservation and conservation areas. North Pointe does incorporate site planning that respects terrain, and therefore he submits adherence to an eleventh principle. The twelfth principle relating to redevelopment is not applicable to North Pointe, he said. He pointed out that they have considered all of the twelve principles as envisioned by the Comprehensive Plan. Therefore, he stated that he would argue

"until the cows come home" that they have applied the principles in a "balanced, rational and reasonable manner." Therefore, he said, he has satisfied both the letter and the intent of the Comprehensive Plan requirements.

With respect to the meeting with VDOT that afternoon, Mr. Rotgin pointed out that Mr. Graham did a good job in telling the Commission what they discussed. Mr. Rotgin read two sentences that he had asked VDOT to affirm and both Jim Bryant and Matt Grimes agreed with the following two sentences, "We have reached an understanding as far as external road improvements, mitigation and hopefully have come up with a way to also address the internal transportation issues. The remaining internal issues relate to the number of lanes on a portion of North Pointe Boulevard and on North Pointe Passage."

Mr. Rotgin asked that the Commission comment on its position with respect to their two-lane design versus VDOT's and perhaps staff's desire for four-lanes. Rather than spend time talking about those, he would ask that during the Commission deliberation the Commission ask some questions. Beginning on page 13 of the staff report, Mr. Rotgin said there are sections dealing with conditions that staff has recommended being part of the action by the Planning Commission recommending approval of North Pointe. With respect to the first eight numbered conditions, Mr. Rotgin said he would like for number two to be changed such that he would proffer a range of percentages for each dwelling type as Ms. Echols has suggested in her staff report. Mr. Rotgin said that now that he and his team more fully understand the Community Development Authority financing vehicle, they firmly believe in the way that they have proposed, which results in perhaps two million dollars or more in additional up front proffers. This would be far better for the County than the way they had originally proposed, he said. He added that, as he indicated in the last meeting, that would not be a deal killer. Given that this issue is not resolved, Mr. Rotgin said he does not have a problem with it being a part of any condition attached to a Planning Commission recommendation. He said he would, however, like to very much revisit this issue tonight in response to a question from any Commissioner. Mr. Rotgin said he has reviewed all of the items in Attachment C and is comfortable in saying that he believes that all of them can be resolved relatively quickly. Therefore, he said, he would be agreeable to a Planning Commission recommendation that contained the issues in Attachment C as a condition of approval. He said he thought that staff has previously indicated that a very large number of these are issues related to the format, ones needing clarification for consistency among the various application documents or are technical issues that are either easily resolvable now or during the site plan or subdivision approval process. With respect to staff's recommended conditions that relate to the special use permit application, Mr. Rotgin said that he agrees to both paragraphs 1A and 1B. He said he agreed that paragraph 2 is an issue and prefer that it read that the timing of the construction of Northwest Passage be resolved as a condition of the approval. Based on their discussion with VDOT and Mark Graham earlier today, he said he and his team are agreeable to staff's suggestion in paragraph 3. He said that except in the instance where the roadway was adjacent to a parking lot with parallel parking on the side street and perpendicular parking on the parking lot side, that the sidewalk should be adjacent to the parallel parking with the planting strip and the street trees located between the sidewalk and the curve fronting the perpendicular parking. He said that also, there is a right-of-way issue along Northwest Passage and over the bridge so the street constructed along the middle entrance cannot accommodate street trees adjacent to the curbs. He said he agreed with staff's condition relating to the critical slopes. He stated that he would stop at this point and again offered to answer any questions. He said he encouraged and welcomed any individual questions that the Commissioners may have about the application, particularly those that relate to issues about the demand for retail space and the Community Development Authority concept, which has been discussed in the past.

Mr. Rieley thanked Mr. Rotgin. He stated that they have four people signed up to speak. He stated that they would begin with Susy Pace.

Susy Pace, a lifetime resident of Albemarle County, business owner and property owner, stated that she comes before the Commission with her greatest passion as a mother. She stated that

she was entrenched emotionally and financially in this County because her parents, grandparents and husband all have been lifetime residents. She stated that she loved the County, believes in the County and wants good things for this County. She said she has three daughters in her family with only one daughter living in the County. The other daughter lives in High Pointe, North Carolina and she would love to move back here with her family, but they cannot afford to. For them to move back here and have a house of the same type that they have down there in the same type of community would cost them a minimum of $90,000 to $100,000 more. Their youngest daughter plans to go into youth ministry. She will be a college graduate, but again the cost of living in Albemarle County and her salary will probably not be a match. She noted that this saddens her greatly that her children will be the first generation that will be denied to live here in Albemarle County. She stated that affordable housing seems to be getting further and further out of reach. She felt that part of it was that they don't have enough inventory of housing. She stated that she sees the inventory of housing decreasing year by year by year, which only sends prices up. She stated that she has watched over the past years where the playing field for developers has decreased to a chosen few and she could understand why. She said that when it takes 2 to 4 years to get a community through that there are few people that have the financial ability or the emotional stamina to weather that. We all know that fewer players meant higher prices, she said. She stated that she has watched this work session time and time again. Although she was not a technically minded person, it appears that a lot of discussions end up going in circles and really don't get to any resolution. She said she has also heard that the Planning Commission is requesting less commercial space and less density, but more infrastructure with connecting roads and more proffers, but that does not equal affordable housing. She stated that she was very saddened by this because she loved the community, but she felt that their children should have the right to live in this community also. She stated that many of the Commissioners are lifetime residents and she challenged them tonight to be the impetus for change for clarity and for efficiency for this community so that they don't close the gate to our children.

Mr. Rieley stated that the next speaker was Sam Craig.

Sam Craig, a local homebuilder, stated that he would just like to reiterate what he said at the previous meeting of a month or so ago. He stated that he serves a market and thought that he would represent that market. He said he agrees that we are running short of urban lots, particularly in the northern part of the County. That is an attractive area to residents for many reasons, but there is a vacuum being created very quickly for available lots. He asked that the Commission look favorably upon this project.

Mr. Rieley stated that the next speaker was Liz Palmer.

Liz Palmer, an Albemarle County resident, stated that she was present to speak for the League of Women Voters. The Planning Department has written an exceptional and a complete report concerning the North Pointe Development, she said. In the report several important issues have been raised. The League of Women Voters is particularly concerned with the impacts on the stream valleys, critical slopes and flood plains in the northern most section of the development. After reviewing the Albemarle County Open Space and Critical Resources Plan, the League of Women Voters considers the proposed plan for North Pointe to be seriously out of compliance with the Comprehensive Plan. She continued that the Albemarle County Board of Supervisors adopted the Critical Resource Plan as an amendment to the Comprehensive Plan in 1992. It is referred to in the Comprehensive Plan as the Open Space Plan. It consists as a separate document, which contains the concept map and the open space development areas maps, she said. The Comprehensive Plan states, "The Open Space Plan consolidates all currently available information regarding natural, scenic, historic, agricultural and forestal resources in the County in order to identify the most important areas to protect as open space." The document identifies four major systems of open space that extends across the boundaries of the Rural Areas and the Development Areas. These are major stream valleys, important farm lands, forests, mountains and cultural resources. The Comprehensive Plan goes on to explain, "The development area open space maps are specific map which delineate important open space within the designated

development areas. These are to be used as the primary guide for protection and acquisition of open space within the urban area neighbors, the communities and villages." Dr. Palmer said that the maps identify major and locally important stream valleys and critical slopes. Not all critical slopes and stream valley are identified, but only those that have been investigated and deemed especially important. On the open space development map for the Hollymead and County Mountain Development Areas, the northwest corner along the North Fork of the Rivanna River and the short portion of its tributary, Flat Branch Creek, are clearly marked as major environmentally sensitive areas that should be protected from development. This section of the North Fork Rivanna River is also identified in the Comprehensive Plan as the only future greenway trail on the northern section of the County. It is clear from the Planning Department staff report that this critical area will be devastated by the proposed development. Dr. Palmer said that the League respectfully urges the Planning Commission to deny approval of this development until the developers redesign the project to protect this environmentally valuable and sensitive area. If the Commissioners opt to approve the plan, then the League asks that you defer the vote until the open space plan and the inventory of identified sensitive areas contained therein are reviewed by elected officials in a public hearing. In the public hearing the reasons why this area is not worth protecting must be explained. Then if deemed appropriate by our elected officials, the Comprehensive Plan would have to be amended to accommodate the development at North Pointe.

Mr. Rieley stated that the next speaker was Kay Slaughter.

Kay Slaughter, representing the Southern Environmental Law Center, stated as she had before that they recommend denial of this permit. She said that SELC hopes that the Commission will pay attention to the expertise contained in the staff report not only from the Planning staff, but also from other parts of the County government. She told the Commission that the recommendations from the Planners pointing them to the Comprehensive Plan and the twelve principles of the Neighborhood Model should be guiding new development in the growth areas and that they should be paying attention to those things. She stated that she heard the comments of the developer, but she still believed that the staff report identifies some of the deficiencies of those principles. The County Engineering Department has recognized that the erosion and sediment control measures are not adequate in several areas of the plan. The Water Resource Manager is concerned about the protection of a perennial stream because of its high ecological and hydrologic value. The County's Fiscal Planner has warned about the possibility of over planning for commercial space. Currently, they have over one million square feet planned in Hollymead Town Center and Albemarle Place, not to mention the additional projects that are being planned and built in the City of Charlottesville. Finally, as to the CDA, Ms. Slaughter said that they have read the excellent memos prepared by the County's legal staff and by other legal staff and SELC has done its own research. She said that SELC believes that the staff is very correct in saying that a developer's use of the CDA to help finance costs associated with this development is not appropriate. She said that there is a case on this point and that a CDA should instead help fund infrastructure needs that are resulting from development in the entire district and the proffers do not really address this. Finally, as to the transportation issues, she said she was not sure if anything had been resolved about the contribution to the regional transportation plan. She said that Albemarle Place and Hollymead Town Center are making significant contributions to that study and it does seem appropriate that North Pointe should also make such a contribution if the Commission goes forward with this development. She thanked the Commission for the opportunity to comment.

Mr. Rieley asked if anyone else would like to address this application.

Bob Hauser stated that he was a resident of the County and lived on Darby Road in Keswick. He stated that he was a building contractor and would echo Mr. Craig's comment that there is a shortage of building lots in Albemarle County. He said that there is a horrible affordability issue that is almost completely driven by a lack of supply of lots. He asked that the Commission not approve this plan because he did not really know the plan and he did not have any vested interest

in this particular project. He said he would ask that the Commission be considerate of this project. The market continues to move forward, he said, and builders like himself are seeking lots in Greene, Louisa and Fluvanna Counties. He felt that building in these other places was not in his company's best interest, but that there were literally no other choices to satisfy the existing demand. In addition, he cautioned the Planning Commission and staff from trying to govern the market. Developers make a living trying to satisfy a market and trying to identify risks in turn, he said. Certainly a company like Great Eastern would be able to do that pretty ably. He stated that he did not think it was necessarily staff's capability to identify where the market is and when it will happen because it was a long-term project.

Mr. Rieley asked if there was anyone else who would like to address this application. There being none, he asked if the applicant had a rebuttal.

Mr. Rotgin stated that he could not say that they have a finished site plan. He said he didn't, however, have a plan that shows the overall vision of the development with significant detail that staff can review it to assure that what is being proposed can be carried out through site plan and subdivision approval process. Therefore, he said he believes they do have what the clear language of the Zoning Ordinance requires at the rezoning stage. If the Commission recommends approval subject to the conditions that were previously discussed, there would certainly be sufficient safeguards to assure that the details and outstanding issues raised by staff will either be addressed prior to the Board of Supervisor's action or during the site plan or subdivision approval process. North Pointe is a planned development reflective of twenty plus years of land assimilation that includes the key parcel that provides the important Lewis and Clark connection. He said this type of development was superior to any kind of a piecemeal development. He said he is showing a mixture of housing types and a broad range of price points including that deemed affordable. He said that North Pointe is the only community existing or proposed in the entire region that provides potential residents the opportunity to work, live, play, shop, go to school and raise a family without having to traverse Route 29 North and where grandparents can live within walking distance of children and grandchildren. He said that North Pointe Boulevard, the spine road, represents a unique opportunity to create a parallel road system to Route 29 and conforms with the County's and VDOT's November, 2002 Route 29 Study. The graded site plan for an elementary school is proffered, which will more than mitigate the impacts of the residential units within North Pointe. He said also, a graded branch library pad site is proffered. He asserted that his proffers by comparison are extraordinarily rich. But just as in the cases of Albemarle Place and Hollymead Town Center, it is the contributions from the regional service area and not from the residential sections that pay for these proffers. As confirmed by VDOT's representatives, he said that he has proffered an extraordinary amount of road improvements for the Route 29 North/Proffit Road area, which includes an agreement to relocate an existing Route 29 crossover to align with Northside Drive. VDOT and the County for an additional possible interconnection to the University's Research Park desire that crossover. He said that his proffers together with those of UREF would complete the six-lanes of Route 29 from South of the Hollymead Town Center to the Research Park, which is a project that might not otherwise be completed for twenty years. Finally, as described in the Fiscal Impact Report prepared by Integral Realty Resources, North Pointe should conservatively provide three million dollars per year in net positive revenues to the County after all associated expenses including the expense of school children. As far as contributions to the regional study, he hoped that the Planning Commissioners will keep in mind that the value of their proffers so far exceeds what has been proffered in any other development. It was splitting hairs to say that they have not given money to a regional transportation study. He said that he has proffered some money, but they have taken money and put it where it was needed now and that is on Proffit Road. He stated that he and his team have appreciated very much the cooperation of staff. He thanked the Planning Commission for scheduling the series of work sessions and public hearings that have been ongoing since early summer. As result of this, the project has a better plan, he said. North Pointe may not be the form of development that some may desire, he added. He noted that he believes that with its town center, mix of uses, external and internal interconnectivity, open space and the private sector construction of infrastructure, North Pointe does represent the beginning of

a paradigm shift in development form. Subject to the conditions suggested by staff, they respectfully request that the Commission pass its favorable recommendation on to the Board of Supervisors. Again, he invited questions from individual Planning Commissioners.

Mr. Rieley stated that with that the Commission would close the public hearing and bring the matter back for discussion and possible action. He stated that this might be the reasonable time to raise the question that came up about the open space earlier. He stated that he was struck by the necessity to grade within what had been proposed to be the preservation area designated buffers. He asked to what extent that was typical within a development proposal.

Mr. Graham stated there are certain improvements for which there is absolutely no choice but to be put in those areas. The sanitary sewer would be one such improvement since it has to be at the low point in the development and the low point of the development was where you have the flood plain and the streams. Mr. Graham said that the applicant has no choice short of pumping the sewage everywhere, which would not be acceptable to either staff or the Service Authority. Additionally, staff has indicated that there will be some disturbance in the protected areas, such as for drainage outfalls, or you would end up with are eroded gullies running down though the area that you were trying to protect. There will be some disturbance of the preservation and conservation areas that are a necessary part of the development. Staff has crafted the conditions that allow us to carefully manage that so that the disturbance is kept at the minimum necessary to actually create this development.

Mr. Rieley stated that he understood that and felt that it was very straightforward and very reasonable. He stated that it appears that this proposal would require grading in order to build the buildings and in some cases some of the buildings would actually be in the area that is designated for a preservation area. He asked Mr. Graham if he was comfortable that the conditions that have been proposed would not allow building sites and grading directly associated with those buildings to encroach on those areas.

Mr. Graham stated that was certainly staff's intent. He said that by mentioning things such as the sanitary sewer, the pump stations and the storm drainage, staff was trying to make clear what their intent was as far as the allowed disturbances in those areas of the pads. It was not staff's intent to allow grading for buildings to extend into those areas.

Ms. Echols pointed out that the plan as shown right now, especially with the apartments near Northwest Passage could not be built, with the conditions proposed. Ms. Echols said she believed that during the site plan and subdivision process there will have to be modifications so that the preservation and conservation areas are protected. This application plan would not supercede the conditions of the special use permit, or they are certainly not intended to be superceded. . She referred this issue to the County Attorney. She stated that the applicant would have to show staff on a subdivision or site plan that wherever they are putting their buildings they are well out of those preservation areas.

Mr. Thomas stated that he would prefer that the townhouses and Northwest Passage be moved to the back part of the development away from Rt. 29 and then put less intensive housing in the area near the steep slopes on Northwest Passage, which would help that situation.

Mr. Rieley agreed with Mr. Thomas.

Mr. Thomas stated that the Commission wanted more single-family dwellings to be added and that would be a perfect place for it.

Mr. Graham stated that there was some discussion earlier about the erosion and sediment control measures. He noted that he wanted to make it clear that there was nothing here that is in any way waiving the erosion and sediment control requirements. That is something that staff has no ability to do. Staff can modify the measures that are being used to protect it, but they could not

eliminate the protection. The applicant must comply with the Water Protection Ordinance with the site plan and subdivision plats.

Mr. Thomas stated that it was a recommended condition under the special use permit that no critical slopes will be disturbed at all. He suggested that the intensive housing be moved out of that area.

Mr. Finley asked if the pumping station existed already.

Mr. Graham stated that there was some concern about the ability of the existing pumping station to be able to serve this area in the long run. What the Service Authority would like to do rather than adding a pump station here and there, was to really take a look at the area and see if it was possible to create one sewage pump station to deal with the whole region. That was always the Service Authority's preference.

Mr. Finley asked if that would mean more encroachment on the flood plain area.

Mr. Graham stated that it was conceivable that there would be more encroachment particularly down in the North Fork River flood plain.

Mr. Finley asked if the elimination of the pump station in the long run would justify that.

Mr. Graham stated that he thought that it would be justified provided that adequate care was shown during the construction and that they were not unnecessarily disturbing any valuable natural resources.

Mr. Thomas stated that he had a question for Ms. Echols. He asked to hear some response on the 3 versus the 11 Neighborhood Model principles.

Ms. Echols stated that the Commission and Board of Supervisors have the responsibility of assessing for themselves how closely any development proposal meets the Comprehensive Plan and each of the individual components of the Plan. Staff would say that this proposal is more reflective of conventional development, which would predate the 1996 Land Use Plan. Staff would like to see a higher level of conformity with the Neighborhood Model principles and cannot say that they support the proposal in its present form.

Mr. Finley stated that two of the speakers mentioned that they were running out of land.

Ms. Echols stated that staff concurs with the statements that there is a need in this part of the County for more residential lots inside the development area. Staff said that it had mentioned this situation several months ago which is why staff supports the residential use. She noted that, As staff said at that time, there are ways to design a plan for this area which would both provide commercial land for development as well as a number of residential lots. Staff would agree that strong residential use at this particular location is supported by the Comprehensive Plan. She said that staff believes that the way it is laid out is not in conformity with what we think the Board wanted through the Comprehensive Plan amendments.

Mr. Rieley added a footnote to the comment about the 12 principles and their applicability in the Comprehensive Plan language. A section of the language as adopted into the Comprehensive Plan was previously read about the reasonable and rational application of the standards and that it was not expected that all of the principles would apply equally to a proposal, he said. That wording came out of a DISC II meeting and Mr. Rieley said he actually made the motion that incorporated that language. He pointed out that he would state categorically that this plan is not what he or anybody else on DISC II intended that language to engender. He asked if there were other thoughts.

Mr. Thomas stated that he would like to ask Mr. Rotgin back up to talk about the CDA a little bit. He stated that in a previous meeting he was the one who insisted on the CDA participation just like Albemarle Place and Hollymead. He asked if Mr. Rotgin could give him any feedback on that.

Mr. Rotgin stated that understanding CDA's is a difficult concept, but they are a financing vehicle that was adopted by the legislature in order to encourage public and private participation in the construction of infrastructure needs. Mr. Rotgin said that people first proposed Community Development Authorities about a year and a half ago. It was at a time when there was a question of whether a CDA could be used to pay for infrastructure both internal to and external to a development. He pointed out that Kay Slaughter had mentioned that there was a lawsuit regarding this issue. The issue was decided in the favor of the developer. In that particular case, that developer was not just financing public improvements, but he was financing sidewalks, trees in front of his buildings and so forth. In our case what they were proposing is that a Community Development Authority be formed and the tax-exempt bonds be issued to finance only public improvements and not anything that was private. Mr. Rotgin said that, as he proposes, some of the money will be used on land that is North Pointe. The interest savings that they would achieve as a result of issuing tax exempt bonds are sufficient enough that they could make additional up front proffers to the County of somewhere between two and three million dollars. Mr. Rotgin said that he felt that the County would be better served by allowing him to make those improvements up front rather than the County waiting three, four, five or ten years for the revenue stream to come in from the CDA. The County would control the CDA by imposing an additional tax on the commercial properties. As he said before, that was an issue that they needed to work out with the County Attorney. He pointed out that he did not think that the County Attorney particularly liked CDA's anyway in either respect whether the developer or the County controlled it. He noted that they said that was not the deal killer, but they liked the idea of having that extra money to be able to three-lane Route 29 all the way from Proffit Road to Lewis and Clarke. They would like it to be able to give a padded school site. They would like it to be able to have a library site and to be able to do the work on Proffit Road. He agreed that this was an issue that needs to be talked about. He pointed out that the Pantops Shopping Center was financed with tax exempt bonds in 1984. Seminole Square Shopping Center was financed with tax exempt bonds in 1987. Tax exempt bonds financed the infrastructure, but not the buildings, at the Short Pump Shopping Center in Richmond. That was the lawsuit that Ms. Slaughter was referring to that was decided in the favor of the developer. Mr. Rotgin said that in his heart, he felt that the County would be far better off with using the Community Development Authority in the form that they have presented them. He felt the County would be better off to go back to the Albemarle Place people and the Hollymead Town Center people to do the same thing. He stated that they would find that there would be much more additional roadwork done much quicker than if they waited for the Community Development Authority to achieve a revenue stream from the development whenever and if it might occur. He pointed out that there were also some issues that their bond counsel has told him that make the County's control of the CDA problematic. He said that CDA's may not work without the County guaranteeing the bonds, which the County was not willing to do. He felt that was more complicated, but that was the best that he could do.

Mr. Finley asked about the question of providing four lanes. He asked if they concluded today that they were still planning on two lanes and depending on the transportation study they would make them four lanes.

Mr. Rotgin stated that he concluded that he was in agreement with VDOT and the County up through the point where he can provide enough right-of-way to accomplish four lanes and he will build it so that four lanes could go in. The biggest issue Mr. Rotgin said he has is with Northwest Passage. He stated that he wished that he could have a private session with the Commission in which he could tell them some of the constraints on this piece of property, but perhaps they could read between the lines. This is the critical piece of property that allows for the interconnection of this spine road and the parallel road to Route 29 and the interconnection with Lewis and Clarke. He said that he does not own this property, but has gotten the owner of this property to participate

in this rezoning application and it is important that there be some development opportunity up here. Mr. Rotgin said that Ms. Echols made a good point and he and his team acknowledge this and accept the conservation areas and the preservation areas. He said they know that there is going to have to be some redesign up in this area. He said that his team has already done some redesign in the other area. He stated that there was one other thing that they know and they told VDOT about it today. He said that they have maintained the densities of 893 units, 582,000 square feet of retail, and 80,000 square feet of office space because these are the quantities their traffic study is based on. If they alter the quantities, then they have to have a new traffic study. Mr. Rotgin says that he will never get that kind of density on this piece of property.

Mr. Rieley requested that Mr. Rotgin answer a question. He stated that Mr. Rotgin had said that one of the great advantages to this proposal was building a parallel road to Route 29. But then he spoke about not wanting to preserve that connection with the capacity of a four-lane roadway back out to Route 29 because essentially it could not go anywhere any way and it was essentially a dead-end road. Mr. Rieley asked what the advantage was to the public if this four-lane road goes to that T-intersection and stops.

Mr. Rotgin stated that was a good question. He stated that he indicated earlier that the traffic count on this section of road was only 1,300 vehicles per day. That two-lane highway will carry 10,000 people per day. The traffic will never come from North Pointe. It will never come from Hollymead or Proffit Road. It would only come if some how or other the alignment were continued all the way down across the river, which was not going to happen. He stated that he could make a comparison with Berkmar Drive. He stated that his point was that this connection was a relief valve. This was a local road to keep local people off of Route 29 north and it was not meant to be a cut-through. He pointed out that their traffic engineer was present if the Commission had any questions.

Mr. Rieley asked to clarify Mr. Rotgin's statement. Mr. Rieley stated that essentially what Mr. Rotgin was saying is not that the spine road is a great attribute of this plan, but in fact the connections have almost no impact on Route 29 traffic because the road was only a safety valve.

Mr. Rotgin stated that he did not say that. He stated that he said that it was a local road that would serve not only North Pointe, but also Hollymead, Forest Lakes, and the people along Proffit Road. It would serve as a safety relief. He pointed out that nobody was going to come to Route 29 and take a right on Proffitt to make a left on Leake to come back to Rt. 29 through the development.

Mr. Rieley stated that he had made his point very well. He asked Ms. Echols to clarify another issue that was relative to the late breaking negotiations with VDOT of today. He said that there are a number of concerns relative to transportation under the heading of major unresolved issues in the staff report, even if there were no changes to the design. To what degree are those still outstanding and unresolved issues, he asked her? He stated that it sounded like many of those issues still were unresolved.

Ms. Echols stated that due to the lateness of the negotiations and the fact that that the conversations haven't been put down on paper, we can't be sure of what actually transpired today. She said that staff needs to see what the particulars are and what agreements were worked out. She pointed out that by going down the list, with Mark Graham following along to make sure that she was correct, that the issues could be clarified. The four-lane road seems to have been resolved up to the point of Northwest Passage. It has not been resolved there. Northwest Passage is not proposed to be built prior to the development of 290,000 square feet. Our Engineering Department recommends that the improvements associated with the intersection be completed prior to phases two and three of the residential units being constructed and that issue was still outstanding. VDOT requires a right turn lane on Route 29 North in addition to the third northbound lane and the southbound lane.

Mr. Edgerton stated that he was having trouble following her.

Ms. Echols stated that the list was located on page 5.

Ms. Echols stated that VDOT requires a right turn lane on Route 29 in addition to the third northbound and southbound lane and the application plan shows a continuous lane without an extra right turn lane. She noted that she was not sure where that issue was in the negotiations or what has been resolved in that regard. She said that VDOT previously said that the roundabout at the center entrance needed to be moved east. She noted that VDOT seems to be satisfied with the location of that roundabout and that one can be checked off the list. With regards to the cross sections of the proposed roads, she thought that the applicant, VDOT, and the County had agreed on how to resolve the issue, but she wanted to see that one on paper. She pointed out that she thought that it had all been worked out before, but it hadn't. The proffered money for the regional transportation study was still at $25,000. The urban cross section on the eastern side of Route 29 was still shown as a rural cross section, she noted.

Mr. Finley asked if there would be minutes from the VDOT meeting of today.

Ms. Echols stated that she did not think that there would be minutes because it was just a group discussion. She stated that it was important to make sure that VDOT, the County, and the applicant were all on the same page.

Mr. Edgerton asked if there was any flexibility offered by the applicant on the last line on page 5. That was the statement that 4 out of the 9 streets of the cross section show sidewalks adjacent to the street rather than the street trees between the back of the curb and the sidewalk.

Ms. Echols stated that she thought that Mr. Rotgin stated that he was in agreement to drop those cross sections except on the main road. She pointed out that she was confused about the parallel and perpendicular parking. She understood the idea of the sidewalk being adjacent to the curb where there was parallel parking so that when people get out of their car they are walking immediately onto a sidewalk rather than on a grass planted strip. But when he started talking about perpendicular parking she started getting a little bit lost. She felt that staff might be able to work out how the cross sections should be addressed with the applicant.

Mr. Rieley asked to get staff's perspective again because as he understands it the idea for the four-lane spine road came from VDOT. Mr. Rotgin says that road has value as a relief valve and as a connection to Hollymead and then back out to Route 29, but not as a long-term parallel road relative to Route 29. He stated that he did not have an opinion on this. He asked if staff feels that there is a broader network within which this can fit to give a reasonable basis for requiring a four-lane road throughout. In other words it needs an origin and a destination.

Mr. Cilimberg stated that he was sure that Mr. Graham could add to this. He stated that in the Route 29 north area that the Commission has looked at any project of significance to try to achieve parallel roads that could provide for some of the more local traffic to have the opportunity to access properties without having to get out onto Route 29. A side benefit has also been that those roads where they have been built, such as with Berkmar Drive, serve traffic that would otherwise have gone to Route 29 on a through movement. He felt that it was pretty typical from Rio Road to 29 North for the traffic going in either direction to actually use Berkmar Drive. He noted that the first benefit was to the traffic in that area and to try to move the traffic more locally. Therefore, there is going to be a combination of traffic on the parallel roads. He stated that the reason why the four-lane requirement has not been pinned down yet was because no one knows the level of traffic that is going to ultimately use these various road systems. We won't know, he said, until the transportation study of the general corridor area is done. The same issue was discussed when the Commission was looking at the Hollymead Town Center regarding the whole concept of Ridge Road. The reality of it is that the spine road is not going to be for the people who are on Route 29 and all of a sudden getting off on Proffit Road and taking a left to come

through North Pointe to get back onto Route 29. It is not for that reason. The development has a lot of local destination and origin that the road obviously will serve. But for some people who are making certain trips, there is a potential that they are going to use this section of road instead of Route 29 depending on how they feel that it is going to move them from point A to point B.

Mr. Rieley stated that the question is whether or not this road can at two lanes take greatly more than the 1,300 trips Mr. Rotgin says will be generated by his development. Mr. Rieley pointed out that Mr. Rotgin's number of vehicles that a two-lane road can support was low. He pointed out that Park Street, which was a two-lane road, takes 27,000 vehicle trips per day. He said that now Park Street is choking and taking a lot more than it should. There is a great deal of capacity between what this project is generating and what the roadway itself can accommodate. Mr. Rieley said that the question that is still in his mind is having the four-lane road go as far as it does and then dead end into essentially a two-lane road. He asked if it was gratuitous over-construction for part of the way when the connection back out to Route 29 is so much smaller. The entire roadway would have very little additional traffic because only internal traffic will be added. The big question is what is the risk of approving a plan that has four lanes to a certain point and then bottlenecks down to two lanes before it gets back out to Route 29 and the plan itself restricts it to that. It seems that the plan as it was currently drawn cannot accommodate a four-lane road very easily through that section. He asked if he was wrong about that.

Mr. Cilimberg stated that VDOT is saying the road really should be shown for the potential of four lanes. He asked Mr. Graham if that was correct.

Mr. Graham stated that was absolutely correct. It really is a question of what a future regional transportation plan is going to show is necessary and appropriate on this site, he said. He pointed out that they actually had the same question come up when they looked at Hollymead Town Center. If you look at what happened to Ridge Road, the applicant did something similar to what VDOT has talked about with the commercial areas here. Hollymead Town Center has two traffic lanes with two lanes of parallel parking with the idea that if Ridge Road had a much higher volume than what the traffic study was showing; they could easily do away with the on-street parking and convert it to a four-lane road. VDOT was really trying to push for the same concept here.

Mr. Cilimberg asked to add one thing before they closed the conversation. He stated that they were not going to push for lanes beyond what seems necessary.

Mr. Rieley stated that he understood that because VDOT was talking about the provision for four lanes, not requiring four lanes.

Mr. Cilimberg stated that the provision was what they were talking about. The reality was that they were not trying to reserve four lanes because they just want to build four. He stated that the idea of being able to build four lanes but really having two of those lanes to become parallel parking is a good idea, and he would like to see that the parallel parking could remain.

Mr. Rieley pointed out that was the same as was done on Ridge Road. He asked if they should be discussing another item on the list on page 13 that would relate to provision for a four-lane roadway.

Ms. Echols stated that one thing that was not on this list and that she did not mention in the section about the items that needed to be resolved was the Leake Road intersection. She said it sounded to her like that issue may have been worked out in concept, but she believes there are complexities in how to make everything work together. Therefore, she said, Leake Road is an item, which should be on this list of 1 to 8 if it was not in there. She stated that staff needed to make sure that the Leake Road/ Proffit intersection issue and Leake Road construction issues are well resolved.

Mr. Thomas asked if Mr. Rotgin said that they would be able to four-lane Leake Road. He pointed out that he thought that Mr. Rotgin only had the rights to a 50-foot right-of-way.

Mr. Edgerton stated that he had a right-of-way, but he did not think that he had the right to buy.

Mr. Thomas stated that he would like to ask Mr. Rotgin that question because he felt it was important. He asked Mr. Rotgin if he had the right to purchase the property adjacent to Leake Road in order to be able to four-lane it.

Mr. Rotgin stated that they do not have the right to improve the property adjacent to Leake, but they have been talking with the owners of those properties. He stated that he has made some offers to improve the roadway for the adjacent owners. However, it is important to recognize that at the meeting today, and Mr. Graham can confirm this, they could use Leake Road just the way it is, Mr. Rotgin said. The only time that anyone gets the Highway Department involved is if they need a permit at the intersection of Proffit Road and they want to do an improvement there. Mr. Rotgin said that his traffic engineer just tapped him on the shoulder and said that the $54,200 is not for a study, but it was actually for the design of the improvements that are part of the County's six-year plan for Proffit Road from some point east of the roundabout to Route 29. He noted that they would agree to two things regarding the other proffers. Number 1, he said, the $150,000 was not worded the way it should have been. He stated that they would spend that money to build that roundabout and to fix that third lane now as soon as the design was complete. They also said that if their scheme for the Community Development Authority was accepted by the Board, that they would then agree to use tax exempt funds to build all of Proffit Road between the roundabout and Route 29. That would be subject to an agreement with VDOT to reimburse the CDA beginning in 2009, 2010 or 2011 when the funds for that project become available. So that needed project, which might not otherwise get built until 2009 or 2010, would get built in 2005. He asked to make one other point now and then he would sit down. With respect to the four lanes of the roads, he wanted to know if the Commissioners understand that he has four lanes shown on the North Pointe plan, which was exactly what had been approved for Ridge Road. He pointed out that they have four lanes with parallel parking all the way up to the Northwest Passage. He stated that he was going to take a leap of faith here. He said he would accept the condition that said all of the transportation issues have to be in accordance with VDOT and the County. He stated that they had a good enough discussion with VDOT today that is not a problem for himself or his team.

Mr. Thomas stated that he would like to get back to the discussion about the 12 principles again. In the staff report on page 9, he said the second bullet says that the Neighborhood Model is a guideline. He stated that he thought that was the interpretation of the majority of the people that are even thinking about putting an application into Albemarle County about a project. In the last part of the sentence which is underlined it says that the 12 principles described in the later paragraph will guide a new form and it does not say that all projects have to meet all-12 principles. He pointed out that it was all a matter of interpretation and probably a lot of opinion as to whether the applicant had meet the 12 principles or not. Just sitting here and listening to Mr. Rotgin, Mr. Thomas said he felt that they were close to not actually meeting them but leaning in that direction. He stated that he wanted to make that point that the Neighborhood Model was not the only way of doing anything because the principles area guideline, which was what the Comprehensive Plan says.

Mr. Finley agreed with Mr. Thomas concerning that issue.

Mr. Craddock asked about the affordability of housing. He stated that part of what Mr. Rotgin talked about was having a range of housing mixes. He asked if that would also fall in line with affordability in the range established by the County and if affordable housing would include single-family and townhouses.

Ms. Echols stated that she did not know because that item had not been discussed.

Mr. Craddock stated that everybody comes up and talks about affordability, but when the rubber hits the road nobody builds affordability. He stated that he just wanted to make that point.

Mr. Finley asked if housing other than the proposed affordable housing, which he believed that the applicant proffered at 4 percent, comes within that price range.

Ms. Echols stated that she did not know because they have not gotten into that level of detail. Currently, the applicant has proffered 4 percent contingent upon the Board of Supervisors approving a Community Development Authority. The Board of Supervisors would also have to authorize the money for the tax-exempt bonds for the Community Development Authority to be used for this particular development in this particular way. The "affordability" is not there without a CDA and the CDA as proffered will not ensure that affordable housing is provided. If affordable housing were proffered as a stand-alone proffer, then we would need more details in the proffers about how a program would be administered, she said. Right now the proffer just says that there will be affordable housing, but we don't have a program that would administer an affordable housing program for this particular development. Those details would have to be worked out. She stated that she believed that if they had a proffer for affordable housing without a CDA, staff would work very hard with the County's Housing Director to come up with the program necessary to ensure long-term affordability.

Mr. Edgerton stated for clarification, what he thought she just said was that the 3 percent which was bumped up to 4 percent commitment for affordable housing was proffered, but the proffer was contingent upon the CDA being approved by the Board of Supervisors. If Mr. Rotgin does not get his way with the Board on his structure of the CDA, which is very different from what they have been approving, then there would be no commitment for affordable housing. He asked if that was correct.

Ms. Echols stated that was correct.

Mr. Rieley stated that judging from Mr. Rotgin's comments, the site and the building pad for the library and the school are in the same category.

Ms. Echols stated that not the school, but the library is proffered with a CDA.

Mr. Rieley stated that what they had in front of them for action was really three actions: one for a ZMA, one for a SP for residential uses and a request for critical slope waivers. He stated that the ZMA was the fundamental one and staff has recommended not approving this application and has documented the reasons quite completely in the staff report. He said that staff has also given the Commission a list of concerns and conditions for items that should be resolved prior to action by the Board of Supervisors should they disagree with the staff's recommendation. He stated that his preference since he did not think that they all would come down the same on this and since the Commission's action is advisory to the Board that he would like for the Commission to do both of those things if they could. He stated that he would like for them to vote on whether this should be approved or not. Then whether they approve it or not, he felt that the Commission should give their opinion about the list of items that need to be resolved before this comes before the Board. He felt that was pertinent no matter what their action was tonight.

Mr. Edgerton concurred with his approach.

Mr. Loewenstein stated that he would like to understand exactly what Mr. Rieley meant. He stated that it seemed to him that each Commissioner has declared himself and covered each point he was asking for.

Mr. Rieley suggested that they finalize that conclusion by clarifying the list. He pointed out that Mr. Rotgin has suggested an inclusion of whatever the improvements that VDOT or the County

was recommending to be on the list. Mr. Rieley pointed out that he was glad that Mr. Rotgin volunteered that. He stated that he wanted to make it clear that the applicant must come back to this list no matter what the Commission's action was. He stated that the first action would be on the ZMA application itself.

Mr. Thomas stated that he would like to ask one more question. Under the preservation and conservation areas there are critical slopes and they have been requested to grant a waiver for critical slopes. He pointed out that on page 14 on the SP that it says no critical slopes for building sites shall be disturbed in the preservation area or conservation area described above. He asked if that condition has anything to do with their waiver of the critical slopes that is a part of this application.

Mr. Cilimberg stated that any building sites in the conservation or preservation area would be excluded from the critical slopes waiver and could not be touched.

Mr. Finley stated that the critical slopes waiver is for building sites, but what they got today for sewers, storm water facilities and so forth would still be applicable. He asked if the sewers could go in those areas.

Ms. Echols stated that sewers. Storm water facilities, and so forth might go in preservation or conservation areas, but they would have to constructed in a way as to have the least amount of impact. She said these areas could be used only if they were the only possible place to put the facilities. There are three storm water facilities shown within the preservation area and it is intended that those storm water facilities would be removed from those areas. There might be some protrusion of storm water facilities into the preservation area, but it would not be the entire storm water facility. For the utilities, we all recognize that is not possible to avoid disturbance in some areas, for example for the sewer line, but disturbance would have to be the least amount possible.

Mr. Rieley asked if there were any other questions. He asked if anyone would like to frame a motion.

Mr. Edgerton stated that before he framed a motion he wanted to declare some of the concerns that he continued to have. He recommended that this application be denied. He stated that the staff did a very thorough job for the amount of time they had in the review. He stated that he takes a strong difference of opinion from Mr. Rotgin about meeting 11 of the 12 principles. He stated that he thought that Mr. Rotgin was very creative in his comments about the Neighborhood Model, but he agreed with the Chairman. If anything is about as far from what was intended for the Neighborhood Model to be that he felt it included the interconnectivity issues. Mr. Edgerton said that this has been a problem that he has been concerned about since the beginning of the review in the work sessions. The developer told them that the topography and the watercourses on the property are so severe that interconnectivity is not possible. His response to that is that perhaps they should not approve a plan when the topography and the watercourses prevent them from doing what they know is a good planning vehicle. He stated that he would much prefer to see a plan that would respond to the topography as suggested in the Comprehensive Plan rather than trying to overcome the topography. He felt strongly that staff's recommendation that the developer pay his fair share is appropriate. He said the developer has been asking to be treated fairly since day one and he felt that the same should apply to him to pay his fair share of the regional transportation study. Mr. Edgerton said that Mr. Rotgin has suggested that he should only contribute $25,000 of that. Mr. Edgerton said it should be the $110,000 that has been required of the other major projects in the area. He stated that he had a great deal of difficulty going against the advice of the County Attorney on how a CDA should be appropriately proffered. He stated that he had a great deal of difficulty with the concept of taxpayers' money being used to improve and benefit the developers private projects. There is no question in his mind that even if the money was appropriated for the public good that it benefit this project. The impacts of the streams on this project are immense. He stated that he was delighted that the staff had been able

to identify more specifically than in the previous presentations some of the areas that would be severely damaged. There seems to be a lack of understanding of how important this is from the developer's attempts to address these issues, especially as pointed out by staff that he proposes to destroy a stream area and then providing a buffer by replanting it. He noted that he found that whole concept hard to take. Mr. Edgerton said that one item has not come up this evening, but he would continue to bring it up. Mr. Rotgin is proposing several big box commercial developments, Mr. Edgerton said. Members of the Planning Commission consistently argued that these building footprints should be limited to 70,000 square feet or less. Mr. Edgerton said that the Commission is told that this is not acceptable by the developer. Mr. Edgerton pointed out that the Commission made an exception for Hollymead, but that as he understands it, was because of a previous commitment made by the Board of Supervisors prior to the 70,000 square foot standard. Mr. Edgeton stated that he was concerned about the over saturation of the retail market. One of the concerns that he had was that if the market does become over-saturated, as the County Fiscal Planner has suggested, that there could be a chance of this development emptying out existing retail facilities to the new facilities. He felt that action could have a catastrophic effect on the entire community. Mr. Edgerton said he felt strongly that the developer has not made a demonstrative effort to mitigate the off-site impacts of a project of this scale. Specifically, traffic continues to concern Mr. Edgerton. Affordable housing was a concern in addition to the concern about it being tied to a CDA and the Commission has no reason to believe that is going to be acceptable to the Board of Supervisors. He found it unacceptable that he is only offering to proffer 4 percent of the housing to affordability when the County Housing Committee has recommended a minimum of 15 percent. As far as housing types, he was confused because the Commission hears about the need for single-family urban lots and two of the speakers this evening suggested that they should approve this project just to provide more lots in Albemarle County to keep them having to go to Greene or Louisa. Mr. Rotgin himself at one of the other work sessions pointed out rather directly that they were out of single-family lots in Albemarle County. Mr. Edgerton stated that he was intrigued that so much of this development was not for single-family lots. The most critical areas on the northwest portion of the property probably more appropriately support single-family lots, and yet we are seeing the densest development proposed in the most environmentally sensitive area, he said. For all of these reasons and others as enumerated in the staff report, Mr. Edgerton said he moved to deny ZMA-000-009, North Pointe.

Mr. Finley stated that he had listened to every issue that Mr. Edgerton had brought up and he felt that he was opposed to every one of them. He stated that he agreed with Mr. Thomas concerning the 12 principles of the Neighborhood Model. He stated that regarding interconnectivity that this was a growth area and some attempts have been made to get interconnectivity, but it was impossible because of the topography that had already been mentioned. Mr. Finley stated that the project was in the growth area and was needed for housing. He pointed out that the growth area was supposed to be where the building was done if it could be done in a feasible way. He pointed out that he would have to look at everything that the developer was proffering before he could determine if they were giving their fair share. He stated that he did not know enough about financial matters to pass any judgement on the CDA, but he thought it was something that the Board of Supervisors and County Attorney would work on. He stated that he thought that the Engineering Department would ensure that the stream impacts were addressed as well as the sediment control storm water control and quality control. He pointed out that the County already has some big boxes approved. Regarding the retail market, he felt that if there were those who were going to invest millions into this that they would know something about the market before doing so. With regards to affordable housing, Mr. Finley said he felt that the applicant has come up with 4 percent, which nobody else has done. He stated that if they have an acceptable CDA, then they would agree to go with that. He stated that 3 million dollars into the County would be a sizeable benefit and hopefully they would be able to follow it with a tax decrease. He stated that he supported the request.

Mr. Rieley asked if there was a second to the motion.

Mr. Craddock seconded the motion.

The motion carried by a vote of (4:2). (Thomas, Finley – No)

Mr. Rieley suggested that they return to the issues raised by staff. He directed the question primarily to Mr. Thomas and Mr. Finley since each of them voted against the denial. He asked the degree to which they concurred with the items that staff had laid out under issues that need to be resolved prior to the action by the Board of Supervisors on page 13 of the staff report. He stated that he thought he heard concurrence by Mr. Rotgin on these issues because he said a couple of times that he did not object to these. Then Mr. Rotgin added a ninth issue that was the transportation improvements as per the County and VDOT requirements.

Mr. Finley stated that they had already mentioned that these would be edited based on some of the discussions of today because staff mentioned that some of the items had been met.

Mr. Rieley agreed. He asked Mr. Thomas if he was in agreement with Mr. Finley that the items to be resolved before it goes to the Board of Supervisors were listed on page 13 along with a ninth one. The ninth one included the roadways for transportation improvements including the issue of the four-lane road as per VDOT's and Albemarle County's requirements.

Mr. Thomas stated that he was in agreement.

Mr. Rieley stated that the Planning Commission had a consensus on those issues.

Mr. Kamptner pointed out that within those issues, some of them require some decision by the Planning Commission that includes numbers 2 and 3.

Mr. Rieley stated that his understanding of item 2 was to make that in keeping with the recommendations that they had previously made.

Ms. Echols stated that the applicant said he was going to be proffering a range similar to what staff had put in the staff report for number 2. She pointed out that the Commission had said that there needed to be more single-family detached housing and the Commission really did not talk about how much more was needed. Staff had suggested in the staff report that a range that went from 25 to 40 percent for each category would provide the applicant an opportunity for more flexibility to respond to the market demands.

Mr. Rieley stated that was a good point, but suggested that they modify number 2 to say with recommendations by the staff. He asked Mr. Kamptner about the other item.

Mr. Kamptner stated that was the provision of more affordable housing outside of the CDA. He asked if that was 15 percent.

Mr. Rieley stated that the Commission had talked about the need for a greater percentage of affordable units and he thought that the Commission had arrived at the consensus of 15 percent at previous meetings. He asked if the other Commissioner agreed.

Mr. Finley and Mr. Thomas both pointed out that they had not agreed with that.

Mr. Thomas pointed out that he wrote down 4 percent, but actually liked the 3 percent. He asked staff to explain to him what "outside of the CDA" meant.

Mr. Cilimberg stated that staff was recommending that the applicant provide affordable housing that did not depend on the CDA for it to be provided.

Mr. Thomas asked if that was staff's requirement.

Mr. Cilimberg pointed out that was staff's recommendation.

Ms. Echols stated that she thought that the Commission had recommended that same item two meetings ago as a Commission.

Mr. Edgerton pointed out that was actually in their preliminary notes.

Mr. Rieley stated that he had hoped that they would have unanimity on this list.

Mr. Thomas stated that he would agree to the list.

Mr. Rieley stated that they needed to send as clear a message as they could to the Board should the Board not agree with the Commission's recommendation for denial.

Mr. Thomas pointed out that his intention for voting for this was for the applicant to meet all of the requirements that staff has recommended.

Mr. Rieley asked if they needed to vote on this issue.

Mr. Kamptner suggested that they either take a vote or a consensus so that the Board knows that the majority of the Commission is recommending these changes.

Mr. Rieley asked if someone would like to make a motion to that effect.

Mr. Kamptner asked for a clarification from staff, before the Commission made a motion. Mr. Kamptner asked Ms. Echols if the issues listed on pages 5 and 6 need to be included or if they had been captured on page 13 of the staff report.

Ms. Echols stated that earlier in the evening, she had added the four lanes and the Leake Road issues as items that needed to be resolved. She pointed out that both of those issues would be covered under the transportation improvements as per County and VDOT requirements.

Mr. Rieley stated that those issues would be covered under the new number 9. He stated that they have nine items with one being modified from the Planning Commission to staff and one being added per Mr. Rotgin's suggestion.

Ms. Echols asked that the Commission consider staff's recommendation for a note on the application plan that makes clear that unless it has been expressly waived by the Board of Supervisors that the plan does not depict anything that is being waived.

Mr. Rieley agreed to add this as item 10 and pointed out that the only other modification was to item # 2 to change Planning Commission to staff and adding # 9 regarding the County's transportation improvements.

Mr. Thomas agreed with Mr. Rieley.

Mr. Loewenstein seconded the motion.

The motion carried by a vote of (6:0) to forward the following recommendations to the Board of Supervisors.

Planning Commissioners stated that the Board might still wish to approve this project despite its recommendation. Prior to any approval of this rezoning, the following issues must be resolved. Therefore, these matters need to be addressed prior to consideration by the Board of Supervisors:

1. Resolution of the issues related to open space including provision of standards for trails, locations for trails, identification of who will construct trails and when; links between amenities on the plan and proffers; resolution of the area shown on the plan with the table (as well as all other items related to the open space/greenway plan and proffers identified in Attachment C).
2. Modification of the housing mix in keeping with recommendations by the Planning staff
3. Provision of more affordable housing outside of a CDA.
4. Resolution of the limits of development/grading/stormwater management issues on the application plan.
5. Participation in a CDA similar to Hollymead Town Center and Albemarle Place.
6. Proffer of proportionate share of money for the regional transportation study
7. Correction/resolution of the 42 items listed in Attachment C.
8. Modification of all noted proffers in accordance with staff comments on Attachment D.
9. Provision of transportation improvements as recommended and required by County and VDOT
10. Addition of the following statement to the application plan: "Nothing in this Application Plan not meeting the minimum requirements of the Albemarle County Code or any state agency shall constitute a waiver of such requirements. The only minimum requirements waived are those expressly waived or modified by the Albemarle County Board of Supervisors under Zoning Ordinance §§ 8.2 and 8.5.4."

Regarding Special Use permit - SP-02-072

Mr. Rieley stated that a separate action was needed on SP-02-72, which was to allow residential uses.

Mr. Kamptner stated that any motion for approval of the special use permit would be subject to the ZMA being approved.

Mr. Edgerton moved to recommend denial of the request for SP-02-72, North Pointe for the same reasons that he had previously expressed.

Mr. Craddock seconded the motion.

The motion carried by a vote of (4:2). (Thomas, Finley – No)

Mr. Cilimberg stated that it would be appropriate to get the Commission's feelings about the suggested conditions in case the Board wants to approve the special use permit.

Mr. Rieley suggested that they do that and pointed out that on page 13 there was a list of conditions.

Mr. Cilimberg suggested that the Commission refer to what was handed out tonight by staff because that was the most current version.

Ms. Echols pointed out that she had concluded that the map on the wall was the correct map and not the one contained in the staff report

Mr. Rieley stated that he would give the Commissioners a few minutes to read over the handout that contained the issues since it was slightly different from the ones contained in the staff report. He asked if anyone wanted to make a motion regarding the recommended revised conditions for the special use permit in the event that the Board does not agree with our action.

Mr. Finley moved that the following revised conditions for the special use permit be applied in the event that the Board of Supervisors does not agree with the Commission's action and approves the special use permit.

1 The Preservation Area shown on Exhibit C (on display at the Planning Commission meeting on November 18, 2003), entitled, "Stormwater Management and Stream Conservation Plan" with "Preservation Area", "Conservation Area", and "Streams/River" identified and illustrated by staff for the Planning Commission meeting on November 18, 2003, shall remain undisturbed and shall be protected from development impacts to the satisfaction of the agent; provided, that:

   a. sanitary sewers, including pump stations, and storm drainage outfalls may be placed in the Preservation Area if the agent finds that the location, design, construction, and maintenance of these improvements will have the minimum environmental impact on the Preservation Area yet allow the improvements to adequately serve North Pointe as shown on the Application Plan; or the Albemarle County Service Authority requests that these improvements be placed in the Preservation Area; and
   b. pedestrian paths may be established and maintained in the Preservation Area if the agent finds that the construction, maintenance and use of the paths will have a minimum environmental impact on the Preservation Area."

2 The Conservation Area shown on Exhibit C (on display at the Planning Management and Stream Conservation Plan" with "Preservation Area", "Conservation Area", and "Streams/River" identified and illustrated by staff Commission meeting on November 18, 2003), entitled, "Stormwater for the Planning Commission meeting on November 18, 2003, shall remain undisturbed unless the agent finds that disturbance is necessary in order for a use shown on the Application Plan to be established; provided that:

   a. the disturbance is for the purpose of establishing and maintaining roads, sanitary sewers, storm drainage outfalls, pedestrian paths, and/or stream restoration; and
   b. the agent finds that the construction, maintenance and use of the improvements will have the minimum environmental impact on the Conservation Area necessary for the improvements to be established and maintained, and the long-term impacts are adequately mitigated.
   c. Nothing in Condition 2. shall be construed to obviate the requirements established for stream buffers under Chapter 17 of the Albemarle County Code or shall constitute a waiver of such requirements.

3 No building permit shall be issued for any dwelling unit in Phase 2 or 3 of the residential areas, as shown on Exhibit F, "Development and Road Phasing Plan", dated 10/21/03, included with the application plan, until Northwest Passage and the Rt. 29 improvements associated with Northwest Passage are completed or bonded and under construction.

4 All streets serving residential phases, shown on Exhibit F, "Development and Road Phasing Plan", dated 10/21/03, included with the application plan, shall be constructed with an urban cross-section which includes curb, sidewalk, and street trees between the back of the curb and the sidewalk in accordance with County and VDOT standards. Maintenance of the street trees by a Homeowner's Association shall be ensured through a 3-party agreement between the County, VDOT, and a Homeowner's Association.

5 All houses in the North Pointe development shall connect to the public sanitary sewer without pumping of sewage.

Critical Slopes Waiver:

Mr. Rieley stated that the final action involved a request for a critical slopes waiver.

Mr. Edgerton moved for denial of the critical slopes waivers for the North Pointe development.

Mr. Craddock seconded the motion.

The motion carried by a vote of (4:2). (Thomas, Finley – No)

Mr. Rieley stated that these requests would go to the Board of Supervisors for a work session on December 3rd.

Mr. Loewenstein left the meeting at 8:30 p.m.

The Commission took a ten-minute break at 8:30 p.m.

The meeting reconvened at 8:47 p.m.

Mr. Rieley called the meeting back to order at 8:47 p.m. He Rieley stated that the next public hearing was SP-03-69 University Village (Nextel).

SP-03-69 University Village – Nextel (Sign #56) - Request for special use permit to allow 12 flush-mounted antennas, a radio cabinet and ice bridge to be located on the roof of an existing University Village building in accordance with Section 17.2.2.6 of the Zoning Ordinance which allows for microwave and radio-wave transmission and relay towers in the R-10 Zoning District. The property, described as Tax Map 60B2, Parcel 1, is zoned R-10, Residential and is located at 500 Crestwood Road, within the University Village Development, approximately .5 miles from the intersection of Crestwood and Rt. 601 (Old Ivy Road), in the Jack Jouett Magisterial District. The Comprehensive Plan designates this property as Urban Density in Development Area 7. (Stephen Waller)

Mr. Waller summarized the staff report. The applicant's proposal is for the installation of a personal wireless service facility, which would include an array of twelve 4-foot long, 6-1/2 inch wide, 8-inch deep antennas, on an existing building at the University Village Retirement Condominiums. The antennas would be installed in three separate (3) sectors containing four antennas each. The first two arrays would be flush-mounted on the building's elevator penthouse. The third array would be attached with mounting pipes that would allow them to extend approximately 9 feet above a television booster room at the top of the building. Supporting equipment would be contained within a 7-foot tall equipment shelter that would also be located on the building's roof. Staff has reviewed this request and finds that the applicant's request indicates that all of the proposal antennas would be flush-mounted. However, there is that one sector that is actually shown on the applicant's plans that would not be flush-mounted to the facility and would be allowed to extend above the roof line if approved. Staff recognizes also that there are other sectors of antennas within arrays that have been installed by other service providers through the building permitting process that also extend above the roof line on another section of the building. Photographs of those sectors are provided to basically demonstrate what the visibility of the proposed antennas would be if approved. Staff also recognizes that there is one existing sector on this portion of the building that already extends above the building, which is also identified in the applicant's plans. Staff recommends approval of this request subject to the conditions contained in the staff report. Those conditions include the ones that were

recommended by the Architectural Review Board's Design Planner, which would help mitigate any adverse visual impacts that may arise as the result of the location of these antennas on the roof. Also, staff has included a condition that would require all future arrays of antennas that would be attached to this building for any of the future phases that have been approved through the rezoning process for this facility to be flush-mounted with future requests. This is the first special use permit request for this facility because the other antennas, which belong to three other personal wireless service facilities, was allowed by right with building permits.

Mr. Rieley asked why this request would be different.

Mr. Waller stated that the ordinance allows up to three arrays on a building by right and when you go to the forth array or beyond it requires a special use permit.

Mr. Rieley stated that this array was the only one on this structure where the antennas stick up above the roof. He asked if that was correct.

Mr. Waller stated that this would actually be the second array on this portion of the building where the antennas would stick up above the roof. He pointed out that the existing array was shown in black on the drawing.

Mr. Rieley stated that the existing array does not stick up as much. He pointed out that the array is as tall, but the roof is taller too.

Mr. Waller agreed that the roofline was taller.

Mr. Rieley asked if that array was permitted by right.

Mr. Waller stated that it was actually allowed through a building permit, which he found out from the information that he received from the Assistant Zoning Administrator. He pointed out that only a building permit was required because it was done so many years. He stated that a building permit was issued and they built the facilities, but they never got a certificate of occupancy for the array. Therefore, there has been a certain amount of time that has passed and they have been up there.

Mr. Rieley stated that the ones that were matching were not put in legally.

Mr. Waller stated that he did not think that they were given this level of detail with the building permits when they were installed.

Mr. Cilimberg asked how long ago the antennas were installed that were located on the same tower.

Mr. Waller stated that because the building permits have already been purged, he could not figure out which antennas belonged to which company. There are some antennas on the other portion of the building that were also done with building permits and the building permits are no longer in our building permit files. Therefore, there is no way to tell exactly where each company's arrays are located. That is why staff added the condition that in the future the tower reports, which are required on July 1st of each year, should identify each array and which company owns it.

Mr. Cilimberg stated that it was very probable that some of these antennas that exist were installed before any of these provisions existed in our ordinance.

Mr. Waller pointed out that some of the antennas date back as far as 1992. He pointed out that there were two arrays on one end of the building.

Mr. Cilimberg stated that they would be addressing this because it was the fourth array.

Mr. Rieley asked if the policy requires in a situation like this to have the antennas flush-mounted against the building.

Mr. Waller stated that if it was by right under the Tier One Wireless Policy requirements that are currently in the ordinance, then the antennas would be required to be flush-mounted. He stated that because some of the antennas date back to the mid- and early-nineties there were requirements for flush-mounting because at that time the antennas were allowed to be attached on the existing structure just with the building permits.

Mr. Cilimberg stated that this request was before the Commission now because it was coming through a special use permit that does not require that it be flush-mounted. If the array was to be by right, which means it would be one of the first three arrays and it was not exceeding the top of the building, then it would have to be flush-mounted to stay by right. If they wanted the array to be installed other than flush-mounted, and then it would require a special use permit.

Mr. Waller pointed out that in this case that it would be considered under Tier Three because it would not fall under Tier One or Two.

Mr. Rieley stated that if the guidelines were by right for flush-mounted, then clearly that was the target and the desirable condition, which was fortified even more by the recommended condition that anything from now on be flush-mounted. The question is why don't we insist that these be flush-mounted.

Mr. Waller stated that staff's recommended condition was to give the applicant the option to be flush-mounted or not to be allowed to be any taller than the antennas that are existing.

Mr. Rieley stated that since this was a special use permit, he felt that they could require that they be flush-mounted.

Mr. Cilimberg stated that was correct, but that staff's recommendation came from the ARB recommendation.

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

Valerie Long, Attorney for Nextel Partners, stated that there were several representatives here this evening from Nextel Partners that included Ms. Roland Eubank, the site acquisition specialist, and Ms. Mandy Pruett, the project manager for this site. She stated that they had reviewed the recommended conditions of approval and were agreeable to them. As Mr. Waller described, this is a co-location on an existing structure, which under the County's wireless policy is described as an opportunity site. He is correct that two of the three antenna arrays would be flush-mounted to the building and the third would be mounted on what is called a t.v. booster array. You can see from the highlighted antennas, which are not flush-mounted, that they are attached to the t.v. booster that is shorter than the elevator penthouse that drives the need for those to be mounted slightly higher. They would not be any higher than any of the existing panel antennas and therefore would be equal to that height or lower. As the staff notes in their report, the existing antennas that are there already have very limited visibility from the Entrance Corridor and from adjacent properties. It is expected that that the Nextel Partner's antennas that are proposed would similarly have limited visibility given their small size and scale relative to the size of the building. The Design Planner's comments state, "That the size of the proposed antennas and the equipment cabinet and their distance from the Entrance Corridor is such that the visibility of those items are not expected to be significant and are not expected to have a negative impact on the Entrance Corridor if treated appropriate." Her conditions which have been included in to the staff's recommended conditions are that the antenna panels that are flush-mounted should be painted to match the color of the buildings against which they are mounted. The panels that are

not flush-mounted should be painted in a color that is appropriate to minimize their visibility, which would be coordinated with the Design Planner. Nextel Partners is agreeable to that since they think that is a reasonable approach and they are happy to do that. Similarly the equipment cabinet would be painted to match the color of the other structures on the roof and help it blend in a little bit. As you may have seen in some of the correspondence that she sent with Mr. Waller that the equipment cabinet that is shown on the plans colored in purple is actually taller than it will actually be. They have been working with the property owner and they have asked us to use a slightly shorter cabinet that Nextel has agreed to do. So that cabinet is actually shown as 10 feet tall, but the actual cabinet would be 7 feet tall that will be reflected on the final set of plans. Obviously, this existing structure given its height is a six-story building and its location on top of a hill provides an optimal location for a wireless facility. That is the reason why other carriers have also looked to it. The signals obviously travel farther the higher they are in the air with the antenna panels up above buildings, other structures and trees which block the signal. This site is very effective for a wireless facility and it enables Nextel to extend their service much farther and eliminate the need for other treetop towers or other types of structures. It is part of a carefully designed network of wireless facilities throughout the Charlottesville community for Nextel Partners. In response to some of Mr. Rieley's questions regarding the flush-mounting issue, she pointed out that she could certainly understand his position. She stated that certainly the flush-mounting thing is the ultimate goal and even if this was not the third section antenna, to have a by right antenna they would be required to flush-mount the antennas. They felt that based on staff's comments, the engineers designed the facility as part of this network and the Design Planner and staff did not feel that the existing antennas at their current height were excessively visible or really very visible at all from the Entrance Corridor. They did not think that an additional set of antennas arrays, again treated appropriate with an appropriate color to help them blend in would result in an adverse impact on the community. The Commission certainly retains the discretion to allow some variance because they were talking about a difference in a few feet. The antenna panels were only four feet long on a building that was 60 to 70 feet tall. She felt that this site works very well for a facility and the site is a loaded site since there are a lot of antenna panels there now. She respectfully requested that they recommend approval of the permit with the conditions recommended by the staff, which Nextel Partners was agreeable to.

Mr. Rieley asked if there were any questions for Ms. Long or the technical staff. Since there were none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Thomas pointed out that you could not miss that building because it could be seen from everywhere as far as Ivy.

Mr. Rieley stated that was his concern. He stated that they had to be careful to just take the ARB's view of this because the ARB's charge is to look at these things only from the Entrance Corridor. He noted that this building was really visible from lots and lots of places. He noted that you could see the antennas sticking up above the roof now and they were closer in scale to the top of the roof than the ones that are proposed. He asked if the pictures contained photo simulations.

Mr. Waller stated that they were photographs of the existing building.

Mr. Rieley agreed with Ms. Long that this was an ideal location for these antennas. He stated that he did not have any problems with any of them except the ones that are on the lower building sticking up above. Since the guideline was for flush-mounted panels and the condition was that for any in the future to also be flush-mounted panels, he would suggest that they consider approving this with the condition that all the panels be flush-mounted. He stated that they would have to find a spot like the other ones that are flush-mounted.

Mr. Thomas asked if they would work.

Mr. Edgerton asked if he was suggesting taking down the ones that were already there.

Mr. Rieley stated that he was not, but only suggesting this as it relates to this application. He pointed out that looking out the window at the architecture school you look right at this building and it was really visible. He felt that because of the height of this building, he felt that it made them very visible.

Mr. Edgerton asked if he was suggesting that they approve this with the condition that they can go ahead and put up the new antennas, but they have to be flush-mounted.

Mr. Rieley stated that because of the extreme location of this building that they should have to adhere to the same standards that they were suggesting for the future anyway. He stated that it was a fairly explicit plan. He asked if there was a problem with the Commission approving this with that condition. He stated that he did not want the applicants to have to come back.

Mr. Waller stated that from a RF standpoint they would have to have their engineer take a look at it. He noted that from our side, they were mainly looking at it based on the visual impact any ways.

Mr. Cilimberg stated that staff would have to make sure that the conditions recommended to the Board of Supervisors reflect what if you decide to make them all flush-mounted what you have indicated here. He noted that staff could work on that between now and the Board meeting.

Mr. Waller stated that basically what that would do was just eliminate condition # 2 and then add sector A with Sectors B and C in Section 3 where it talks about how Section B and C would have sectors B and C to be flush-mounted. It would basically eliminate condition # 2 and bring sector A down with sectors A and C.

Mr. Cilimberg stated that since condition # 1 refers to a specific plan that shows these that are not flush-mounted that they might need to address that condition too. He stated that staff could take care of that.

Mr. Rieley stated that he would feel more comfortable with this if all these were the same.

Mr. Finley asked if the main reason he was proposing that was to be consistent.

Mr. Rieley stated that the main reason is that he thought that it was going to be highly visible, but that he also felt that it was important to be consistent. He felt that flush mounting was clearly the preferred way since it was required for by right antennas.

Mr. Kamptner stated that the concern was not only concerned about the flush mounting, but also they were concerned about the height of those four antennas.

Mr. Rieley agreed with Mr. Kamptner and added that the antennas not extend above the height of the building, which he was assuming that it had to be flush and it could not be either out or up. He pointed out that they would be like the others.

Mr. Edgerton asked for some clarification from the applicant in what happens when you make an antenna flush-mounted versus freestanding. He stated that he did not understand the technology about what they were asking. He asked what the difference was in having an antenna freestanding with 360 degrees exposures versus being up against the wall. What happens with those four antennas?

Ms. Long stated that if this was the antenna panel, really only the section that faces the panel that is facing outward is where the signal goes. If the antenna was mounted against the building, the signal would not come from the backside.

Mr. Edgerton stated that the only advantage was the height.

Ms. Long stated that the advantage was the height most certainly. Again, because the portion of the roof structure that this array of antennas would be mounted on is much shorter, the t.v. booster room is much shorter than the elevator penthouse. To flush-mount the panel antennas against the t.v. booster room, they would be at a much lower level. The t.v. booster room does not extend very far above the top of the roofline. So to flush-mount those antennas there is very little separation and it would be difficult for the full span of all four feet of the panel antennas to extend and have visibility for the signal to extend out. They could certainly have their engineers look at that, but certainly the extra few feet in height that was obtained by mounting the antennas as the applicant has proposed makes a tremendous amount of difference in the quality of the signal. The lower you get the more difficult it is and in fact that the t.v. booster room is significantly lower and shorter than the elevator penthouse makes that much more difference. The concept of flush mounting in it or in isolation is not problematic, but the facts specific to the location of where that antenna array would actually be mounted makes it much more challenging.

Mr. Edgerton stated that if you look at drawing D-2 on page 20, it appears that it might be an opportunity to flush-mount these four antenna on the front of the existing elevator.

Ms. Eubanks, with Nextel Partners, stated that there were already antennas on the front of the penthouse that are flush-mounted that belonged to another carrier. They are not shown on the drawings. She pointed out that they would go on the backside of the back view.

Ms. Long pointed out that was a back view.

Mr. Cilimberg asked that they look at page 19 and you can see from the top looking down where the existing antennas are currently existing on the penthouse and where two of the arrays are proposed. There are two existing arrays on two sides of the penthouse and they are proposing two more arrays on the other two sides of the penthouse. Basically the penthouse structure itself will be full of arrays with the two that exist and two of the three that they propose. They would have to find a place to put their third array. He pointed out that on page 28 it showed the existing situation.

Mr. Rieley stated that he did not think they should get too involved on solving where the antennas will go. The main point is that the situation that they will be in relative to finding a location for these flush-mounted antennas is no different than the next applicant, which staff has recommended that all future ones have to be flush-mounted. He stated that from now on all of the antennas have to be flush-mounted. He noted that he was just suggesting that they start with these four as well since they already have two-thirds of them flush-mounted.

Mr. Waller stated that he would like to add condition # 3 that no antenna project out from the pole beyond the minimum and it should be that no antennas that project out from the building.

Mr. Finley moved to recommend approval of SP-03-069, University Village (Nextel) with the proviso that there be twelve flush-mounted antennas with the conditions in the staff report as revised.

Mr. Kamptner restated that the motion was to approve SP-03-069 with the conditions as revised which included that the antennas be flush-mounted and not to allow the antennas to exceed the profile of the existing structure.

Mr. Finley amended his motion as previously stated by Mr. Kamptner.

<u>The facility shall be designed, constructed and maintained as follows:</u>

1. With the exception of any minor changes that would be required in order to comply with the conditions listed herein, the facility including the antennas, and equipment shelter, and all antennas shall be sized, located and built as shown on the concept plan entitled, entitled "Nextel Partners, Inc. (University Village)", dated August 8, 2003.
2. Only antennas that are flush-mounted to the existing elevator penthouse or existing roof features at a lower elevation, and the building's parapet wall shall be permitted in Sector A, Sector B and Sector C. No antennas that project out from the building beyond the minimum required by the support structure, shall be permitted, and, in no case shall the distance between the face of the pole and the faces of the antennas be more than 12 inches.
3. Antennas with attachments that extend above the existing roofline or any other portion of the building to which they are mounted shall be prohibited.
4. The equipment shelter shall not exceed seven (7) feet in height.
5. The equipment shelter, all antennas, and any exposed portions of their mounting devices shall be painted to match the color of the mounting walls. These requirements shall be provided on the plans.
6. The antennas shall not exceed 48 inches in height, 6-1/2 inches in width, and 8 inches in depth. These size specifications stated herein shall be provided on the plans with schematic drawings.
7. No satellite or microwave dishes shall be permitted in this array.
8. No guy wires shall be permitted.
9. No lighting shall be permitted for this the facility, except as herein provided. Outdoor lighting shall be limited to periods of maintenance only. Each outdoor luminaire shall be fully shielded such that all light emitted is projected below a horizontal plane running though the lowest part of the shield or shielding part of the luminaire. For the purposes of this condition, a luminaire is a complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

Prior to the issuance of a building permit, the following requirements shall be met:

10. With the building permit application, the applicant shall submit the final revised set of site plans for construction of the facility. During the application review, Planning staff shall review the revised plans to ensure that all appropriate conditions of the special use permit have been addressed.

After the issuance of a Certificate of Occupancy, the following requirements shall be met:

11. The applicant, or any subsequent owners of the building, shall submit a report to the Zoning Administrator by July 1 of each year. The report shall identify each personal wireless service provider that use the facilities attached to the building, including a drawing indicating which antennas and equipment are associated with each provider.
12. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

Mr. Edgerton seconded the motion.

The motion was approved with a vote of (5:0) (Loewenstein – Absent)

Mr. Rieley stated that this would go to the Board of Supervisors with a recommendation for approval and would be heard on December 3rd.

Old Business:

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

New Business:

Mr. Rieley asked if there was any new business.

Mr. Cilimberg stated that there would not be a Planning Commission next week. He wished everyone a happy Thanksgiving.

Adjournment:

With no further items, the meeting adjourned at 9:23 p.m. to the December 2, 2003 meeting.

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V. Wayne Cilimberg, Secretary

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