Albemarle County Planning Commission
January 20, 2004

The Albemarle County Planning Commission held a work session on Tuesday, January 20, 2004 at 4:00 p.m., at the County Office Building, Room 235, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley; Rodney Thomas, Chairman; Bill Edgerton; Jo Higgins and Pete Craddock, Vice-Chairman. Absent was Cal Morris. Mr. Morris arrived at 5:55 p.m.

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

Call to Order and Establish Quorum:

Mr. Thomas called the regular meeting to order at 4:14 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 continue review of the Crozet 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. Lee Catlin, Facilitator, stated that they wanted to make a great effort to try to wrap this review up tonight. The next step in the process includes staff making the changes to the document, returning the corrected document to the Commission, and then scheduling public hearings to receive public comment. The only items left to discuss tonight were the map, the tables accompanying the map, and several other matrixes. Part of the decision that needs to made is how high of a level the Commission wants to stay at in the Comp Plan Amendment itself and referencing other materials versus how much material that they actually have to bring into the plan. She pointed out that her understanding was that the Commission wanted to be fairly critical about what elements they brought forward so that they were not creating a huge document, but also making sure that they had the necessary components that were part of the Comp Plan itself. She asked Ms. Thomas to take a couple of minutes to give a description of what they were looking at and then she was going to record comments and items on the flip chart. Then at the end of the session they would try to come to consensus about whether the group feels that those items or comments are significant to the point that the maps and the tables should reflect those comments.

Ms. Thomas pointed out staff recommends that the following tables and information should be included in the document:

- Table 1 on page 49,
- Table 2 on page 50,
- Open Space table on page 54,
- Thoroughfare Types which starts on page 56,
- Take VDOT standards and replace information with what staff is already working on. There will be a couple of items eliminated, and
- Use the matrix that staff created for VDOT.

She pointed out that the remaining items would stay in the plan and would not be included in the Master Plan.

Meeting summary

The Albemarle County Planning Commission held the fifth facilitated work session on the Crozet Master Plan. Lee Catlin facilitated the work session and assisted the Commission in their review of the Place type maps, matrixes and supporting documentation, of the proposed Master Plan for Crozet. The Commission reviewed and discussed staff's recommended maps, matrixes and supporting documentation for possible changes and revisions to the technical consultants' Crozet

Master Plan final report. The Commission discussed the proposal and chose the specific maps, matrixes and supporting documentation to be adopted into the Comprehensive Plan. The Commission 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 then schedule the public hearing to obtain comments from the public.

In summary, the Planning Commission made the following recommendations:

- Eliminating the process summary map
- Adding the built infrastructure "key" elements to the Place type map.
- Retaining green infrastructure map, but indicate existing features versus potential features for the future.
- Correct neighborhood numbering and revise the key. Use different symbols for hamlets and neighborhoods.

- Interpretation of plan/level of specificity - The Commission recommended that the specific language in Table 1 and Table 2 emphasis the advisory and general nature of the Comp Plan. Staff to consult with the County Attorney on how best to convey this recommendation in the maps and tables.

Table 1:

- Soften minimum and maximum by adding the word "target" to qualify language.
- Add colors to headings.
- Replace page 45 with Table 1.

Table 2:

- Add color headings.

There was a lengthy discussion of ongoing changes to the Zoning Ordinance and how the Master Plan will be implemented, in the future once the ordinance is revised.

Open Space Matrix: Retain

Transportation:

- Use ongoing work with VDOT regarding standards; dovetail into countywide plan.
- Need parkway definition.
- Improve consistency with color keys.
- Delete arboreal gateway.

The first work session ended at 5:40 p.m.

The next work session on UNJAM began at 5:45 p.m.

UNJAM Presentation - TJPDC, (Harrison Rue)

In summary, Harrison Rue passed out the revised CHART 2025 Project Listing and provided a quick overview of the revisions and changes made to date. Due to time restraints, he skipped the power point presentation and made a short verbal presentation to the Commission. He requested information from the Commission and staff on what information that they would like included in VDOT's long range plan from the Crozet Master Plan. The Commission took no formal action.

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

The meeting convened at 6:18 p.m. in meeting room # 241.

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, January 20, 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; Calvin Morris; Jo Higgins and Pete Craddock.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; David Benish, Chief of Planning & Community Development; Stephen Waller, Senior Planner; Margaret Doherty, Senior Planner; and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Thomas called the regular meeting to order at 6:18 p.m. and established a quorum. He apologized for the delay in the meeting due to the previous work session in Room # 235.

Other Matters Not Listed on the Agenda from the Public:

Mr. Thomas invited comment from the public on other matters not listed on the agenda. There being none, he stated that the meeting would move on to the consent agenda.

Review of the Board of Supervisors Meeting – January 14, 2004.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on January 14, 2004.

Items Requesting Deferral:

ZMA-2003-11 Rio East Commercial Area (Sign #10, 11) - Request to amend the proffers of ZMA-1996-004, to allow a veterinary hospital by special use permit. The property, described as Tax Map 61, Parcels 124A part of & 124B part of, contains approximately .8456 acres, and is zoned PDMC, Planned Development Mixed Commercial. The proposal is located on Rio East Ct. (private), approximately .1 miles from the intersection of Rio East Ct and Rt. 631 (Rio Road East), in the Rio Magisterial District. The Comprehensive Plan designates this property as Office Service in Neighborhood 2. (Francis MacCall) ***APPLICANT REQUESTS DEFERRAL TO MARCH 2, 2004***.

Mr. Thomas opened the public hearing and asked if anyone wanted 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. Rieley moved to accept the applicant's request for deferral of ZMA-2003-11, Rio East Commercial Area, to March 2, 2004.

Mr. Edgerton seconded the motion.

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

Mr. Thomas stated that ZMA-2003-11 was deferred to the March 2nd meeting.

SP-2003-58 Rio East Commercial Park (Veterinary Hospital) (Sign #35, 39) - Request for special use permit to allow a veterinary office and hospital in accordance with Section 25A.2.2.1 of the Zoning Ordinance which allows for uses by special use permit in the C-1, CO, and HC districts, which a veterinary office and hospital is one of those uses. The property, described as Tax Map 61, Parcels 124A part of & 124B part of, contains approximately .8456 acres, and is zoned PDMC - Planned Development Mixed Commercial. The proposal is located on Rio East Ct (private), approximately .1 miles from the intersection of Rio East Ct and Rt. 631 (Rio Road East), in the Rio Magisterial District. The Comprehensive Plan designates this property as

Office Service in Neighborhood 2. (Francis MacCall) ***APPLICANT REQUESTS DEFERRAL TO MARCH 2, 2004***.

Mr. Thomas opened the public hearing and asked if anyone wanted 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. Edgerton moved to accept the applicant's request for deferral of SP-02-058, Rio East Commercial Park (Veterinary Hospital), to March 2, 2004.

Ms. Higgins seconded the motion.

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

Mr. Thomas stated that SP-02-058, Rio East Commercial Park (Veterinary Hospital), was deferred to the March 2nd meeting.

Deferred Items:

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) ***DEFERRED FROM THE JANAURY 13, 2004 PLANNING COMMISSION MEETING.***

Mr. Waller summarized the staff report. He pointed out that Mr. Cilimberg was handing out a copy of an email that was received from an adjoining property owner today. The email was received from Mr. Comerford, owner of tax map 56, parcel 25A. He had some questions and concerns that he would like to see addressed in some manner. He pointed out that some of those issues that he brought forth would have already been answered through the site plan review process. He pointed out that some of his concerns go outside of the site plan review, but there were some relevant questions that the applicant might be able to help the Commission understand. The applicant was also copied on this email as well, and therefore he would be familiar with some of the issues of the email. He noted that this was a follow up to the December 16th public hearing and at that time the Commission voted to defer a decision pending the submittal of some revisions of this major amendment that would address the latest round of comments that have been supplied from the Engineering Department, Service Authority and Planning Department. At the time, that the staff report was written Engineering had not received an updated copy of the revisions. Therefore, their recommendations are not provided in this staff report, but he noted that he had a meeting with some representatives from the Engineering Department and it looks like most of their site plan comments have been addressed up to this point now. He stated that there might be two or so comments that are still out there that they would recommend approval with those conditions as opposed to last time when there were 15 outstanding conditions. Staff pointed out that applicants usually do not come to the Commission with that many conditions still unresolved. With this staff report, staff has provided an update based on some of the information that was observed from the field. He pointed out that he had a chance to go to the site again and this time with the plans at hand showing the location of the proposed regional detention pond. He stated that he was able to locate that area. Based on its location in a very low area on the site that his original recommendations included a condition that would require additional screening around the regional pond. He pointed out that because the regional pond is in an area that is substantially wooded and is also much lower than some of the main points of view from surrounding properties, staff has removed that recommendation. If they were to put additional plantings in there it may actually cause additional disturbance surrounding that detention pond. Additionally, staff has attempted to further address issues that were discussed as far as encroachment into the stream buffer and the increase in gross floor area, issues with parking and again impacts to the regional detention pond. That mainly dealt with the visual impacts. The

email that was passed out also talks about possibilities of ground water or stream contamination from that detention pond to water sources on his property as well. From what was observed in the field, it appears that because his property is higher than the stormwater detention pond, it looks like the water flowing from his property would actually have a better chance of going to the detention pond than water from the detention pond going to his property. He pointed out that he discussed that with that neighboring property owner also. He stated that the adjacent property owner still might want some discussion about that issue if possible. He stated that if the Commission has any further questions that he would be happy to answer them. He pointed out that there was a copy of the site plan in the packet along with a copy of the original site plan for comparison.

Mr. Thomas asked if the Commission had any questions for staff. There being none, he opened the public hearing and asked if the applicant would like to address the Commission.

Don Wagner, representative for Great Eastern Management, stated that he would try to stay on the right side of town tonight. He stated that he would make sure that he referred correctly to Radford Lane. For the benefit of the new members of the Planning Commission, he stated that he would just briefly go over what they talked about last time. There is an existing plan for the shopping center, which was very similar to the plan on the board. They were at the point that they had secured bids from two general contractors and were just starting to negotiate to build this about three years ago. He pointed out that staff came to them and asked if they could shift the entrance so that it lined up with Radford Lane. The entrance as located now is directly across from Radford Lane and it used to be 80 feet to the west, which lined up with the travelway on the western side of the property. When the entrance was moved over if you continued that travelway straight on through it would have bisected that parking lot and not leave nearly enough parking right in front of the grocery store, which was the large building to the right. To solve that problem they brought the entrance in and split it and went east and west with it and then came down with the pick up lane in front of the grocery store and the travel lane down through the shopping center. All of that ended up moving the grocery store back about 60 feet. They added a 40-foot row of shops across the front and added a lane to a single lane parking lot that used to be there in able to provide a connection to the builder supply next door. The extra square footage has one benefit, which has not been mentioned before. From time to time grocery stores outgrow themselves and run out of room to expand and therefore they were going to build that so at any future time if necessary the grocery store could be expanded into that shop space. One of the questions that was raised by the Commission last time was the question whether they were allowed to add square footage, and he felt that the staff report answered that. He pointed out that the redesign in the last couple of years has cost them a lot of money and he felt that adding a few square feet to that was a recompense for what they have gone through. The current approved plan meets the requirements of the Run Off Control Ordinance, but it does not meet the requirements of the current ordinance. The Blue Ridge Builder Supply next door meets the requirements that were in effect at that time, but it does not meet the requirements of the current ordinance. In connection with the building the shopping center, they would be building a new outside storage area for the Blue Ridge Builder Supply. That site was approved before the ordinance changed and so it does not meet the current ordinance. They are proposing to put in as a mitigation measure a detention pond that would not only handle all three of these properties and meet the current ordinance, but it would also handle between 2,000 and 3,000 feet of Route 250 that drains into it and the developable area on the other side of the highway. The proposed detention pond would handle about twice what they are doing. Therefore, it will be a significant benefit to the community. If there are questions, he stated that he would be happy to answer them. He asked for the opportunity to respond to anything from the public

Mr. Thomas asked if there were any questions for the applicant. There being none, he opened the public hearing and asked if any member of the public would like to address this issue. He stated that he had a sign up list with the first person listed as Bill Sweeney.

Bill Sweeney, a resident of Crozet, stated that he did not live immediately adjoining or anywhere near the property in question. He asked the Commissioners to consider the extra 4,000 square feet as more than just a minor adjustment or correction only from the perspective of the region. Currently downtown Crozet has a pharmacy, a restaurant, an ice cream shop and a hardware store serving the area pretty well in about 4,000 square feet. From that perspective, the extra square footage is equivalent to a major new store in western Albemarle and not a minor change. He asked that the Commissioner consider this from that perspective.

Bob Cross, a resident of Radford Lane, stated that he believed that this was about the tenth time that he has spoken to the Commission or the Board of Supervisors on this particular topic. From his perspective, the alignment of Radford Lane is very important. He stated that he had looked at the site plan and felt that there were some other positives. One is that the building is being pushed back further from his property and Route 250, which help both the noise and visual aspects of it. He stated that the new site plan was much more coordinated not only with Radford Lane but also with Clover Lawn and the Blue Ridge Builder Supply. He stated that he would be answering any questions concerning the email that he and his wife sent to the Commission. (See Attachment written to the Albemarle County Planning Commission from Robert and Jeanne Cross dated January 18, 2004.)

Ellen Waff stated that she too had been here many times on this issue. She stated that in retrospect: there was the fire at Gola's Restaurant; the revocation of the Scenic 250 Designation and the removal of the 150 foot setback; the critical slope waiver on the previous site plan approval that was under the threat of a lawsuit if that were not granted; the Clover Lawn/Radford Lane realignment and the two year extension; the Rural Areas Amendment that happened in the spring of 2003 that permitted this shopping center to go back into the rural area near the stream; the new site plan that was larger than the original; and then the building of the drainage basin outside of the designated growth area that was certainly in the growth area. She pointed out that this property was located in the Rural Areas and was in the watershed. She hoped that this would not set a precedent. She thanked staff for an absolutely incredible staff report. She felt that the extension of time that was granted from the deferral and the meeting of the neighbors was very helpful. She pointed out that the Planning Commission has shown a great deal of restraint in hearing this over the past few years regarding this particular matter. She thanked Mr. Wagner and Great Eastern Management for this tremendous shopping because growth was definitely coming to her part of the County.

Mr. Thomas asked if there was anyone else in the audience that would like to speak on this matter.

Mr. Lawrence Comerford stated that he was the property owner just south of the property. He thanked the Commission for granting an extension in December because it gave him time to investigate and research this. He pointed out that he appreciated Mr. Waller who actually spent time showing him the land. He stated that he appreciated Mr. Wagner too because he meet with him in his office and answered all of his questions. He stated that the shopping center would have a negative impact on his property, particularly because the building was being pushed 60 feet closer. As one person, he did not think that he would be able to stop this, so he was trying to limit the amount of negative aspects of it to his property. Therefore, he has some comments. The first comment concerned the water retention pond. He stated that he was a physician and not an engineer, and therefore he would like for someone to investigate if that water retention pond would have any impact on his well or the 3-acre pond behind his house. The second comment concerns the pole barn, which was not on this site plan amendment. But, this site plan affects the pole barn because when this goes through they will be moving their storage area and building a pole barn that was just south of that outlay of land, which was on a piece of property between the properties. He pointed out that he was afraid that there was a berm of trees there where the pole barn is going to be. He requested that they try to restrict the removal of trees to where the pole barn and road was going to be. The other thing that he has asked was that on that plot of land that they have agreed to plant white pines on the berm between his property and the property to

the north that he would like those trees replaced with Leyland Cyprus, which Mr. Wagner verbally agreed to. The other concern that he would like addressed is if the lights of the cars coming into the parking lot shined onto his property, then he would like them to entertain putting in a second row of trees that is just south of the pole barn. (See Email Attachment sent to Mr. Waller from Lawrence Comerford dated January 20, 2003.)

Diane Strickler stated that she has been a member of the Route 250 West Task Force, which was created by the Board of Supervisors in 2000. Our task force was on record a couple of years ago as being in favor of the alignment at the entrance to this shopping center with Radford Lane. That originally came up in connection with the Clover Lawn Development, and they certainly support the alignment. At that Clover Lawn hearing a couple years ago Ms. Higgins was representing Preston Stallings, and she would ask that Ms. Higgins comment on any current or past professional relationships that she has with the owner or the developer of this property. She asked that issue to be clarified.

Mr. Thomas asked if there was anyone else who would like to speak. There being no further comments from the public, he asked Mr. Wagner if he wanted some time for rebuttal.

Mr. Wagner stated that he appreciated Ms. Waff's very kind words. He stated that the drawing on the board showed some riprap between the shopping center and stream that stops short of the stream. It was done that way because it was an understanding from the Zoning Department that was the way that it should be. But, Engineering looked at it and said no that was not the way that it should be, and that was the change that has been made. That change has to be made in a couple of other places that has not been done yet. He pointed out that was the issue that had to be taken care of. It was strictly making a couple of changes on some drawings. He pointed out that Mr. Graham could confirm that. Against the advice of his counsel, he stated that he would talk a little bit about the things that Dr. Comerford said because these are things which are not part of the subject of what the Commission was deciding tonight and not part of the site plan. He stated that they always try to be good neighbors. He pointed out that he would go through Dr. Comerford's email number 1 through 6. Regarding number 1, according to the information from today, it was about 150 feet from his house to his property line, 500 more feet across the intervening property, and another 100 feet to the first building in the shopping center. Therefore, the shopping center was about 750 feet away from his house. Regarding the question about the headlights from the shopping center, he pointed out that the since the land was lower and slopes a little towards his house that any heavy lights would be pointing downhill at that point into the bank and the bank in between the two. Therefore, he did not think that was going to be a big problem. On the question of the clearing of the area for the pole barn, which they do not own, they have to build here as part of the deal because they were taking over the storage area currently used by the builder supply. The plans for that restricts the area to be disturbed while it was being done, and it was just big enough to go in and build it and the road up to it. That is already in the site plan to do that. On the trees, he pointed out that he has to apply to the County for permission to change those trees from White Pines to Leyland Cyprus because they are on the site plan. He stated that they would pursue the request to change those trees. He pointed out that regarding the water issue, that the two ponds are more than 1,000 feet apart. The elevation difference is probably at least 70 feet with the detention pond that they were putting in that was lower than his property. There were a couple of questions regarding the operation of the Builder Supply area, and that he could not speak to those. He stated that if there were any other questions that he would be happy to answer them.

Mr. Thomas asked if there were any questions for Mr. Wagner or staff.

Mr. Edgerton stated that staff had indicated that they were hopeful that the Engineering comments would be completed and available by this time.

Mr. Waller stated that Mr. Graham was here and he could address that.

Mr. Edgerton stated that on page 2, in the second paragraph, it says the authority to allow encroachment to the stream buffer falls solely under the direction of the Water Resource Manager. He asked if that approval has been granted on the new plan.

Mr. Waller stated that the approval relates to this major site plan amendment and it would not have been needed at the time that the original site plan was done.

Mr. Edgerton asked if the Water Resource Manager has looked at the plan since the buildings were moved back.

Mr. Waller stated that it relates to this plan and it may be a few minor changes since the last revision and Mr. Graham can answer that.

Mark Graham, Director of Engineering, stated that Engineering has reviewed the plan dated 1-19-04 and have addressed all of the site plan comments. Mr. Waller alluded to two outstanding comments. Both of those are related to the erosion and sediment control plan and not the site plan. He stated that he was not particularly concerned with that, but that they would make sure that they are addressed before they issue the grading permit. He pointed out that they did not want the riprap stopped at the edge of the stream buffer, but they wanted it carried to the stream. The other has to do with the erosion and sediment control measures for the turn lane on Route 250 into this site. He stated that both of those concerns could be handled before the issuance of the grading permit. With regards to the Water Resources Manager, yes it is that plan that has been approved.

Mr. Edgerton stated that at the bottom of page 2 in the last sentence, it says that the Service Authority has granted approval of the water and sanitary sewer plans in Attachment E and he did not have an Attachment E in his packet. He asked if anyone else received that.

Mr. Waller stated that it was not included in the packet, but that it was a standard approval that was sent by email.

Mr. Thomas asked if there were any other questions for staff. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Rieley stated that the Commission had done the right thing in deferring this so that the neighbors could get greater clarity. He stated that Mr. Comerford had raised issues that he was trying to address. He suggested that both Mr. Comerford and Mr. Wagner look carefully at planting Leyland Cyprus because there was such a great blight that was wiping them out. He suggested that they think about using Virginia Red Cedars. He stated that there were two important aspects to this proposal that have been pointed out. He reiterated that those two points would have a great effect on the surroundings. One is getting this driveway lined up with Radford Lane, which was a significant safety issue for the area. The other point was getting a stormwater detention system in place that meets our current ordinance and that the impact will deal with the Blue Ridge site as well as this site. He pointed out that if he thought they had any legitimate discretionary authority over the additional square footage that he would resist it because he felt that one square inch of additional commercial activity on Route 250 on that strip is something that they should not be encouraging. He stated that he did not think that the Commission had that discretionary authority in that so he would support this application.

Ms. Higgins stated that she was the County Engineer in 1992 when the first plan that they were looking at was approved and the entrance alignment was overlooked. It came to the attention of all of the parties involved when Clover Lawn was ongoing, which was a totally separate application. She stated that at that time that she totally supported the entrance realignment. It has been a long time since then, but she felt that this plan does a lot for improving the viewpoint into that new entrance if you compare the new plan to the replaced plan. There is substantial landscaping from the perspective of Route 250. The stormwater detention regional facility is a

significant benefit to the water quality impact issue. She stated that the benefits outweigh those other details in the plan, and the plan is a good plan.

Mr. Thomas concurred with Mr. Rieley and Ms. Higgins on the amendments also. He pointed out that the water detention was actually covering more area than was really necessary, which was even better. He stated that he would support the application.

Mr. Craddock moved for approval of SDP-02-083, Blue Ridge Shopping Center Major Site Plan Amendment, subject to the conditions as stated by staff.

The Planning Commission approved the major amendment subject to final administrative approval by the Engineering Department:

For Engineering Department approval:

1. The appropriate professional seals shall be provided on the plans.
2. The latest revisions to the stormwater management plans shall be provided in the plan set.
3. The pipes and drainage easements shall be shown on the site plan, sheet SP-2. A drainage easement is required over the pipe run carrying off-site water (EX-3-4-5-6-8-stream).
4. The dimensions of all drainage easements shall be provided in accordance with Chapter 11 of the Design Manual.
5. Show the existing edge of pavement on Route 250 and the full extent of the turn lane improvements along with the dimensions for all improvements.
6. Safety slabs shall be installed in manholes 1, 9 and 7, and RCP (reinforced concrete pipes) shall be used in those deep areas.
7. Energy dissipaters, outlet protection, and channels to the receiving stream shall be installed at the pipe outfalls (2, 8, and 10).
8. A headwall shall be provided due to the steepness of the pipe at structure 2.
9. The drainage computation shall be revised to address the comments (a-f) provided in the Engineering Department's memo, dated December 9, 2003.
10. Final approval of the stormwater management, and erosion and sediment control plans and submittal of the required bond amounts.

Mr. Morris seconded the motion.

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

Mr. Thomas stated that SDP-02-083 does not go to the Board of Supervisors.

SP-2003-72 Linda Vest – Alltel (Sign #87) - Request for special use permit to allow the construction of a personal wireless facility with a monopole, approximately 73 feet in total height and 5 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 109, Parcel 43C, contains 2.16 acres, and is zoned RA Rural Areas. The proposal is located on Rt. 718 (Murrays Lane), approximately 1 mile north of the intersection of Murrays Lane and Route 29, in the Samuel Miller Magisterial District. The Comprehensive Plan designates this property as Rural Areas in Rural Area 3. (Stephen Waller) ***DEFERRED FROM THE JANUARY 13, 2004 PLANNING COMMISSION MEETING.***

Mr. Waller stated that the Planning Commission previously reviewed this request on December 2, 2003. At that original hearing, the Commission had a staff recommendation for denial based on the balloon test that the proposed facility was going to be skylighted. Due to the expected visual impacts that would have been imposed by that facility, staff recommended denial. At that time

the Commission voted to accept the applicant's request for deferral pending some revisions to the construction plans to address additional staff concerns with the amount of grading and disturbance that was being proposed at the facility. The original application proposed construction of a facility with an 85-foot tall monopole that would have been approximately 879 feet in total height above Mean Sea Level. The applicant has now attempted to address staff's concerns. The current applicant's proposal is for the installation of a personal wireless service facility approximately 73 feet in total height, with a top elevation of approximately 868 feet Above Mean Sea Level (Attachment I). The proposed 73-foot tall monopole would be 11 feet shorter in total height as measured above Mean Sea Level than the originally proposed 85-foot tall monopole. The monopole would be equipped with one antenna array consisting of three 6-foot long by 1-foot wide, flush-mounted panel antennas at its top. The applicant has also replaced the 184 square foot ground equipment shelter. In the current proposal the supporting ground equipment would be contained within two 5.5 foot tall by 4.5 foot tall cabinets on an approximately 100 square-foot concrete pad. They have also limited some of the proposed disturbance in the site that would be caused by the ground equipment. The applicant's also have a revised grading plan for the access road coming into the site, which was actually near two pine trees that were to be preserved at the site. Based on the amount of disturbance shown now, staff's recommendations include one condition # 13 that all proposed grading and construction shall be held outside the dripline of the trees that are to remain. Additional methods of tree protection, including but not limited to tree protection fencing, shall be provided for the trees that are identified as numbers 53, 55, 97, 280, 282, 290, 292 and 700 on the tree survey. At the time staff was at the site with the Architectural Review Board's Design Planner, they identified that those trees were very important and provide the screening of the facility, but some of the grading and disturbance still comes near those trees. Because the trees are not shown on the plan, staff could not tell where the driplines were located. This request would require that the driplines be protected in the field. Staff also had a chance to visit a nearby site that lies within a conservation easement, Wingspread Farm. At the time, that the Commission originally reviewed this request staff did not have a statement about the possible impacts upon that conservation easement. But, staff now has provided photographs to give the Commission an idea of the view from the property called Wingspread, which was in a conservation easement. It appeared from that point that the balloon had a substantial amount of backdrop. Staff has also received a follow-up letter from the applicant today that deals with the staff's recommendation for expanding a tree conservation easement on to adjacent parcels that lie within a 200-foot radius of the parcels of the facility. Part of the applicant's explanation for argument against that condition was that it appears that the trees that would provide the most substantial screening for the facility are located well within 200 feet of the facility's site. In some cases, staff noticed where the trees are much farther than 200 feet away from the facility. Staff then identified specific trees within 200 feet that would provide some additional backdrop or additional screening of the facility. There would be taller trees at ground level that would still be providing a backdrop without even having to go on to that adjacent parcel. With that, staff recommends approval of this request. The applicant requests considerations for removing or possibly amending the condition listed as # 18 in the staff report. That condition states that the applicant shall attain easements upon the portions of all of the adjacent properties that lie within the area designated as a 200-foot radius tree conservation area as required around the facility. Because of the way this site is situated on an incline, staff felt that in this particular case that it could be appropriate to drop that condition and basically keep the conservation area within the bounds of the property. He stated that if there were any other questions, that he would be happy to answer them.

Mr. Rieley asked if staff recommends dropping condition # 18.

Mr. Waller stated that staff would recommend dropping condition # 18. He stated that in the updated amendments to the Personal Wireless Facility Policy that they have discussed doing it on a case by case basis where they would be able to identify the most important trees that are provided in the camouflage in the grading of this facility. Some of those trees, as they have seen before, were located at facilities that were within 30 feet of the road so that there was not even trees located 200 feet away to every side of the facility. He stated that staff was more inclined in

the future to look at this on a case by case basis to try to identify those trees that are really providing the screening. This would not restrict a property owner from cutting down a dying tree in the future just because it was 180 feet away, but it still was not providing any benefit to the facility.

Mr. Rieley stated that the answer was yes, and Mr. Waller agreed.

Mr. Thomas asked if there were any other questions for staff.

Mr. Edgerton stated that one of the concerns expressed by an adjoining property owner at the previous hearing in December was that the fall zone actually extended into his property. He pointed out that if he was reading the drawing C-4 correctly that it looked like the fall zone still extended into his property even with the shorter tower. He asked if that concern has been addressed.

Mr. Thomas stated that his question would be along the same lines. He noted that on page 2 under petition in the third line down, that the monopole was 73 feet tall. Then in the next paragraph in the third line down from the bottom of the first paragraph, it states that the monopole was located approximately 73 feet from that boundary line. He asked if that meant that the 73-foot tall pole would fall on its own land.

Mr. Waller stated that if the applicant does not meet the one-to-one tower setback, then they would be required to get the fall zone easement. He pointed out that since the tower was 73 feet tall and the monopole was 73 feet away from the property line that the fall zone does not extend onto the other property.

Mr. Edgerton asked if the height of the tower was 85 feet or 73 feet, and Mr. Waller stated that the tower was 73 feet.

Mr. Edgerton pointed out that the drawings still show the tower being 85 feet.

Mr. Waller stated that there were two sets of plans provided. The original set was provided again because they have two new Commissioners and also two new Board members. He pointed out that the plan that they should look at was Attachment I on pages 9 through 17.

Mr. Thomas asked if the pole would fall within its own boundaries, and Mr. Waller agreed that the pole would fall within its own property boundaries.

Mr. Rieley stated that the pole was labeled as a wood monopole, but it appears that it was attached to the ground by some bolts. He asked that it be clearly noted that the monopole was wooden.

Mr. Waller stated that the conditions actually address a metal monopole because that was what the original request was, but if the Commission wanted to condition it for a wood monopole that they could.

Mr. Edgerton agreed that it should be wood.

Ms. Higgins suggested modifying the conditions of approval to reflect a wood monopole.

Mr. Thomas asked if there were any further questions for staff. There being none, he opened the public hearing and asked if the applicant wanted to address the Commission.

Pete Caramanis, Attorney for Alltel, stated that this request came before the Commission last time with a recommendation for denial based on a few things. The recommendation for denial was based on the fact that the tree that they were relying on was not within 25 feet, the tower was

skylighted and a grading concern. He thanked Mr. Waller for working closely with them. Since that time, they have spent a lot of time working with staff on this application to amend all of those concerns successfully. One of the changes that they have made was reducing the equipment shelter and using cabinets. Since that time they have moved the tower to a different location to make sure that they were within 25 feet of the tree and that it was also a location that minimizes the visibility of the tower. He pointed out that the tower has been reduced in height to 73 feet, which was actually 5 feet lower, when taking the elevation into account, than the tree that they were relying on. Theoretically, it was 15 feet lower than they would be allowed under the tree top policy. The grading has been reduced as much as they possibly could, which was done by the use of a retaining wall. That would allow the applicant to only have to remove two trees that have trunks over 6 inches. He stated that they felt that was a great accomplishment in the redesign of this and being able to save all but two of the trees. There was another balloon test done with staff and the Architectural Review Board Design Planner. During that balloon test it was seen that this tower was minimally visible from the entire surrounding area. As part of that balloon test they did go to the parcel across Route 29, which was under the conservation easement. Again, from that location they found that there was quite a bit of screening from existing trees. They also observed that the trees in the front were evergreen tress that would provide screening all year. In the back, as staff stated, there was a nice thick backdrop of trees from that angle as well. It really would not be visible. In fact, when they were looking for the balloon from that property they only found it after some searching. After they found the balloon it took a couple of minutes for the landowner to pin point it. Therefore, the balloon test indicated that the tower would not be visible from the property nor the adjacent property owner's house. To address some of the questions that came up, he stated that the tower was within the one to one setback and in fact the pole would not cross over property lines should it fall over on its side. He pointed out that monopoles are designed so that would not happen. But in the unlikely event that would happen, the monopole would stay within the property boundaries. He agreed to staff changing the condition that a wood monopole be used. He stated that he talked with staff about the 200-foot buffer last week and was able to put his thoughts into writing for him, which staff had received this morning. He pointed out that they had discussed that this area of the parcel was heavily wooded, the area to the south of the parcel did not have any trees and to the north there would be trees over the property line. He pointed out that those trees did not provide any sort of screening or backdrop for this tower. Having the 200-foot radius would require obtaining easements from three adjoining property owners, which needless to say would not be an easy thing to do. It would really be for no benefit because none of those areas on those parcels are actually providing screening or a backdrop for this facility. He pointed out that Mr. Waller did agree with that and they recognized that the 200 feet was a standard condition, but it was reviewed on a case by case basis. Staff agrees that it was not something that would be necessary and that the actual screening of the tower and the backdrop provided could be done within the subject parcel. He pointed out that the tower was 73 feet from both the north and south property lines. He stated that to the back corner of the property was about 166 feet. He noted that he did not think that the 200-foot was necessary, but that it would be available. He pointed out that the 200 feet was obviously available on that subject parcel towards the west. He noted that the 200 feet was mentioned in conditions #14, #17 and #18. He suggested that they delete condition #18 and revise condition #17 because it was addressed in all three conditions. He pointed out that condition #4 was about the wood pole. For the benefit of the new Commissioners, he pointed out that this project was for the benefit of Alltel's larger effort to provide coverage along Route 29 South of Charlottesville where there is no coverage right now. He stated that this was one of a few applications in that area. He stated that he would be happy to answer any questions that the Commission might have.

Mr. Thomas asked if there was anyone else present who would like to address this request.

Jeff Werner, representative for Piedmont Environmental Council, stated that he wanted to make sure that he understood the comment about the 200-foot buffer. He pointed out that there was not only land under easement on the other side of Route 29, but some significant easement activity on this side of Route 29 by some individuals who were putting their money where their

mouths were relative to the conservation of Albemarle County. With that in mind, he asked that the language of the conditions reflect if there were any complexities regarding the 200-foot radius with the adjacent parcels, but he would leave that up to staff's judgement. He asked that if there were trees on this lot that were within the 200-foot radius that staff makes sure that condition is included. He asked that staff not exclude the 200-foot buffer in general. He pointed out that he had received telephone calls from several persons in that area. He asked that staff make sure that the 200-foot buffer on the property be maintained.

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

Mr. Edgerton stated that he was struggling with the 200-foot buffer issue because that was something that the Commission typically requires. He noted that obviously it could not be accomplished on the existing parcel and would be a hardship especially since some of the neighbors have already spoken against this project. He stated that not only would that be a hardship, but also it could be a denial if they required that. He noted that he was struggling with the precedent that they might be setting by saying that because this particular parcel has adequate screening today on site that they don't have to worry about that 200 feet. He asked if they were opening themselves up to having more proposals coming in on smaller pieces of land and then the applicant telling us that they could not reasonably get that buffer that they have been requiring all along. He felt that they would be cutting some of the efforts that they have taken in the past to do that. Mr. Rieley brought up the question if they took out the 200-foot buffer, then what are they putting back in its place. He stated that the Commission needs to address that since it looks like 73 or 75 feet was the minimum, but at the same time all of the trees that are provided for screening today may not be there in the future and they might want that 200 feet.

Mr. Cilimberg stated that staff has discussed the condition to make sure that the Commission got all of the 200 feet that was available on the parcel by simply changing the wording of the conditions to say that within 200 feet of the facility on the subject parcel. That would not cover the areas of the 200 feet that are outside the subject parcel, but it would deal with the question of making sure that you got everything that you could within the parcel.

Mr. Rieley stated that it was a good concern that Mr. Edgerton raises. The Commission's approach has typically been to look at these on a case by case basis. He applauded staff's efforts from last time and this time in looking very critically at this. Staff recommended denial last time and they had very specific concerns. The plan brought back addresses those concerns. The trees outside the subject property are not necessary to provide screening now or in the future. It does not make a lot of sense for the Commission to impose that on the adjacent parcels if it can be done on the subject parcel. He felt that the criteria had always been to protect the visibility as much as possible. He noted that he was not too worried about the precedent because their precedent has always been fair treatment. There might be situations in which too much is not enough, but that he trusted staff's judgement in this case. He stated that if Mr. Waller and the Design Planner did not feel that they needed to go off the property to get the screening, then he was happy with that.

Ms. Higgins concurred with what Mr. Rieley said almost verbatim. She pointed out that she had one other question because someone had said that an applicant does not usually come to the Commission with this many conditions to fulfill. The concern was that if the tower was no longer necessary and that a report goes to the Zoning Administrator each year that it was unclear due to technology changes whether the monopole would be needed in the future. She stated that some sort of good protection was needed so that the tower was not going to sit there as a vacant relic of times past. In question # 24 it was unclear whether the removal of the tower was actually bonded. The condition states that if the Zoning Administrator determines at any time that surety is required and noted that the time that they would decide about that is before the tower is ever

erected. This implies that it is subsequent to this report. She asked if that language was on purpose and if it was bonded or not bonded. She asked for some clarity on that.

Mr. Kamptner stated that the language was on purpose. When this condition was first being developed as part of a particular application the industry was concerned about this being a requirement across the board. Therefore, it was up to the Zoning Administrator's determination whether to require a surety.

Mr. Cilimberg pointed out that it was in response to the Board of Supervisor's desire to make sure if there was a case where surety was necessary that the condition would be there. It is a standard on all applications. It is unusual to the extent that it is not surety that necessarily is applied before the tower is erected, and it could theoretically be required at another point in time if the Zoning Administrator felt that was necessary.

Mr. Thomas asked if the applicant wanted to make any more comments. Since there were none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Craddock agreed with the Mr. Thomas and Mr. Rieley since there was 73 feet on each side, 166 feet in the back and then 200 feet in the front.

Mr. Rieley stated that it was where the 200-foot radius intersects.

Mr. Thomas asked if the Commission needed to discuss how to alter the condition about the 200-foot radius.

Mr. Rieley stated that Mr. Cilimberg had proposed some language.

Mr. Cilimberg noted that Mr. Waller has actually worked up a couple of changes to the conditions as to what was important to be maintained and what could be removed. In condition #14 the tree conservation area still needs to be shown on the construction plans. While it might not be the 200-foot radius, they would at least want to say that the tree conservation area should be shown on the construction plan. In condition #17 at the end of the next to the last sentence, "on the subject parcel" needs to be added. He pointed out that would cover 200 feet on the subject parcel. Condition #18 can be removed. The wording in #4 needs to reference a wooden monopole. Staff has some standard language for that, which is used in the action letter and when it goes to the Board, if that is what the Commission desires.

Mr. Rieley moved for approval of SP-2003-72, Linda Vest – Alltel, subject to the revised recommended conditions in the staff report.

The facility shall be designed, constructed and maintained as follows:

1. With the exception of all 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, "Alltel- Hardware River Site", last revised January 8, 2004 and provided herein as Attachment I. The calculation of pole height shall include any base; foundation or grading that raises the pole above the pre-existing, natural ground elevation.
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 shall not exceed 73 feet above the finished ground level contour of 795 feet, nor shall it exceed a top height of 868 feet, as measured Above Mean Sea Level (AMSL),
4. The wooden 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.
12. Site grading and graveling around the site shall be minimized to only provide the amount of space that will be necessary for placement of the monopole and equipment shelter.
13. All proposed grading and construction shall be held outside the dripline of trees to remain. Additional methods of tree protection, including but not be limited to tree protection fencing, shall be provided for the trees that are identified as numbers 53, 55, 97, 280, 282, 290, 292 and 700 on the tree survey.
14. The tree conservation area shall be shown on the construction plans.

<u>Prior to the issuance of a building permit, the following requirements shall be met:</u>

15. Size specifications and other details, including elevation drawings of the antennas and ground equipment shall be included in the construction plan package.
16. Certification by a registered surveyor stating the height of the tallest tree within 25 feet that will used to justify the final height of the monopole shall be provided to the Zoning Administrator.
17. 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 road 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 on the subject parcel. 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.
18. 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.

<u>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:</u>

19. 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.
20. Certification confirming that the grounding rod's: a) height does not exceed one foot above the monopole; and, b) width does not exceed a diameter of one-inch, shall be provided to the Zoning Administrator.
21. 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:

22. 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.
23. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

Mr. Morris seconded the motion.

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

Mr. Thomas stated that SP-03-072 would go to the Board of Supervisors with a recommendation for approval and would be heard on February 11th.

Public Hearing Item:

STA 01-08 - Comprehensive Revision of the Subdivision Ordinance – Amend Chapter 14, Subdivision of Land, of the Albemarle County Code, to comprehensively revise the subdivision regulations by amending most existing regulations, repealing or adding other regulations, and reorganizing Chapter 14 and renumbering many existing regulations. The regulations being amended and added pertain to general provisions (including but not limited to the purposes of Chapter 14 and its applicability; prohibited acts; and definitions); administration and procedure (including but not limited to application requirements for various types of land divisions, boundary line adjustments and easement plats; procedures for reviewing such plats; conditions of approval for family divisions; periods of validity of approved plats; and when and how private streets may be authorized and considerations relevant thereto); plat requirements and required documents (including but not limited to the form, style and content of plats; and the documents required to be submitted therewith including groundwater assessment information); and onsite improvements and design (including but not limited to lots and blocks, including appropriate lot location to allow access from lots onto streets or shared driveways; the coordination of streets; street standards; water, sewer and other improvements including sidewalks, planting strips and pedestrian walkways; dedications and reservations; and surety in lieu of completion of improvements). The proposed amendment will also impose a ninety-five dollar ($95.00) fee for the review of plats for family divisions, resubdivisions, easements and boundary line adjustments. The purpose of this

fee is to reimburse the County for its services in reviewing the plats. This is the same fee presently imposed for the review of plats for rural divisions. The proposed imposition of this fee is authorized by Virginia Code § 15.2-2241(9). (Margaret Doherty).

Ms. Doherty summarized the staff report. Over the past several years the staff from the development departments has been reviewing the entire Subdivision Ordinance and proposes an amendment tonight. There are three levels of proposed change. The first level includes minor housekeeping items. The second level includes substantive changes to reflect current practice or changes in State law or recommendations to be considered better practice. The third level includes the changes for implementation for the Neighborhood Model. She pointed out that included the packets were the significant changes characterized as substantive for a Neighborhood Model. Almost every section has a minor change, but that she did not include all of those since they would be so mundane. Staff brought this amendment to the development community in a form of a Focused Discussion Meeting last July, then to the Planning Commission for a work session in September and a public hearing in October. Staff has made what they consider to be the final changes and propose that the proposal be forwarded to the Board next month. The public hearing tonight is being held to make sure that the changes are clear for the new Planning Commission members and give the public another opportunity to provide comment. There are two big changes since the Commission saw this last. One, they have removed the requirement for two points of access to a public road for a development of 50 or more units. Two, they are requiring an over lot grading plan. The first change is because of the 50-lot rule, as it was known, has not been able to achieve the desired effect of interconnections and emergency access that was intended. Staff believes that requiring connections to adjacent property, as has been written in the ordinance in the drafts that you have seen, will be more effective in the long run for providing emergency access and traffic spread. The over lot grading plan is a new requirement based on years of dealing with situations where the grading for roads has not been coordinating with the grading for houses and drainage. Staff reviews and approves grading for road plans, and then they find that the road plans are 15 feet different from the driveway plans and so on. Staff ultimately has to deal with the residents of those communities about unsafe driveways and inconvenient drainage. Therefore, staff is proposing this amendment to address those concerns. Other than that, the text is mostly unchanged from the last version seen by the Commission in October. Since this version is dated for the middle of last week and that staff was on holiday on Friday and Monday, so staff realizes that the Commission might not have had time to read it through all the way. That is why staff is recommending to continue the public hearing to next week to give everyone a chance to really read the document thoroughly and to get more comments from the public. The Commission will probably hear tonight about the changes recommended by the Neighborhood Model. She pointed out that those changes have been outlined specifically as was asked. She reiterated that the Subdivision Ordinance as it was currently constructed allows for curbs, sidewalks and interconnections as an option. It can mandate those infrastructure improvements when you get to certain densities, but it can allow it in all circumstances. Therefore, it was really a change from recommending it and being allowed requiring it in a lot of circumstances to requiring it and then allowing exceptions. That is the change. The goal of the Comprehensive Plan is to provide for greater density in the development areas, to decrease the pressure on the Rural Areas so that you have to set up infrastructure that supports urban densities. If you want to achieve urban infrastructure and have a livable form of development that will actually attract residents to the development area, then you have to make sidewalks, curb and connections the rule rather than the exception. That was the direct message from DISC to the Planning Commission and the Board through the Neighborhood Model. It is not because of the Neighborhood Model that staff proposes the ordinance in this form. It started when it was established in a 1989 Comprehensive Plan changes and then again in 1996 in the Land Use Plan. In each case it became more definitive and the Neighborhood Model changes more recently have been the most definitive. This is not a new idea, but staff understands that our mandate from the Board as expressed in the Comprehensive Plan is to better ensure urban infrastructure and to make it more predictable for the development community and still allow for exceptions. There are going to be exceptions and staff is anticipating that. Therefore, staff has tried to make exceptions easier and more waivable by the agent where possible to streamline the

process. Staff wants to make it as easy as possible, fast and predictable for developers to implement the Board's adopted policies, which was the purpose of these amendments. She stated that if there were any questions, that she would be happy to answer them.

Mr. Edgerton asked what was TND that was referred to in Section 4.12 Private Street Standards.

Ms. Doherty stated that it was traditional neighborhood development.

Mr. Morris asked if they by next time if they could have a definition for K value and parent parcel, and Ms. Doherty stated that she would provide that information.

Mr. Thomas asked if there were any further questions for staff. There being none, he opened the public hearing. He stated that there was only one person signed up to speak and that was Roger Ray. He asked if he would like to address the Commission.

Roger Ray stated that he wrestles numerous times with this ordinance daily. He pointed out that he had sent in a letter to the Commission dated January 15th to make sure that all of his points were covered. He pointed out that he had added two more concerns to his letter and distributed copies to the Commission. He stated that he works daily assisting the public with trying to administer and interpret the ordinance on how they can go about developing their land when they elect to whether it is a family division, a two-lot division or a major subdivision. The ordinance that they currently go by and these proposed changes that staff has spent an immense amount of time on that he felt that a lot of times you can look right at things and they are hard to see. Therefore, he felt that he had looked at it hard and he sees things that needs attention. Again, he asked to go over those changes. Section 14.3.03.a7 is about locating improvements or structures that are on adjacent properties. In the Commonwealth of Virginia, they do not have the right of entry, and therefore to get onto someone else's property to provide a service that they would have to have permission. A lot of time that is unattainable and there is a lot of ways to be able to get this information if they do not have to dimension it. They have survey instruments now that they can locate corners on adjacent properties and never be there. They serve as well as reflectors, but a lot of times there might be vegetation that you cannot use. The County has photo digital maps that they use exclusively in our work. They can show things on adjacent property from those digital photomaps, but they cannot show them to the accuracy of being able to do dimensionally. So if there is a real need to have adjacent structures shown, we could get them on there and get them close, but they need to strike the word dimensions. That is because they cannot dimension them unless they can get over on the property and survey it. You are asking us to commit a crime if they go across the property line. He pointed out that he talked with his attorney and it was a criminal offense if you trespass on someone else and they do not want to do that. If the information needs to be secured, let us do the best that we can do with it. The next item that he was concerned with is the ground water assessment. He pointed out that he did not know how concerned he was about the ground water assessment because they do not have any written rules yet about that. He pointed out that he had talked with David Hirschman and there was going to be a Round Table Discussion soon to talk about that. Therefore, they would address that with him. But again, this is a rulebook and he was concerned with that rule because they do not have a standard to meet. He stated that he did not have any suggestions. The next item is on the private streets in Section 14.12.4.a2 concerning streets serving 35 lots. He pointed out that he could not find that they have a requirement for our base aggregate. He stated that they have a width requirement of 14 foot, a shoulder requirement, a ditch requirement and a requirement for paving if you exceed 7 percent, but he could not find anything that gives us the depth of stone. He pointed out that it was a designed road and they could not leave it as an arbitrary depth of stone and they need to have a minimum design. He recommended 6 inches like our current ordinance requires. In lieu of that, he recommended pavement in stone that gives you the same structure. In other words you could get that by 4 inches of stone and 2 inches of pavement. But again, they need to have something to design to and in fact it was necessary or otherwise it would be arbitrary. The handwritten comment that he put over on the back page under Section 14.3.03.5 control points for X and Y coordinates, and this would be to the State

Plane Coordinates System. Under definitions on page 8, this has to be to one-meter accuracy, which you could obtain with a hand held meter. He would suppose that the mapping department with the County is going to use this solely for GPS County records, which would be tax map and parcels and getting a better system. If it was cost effective, then maybe that was okay, but he did not know if they have run a cost analysis on that. The requirement is on Section 14.3.03.s the requirements for the final plan is that these coordinate values be placed on the final subdivision plat. He pointed out that they would have difficulty doing that because information that is placed on the final plat has to meet the Code of Virginia Section 54.1 and our rules and regulations about information that goes on a plat and he would tell them what those regulations are. Under standards of accuracy for subdivision plats, it states that the maximum permissible position uncertainty based on the 95 % confidence level of any independent boundary corner or independent point located on a boundary that has been established by using global positioning system will not exceed the position tolerance of seven hundreds of a foot. In other words, if they show that information on a survey plat that goes to record, it has to meet those standards. You can remedy that if we need that condition for the County's information by making the requirements not on the final plat but on a copy of the final plat. He pointed out that it was not for information that this needs to be recorded, but for information that the County needs for them. Therefore, they could cure it by putting it on a copy of the plat. The next concern he has deals with private streets serving two lots on page 76 under Section 14.12.4.a1. When a surveyor does those types of streets the current requirement plus the proposed requirement is that the surveyor certifies that the width of the right-of-way is an adequate width to allow for the construction of a road to provide a reasonable access. In this reading they stuck in the first sentence to say that the travel way has to be 12 foot wide. Who will enforce and administer that if it stays that way. There is no bonding requirement for the two lot private road and it is not a design road. It is a road that ends up being a private driveway that you build to suit yourself, but the surveyor has to certify that the right-of-way will be of adequate width to allow you to do that. Therefore, this is a new insertion for the 12-foot width. When will that get enforced? It will not be at the survey plat because in many cases the road is not there at the survey. In many, many cases the road is not constructed until many years later. In other words, if the 12-foot stays there you have to have some method to administer that and you may be forcing people to build a road many years before it otherwise would be built. It is a minimum standard that he did not see any other way for them to control that it happens. He stated that there were probably things that he overlooked, but that these were the things that he found during his October reading, November reading and again last week. He asked that of the things that he picked up on that if they make the rules, then make them such that they can accommodate and understand what they are doing.

Mr. Edgerton asked Mr. Ray what his suggested fix would be for that one.

Mr. Ray suggested that they eliminate the first sentence. He stated that if they did not, then they would have to have a design road and it either has to be either bonded or constructed. He pointed out when he subdivided his property that he did not create the road for his two-lot subdivision. He stated that if he had to construct a road for that subdivision then it would be a road he constructed five or six years ago just laying there which would cause some environmental impacts through a wooded area. He stated that if the 12 feet has to be in there that they would have to build, bond or construct the road.

Mr. Rieley stated that he had a number 4 about the effective date. He asked if he would address that issue.

Mr. Ray stated that he was concerned about it because at all times he was at some point of either coming to Ms. Doherty and Mr. Cilimberg's folks about talking about a presubmittal and then they go over the rules and he brings sketches of what they want to do. Right now he probably has between 20 and 40 of those projects either at that preliminary discussion stage, research stage, fieldwork stage, or for the plat to be submitted to the County. So at all times you may County wide have 100 projects that folks are working on and some of these new rules are going to be expensive for those folks to implement after they have already started and after they have already

been and talked to the County and himself. He stated that he did not know how you would handle it, but it is a real concern. He stated that almost all of his work was under a fixed contract and they like it that way because they like to know up front what he was going to do, what he was going to charge them and what standard that he was going to use. Once they come to the County, they put it in writing to them how much they will charge to do the project and that is what they do. There is going to be an overlap and he did not have a suggestion on how to cure that. He suggested making it effective 3 months from whenever or something.

Mr. Thomas asked if there were any other questions for Mr. Ray. He asked if anyone else would like to speak.

Neil Williamson, Executive Director of the Free Enterprise Forum, complemented Mr. Ray's clear read of this since it was a lot to read in a short period of time. He complemented staff's suggestion to continue this because he was only three-quarters of the way through the third or fourth version of this. He stated that one of their goals was to provide a conduit for questions and concerns about proposed amendments. While he has not completed a comprehensive review of this amendment, that he hoped to have something more to the Commission for next week. He stated that he wished to address the overarching questions and concerns that he has heard regarding this amendment, particularly as foreshadowed earlier with the Neighborhood Model. They have talked quite a bit that this text amendment seeks to mandate certain aspects of the Neighborhood Model. He stated that he sent the Commission a letter indicating that staff had been directed to prepare the Subdivision Ordinance to implement the Neighborhood Model as the rule and to be liberal with waivers. He noted that his concern in that area is whether you wish to do waivers or set the Code the way that you wish it to be. The overarching goal of the amendment must be to allow the Neighborhood Model to be built, but not mandate its construction. He stated that the opinion is that this process was very clear on this as "a model" and not "the model." He asked each of you to review these changes, specifically in Sections 4.10, 4.11 and 4.20 and ask if this is creating an option or creating a mandate. If it is a mandate, what will be the impacts of this change to housing affordability, design flexibility, and creativity? The second area of concern is the process. Throughout the amendment it reads that the agent shall make a good faith effort. The Free Enterprise Forum suggests that the County look at some measurement metrics and benchmarking to track the effectiveness of our agent's good faith efforts. Without such metrics there is no system to objectively determine the effectiveness of the process. In addition, we ask that the County recommend review of VDOT's methodology with their approvals. Their process eliminates much of the guesswork and strongly encourages staff and property owners to file complete applications and application reports. As currently set, the provisions for process have no teeth to back up this good faith effort. He stated that his final comment this evening is in regard to what is not in the amendment. This amendment is filled with new approaches to help Albemarle County develop in a more orderly fashion. The amendment does not address any of the benefits for the development building community. It is often cited that the current density bonus system is under utilized. Perhaps the density bonus program should be reconsidered and reworked to make it more attractive to use. It is of critical importance to provide the litany of benefits envisioned by the DISC Committee at the same time as you place increasing requirements. This amendment, as far as he has gotten, reads today as all stick and no carrot.

Mr. Thomas asked if there were any more comments from the public. There being none, he asked Mr. Kamptner what he should do.

Mr. Kamptner suggested that the hearing be left opened and that the Commission continue the hearing until next week.

Since the time has been limited to absorb and collect their thoughts on this, Ms. Higgins made a motion to extend or continue the public hearing to January 27th for STA-01-08, Comprehensive Revision of the Subdivision Ordinance.

Mr. Edgerton requested that staff provide a recommendation to the Commission to address Mr. Ray's questions.

Mr. Morris seconded the motion.

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

Mr. Thomas stated that the motion carried that STA-01-08 would be continued until January 27th.

Mr. Cilimberg stated that if there were any particular questions or comments that the Commissioners have between now and next Tuesday that they want to get to staff for any kind of feedback or preparation, that he would suggest that they forward them to staff.

Ms. Doherty stated that if the Commissioners wanted or had examples of the type of improvements that they were looking for or trying to avoid or any specific things that they were curious about, staff would like to hear about that so that could be included in their presentation.

Ms. Higgins stated that an example of that is Roger Ray's concern about the buildings within 50 feet of the property line. She noted that when she originally wrote that she was thinking internal to the property line, but it could be interpreted either way. She stated that her question would be if you respond to a comment like that just to explain why that is even needed anyway because that was something that had never been there before. She stated that if she was subdividing land, she was not sure if she would be concerned about what is across the property line within 50 feet.

Mr. Kamptner stated that before they end this discussion on the Subdivision Ordinance that there was one policy that he wanted to throw out for their consideration for next week. He stated that as they give the reports for traditional neighborhood developments and the assumption that private roads will be what will be making that go is the potential for the County's assumption of the need to eventually possibly take over the maintenance of those roads. He stated that if they saw the *Hook* article in the paper last week with what is going on with Ashcroft and the situations that they have with storm water management facilities that eventually sometimes the cost of maintaining becomes so much for the neighborhood that the County or some other public entity have been asked to step in and it becomes inefficient. He asked that they keep that in mind and try to formulate ideas of where they want to go with that. He pointed out that one idea was the maintenance agreement that they have for all privately maintained improvements now. He stated that what was in this draft and what they have in the ordinance right now was that they do not establish a baseline minimum contribution to assure that this money is continuously being placed in a fund to assure that the private roads are maintained. He stated that was what they have with the auxiliary sidewalks, which were essentially privately maintained sidewalks in the state right-of-way, but they were changing that. Engineering went through a process and they determined what is the minimum amount for a particular neighborhood to have to put aside each year to ensure that the maintenance of the sidewalks would be ongoing. That may be one way of addressing it. He stated that he did not know if that would be radical or a tremendous burden at the street level because it is the sidewalk. He asked that the Commissioners keep those ideas in mind as they come back next week.

Ms. Higgins stated that she did not know where it was right here, but going back to 1997 when she left the County she asked where the discussion was on Service Districts. She stated that because for many localities this was looked at as a way that the urban ring, which has aging infrastructure, and why would someone in the Rural Areas actually be taxed basically if it were public domain to support the urban ring and that sort of thing. She asked if there has been any history of that since he had been here.

Mr. Kamptner stated that he thought that it has come up most recently, which was probably the only circumstance that he could recall in recent discussions with the stormwater masterplan process.

Ms. Higgins stated that those districts usually go with stormwater rather than potential neighborhoods because that is the district that can be identified.

Mr. Kamptner stated that Service Districts that were being looked at as one option.

Ms. Higgins stated that even if they have agreements that cover something in a new subdivision you still have all of the rings that fall outside of VDOT.

Mr. Kamptner stated yes, and that when looking at roads it becomes more complex. If the developer is seeking interconnectivity and have a private street system that has been approved on the assumption that it will provide interconnectivity to the next area, and if that next area develops with the intervening public street development, but the private street based development fails, then it never takes off. He asked who provides the financial support to maintain those private streets between the developments.

Mr. Rieley stated that was a good point.

Mr. Kamptner pointed out that it gets complex.

Ms. Higgins asked where in the Subdivision Ordinance is that spelled out.

Mr. Kamptner stated that was in Section 14.232, which are the existing private street regulations, and also in the private street standards. He noted that as the County development policies in the urban area encourage traditional neighborhood development, there is an assumption that some of those developments will want private streets because of the VDOT standards right now. He stated that he was reading today that the new regulations were to be submitted to the Department of Transportation shortly. He pointed out that those regulations might be changing.

Mr. Rieley pointed out that referred to the committee that Mark Graham was on.

Mr. Kamptner stated that would allow public streets to be more TND friendly.

Ms. Higgins stated that might not happen.

Mr. Kamptner stated that it might not happen, but they could have private streets that satisfy TND.

Ms. Higgins stated that she did not think that the issue was about the streets themselves. She stated that it was the drainage off of the streets to the receiving water and it was all of the extra things like the streetscape maintenance, the curb and gutters and all of those gutters.

Mr. Kamptner stated that it was all of those improvements that were public in nature, but were going to be privately maintained.

Mr. Thomas thanked Mr. Kamptner and pointed out that they would keep that in mind.
In summary, the Planning Commission held a public hearing on STA-01-08, Comprehensive Revision of the Subdivision Ordinance, to receive public comment on the proposed draft plan. The Commission received comments and suggestions from the general public regarding the draft plan. Since the Commission only had a limited amount of time to review the proposed draft, they took the following action to continue the public hearing to January 27th.

Old Business:

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

New Business:

Mr. Thomas asked if there was any new business. There being none, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 8:14 p.m. to the January 27, 2004 meeting.

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V. Wayne Cilimberg, Secretary

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