Albemarle County Planning Commission
February 24, 2004

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, February 24, 2004 at 6:00 p.m., at the County Office Building, Room 235, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Rodney Thomas, Chairman; Calvin Morris, Jo Higgins, Marcia Joseph and Pete Craddock, Vice-Chairman. Absent was Bill Edgerton.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; Margaret Doherty, Principal Planner; Stephen Waller, Senior Planner; Rebecca Ragsdale, Planner; Jan Sprinkle, Chief of Zoning Administration; Joan McDowell, Principal Planner; Lee Catlin, Facilitator and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Thomas called the regular meeting to order at 6:00 p.m. and established a quorum.

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.

Mr. Neil Williamson, Executive Director of the Free Enterprise Forum of Charlottesville, stated that James Taylor has a song that says that is why I am here. The Free Enterprise Forum is here to advocate and to get people involved in the system. At the conclusion of last week's public hearing of the Subdivision Ordinance one of the Commissioners remarked that he was sick and tired of hearing builders and developers coming in and complaining about the Neighborhood Model implementation. He stated that he must rise in protest because one of the key tenets of the Free Enterprise Forum is that all stakeholders be heard. These business people and each of you are working to make Albemarle County a great place to live, work and place. If any Commissioner were sick and tired of hearing from members of the community directly affected by the proposed changes, he would suggest that individual rethink their commitment. He pointed out that he continued to hear from developers, builders and even County staff that the Neighborhood Model as "a preferred model" has not been fully vetted in the public eye. Again and again the Board of Supervisors will ask why these concerns weren't raised before the Planning Commission. Based on the tenor of the comments that he heard the other evening, he was not clear that all of the concerns are being heard while they are being voiced. The Free Enterprise Forum will continue to advocate for all stakeholders to be involved in all levels of the County approval process. To do anything less would be shirking my responsibility and our responsibility as citizens. He humbly requested that the Commissioners listen with open minds as these concepts are debated. He pointed out that is why they are here.

Mr. Thomas asked if there was any further comment from the public. There being none, the meeting proceeded to the consent agenda.

Consent Agenda:

SUB-03-217 Ballard Field Final Plat, Critical Slopes Waver - Request for final plat approval to create 177 lots on 54.7 acres. (Tax Map 055, Parcel 71)

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

Mr. Morris moved to approve the consent agenda as submitted with the conditions as stated.

Mr. Craddock seconded the motion.

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

Work Sessions:

Facilitated Work Session Continuation of Rural Areas – The purpose of the facilitated work session is for the Commission to arrive at consensus regarding the issues, strategies, and objectives contained within the draft Rural Areas element of the Comprehensive Plan, in order to provide staff direction for any needed revisions to the draft Plan. (Joan McDowell)

Lee Catlin, the facilitator, stated that the Commission left off last time at Section IV, Infrastructure and Community Services. She pointed out that they had a little bit of discussion concerning the Rural Rustic Roads Program and the Pave-In-Place Program, and staff was to provide some information to the Commission prior to their discussion. First they would cover sections IV and V and then circle back to the first two items that the Commission felt would really hinge on some of the other discussion that they might have. She asked Ms. McDowell if she had any introductory comments to get them started.

Ms. McDowell suggested that they could just jump in and get started. She pointed out that they only had one hour for this discussion, and therefore could have another session if necessary. She pointed out that the minutes from the previous meeting had been passed out this evening.

Ms. Catlin pointed out that before this goes to public hearing that there will be one more chance for the Commission to look at the text with the changes and recommendations reflected.

Ms. Higgins asked at what point the Comp Plan Amendment starts to generate a change into the Subdivision Ordinance.

Ms. McDowell stated that this just lays the framework as sort of the background for the policies. She pointed out that after the CPA was approved by the Board, then staff would work on the Ordinance changes. She noted that the implementation would come later in much more detail after Board approval.

Ms. Catlin stated that under Section IV. Infrastructure/Community Services that the first issue was Strategy 1 under transportation, which was about pursuing the Rural Rustic Roads Program as an alternative to the Pave-In-Place program. She asked if there were any questions about the materials that they received. If not, she asked what the Commissioner's thoughts were about this strategy.

Ms. Higgins stated that they were setting up a strategy to achieve a goal. This specifically addresses the gravel roads that are out in the rural areas. Therefore, in the Rural Areas Plan they were setting up a strategy to take all of the gravel roads that are out there and eventually have them paved.

Ms. Joseph disagreed because she just figured the roads would stay the same way that they have been staying and would be in the Six-Year Plan if they need to be paved. Then the roads will be built according to the plan, but not for every single road in the County. If the roads in the Six-Year Plan are to be improved that the Rural Rustic Program to improve the roads was better than the Pave-In-Place Program. She pointed out that was the way that she was reading this. She stated that it did not mean that every road would be paved or not paved, but that it would be done in the same way as before with the MPO, putting the road in the Six-Year Plan, etc.

Mr. Rieley stated that was the way that he read it and that it would be less obtrusive and less expensive.

Ms. Higgins stated that the word pursue was used in that they had a goal to pursue and they wanted to do it in the least costly environmental friendly way. She pointed out that if you did not know the background, as she read it that it means that there are gravel roads out there and you want to pick one way to do them rather than the other way.

Ms. McDowell stated that not every road would qualify for the Rural Rustic Road Program or the Pave-In-Place Program. She pointed out that Mr. Benish mentioned last time that the Pave-In-Place Program is just not used. Therefore, the Rural Rustic Road Program would have less environmental impact and less cost, but as Ms. Joseph said it would follow the same path. It is not that the County would go out and pave every road under Rural Rustic Roads any more than it would with Pave-In-Place. She pointed out that there was a whole section in the Comprehensive Plan that talks about it. This is just a synopsis of issues that staff recommends.

Ms. Catlin stated that maybe what she was saying was that as you look at the language in there that you make sure that what is in there reflects that this was only for an alternative for roads. Therefore, rather than using Pave-In-Place that they would go to Rural Rustic Roads, but they would not be bringing new roads or other roads into the paving process.

Ms. Higgins pointed out that the keyword was "pursue". She suggested that they give more consideration to the Rural Rustic Roads Program as an alternative to the Pave-In-Place Program. She suggests using "give consideration to" rather than "pursuing".

Mr. Rieley stated that it was a good point because they certainly wanted this to be clear because they did not want to indicate that they wanted to pave more roads.

Ms. McDowell asked if they wanted to say "explore" instead of the word "pursue" as an alternative to it.

Mr. Rieley suggested that for those roads designated to be paved that they pursue the Rural Rustic Roads Program as an alternative to the Pave-In-Place Program. He stated that would make it clear that it was an independent process.

Ms. Catlin asked if everyone was comfortable with that, and the Commissioners agreed with Mr. Rieley's suggestion. The next topic was Water and Sewage Disposal, which had two strategies listed for consideration. The first one they touched on a little bit in other discussions is whether they would consider the use of central water and septic systems particularly for Rural Preservation Developments.

Mr. Thomas stated that was something that the Commission needs to form a consensus on because at the last meeting they were split on that one.

Mr. Higgins stated that in the minutes of February 10th that Mr. Benish's suggested language was in there on how it applies. On page 13, it really talks about that it was not to allow more development on the land than the land could carry, but sustain the same number of lots that individual systems would carry. She pointed out that it was an environmental issue, too.

Ms. Joseph stated that they were still dealing with another agency or another layer of government, which was something that they would be dealing with in the Rural Areas with some of these central systems. If they fail, then they all would pay for it

Ms. McDowell suggested that staff work on some language for this since it was discussed last time. She pointed out that would just be part of the rewrite and then they would see how the Commission feels about it.

Ms. Catlin stated that the Commission wanted to match this strategy up with number 8 under Rural Preservation Developments that they talked about.

Mr. Rieley stated that he still had misgivings about this item. The language in this is based on the fact that it was all very well to say that it was not intended to increase the development potential in the Rural Areas. But, the fact of the matter is if you can achieve all of your development rights with a central well system and a piece of the open space in a large septic system somewhere and you could not achieve that without it, then it would have that effect whether it was the intention or not.

Ms. McDowell suggested that they say something to the effect, based on what Mr. Benish previously said which the Commission agreed to last week, that the applicant basically prove that they are capable of developing the land under the standard individual water and sewer system for each lot before they would consider a central system.

Ms. Higgins stated that there was only one scenario where this comes into play and that was in cluster development. She asked if they were saying that cluster developments are better in the Rural Areas than traditional developments.

Ms. Joseph stated that was not what they were trying to say because it was a different issue.

Ms. Catlin suggested that they use Mr. Benish's suggested language that expressed what staff's intent was with this. Then staff could put that language in both places and bring it back to the Commission to see whether he has been able to accomplish that or not.

Mr. Morris stated that they wanted to be able to explore all possibilities on both sides.

Ms. Higgins pointed out that this language talks about central systems, but it does not talk about alternative individual systems. She asked if Mr. Benish had any wording that would talk about alternative individual systems. She pointed out that alternative systems were being used in other counties.

Ms. McDowell pointed out that this might end up being a moot point anyway because the Board would have to approve the County using central systems. That would be an about face from what the Comprehensive Plan says now in the Rural Areas. The Board may absolutely say that they don't want central systems or any other alternative system any way regardless of this language. She stated that she just wanted to point that out. She stated that she relied on David Hirschman for the information, the background and the technical reports that they sent to the Commission and Board about a year ago. If necessary, she suggested that they have Mr. Hirschman come back and talk about it again.

Mr. Rieley pointed out that it was too bad that Mr. Edgerton was not here because he has voiced an advocacy for the kind of alternative systems that Ms. Higgins just mentioned.

Ms. McDowell pointed out that it was a big issue.

Ms. Higgins stated that this was for their protection because it would protect the groundwater and failed situations.

Ms. Catlin stated that when they talked about this in the joint session with the Board that a lot of the discussion was about leaving the possibility open for better future technology. She suggested that they talk with Mr. Benish to get the language together to include the alternative individual systems, and then if you need further discussion with Mr. Hirschman or further clarification that they could do that. She stated that the next issue was Strategy 3, Tools that should be used to achieve water protection at a specific Rural Preservation Development site including using community open space for reserve drainfields and/or well fields.

Mr. Rieley stated that it was the same issue.

Ms. Higgins stated that the intent was not to increase the development, but just to handle the development that can be achieved with the best water protection measures in place.

Ms. Catlin stated that the Commission sees that Strategy 3 needs to align with and reflect what was happening with the Strategy up above, and the Commissioners agree. She asked if there were any other comments or thoughts before they leave IV, Infrastructure/Community Services.

Ms. Higgins stated that they seem to have a lot of issues on infrastructure, but asked where community services really come into this.

Ms. McDowell stated that was just the chapter heading, but that there was more information included back in the plan on page 37

Ms. Higgins asked in a synopsis if there were any strategies on community services that are important enough to include in this section.

Mr. Cilimberg pointed out that you could consider JAUNT as a community service.

Ms. Higgins stated that JAUNT was an excellent service that now reaches outlying properties in the County, which was heavily depended on. She asked besides that if there was anything else that would have provisions such as the parks that would be a part of that.

Mr. Cilimberg stated that community facilities and services actually has a section in the plan already in the Facilities Plan, which would be before the Commission very soon with some amendments. The Facilities Plan speaks to how to provide those services, which are not specific to the rural areas, but to the County at large.

Ms. Catlin stated that next topic was the Fiscal and Tax Tools. Under Strategy 1, it established a committee to review the County's use-value taxation program and revise the program within the framework of state enabling legislation to ensure that it supports rural area policy goals and does not subsidize residential development or other activities that are counter to rural area goals. She asked what the Commission's reaction was to that strategy.

Mr. Rieley stated that there was an implication in this that there is something wrong with the existing program if it needs revisions. He asked what concerns were being expressed about the existing program.

Ms. McDowell stated that she had heard quite a number of concerns. She pointed out that the letters in front of the Commission mention different concerns about use value and the different ways to implement it. There has been some talk of use/value only being allowed in the Agricultural/Forest District. She pointed out that there was one letter that addressed that, which was received today. There has been some concern about use/value being given to parcels in the development areas and the size of the parcels. It was suggested that they look at it closely through a committee because it was such a big issue. She stated that this issue deserves a committee approach to look at it and see if there are other ways or better ways for the County to give use/value so that it fulfills the policies in the Comprehensive Plan.

Mr. Cilimberg stated that he was not a component of any of the arguments, but that the greatest criticism has been that it was essentially a tax break for the ultimate development of land and that it could be utilized in development areas, which was a great concern. Some have argued that if the County takes the amount that was not collected each year that they could end up with a much larger acquisition conservation program. Now whether that would realistically be possible and whether there would be a demand for that much additional revenue generated if they had use/value reduced, that he could not say. That is something that they would have to look at. He pointed out that a few years ago he was involved with an effort with the General Assembly to get

the use/value taxation modified so that it would not be available in areas designated for urban development, but that failed and did not happen. But, that was an effort that Albemarle County made. There is a lot to be considered by a group. This does not mean necessarily that the County is abandoning use/value taxation, but that there are some identified issues that people have raised that might not even be within the control of the County. It may be an emphasis for further efforts of the General Assembly.

Ms. Higgins stated that an example would be that if you have 50 acres in Land Use and use the subdivision rights to create residential lots. Then you would have the roll back tax of the land use for the previous five years. In addition, there would also be a different tax base on that same land. All of that plays into the issue of how much incentive you give. The part that you get to defer is a great incentive to keep land in agricultural/horticultural/silvacultural uses. Therefore, there is sort of a trade off. She asked if the penalty could be increased by the number of years that the taxes can be rolled back.

Mr. Cilimberg pointed out that increasing the number of years has also been discussed.

Ms. Higgins pointed out that the rollback tax penalty was something that people hardly think about. She suggested that these issues go to a committee to be reviewed since the issues were so complex.

Ms. Catlin stated that the feeling of the Commission was that the idea of having a committee look at this, review it and possibly change it was a valid one, and the Commissioners agreed.

Mr. Rieley stated that the only issue related to this that caused him some perplexion was the idea that if the land was fallow that under this proposal that this parcel would not qualify. But, if the property were in agriculture, in other words if it had fertilizers and pesticides dumped on it that added to our downstream water quality, then it would qualify. He stated that it was very hard for him to understand why that would be more in the public's interest than having land which is soaking up and providing cleaner water. He pointed out that is a conversation issue that could take place in this committee.

Ms. Catlin stated that the Commission agreed with Strategy 1 and the intent there, and the Commissioners agreed.

She stated that Strategy 2 was a more specific issue for revising standards for open space, which was to allow other qualifications in there.

Mr. Rieley pointed out that this was an issue that Tom Oliveria brought to their attention a few months ago.

Ms. Catlin asked if the Commission was in agreement with Strategy #2, and the Commissioners agreed. She stated that they would go back to sections a) and b) of Land Use Patterns, density and residential development and the two outstanding issues were the timing of development rights and the large lot sizes, which was on page 2.

Ms. Higgins stated that the rule that went into 1980 was a really good one. They have a lot of tools to exhaust before they say that it is not good enough. But, that buying development rights truly just to eradicate development rights was something that they should not stress with the tax basis to put some money into some other conservation by right clusters. She stated that there are five or six things to do before you change this.

Ms. Catlin stated that what she was hearing was that the fundamental issue is how comfortable the Planning Commission is with eliminating development rights through a strategy like this and whether they go with a formula or whether they go through it one way or the other. She asked if any of the others feel strong enough that you would like to see this strategy softened a little bit so

that it was examining alternatives like a sliding scale or like a rural preservation formula. But, what the ultimate intent was that rights were going to be eliminated and whether the Commission wants to see a strategy that reflects that or not.

Mr. Craddock pointed out that during the public hearing that the only person who spoke in support of the 50 acres was Bessie Carter and the remaining persons wanted to keep it at 21 acres, which includes the Farm Bureau from their letter submitted. The strongest thing that they could do is the ACE Program to pick up the development rights and to allow the farmer to stay on the land to farm it. It is the farmer's right to seek those rights. He stated that just to go from 21 to 50 acres that he could not support.

Ms. Joseph stated that she sat on the ACE Committee and they had to discuss ways to get people to apply. She pointed out that program might not be their salvation because a lot of people don't want to put easements on their properties.

Mr. Morris suggested that they create a formula that people can understand and work with, but also encourage the clustering concept so that they have more acreage in conservation that can be used elsewhere. Therefore, they would not end up with a group of 21 or 50 acre lots, but a number of 2 acre or 1 acre lots with plenty of land around it. He felt that if they could come up with something like that, then he would suggest that they should strive for it.

Ms. Catlin asked if the Commission would like to have something as Mr. Morris tried to reflect, which was what Mr. Rieley was saying. She asked if that was a doable thing.

Ms. Higgins asked if they all agreed that cluster development was better than the traditional development, and the Commissioners agreed. She asked if there was some way that they could give incentives to cluster development instead of traditional development or for adjoining clustering.

Mr. Rieley stated that he would go farther than that and require the clustering. He suggested that they have a maximum lot size instead of a minimum lot size. They should limit the total number and find a fair equitable way to do it.

Mr. Cilimberg stated that staff could structure something that would say that rural area subdivision cluster would be based on providing all 5 of the development rights, and then the 50 acres or 21 acres would be the additional lot acreage. If that is something that you want to do, then it would not be hard to structure some language in the Comprehensive Plan. The question is that going to apply to all rural properties or will you have some kind of a break below that. Staff needs some guidance to put something in the plan even if it was nothing more than it was now.

McDowell asked if it was all about preserving the acreage and not addressing the density or a combination.

Ms. Higgins asked if they could pursue cluster developments as more of the standard rather than the exception and then look at ways to address the development right issue. She suggested that they take all the items, package them up and send them on to the board with the exception of these last two items.

Ms. Catlin stated that they were at the end of their time. She asked if the Commission wanted to take a shot at this.

Mr. Rieley asked staff to come back to the Commission with language with the Rural Preservation Development calculated upon 5 development rights with 50 acres and above just as a mathematical basis for their determination. He asked staff to not only come back with that language itself, but also with the implications to address the issue of fairness.

Ms. Catlin left the meeting at 7:15 p.m. She pointed out that the Commission could continue the discussion if they wanted to.

Ms. Higgins suggested that staff provide calculations for the way it was done now and then at 50 and 100 acres.

Ms. Cilimberg stated that staff could give the Commission the same illustration under the new provisions so that they could see how that compares.

Ms. McDowell stated that they would need another work session to continue the discussions.

The following is a summary of the Commission's discussion:

IV. Infrastructure/Community Services

a. Transportation (page 47)
Strategy 1: Pursue the Rural Rustic Roads Program as an alternative to the Pave-In-Place program. The Rural Rustic Roads Program is a more environmentally friendly and less costly way than the Pave-In-Place Program.

It was the consensus of the Commission that Strategy 1 would be changed to include: For those roads designated to be paved, pursue the Rural Rustic Roads Program as an alternative to the Pave-In-Place Program.

a. Water and Sewage Disposal (page 49)
Strategy 2: Re-consider the use of central water and septic systems. In particular, rural preservation developments should utilize central systems where the site's groundwater suggests that employing a central system would be the most sustainable approach. A Rural Utility District should be created by the County to ensure proper operation and maintenance of any such central system.

It was the consensus of the Commission that staff would rewrite Strategy 2 using Mr. Benish's prior comments and including language about the use of individual alternative systems to leave it open for future possibilities. Staff will bring the revised text back to the Commission for further discussion and review. If the Commission feels that they need further clarification, Mr. Hirschman could be asked to make a presentation.

Strategy 3: Tools should be used to achieve water protection at a specific rural preservation development site including using community open space for reserve drainfields and/or well fields.

It was the consensus that the Commission sees that Strategy 3 needs to align with and reflect what was happening with the Strategy 2 up above.

V. Fiscal and Tax Tools **(Page 52)**

Strategy 1: Establish a committee to review the County's use-value taxation program and revise the program within the framework of state enabling legislation to ensure that it supports rural area policy goals and does not subsidize residential development or other activities that are counter to rural area goals.

It was the consensus of the Commission that the idea of having a committee look at this complex issue and maybe change it was a valid idea.

Strategy 2: Revise the standards for the Open Space category of the use-value taxation program to allow landowners to qualify through the protection of

environmental resources (such as biodiversity) and ecosystem services (such as watershed protection), and create a straightforward application process for this purpose.

It was the consensus of the Commission that the idea of having a committee look at this complex issue for possible changes was a valid idea.

Sections a) and b) of Land Use Patterns, Density and Residential Development

The two outstanding issues were the timing of development rights and the large lot sizes, which was on page 2. The Commission did not reach a consensus on these issues and asked staff to provide additional information for consideration.

In summary, the Albemarle County Planning Commission held a facilitated work session on the Rural Areas to arrive at consensus regarding the issues, strategies, and objectives contained within the draft Rural Areas element of the Comprehensive Plan. Lee Catlin facilitated the work session and assisted the Commission in their review of the topics under Section IV, Infrastructure/Community Services, Section V, Fiscal and Tax Tools and sections a) and b) under Land Use Patterns, density and residential development. The Commission reviewed and discussed staff's outline of the issues/strategies most likely needing discussion. The Planning Commission as a group provided direction to staff concerning the issues/strategies that they felt needed further thought and consideration. Staff would then take their comments and suggestions to work on those sections and translate their concerns into proposed language for the draft. Staff will make the changes and bring it back to the Commission for review at the next scheduled work session along with the requested information.

ZTA-03-02 Personal Wireless Service Facilities Phase II – Under the recommendations of the Wireless Policy, the proposed amendments will allow Tier I facilities by right, with the issuance of a building permit; Tier II facilities by right with Planning Commission approval based on staff recommendations; and Tier III by special use permit approval only. (Stephen Waller)

Mr. Waller summarized the staff report. He distributed updated copies of the proposed changes based on some of the things to the Commission. The amendment that the Commission was reviewing today would amend the whole section of the Zoning Ordinance that deals with Personal Wireless Service Facilities under Section 5.1.4. Some of the proposed information to be amended is provided currently with updates. This is based on some of the things done when staff is reviewing by right personal wireless facilities. Also, the addition to the zoning text would include the complication of what has been termed as Tier 1 and Tier II that is provided in the Wireless Policies, but has not been codified previously. Under current regulations, Tier II facilities, which are the tree top facilities that they most often see now, would still require the special use permit. With the language proposed in this zoning text amendment and also what was originally recommended by the Personal Wireless Service Facilities, the Tier II would now become a by right facilities with Planning Commission approval based on the recommendations and review of staff. The staff report contains a brief outline of the changes, including the addition of several definitions that would be included in the Ordinance, as well as updates of sections. A lot of the additions would be to codify some of the things that staff has seen before in a lot of staff's standard conditions of approval. The process for increasing the height of a tree top tower if the trees around the tower have grown and are now affecting the search provider's ability to send out a clear signal has been provided in the amendment. Language has been added, which was omitted, under #2 under the definition for the Tier I Facilities. On page 3 the definition of Tier 1 Facilities says consists of one or more antennas other than the micro-wave dish attached to an existing conforming structure other than a flagpole. The purpose of the work session tonight is to basically give the Commission a chance to ask staff any questions that they might have and to also determine if staff is going in the correct direction with these proposed changes.

Mr. Rieley stated that currently the Tier II Facilities that comes to the Commission under a special use permit are typically approved at 7 feet above the tree line, but under this provision that would be by right with 10 feet above the top of the tree. He presumed that their action would go from being discretionary to being **ministerial**. If the Commission thinks that something comes before them and it was perfectly clear that this was no different than 50 other ones that they approved at 7 feet above the top of the highest tree. He noted that his reading of this is that they could not reduce that height because it was by right.

Mr. Waller stated that it would really be based on the review by staff. There are some cases where applicants have proposed a 7 feet because 7 feet was adequate.

Mr. Rieley stated that he was presuming that people were going to want to get as high as they could get because they would have to trim the trees down since the trees grow. If the application was for 10 feet and the Commission feels that it should be 7 feet. He asked if the Commission has the capacity to make a substitution with the ordinance proposal.

Mr. Waller stated that the Commission would be able to deny the plan, but they would have to state the reasons that the plan was denied. He pointed out that language was in the Ordinance.

Mr. Rieley pointed out that he could not see what the basis for their denial could be if the Ordinance says 10 feet.

Mr. Waller stated that the Ordinance says no more than 10 feet. Staff's recommendation would be based on what was seen in the field. Currently an applicant comes forth with a special use permit for 10 feet. If it were skylighted and staff feels that there is an adverse impact that the applicant has the choice of going forth to the Planning Commission with staff's recommendation for denial based on what was in the field, or the applicant could move it around. A definition has been included for skylighting.

Mr. Rieley stated that it was a very simple matter for the Planning Commission to simply alter a condition. Under this proposal the only thing that the Commission can do is to deny the special use permit.

Mr. Kamptner stated that two of the requirements of the Tier II standards that the applicant would need to satisfy on page 9 under d.2 and d.3. The facility shall be sited to minimize its visibility from adjacent parcels and streets, regardless of their distance from the facility. The facility shall not adversely impact resources identified in the county's open space plan. Therefore, if either of those two criteria are not satisfied because of the height of the structure with the tree that the 10 foot distance would be a basis to deny the Tier II facility. Those appear to be the only 2 standards that might come into play with that 10-foot elevation.

Mr. Rieley stated that when it says 10 feet in the Ordinance and the Commission is put in the position of having to defend that denial if the applicant has 7 - 9 feet. He stated that was a very big change. He stated that what they have now works pretty well.

Mr. Thomas agreed that it was a very big change.

Mr. Cilimberg asked would it address that concern if the language indicated that height would be determined through analysis that connects back to the other standards that it may be less than 10 feet based on that. It would include language that established, in other words, that 10 feet was the maximum, but that a lesser height may be required based on the circumstances of other standards as determined by staff and the Planning Commission.

Ms. Joseph stated that might be inferred in the language, but that is not the way that it comes out. She pointed out that it comes out that you can do 10 feet.

Mr. Cilimberg asked Mr. Kamptner if that would be allowable.

Mr. Kamptner stated that it would provide there was clear criteria that the Planning Commission is applying to each application.

Mr. Rieley asked if there is a way to adjust the height or approve the height at the given elevation that is different than the application. In other words, achieve what they achieve now simply by modifying the condition without being faced with either denying the entire application or not based on this. Currently the Planning Commission can basically set the height and approve the request based on the establishment of that condition. He stated that he was worried about their capacity to do that under the current proposal. He asked if there was a way to address that.

Mr. Waller stated that was not expressed in this language right now.

Mr. Cilimberg pointed out that staff would need to create something along the lines that he previously mentioned to create a basis for allowing for a less standard.

Mr. Rieley stated that what he was asking for was for that to be something that can be set by the Commission with staff's recommendation short of simply denying the application, but to be able to do what they do now.

Mr. Thomas pointed out that the Commission has consistently used 7 feet.

Mr. Rieley pointed out that they used 7 feet even though the Wireless Policy says 10 feet.

Mr. Thomas stated that Mr. Rieley was saying that they were looking for a way to say that it could be less height.

Mr. Waller stated that staff hoped that there could be some compromise in the field when they were looking at this relationship to be able to bring the height down if 10 feet did not look good. Staff's recommendation would be based on the visual impacts. Staff would then bring the special use permit to the Commission with a recommendation for denial, and hopefully spell out the reasons for that recommendation.

Mr. Cilimberg stated that what he thought the Commission was saying was that instead of staff coming with a recommendation for denial that they would like to be able to approve the request with a recommendation for a lesser height.

Mr. Rieley agreed.

Ms. Sprinkle asked for clarification. If staff looks at a proposed tower and it has a nice background of evergreen trees behind it what is the difference between 10 feet and 7 feet. She asked if the Commission was always going to go for 7 feet or would they use 10 feet if they felt it was appropriate.

Mr. Rieley stated that the way the Planning Commission typically looked at this is that we have looked for 7 feet because that is enough clearance on the equipment to minimize the visual intrusiveness. In situations where there were physical constraints that did not allow that to happen the Commission has gone to 10 feet.

Mr. Thomas pointed out that there had been a few cases where there was a backdrop of the mountain or trees behind it, but other than a couple of cases the Commission has consistently stayed at 7 feet.

Mr. Cilimberg pointed out that there have been a couple cases where the Board of Supervisors granted it to be higher based on the circumstances.

Ms. Higgins asked if at this point if any of the feedback from the actual antenna application entities have been included in this.

Mr. Waller stated yes that some of the information that they received from them and some of the compromises that came out of the Focus Group discussion is provided in this. He pointed out that not everything that they wanted to see has been provided in this.

Ms. Higgins stated that the Commission had just been handed a letter. She pointed out that some of these on the surface look fairly straightforward and potentially could be considered. She asked staff to provide a response so that the Commission could consider whether they should be considered. For example, 4a on page 4 talks that about the location and dimensions of all existing and proposed improvements on the parcel. If you on the staff and there is a 60 acre parcel and this is on a corner that she did not think that made a lot of sense. She suggested that it should be some area that is associated with this activity whether it was from the parcel's access point or the location of the tower. She pointed out that there were some good points in the letter, but noted that she had no experience in reviewing these.

Mr. Waller pointed out that staff has agreed with several of the points in the letter. Between now and the time that staff goes to public hearing with this that any of these letters received will be provided in the staff report. Staff will try to respond to the concerns individually.

Ms. Higgins suggested that staff consider providing some flexibility regarding the technology. She suggested that they consider using some type of formula regarding changes in the height and width of the equipment.

Mr. Thomas suggested that the Commission review the document by starting with page 2. He asked if there were any comments or remarks on the staff report.

Ms. Sprinkle pointed out that in the letter from Mr. Gibson he asked staff to add a definition of antenna array, and staff intends to do that.

Mr. Cilimberg stated that staff would respond to what has been laid out tonight and provide that to the Commission at the next meeting. He asked that the Commission focus on what they had before them tonight.

Ms. Joseph asked if there was anything in this section about lighting.

Ms. Sprinkle stated that there was not, but that staff used the same condition that it could not be lighted except for maintenance periods and then whatever regulations are required by the FAA.

Mr. Rieley stated that the wooden monopoles have a lot less reflectivity for visual impact than the metal monopoles that really shine. He suggested limiting the by right ones to the wooden monopoles and make the other materials by special use permit.

Ms. Higgins asked how many monopoles that the Commission had approved that were wooden as opposed to metal.

Mr. Rieley stated that there had been more wooden monopoles approved. He stated that the metal poles were substantially more visible and bigger.

Mr. Craddock stated that the more recent ones had been metal.

Mr. Thomas pointed out that the metal monopoles were less expensive.

Mr. Rieley stated that the Commission could specify the color of the metal pole, but since the poles were shiny that it makes a big difference in the visibility.

Mr. Thomas stated that he had no problems with either type of monopole as long as it was colored properly and camouflaged as much as possible.

Mr. Waller pointed out that the panel antennas would still be metal and would have a certain level of reflectivity as well.

Mr. Rieley pointed out that while coming into town in the morning between the curve of Red Hill and Hickory you get a flash that was 100 feet long from the top of that pole all the way to the bottom. There is a flash from that pole that is seen from about 1½ miles away.

Ms. Sprinkle pointed out that wooden poles were harder to obtain.

Mr. Thomas asked if the rest of the Commission had any problem with the way the draft was written for the monopole to be wood, metal or concrete.

Mr. Craddock stated that he had no problem with it since it had enough information on the color.

Ms. Joseph stated that on page 5(h) it addresses the location of all existing accessways and the location and design of all proposed accessways. She asked if there was something in this section that makes sure that this includes the grading and the removal of the vegetation that is required because sometimes the access has more of an impact than the pole itself.

Mr. Cilimberg stated that it says the location and design of all proposed accessways.

Ms. Joseph asked if the design is implied that she would see the grading and also the trees, and Mr. Cilimberg stated that was what they asked for and what they should have.

Mr. Thomas stated that there were places throughout the draft that mentions the department, the reviewer or the agent.

Ms. Higgins pointed out that on line 5 it lists sign reviewer. She asked if it should be consistent in that paragraph.

Mr. Kamptner stated that his preference would be the agent who could delegate the authority to an individual.

Mr. Cilimberg suggested that staff make the use of the agent consistent throughout the document.

Ms. Joseph stated that on page 5 under # 5 that it states that photographs of the facility site and all existing facilities within two hundred (200 feet) feet of the site, if any, and the area surrounding the site. She asked how the applicant would get that information if they were not allowed on the adjacent property.

Ms. Higgins pointed out that a photograph could be taken 1000 feet away with a zoom lens.

Ms. Joseph pointed out that last week they heard comments from the public that getting information off site is difficult for the Subdivision Ordinance because you don't always have permission to get off site.

Ms. Higgins suggested that the wording be changed to say when possible photographs from perspectives of the area since that was what they were looking for.

Mr. Thomas asked if the applicant had to specify if they used a Tele-lens. He pointed out that the photographs taken with a Tele-lens were really out of proportion to what you would be seeing.

He asked what they could do about that. He pointed out that there had been a couple instances when they could not see the monopole at all from 2 miles away, but the photograph had been taken with a Tele-lens showing it.

Mr. Rieley pointed out that there was another concern. When the Keswick site was presented the photograph was taken with a wide-angle lens and it made it look like it was ten miles away. Everybody was really surprised to see how large it was when the monopole was put in. He suggested that the applicant should just list what type of lens was used. Most people know that 50-millimeter lens is your normal eye view and then they could take that into account.

Mr. Thomas asked if there were any questions on page 6 or 7.

Ms. Joseph asked if the ARB would review a request if it was Tier I and located on an Entrance Corridor.

Mr. Cilimberg stated that all permits for properties on the Entrance Corridor would be reviewed by the ARB.

Ms. Sprinkle suggested that they make that clearer in here. She assumed that the ARB would want to look at the applications for both Tier I and Tier II for things that would be administrative or reviewed by the Planning Commission.

Mr. Thomas asked exactly what would an array consist of, which was referred to on page 6 under # 3.

Ms. Sprinkle pointed out that an array could be different numbers of antennas.

Mr. Waller stated that staff looked at an array as being all in one level.

Mr. Thomas asked if an array was everything that the applicant puts on a tower, and Mr. Waller agreed. He asked if there were any questions about page 8.

Ms. Joseph stated that in the first paragraph it states that the tree preservation plan must identify all trees removed on the parcel. She stated that she did not want this to hinder someone in the rural areas if they had a huge parcel and were removing trees from somewhere else on that parcel. She stated that an applicant should not be required to identify trees removed on any part of the parcel that was not related to the specific site area unless it was part of the backdrop.

Mr. Cilimberg pointed out that this says for the installation, operation and maintenance of the facility. He felt that the intention was for the applicant to show the removal of the trees within the area of their plan for the installation including access roads.

Ms. Joseph stated that it says that the applicant shall not remove existing trees within the lease area or within one hundred (100) feet in all directions surrounding the lease area of any part of the facility. She asked how they were going to ensure that. She asked if an easement would be required.

Ms. Higgins pointed out that area to be protected would be shown on the conservation plan.

Ms. Joseph asked if that would not require an easement, but would be shown on a conservation plan that would be enforceable.

Mr. Kamptner stated yes that the conservation plan would be enforceable and would be a violation of this regulation.

Ms. Higgins asked how the applicant would know who is required to post a bond. She asked if it really fair that it was not clear on what criteria someone has to bond and someone does not. She asked what the criteria were for that determination.

Mr. Kamptner stated that it was not contained here, but that maybe that it needs to be. He pointed out that it was kind of a middle ground that they moved towards the direction of requiring surety of all applicants. When the request gets to the Board this requirement would be in place only if the agent determined it. He stated that he did not recall when this particular criterion was discussed.

Ms. Higgins asked what would be an example for the agent to make that determination.

Mr. Kamptner stated that if there was a concern that the particular word was received that the particular facility was no longer going to be used for a wireless facility.

Ms. Higgins questioned how that particular enforcement would work through Zoning.

Ms. Sprinkle stated that she did not know the answer either.

Ms. Higgins asked what happens if the report from the provider does not come in by July 1st and who would be responsible for taking the tower down.

Ms. Sprinkle stated that staff works with the applicant to try to get their reports in by July 1st.

Mr. Kamptner stated that the property owner would be required to post the surety. He suggested that staff look at the minutes of the Board on that issue.

Mr. Thomas asked staff to provide some feedback to the Commission on that for clarity.

Ms. Sprinkle stated that the owner of the property was always responsible for dismantling it after it is discontinued. This tells them that they need to get something in their contract with the carrier.

Mr. Thomas asked if there were any comments on page 9.

Mr. Rieley stated that under # 7 on page 10 it suggests that on a metal pole that the cables, wires and attachments run within monopole. He asked if on a wooden pole there was any way that they could say that the cables and wires should be on the backside.

Ms. Sprinkle asked how you determine where the backside is.

Mr. Rieley suggested that the wires be placed on the opposite side of the road so that the public would not have to look at the attachments.

Mr. Cilimberg stated that staff would take their comments and suggestions to work on those sections and translate their concerns into proposed language changes for the draft. Then staff will make the requested changes and bring it back to the Commission for the public hearing, which would be scheduled next. He asked the Commission to forward any additional comments to staff and they would respond to them.

In summary, the Albemarle County Planning Commission held a work session on ZTA-03-02, Personal Wireless Service Facilities Phase II. The Commission reviewed and discussed staff's recommendations and provided direction to staff concerning the issues that they felt needed further thought and consideration. Staff would then take their comments and suggestions to work on those sections and translate their concerns into proposed language for the draft. Staff will make the changes and bring it back to the Commission for review in about two weeks.

ZMA-03-08 Rio Hills – CCI Rezoning – Request to rezone .85 acres from its original PD-SC district to a revised PD-SC district (amend the existing Rio Hills Shopping Center application plan) to allow a two story office building with 10,858 square feet of gross floor area. The site is behind Rio Hills Shopping Center between the shopping center building and Berkmar Drive. The parcel, described as Tax Map 45, Parcel 94A, is located in the Rio Magisterial District on Rt. 1403 (Berkmar Drive), approximately .75 miles from the intersection of Berkmar Drive and Rio Road. The Comprehensive Plan designates this property as Regional Service in Neighborhood 1. (Margaret Doherty)

Ms. Doherty summarized the staff report. The applicant requested this work section to discuss their proposal to rezone .85 acres from its original PD-SC district to a revised PD-SC district and amend the existing Rio Hills Shopping Center application plan. The application plan shows this area to remain wooded and it also has a landscape plan associated with it to show more plantings. The intent of the plan when approved was that the developer would build a portion of Berkmar Drive Extended and then the wooded area would be the buffer between the shopping center and the residential area on the other side. The applicant has come several years to the Planning Department and asked to develop this area and what should they do. Staff has consistently turned the applicant away just saying that this plan shows this area as being wooded and should remain since that is the recommendation of the Comprehensive Plan. The applicant has done a lot of work on a plan and fells that his plan is better than leaving it wooded. Therefore, they want to give the Commission an explanation of why they feel that way. Staff has done an analysis for the Neighborhood Model, which is included in the staff report. Staff feels that it is a good application plan, but that the streetscape improvements shown on the plan might not be possible given the water line that runs along Berkmar. Staff addresses that in the staff report and that it is a big what if. But, if the water line were the problem, staff feels that most of the Neighborhood Model principles could be achieved. The larger question for the Planning Commission is whether the land use change from this wooded buffer to remain to an office development, which would expose the back of the Rio Hills Shopping Center to Berkmar Drive, if the benefits would outweigh the costs of that. The reason that the development was shown as the applicant has it is that the exterior setbacks cannot be changed in the PD-SC District. Therefore, the applicant was stuck with the building being setback from Berkmar and the parking being where it was. It is a very tough site to develop unless they did a district where they could be more creative like the Neighborhood Model District. Since it a small site the applicant does not want to go to that trouble.

Ms. Higgins asked staff to point out the location of the water main.

Ms. Doherty pointed out the location of the water line on the plan.

Steve Edwards pointed out that it was a service line and not a transmission line.

Mr. Thomas asked if the Planning Commission would like to hear from the applicant, and it was the consensus of the Commission to hear from the applicant.

Steve Edwards stated that he was with McKee Carson who was the engineers and landscape architects. He pointed out that also present tonight were George Ray, the applicant, and Chuck Lebo, Manager of Rio Hills Shopping Center. He pointed out that the purpose of the work session was to determine whether the Commission felt that this property should be developed and to what extent does it respect the Comprehensive Plan Regional Service designation and the urban ring. He asked the Commission to also consider what should the urban corridor look like along Berkmar Drive, is the Neighborhood Model the correct zoning model for this development and should all 12 principles be considered applicable, is the type of development you prefer and encourage as a trend setter for this corridor, and is the wooden area really necessary given the condition and the views that are still apparent from Berkmar to the back of the shopping center and the roof. The reasons that they feel that this project is a viable one is that it begins to establish that urban appeal and the pedestrian oriented approach to the future commercial

development along Berkmar. It replaces what is an unkempt, trashy, semi-wooded site with an attractive clean commercial office which would also screen more of the shopping center than the current design. Of the 12 principles outlined by staff there is really no need to respond to numbers 3, 5, 9, 11 and 12. However, they believe that further explanation and a response is necessary for the others. Number 1 is pedestrian orientation. Staff notes that they have extended pedestrian accessibility both to and through the site and to the shopping center. He pointed out that a cross walk was shown along the front coming down to the front of the building and then traversing the site and down the hill to the back of the shopping center where a cut through was located. The cut through would allow pedestrians to access the stores in the front. He pointed out that extending the sidewalks to Woodbrook Drive would be nice, but as part of the application they did not feel that would be appropriate. He felt that the plan addresses that issue because most of the traffic comes from the trailer park, and they have addressed that through this means. If more sidewalks were added it would require the removal of more trees, which they felt would remove the existing buffer behind the shopping center. Item 2, adding a ramp across the service bay would really serve no purpose legally because the stairs here were not ADA compliant. Therefore, a wheelchair could not go down this slope. Item 4 was regarding parks and open space. The wooded buffer area would no longer be necessary. Realistically, what exists and what was on the application plan is not there and is a lot less. Item 6 was regarding building spaces of human scale. Last Friday they had a discussion with the Rivanna Sewer and Water Authority's chief engineer. From that conversation she was really optimistic that this design can actually be accommodated. She expressed a few concerns and they would like to pursue to the next step and work out those details later in a site plan. Item 7 was regarding relegated parking. He stated that it might be possible to have a classic strip development, but that screening and a form of wall plantings lessens the character of that ideal. Regardless of whether the parking was behind or beside the building, it would still remain screened from Berkmar Drive. Therefore, they feel that is really not an issue to be applicable to this site plan. He pointed out that he was not sure about item 8 and would skip over that. Item 10 was regarding redevelopment. He stated that there was an over emphasis on the back of the shopping and how it would be visible to Berkmar across the site. He pointed out that with a two-story office building and between 4 – 6 foot high walls with lots of plantings that the shopping center would hardly be seen. He pointed out that the only portion of the site that would be visible from Berkmar was right at the entrance.

Ms. Higgins asked what the circle was in the lower right hand corner.

Mr. Edwards stated that is a potential pond for storm water management in case they cannot tie into the regional detention facility in front of the shopping center.

George Ray, owner of CCI, presented an aerial photograph of the site. He pointed out that the wooded area only had about 3 Oak trees in that area that had any value. He stated that the intent for keeping this buffer was primarily to screen the residential from Route 29 in case this R-6 zoned property were developed. He pointed out that there were commercial offices along Greenfield Terrace with the school and other commercial uses. He felt that the County was supporting commercial development along this corridor. He stated that this project would provide more effective screening of the back of the shopping center and he could not understand why the County would not support this proposal.

Ms. Joseph stated that she had to leave, but wanted to point out that she was on the site with the applicant today. She pointed out that she walked the property and looked at the wooded area. The wooded area is not what she felt it should be if it were to serve as a buffer. She noted that it truly was a trashy area with a lot of undergrowth. There were some Locust, Paradise and Popular trees. She felt that when you look at that aspect in the Comprehensive Plan and the Land Use Map that it seemed that they wanted buffers all along Route 29. That makes a whole lot of sense when you are looking at the commercial that goes back to Woodbrook and Carrsbrook. But, in this case it did not make quite as much sense. She felt that this could be effectively screened for that parking area. She felt that more trees could be placed in the parking area down below. She

stated that those were her thoughts and that she really did not have any problem with removing that area. The vegetation might have to be increased in the area downhill next to the existing parking area, however, she did support the removal of this area as a buffer.

Ms. Joseph left the meeting at 8:30 p.m.

Ms. Higgins stated that she looked at this as an opportunity to fill in this area and do a better job by providing sidewalks and did not have a problem with amending that plan. If there were a water line issue, then it would have to be worked out. She stated that almost anything would look better than what was there now. She pointed out that there was an opportunity to get a nice streetscape along there and asked if there was a way to decrease the setback.

Mr. Cilimberg pointed out that under the Neighborhood Model District they could achieve that.

Mr. Rieley stated that he had been persuaded by those arguments. He stated that there was a buffer left for a reason and it has gone away. He felt that what replaces it should be as close to what they were now encouraging as much as possible. He stated that he did not object to the site being built on, but he would prefer that the buildings be closer to the road. He questioned if the Neighborhood Model process would be so erroneous that this would be problematic. He asked staff what they could do to make going through the process of a Neighborhood Model less omnibus if that is their reservation. It seems that there is a solution here that would be better for everybody.

Ms. Doherty stated that she did not know that the Neighborhood Model District has to be so difficult. That has not been done previously for a small site, but that a Code of Development would not be necessary.

Mr. Cilimberg stated that they were talking about the right vehicle to use under the Zoning Ordinance. It was not about the Neighborhood Model policies, but about the Neighborhood Model District, which was the only district that provides flexibility to do more than what they can do under PD-SC. He pointed out that they were really talking about the relationship of the buildings to the road and the Neighborhood Model would provide more flexibility for that in the design.

George Ray stated that he would like to set the building up closer to the street, but did not want to get in a difficult position by opening up a new can of worms because he was going first with a small site.

Mr. Rieley stated that it important for them not to make this difficult for the applicant in order to get this set in place.

Mr. Craddock stated that the buildings would definitely look much better located closer to the road, which what they were trying to get. He agreed with Mr. Rieley that the process should be made easy for the applicant to obtain the Neighborhood Model District.

Ms. Cilimberg pointed out that staff and the applicant would have to set down and look at what the Neighborhood Model District would entail and then the Commission could make that decision whether to make that change.

Ms. Doherty pointed out that since this was all one parcel that goes all the way to Woodbrook to the mobile home park that this was the only opportunity for the County to be able to get the sidewalk extended all the way to Woodbrook.

Ms. Higgins suggested that they incorporate the mobile home park.

George Ray, owner of CCI, stated that he would be happy to explore the possibility of rezoning the property to a Neighborhood Model District, but if they run into any obstacles that they could always pursue PD-SC zoning. He expressed concern about potential conflicts with the Sign Ordinance because the sign on this property has always been on the same site as the parking lot.

In summary, the Planning Commission held a work session on ZMA-02-08, Rio Hills-CCI Rezoning, to discuss the applicant's proposal to locate a two story office building with 10,858 square feet of gross floor area. The Commission held a discussion with staff and the applicants about the proposal and provided comments and suggestions. The Commission was in general agreement with the proposed concept of allowing an office building to be located in the area shown on the application plan as "to remain wooded" and asked staff to work with and provide guidance to the applicant regarding making an application for a Neighborhood Model District to see what it would entail. The Commission asked that they also address the various issues such as setbacks, parking, sidewalks, etc. The Commission felt that the Neighborhood Model District would provide more flexibility for the development and would be beneficial all the way around.

Old Business:

Mr. Thomas asked if there was any old business.

Crozet Master Plan:
Mr. Cilimberg stated that the meeting date for the Crozet Master Plan has been moved from March 16th to March 23rd to accommodate all of the Planning Commissioner's schedules.

Subdivision Ordinance Discussion:
Mr. Cilimberg stated that staff reviewed the schedule and found that the Commission could review the Subdivision Ordinance Amendments at the March 30th meeting. Since Mr. Edgerton already said that he would be absent, he asked if the Commission wanted to move the hearing into April so that all the Commissioners could be present.

Mr. Thomas stated that he felt that they should try to accommodate all seven of the Commissioners so that everyone could be present.

Mr. Cilimberg asked that if any Commissioner was going to be absent in April that they let staff know in advance. He stated that the Subdivision Ordinance would probably be scheduled for the first week in April.

There being no further old business, 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 8:55 p.m. to the March 2, 2004 meeting.

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V. Wayne Cilimberg, Secretary

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