Albemarle County Planning Commission
December 16, 2003

The Albemarle County Planning Commission held a work session on Tuesday, December 16, 2003 at 4:00 p.m., at the County Office Building, Room 235, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Chairman; Bill Edgerton; Rodney Thomas, Vice-Chairman; Jared Loewenstein and Pete Craddock. Absent from the meeting was William Finley.

Other officials present were David Benish, Chief of Planning & Community Development; Susan Thomas, Senior Planner; Elaine Echols, Principal Planner; Lee Catlin, Facilitator; Wayne Cilimberg, Director of Planning & Community Development and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Rieley called the regular meeting to order at 4:15 p.m. He stated that the meeting would begin with the work session on the Crozet Master Plan Facilitated Session.

CPA 2003-07 Crozet Master Plan - The Planning Commission will review the Master Plan prepared by the County's technical consultants, for adoption into the Comprehensive Plan, Land Use Plan as an amendment to the Community of Crozet Profile. (Susan Thomas)

Ms. Thomas stated that last week the Commission worked on Section 2 of the Master Plan and made it all the way to Section 3, Process and Form of Development. This section would be the last narrative section of the original Master Plan document that would be absorbed and adopted into our Comprehensive Plan with, of course, revisions and changes to it. The second part of this is the Guidelines, the various matrixes and supplemental design information. The Commission would start with Section 3, Process and Form of Development. She pointed out that they might not get through all of this section tonight.

Lee Catlin, facilitator, stated that the discussion would begin with Creating Places Within Crozet.

Mr. Rieley suggested that they find a substitute word to use for places. He pointed out that the document was using the word places differently than Webster's would define it.

Ms. Catlin asked what was staff's intent of the use of the word places.

Ms. Thomas stated that the intent was really for distinctive places or places with identity as opposed to subdivisions that could be picked up and placed anywhere.

Mr. Rieley suggested getting rid of the word places, but if they left places in the document that it should be defined. He suggested modifying it by using distinctive places.

Ms. Thomas stated that she would change the wording on # 2 and # 6 and then would do a word search on place throughout the document.

Mr. Thomas suggested using distinctive place types on the following page.

Ms. Catlin stated that they would keep an eye on the lettering sequence as they go through the document. Next they would go back to Section B, which would be Services instead of People.

Ms. Thomas stated that the original heading C. was moved to another place. Section C would be titled Programs. Section D would be titled Utilities. Section E. has a correction on page 9 and then Section F is Places. She stated that staff would work on the letter sequence so that Section B would be entitled Services.

Mr. Loewenstein pointed out that there was a problem with the fonts throughout the document.

Ms. Thomas stated that staff would correct the fonts throughout the document.

Ms. Catlin stated that basically all of the letter headers have the same weight that and that staff needs to make some adjustments.

Ms. Thomas asked to make a quick comment. She noted that Mr. Benish and her debated whether it would be redundant or valuable to have the base case existing condition section in here. It was not essential in making the recommendation and in some cases it has been touched on elsewhere in the document. On the other hand when they looked at other neighborhood profiles they do paint a picture of what is going on in the neighborhood. There was some value of having it all wrapped into the Crozet section as opposed to going to the Community Facilities Plan to find out what was going on with say fire or fire rescue in Crozet. She suggested that it all be under the geographic heading. Then the Community's Facilities Plan lays out more of the standards and the countywide vision. She noted that is why it is in there, but you might have a different feeling about it.

Mr. Loewenstein stated that he preferred to leave that in the document, and the other Commissioners agreed.

Ms. Catlin stated that the next was Section C, Programs.

Ms. Thomas stated that the whole programming aspect of Crozet seemed very important to the community. It was strictly land use like they usually deal with it. But because there is so much tourism potential there for local businesses, the programming takes on an added meaning because it brings activity to that downtown cultural core.

Mr. Rieley stated as he was looking at the lost of community events, it seemed that the paragraph should be put in a reduced form or possibly add another bullet because the specific events come and go through the years.

Ms. Thomas stated that they could restructure the paragraph or imply that there are a variety of other things that are not specified.

Ms. Catlin reiterated that the Planning Commission wanted that paragraph redrafted to include something that implies something that is more open ended. She asked if there were any suggestions for Social Services. Since there were no suggestions she stated that they would move to Section D Utilities on page 7.

Mr. Thomas asked that in the paragraph proceeding D. Utilities that the verbiage in the last sentence be changed to read, Crozet like much of the surrounding County'' area is home to a growing population of seniors."

Mr. Loewenstein suggested that in the second paragraph in the recycling recommendations that they put County in front of budget restraints to read County budget restraints.

Mr. Thomas suggested that in the fifth line that they take out "Coiners" and replace with "a local vendor is being used" to be more generic.

Mr. Rieley suggested that in the recycling section in the second paragraph from the bottom regarding ConAgra being a possible location for a recycling remanufacture or processor that they add a sentence stating that it was a good idea and a promising one to pursue.

Ms. Catlin stated that under Water and Sewer, the Commission suggested that staff include a percentage with the gallons per day so that it was paired with the 80 percent to reflect where they

were currently at without including a date. She stated that there were no suggested changes to the section on Stormwater. She pointed out that Section E was where the information discussed earlier was relocated.

After discussion, Ms. Thomas stated that a brief text paragraph would be added stating the existing conditions of the greenway systems.

Ms. Echols arrived at the meeting.

Under Water and Sewer the estimated costs need to be qualified in the text. Mr. Rieley suggested the wording that these numbers are current estimates and the figures subject to change and that the current estimates are slightly more than a million dollars in 2003.

After further discussion, Ms. Catlin stated that they need to qualify the figures in the text and add a statement at the beginning of the document that sets out that all dollar amounts and figures set out in the document are estimates.

The Commission discussed the road section on connections and asked that in the second paragraph that they add a qualifier about exceeding the road's capacity. They asked that the word calculated be added in front of capacity in the second paragraph under recommendations.

The Commission discussed the greenway trails. They suggested that under greenway trails in the first paragraph that the word "dedicated" is replaced with "designated" and that they finalize the figure of 30% by expressing it as roughly one-third. In addition, in the second paragraph regarding the history after Route 240 rephrase the paragraph in the past tense.

In the heading for the Priority List, the Commission asked that the word "primary" be deleted from rural road recommendations to "major."

After discussion, the Commission asked that in the section where the road names were first mentioned (Western and Eastern Avenues) that they put in a caveat that they expect the road names to change from Western and Eastern Avenue because it was put in there only for identification or clarity. The Commission discussed that they were not sure of what alignment that these roads would take, but eastern and western were used to label the roads in the Master Plan study. The Commission asked that the caveat also be placed in the first paragraph of this section.

There was some discussion about the fact that Crozet is not part of the area included in the MPO's study, but that something was done for Crozet as part of the CHART study. The Commission asked that something be done to the paragraph regarding this to make it clearer about the relationship of the Crozet's data, even though Crozet was not part of the CHART study area.

Mr. Benish left the meeting at 5:00 p.m.

Mr. Cilimberg arrived at the meeting.

The Commission discussed the charts and tables. The Commission suggested that the following changes be made to this section:

- Change the ratios and percentages to only ratios in the tables and charts so that it would be clearer for people to see it. A suggestion was made that the ratios be corrected to be 1:1 ratios. On table 1 needs to be changed to decimals and percentages need to be changed to ratios. Table 2 the percentages need to be changed to ratios.
- Correct the labels on the charts and tables.
- Either put in specifically as ratios or redefine it in the section.

- The description needs to match the information in the tables and charts.

Ms. Catlin stated that the Commission discussed using different graphics for future roads. The Commission acknowledged that it would be a nice distinction, but it was not worth spending a lot of money.

Under the topic of transit service, the Commission asked that in the fourth paragraph that BRC be replaced with "bus rapid transit."

Mr. Rieley asked that a statement be added before the road and transit section that states that these projections are based upon the assumption that a substantial amount of commercial will take place and mitigate the need for everybody to drive to and from. If that is not the case, it will have an impact on the projections.

Ms. Catlin reiterated that the Commission wanted a statement about the dependency of the projection of plan elements on the economic recommendations being followed.

Mr. Rieley suggested that before the charts that the caveat is placed that about the projections in general that these numbers are not very good if they don't get the economic development.

Ms. Thomas stated that she had to leave the meeting, but suggested that the Commission keep working on this. She suggested that they put in the dark skies at the end of this. She pointed out that the consultants did not pick up that issue. She pointed out that was identified as an aesthetic and a natural resource by several different groups throughout the planning process. She stated that this issue was probably just overlooked and felt that it was necessary particularly for issues such as where they would want to have a lighted ballfield. The other issue regards some of the discussion about the transect types found under Section G, Map Development and Guidelines. She stated that this discussion would probably go better after they discuss the maps and start to pull apart the matrixes. She suggested that they have one more session with Ms. Catllin, depending on how far they got tonight.

Ms. Catlin stated that they had ten more minutes to try to finish this section, and then next time they would take up Section G and the maps. The next section was Bicycle Routes and Sidewalks. She stated that they had already suggesting making the following changes:
- Substitute BRT for express bus service.
- Comment in the first paragraph concerning roads about the economic development.

Mr. Rieley stated that there should be a discussion about the necessity and desirability for a good on-street system for bicycles. He stated that they have had previous discussion about where they should paint the bicycle lanes on the road. He pointed out that he did not think that they have to necessarily paint the lanes on the road in order to provide this ability. He felt that there was a paragraph that was missing regarding this issue.

Ms. Echols stated that staff would do some research on this issue and capture that information in a paragraph and bring it back to the Commission to review.

Ms. Catlin stated that the next section was historic districts and asked if there were any comments

Mr. Loewenstein asked that they were talking about encouraging historic designations, but they were not necessarily limiting that encouragement to the creation of a district involving a larger area than that. He pointed out that the terminology was confusing because a district could be a single building and its acreage and it could be a whole group of buildings, etc. He asked that they ponder that issue. He pointed out that there were a few typos. In the third line where it says that Yancey Mills was applying for this status, he pointed out that this was not really a County designation at all because they have to apply to the DVAD for the historic designation.

Mr. Catlin summarized Mr. Loewenstein's suggestion that he wanted some type of clarification that there could also be individual sites that might be eligible for consideration beyond what is really thought of as a district. Also, he asked that they clarify that the application for historic landmark status begins with the state first and then moves forward from there. In the sentence about the registration he asked that they mention that the documentation piece of that is what has actually gotten underway.

Mr. Rieley asked that they add a sentence to the first one that says this is not mutually exclusive with the designation of individual eligible sites.

Ms. Catlin stated that the next section was schools. She asked if there was anything to add between this section and the maps.

Mr. Loewenstein asked that regarding libraries that it be made clear that the facility is already needed in Crozet.

Ms. Catlin stated that a sentence should be added to state that Crozet currently has one branch library of 1,864 square feet, which was already inadequate according to established standards.

Mr. Rieley asked that under parks and recreation that they add another level between #3 and #4 that stresses that development and linkage of squares means types of spaces that are associated with developments to the larger park and open space system. He pointed out that they would end up with 5 instead of 4.

Ms. Catlin summarized the changes proposed by the Commission during the work session.

- On page 1, places would be replaced with distinctive places or something that staff might come up with that captures the use better and use it throughout the whole document.
- Straighten out the alphabetizing of the sections and the font sizes.
- In Section C under the existing conditions, the bulleted listing needs to be recrafted into a paragraph or something to imply a more open-ended less defined list.
- Under the existing conditions in social services, the sentence needs to be changed to say that Crozet, like much of Albemarle County, has become home to a larger group of senior citizens.
- In utilities in the second paragraph of recommendations add language that recycling despite County budget constraints.
- Also under existing conditions in the second paragraph take the reference out to Coiners and put in something like a private local hauler.
- Under water and sewer, there was some discussion that a broad reaching statement should appear at the front of the document that says something about qualifying the use of dollar figures, numerical designations to say that they refer to current estimates that may change over times with different situations.
- The capacity figure needs to be expressed in a percentage that would be more closely related to the 80 percent capacity of the item. This needs to be added further up in the recommendation part.
- Regarding connections, in the first paragraph take out 50 percent and say something like roughly one-third to give some flexibility. In addition use the work designated instead of dedicated on the rural areas.
- Add a brief text paragraph on the existing conditions of the greenway trails.
- Under roads, add a statement about the dependency of the projects and other plan elements on the follow through of the economic recommendations. Also, a qualifier needs to be put in about the variable nature of the projection and how these numbers may not be exactly precise, specifically the traffic projections.
- In the second paragraph under recommendations on the first line insert calculated between roadway and capacity.

- Rephrase the section on the southeastern quadrant and put it in the past tense to reflect that the Board has taken action on that.
- Change the listing from primary road recommendations to major road recommendations.
- Back track in the document to where Eastern and Western Avenues are first mentioned and put in something that says something about them being in the western corridor and called Western Avenue from here on. That inserted terminology should also be repeated in the road section.
- Under methodology, clarify the section about the chart network that the information came from data compiled from CHART even though Crozet was not a part of that study.
- Under the forecast results they have already mentioned the qualifier and don't have to do that again, but they did want to some work on the graphic itself to fix the ratio and percentage confusion issue.
- On figure one and two find a way to distinguish between the current and future roads.
- Under transit service, insert bus rapid transit instead of express bus service.
- Under bicycle and sidewalks, include some discussion about the necessity and desirability for good on street on street bike paths.
- Under places put in distinctive places and explain the historic landmark status applying for state status.

In summary, the Albemarle County Planning Commission held the third facilitated work session on the Crozet Master Plan. Lee Catlin facilitated the work session and assisted the Commission in their review of Section III, Process and Form of Development, of the proposed Master Plan for Crozet. The Commission reviewed and discussed staff's recommended Comprehensive Plan language for changes to Section III of the technical consultants' Crozet Master Plan final report. The Commission discussed the proposal and provided comments and suggestions for changes to the document, but took no formal action. Staff will make the changes and bring it back to the Commission for review. The Commission will begin the next session discussing Section G of the document, Maps and Site Guidelines.

The meeting adjourned at 5:45 p.m. to the regular meeting at 6:00 p.m. in Room # 241.

The meeting convened at 6:00 p.m. in meeting room # 241.

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, December 16, 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 and Pete Craddock. Absent was William Finley.

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

Call to Order and Establish Quorum:

Mr. Rieley called the regular meeting to order at 6:13 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.

Marcia Joseph stated that the Commission might have heard about this at their last meeting, but she wanted to bring the matter to their attention again. There is a great deal of construction activity on Route 795 in the County from the intersection of Route 708 and the Hardware River,

which includes the little bridge. There is an unbelievable mess out there. There are no erosion or sediment control measures other than a little piece of silt fence right near the Hardware River. She pointed out that she did call Jim Kesterson of the Highway Department and he said that there have been road plans that have been submitted that are currently under review. She stated that currently the road was one-lane wide at this point and if you find someone coming in the opposite direction you are in really bad shape because there is mud on either side of your car. She asked what was the process for something like this in Albemarle County and what was going on. She submitted a map showing the location of this construction activity.

Mr. Cilimberg asked for a copy of the map so that staff could check into it and get back to them.

Mr. Rieley asked that both engineering and zoning take a look at this construction activity.

Mr. Rieley asked if there was anyone else who would like to address an item that is not on tonight's agenda. There being none, he stated that the meeting would move on to the consent agenda.

Consent Agenda:

SDP 02-083 Blue Ridge Shopping Center Major Site Plan Amendment - Request for approval of an amendment to the approved final site plan SDP 96-133 by relocating the site's entrance to align with Radford Lane, and increasing from 49,869 to 54,033 square feet of total building area. (Stephen Waller)

Mr. Rieley stated that they would move on to the consent agenda, which has one item on it for Blue Ridge Shopping Center Major Site Plan Amendment. He stated that there has been a request to pull this item from the consent agenda and be discussed as a regular item. He stated that if there were no objections that he would like to honor that request. He asked Mr. Waller if he would summarize the staff report.

Mr. Waller summarized the staff report. He stated that this request was for the approval of an amendment to an existing approved final site plan, which was SDP-1996-133 that was originally entitled the Blue Ridge Highway Commercial Area. The Planning Commission at its February 18, 1997 meeting approved the site plan. On September 28, 2001, the Commission unanimously approved the request to extend the period of validity for the final site plan, which would have expired from its original approval date in 1997. The site plan would have actually expired in 2002. The extension was granted primarily with the intent of allowing the applicant to have sufficient time to redesign the site plan so that its primary entrance could be aligned with Radford Lane. At that time the applicant also offered to explore the feasibility of redeveloping an existing storm water detention pond on the Blue Ridge Builders Supply Company site. The applicant proposed to increase the size of the detention pond to make it adequate for use as a regional detention pond for several of the development area properties in that area. The applicant has submitted a major site plan amendment. In addition to those two changes, it also proposes an increase in the size of the building areas from 49,869 square feet to 5,433 square feet. It also proposes an interconnection with the Blue Ridge Builder Supply Company parcel to the east and a reconfiguration of some of the internal travel ways. This site plan was actually submitted in April of 2002, but a deferral was requested for several reasons. One of reasons was that at that time the regional detention pond was not allowed in the Rural Areas zoning district. A portion of this property is zoned Highway Commercial and another portion of the property was zoned Rural Areas. A portion of that pond would extend into a small portion of the Rural Areas parcel. It was originally called up by an adjoining property owner, who has since moved from this site, but that was why the request was placed on the Planning Commission's consent agenda. He pointed out that the existing adjacent property owners were notified that if they wanted to call this up for discussion that they could do so. He stated that if the Commission had any questions about staff's recommendation with the 18 conditions that were supplied in the staff report, that he would be happy to try to answer those.

Mr. Rieley stated that his question, which was for clarification, evolves around the nearly 5,000 square feet of additional buildings proposed on this plan. He noted that his recollection was that the previous deferral by the Commission was to allow the applicant time to redesign the entrance so that it could be aligned with Radford Lane and not to allow the applicant to expand the project another 5,000 square feet. He asked where the additional square footage came from and what was the justification for it.

Mr. Waller stated that staff reviewed the major amendment with the expansion as a request that they could have made even if the site would have already been developed. He pointed out that they could move forward with a major amendment. As far as why the additional area is requested, staff never really asked that question of the applicant. The applicant did indicate that it was necessary, but because as long as they were within the confines of the existing property lines it was not really something that staff reviewed the request for.

Mr. Cilimberg stated that the expansion was allowable as long as the zoning allows for it. It might not have been part of the Commission's deferral or extension, but any amendment submitted would be judged against the zoning of the property and the Zoning Ordinance, and it was certainly allowable. He stated that the Commission would have to ask the applicant why they did it.

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

Don Wagner, of Great Eastern Management, stated that the reason that this plan was submitted was because the County came to them and asked that they submit another plan to relocate the entrance. He pointed out that they had received two bids from general contractors and were about to award a contract to build this project when the request came in. In order to align the entrance with Pritchett Lane, it moved the entrance sideways about 80 feet. That would put the travel way in front of the grocery store, which was the main store that backs up to the building supply company. As you always have a travel way in front of a grocery store in order to pick up groceries, they would have about ten parking spaces with the main entrance coming through. He pointed out that obviously that does not work. In order to make the interior circulation work; it was necessary to move the grocery store back away from the highway so that you would be able to come in at the new location. He noted that you could either turn right or left to come down in front of the grocery store or go down through the center of the parking lot to the buildings over on the West Side. He pointed out that moved the grocery store back away from the street. Therefore, between the grocery store and the street they added some little shops, which was the additional square footage that they were talking about. He stated that the main point about this was that they would now have a connection directly across from Pritchett Lane. At the time this was originally approved Pritchett Lane was a gravel driveway that goes back to a few houses, but it certainly has the potential as Crozet grows to become a more major connector.

Mr. Rieley asked for clarification if he was talking about Radford Lane.

Mr. Wagner stated that Mr. Rieley was correct in that he was talking about Radford Lane and not Pritchett Lane. He stated that they had a connection from the shopping center to the building supply company, and the entrance to the builder supply company was directly across from the entrance into Clover Lawn. Clover Lawn connects back into Pritchett Lane. He stated that the traffic circulation was good between the various entities, which he felt was a positive change as a result of this. He pointed out that it was definitely an improvement. He stated that the other thing that was a considerable improvement was the regional detention basin. They were able to build a detention basin down there three times the size needed for the shopping center, the building supply company and Clover Lawn across the road. This mitigation was something that was approved by the County Engineering staff who elected for them to go two times that size. He pointed out that they were now picking up water that does end up in the reservoir that comes off

of Route 250, which previously was going into the reservoir without coming through any kind of a basin. The basin was also picking up the water that comes off of the building supply site, which was grandfathered with its present stormwater detention pond. He pointed out that they now were meeting the water quality standards for that. The capacity in this basin could handle quite a bit more water that would come from the development area across Route 250. He pointed out that was a very positive thing for the County. He stated that he would be happy to answer any questions that the Commissioners might have. He asked for rebuttal time after the members of the public speak to address any of their concerns.

Mr. Rieley asked if there were any questions for Mr. Wagner. There being none, he opened up the public hearing and asked that Ellen Waff come forward to address the Commission. He stated that the Commission would reserve time for Mr. Wagner's rebuttal at the end of the meeting.

Ellen Waff stated that she lived on Route 250 west and was an adjacent property owner to this proposal. She pointed out that the applicants have been working on this project since 1987. She noted that the notification from the County was received on Saturday. Also, a letter had also been received from Great Eastern Management with Mr. Wagner's signature on it. She pointed out that she had not had a chance to walk off this property. She stated that this afternoon she came down to the County Office Building and got an abbreviated staff report along with some information and met with a planner. When she got home this afternoon she pointed out that she walked the entire property. She pointed out that she was able to see a whole lot in the snow, which included the elevations of the ridges, the trees that were down, the stream, and the springs percolating back in the gravel area that they used for storage. She stated that her concern tonight, aside from that background, is that she did walk it off and she did not understand several things. She stated that she understood the reason for the stormwater management facility and the road alignment, but she still did not understand, even after hearing Mr. Wagner make his remarks, what the reason was for the additional square footage. She noted that by her calculation it was 7,400 square feet and not 5,000 square feet, which was actually in the letter from the County. She stated that not only did she feel rushed tonight, but also she felt rushed in receiving this information on Saturday. Due to the snow she had not visited the site to look at the property until today. She requested a deferral on this project because not only was she rushed, but also the people in her area would probably not pay any attention to this. In addition, there was a new homeowner, Mr. Comerford, who bought the Stacia property that was immediately behind the shopping center. She noted that she had no idea that he knew anything about this being a consent agenda item. She felt that he had no clue as to what they are talking about. She requested a deferral or favorable consideration for this consent agenda request subject to the Engineering approval because she felt that the engineers had a lot of very prevalent comments. She stated that she was not an engineer and did not understand what they were talking about. For that very specific reason and the fact that she did not receive very much advance notification, she would request that this item be deferred from tonight's agenda and rescheduled some time in the coming year.

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

Mr. Comerford stated that he was actually the new owner of the property and had just found out about this meeting about three hours ago when his wife opened the letter that was postmarked last Friday. He noted that he called Mr. Waller and got this packet, but he had not had time to look over the information. He stated that he did not know how this would actually impact his property, but he would like to have a little more time to learn more about this retention pond that they were talking about that borders his property. He stated that he really did not know what all of this means. He pointed out that he was kind of caught in the dark about this. He asked if this was typically the way that this process runs in that they get a letter the day before the meeting.

Mr. Rieley pointed out that Mr. Comerford's question was a rhetorical question for now, but it could be answered after the public hearing was closed.

Mr. Comerford stated that he would just like to have a little bit more time to get some more knowledge on the request.

Bob Cross stated that he was a resident of Radford Lane and had a couple of things to say. First of all the current misalignment of the Blue Ridge Shopping Center has been a real dark cloud over Radford Lane for an extended period of time. He requested that as soon as possible that this cloud be removed. He stated that they see this misalignment as both a safety issue and an inhibitor to implementing the Crozet Masterplan. He asked them to note in terms of the perspective of things that if you just take the approved site plan of what is there for the Blue Ridge Builders, Clover Lawn and the Blue Ridge Shopping that they would be approaching 100,000 square feet of retail and office space plus parking right at the foot of Radford Lane on a major highway. That is why they see this as a safety problem for the residents and the folks that travel on Route 250. In putting that into perspective, they are putting more retail and office space right there on a major highway right at the entrance to Radford Lane than exists at the square in downtown Crozet or the shops around the Great Value Store in Crozet. He stated that they see these retail outlets as bringing traffic into an area that normally does not come into their area. For example, a grocery store of this size would make it easier for people even from the West Lee/Ivy Area to come our way and do grocery shopping rather than going into Charlottesville. Currently they were about 80 feet off of Route 250 and they feel that this is impacting their safety and the orderly traffic flow on Route 250. He asked the Commission to please recall from the famous Clover Lawn days about the many organizations that recommended the alignment of Radford Lane and the Blue Ridge Shopping Center. Obviously, the Radford Lane residents recommended this. In addition, the Route 250 West Task Force, the Scenic Route 250 Committee, VDOT and the Planning Department recommended this alignment. From the standpoint of the Crozet Masterplan, he pointed out that he had been involved in that for a couple of years. He pointed out that they were assuming in the Crozet Masterplan that Radford Lane, the Blue Ridge Builders and the Blue Ridge Shopping Center entrances were aligned so that there was an orderly development on the other side of the road on the side behind Clover Lawn. Several parties have expressed to him that the whole misalignment was simply an oversight by a number of people. He asked the Commission to move forward and correct this oversight as soon as possible.

Mr. Rieley asked if anyone else would like to address this application. There being none, he asked Mr. Wagner if he would like some time for rebuttal.

Mr. Wagner asked that the Commission not delay this because as Ms. Woff said that they have been working on this since 1987. He pointed out that he thought it was 1988, but that he would take her word that it was 1987. He stated that they would not be here tonight if they had not been asked by the County to make this change. He pointed out that they have acted in good faith and have spent a lot of money making this change. He noted that they have lost a couple of years in making this change. Ms. Woff stated that she had not had a chance to look at it. He pointed out that this plan has been on file at the County essentially as it was for a couple of years. He noted that she was notified when the plan was originally submitted and did not see fit at that point to call it before the Planning Commission. Regarding the new owner, he pointed out that Mr. Waller told him a while back that the new owners had talked to him shortly after or when they were considering buying the land from Mr. Scarcia, but to his knowledge he never came down to see the plans. This is not something new that just came in today. He stated that he was sorry that the County did not get the letter off sooner. He pointed out that he called the County two weeks ago and asked them for the list of the neighboring property owners when he found out that they were going to send letters to the adjacent property owners. He stated that he asked them to provide him with the list so that he could write a letter and send it to those owners and explain what was going on. He pointed out that he received an email last Thursday that the list had just been developed and that the County had just sent out their letters, and they emailed him the list. He stated that he got his letters out Friday to those owners. He apologized that the adjacent owners were not notified sooner, but it certainly was not anything that they had done. He stated that there was no reason why they should be further delayed. Someone mentioned the items from Engineering. He pointed out that there had been some confusion with Engineering as to

whether the plan could be reviewed as a preliminary plan or a final plan. He noted that usually they had preliminary plans coming through. He pointed out that they had submitted this as a final plan, but Engineering had reviewed it as a preliminary plan. From time to time they would come back and say this is fine, but they needed to realize that there were some i's and t's to cross as a final plan. He noted that they finally got that straight with Engineering that it was a final plan and they came back with some things to be done. The things on the Engineering list are routine and include a safety ledge, a manhole and things like that, but nothing to do with the layout of the site. The only items to be done were some minor engineering technicalities. He stated that if the Commission had any further questions, that he would be happy to answer them. Other than that, he asked that the Commission approve this request and let them get on with the shopping center.

Mr. Rieley closed the public hearing to bring the matter back to Commission for discussion and possible action.

Mr. Cilimberg stated that he would like to address the issue of the notification being late. For the purposes of tonight's meeting, he pointed out that his understanding was that staff was not going to actually bring this to the Commission until after the first of the year, but the applicant asked that they hear the request this year. Staff was going to wait until they had received approvals from Engineering on some of the outstanding issues before they actually brought the request to the Commission. At the applicant's request, staff went ahead and scheduled this item for this meeting. There was a letter sent out to the adjacent property owners back in 2002 when the plan was first submitted. There was one request that the Commission review it, which was by the owner who sold his property and then moved away. Therefore, staff tried to handle this in such a way that was not normal or typical in terms of making sure that the adjacent property owners were notified of this hearing, even though a letter was sent previously. He pointed out that the notification was a courtesy in that regard, but really was something that staff felt that they ought to do. In order for staff to pull that together in a timeframe that was requested, it shortened the time period to get the letter out.

Mr. Rieley asked what was the normal advance time for letters of notification to be sent out to adjacent property owners.

Mr. Waller stated that for site plans or by right uses the original letter of notification goes out two weeks after the application is submitted. It would actually be four weeks before the Planning Commission meeting. The time in between that is when staff would have the site review committee meeting. That notification letter went out in 2002 when this application was originally submitted, which was after the site review committee meeting. This was because of some issues regarding whether or not the detention pond as proposed would be allowed to be built and designed because there was a determination that it was not allowed in the Rural Areas at that time. Since then, in a situation that was related to it on another site plan, the ordinance has changed and these types of uses are now allowed in the Rural Areas. But at that time when the determination was made detention ponds were not allowed in the Rural Areas. At that time the applicant actually requested deferral. This item has been dormant for eight or so months while all of those issues were being worked out.

Mr. Thomas asked Mr. Waller what issues were pending with Engineering at present.

Mr. Waller stated that the pending issues mainly fall around the approval of the erosion and sediment control plan and the stormwater management plan. Basically, that includes the approval of the basin that was shown here and a lot of the pipes that are going to be used to get the water to that basin. The Engineering comments are reflected in the conditions, which are on page 24. He noted that the Planning staff added additional conditions regarding the screening of that detention pond from adjacent properties and roadways. Currently, the plan does not show any screening in the vicinity of the pond. The existing tree line and the tree line to be retained is also not shown, which was something that they would need to show on this plan before final approval. He noted that would be shown on the landscaping plan.

Mr. Thomas asked if there were any other things that they need to do.

Mr. Waller stated that aside from the screening of the pond and the Engineering comments for the erosion and sediment control plans that there is also a condition of approval for Service Authority approval of the construction plans for the sanitary sewer and water lines.

Mr. Thomas asked if all of the conditions have to be approved before the applicant receives final approval.

Mr. Cilimberg stated that before the final signatures are provided on the plan that it was subject to the Commission's approval.

Mr. Rieley asked what are the implications for deferring this request to the middle of January. He asked if they have enough time to do that.

Mr. Waller stated that it was possible, but it would really depend on if the next revision of the plan satisfactorily addresses all of these conditions. If the applicant came back with another plan and all of these conditions are not satisfied, then they would go through another situation where they would have to make the changes and resubmit them.

Mr. Rieley stated that his question was relative to the timing and whether they can defer it on their own.

Mr. Cilimberg stated that ideally when they bring a final plan to the Commission for their approval, that staff tries to have all of the conditions essentially met. There might be one or two conditions that are outstanding that get shown as a condition. He pointed out that in this case there are twelve outstanding conditions. He stated that the idea was to give the applicant some additional time to have those things addressed when they came to the Commission. He stated that it would give the applicant and staff the time to finish that.

Mr. Rieley asked if time was a limitation for the Commission on taking that action unilaterally.

Mr. Waller stated that there was an approval letter in the packet for when the extension was granted. He stated that in that letter it states that the expiration date for the plan is May 28, 2004.

Mr. Rieley stated that the answer was that the Planning Commission could defer this request to allow those issues to addressed.

Mr. Kamptner stated that the site plan regulations provide that when site plans are amended, they are to be processed according to the rules that apply to a site plan in the first instance. Therefore, the 60- or 90- day rule applies here as well. He pointed out that he did not know where the County is in that time line, given the lengthy extensions that have been given.

Mr. Waller stated that the applicant requested a deferral while the issues with the other site plan were being addressed, and that the 60-day time period has passed.

Mr. Kamptner stated that the Commission is in the legal limbo of the applicant having the opportunity to go to Court ten days after giving them notice, compelling the Planning Commission to take action on this site plan.

Mr. Rieley stated that the Commission was in the position that they cannot take unilateral action.

Mr. Kamptner stated that the Commission could deal with that scenario by possibly pulling itself out, unless the applicant agrees to a deferral until the Planning Commission's next meeting.

Mr. Edgerton stated that he was totally confused. He asked how they were granted a 21-month extension to a specific date of May 28, 2004 and then this letter went out to the developers and the applicant.

Mr. Kamptner stated that date was not the date to amend their site plan, but that date really is the date by which they need to vest their approved site plan.

Mr. Edgerton asked when the 60-day period started.

Mr. Kamptner stated that date deals only with processing this particular amendment, applicable to site plans that are submitted. He stated that the May 28, 2004 date speaks to the validity of their approved site plan.

Mr. Loewenstein noted that it was a different timetable. He stated that Mr. Wagner did speak very briefly to the purpose of the additional square footage, but he thought that was something that should be discussed a little further by this group as well. There has not been much other than acknowledgement of its existence there.

Mr. Rieley agreed because it was an important issue as it was when they took this issue up initially. He stated that he had felt from the beginning that the realignment of the entrance with Radford Lane was essential. He pointed out that he made it clear the last time this request came up, and he had not seen any information that changed his mind, that in his view this extension was granted just to make that connection and not to increase the square footage. He noted that in his view if the applicant wants to increase the square footage, then that begins the site plan process over again. He stated that if they want to do that, then they needed to submit a new site plan. The applicant did not want to do that because they wanted to get an extension of the existing site plan. He stated that in his view one of the things that should not change is previous square footage.

Mr. Thomas stated that it was an amendment to the site plan and legally he can make an amendment to the site plan.

Mr. Rieley stated that he could apply for one.

Mr. Thomas agreed that he could apply for an amendment because the property does have the correct zoning. He stated that he could not remember them having any stipulations of holding it to 4,500 square feet from the original amendment. He stated that he was not sure that as a Planning Commission that they could legally do that. He noted that he did not think that the square footage was the real problem at this point. He stated that he wished that the neighbors had gotten notice earlier so that they could have looked at it. He questioned if there was a way that they could appease that and make the neighbors have an appropriate notification.

Mr. Loewenstein stated that he objected to the process, which put the additional square footage into the site. He stated that he was not denying that under the regulations that apply that it may be possible to add that as part of the neighbor's site amendment request, but none of that has really been addressed at all in the staff report. The applicant did not address this significantly. He felt that adds another element to this that really needs a little bit more study and discussion.

Mr. Rieley stated that it was one thing to say that if this was a fresh application that the zoning would allow the square footage that is being requested. But it was another thing to say that because of that that they are obliged to accept it as a legitimate modification of the previous application. He suggested that they review the minutes of the meeting, but he thought that there was a substantial amount of discussion about whether increasing the square footage was a justifiable component of changing the entrance. He stated that he was not in favor of it then and he was still not in favor of it.

Mr. Craddock stated that the alignment of Radford Lane and the stormwater detention pond were two of the items, and it almost seems that the applicant was saying that they would give us this for that.

Mr. Edgerton stated that he was not privileged to be here when that original decision was made, but he was having a philosophical problem with the Commission being held to a deadline to act on something that is very different from what was approved. He stated that he considered an increase in square footage a significant change in the plan. Therefore, he would like to solve both problems by getting the applicant to agree to postpone the item for two to three weeks to let the neighbors take a good hard look at it. He noted that staff could also go back and discuss the additional impacts of the additional square footage being requested, which was not mentioned in the staff report. Therefore, he could not be supportive of the request. He stated that he would take issue with the way that this was being handled.

Mr. Rieley asked if the other Commissioners thought that it would be a good idea for this request to be deferred in order that the neighbors and staff can take some additional time to work on the plan.

Mr. Thomas stated that he had one question before they could take that step. He asked what staff could have provided to them regarding the impacts. He asked if the applicant could have supplied that information regarding what the impact of what the additional 5,000 square feet would do to the area

Mr. Waller stated that would have been addressed with the request to allow the additional disturbance within the buffer. He stated that in the Water Resource Ordinance that was cited in the staff report, which allows for that disturbance, was actually just subject solely to the Water Resources Manager. What they are looking at is whether or not the final results of the mitigation plan is going to be a better alternative to what was actually there in the first place, and if some mitigation of the disturbance has already taken place in the buffer before the approval. But, it does not really look at the fact that there are more disturbances within the buffer. He stated that to staff it was a trade off because basically there was a saying that anything can be engineered. With that review that was the main impact. The disturbance within the 20-foot buffer was the main impact from the increase in size because it pushes the buildings and parking lot back farther. With that he felt that there was some higher level of review that could take place as far as if they could determine if that pond is being impacted as a source of aesthetic resources based on the impact of the enlargement of the development on the site.

Mr. Loewenstein stated that his understanding was that the additional square footage would be used for separate purposes from those that were already planned. He stated that he would have to assume that there would be additional traffic impacts. There might be a variety of impacts because these are additional shops or offices that were not part of the original application and it impacts beyond simply the detention basin or the water resources.

Mr. Cilimberg stated that all of that did get evaluated. He asked that the Commission please understand that they were dealing with the site plan so that the traffic generated in association with the entrance and expansions that are occurring on the site in association with buffers or water are subject to site plan review. Now what you could get as an explanation of that review was the fact that it was before the Commission in the manner that it was with a recommendation for approval from the reviewers. That acknowledges that they have addressed those things. But for the Commission to understand how they were addressed, they would need to have the reviewers tell them that. That is just about all staff would be left with bringing to the Commission on the deferred date. It would be more information on how those particular changes have been addressed in the site plan and mitigation plan. He pointed out that it was not a rezoning or a special use permit and was not something that could be judged up or down based on the fact that there was more square footage and traffic generated. He noted that it was judged based on the

utility of the site and its design to carry those changes and that would be what the Commission would receive an explanation about.

Mr. Rieley asked how the other Commissioners felt about this issue.

Mr. Thomas stated that he would like to see this again so that the neighbors would feel more comfortable with what is going in there.

Mr. Edgerton stated that he understood that the reason that the application was being pushed through was at the request of the applicant. He noted that he heard that typically staff already has had Engineering review all of the information and come up with all of the requirements before bringing something to the Commission on the consent agenda. He asked if he heard staff correctly on this.

Mr. Waller stated that typically staff would bring this to the Commission with some recommendations for approval in the packet including ones from the Architectural Review Board. He pointed out that the Engineering Department was saying that these are the things if the plan was purely administratively reviewed by staff that are still out there that have to be taken care of before they can even look at signing this off.

Mr. Edgerton stated that if there were no concerns from the neighborhood that he would be comfortable going ahead and trying to expedite this. But the concerns expressed by the neighbors that they have not had a chance to review the changes to the plan was due to the fact that they have not had a chance because of the hurried up process. He stated that personally he would like to give them an opportunity to have a few weeks to review it. If typically the County gets a notice to a neighbor four weeks before a hearing and they were comparing that with four hours before a hearing for one of the neighbors that he felt that they should go the extra mile to give them an opportunity to study the plan. He stated that he would be more comfortable seeing this come back with all of the review as part of the staff packet.

Mr. Loewenstein agreed.

Mr. Craddock concurred with Mr. Edgerton. He asked if this would come back as a consent agenda item or a deferred public hearing.

Mr. Kamptner stated that it would not be coming back as a public hearing.

Mr. Rieley stated that the request could come back as a regular item and could be opened for public comment. He pointed out that he wanted to get the sentiment of the Commission. He pointed out to Mr. Wagner that he had heard a unanimous view among the Commission that they would like to see the neighbors have enough time to scrutinize this more thoroughly and wondered if he would like to ask for a deferral to their January meeting.

Mr. Wagner stated that he would like to explain his position before he told them what his position was. Ms. Woff has been down at the County opposing this since 1987 and he did not expect her to change her mind. He noted that he had a nice conversation this afternoon with Mr. Comerford about the letter and he was a little surprised to hear what they said tonight, particularly that this was very new to them because that was not his understanding from Mr. Waller. He pointed out that he did not speak to that, but he did tell him that they had heard about it quite some time ago. As to them pushing this through, he stated that they have on file a letter from the County that says that this plan can be administratively approved. They found out about a month ago that because of this letter that Mr. Scaria had written, which they thought had died when he moved away, that they would have to come back to the Commission. But someone at the County has decided contrary to what they had told us about a year ago that the plan could be administratively approved, but that it had to come before the Planning Commission. He stated that if they are going to start building at the site that they need an approval so that they can start dealing with

contractors and tenants again. When it came up that this was going to have to come back before the Planning Commission, they thought that it was not going to be held at the middle of January. He pointed out that if they are to start building in May that it was not very far in the construction business from January to May. For that reason they feel like they were asked to give up two years and spend tens of thousands of dollars to do this in order to align the road. He pointed out that they have aligned the roads and definitely provided some value to the public by the regional storm water pond. He stated that he was not in the position to request a deferral. He asked that the Commission act on the request. He asked if they deny the request that he would like for them to state plainly their reasons for denial so that they would understand them.

Mr. Rieley stated that the public hearing was closed to bring the matter back before the Commission for discussion and possible action. He stated that the applicant has declined to take a deferral. He stated that it seemed that they have three possible courses of action. One is to approve the application, as it was before them with these conditions and/or additional ones if they see fit. Secondly, they could deny the application. He stated that he had an inclination to deny the request on the basis of the expansion of the use over the original application. The third option was to take a cue from the advice of Mr. Kamptner that the Commission could defer this with the cognizance that the applicant's next step potentially would be to either take these steps or to go through the courts to have the matter expedited. He stated that would probably take longer than the month that they were asking them to spend. He pointed out that there might be some other options.

Mr. Kamptner stated that, based upon what Mr. Cilimberg had said about what a typical final site plan looks like when it comes to the Commission in that all of the technical requirements have already been satisfied, they would not be ready to vote it up or down. He stated that the Commission might also want to consider stating as a basis for deferral that the twelve items that have been listed in the staff report be completed as part of the final site plan. Then they would have a final site plan that was in the condition that they typically see. He noted that condition would also provide that all of the technical requirements have already been incorporated into that plan rather than left dangling as conditions. Combined with that, the Commission also could address the other issue to allow staff the opportunity to come back and more fully explain the impacts of the revised site plan compared to what the Commission saw a couple of years ago.

Mr. Rieley stated that was a good suggestion because he felt that was a refinement of number 3 rather than a number 4. He asked what the pleasure was of the Commission.

Mr. Thomas stated that the Commission had recommended site plans before with conditions, but this one was a whole lot different because the applicant has added more square footage to the project than what they had originally seen or what had been passed originally. He regretted that the applicant would not agree to a deferral in cooperation with the neighbors so that the neighbors could learn a little bit more about the project. He stated staff had scheduled the review for January, but then the applicant speeded it up and staff was not able to get all of the facts together to finish all of the statistics that they needed. He stated that he would still like to see the applicant defer the request so that they could look at more of the facts and get the figures that they need.

Mr. Loewenstein stated that if it were not for the increase in the square footage, the brief notification and the neighbor's concerns that he would have to say that they were on the right track here. But those things remain concerns for the Commission.

Mr. Edgerton agreed with Mr. Loewenstein. He stated that he was prepared to go with the third option as suggested by Mr. Kamptner if he could figure out how to word the motion. He asked Mr. Kamptner to restate his motion.

Mr. Kamptner stated that the deferral would be on the basis of allowing the site plan to be revised to incorporate the twelve conditions, so that the Commission would have a final site plan without

these conditions. The conditions would have already been addressed. The deferral would also give staff additional time to prepare an explanation of the impacts of the redesigned project. He stated that the next Planning Commission meeting would be held on January 13th.

Mr. Rieley asked if staff feels that would be adequate time with the upcoming holidays.

Mr. Waller stated that would be dependent upon Mr. Wagner's ability to get the revised information with all of these conditions incorporated into the site plan, and then give Engineering adequate time to look at the site plan and recommend it for approval.

Mr. Edgerton moved to defer SDP-02-083, Blue Ridge Shopping Center Major Site Plan Amendment, as previously stated by Mr. Kamptner, to January 13th.

Mr. Craddock seconded the motion.

The motion carried by a vote of (5:0). (Finley – Absent)

Deferred Items:

SP-2003-70 Gregory R. Gallihugh-Nextel Partners (Sign #59) - Request for special use permit to allow the construction of a personal wireless facility with a monopole, approximately 85 feet in total height and 10 feet above the height of the tallest tree within 25 feet. The proposed facility includes flush-mounted panel antennas and ground equipment. This application is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance which allows for microwave and radio-wave transmission and relay towers in the Rural Areas. The property, described as Tax Map 74, Parcel 2C, contains 2.78 acres, and is zoned RA Rural Areas. The proposal is located on Dick Woods Road (Route 637), approximately 1.25 miles south of the intersection of Dick Woods Road and Interstate 64, in the Samuel Miller Magisterial District. The Comprehensive Plan designates this property as Rural Areas in Rural Area 3. (Stephen Waller) ***DEFERRED FROM THE DECEMBER 2, 2003 PLANNING COMMISSION MEETLNG***

Mr. Waller summarized the staff report. This request is for the installation of a personal wireless service facility with a metal monopole that would be approximately 85 feet in total height and have a top elevation that would be approximately 720 feet above sea level. The monopole would be equipped with one array consisting of three 8-foot long by 1-foot wide and 7-inch deep flush mounted panel antennas. The 8 feet is actually a correction. For some reasons the last page of the applicant's construction plans did not make it into the transmittal that was copied and delivered to the Planning Commission or to the one provided for the public. This page actually shows the correct antenna sizes and it also shows an elevation of the proposed shelter that would be installed with the facility. He pointed out that during the review of the request that staff observed a balloon test with a balloon that was floated at the proposed height of this monopole. The balloon was visible above the trees from a portion of the road right-of-way of State Route 637 and also from a portion of an adjacent property located to the west of the site. Staff notes that due to the difference in the proposed height of the monopole and based on the observance of the balloon test that the monopole would be skylighted from several of the near by properties around the site. He pointed out a few corrections that should be made in the staff report. On page 4 in the second paragraph, it starts with staff has determined that a rather large portion of the proposed monopole would extend above the tree tops of the surrounding forest when viewed from at least one adjacent property and the road upon which the subject parcel has frontage. The next sentence should read that this would result in the introduction of a facility that would not blend well within its natural surroundings. On page 5 in the fifth paragraph, it starts with Section 1.5 from the Zoning Ordinance and then in the next to the last paragraph that starts with however due to the combination of the size of this parcel and the wooded area surrounding the site. He pointed out that the word site was left out in that sentence and it should say the area surrounding the site. He pointed out that the plans were revised at the time that the applicant requested the deferral. He stated that in the analysis for the waiver from the adjacent parcel that the waiver

request information stated that based on the requirements of Section 4.1.3.1.b, the structure should be set back 80 feet from the western property line. However, instead of pursuing a fall zone easement the applicant is requesting approval of a waiver in accordance with Section 4.10.3.1.c. He reiterated that the applicant is still requesting that waiver. The next paragraph in that section states that the fall zone for the proposed monopole would extend 31 feet into the adjacent property because the location of the pole was shown in a different location on the current plans, which would actually only extend 20 feet into the fall zone. Because of that the monopole would no longer extend in to the 25-foot side yard setback. It would be outside of that 25-foot side yard setback on that adjacent parcel. Additionally, the staff report states that the distance to the nearest off site dwelling was 320 feet, but it was actually 375 feet. Some of that distance is also made up because of the difference in the pole location. Staff also notes that the current pole location is being reviewed on the plans. It is the same location that the balloon test photos were taken, but the plans just came in after the original balloon test.

Mr. Loewenstein asked if he would clarify that the balloon test that they have copies of in their packets are of the current location.

Mr. Waller clarified that their copies of the balloon test were of the current location. He pointed out that staff has reviewed this request. Based on the analysis of visual impacts that are provided in the staff report, staff recommends denial of the plan. But, staff is also recommending if the Planning Commission or the Board sees it appropriate to approve this request that the conditions of approval that are provided at the end of the staff report be applied to this. Most of those recommended conditions are for the standard conditions of approval that are applied to the Tier II Wireless Facilities with some additions that are specific to this location.

Mr. Rieley asked if there were any questions for Mr. Waller.

Mr. Thomas asked if the panels were 6 feet long.

Mr. Waller stated that the panels would be 8 feet long, but the additional 2 feet on the panels would not increase the height of the tower.

Mr. Rieley asked if there were any other questions for staff. Since there were none, he opened the public hearing and asked if the applicant would like to address the Commission.

Valerie Long, Attorney for Nextel Partners, Inc., stated that Mr. Waller had covered most of the corrections that she pointed out to him in the staff report. She noted that she had asked him to clarify, in particular, the fact of the distance of the tower's location from the western boundary of the Gallihugh's property. She stated that it was hard to hear Mr. Waller, but she thought that he had stated it clearly that the distance was 65 feet from that property line as opposed to 54 feet. These plans have gone through a few versions as they responded to staff's comments and the results of the balloon tests, etc. Therefore, a number of plans are on file with the County. In one of the versions the tower was 54 feet, but it is in fact 65 feet from the property line. She pointed out that Ms. Roland Eubanks, a site acquisition specialist from Nextel Partners, was here this evening. In addition, Ms. Gallihugh, who is the property owner, is also present this evening. As Mr. Waller stated, this is an application for a tree top wireless telecommunications facility, the top of which would be 7.7 feet above the top of the tallest tree within 25 feet of the facility. The proposal complies with the County's Wireless Policy in all respects in terms of its design, color and location. It will have an equipment cabinet that would be painted brown. The concrete pad, the pole, the antennae, the cables and the ice bridge will all be brown. The antennae panels will be flush mounted to the pole and will not extend above the top of the pole. The facility is located within a small clearing in a wooded area. Therefore, they will be able to locate the pole and all of the associated ground equipment within the lease area without the need to remove even a single tree. In addition, the proposal takes advantage of an existing access road that will prohibit the need to conduct any extensive grading or clearing of the area leading to the lease area. Therefore, they have a fairly small footprint. In addition, the base of the pole will meet the

Planning Commission's standard requirements in that they will not exceed 30 inches in diameter and the top of the pole will not exceed 18 inches in diameter. The tallest tree within 25 feet of the facility is a 76-foot Black Walnut that is located approximately 16 feet from the centerline of the pole. She pointed out that was a distance that the applicant would like to work with because they are always faced with the challenge of locating the pole as close to the tallest tree as possible. She noted that ultimately you would get the most screening benefit from being as close to that tree as possible, but at the same time they have to be very respectful of the health of that tree, its drip line and root structure. Therefore, they try to walk a fine line between getting close to the tree to receive the benefits of its screening, but not be too close to it that they might risk damaging the tree. In addition, they always comply with the recommendations of the arborist that they consult with in connection with construction. In this case, the arborist recommends some tree protection fencing, some fertilization of that tree and some other conditions after construction. As always the most important issue in regard to reviewing these proposals is the visibility of the pole. She asked the Commission to consider the visibility of the pole in light of this entire area in their review. The proposed facility, when considered in the context of the larger area of the Ivy valley and the entire Ivy exit near the interstate, is relatively minimal. During the balloon test that they conducted a few months ago, the balloon that was raised to the height of the proposed pole was not visible at all from the interstate in either direction. It was visible at a distance from selected vantage points in the Rosemont neighborhood, but in most of those instances there was a back drop of trees behind the pole. There was one area where the pole was visible without a backdrop of trees and that was along Dick Woods Road, which was essentially in front of the facility. She stated that she brought a laser pointer to point out some specific locations. She asked to direct the Commission's attention to the plans behind Mr. Edgerton that showed in red the Gallihugh's parcel, Dick Woods Road and Route 637. She pointed out that the location of the entrance to the Rosemont Subdivision. She stated that the pictures were submitted with the staff report, and that she would be submitting some photo simulations that were taken looking towards the pole in that direction. In addition, Mr. Waller took a photograph that she would submit a photo simulation of from the neighbor's driveway. She pointed out the location that the photographs were taken was the only location where the pole would be clearly visible without a backdrop of trees. She pointed out that it was a distance of one tenths of a mile, which they measured on several occasions on that day. She pointed out that once you reach a certain point that the trees that are on the Gallihugh's property and beyond block the view. Coming from the interstate the pole would not be visible until this area where you see it for one-tenths of a mile, but then you would no longer be able to see it. The same is true coming towards the interstate. For your reference, the interstate runs approximately in that direction behind the pole. Therefore, the pole will actually be providing service to the interstate in that direction. Of course, it will also provide service along Dick Woods Road and to surrounding residences in the area. She distributed three photo simulations to the Commission for consideration. She pointed out that the first two photo simulations were prepared using photographs that the staff prepared during the balloon test. The third photo simulation was one that she took herself at the same time that the balloon test was conducted. She pointed out that the first photograph was taken by staff using a telephoto lens and was taken from Rosemont Drive at a much higher elevation looking down on the balloon test. She pointed out that the wood pole is approximately in the middle of the page, which she felt blended in quite well with a backdrop of trees. She pointed out that it appears to be approximately 7½ feet above the top of the trees. The second picture was taken from the adjacent neighbor's driveway by Mr. Waller roughly at the area shown on the plans just to the east of the Rosement Subdivision entrance. The third picture was one that she took using a telephoto lens from Dick Wood's Road almost in front of the Gallihugh's property. Again, this is the only location where the pole is clearly visible without a backdrop of trees behind it, which was for a distance of one-tenth of a mile in each direction. She stated that she would be happy to address any questions or comments that the Commissioners may have about the photo simulations. She asked that the Commission keep in mind that the County's Wireless Policy was intended to be a compromise position between the traditional tall towers. Some of the traditional tall towers were approved in the old days that are visible for a great distance and are not considered to be supportive of Albemarle County's policies, but yet provide very good service. The compromise was between that position and having no towers, which essentially pivoted the service. She stated that the

policy, in her opinion, attempts to strike a very nice balance between allowing service, but yet to the extent absolutely possible to minimize the visibility of the wireless facilities. This facility, like others, will not be invisible, but in the context of the larger areas surrounding the coverage objective that the minimal visibility of this one-tenth of a mile location is, in her opinion, fairly limited relative to the area. As many of the Commissioners realize from previous requests, this area has been quite challenging for wireless providers in siting towers for many years. There have been a number of tower applications that have been denied. There have been a number of tower applications that have been ultimately withdrawn due to significant opposition. She stated that they felt that this was a reasonable compromise in light of those issues. She stated that they have worked very hard to alert the neighbors to their proposal and to work with them. She stated that they had alerted the neighbors to the extent that they could contact them to speak with them and address their concerns. She stated that in light of the context it was not visible from the interstate. She stated that she was prepared to address the setback issue, but was out of time. She stated that she would be pleased and appreciative of the opportunity to discuss that as that issue comes up following the public hearing.

Mr. Thomas asked Ms. Long to finish the discussion regarding the setback issues. He asked if the staff report was a follow through from the previous report that the applicant has not provided any information for the availability or lack thereof an alternative site.

Ms. Long stated that she had not stated clearly and concisely that perhaps there is not another available site in this area. At the time that this application was submitted, this was the only available property that Nextel Partners was able to identify that met the objectives. She pointed out that they obviously needed a landowner that was willing to lease property to them. They need a property that is located in close proximity to the coverage objective, which in this case was the interstate. Ideally they look for properties that have an existing access road that would not require grading, clearing and tree removal. The property needs to be somewhere near some trees and meet a basket of criteria. She stated that this was the only property at the time that Nextel Partners was aware of.

Mr. Thomas asked that she talk about the setback issues a little bit.

Ms. Long stated that she would like to clarify again that the pole was to be located 65 feet from the western property line. That creates a fall zone area of 20 feet so that in the incredibly unlikely event that the pole was to collapse, and there have been no reports of such things, that the top of the pole would extend 20 feet. If the tower fell in that direction it would extend 20 feet over the boundary lines. Therefore, they have a 20-foot fall zone area. The County policies require that the towers be set back from the property line at a distance equal to the height of the structure. If that cannot be met, one of two things is available. Either the Commission could waive the setback requirement upon a finding that the public health, safety and welfare would be equally or better served or the applicant could obtain an easement from the adjacent property owner, which would restrict development of any buildings or structures within that “fall zone area.” She stated that they attempted to contact the adjacent landowner to discuss this issue with him, but they have not been successful in that regard. In addition, they went ahead in the beginning with their application and requested that the Commission waive it. She pointed out that it was something that they do every time and was part of the process. She stated that they submitted the application at the beginning and have continued to work with the neighbor by trying to contact him. The fall zone area is within the setback for the rural areas in that all structures within the rural area have to be located no more than 25 feet to the side property line. This is called the side yard setback area. In essence, if they were to obtain an easement and were able to get one from this landowner, the easement would require he and his family to not locate any buildings or structures within that “fall zone area.” However, the Zoning Ordinance already restricts any buildings or structures within that area because it is the side yard. Absent from obtaining a variance from the Board of Zoning Appeals, the property owners could not locate a structure there anyway. Given the fact that the fall zone area is now smaller and within the boundaries of that side yard, she felt that the Commission could reasonably make a finding that the public health, safety or welfare would at

least be equally served by waiving the setback requirement. There is no greater protections that are granted by a fall zone easement because you are restricting development that is already restricted by the Zoning Ordinance.

Mr. Thomas asked if they were able to contact the neighbor.

Ms. Long stated that they contacted him by phone several times and Ms. Eubanks, of Nextel Partners, contacted him as well. She stated that she would appreciate to be able to respond to any comments.

Mr. Rieley stated that there were four persons signed up to speak on this issue. He pointed out that the first person to speak was Charlotte Hogue.

Charlotte Hogue voiced concerns about having a second cell tower being placed on such a small lot so close to the property line. She asked if there was any limit as to how many towers can be located on a small piece of property. She stated that this certainly devalues the nearby properties. Also, she noted that she was very upset about the actions of the surveyors since they were all over her property, climbing on the woven wire fences, walking all around and standing behind the house scaring the lady there who has a very serious heart condition. She stated that they also cut her tree. She pointed out that the surveyors did not ask permission nor tell her that they cut the tree. Also, they did not knock on the door when they came near the house and they had no idea who they were as their vehicle was not where it could be easily identified. She stated that why they were even on her property eludes her because this property does not adjoin the proposed tower site. She stated that she was certainly opposed to seeing another tower from her windows.

Mr. Rieley asked Leslie H. Jones to come forward to address the Commission.

Ms. Jones, the daughter of Leslie Jones, stated that her father had to leave. She pointed out that he was present to speak about Route 795, the trespassing on his property and what was happening on the road. Since he was not here, they would bring these matters up at another time.

Robert Hogue stated that he owned property on both sides of the proposed tower site. The proposed tower site will be located closer to his home than the previous one. He stated that pictures of cell tower sites do not always tell the truth and can shift angles to have a tree in between. He stated that it was hard for him to move the windows in his home. He pointed out that most of the trees around this site are hardwoods with very few pines. The present tower is very visible from inside his home. The proposed site is very close to the edge of the woods. Most of the trees on the east side of this proposed site belong to him and he did have the right to cut them down. He pointed out that if he chose to cut those trees down that it would open up the view from Dick Woods Road. He stated that the noise from the present tower was terrible and he could hear it inside his house with the windows closed. He stated that if he walked in the woods near his property line on his property that the noise hurts his ears. He pointed out that a lot of other people in the neighborhood could hear the noise too. He asked why the surveyors were on the furthest corner of his house away from the proposed site. He noted that he could understand why they would be on the side closest to the proposed tower site, but not why they had to be on the backside of his house. He stated that this tower would not only have a negative impact on him, but also on the Rosemont and Langford Subdivisions. He pointed out that he would not grant an easement to the cell tower company and he did not want a cell tower this close so that it could fall on his property. He asked that the Commission turn down this request for the cell tower.

Tammy Gallihugh stated that she was the property owner of the land that Nextel Partners wanted to put the tower on. She stated that they have worked very hard with Nextel to try to comply with all of the conditions that were requested by the staff. She pointed out that there is an existing

tower on the property. She stated that they have had a lot of people looking for the tower who could not find it that have stopped at her house to ask about it. She pointed out that she has had to show them where the tower was located. She requested that the Commission approve the tower because she was disabled and it would help take care of her family. She thanked the Commission for their favorable consideration.

Mr. Rieley asked if anyone else would like to address this special use permit application. There being none, he closed the public hearing to bring the matter before the Commission for discussion and possible action. He asked Ms. Long if she wanted some time for rebuttal. He stated that he would open the public hearing for Ms. Long's rebuttal.

Ms. Long asked to respond to Ms. Hogue's comments. She stated that she spoke with Ms. Hogue when she tried to reach her son and she did make her aware of their concerns regarding the surveyors. She pointed out that she spoke with the surveyors that carried out the site work for Nextel Partners, but was not sure what happened. The surveyors assured them that they had no reason to be on anybody else's property other than the Gallihugh's property to carry out their work. She expressed her appreciation to Ms. Hogue for making her aware of that so that Nextel Partners and the surveyors could be aware of that. She pointed out that she was not aware of any reason why they would have had to cut any trees. They certainly would not have done that without anyone's permission. Nextel Partners assured her that was well beyond the scope of any procedures that are ever carried out. Ms. Gallihugh has indicated that they have a problem with trespassers in the back of their property of hunters and so forth. She noted that she did not have any idea if there was a connection. She pointed out that they were aware of that and have attempted to address that concern with their surveyors.

Mr. Edgerton pointed out that in Ms. Long's earlier discussion that she indicated that no trees would have to be cut. He pointed out that there was a drawing in the packet showing a clearing with a grading plan. He stated that he wanted to be very specific about that because if they have located it in such a way that there was no required clearing that he wanted to know.

Ms. Long stated that they do not anticipate the need to remove any trees at this time and they were not asking for any permission to remove any trees. She stated that they were not planning on removing any trees of any size. Originally in one of their prior versions of the plan, there was one tree, number 18, that was about 33 feet tall that they were planning to remove in order locate the ice bridge. She noted that when she became aware that the conditions of the Alltel facility that was on the same parcel absolutely restricted any tree removal within 200 feet, that they revised the plans to route the ice bridge around that tree. Originally they thought that the Planning Director would have the discretion to permit very limited tree removal for small trees that did not impact the screening. Regardless, once they learned that was not permissible they relocated the ground equipment slightly and shifted the shelter location to make some room to be able to work around that tree. Then they submitted a revised set of plans to the arborist that they have engaged to have him review the plans and reassure them that by revising the ground equipment location they would not do anything to impact that tree or any other tree. She noted that the arborist's comments were supportive in that regard.

Mr. Craddock stated that Mr. Hogue talked about the noise from the cell tower. He asked what type of noise that he was referring to.

Ms. Long stated that she had never heard any of the cell towers that she has been around making noise. She pointed out that Ms. Gallihugh said that since the recent ice storm it has been emitting some humming noises. She stated that this evening was the first time that she had learned of this. Therefore, she indicated to Ms. Gallihugh that she needed to contact Alltel and let them know that they have a maintenance issue. She stated that the existing tower should not be emitting any noises. She noted that towers should essentially be silent. She stated that the towers might not be 100 percent silent, but that certainly it should not be emitting a noise that is at a level that Mr. Hogue could hear it from his home.

Mr. Craddock asked if they have any air conditioners located in their shelters.

Ms. Long stated that she thought that they actually do have a very small air conditioner, but she would ask that Ms. Roland Eubanks come up because she did not know much about that. She stated that it was her understanding that there has to be some sort of a cooling system to cool the radio equipment that is in the cabinet.

Ms. Eubanks stated that the air conditioning unit sets inside the equipment cabinet.

Ms. Long pointed out that in this case the unit would be enclosed within a small shelter. Therefore, the unit would actually be inside a small building.

Ms. Eubanks stated that there should not be any noise emitted.

Mr. Craddock pointed out that it was probably a maintenance issue.

Ms. Long stated that she would help address that issue with Alltel as well.

Mr. Rieley closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Loewenstein stated that the tower was pretty visible, which essentially was the crux of it. He pointed out that the Commission has seen a lot of these and that there are cases where it may be very difficult to decide because there was just a tiny bit of visibility. He stated that he felt that this case goes beyond that. He noted that he was concerned about the visibility issue and the fall zone issue. He felt that the staff made the right decision in recommending denial.

Mr. Edgerton concurred with Mr. Loewenstein.

Mr. Thomas stated that the visibility issue was not as big of an issue as the fall zone issue.

Mr. Rieley stated that he did not recall a case in which they have granted a waiver when the adjacent property owner objected.

Mr. Craddock stated that the neighbor could put a shed in that location.

Mr. Rieley stated that he would like to point out one positive aspect about this application. He stated that the arborist's report was really excellent and was a model of what the Commission should be looking for in terms of the importance of the health of the trees in the surrounding area. He asked if there was a motion.

Mr. Loewenstein moved for the denial of SP-2003-70, Gregory R. Gallihugh/Nextel Partners.

Mr. Edgerton seconded the motion.

The motion for denial carried with a vote of (5:0). (Finley – Absent)

Mr. Loewenstein moved to recommend denial of the waiver request for SP-2003-70, Gregory R. Gallihugh/Nextel Partners.

Mr. Edgerton seconded the motion.

The motion carried with a vote of (5:0). (Finley – Absent)

Mr. Rieley stated that the waiver request had been denied. He stated that SP-2003-70 would go to the Board of Supervisors with a recommendation for denial and would be heard on January 14th.

Mr. Cilimberg stated that the staff report contained a number of recommended conditions. He stated that should the Board of Supervisors approve the request, he suggested that the Planning Commission recommend that those conditions be included.

It was the consensus of the Planning Commission that in the event that the Board of Supervisors approves the request that the conditions recommended in the staff report be included.

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 monopole, the ground equipment building, and any antennas shall be sized, located and built as shown on the construction plans entitled, "Nextel Partners - Gallihugh Site", last revised November 11, 2003 and provided herein, with Attachment A.
2. The calculation of pole height shall include any base, foundation or grading that raises the pole above the pre-existing, natural ground elevation.
3. The top of the pole, as measured Above Mean Sea Level (AMSL) shall never exceed seven (7) feet above the top of the tallest tree within 25-feet tree, identified as T-20 on Sheet C-4 of the construction plans. In no case shall the pole exceed 85 feet above the existing ground elevation at the time of installation without prior approval of an amendment to this special use permit or personal wireless facility permit.
4. The metal monopole shall be painted a brown wood color that is consistent with the trees surrounding the site.
5. The ground equipment cabinets, antennas, concrete pad and all equipment attached to the pole shall be the same color as the pole and shall be no larger than the specifications set forth in the application plans.
6. Only flush-mounted antennas shall be permitted. No antennas that project out from the pole beyond the minimum required by the support structure shall be permitted. However, in no case shall the distance between the face of the pole and the faces of the antennas be more than 12 inches.
7. No satellite or microwave dishes shall be permitted on the monopole.
8. No antennas or equipment, with the exception of a grounding rod, not to exceed one-inch in diameter and twelve (12) inches in height, shall be located above the top of the pole.
9. No guy wires shall be permitted.
10. No lighting shall be permitted on the site or on the pole, 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.
11. The permittee shall comply with section 5.1.12 of the Zoning Ordinance. Fencing of the lease area shall not be permitted.

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

12. Size specifications and other details, including elevation drawings of the antennas and ground equipment shall be included in the construction plan package.
13. Certification by a registered surveyor stating the height of the reference tree that has been used to justify the height of the monopole shall be provided to the Zoning Administrator.
14. Prior to beginning construction or installation of the pole, the equipment cabinets or vehicular or utility access, an amended tree conservation plan, developed by a certified arborist shall be submitted to the Zoning Administrator for approval. The plan shall

specify tree protection methods and procedures, and identify any existing trees to be removed on the site - both inside and outside the access easement and lease area. All construction or installation associated with the pole and equipment pad, including necessary access for construction or installation, shall be in accordance with this tree conservation plan. Except for the tree removal expressly authorized by the Director of Planning and Community Development, the permittee shall not remove existing trees within two hundred (200) feet of the facility. A special use permit amendment shall be required for any future tree removal within the two hundred-foot buffer, after the installation of the subject facility.

15. 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 completion of the pole installation and prior to the issuance of a Certificate of Occupancy or to any facility operation, the following shall be met:

16. Certification by a registered surveyor stating the height of the pole, measured both in feet above ground level and in elevation above sea-level (ASL) using the benchmarks or reference datum identified in the application shall be provided to the Zoning Administrator.
17. Certification confirming that the grounding rod's: a) height does not exceed two feet above the tower; and, b) width does not exceed a diameter of one-inch, shall be provided to the Zoning Administrator.
18. No slopes associated with construction of the facility shall be created that are steeper than 2:1 unless retaining walls, revetments, or other stabilization measures acceptable to the County Engineer are employed.

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

19. The applicant, or any subsequent owners of the facility, shall submit a report to the Zoning Administrator by July 1 of each year. The report shall identify each personal wireless service provider that uses the facility, including a drawing indicating which equipment, on both the monopole and the ground, are associated with each provider.
20. 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.

The Planning Commission took a ten-minute break at 7:50 p.m.

The meeting reconvened at 8:05.

Public Hearing Items:

SP-2003-075 Alan & Theresa Zick/Ashleigh Preservation Tract B: Request for special use permit to allow construction of a bridge in a floodplain in accordance with Section 30.3.05.2.1 of the Zoning Ordinance which allows for Water related uses such as boat docks, canoe liveries, bridges, ferries, culverts and river crossings of transmission lines of all types. The property, described as Tax Map 34, Parcel 22V, contains 100 acres, and is zoned RA Rural Areas. The

proposal is located on Priddy Court, approximately 0.3 miles from the intersection of Priddy Court and Ashleigh Way Road, in the Rivanna Magisterial District. The Comprehensive Plan designates this property as Rural Area in Rural Area 2. (Scott Clark)

Mr. Clark summarized the staff report. This is a request for a permit for a bridge in Turkey Run. The bridge was built prior to the current owner's purchase of the property and no one really knows whether or not it was built prior to the adoption of the current flood plain regulations. The applicant wants to make sure that their bridge is in conformity with the regulations. They don't plan any further construction beyond what is already there. Currently it is a 100-acre parcel in the Ashleigh Rural Preservation Development. It is one of two preservation tracts and it is under easement held by the County. Staff's main concerns with this would be erosion impacts on the neighboring properties, impacts on the stream and health and safety. It is possible that there will be erosion impacts from the construction of this bridge even though it has been in place for some time. One of the conditions recommended at the end of the staff report is for a mitigation plan to be established by the Engineering Department, which most likely would consist of some plantings to help stabilize the banks and limit that problem. The other largest issue with this was the structural adequacy of the bridge. The Engineering Department put in another of their standard conditions, which is just to make sure that they get the calculations showing that the bridge is adequate. It is possible if there is a problem with that that some minor reinforcement of the bridge would be done, but nobody expects any significant construction. We also reviewed this with Mr. Kamptner to ensure that the approval of this permit would not violate the terms of the easement. The easement does talk about preventing alterations to the overall topography of the property, but this is not considered anything of that scale. It is a fairly small bridge and flat area and there is very little elevation change involved with it at all. Therefore, staff is recommending approval with the five conditions that you can see at the end of the staff report.

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

Eric Morrisette stated that he was present to represent the applicants, Alan and Theresa Zick. He pointed out that Mr. Zick was here with him tonight. He stated that Mr. Zick and his wife purchased this property and in the selection process for the desired home they took a look at the bridge and realized that they should look into the legality of the bridge. He pointed out that they were mostly here tonight simply to try to comply with the ordinance requirements. As they inquired about the bridge, they found that that bridge has been there for many years. The research indicated that there had been a ford there as far back as the 1800's. A deed of 1910 certainly showed that. There was a ford crossing the stream. The property changed hands many times between various lumber companies. He stated that he could not locate any one in the large companies that have any history for these parcels. As far back as he could date is a party that was involved at the transaction in the mid-80's that verified that there was a bridge on the property at that time. Certainty, they needed it to date back to 1980 when this section was applied to the Zoning Ordinance. He pointed out that he had written statements from parties that date back to the mid-1980 that the bridge was there. He stated that he also has another written statement in the year of 2000 when the bridge had some repairs done. At both times the bridge was at a point of disarray. It is a very sturdy bridge if you have been out to see it. It has concrete abutments and steel beams underneath. At the time of initial construction, it had a wooden deck going across it and around the year 2000 or late '90's when the most recent logging had occurred, the bridge just became so unstable or the decking of the bride became so unsteady that they had to replace it. The owner at that time went in and put a concrete reinforced decking on top of that bridge. They certainly believe that the bridge has been there forever. There have been no changes done to the abutments and he had a written statement to that effect. He stated that they were just here tonight to make it a legal issue with the County so that they could get their building permit to move forward.

Mr. Rieley asked if there were any questions for Mr. Morrisette. He asked if anyone else would like to address this application. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Loewenstein stated that this seems to be a pretty straightforward proposal. He noted that the Commission finds themselves in a somewhat peculiar position of approval expo-factor or whatever the right term would be. But given that there does not appear to be any significant disturbance involved, he would be in favor of this. He stated that he would be willing to move to that effect once they hear from the other Commissioners.

Mr. Craddock stated that he agreed.

Mr. Loewenstein moved for approval of SP-2003-75, Alan & Theresa Zick/Ashleigh Preservation Tract B, subject to five conditions recommended in the staff report.

1. Engineering Department approval of computations and plans documenting changes to the floodplain. Plans must show floodplain limits and levels before and after construction. Sections 18-30.3.02.2 and 18-30.3.03.2 allow no increase in flood levels. However, in areas of approximated floodplain, FEMA map accuracy is within 1 vertical foot.
2. Engineering Department receipt of copies of federal and state permits for disturbance of the stream channel and any associated wetlands.
3. Engineering Department approval of mitigation plan for repair and enhancement of the stream buffer. The mitigation plan shall include an implementation schedule.
4. Engineering Department approval of plans and computations verifying structural adequacy of the bridge and abutments.
5. Conditions 1 through 4 must be met within four months of the approval date of this permit.

Mr. Thomas seconded the motion.

The motion carried by a vote of (5:0). (Finley – Absent)

Mr. Rieley stated that SP-2003-75 would go to the Board of Supervisors with a recommendation for approval and would be heard on January 7th.

SP-2003-074 Karin M. Gest Private School - Request for a special use permit to allow a private school for classroom driver training in accordance with Section 20.4.2.1 of the Zoning Ordinance which allows for private schools in the PUD Zoning District. The property, described as Tax Map 61Z, Section 3, Parcel 202B, contains .245 acres, and is zoned PUD-Planned Unit Development. The proposal is located on Incarnation Drive, at the intersection of Rt. 1694 (Branchland Boulevard) and Rt. 1427 (Hillsdale Drive) in the Rio Magisterial District. The Comprehensive Plan designates this property as Urban Density Residential (6.01-34 dwelling units per acre) in Neighborhood 2. (Tarpley Gillespie)

Ms. Gillispie summarized the staff report. The applicant is requesting a special use permit to allow a private school to be located within the existing Branchlands Professional Center Office Building. It is a private school for class room driver training and it would have up to ten students, with an average of 8 students, and conduct classes after 4 p.m. in the evening with the occasional Saturday activity as well. The property is zoned PUD and is part of the original Branchlands PUD. There was a site plan completed for this new building in 1999. There were 97 parking spaces required for the site plan. The site provides 105 parking spaces. In our review one of the things they needed to do was to determine the number of parking spaces that would be required. The Zoning Ordinance gives the authority to make that determination to the Zoning Administrator who requested a parking study from the applicant. The applicant provided the parking plan, which is in the packet. The parking plan is also posted on the board. She stated that also provided was some stipulations about their business such as the hours and the number of students. The parking plan shows the 4 parking spaces designated specifically for this use and there are 8

spaces in the lot, which are open spaces that pretty much anyone can use. The Zoning Administrator did require 5 parking spaces for this use and staff felt that those 5 parking spaces were being met through the 4 designated and the 8 open spaces. Therefore, it does meet the parking requirement. Staff reviewed the proposal against the Comprehensive Plan, which designates this property for Urban Density Residential and against the Neighborhood Model. Because this is an existing site and there are no anticipated land use impacts, staff does not recommend any site improvements or exterior modifications to be made. Staff feels that it is in conformity with the Comprehensive Plan and is recommending approval. Staff recommends two conditions of approval. The first condition was that the maximum number of students be kept at ten. The second condition would be that the normal hours of operation be from 4:00 p.m. to 8:00 p.m. with a provision that an occasional school related activity might occur outside of those hours. She pointed out that Steve Melton was here to answer any questions on behalf of the applicant.

Mr. Rieley asked if there were questions for staff.

Mr. Thomas stated that it was a very good use for shared parking. He stated that in the condition it said except school related events. He asked what events that they would be and if they would occur during the specified hours.

Ms. Gillispie stated that this was a standard condition that the Zoning Department likes staff to put on private schools. This condition would allow a graduation ceremony or some other activity for parents.

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

Steve Melton stated that he would represent Ms. Gest tonight. He stated that he concurred with staff's comments and would be happy to answer any questions.

Mr. Rieley asked if anybody else would like to address this issue. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Thomas moved for approval of SP-2003-74, Karin M. Gest Private School, with the conditions recommended by staff in the staff report.

1. Maximum enrollment shall be 10 students;

2. Normal hours of operation for the school shall be from 4:00 PM to 8:00 PM provided that occasional school-related events might occur outside of these hours.

Mr. Edgerton seconded the motion.

The motion carried by a vote of (5:0). (Finley – Absent)

Mr. Rieley stated that SP-2003-74 would go to the Board of Supervisors with a recommendation for approval and would be heard on January 7th.

CPA-03-06 Rural Areas Section of the Comprehensive Plan - This will be the first opportunity for public input on the draft plan - further opportunities will be provided as the draft plan moves towards final recommendation by the Planning Commission. The draft section is posted on the county website at www.albemarle.org and is also available for review in the Planning Department located in the County Office Building. Comments regarding the section may be forwarded to the Planning Department at (434)296-5823 or to Joan McDowell (jmcdowell@albemarle.org) by anyone unable to attend the December 16 meeting. (Joan McDowell)

Mr. Rieley stated that this was the first opportunity for public input on the draft plan. He stated that there would be other opportunities. He asked Ms. McDowell to provide a brief introduction before they took public comment.

Mr. Loewenstein stated that the primary purpose of tonight's session on the Rural Plan was to gain for the first time some public input from the general public.

Mr. Cilimburg pointed out that the Planning Commission had indicated previously that after the first of year that they would take what they hear tonight and begin talking about that. Then the Commission would begin work sessions more specifically geared to the sections as they currently exist and the changes that they might want to make based on the comments received tonight.

Mr. Loewenstein stated that tonight the thrust would be on accepting public comment, and Mr. Cilimberg stated that was correct.

Ms. McDowell stated that they were here tonight for the first input session. She pointed out that this was more of a public input session rather than a continuation of the Planning Commission work sessions so that the public has an opportunity now to speak directly to the Commission about what they like or don't like and what they would like to see and what they would not like to see in the Comprehensive Plan. She stated that she hoped that everybody has had an opportunity to take a look at the Comprehensive Plan. Staff has posted a copy of the Comp Plan on the web page under albemarle.org. There is a paper copy in the Planning Department. If anyone has not had a chance to do that, she could make that opportunity for him or her to review the document. This document is a draft of the Rural Areas chapter that is an element of the Comprehensive Plan, which has several sections within this element. These sections contain what is a vision for Rural Albemarle and then the guiding principles. The Planning Commission worked with staff over several months to finalize this section. They looked at land use patterns, residential and commercial development, and several land uses. Last week the Commission added another section entitled Conservation Use. It provides the framework and the policies from which eventually ordinances will be developed. Therefore, this is a very important document and she was pleased to see people here who are interested enough in this to be here. She stated that she would not take the time to go over what they have been working on for over a year since she was very interested in hearing what the public has to say.

Mr. Rieley stated that with that they would open for public comment. He pointed out that they would first go through the sign up list and then if anybody else would like to weigh in they could do that. He stated that the first speaker was Marcia Joseph.

Marcia Joseph, representative for the Southwest Mountain Coalition, stated that first she looked at the conservation uses, which was the latest addition. On the second page in the second paragraph they were talking about long term conservation uses. She suggested that some of the words be removed, where it says, "and can provide a greater level of protection for natural resources." Under objections, it talks about supporting rural landowners whose main objective was the conservation of rural land. Then it says not necessarily an agricultural or commercial forestal use, which she felt should be stricken. This is mainly because they were talking about strategies and using the acquisition of conservation easement program. She pointed out that she would hate for someone to come in and say that they were going to make it so that any of these conservation easements that came in, which they were paying tax dollars for, that they were going to limit the agriculture forestal use or something like that. The flavor of this is almost negative on agriculture and forestry, and she would like to see that as a little more of a favorable response to agricultural and forestry. Other issues in this have to do with timing of development rights that are located around page 19, which she felt was a good idea. There are other localities that do something like that. Both Augusta County and Rockingham County limit how often someone can do subdivisions in the Rural Areas. The cluster option is extremely important because as of July 1, 2004 they are going to have to be able to do that by right. She stated that she did not support the central water or septic to do something like that. It would be very nice if

they could have 75 percent of the parent parcel designated as a preservation tract, but she felt that they should think long and hard about those central systems. The crossroads was a fabulous idea if that was how they were able to preserve some of the historic structures out in the Rural Areas by being a little bit more lenient in allowing some scale of uses that make sense in a crossroads community. She agreed those things like parking could be scaled down, etc. Regarding central systems, again, she felt that allowing small lots in the Rural Areas might be a good idea, but they need to look at the carrying capacity of the land itself. She stated that she had other concerns, which she would send to the Commission by email.

Mr. Rieley stated that the next speaker was Ben Brewster.

Kat Thrash stated that Ben Brewster and his wife had to leave and she would speak for him. She stated that she lived out in the southern part of the County. On behalf of the Brewsters and much of her neighborhood, which was part of the Carter's Mountain area, she would like to thank the Planning Commission for their work in preparing the draft on the Comprehensive Plan. Mr. Brewster especially wants to express his support for the timing of developmental rights and the usage. While some might argue that disallowing a person's ability to use all of their development rights at once by saying that it would infringe on their rights, they believe that it would focus their intention on the responsibilities of a land owner rather than just the rights of the landowner. Something that is not spoken of very much is that if one is going to benefit from property rights they should also accept the responsibility that goes along with them in mainly not damaging a neighbor's property or the property values. At one time and still in certain places property might be looked on strictly as an investment to be sold off at the owner's discretion regardless of how it affects their neighbors or the County. People today in a populated area such as Albemarle County believe that we have passed this point and a property owner has a reasonable responsibility towards others in the County and how they dispose of their property. The timing of development right usage would decrease the assets, in other words the land's equity, however in the investment world limiting an investor's equity is often done to protect other investors. If an investor is not comfortable with this, then such an investment is deemed to be unsuitable for them. Similarly, if a perspective landowner is worried that he will need to sell a piece of land periodically to live off of, then maybe land is not what they should be owning. Additionally, if a landowner's financial situation changes such that selling land is their only option, then maybe the entire piece should be sold intact. Making our neighbors pay for their problem is not fair to them. While the timing of the development right usage will have to strike a balance between effectiveness and protecting the County with fairness to all property owners, it is important to note that it does not disallow the sale of land or even a portion of land. But, it does disallow the indiscriminate sale of parcels.

Tom Loach, of Albemarle County, stated that he was listening to the characteristics of the Rural Plan and one thing that was left out was the financial impact of the plan. He referred specifically to the land use tax program as designated in the Land Use Plan. In the last twenty years the land use tax program has cost the taxpayers of Albemarle County one hunderd million dollars. This year alone it cost $9,000,000 in subsidies and another $950,000 in direct tax payments to the City of Charlottesville. That said, when you ask anyone in the County government, being financial planners of administration, to show you the cost benefit analysis or return on investments for the one hundred million dollars, they can't. When you look at the data in the plan on page 4, it says that from 1985 to 2002 the number of development right lots under 21 acres created per year ranged from 171 to 340. Then, in sum there were 3,000 development rights that were created, which converted over 15,000 acres of Rural Areas for potential residential use. Another 704 parcels between 21 and 50 acres in size were created using over 19,000 acres of land. One has to question the validity of the program. If the goal of the program is to preserve Rural Area, then you have to compare that to the Ace Program. The last two years the Ace Program has averaged better than 100,000 acres per one million dollars spent. If you extrapolate that against the $100,000,000 that you would have by now 100,000 acres of County land preserved forever with between 1,500 and 2,000 home sites off the market. The truth is that with every development right under the current Land Use Program and every development right that existed when the

program started still exists. The property owner only pays the past five years in taxes when the land is sold. The bottom line is that the Land Use Tax Program is an incentive program while the Ace Program is an investment program. Before the County spends another $100,000,000 they should decide which provides the best benefit for the taxpayer.

Charlotte Hogue stated that she was opposed to changing the division right either by number, by size or time factor. She questioned how the County feels that they can take without just compensation. She asked if they really feel that this will slow growth or do they want Albemarle to become a County only for the very wealthy people.

Elizabeth Muse, a resident of Bleinhem Road at Quandary Farm, expressed her gratitude to the leadership of Albemarle County for addressing the issue of growth in the Rural Areas. As you are well aware, we are rich in agricultural and historical resources. As you also are aware, those resources are disappearing before our eyes and are forever being altered by the suburbanization of the Rural Areas community. She noted that her heart would like the Commission to focus most on the preservation of the beautiful land around us, her pragmatic side must raise the basic issue of water. Although we have more water than we apparently need, the drought is but a distant memory and an issue that will certainly be a reality again. Without change, the Comprehensive Plan that now has agricultural fields and forests can very easily be broken into small lots with wells being dug only a hand full of acres apart. Not only is the available ground water increasingly tapped by expanding development, but the watershed that shapes and feeds the larger environment is also being changed. She asked that the Commission to please note the obvious that water is a limited resource over which they have no control. It is a resource that feeds the agricultural and forestal industries and a resource upon which our daily lives depends. If development continues at its current pace, they will not have to wait for a drought to have extreme problems with water. It will simply be an everyday occurrence. She hoped that while the Commission was considering the entire ramification of the proposed Comprehensive Plan that they keep in the forefront how dependent the farmers and rural residents are on the water supply. There is an opportunity before the Commission to limit the growth in Rural Areas and she hoped that they would take this opportunity. She thanked the Commission for their attention to these important issues and for considering the impact that the development is having on the Rural Areas of Albemarle County.

DeForest Mellon stated that he was a member of the Board of Directors of the Citizens for Albemarle and would speak for that organization this evening. Citizens for Albemarle urges adoption of the current Rural Areas plan now before the Commission and the Board of Supervisors. We would also suggest the urgent necessity of developing a strategic plan to deal with the following issues:

1. Using existing and novel approaches, we urge the Planning Commission to aggressively pursue the reduction of “build out” of the Rural Area, which currently encompasses approximately 65,000 by-right development parcels. No matter how these parcels are clustered, their execution would dramatically alter the present character of the County’s rural areas and would have a significant, negative impact upon the area’s biological diversity. While downzoning is one possible solution, we urge adoption of other proactive mechanisms such as floating a bond issue to purchase development rights, more aggressive programs to educate landowners about the benefits of conservation easements, perhaps enlisting the help of organizations currently engaged in acquiring such easements.
2. We support the elevation and the status of “Conservation Lands” in the Land Use designation to be coequal with agricultural and forestry uses. The basis for adopting this important change in status is the recognition of economic as well as ecological importance of essential services provided by natural habitats, including ground water retention and purification, oxygen recharge to the atmosphere, as a repository of genetic diversity in essential organisms, such as insect pollinators, and to provide wildlife habitat, all contributing to Albemarle citizen’s quality of life.
3. Finally, we urge the Planning Commission to adjust or modify the general zoning provisions in particular the ecological sensitive areas of the County, such as the western portions which

constitute the major aquifer recharge area, the headwaters of major rivers in the County, and the corridors along the James and Rivanna Rivers. We believe such especially ecologically sensitive regions should be protected from further human disturbance.

Betsy Carter stated that she was in favor of making the parcels in the Rural Areas 50 acres since it would help us a great deal. She stated that they not only treasure the aesthetics of open space, but it brings tourists to our area to eat in our restaurants, sleep in our motels, purchase in our gift shops and see our many historic attractions. She pointed out that it was an economic matter also. She stated that some of the Commission might have heard the comments that others have made that we need to protect what we want to market and that is the case and the reason to protect our Rural Areas so that they could market it to our tourists. She stated that would definitely contribute to our economy. She asked the Commission to help preserve the beauty of Albemarle County.

Fred Scott stated that he served on the Rural Area Study Commission. First, he asked to thank Ms. McDowell because she got most of the information right. He stated that he supported the vast majority of the information that was before the Commission. He stated that there were several areas that could be improved. He noted that it was distressing to see the 21-acre parcel because he did not know a single soul that believes that the 21-acre zoning was the right thing to do. It is generally believed that when you make parcels 21 acres and you build houses on them, then you have to use up land at the 21-acre rate. He noted that if they changed that to 50 acres that it was going to accelerate that problem. It is not the size of the acreage that matters, but the use of the acreage that matters. He stated that the people with huge farms are not the ones that matter, but the people that matter are the ones that are trying to build a house for their families. He stated that he was not saying that they need more lots, because he did not think that they need any more build out density in this County. He pointed out that he was not saying that at all. The total build out now should be built on as small a lot as the land can take and use all sorts of smart modern systems. As a former speaker said, they should use the water from a large preservation tract that surrounds the clusters. That brings out another thing that if they are really brave they will do, which is abandon the existing zoning that they have today and move straight towards a by right Rural Preservation Tract Zoning. He stated that he was convinced that given flexibility that is the right way to go. It will take courage, but he felt that it makes a lot of sense. He thanked the Commission for their time.

Marcia Parsonage stated that she was speaking for the League of Women Voters. The League highly commends the Planning staff and Commission for your thorough and thoughtful revision of the Rural Areas (RA) chapter of the Comprehensive Plan and for your inclusion of public input throughout the process. The wealth of important data on the state of the RA and the clear statement of vision and guiding principles provides County officials with essential direction for developing wise policy and making hard land use decisions. We applaud the emphasis on consistency between the RA chapter and other sections of the Comprehensive Plan and on promotion of an "orientation to resource protection that pervades the County's entire planning process. The League strongly agrees with the revised chapter and with a majority of citizens surveyed that:

- Rural Area growth must be limited and well managed to maintain the rural character.
- Residential/commercial development should be focused in designated Development Areas.
- Agriculture, forestry and conservation are the desired primary land uses in the Rural Areas.
- Water quality protection in reservoirs, streams and wells is of prime importance.

Documented residential growth in the RA makes it clear that continuing current by-right subdivision could alter forever the forests, farms, open spaces and natural habitats that define rural lands. To counter this trend, we support the direction of residential and commercial growth to the Development Areas and maintenance of the current policy of not extending public water and sewer to the RA. We believe it will be critical to develop the new tools and policies recommended by the Planning staff such as decreased development lot size, increased large lot size, and time-release development. Rural Preservation Development should be further analyzed and standards put in place that would truly minimize land developed and insure the preservation

of large contiguous parcels. Performance standards and restrictions for all RA subdivisions must be consistently applied and must achieve the goals of preserving, protecting and conserving land for appropriate desired rural uses. Fiscal and tax "tools" already in place should also be strengthened, for example, through increased funding for conservation easements and by enabling more use-value taxation for open space and environmental protection along with agricultural and forestal uses. She presented a copy of her presentation to the Commission for the record. (See the attached copy of the presentation for the League of Women Voters.)

Lee Fordburg, resident of Albemarle County, thanked the Commission for having this public input session. He echoed his appreciation for all of the work that was going into the development of this Comprehensive Plan. He pointed out that he shared the concern that most of the residents of Albemarle County had in that the beauty and continuity of Albemarle County's rural areas be maintained as best possible. He asked the Commission to focus on this matter of concern and question it as he has as they move forward with the plan because he was not quite sure that it was consistent with the goals. That is the question concerning the proposed clustering of the development rights on the smaller lots. If anything, it does appear that it would actually invite development in the County for residential purposes and actually accelerate it. It would also create a dense population of residential housing along the rural roads. If you look at the designated growth areas that they currently have, such as the Crozet Master Plan, the end result of the clustering would be to create streams of housing developments clustered close to the rural roads. The very rural roads that they currently treasure so much will be altered and that the entire County may become a ribbon of extended development much like the arms of an octopus as such. He noted that he was not sure if he understands completely the consequences of the clustering. But if he was reading it correctly, he asked that as the Commission moves forward that they do consider ultimately the consequences of doing that clustering.

Edward Sherrar stated that he lived on Route 53 on Buck Island Farm. He stated that he found that he liked a lot of the work that the Commission has done. He noted that he shared with most of the people in this room the desire to keep the County as it is with slow growth and to channel the growth into the growth areas. One of the things that he has heard from the Planning staff is that agriculture is irrelevant to the future of Albemarle County. He asked to address that question and to aim it at the 50-acre lot as opposed to the 21-acre lot size. He stated that the 50-acre lot size would simply gobble the County up more rapidly. He noted that you would have to build a bigger house, a fancier house, but the County would still be covered with houses with no farms. If they don't protect the agriculture, then what they were going to have is land waiting to be developed. The farmers cannot make it on 50 acres. He pointed out that you could not rent enough 50-acre parcels to make a farm and you would be subject to the whelms of bartering landowners with little or no agricultural experience. He noted that you need a couple hundred acres to farm viably, but you really need more than that. He stated that he owned a couple hundred acres, rents a couple hundred more and then owns a couple hundred more acres in another County. He noted that he was still a small farmer. It is very hard to make it and you cannot do it with 50-acre lots. If they start selling lots of 50-acres, then the farms would be gobbled up in no time. The average farmer is 61 or 62 years old and he was going to have to do something with his land. He asked the Commission to try to find more imaginative ways to slow growth in those areas through TDR's, PDR's, Service Districts and perhaps the public facilities' legislation that they have heard a little bit about this year at the State level. He felt that they might be able to slow and channel growth by using those concepts. But, if they go to the 50-acre lot size, he felt that they would simply gobble up the County with three million-dollar houses. He pointed out that the County would then begin to look like Fairfax and not like Albemarle because there would not be any farms.

Tom Olivia, resident of the Schuyler area in the Scottsville District, stated that the County and staff should be commended for this draft that was being discussed tonight. He pointed out that it was the fruit of a long public process and that he felt for the first time squarely addresses the issues surrounding the co-existence of different valued resources in a finite rural landscape. He noted that he sent written comments to the Commission last Friday regarding the draft that was

developed at that time. He stated that he had only had a brief opportunity to look at the very latest draft, and so his comments tonight were somewhat restricted. The most recent addition to the current draft appears to be the inclusion of a section recognizing conservation as a land use. This recognition is essential to the long term well being of our community. Modern science now tells us that all of the needed natural resource protections cannot be accomplished on multiple use landscapes in some areas in which a natural resource existence is a primary goal omitted. Many rural landowners seem willing to dedicate part of all of their properties to this use and he felt that common land use policy should recognize it. The draft includes on page 17 an important proposal that a participatory process be established to develop further a vision for the simultaneous protection of Rural Areas, Agricultural/Forestal landscape resources, biological and water resources, and historical resources. As an environmentalist, he stated that other environmentalists in this area would be willing to participate in this process. As a part-time farmer for the past 15 years, he would hope that members of the agricultural sector would be willing to participate in such a constructive process. He stated that protecting these treasured rural resources is likely to cost somebody a lot of money. Therefore, he asked that the Commission consider adding fair distribution of resource protection costs to the tasks to be addressed by this vision development group that is proposed on page 17. He asked that they consider raising revenue to help defray the costs of the bond issues discussed by Mr. Mellon for Citizens of Albemarle that would be related to this.

A. E. Shackleford, resident of Stoney Point, stated that he operated a 365-acre farm that was bought by his great grandfather in 1817. He stated that he could attest that maintaining the kind of rural atmosphere that they all agree that they want takes a great deal of sweat equity because it does not just happen. He stated that it was not going to happen by people who are not supportive. He stated that although he agreed with a lot that this plan offers, he certainly echoed the praise of the planning staff that has already been expressed. They have listened and have adapted well and done a marvelous job. He stated that he wanted to raise an objection to two parts of it. The first objection is the equality of what the plan calls the defining principles in the rural area, which was originally designed primarily for agriculture. He noted that it was his intention that it was going to take agriculture to support anyone that owns property in that area and that they better do all that was possible to protect and support it. The second and biggest issue that he had was with the minimum lot size. If you increase the lot size, then you have therefore decreased our number of division parcels. He pointed out that he did not even know how many parcels that he had because he did not plan to sell his place if he did not have to. He stated that value is bound to be affected in spite of what some people will say, but appraisers don't all agree. If taking away division rights did not reduce the value of his property then the Ace Program would not be costing a million dollars a years to compensate for the loss of those rights. He noted that he saw this increased lot size as a form of down zoning. If that is what the County wants, then by all means compensate the property owners. If not, then the County should allow clustering. He stated that there would not be any more people in the County by clustering than by leaving it at 21- or 51-acre parcels. What you will do is have much larger open space. He noted that you would be able to have these contiguous spaces that the wildlife people, the bio-diversity people, and the foresters all say that is needed. He noted that you would have the water resources, etc. on protected land because there would be no more division rights. He asked that the County not take away their rights, but just let them have them in a smaller place. The County roads are still going to have the same number of cars because of these people are going to have to go to town whether they live on 51 acres or not.

Sherry Buttrick stated that she was delighted to see the long awaited review of the Comprehensive Plan's Chapter 4 Rural Areas. She stated that she just wanted to touch on a couple of the high points of things in the plan that she thought was a good idea. She favored very much the promotion of Agricultural/Forest Districts and was delighted to see that. Also, the time release zoning that was done in some of the other rural Counties she thought has worked there and is a very good suggestion. She stated that she was pleased to see the council still referred to. She stated that the holding period for the family divisions is an important loophole to close because there has been fairly wide spread abuse of that. Family divisions are an important

concept, but abuse has been widespread and it is the shortness of the holding period that has caused the problem. She noted that she seldom agreed with Fred Scott, but she felt that they both agree on the fact that the 21-acre lot size is the worse policy that there has been. But, they would probably disagree on the solution. She pointed out that a larger lot size was probably the solution, but that she did not know the exact number. The most important thing to be done in the review of this Comp Plan is to break the cookie cutter of the 21-acre mold and do something else about that. She stated that many people in the Rural Areas have always felt that the land use tax is vital to the preservation of the Rural Areas. Agricultural and forestal uses pay more in tax than they cost in the services. The illusion that money is lost is nothing but an illusion because that is the landowner's money. The definition of land conservation and perhaps that concept as developed here she found was confusing and ambiguous. She stated that it might be a good concept, but that it needs some development. The concept of the central water and septic was perhaps a dangerous thing in the Rural Areas. She thanked the Commission and staff for all of these recommendations and for looking closely into these things because the Rural Areas are under serious threat. The Comprehensive Plan has had wonderful language in it since 1989, but the Rural Areas are disappearing. She asked that they try to see if they can stop that from continuing.

Mr. Rieley stated that he wanted to make one parenthetical remark that relates to what Ms. Buttrick said about our disappearing Rural Areas. He pointed out that he did a quick calculation and if Mr. Loach's quoting of the number of acres in the last 40 years is correct that equates to 2 ½ times the land area of the City of Charlottesville that has been developed within rural Albemarle. He stated that it was kind of an interesting notion. He asked if there was anyone else who would like to speak on the Rural Areas section. He pointed out that they would give everybody a chance to speak.

Jeff Werner, representative for the Piedmont Environmental Council, stated that PEC was created in 1972 to protect the rural landscape of Virginia's Piedmont. Over 38,000-acres of Albemarle County is under conservation easement. In the PEC's nine-county region, this total is over 175,000 acres. The PEC urges the County to move forward with this proposed Plan and he stated that he would offer some specific comments. First, he stated that he wanted to explain the dot maps that they have used to represent the build-out potential of the Rural Area. The data for this map comes from the Thomas Jefferson Planning District Commission's (TJPC) 1996 Build Out Analysis. That analysis did account for site limitations such as steep slope, flood plain, etc. To create our map, the computer randomly scattered the potential rural lots -- or dots -- on to the map. Some dots may be where site limitations preclude development. The critical point is that while some dots might be moved elsewhere on the map, the data suggests that no dots should be removed from the map. This map is critical, as it clearly shows the potential for a very un-rural Rural Area. The costs of a suburbanized rural area include increased sediment into our streams and public reservoirs, increased demand for improved rural roads and public services, demands on groundwater, fragmentation of the landscape and the loss of environmental resources to name a few. Whether in increased fees to dredge the reservoir or increased taxes to finance road improvements or in requiring long-time residents to drill ever deeper wells to access a stressed groundwater system: the rural area development is not free to any of us. The County's budget policy is to provide "a higher level" of public services in the Growth Area. The County cannot maintain this budget and provide an equal level of services to the entire County. It is fiscally impossible-no matter how much retail space we add to the Growth Area. The PEC offers the following specific comments regarding the proposed Plan.

- Prohibit pocket well and septic plants in the Rural Area. These systems are expensive and feasible only for large-scale developments. They are not a means to provide affordable housing. These private systems have a well-documented history of failure and often require costly public intervention. The County must maintain its policy of providing limited public services in the Rural Area.
- Require that 85% of a cluster development be in a Preservation Tract. A model exists in Fauquier County's ordinance. While many view it as a panacea, the PEC is not in favor of rural clustering. Whether development is clustered or scattered the result is the same number

of wells, the same number of septic systems, the same number of car trips, the same number of school bus trips, the same call for quicker response times from police, fire and rescue. Clustering is a Potemkin Village allowing the continued suburbanization of the Rural Area in a way that everyone can convince themselves they are protecting it.

- Adopt more stringent review requirements for small lot, suburban-scale developments not related to a bona fide agricultural or forestal use. These criteria – such as review of a grading plan and requiring improvements to public roads – must be sufficient to fulfill the objectives of the Plan.

The painful truth is if all of the dots stay on the map – we have not protected the Rural Area. (See the attached copy of Mr. Werner's presentation.)

Timothy Hulbert, resident of 2246 Brandywine Drive in Charlottesville, stated that he worked for the Charlottesville Regional Chamber of Commerce. It is an alliance of 1,200 member enterprises dedicated to representing private enterprise, promoting business and enhancing the quality of life of our Greater Charlottesville communities. Founded in 1913, today our Chamber enterprises together employ more than 45,000 men and women, earning more than $1.3 billion a year. He thanked the Commission for the opportunity to offer some comments on the proposed rural area chapter amendment to the County's Comprehensive Plan. On behalf of a number of our member enterprises, he would like to relay to you, in no particular order of interest, some of their concerns about the proposal you are considering. Some of the questions that have arisen include:

- What is the estimated increase in housing costs that you anticipate the proposed "down-zoning" of rural area division rights to 50-acre minimum lots will have in the regional housing market? Does your analysis of this estimated cost increase calculate the affect that upward pressure on rural area housing costs will have on other housing market sectors? How does this policy facilitate the County's stated affordable housing goals?
- Do you anticipate that the proposed "down-zoning" of rural area division rights will result in more or less homes being constructed in the County's rural areas?
- Rather than "down-zoning" division rights to 50-acre minimum lots by governmental regulation, might not greater incentives towards clustering and smaller lot sizes "open up" more land for agricultural and agribusiness pursuits?
- Current Albemarle County policies define "agriculture and forestal activities" as having "the highest priority" in all County rural area decisions. The proposal, in defining other goals – scenic, historic & natural conservation, water supply, service delivery, etc. – seems to set up an unavoidable conflict with other competing goals of equal value. Are agriculture and forestry enterprises still the County's highest priority in the rural area? And if not, what will be the mechanisms and schedules for resolving conflicts between two competing goals?

These are some questions for you to ponder as you go forward. He thanked the Commission for this opportunity and that they would continue to work with them as best possible. He pointed out that as they go forward that there would be many more questions that need to be addressed before this is right.

Phyllis White, resident of the Slate Hill area of Albemarle County, stated that she hoped to become a part of the Federal Historic District that hopefully will happen in that area. She stated that she was a member of the Board of the Rivanna Conservation Society, a Certified Stream Monitor and a member of the local chapter of the Virginia Channel and Navigation Society. There will be a full report coming out next month that she would make sure that the Commission gets a copy of from John Murphy, the Director of Stream Watch, which the County hopes to fund. She stated that she received some results earlier this year, which showed that during the first five months of 2003, there had been significant deterioration of the Rivanna River in its main stem and tributaries from 2002. Fully one-half of the streams that were monitored by Stream Watch, County personnel and other groups received an unacceptable rating path. This report coming out will certainly cover the whole period through 2002 to 2003.There is a lot of antidotal evidence that there has been deterioation in the Rivanna and its tributaries. Hundreds of citizens enjoy swimming, snorkeling, fishing, canoeing as she did. Many people that they have talked to say that there has been a real deterioration in the quality of the water and the fishing. In fact many

fishermen have just simply stopped fishing in the Rivanna, especially downstream from Charlottesville. She stated that they had a lot of concern about the quality of the water, the fact that the recreational activities that go on may be threatened and certainly the people's health that use the river directly. She stated that they were hoping to raise the profile of the river because so many people seem to be completely ignorant about the fact that they drive over it constantly and it was not something that they are aware of. There is significant concern about the North Pointe Development and the fact that there are some really huge grading and siltation issues there. It is absolutely critical that there will be greater protections, buffer zones, etc. that your report talks about that should really be paid attention to in order that these areas are protected. She stated that they appreciate the whole Eco system approach in the report. Again, she stated that it was critical that stretches of forest and land be preserved. She pointed out that there needs to be a lot more public education to these critical aspects of bio-diversity and the habitat and the health of the Rural Area in fact. People just simply don't know that when they clear cut all the land along their farms or have these deep fence appearances that it was detrimental to the sort of brush lines and the roadways for the habitat. She stated that there was so much to educate the public about. Finally, she stated that she hoped that the Commissioners had seen the article in the "Hook" last week that talks about the fact that they have enough commercial space now that was empty that equals what is proposed to be developed. In fact it does not even include Albemarle Square, which is currently about one-half empty.

Kathy Rash stated that she was back to speak for herself. She stated that she was from the Carter's Mountain Road area of the County. One of the things that she wanted to address in the report that they put together was on page 18 and 19, which was in regards to wells. In the area that they live in water is very critical to everyone. In the southern end of the County they have a tendency to have wells go dry. This year has been very plentiful, but last year it was very, very tough on them. She stated that it was a good idea to require the well testing that you have proposed for any and all subdivisions that may be going into the Rural Areas. She stated that currently the County requires testing for both a primary and a reserve septic site before any subdivision goes in. She asked why they don't require that for wells also.

Neil Williamson, Executive Director of the Free Enterprise Forum, stated that the public input has been very significant on this. He stated that he sat in on the Focus Group for the Rural Areas. He stated that he had some questions and concerns, which came a little bit from that non-committee. He stated that if you look at the membership, then you realize why it was a non-committee. The non-committee presented a number of ideas. The Commission has worked through this document once with regards to concepts. He urged the Commission to be very careful in their review. A number of concepts were put in to bring out some thinking about whether they want to go this way. These are not decisions for a non-committee focus, but were brought forward to the Commission. He asked that they carefully consider these decisions. In addition, he asked the Commission to raise the goal of the Rural Areas plan. He asked if the over arching goal was the preservation status quo, preservation of open spaces or the elimination of development in the Rural Area. Once this question is answered, the balance of the questions that have come up this evening can be measured against this metric. One area that concerns him a little bit was as many speakers have said that they have not had an opportunity to fully review this chapter. He stated that he had looked at the previous Rural Area Chapter that was 7 pages long. He pointed out that the chapter was now up to 52 pages without the attachments. He questioned whether that couldn't be presented in a manner that was easier for people to access. He stated that he did not want to throw away any of the work that was completed, but by using pencils he believed that they could hit the strategies and objectives better and more people would understand it, and which be a more user friendly document. He raised the questions that have come up again and again of why agricultural and forestal are not the top priority in the Rural Areas. The top priority is now a total of 8 equal and important principles. He asked if the County was no longer willing to choose what is the most important in the Rural Areas. Do the 8 principles set up an untenable equality that one must be at one time or the other in direct conflict with the other and how will your subsequent boards deal with those issues? Finally, he asked that the Commission consider some of the commercial aspects of the Rural Area. Recently he understands that the Outdoor

Foundation is allowing limited use of tree top cell towers in easements. That may help someone in making the financial liability of a farm work. He asked that they be as specific as possible in the entices of ideas to make agriculture financially viable so that they can preserve the Rural Areas and preserve our heritage.

Valerie Long stated that she was present to make a few brief comments on behalf of the Charlottesville Albemarle Airport Authority. She realized that some of her comments might be a little out of context with some of the other comments you have been receiving this evening. The Airport Authority wanted to take this opportunity, while this proposal was being discussed, to continue a dialogue that it started with the Planning staff, Board of Supervisors and the Commission to talk about some of their future expansion issues. She noted that the Authority wanted to point out how their future expansion plans may intersect with the Rural Areas Plan, and the Master Planning of the Hollymead Town Center, etc. As many of you may know, the Airport Authority owns land, a portion of which is in the Rural Areas. The bulk of its property is located in the Hollymead Neighborhood, which is in the designated growth area, but approximately 80 to 100 of their acres are in the Rural Areas. That area is the land that is west of the main runway. This is the area that its current Master Plan identifies for expansion of aviation activities. They are in the process of updating the Master Plan right now. They are starting to engage that process and are working with members of the community and the Planning staff to do that. They anticipate that their Master Plan will continue with the recommendation to expand their aviation activities into this western area that is in the Rural Areas. In addition, they are looking into their need to acquire additional land to support the expansion of the Airport's activities. Therefore, they are starting to think about how their future expansion will intersect with the Rural Areas Plan and the Hollymead Town Center. She pointed out that the Authority really wanted her to raise this issue with the Commission this evening so that they can continue this dialogue and sort of digest these issues. She stated that there would be many more meetings regarding these issues, but the Authority just wanted to raise these issues. She stated that they appreciate the Commission's consideration of this.

Scott Smith stated that he lived in the Carter's Mountain area. He stated that most of what they were talking about was an economic issue. They have talked a lot about the economic rights of landowners. Those include the rights of landowners being displaced by property tax increases associated with commercial development. It is important not to lose sight of that. He stated that it was also important that if development is unpreventable due to property rights and divisions rights that the commercial developers not come in and take advantage of that fact and that they have to pay the real costs of their development. He suggested that if it was possible under existing law that there should be some sort of division tax that kicks in automatically if someone buys property with the purpose of developing it into a subdivision like configuration. Perhaps that division tax could also be used as a way of funding tax benefits to working farms and working forestal operations that they are suppose to be encouraging. He stated that if central water and sewer systems are to be pursued in developments in the Rural Areas, particularly if they will be supervised by municipal authority, that those costs must be absorbed in some way by the developer. All of these costs are not taken into consideration by the existing plan. He asked that the Commission do everything possible to make sure that the people who benefit by the reconfiguration of Rural Area subdivisions pay for it at every turn. As much projected cost as possible should be absorbed by the people who are going to benefit and profit by that change.

Mr. Rieley asked if there were other speakers. There being none, he closed the public hearing. He stated that there would be many more of these. He thanked everyone very much for their thoughtful comments and patience in waiting. He stated that their comments were an important part of this process and would certainly be taken into account as they move along. He stated that there would be other opportunities for the public to weigh in.

In summary, the Planning Commission held the first public hearing on CPA-03-06, Rural Areas Section of the Comprehensive Plan, to receive public comment on the proposed draft plan. The Commission received comments and suggestions from the general public regarding the draft

plan. After the first of the year the Commission will take what they heard at this session and begin talking about that in work sessions more specifically geared to the sections as they exist now. The Commission would then make changes to the draft plan based on the comments received from the public. A subsequent public hearing will be held after these changes are made.

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. Loewenstein stated that he would like to give his official farewell address. He stated that he could not resist making a couple of comments. He asked that the Commission think about the following comments:

- Work is needed on local guidelines for national/regional chain building types (in commercial settings). There should be a continuing dialogue developed between the ARB, the PC, and the Board of Supervisors regarding this issue. He suggested that a study be done to develop these local guidelines.
- Expand efforts to encourage and to support historic preservation in Albemarle.
- Schedule periodic (at LEAST yearly) special meetings or private retreats for PC Members, to discuss (among other topics) goals, procedure, and general approaches to future work with specific types of cases. These retreats should include key staff persons also.
- Always keep open minds. You will be more effective in your work if you remain flexible regarding new ideas and concepts. There's an old adage that states: The nice thing about standards is that there are so many of them from which to choose." Standards should not become too rigidly defined or too inflexibly applied. In my view, occasionally the best approach may be one NOT specified in rulebooks!
- I have enjoyed greatly my four terms of office on the Planning Commission, including 3 chairmanships. My work has been made much easier by my colleagues on the PC, by the County staff, and by large numbers of citizens who take the time to participate in some way in their local government's planning processes. All of you have been superb, and I will always be grateful for your support and your varied expertise. I feel very fortunate to have learned a great deal from so many fine people during all these years, and I know I leave the PC and the County in highly competent hands.

Mr. Rieley stated that the Commission owes a great debt of gratitude to Mr. Loewenstein and Mr. Finley and it would not be the same without them. He thanked them both for their contributions to the Commission.

Mr. Cilimberg thanked Mr. Finley, Ms. Hopper and Mr. Loewenstein for their tremendous contributions to the Planning Commission. He stated that staff appreciated all of their hard work and that they would all be missed.

Mr. Cilimberg stated that the Planning Commission has no items scheduled for December 23, 2003, December 30, 2003 and January 6, 2004. The next regularly scheduled meeting is Tuesday, January 13, 2004.

Adjournment:

With no further items, the meeting adjourned at 9:40 p.m. to the January 13, 2004 meeting.

V. Wayne Cilimberg, Secretary

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