Albemarle County Planning Commission
June 8, 2004

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, June 8, 2004 at 6:00 p.m., at the County Office Building, Room 241, 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 Joan McDowell, Principal Planner; Juandiego Wade, Transportation Planner; Rebecca Ragsdale, Planner; Susan Thomas, Senior Planner; Tarpley Gillespie, Senior Planner; David Benish, Chief 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 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. There being none, the meeting proceeded to the consent agenda.

Review of Board of Supervisors Meeting – June 2, 2004

Mr. Benish reviewed the actions taken on June 2 by the Board of Supervisors.

Public Hearing Items:

SP-2004-008 Karin M. Gest (Sign #82) - Request for a special use permit to allow private school for classroom driver training in accordance with Section 20.4.2.1 of the Zoning Ordinance which allows for private schools in the PUD Zoning District. This is an expansion of an existing classroom driver training use. The property, described as Tax Map 61Z3, Parcel 202, contains .245 acres, and is zoned PUD, Planned Unit Development. The proposal is located on Incarnation Drive, at the intersection of Rt. 1694 (Branchlands Boulevard) and Rt. 1427 (Hillsdale Drive) in the Rio Magisterial District. The Comprehensive Plan designates this property as Urban Density Residential (6.01-34 dwelling units per acre) in Neighborhood 2. (Tarpley Gillespie)

Ms. Gillespie summarized the staff report. The applicant's proposal is for a special use permit to allow a private school for classroom driver training within the Branchlands Professional Center building on Incarnation Drive. The proposal would occupy units 202 and 202A. In December, 2003 the Commission reviewed a special use permit for the same driver training school in unit 202B of the building. The applicant is seeking to expand the school into the other two units and needs a special use permit to do that. Although the applicant is not planning to increase the enrollment, staff or hours of operation, she simply has a lot of materials for each class. Ms. Gest teaches classes Monday, Wednesday and Friday to one group and Tuesday and Thursday to another group. She does not want to have to set up and break down the class every single day since the two classes might be at different points in the materials. She also wants to have an administrative area with a staff break room and an office for herself. As with all private schools, the applicant is required to submit a parking study to the Zoning Administrator in order to determine how many parking spaces would be required for this use. A special use permit was approved for a driver's training school in unit 202 and the applicant wants to increase the square footage

The Zoning Administrator has determined that there would be five parking spaces required for the proposed use, and there were five parking required with the last special use permit. Under the current proposal the school is required to have a total of ten parking spaces. There are ten parking spaces allocated to these three units within this building. Staff has highlighted the parking spaces that are already allocated to these units. The applicant has met parking requirement for this use. Staff reviewed this proposal against the Land Use Plan and the Neighborhood Model. Staff found this proposal to be compatible with the Land Use Plan designation of Urban Density Residential, which calls for some institutional uses such as schools. Therefore, staff feels that this is a compatible use for the Land Use Plan.

Staff has identified the following factors, which are favorable to this request:

1. The special use permit will not increase enrollment or staff to Gest Education Services.
2. There is adequate parking available on site to address this use.
3. The classroom driver training school will provide a service to the community.
4. As the use will be located entirely within an existing facility, no new land use impacts are anticipated.

Staff finds no factors unfavorable to this request. Therefore staff recommends approval of this request with the two conditions listed in the staff report.

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

Robert Gest, III, stated that his wife and he owned Gest Education Services and Training that was a driver training school. They have been providing this service for eleven years, which was the only driver training school in this area. Virtually all of their business was by word of mouth. His wife has quite a reputation and performs a useful service since the high school cannot accommodate all of the needs in this area. He asked for the Planning Commission's approval of the special use permit.

Mr. Thomas asked if any Commissioner had any questions for Mr. Gest.

Mr. Rieley asked if most of the students were young people who have never driven.

Mr. Gest stated that most of the students were young drivers between fifteen and sixteen. He noted that his wife provides class room training which is followed up with behind the wheel training.

Mr. Thomas invited public comment. There being none, he closed the public hearing to bring the request back to the Commission for discussion and possible action.

Mr. Morris moved for approval of SP-2004-008, Karin M. Gest, subject to staff's recommended conditions.

1. Maximum enrollment shall be 10 students;
2. Normal hours of operation for the school shall be from 4:00 P.M. to 8:00 P.M. provided that occasional school-related events may occur outside of these hours.

Mr. Craddock seconded the motion.

Mr. Rieley asked if SP-2003-074 was correct, and Ms. Gillespie stated that the correct special use permit number was SP-2004-008.

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

Mr. Thomas stated that the motion carried to recommend approval of SP-004-008, which would be heard by the Board of Supervisors on July 7.

Regular Item:

HO 2004-165 Michelle M. Martel - Request for a modification to an existing Home Occupation Class A for a personal medical practice in accordance with Section 5.2 of the Zoning Ordinance. The modification is for the number of vehicles trips allowed. The applicant is currently allowed seven clients per week and is seeking to have that modified to be allowed to have four clients per day. The property described as Tax Map 56E Section 4 Parcel 10 (TMP 056E0-04-00-01000) is located in the Western Ridge subdivision in the Community of Crozet. The property is located at 4974 Lake Tree Lane (SR 1251) approximately 450 feet for the intersection with Fairwinds Lane and Lake Tree Drive. The property is zoned R4-residential. The Comprehensive Plan designates this property as neighborhood density located in the White Hall Magisterial District. (Juandiego R. Wade)

Mr. Wade summarized the staff report. This is a request for a modification to an existing home occupation, class A for a medical practice and alternative medicine consultant practice, which is located in the Western Ridge Subdivision on Lake Tree Lane. In April of this year the applicant was given approval by the Zoning Department for a home occupation, class A. She is now requesting a modification of that to increase the number of visits. With the approval of the home occupation, class A she was given approval for up to 7 visits per week. She would like to increase that from essentially 1 visit per day to 4 visits per day. This is being treated as a modification to a home occupation, class A and not a special use permit for a class B, home occupation because it is located solely within the primary structure and no additional employees are being requested. Since the staff report was written, some additional comments from the neighbors have been received. He passed out the 3 letters of support, which includes 1 from the home owner's association with some stipulations that there only be two trips per week for six months. There was also one call received from a neighbor that opposed the request that lived across the street, but she did not send in a letter. He pointed out that he just wanted to let the Commission know that there had been three additional letters of support and that there was one neighbor that opposed it. Staff reviewed this request to see if the use would have any impact on the residential area. With that in mind they really concentrated on the number of trips and what that would do. Staff also looked at the things that would be by right and factored that in. Staff also looked at the time that these trips would take place, which would be during the day when there would not be as much traffic. Based on that, staff recommends approval with seven conditions that can be found on page 2 of the staff report. The main thing is that staff supports the 4 visits per day, but for only 4 days a week with no invasive medical procedures performed on site. Only one client shall be seen at a time. The approval for the additional trips shall expire 18 months from the date of the Planning Commission approval. The reason for the 18 month expiration for the additional trips is that the client is new in the area and is trying to build up her clientele. Once she builds up her clientele, then she will be able to move into her own office as he understands it. The applicant is present and can answer any additional questions.

Mr. Thomas asked if any Commissioners have any questions at this time.

Ms. Joseph stated that the Zoning Department allows 7 visits per week. She asked if the applicant is asking for 16 visits per week with 4 per day on 4 days per week.

Mr. Wade stated that was correct.

Ms. Joseph stated that the people in Western Ridge recommend 2 per day from Monday through Friday, excluding holidays. She asked that the numbers requested be verified.

Mr. Wade stated that he had been working with the Western Ridge subdivision for the last year to eighteen months dealing with the large amount of children in the area by putting up child at play signs and pedestrian crossings. They wanted some four way stops and speed reduction signs. Staff was able to get most of those things and was currently in the process of getting those

installed with VDOT. Some of the streets are getting accepted into VDOT's system. That is another reason that the Neighborhood Association and staff looked at this request very carefully because they know of particular traffic concerns in this neighborhood.

Mr. Thomas asked if there were any more questions. There being none, he opened the public hearing and asked the applicant to come forward and address the Commission.

Michele M. Martel, M.D. asked for a favorable consideration from the Commission.

Mr. Morris asked what her reaction was to the Neighborhood Association's comments.

Dr. Martel stated that she was fine with their comments because she was asking for 16 visits and they were giving her 10 visits, which she felt was a good compromise. She asked that the Commission allow her as close to 16 visits as possible. She agreed with them that Western Ridge has a big problem with the traffic. Currently the construction workers right now that were about to kill their children. The construction workers drive very fast on the neighborhood roads. She pointed out while picking up mail a few days that she was almost ran over. Having a six year old child who was not 40 pounds yet that she was very concerned about the traffic in the neighborhood. She pointed out that several of her clients have asked for two appointments at one time. It is fairly easy for her to warn her clients that when they get into the neighborhood that they need to please slow down since there was a traffic problem. She noted that her goal was to generate just enough cash flow to be enabled to lease an office space in town. It is extremely expensive to lease an office space in Charlottesville and they want a commitment for five years. Until she knows what she is up against that she wanted to find out how much clientele she could attract in this setting where the overhead is already paid for, which was her house. Ten patients a week, which means 20 clients per month is a good starting base for the next six months. She stated that she would be happy with that.

Mr. Morris stated that in reading her application it seemed like there was a definite desire to keep it to four days per week. He asked if she could explain that.

Dr. Martel pointed out that because she was already in touch with a massage therapist in town on Incarnation Drive who does not work on Wednesdays and she is willing to sublease her space for the Wednesday. That means that she would see the ten patients out of her house and then as soon as she was booked on the Wednesday plus all of her patients at home, then she would definitely have enough revenue to be able to make a commitment for a full time office space. That way she could get into it without getting into that and knowing what she was doing. She pointed out that this way seemed to be a safer approach to starting her business. She pointed out that not all of her patients could come on Wednesday. Therefore, having buffer appointments on the other days would help. The availability that she can offer her clients will help build her business. She stated that basically that was where she was heading. She was just trying to generate enough cash flow at the beginning to be able to move out of her home. She noted that six months from now she would like to be completely out of her house because she would prefer not operating from her home.

Mr. Thomas asked if there was anyone else present who would like to come forward and speak on tonight's application. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Craddock asked what the status was of the stop sign mentioned in the letter from Western Ridge.

Mr. Wade stated that the request was in, but that VDOT is very reluctant to put in four way stop signs and things like that unless the needs are warranted. Staff was able to get the child at play signs approved. Staff just learned that they got the speed reduction approved, which was already 25 miles per hour and VDOT went out and found that was too fast based on the geometrics of the

road. VDOT also approved the cross walk. Therefore, staff is getting them everything that they wanted, but it might not be moving as fast as they wanted. He noted that it was very unusual for a neighborhood to request all of these things and staff is able to get it. Therefore, it is in the works, but it is taking longer than they wanted. Staff has been in constant communication with the neighborhood association throughout the last eighteen months to a year letting them know as the different things got approved. He pointed out that he thought this was a new president that might not be aware of all of the history. He talked with the transportation chair two weeks ago to let him know about the news and she was real happy and was to let them know. Apparently, the word did not get out. He pointed out that Dr. Martel had indicated that she was not going to have appointments on Wednesday at her home, but for enforcement reasons if they said only four days a week that they needed some structure there. Therefore, that was why staff worded the condition in that manner. If it is the desire of the Planning Commission to further that to give them three days a week, then that was something that could be considered as well.

Mr. Thomas asked if there were any questions on the conditions.

Ms. Higgins questioned condition #1 in the way that it specifically states Tuesday through Friday. Because of the enforcement she felt that the days that were approved as the condition should agree with the days that she actually operates. Therefore, she suggested that the condition say Monday, Tuesday, Thursday and Friday. Technically, if she has activity on Monday, then she would be eligible for an enforcement action. She asked that condition #1 be modified.

Mr. Morris stated that he understands it that she would have the maximum of 8 people coming during the week with two per day on Monday, Tuesday, Thursday and Friday. He asked if that was correct.

Mr. Rieley stated that it was four per day as it currently reads. The applicant stated that she would be happy to live with less than that. He suggested that was an issue that the Commission should discuss. Since the activity was limited to 18 month duration before it reverts back to the normal standard. For that reason and because of the particular conditions of this situation he noted that he was comfortable with four clients per day for four days on Monday, Tuesday, Thursday and Friday. He pointed out that if this was for an unlimited duration that he would not feel the same way. But, for 18 months while somebody was trying to get started he did not see any reason not to do it.

Mr. Morris stated that the applicant would increase her clientele one per week because if it was two per day for four days and that it would increase from seven to eight. He agreed with Mr. Rieley.

Mr. Kamptner stated that condition 2 should also be revised to say that no appointments may be scheduled on the premises on Saturday, Sunday and Wednesday.

Mr. Rieley moved to approve HO-2004-00165, Michelle M. Martel, with staff's recommended conditions as modified.

1. No more than four clients per day for four days of operation: Monday, Tuesday, Thursday, and Friday;
2. No appointment may be scheduled on the premises on Wednesday, Saturday and Sunday – emergency or otherwise;
3. Clients can be on the property between the hours of 9 a.m. and 5 p.m.;
4. Appointments shall be scheduled with a minimum of 15 minutes between clients so that no more than one client or client vehicle will be on the premises at a time;
5. No invasive medical procedures shall be performed on premises;
6. Only one client shall be seen at a time; and
7. The approval for the additional trips shall expire 18 months from the date of the Planning Commission approval.

Mr. Craddock seconded the motion.

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

Mr. Thomas stated that HO-2004-165 was approved.

Old Business

Appeal of Zoning Administrator's official determination of use for the Lewis & Clark Exploratory Center as a community center.

Mr. Thomas stated that the agenda would be adjusted to move one item of old business up to this point. That item was the appeal of the Zoning Administrator's official determination of use for the Lewis & Clarke Exploratory Center as a community center.

Mr. Kamptner stated that the Commission needs to consider the draft to the statement of appeal of the Zoning Administrator's official determination of use for the Lewis & Clark Exploratory Center as a community center.

Mr. Thomas asked for any comments from the Commission on the draft. He asked if everyone received the corrected first page that was sent out Friday afternoon and if there were any changes.

Mr. Rieley thanked Ms. Joseph for her work on the draft.

Mr. Morris stated that he felt that it covered everything.

Ms. Joseph asked if the Commission would be on their own for this appeal.

Mr. Kamptner stated that right now their office was representing the County. The County's strategy for the way of dealing with this is to present a resolution of intent to address this matter legislatively.

Ms. Joseph stated that the Commission, the applicant, is appealing the decision.

Mr. Kamptner stated that was correct.

Ms. Joseph said that Mr. Kamptner did not have anything to offer the Commission as far as commenting on the appeal letter, the process or anything.

Mr. Kamptner stated that he did not have anything to tell the Commission about this statement on the basis for appeal. What the County will do is probably come back to the Commission next week with an executive summary and resolution of intent to amend the Zoning District regulations to start the process for dealing with this type of use.

Ms. Joseph stated however, they need to get the appeal process started so they don't lose that date. She pointed out that this needs to be submitted to the Zoning Administrator.

Mr. Kamptner stated that the Commission should ratify this statement and also direct someone from the Commission to contact the Zoning Administrator tomorrow to be sure that the appeal is filed.

Ms. Higgins asked Mr. Kamptner regarding the process if there was any other way to do this other than for the Planning Commission to actually file this appeal.

Mr. Kamptner stated that there was the appeal of the Zoning Administrator's determination and legislative solution by changing the zoning regulations. The third way would be to have the Zoning Administrator reconsider her decision, which dispenses with the appeal; but, that method does not address the underlying problem, which was finding the proper zoning designation for the proposed facility at this particular location.

Ms. Higgins asked if he was saying that there is a likelihood that you might come back with a legislative suggestion.

Mr. Kamptner stated that he had distributed a proposed resolution of intent.

Ms. Higgins asked if they could then withdraw the appeal.

Mr. Kamptner stated that he would let the Commission decide that, but what he would tell them was that there is no guarantee that the Board will ultimately take the legislative action.

Ms. Higgins stated that she would again express that she wished there was a different process that did not take the whole Planning Commission's action to do it this way. She asked what other entities can appeal something like this.

Mr. Kamptner stated that any officer, board, bureau or department of the County or any person who is aggrieved by the decision with some kind of interest in the decision may appeal.

Ms. Higgins asked if the Commission was included in those persons who were aggrieved.

Mr. Kamptner stated no, that they were designated and fall under the "board" class of appellants.

Mr. Thomas asked if they could have made the change or recommendation at the Commission level when this came before them at that time.

Mr. Kamptner stated no because any change would come through the Commission, but ultimately it was the Board of Supervisors.

Mr. Thomas stated that when the request came before the Commission that they were going by the Zoning Administrator's determination that the use was okay.

Mr. Rieley stated that a good portion of the logic of this is that we are in the position of coming to a decision on a special use permit under criteria that they don't think applies. That puts the Commission in an untenable position, which was why it was appropriate for them to act as a board to appeal the decision. He stated that he felt they were doing exactly the right thing.

Mr. Higgins stated that under the discussion of framework that she felt they have a poor definition to work with, which was unfortunate because the defined geographical area was exactly that. She stated that the draft argument, which was very well written, was clear that it does not refute the defined geographical area presentation. For that reason she felt that the challenge was somewhat questionable and she would still have suggested that the Planning Commission seek another avenue with the applicant because a defined geographical area could be the State of Virginia.

Mr. Rieley pointed out that it could be the world and in which case it would be meaningless, which was exactly Ms. Joseph's point that they were saying all over again.

Ms. Higgins stated that it was a poor definition, but it was the definition.

Mr. Rieley stated that was why they have a good opportunity to take a step back and get a designation that makes sense for this use because it is an apparent stretch and there is no need

to have an apparent stretch with an issue like this. He stated that he felt that they should fix it and this is the proper mechanism to accomplish that.

Ms. Higgins stated that the next step, if it is upheld and the appeal board says the determination stands, then what would the Planning Commission do at that point.

Ms. Joseph stated that they would review the project.

Ms. Higgins asked if it would be with no prejudice with that decision.

Mr. Morris stated absolutely with no prejudice.

Ms. Higgins stated that if there was any voting to the contrary at that point, then she was not sure of that perception of prejudice. She pointed out that was why the Commission was trying to appeal this.

Mr. Joseph stated that it was very clear to her that this debate has nothing to do with anybody involved with the process. It has to do with the fact that this use is not appropriate under that particular category. That is it. The only thing that is in question here is that particular use and if this is a community center when your expectations are that tourists are going to come. Is that what we think of as a community center when all of the community centers are allowed by right in residential areas or within the rural area?

Ms. Higgins stated that she was not trying to argue the point, but it was just a poor definition of community in the Zoning Ordinance.

Ms. Joseph stated that was correct and that is what needs to be fixed. She stated that she would be happy to get the document into a final form, but she did not know if they all needed to sign it. She asked if Mr. Thomas could sign the document for the entire Planning Commission.

Mr. Thomas stated that he would sign it for the Planning Commission.

Ms. Joseph stated that she would get the document in final form, have Mr. Thomas sign it and then hand deliver it to the Zoning Department.

Mr. Rieley pointed out that the Commission had already taken an action on this. He asked if they needed to do anything else.

Ms. Joseph stated no that she only wanted comments.

Ms. Higgins voiced opposition to the appeal and asked if there was any other venue for the Commission to take regarding this matter.

It was the consensus of the Planning Commission to approve the draft statement of appeal and to move the appeal forward.

Work Sessions:

CPA 2003-02 5th Street/Avon Street Mixed Use Complex – Proposal to change the Comprehensive Plan, Land Use Plan designation from Industrial Service to Regional Service, to allow development of a mixed-use complex including community and regional level retail and service, multi-family housing, industrial service, connector road, employment, and open space and park land uses. The property, consisting of approximately 89.4 acres, is described as Tax Map 76M(1), Parcels 2A, 2B, 4A, and 11E, and located in the Scottsville Magisterial District between Rt. 631 (Fifth Street Extended) and Rt. 742 (Avon Street) immediately north of

Interstate 64, in Neighborhood Four. Existing zoning is LI, Light Industrial, and EC, Entrance Corridor. (Susan Thomas)

Ms. Thomas referred the Commission to the model that an intern had constructed of the site. She pointed out that it was such a good model that she wanted to use it at every opportunity. The model shows the topography of the site, which has been the subject from the very first discussion. She summarized the staff report. (See the Attached copy of the staff report.) This is the Fifth Street/Avon Street mixed use complex that was a Comprehensive Plan amendment. This is the Commission's third meeting on this particular Comp Plan Amendment. There were a series of meetings between 1997 and 1999 on an earlier amendment that was ultimately withdrawn right before the Board was scheduled to act. In this case, the Commission met about eleven months ago for the first time and then jointly with the City Planning Commission in October. Currently there is a revised proposal by the applicant, which includes one item that was requested by the Commission that was the concept plan. It is somewhat minimal, but it is definitely more detailed than what they had previously.

The latest submittal contains several significant changes to the CPA application:

- Dominion Resources is no longer a part of the project, reducing the employment use by half. The Grand Piano Furniture Warehouse parcel, which would have been converted to the Dominion Resources use with some additional acreage, is now off the table.

- The existing Grand Piano road has been incorporated in the transportation network, as requested by the Planning Commission on October 14.

- Access from Fifth Street Extended to the site is via the existing Bent Creek Bridge exclusively, which was an earlier request of both staff and the Commission. Based on impacts from new bridges, our Engineering and Water Quality staff very early on said that if they could use the existing bridge they could certainly minimize detrimental impacts to the stream.

- The retail square footage has increased by approximately 50 percent in the latest proposal. There is no residential use included in this particular concept.

In staff's opinion the retail use is not particularly under contention. Since the earlier review between 1997 and 1999 there has been considerable support both at the Planning Commission level and really at the Board's level as well for some retail use in this area. It is needed in the neighborhood. There are not a lot of opportunities for the larger footprint retail. Therefore, there is a fairly consistent level of support for that. There are issues related to the scale of it, the mix, how the road design and access should work exactly and probably most of all the site design in how should this site be handled in terms of a concept plan for this particular project. She stated that she would quickly run through a few of the key points in the staff report, take the Commission's questions and then go to the preliminary language that was included to get them thinking about the different points that they find to be most important for discussion. In this revised submittal, which came in April of this year, the applicant is suggesting because this site is fairly central in location in Urban Neighborhood IV and V, that it could be a town center rather than attempting to be a full mixed use project. She felt that was a question for the Commission. If it was to be a town center, it should look and function as a town center. Staff does not think that the current concept plan does that. Staff feels that it looks like a very conventional shopping center. She stated that there were lots of things that could be done and room for improvement to make it a much more attractive, more functional and a more appropriate kind of town center. But, the Commission needs to decide, for instance, if they think that residential is an important part of this mix. Or, the Commission may decide to weigh in on the level of retail square footage since it has increased. Staff made some comments about that in the staff report. The Commission may want to say some things about whether this is a good site for a town center or not. It is an interesting site because of the natural and man-made features, which kind of cuts it off somewhat

from the surrounding neighborhoods. If it did not have the creeks or the interstate, it probably would be more easily connected to what is around it. But, the reality is that it is sort of a unique situation. Staff has always maintained that its constraints offer some real opportunities. It has some amazing natural features and some interesting topography. It has a lot of natural amenities that many sites in the urban area don't have that staff felt could be used to their advantage in site design. She noted that she wanted to touch on a few comments from the other reviewers. David Hirschman under Water Resources is cautious about major improvements to the Grand Piano Road. He says this should not become the major road through the site simply because it was so close to the creek. He says that if grading can be minimized and they could work with what is already there. That was the concept that she thought that they had always had of not expanding the road, but working within the existing road bed and leaving the hill side largely intact, which would then protect Moore's Creek from additional water quality impacts related to a lot of grading. He also notes that the tributary stream in the middle of the site, which was not shown very clearly on the concept plan, would be a major fill operation. Therefore, they need to be careful with that. Our engineers have speculated that might be where a major storm water management facility would go. If the road were to end up on the dam holding that wet pond or wet detention facility in place, then that was something that makes transportation people nervous. David also said that in addition to meeting the minimum requirements of the Water Protection Ordinance, the concept for the site should also promote some innovating and some creative ways of managing storm water. She stated that the applicant probably has some ideas on that. As per the Transportation Planner's comments, the revised transportation impact analysis has not been submitted. She pointed out that the applicant was working on it and VDOT will have to evaluate it. She cautioned the Commission that this site may not be able to support unlimited retail square footage if they are going to use the Brent Street Road Bridge and have workable intersections on Fifth Street Extended and Avon. There is a limit to the kind of traffic that you can feed in either direction. VDOT noted right away that when you dramatically increase the retail square footage, you get a very heavy P.M. peak hour impact. It would not be such an impact in the A.M. because people are not shopping as much as in the afternoon. That is something that staff will be watching out for in the transportation analysis to be cautious about. It is an existing bridge. If the bridge gets rebuilt they would still have an existing intersection with businesses on both sides. Therefore, this site might not be able to accept an unlimited scale of retail. She pointed out that she was not weighing in on what that scale should be right now, but felt that was something they should look at carefully in the transportation analysis.

Mr. Rieley asked what the mechanism was to make the level of retail development a little more finite while still utilizing the Bent Creek Bridge.

Ms. Thomas stated that it may be that they might get a better response from the applicant. She felt what was going to happen was there was going to be a certain amount of volume that can pass through there all at one time. They might have to extrapolate from that what kind of square footages and mixes can really work on the site. She stated that mixing the uses up more would probably be more beneficial because of the opportunity for some complimentary peaks and uses for residential or something that would have an impact for something that is just not one big dominant use. She noted that it was very hard to talk about this right now because they don't have that analysis.

To summarize the discussion here, she pointed out that over the years of talking about and considering various changes to this site, staff has sort of created a series of informal guidelines. The guidelines have not been adopted, but have come up consistently in discussions. The first one is that there are some natural features on this site that deserve consideration in site development. There are also some limitations to this site. It has some real external constraints, such as the interstate, the creeks and the roads. Beyond that it is not the sort of site that is necessarily wide open to be flattened and developed without some consequences that might involve loses something valuable. There has always been a discussion about the scale of development on this site and what should be mixed in. She asked that the Commission weigh on that. The final point is that the property is designated for Industrial Service right now. It is zoned

Light Industrial. They have seen that conversion happen throughout the County in areas like Sperry and the Hollymead area, which at one time were Industrial Service with the idea that they would be manufacturing or something that probably was quite outdated in our new economy. There is really a need to think about those employment opportunities and not give them all away. The Dittmer parcel is shown for future employment potential. In the questions that she asked the appraisers, the commercial realtors and the owners/developers about the flexible space that she got a resounding yes that they need it very much from all of them. Therefore, there might be a form of development that could fit on the site that would also provide some job opportunities for the future, which would be flexible in order that all kinds of jobs could go there. Therefore, that issue has kind of stayed with the site throughout the discussions as well. There are market factors, which the applicant's representative will probably talk about those tonight. It is expensive, which is the old land field that was not really closed like it would be done today. It is unconsolidated material. But, that does not mean that it is not usable. She suggested that it be considered how that fits with the pace and the phasing of development of the rest of the site. She pointed out that she did not think they had to have the graphics, but they do need to be able to describe their concepts. She suggested that they work on the language under transportation to say that they want the site to have multiple connections where possible.

Mr. Rieley stated that the staff report acknowledges the fact that this property is a good place for some regional service activity. It also makes the point that is not mutually exclusive with having some retail that is walk able and that is designed in such a way that it has a pedestrian component and scale to it. He felt that the challenge both for the developer and the reviewers is to figure out and to work towards a reasonable balance of those objectives. He stated that this staff report is a terrific starting place for that.

Mr. Thomas asked if there were additional questions for Susan Thomas. There being none, he invited the applicant.

Mr. Thomas asked if the applicant would like to address the Commission.

Steve Blaine stated that Frank Cox and Mike Fenner, from the Cox Company, were present to answer any questions. For the benefit of the Commissioners who did not have a chance to participate in prior work sessions, he pointed out that they have had conversations with various Commissioners about the underlying justification that the applicant has to make for this Comprehensive Plan Amendment. He pointed out that was to show why the land use map should be changed from Industrial Service to Regional Service. He stated that he did not want to presume, although what they had heard from the staff, and perhaps they have heard some consensus here tonight that the Regional Service Land Use Designation is appropriate and that the Commission would support that Land Use Designation. It seems that they have skipped beyond that determination or that justification and they were now talking about specific site characteristics in a concept plan that to be development must be zoned to a commercial zoning. He stated that he saw some heads shaking.

Mr. Rieley pointed out that was putting words into his mouth.

Mr. Blaine stated that he thought that he would be remiss in not supporting the justification. As the applicant, they do bear that burden, which was the reason for the submission that they received that was prepared by the Cox Company dated April 1. He stated that he would not take the time tonight to go through that, but he would direct their attention to the justification which follows the good old fashion policy considerations for changing a Comprehensive Plan Amendment. That is principally a change in circumstances. What has changed about the market place, the surrounding land uses, the transportation needs that justifies changing this from an Industrial designation that supports manufacturing, fabrication, contractor's offices and storage yards and warehouses to a Regional designation that would support the kind of uses that he had heard here tonight in addition to the commercial and retail, medical centers, mixed use development, urban density residential, professional and commercial offices. They don't get to

those uses until they change the Comp Plan to allow a rezoning. The justification is well presented by the Cox Company in their presentation. Perhaps some of these justifications have been interpreted as a prelude to design features. A good example of that are the circumstances surrounding the property. There is some multi-housing at the southern end, which is very far away, with some affordable housing as you go into the City that surrounds this infill opportunity. To point that out does not say that this must be a town center. What they were saying was that the regional uses are justified by the proximity to the interstate and also the commercial neighborhood and community uses are well supported in this location because its central locations among these residential uses. That does not mean that it has to be a town center. He stated that they don't report to say that the concept plan that they have is a town center. They don't have to make it a town center to follow the Neighborhood Model. The Neighborhood Model applies to a rezoning in this property no matter what you do. As he understands the Comp Plan, the Neighborhood Model has been adopted been adopted in it. Rezonings and other land use determinations are considered under the Neighborhood Model. Therefore, he thought that they have gotten a little bit ahead of ourselves, but that was not to say that the applicant would not support the kind of textural approach that the staff report reflects in the sense of identifying the key characteristics of the site that merit reservation. As the concept plan and the justification that the Cox Company put together there is an opportunity to preserve this corridor of 12 to 15 acres of green way corridor and park opportunity. There are these natural features that can be incorporated into an overall concept plan. But it is not the mechanism or the forum to tie details in the Comprehensive Plan that may tie the future zoning application and considerations. An example of that would be the Hollymead Town Center where the Comprehensive Plan Amendment did have a fairly detailed concept plan. It was not intended to be an application plan, which is submitted with a rezoning request. But, some of the reviewers in the process and the Architectural Review Board in particular felt that their hands were tied because of the Comprehensive Plan Amendment. Therefore, they did not have the mechanism to impose the restrictions and conditions on an approval that you have at your disposal on a rezoning, but at the same time they had a Comprehensive Plan that said well this is what you are going to expect and this is what you need to support. He asked them to consider a better approach to address the key characteristics and the key features and leave the detail that requires Engineering, professionals and consultants to the rezoning stage. They have a mechanism like the proffer mechanism. The staff report mentions specifically in respect to transportation improvements that the applicant has agreed to make certain improvements. He pointed out that the applicant has not agreed to make transportation improvements. That would be in the nature of a proffer. As you know, a proffer is a voluntary commitment to make an infrastructure, or a similar kind of improvement, as an induction for a rezoning. Therefore, it is inappropriate to have that type of language in the Comp Plan Amendment. It is not inappropriate to indicate that the Comp Plan should reflect a connector road and to spell out the characteristics and features of what you envision in that connector road. He pointed out that they believe that a connector road could accommodate a two-lane road without parking for example. That is a feature and is something that is helpful in this process and certainly appropriate in the Comp Plan Amendment. In terms of the transportation improvements and the study that has been submitted. There was a complete regional traffic study submitted with the Comp Plan Amendment in the original concept that included Dominion Resources. VDOT has no interest in reviewing traffic studies for Comp Plan Amendments. The applicant has volunteered because of the change in the uses in the proposal since they dropped Dominion Power to supplement that traffic study with the additional retail that would be used. The study has been done and the information is there, but they have not asked staff to review and comment on it. But, it is incorrect to state that the traffic has not been analyzed. It has been thoroughly analyzed and they were prepared to address it appropriately at the rezoning. Regarding Bent Creek Road Bridge, they anticipate because of the design that VDOT wants to incorporate a traffic circle will require a rebuild of the bridge. They know that, but would like to know if the Commission would support the traffic circle. If that is not a feature that you don't want to see, then they are headed down a whole another direction with VDOT and design decisions that could lead them off track. The justifications in terms of the change in circumstances, they have not for the first time a consolidation of parcels to give them some real critical mass to do a comp plan amendment to address all of these characteristics that you have

heard about tonight including the connector road. They have not presumed to supplant the southern connector with this, but if this leads to a rezoning application in a real development plan, then the likelihood of that will provide some relieve for people who live in the southern area. There are no east/west connectors for commuters, pedestrians or shoppers. They can put in the pedestrian ways, but they cannot make the people walk there. In these designs and expectations they have to be realistic that people are primarily going to drive to this destination, but if they choose there will be pedestrian options for them. He asked for a reaction to that from the Commission. The concept plan is there to show that these principal uses can be accommodated on the site and if the Comp Plan is amended then the rezoning application will include those. But, it is not what they expect to be the final design. The sooner they can roll up their sleeves and get into the rezoning process where they can actually have a mechanism to make these commitments and design and engineer these key design elements the better. That is really what their client wants to do. They feel that this site has been pretty well looked over by from a public policy standpoint on this Regional Service, and they think it is time to move on. He pointed out that Frank Cox gave him a note, which he wrote in big letters, in response to the concern about the density of this proposed use. The FAR is a .16 and that is with a 47 percent land use. He stated that they can better address those design issues at the rezoning. He stated that the design that they submitted as part of an application plan may not meet all 12 of the criteria of the Neighborhood Model. In particular, if there was a use that is missing and it happens to be housing or residential the owner of piece on Avon Street is very keen on having that be designated residential, but it may be ahead of is time. The cost estimates to clean up that site are $2 to $3 a square foot. Therefore, it is not apparently affordable to build market housing for that location. Therefore, the concept plan and justification will have to address the mix of uses in a greater totality of the region. That is the purpose of the exhibit showing it surrounded by residential uses. It does not mean that it is a town center, but that it is surrounded by those uses. Those residents would be the workers, commuters and residents who use that site.

Ms. Higgins asked if there were any specific things that the applicant and staff needs comments tonight from the Commission to move this forward for the actual application for a Comprehensive Plan Amendment.

Ms. Thomas asked that the Commission weigh in on some of the concepts that she had placed in the preliminary language because there were probably some things missing. She pointed out that she had tried to be pretty concise about that and worked from Rivanna Place and Albemarle Place. She suggested that the Commission might like to add or delete some things from her suggestion.

Ms. Higgins pointed out that they were talking about possibly describing the elements in a more broad sense including the opportunities, but not being that detailed or specific.

Mr. Thomas asked if the entire Commissioners feel like there needs to be a discernable town center, which is listed under number one on page 4.

Mr. Rieley stated that he concurred with number one in its totality.

Mr. Morris and Ms. Joseph agreed with Mr. Rieley.

Ms. Higgins asked when they talked about the Neighborhood Model and the mixed use expectations if they were saying that those expectations are all encased on this site or could it be as the applicant had discussed that they look at the neighborhood as being bigger than the site. The way that this reads she would agree that it is very site specific. She asked if the neighborhood was just larger when you talk about the neighborhood character as being regional. The neighborhood would still be walkable and pedestrian accessible. Again, she pointed out that she went back to the small shops, main street kind of look versus regional. She noted that it seems kind of contradictory.

Mr. Thomas stated that the mixed use does not necessarily mean residential. Therefore, it should come back to the Commission at the rezoning stage so that they could be more detailed and more demanding on what they wanted to require regarding the Neighborhood Model.

Mr. Rieley stated that they needed to figure that out before the CPA. He pointed out that they have some fairly decent models to go by, which includes Albemarle Place and Rivanna Village that were good models. He stated that Mr. Blaine and staff were right that they don't want the illustrations to be so prescriptive that it does not allow any flexibility as you get to the rezoning level and as you get to the site plan level. Nevertheless, they need enough in the way of an illustration to show the intent and to show that these words have a meaning on this site. It needs to have a physical manifestation and it can't be simply overlooked. He stated that they needed to give guidance to the applicant and to staff at what level of expectation that we have for that illustration. From his perspective he would expect something along the lines of Rivanna Village and Albemarle Place as examples. He felt that in both of those cases there was flexibility. In the case of Albemarle Place, for example, there were drawings showing the street network that were inconsistent with the development plan that attached it. There was an acknowledgement built into that that these were things that had not been worked out at the CPA level. But there needs to be a better representation of what is articulated in the staff report even for the design in his view.

Ms. Higgins stated that he was basically saying that having the street network and realizing that it was not going to be designed that way at the rezoning stage was better than not having it.

Mr. Rieley stated that they have to show the intention and show that it can be done. It is not simply enough to articulate in text in his view. He felt that they need to have a physical representation and that is why the Commission required it in the other CPA's. He stated that anything less than that is taking a step backward.

Ms. Higgins stated that her struggle with this is that if they started out with the Comp Plan as it is, and it is not on this property but some other property, that in the Comp Plan it is shown as Regional Service. Then would the resulting rezoning be any less quality than one done from an illustration.

Mr. Rieley stated yes. For instance if this were zoned Regional Service now, then they would have absolutely no mechanism to encourage this connection from one street to another.

Ms. Higgins stated that would be done through the rezoning process. The interconnectivity would have road plans that have shown similar alignments and they would have guidance on how a Regional Service Development is done and also they have the Neighborhood Model.

Mr. Rieley stated that if it was Regional Service and it was designated that way, he did not believe that you would ever get that road way proffered in order to get the rezoning.

Ms. Higgins stated that it would get proffered in the rezoning itself and not in the Comp Plan amendment.

Mr. Benish stated that to the extent that can be a point that is a basis for evaluating the rezoning consistency with the Comp Plan. If it was not identified in the Comp Plan, they may have some difficulty utilizing that as a measure by which the rezoning could be considered.

Ms. Higgins stated that is a key element. She asked what the other key elements were. That means if something else comes before the Commission and there is an area in the Comp Plan for Light Industrial and someone comes in with a Light Industrial rezoning, then they have to compare that rezoning with what the Comp Plan shows. But they don't have the level of detail that he was suggesting that they do with this.

Mr. Rieley stated that they have to work with what they have and that was the reason they have been working with a base that has required them to essentially accept less than what they should have been getting in lots of cases. It is the reason that they have increasingly insisted in recent years in having more detail at the Comp Plan level. It is because they have gotten to the rezoning level time after time again and wished that they had it.

Mr. Morris asked if this is an example of the transportation layout that he was talking about.

Mr. Rieley stated that he thought that this is a real important step in the right direction to articulate a connection that has different kinds of roads in different kinds of places. This kind of illustration accompanied with the kind of text that they have in the staff report is really helpful when you get to the rezoning level. Similarly, when they start talking about neighborhood scale streets and making this kind of connection between regional service and the more local service and perhaps residential and that is what is missing. What we have now are boxes in a sea of parking and they need to bring that to the same level of resolution that this is.

Mr. Benish circulated copies of the Rivanna Place and Albemarle Place Comp Plan Amendments so that the Commission can see what they look like. (See Attachments)

Ms. Thomas pointed out that it was a copy of her working copy so it had some scribbles on it.

Mr. Blaine proposed that they move to public hearing with a conceptual plan that shows the key road network and incorporating, not a main street but that central local connection and the location of the Avon to Fifth Street connection and just a general land use description that should actually just say regional service or regional retail.

Mr. Rieley stated that was not enough information.

Mr. Blaine stated that they would supplement that with the text which would identify key features such as the area of desired preservation, the greenway and some of the others that Ms. Thomas as identified. That should be sufficient.

Ms. Joseph stated that she understood that this was what was going into the Comprehensive Plan. It was a description.

Ms. Thomas stated that was right because it was suppose to describe the end result in very broad or conceptual terms.

Thomas conceptual terms

Ms. Joseph stated that they would not be showing a layout that shows a sea of parking and where the buildings are located next to I-64. What they were doing was using that as a guide of helping us describe maybe what we don't want to see on this site.

Mr. Benish noted that he viewed this as the perimeters of what it is that you do not want to take place within it and what you do want to achieve.

Mr. Rieley pointed out that this was what some of the Commissioners do not want to see take place.

Ms. Thomas felt that there was a question for the Commission and they may feel differently about this. If the description is adequate in words maybe it is better to have no drawing. She stated that she did not know. She suggested that possibly a broad drawing of what the applicant is talking about or an improvement of what Mr. Rieley just held up with words that you like puts it together in enough of a picture. She felt that what they all agree is that what they don't is a tremendously detailed design that just ends up being a big limitation to creativity at the rezoning.

Mr. Thomas pointed out that they wanted some flexibility.

Ms. Thomas stated that on the other hand they don't want a drawing to go in with the Comp Plan Amendment that is not what the Commission wants. She stated that they could either make the drawing more of what you want, make it more general or you don't have a drawing and just rely on words.

Mr. Rieley stated that the issue was not what was in the document itself. The issue was seeing a representation of what it is that these words mean. When you talk about preserving that hilltop, for instance, the only document that they have shows that completely wiped out. Therefore, the only representation of the intention of the applicant is a direct contradiction to what is in text. He pointed out that was troublesome to him.

Mr. Benish stated that trying to bring this back to productivity today that they have laid out some issues about the mix of use and how important is residential on site and how important is nonresidential mix and there is sort of an implied priority or emphasis in this thing as it is written giving us some qualitative comments on the direction that this goes allows us to draft that language and work with the applicant to try to come to a mutual understanding of what that means and how they can address that. He pointed out that was what they really need to do. They need to sort of take this, which was not intended to be final language for a comp plan amendment, but to sort of set out the direction that they were going and see where they were off base and where you want us to de-emphasis or emphasis certain things. Ms. Thomas has laid out some basic questions.

Mr. Thomas asked if staff would work with the Commission's comments and also work some more with the applicant.

Mr. Benish stated that when they get the Commission's comments that he was sure that there would be some interaction with the applicant as well. He stated that he looked at these comp plan amendments as staff setting direction for future developers. These applicants are obviously are the property owners, but staff does not have any submittal in place for any actual applications. Therefore, this has to stand the test of what we want as a community in the area. He pointed out that staff would certainly work with the applicants to try to get a mutual understanding of where they were going.

Ms. Joseph agreed with staff for a lot of reasons about seeing something like this in this detail, but she also thought that if the owner New Era wants them to believe that this is a new era that it has to look a little bit different. But, she also thought that when you have a piece of property and you are going for a comp plan amendment you have an idea of who you want to go there and what you want it to look like. Therefore, she felt that the applicant was being honest with the Commission and she felt that the Commission was being honest in return saying that they don't want to see something that is laid out like this even though they are at the comp plan stage. She felt that it was helpful to the applicant, too.

Mr. Rieley stated that putting to side what ends up in the Comprehensive Plan Amendment; there is a relationship between the physical configuration and the numbers and capacity. So when they talk about the square footage of retail, for example, it depends upon whether you wipe out the top of hill. It depends upon how much protection you give to the roadway along the stream. That is why he felt that in order to get to that language and get it to the point in which it is meaningful it needs to have a physical representation. Once again they would require that for other CPA's and he did not know why they would not require it for this one. He pointed out that he did not think that they would get the information that they need to make a sound decision unless they do.

Mr. Higgins asked what the area was for Rivanna Village.

Mr. Thomas stated that it was 67 acres.

Ms. Higgins stated that without acreages there was not way to look at it comparatively size wise. She stated that when going over the description they talked about what the Water Resource Manager talked about in the different areas. She asked what the significance of the rock and the trees was.

Ms. Thomas stated that was a feature that staff has consistently identified with some response from the Commission as a valuable feature on the site. It is beautiful and the trees are specimen quality trees. It is a natural green buffer from Fifth Street so that as you look east you see this ridge that has got tremendous vegetation and it is very scenic. It is also a way of preserving a remnant of a natural environment and incorporating it as an amenity on the site. It does more than one thing. The trees drove it initially, but then staff then began to see that it was really part of the system that goes with Moore's Creek and has a big water quality role to play, which was where David Hirschman chimed in.

Mr. Thomas stated that there was a lot of outcropping of rocks all through there.

Ms. Higgins stated that was an element in itself, but sees the protection of stream banks and water quality but did not agree about value in order for a ridge like that to be worked into the site. There is another principle about the development areas in that if they are going to look at land use designations about using the land within the development to its highest and best use so that it does not put pressure to create other areas of that. If they look internal to every site and identify sensitive areas, she guessed that saving the rocks and those trees would have a much more expansive impact than just those rocks and trees. The rocks themselves might want to be avoided because of the cost of removing rock, but she had not seen in anything where some rocks and trees in the middle of an industrial use site because if it came in under an industrial use it just is leveled.

Ms. Joseph pointed out that these were old growth trees and has been estimated to be about 300 years old.

Ms. Higgins pointed out that the trees were about to die. She stated that it was obvious if the trees were of a certain age that if the trees die then they would have built everything around them.

Mr. Rieley pointed out that if it was an industrial use that they could not do anything about it, but in this circumstance they could do something about it.

Ms. Higgins questioned if they wanted to save the rock and the trees.

Mr. Rieley asked if she had seen them.

Ms. Higgins pointed out that she had visited the site numerous times.

Ms. Thomas stated that she would make two responses. First of all one of the twelve principles is site planning that respects terrain. On many sites there is not really an interesting creative valuable way to put that in to practice because the site has already been graded. For example on the Dittmer parcel, she would never employ that particular principle because the terrain is completely gone. That is not true on this part of the site. Secondly, on any development that has any kind of design quality to it, there are going to be areas of open space and public use. She noted that her concern was recognized early on, and the Commission seemed to feel that it was supportable that this could be one of those sites. She felt that there was an additional environmental value.

Ms. Higgins stated that she was not trying to make staff feel defensive, but she looked at the 12 to 15 acres of a creek and a green way that has been in a plan. The City has a plan for the greenway and this is part of the City's connection between points. It has been on both sides and has all kinds of natural elements that are probably more important if you categorized them. But to identify something right smack in the middle of what potentially could be the most usable and actually if that was the road network. She stated that she did not see where that compares to the 12 or 15 acres of linear greenway and an old road bed that is worth protecting. She noted that she was just making a priority call and that was all.

Mr. Rieley pointed out that he did not think anybody had said that it was mutually exclusive either. In other words, you don't give up the old road bed along the stream in order to get that.

Mr. Thomas suggested that they leave it flexible like they started out. He asked that they move on to number 2.

Ms. Thomas stated that she did not know the best way for the Commission to weigh in on this language. She asked if there was a way other than at the meeting tonight to work through it. She stated that she would be happy to take edits. She stated that she had about two pages of language. They can go down a through u and the Commission can weight in or whatever was the most efficient way.

Mr. Thomas asked what the Commission would prefer to do. He asked if they should go through them one by one.

Mr. Rieley stated that from his perspective that time was an issue, but that he endorsed this language and he really felt it was an outstanding articulation of what the key issues are. Ms. Higgins has raised some concerns about protecting the trees and rocks. He stated that if they wanted to get through this tonight that the best way to do it was to find if there were areas in which there is not agreement and then they can see whether or not there is consensus on that point.

Mr. Thomas asked that they start with Ms. Joseph.

Ms. Joseph stated that she did not have any problems with this as she read through it.

Mr. Thomas stated that he did not have any problems either other than the ones that he had heard voiced.

Ms. Higgins pointed out that there were some things about the way it is worded, but she did not know if it had something to do with the crafting. When you go into a recommendation for transportation, for example, it says that the applicant has agreed to construct a connection.

Mr. Benish stated that it would be reworded and it will be drafted.

Ms. Higgins stated they needed staff to make it in more general wording. She noted that there were a lot of them worded that way.

Mr. Rieley agreed that was a legitimate concern.

Mr. Benish stated that this report was crafted in part to tell you what is on the table. It will not be constructed in this way because it should be written generically to the site. Staff will take those and convert it to the site.

Ms. Higgins suggested that they ask the applicant if he wants to work with staff.

Mr. Thomas asked if she wanted to ask him to come up and speak to the Commission.

Ms. Higgins stated that this is work session and felt that he should come forward to answer the question.

Mr. Blaine pointed out that they received this late last week and have not gone over it with their client. There are a number of things that they know they can't do or they know they won't work legally so they might be able to save you some time by having a sit down session with Mr. Benish and Ms. Thomas and may be they could reach agreement on the majority of them. He stated that they could not say tonight that they were in agreement with this proposal. He noted that he would leave it at that.

Ms. Higgins asked if that was satisfactory to staff.

Mr. Blaine stated that they could meet tomorrow.

Ms. Joseph stated that she wanted to make it clear in her mind what is going to happen next.

Mr. Thomas asked if staff would report back to the Commission in another work session.

Ms. Thomas stated that they have been responding to the applicant's message of urgency. She felt that the idea was that the next meeting would be a public hearing. She noted that she did not know what she would hear from the applicant.

Mr. Benish stated that if the Commission was comfortable enough with the perimeters here then they could try to put it in the best language for public hearing and you could receive public comment. You don't have to act, but it would keep the process going. He noted that staff wanted to be done with it by the summer, too. Staff has some things on their plate that they need to get to.

Mr. Blaine stated that they don't want to delay the scheduling of the public hearing by any means.

Mr. Benish stated that you won't have a work session to kind of go through what is being submitted to the public. But if you are kind of okay with the overall theme here that is what they are going to represent.

Ms. Higgins suggested that maybe the need the public input to even discuss this

Mr. Thomas asked staff if they had gotten everything they needed from the Commission before they closed this discussion. Consensus of pc

Ms. Thomas asked if there is a hanging issue on residential.

Mr. Benish stated that it is an issue for staff because there is a viable issue on the table here and they are still pushing the residential. Staff feels pretty adamant about having an employment and retail mix. He felt that the second tier is how important residential is.

Mr. Rieley stated that he still thinks it is important to consider residential as part of the mix. He felt that the issue of the proximity of surrounding residential should play into the degree of what the mix is.

Mr. Craddock asked about the future possibility of what the cost justification is.

Mr. Thomas asked if everybody agrees with that.

Ms. Higgins stated that she was interested in looking at it, but she still thinks that there is a lot of multi-family and a lot of services from there to the southern part of the County that this needs to serve and to take into consideration.

Mr. Thomas stated that they would still be looking at whether there will be housing on this piece of property. He asked if there were any other disagreements on the alphabetical list. He asked if staff had enough information.

Ms. Thomas stated that she thought she had enough information to work on the proposal.

Ms. Higgins stated that the staff report was well written and very in depth and she was just questioning the depth.

Mr. Thomas thanked staff for her presentation.

In summary, the Planning Commission held a work session on CPA-2003-02 5th Street/Avon Street Mixed Use Complex to provide guidance and direction regarding the upcoming review of the CPA and ZMA. The Commission, staff and the applicant discussed the key elements of the proposal. The Commission provided comments and suggestions and requested staff to work with the applicant in order to come to a mutual understanding. The public hearing for the CPA will be scheduled. The following comments and suggestions were made by the Commission:

- Staff should reword the proposed language to be generic to the site.
- The Commission discussed and provided suggestions on the amount of detail needed for the CPA review. The concept plan is the main guide in the development areas and should show their intention and that it can be done, but leave room for some flexibility. The Commission supported the applicant providing an illustration of the concept plan for the CPA noting that the articulated language should be similar to the physical representation on the concept plan.
- The Commission addressed the key features on the site.
- The Commission generally favored a mix of use with some employment and retail mix on the site. Discussion held on how important residential and non-residential was on the site.

The Planning Commission took at ten minute break at 8:12 p.m.

The meeting convened at 8:25 p.m.

ZTA 04-03 - Planned District-Monticello Historic District (PD-MHD) - Amend Section 4.15.8, Sign Regulations applicable in the RA, VR, R-1 and R-2 Zoning Districts; Amend Section 7, Establishment of Districts, Amend Section 8.1, and add Section 11, of Chapter 18, Zoning, of the Albemarle County Code. The amendments to Sections 4.15.8, 7 and 8.1 will add the PD-MHD zoning district as a district subject to those sections. The addition of Section 11 will establish the Planned District-Monticello Historic District as a zoning district within Albemarle County, state the intent of the zoning district, and establish the permitted uses and associated regulations applicable within the zoning district. The proposed district would allow by right and by special use permit uses specifically related to the operation of Monticello as a historic house museum and historic site, including visitor facilities, educational, research, administrative facilities, agricultural uses, residential uses and other uses delineated therein. The proposed district regulations also would require that development be preceded by an application plan, and otherwise be subject to Sections 4, 5, 8 and 32 of Chapter 18, Zoning, of the Albemarle County Code, and establish lot width, minimum yard and height requirements. The density for new residential development authorized in the PD-MHD district would be in accordance with the regulations of the RA Rural Areas Zoning District, which is currently one dwelling unit per twenty-one acres.

AND

ZMA 04-05 - Planned District-Monticello Historic District (PD-MHD) - Request to rezone approximately 868 acres from RA (Rural Areas) to PD-MHD Planned District-Monticello Historic

District (reference ZTA 04-03), to allow uses specifically related to the operation of Monticello as a historic house museum and historic site, including visitor facilities, educational, research, and administrative facilities, agricultural uses, and certain residential uses. The properties proposed for rezoning are within the Scottsville Magisterial District in the vicinity of Monticello, south of Interstate 64 and east of Route 53, and are identified more particularly as follows: Tax Map 78, Parcels 22 (Monticello), 23, 25, 28A, 28B, 29; and Tax Map 79, Parcel 7A. The Comprehensive Plan designates these properties as Rural Area 4, and the general usage and density range for Rural Area 4 are as follows: land uses supportive of the character of the rural area, with agricultural and forestall uses desired as the primary land use. The density for new residential development authorized in the PD-MHD district would be in accordance with the regulations of the RA Rural Areas Zoning District, which is currently one dwelling unit per twenty-one acres, plus one dwelling unit per two acres for each development right. (Joan McDowell)

Mr. Rieley stated that he had done a lot of work for Monticello over the years. Therefore, due to his close association with the applicant he would recluse himself from this hearing. He left the meeting at room 8:26 p.m.

Ms. McDowell stated that basically she just wanted to introduce the project and then introduce the applicant's representative who intends to give a power point program summarizing what is found in the notebooks they have provided as part of their application. The purpose of this work session is to introduce the Commission early in the review process so that they could comment and give some suggestions about any concerns that have not been addressed. Just as a brief reminder, the applicant two years ago proposed a similar plan to remove all of the twentieth additions to the mountaintop. At that time they were planning on doing a visitor's center at Route 53 and Route 20 and those plans have changed. The whole concept remains the same in that the later additions to the mountaintop would be pulled down the mountain. In this particular application, the administrative buildings would be relocated adjacent to Kenwood across Route 53 and the maintenance, offices and visitor's center would be relocated in less prominent places, including the gift shop. That would leave an opportunity for Monticello to restore and rebuild some of the original buildings that were there in Thomas Jefferson's day. As you know, and as the report says, Monticello unfortunately is a nonconforming use. When Kat Imhoff came in several years ago and wanted to enlarge the hotdog stand she was told no, which started this process. This is not a Comprehensive Plan Amendment. It is and will remain in the Rural Areas. This is just a creation of a special district that will have a detailed application plan later in the process if this is approved. The applicant has submitted a good concept plan and a real detailed analysis of what they want to do and why they want to do it in the notebook. At the end of the report, staff listed some questions that hopefully the Commission will consider. The question is whether the level of development proposed with this plan is appropriate for the Rural Areas and has the applicant adequately addressed concerns regarding scale and location of development within the district and its impacts on the surrounding Rural Areas. Is there any additional information that the applicant could provide to help the Commission make their decisions later on to help review this. Mike Matthews is the consultant for the applicant and will address the Commission.

Michael R. Matthews, Jr., P.E., of Matthews Development Company LLC, stated that he was present on behalf of Thomas Jefferson Foundation who was the owner of Monticello. He pointed out that he was going to make about a 15 to 20 minute power point presentation to give the Commission some background and to explain the intent of their application. He stated that their intent for this study was to put together the most detailed and thorough study of the site as possible for a number of reasons. There is a different standard that exists at the Foundation in regards to understanding the incredible importance of this property. Not only did they want to make sure that their proposals were technically and aesthetically appropriate, but that they were also functionally executable. That is one of the reasons for such a level of detail. It would be impossible to develop something with this much detail without the assistance of staff, which was something that he wanted to recognize. They have had so many work sessions with their consultants coming down to meet with all levels of Planning, Engineering, Historical Resources

and all of the staff who have been fantastic in helping to guide them. He pointed out that they also had the Planning Commission's guidance from the 2001 work sessions, which really gave them some idea of where they needed to go with this application. It also gave them a couple of years to pause and rethink the overall concept on how best to accommodate the needs of the Foundation. He hoped that the Commission would agree that they have addressed those. He stated that they have worked with an unbelievable team of internationally recognized experts. He pointed out that the team that the Foundation has assembled is exceptional. He introduced a few members of the team as Kat Imhoff, Chief Operating Officer of the Thomas Jefferson Foundation; Michael Merriam, Director of Facilities and Planning; Sandra Vicchio, AIA, with Ayers Saint Gross Architects Planners out of Baltimore; Michael Ferguson, Landscape Architect out of Alexandria; and Valerie Long, Legal Council who would work out the text of the ZTA. He made a power point presentation.

Sandra Vicchio, AIA, with Ayers Saint Gross Architects Planners, assisted in the power point presentation by explaining the proposal in a little more detail, particularly the architectural character of the buildings.

Mr. Matthews pointed out that the applicant has also requested the following waivers:
1. Section 4.2.5 – critical slopes
2. Section 4.12.15.c – slopes for parking areas and Section 4.12.17.a—grades for driveways
3. Section 21.7.3 – disturbance of the twenty foot undisturbed buffer in areas depicted on the attached plans.

He pointed out that they wanted to seek the Commission's guidance on the waiver requests. He pointed out that they have met with Dan Mahon, of Parks and Recreation, and they have come to an agreement on the general principles of an easement on the north side of the Rivanna River for a greenway. This is a particularly important dedication. As you can remember from the Martha Jefferson rezoning, there is a section of greenway that is prepared to be dedicated, but it is contingent on the next section being dedicated. He pointed out that they were the next section. In some ways this will release a significant portion of greenway for implementation. He pointed out that they were in agreement with VDOT's three comments. He pointed out that they were in agreement with all of Ms. McDowell's recommendations. Regarding Zoning, they have a little bit of wordsmithing to do in order to clean up some of the text. To clean up some of the text for the district, they have already sent in the last revision in to respond to the comments. He noted that they need to work out the final details before the public hearing. Yesterday they met with the ARB, who did not take any exceptions to the proposal. He pointed out that they had been working with staff for the past several months on this application and would work out the details on the site plan.

Mr. Craddock asked if there were any plans for outdoor concerts or dramas.

Kat Imhoff stated that there was nothing envisioned for that use. If they ever did anything like that, they would have to come before the Commission for a special use permit.

Ms. Higgins asked if the map would be like a proffered plan when it goes forward.

Mr. Matthews stated that it was actually a Section 8 application plan, which was recognized by the Ordinance as essentially the plan for development. That plan had three references that follow it, which are the Visitor's Center Plan, The Administrative Campus Plan and the Mountaintop Plan. Those three items are inset details of that plan.

Mr. Thomas asked what would happen if the applicant came back with plans for something not included on the plan.

Valerie Long stated the application plan shows everything that is permitted. There are some specific delineated modifications that can be administratively permitted to an application plan. Some of them are not necessarily relevant to the Monticello project. For instance, lot lines can be

changed differently on density and the proposed mixture of uses. Some of those things are allowed provided that they are in keeping with the general intent of the approved application plan. The Planning Director of designee can approve administratively those changes. The language is very clear that anything else that is not on this delineated list must be approved through the rezoning process. That is why the notes are located on the plan that says that the location of the buildings is of conceptual nature because they don't know exactly where those buildings will be since they have not been designed yet. They have tried to preserve the flexibility so that if the buildings shift a little bit or the size shrinks or grows just a tiny bit that the Planning Director can use his discretion as laid out in Section 8 to approve minor modifications.

Ms. Higgins asked what the next step was in the process.

Ms. McDowell stated that the next step was to move to the public hearing. Staff will be working the language out with Ms. Long.

Mr. Thomas asked if there was anything that any Commissioner wanted to have more detail on.

Mr. Benish stated that he did not see any issues that would require another work session

Mr. Thomas suggested that any changes be emailed to the Commissioners or staff.

Mr. Benish pointed out that the Commission would receive any changes to the proposal in advance to public hearing

In summary, the Planning Commission held a work session on ZTA-04-03 and ZMA-04-05 – Planned District-Monticello Historic District (PD-MHD). The purpose of the work session was for the applicant to introduce the principles of the request in order to get the Commission's comments and suggestions. The applicants presented a power point presentation and explained the concept plan of what they want to do and why. The Commission addressed the questions posed by staff and made comments and suggestions. Staff will schedule the public hearing and work with the applicant on making the revisions to the document. Staff will provide a copy of the revised document to the Commission prior to the public hearing.

Old Business:

Mr. Thomas asked if there was any other 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 9:35 p.m. to the next meeting on June 15, 2004.

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V. Wayne Cilimberg, Secretary

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