Albemarle County Planning Commission
June 29, 2004

The Albemarle County Planning Commission held a work session on Tuesday, June 29, 2004 at 4:00 p.m., at the County Office Building, Room 235, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley; Rodney Thomas, Chairman; Bill Edgerton; Jo Higgins; Cal Morris; Marcia Joseph and Pete Craddock, Vice-Chairman. Mr. Craddock arrived at 4:10 p.m. Ms. Joseph arrived at 4:28 p.m.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; David Benish, Chief of Planning & Community Development; Susan Thomas, Principal Planner; Julie Mahon, Planner; Steven Allshouse, Fiscal Impact Manager; and Greg Kamptner, Assistant County Attorney. Mr. Kamptner arrived at 4:16 p.m. Mr. Benish arrived at 4:20 p.m.

Call to Order and Establish Quorum:

Mr. Thomas called the meeting to order at 4:07 p.m. He stated that the meeting would begin with the work session on ZMA-04-07 Belevedere.

Work Session

ZMA-04-07 Belevedere (Sign #62, 76, 84) - Request to rezone approximately 243.722 acres from R-4, Residential to NMD, Neighborhood Model District, to allow up to 661 dwelling units, with an overall density of 4.4 dwelling units per acre, ranging from a density of 1.4 dwelling units per acre in some areas to 9.5 dwelling units in others. The property, described as Tax Map 61 Parcels 154, 157, 158, and 160, Tax Map 62 Parcels 2B and 2C, and Tax Map 62A3 Parcel 1, is located in the Rio Magisterial District on the east side of Rt. 631 (Rio Road) , immediately east of the Southern Railroad. The Comprehensive Plan designates this property as Neighborhood Density in the northern portion of the property (3 to 6 dwelling units per acre), Urban Density in the middle and southern portions (6 to 34 dwelling units per acre), and Community Service adjacent to the railroad, in Neighborhood Two. (Susan Thomas)

Ms. Thomas stated that the Planning Commission has met two previous times on this project. Those were meetings involving their new hybrid two-step rezoning review with the first step being an informal kind of conceptual step. The Commission found the project to be consistent with the Comprehensive Plan and addressed three major issues during those two meetings in January and February. The applicant has now submitted a full rezoning application. This is the first work session dealing with that submitted application. In the staff report, she tried to stay focused on some fundamental issues and not get into the details of the Code of Development or some of the other aspects of the proposal. Staff feels that it would be best time-wise to try to tackle a few of the basic concepts first and then proceed from there. She stressed that although the County reviewers have issued a round of comments, many of which are attached, that what the Commission has in their packet is from the original submittal. Therefore, those comments have not yet been incorporated. That decision was made between the applicant and staff in thinking that they would go for an early work session, which did not allow for the time to turn those revisions around. That will happen after tonight's session. Steven Allshouse, County Fiscal Impact Manager, and Julia Mahon, Historic Preservation Planner are present to answer any questions that the Commission might have. Staff has presented the best analysis of the by-right development potential in the staff report as possible. The applicant has R-4 zoning on all of the property by right. The proposed rezoning is in contrast to that, but it is not really more density than what he could do under the by right scenario.

Mr. Craddock arrived at 4:10 p.m.

Ms. Thomas pointed out that the cross-hatched area shown on the map is the area involved with all of the Belvedere property. Actually, some of that property is not involved in the current

proposal. It will probably ultimately come before the Commission for review. The orange colored area shows the area in critical slopes. The blue colored area shows the flood plain under the newest FEMA maps. Much of the floodplain occurs below Dunlora and is not a big factor in this particular application, although there is a substantial amount of floodplain in the upper area. The first page of the information staff passed out shows a simple analysis of the acreage lying outside the critical slopes and outside the floodplain. There are two categories on the far right. One is map acreage and the other one is deed acreage, which do not agree. When the County digitized the maps they worked from hand drawn maps. There are some discrepancies between what Frank Stoner's deeds actually say and what is shown on our maps. That issue will be resolved ultimately at the time of the survey. Staff worked from the map acreage. Staff takes the floodplain to probably be a more substantial or significant limitation than the critical slopes, but both are very important. In the review process the Commission may ultimately agree that various critical slopes may be disturbed, whereas the floodplain has some limitations that are a little more absolute. When looking at what is remaining after subtracting the critical slope area from the map acreage you get 196 acres out of 238 acres. Then 194 acres remain outside of the floodplain. The one problem with this is that this analysis pertains to the whole 251 acres, whereas they are only looking at 150 acres right now. The proposal before the Commission splits a parcel. When the County's geographic data services person did the map, they looked at all of the property. What is really valuable is to see where these critical slopes occur. It provides a picture of where the areas of sharp relief are and the location of the floodplain. The white areas are the cleared areas. The green areas refer to the forested areas. The map is not totally absolute, but it provides a gage of where the best areas to work with are located. From working with the development community, staff has heard in conversations a figure of 20 percent being of the gross acreage being occupied by roads under a development scenario. If you subtract out the critical slopes and the floodplain, then the 20 percent of the initial acreage would probably end up going to roads too. Therefore, they would end up with a more compressed amount of usable acreage for homes than what was started out with. The applicant has pointed out that with 243 acres, all of which have R-4 zoning, and if you multiply the 243 by 4 units per acre, that you would probably come up with more than what the proposal is going to amount to. There is also the issue of bonus factors, which depending on how they are used would increase that density by 50 percent. It is probably unlikely that a proposal like this would come in for bonus factors over every acre because there are some things such as affordable housing, preservation of environmental features and things like that. It would probably be a blend. Steven Allshouse, in his fiscal impact analysis, worked with the net figure of 194 developable acres just as a way to start somewhere. His analysis may generate some questions about the language and they could talk about it after his presentation.

Steven Allshouse presented a fiscal impact analysis using the preliminary information submitted by the applicant and explained how this proposal would affect the County. He pointed out that he worked with the 194 acres with the existing R-4 zoning. The development by right with the existing zoning was 777 single-family detached residences. He presented summary tables with several scenarios for the Commission's review. He pointed out that due to the proposed number of townhouse units they would not be getting as many students in our school system. In conclusion, from his analysis from comparing the by right development from the rezoning proposal, it looks like the County would be better off approving the rezoning. He apologized for the lateness of his report, but pointed out that he had just received the by right figures this morning. He noted that the figures could change if the project figures change. He stated that he would be happy to answer any questions. (See Attachment of Steven Allshouse's analysis.)

Ms. Joseph arrived at 4:28 p.m.

Ms. Thomas asked Julie Mahon to summarize her historic preservation comments because she did not go into detail about them in the staff report.

Julia Mahon, Historic Preservation Planner, stated that in her review of the project using the Department of Historic Resources information as well as a survey that was commissioned by

William and Mary Center for Archaeological Research, staff was able to identify the site as having numerous historic resources. She explained to the Planning Commission that the subject property has individual sites with historic cultural resources. The various sites include resources associated with Prehistoric Native American habitation, early settlement and the free black community of Free State. She provided a map to the Commission that staff highlighted based upon the general understanding of the locations of certain identified resources. However, staff did not feel that this was an adequate representation and requested the developer to provide staff with an overlay to the development plan to specifically identify the locations of the historical resources to determine which were the most significant. There is an amazing amount of historic resources located on this piece of property. There are three sites that are potentially eligible for listing on the National Registrar of Historic Places and the Virginia Landmark Registrar. The first one is outside of the current project area for Belvedere. But, it is something that they need to consider because it is going to be impacted by development being so close. There are numerous sites that are associated with these individual classifications. One is prehistoric Native American habitation sites that reflect subsistent agricultural and settlement pattern themes during archaic and woodland periods. The other is archaeological sites with possible historical associations with the free black community of Free State. Because there was so much information and it was so overwhelming for the review process, staff did ask to receive some type of graphic overlay which shows the locations of these sites in relationship to the proposed development. Staff would then have a better idea of where these sites are located. The report that was provided by William and Mary has very specific recommendations. Some of them include actions and some include no action depending upon the significance of the sites. That is what staff needs to see in order to make more definite comments. Therefore, she asked that the Commission consider these comments as very preliminary. She pointed out that it was a matter of looking at what is there, what is more significant than other sites and then seeing how the developer can work with those sites. If it was an area that there was no way to change it, then possibly those sites could be mitigated archaeologically before the development starts so that they would have some types of resources for the future. She asked the applicant to provide an overlay for the development plan showing the locations of the identified historic resources in relation to the development areas.

Ms. Thomas pointed out that one point that Ms. Mahon made was that all of these sites don't have to be excavated right now and could be left closed. Assuming that a house does not go right on the site, then it could be left closed and become part of the conservation area or open space area.

Ms. Mahon pointed out that the best thing to do with an archaeological resource was to do nothing at all. Once you begin excavation you actually destroy the horizons which create the ability to establish patterns of development and a time frame for when things happen. Once you start to remove soil you are actually destroying history. She stated that the best thing to do was to guide the development away from the most significant sites. The sites that they lose may be simple sites of scatter where there was not some type of long term habitation. Those sites may not be as significant as those located along the river. She pointed out that it would be at the developer's discretion.

Ms. Thomas stated that she focused on four fundamental questions, which she would quickly summarize. She pointed out that the applicant was present and was available to answer questions. The first question is about the mix and number of residential units. There is a big flex in there right now, which was a comment that came up with a number of the reviewers. The applicant probably has some ideas on how that could be further defined. She stated that possibly just including those carriage units in the mix will start to deal with that a little bit. Staff needs to know a little closer than this range because it was such a huge range and was a little hard to work with. She pointed out that Dunlora was heavily single-family detached residential. From what staff sees in the Code of Development, Belvedere is a little heavier in that area and seems to be a product that is very popular in the market. In previous work sessions, the Commission talked about the scale and the location of the town center. Staff would be more comfortable in doing a more embedded town center because of the large amount of residential in close proximity and

Rio Road is so difficult. But, Rio Road will change over time. This site is so challenging because of the tremendous amount of retail right up the road that was very close to Route 29 in Albemarle Square and Fashion Square, and yet that does not really meet neighborhood needs at all. The applicant is worried about overdeveloping non-residential in a location within the development that one could not see from Rio Road, abut the immediate neighbors would use it. Staff is interested in neighbors being able to conveniently and readily access supporting neighborhood services so that they don't need to get in their cars. She felt that Dunlora probably has that need already, but the residents of Dunlora might have some different feelings about that. Staff is not sure what to do about that. The applicant's fear is one that they hear from a lot of developers, which was the real reluctance to overbuild because it was so expensive. There may be some news on the acquisition of property on the Rio and Greenbrier intersection that would be good news for this project, which was something that they could think about. The applicant is trying to acquire property between the railroad tracks and Rio, which would become the rest of the town center that would draw a larger market than just Belvedere. If that is not possible, she would hope that they could get the most out of the town center where it is currently proposed in Belvedere because she felt that it was needed. Rio Road is a terrible barrier to going out and getting milk or bread. The railroad tracks would also be a barrier.

Mr. Rieley asked staff at some stage of the game to get some information about the relationship between the proposed population of the area, including the relative parts of Dunlora as well as this proposal, and obviously that should be done in context with the first suggestion that was to nail these unit types a little more specifically. Then, staff could take those numbers and make some very general correlation between that and the kind of neighborhood service, commercial uses and square footages that would typically be associated with this to do just what she was talking about. He asked that staff presume that they were not going to have businesses back in this site that are going to have to subsist off of things coming off of Rio and driving into it. He felt that the applicant has made a pretty compelling argument against trying to count on that. This is not an insubstantial number of people. If three people live in each of these houses they were talking about a couple of thousand people. He stated that they need to know what level of commercial service relate to the population that they are proposing because the degree to which they allow them to get out of balance, particularly in places where the alternative is Rio and additional automobile traffic on Rio, that they were going to be sorry that we did it.

Ms. Thomas stated that staff would work on that. Question number 2 was about the road system and if it was appropriately designed to support the scale, the arrangement and the location. She pointed out that she recapped the points that the Commission discussed in the preliminary rezoning, which is that the Meadow Creek Parkway, now called the Free State Connector, could be built as a two lane road within a right-of-way that could eventually accommodate a larger road. That was considered to be an appropriate compromise by staff and the Commission. Between Rio Road and Free State Bridge this major road may have multiple points of access. That was the town center area that was not going to be as much of a through road as the rest of it. From Free State to the southern edge of the Northern portion of Belvedere, the Commission said in their earlier review that the applicant could dedicate land along the tracks for a controlled access road that will not disturb residential development adjacent to it to the east. There is some question about Fairview, but that it would be more of a through road in this area. Finally, the Commission discussed the desirability of a single point of access between Free State Road at the bridge and the Rivanna River in this area so that it would not have multiple access points. The Commission suggested in the preliminary rezoning meeting that the applicant build two lanes of the road here, but that is not presently proposed with this plan. She pointed out that the applicant said that it was not needed and they don't have the ability, unless there is some new information from Fairview, to acquire this. That is something that the applicant does not want to do. She pointed out that from Michael Barnes graphics she saw more access and connection points to Dunlora than she saw now. The applicant probably has some information that may shed light on the legalities of it. There was one access point that she saw that appeared to be very valuable, which the plan showed as an existing dirt road or something. The other one was in another location.

Mr. Thomas pointed out that there was an emergency entrance to Dunlora.

Frank Stoner stated that there was an emergency entrance to Dunlora that comes off of Rio where you see the little pipe stem.

Ms. Thomas stated that it seemed that this connection would not be terribly disruptive to Dunlora because she did not think that people from Belvedere would use this access to go through Dunlora and then out and yet it would allow Dunlora people easy access to the town center. That seems to be very logical and desirable. Staff wants as many connections as possible because they have discovered that a dispersed multi-connected system takes the pressure off of any one road. The neighbors don't always feel that way, but that was certainly something that staff encourages. The Free State Bridge is a valuable connection to keep and hopefully will not generate tremendous traffic to Huntington because there will be a signalized intersection near the church off of Rio, which will be Belvedere Boulevard. With good access there it tends to draw the traffic to those intersections. She acknowledged that people would find shortcuts and there would be impacts. She pointed out that there are access challenges to this development.

Mr. Edgerton pointed out that at the last work session they were struggling with the line on the piece of paper for the extension of the Meadow Creek Parkway. He recalled that the idea was to push that over towards the railroad tracks to allow the property to be developed as a unit, but he did not remember a great deal of discussion about Fairview having a road right there. He pointed out that they suggested following the railroad tracks with a right-of-way, which was what he believed that they encouraged staff to do. He noted that Mr. Kamptner made a point that you can't get to the extension of that road because of Fairview. Therefore, they have a bit of a problem. They were urged to consider that, but now when they are considering it they were now being told that they cannot do it. But, they still want to develop the property. He asked how they could solve that problem.

Ms. Thomas stated that Fairview was very much in play for other reasons. She noted that the applicant may have some information for us tonight. The relationship between Belvedere and Fair View is going to be an involved one with the road issues notwithstanding because of the recreational role that Fairview could play for Belvedere. She pointed out that the applicant was working on that.

Mr. Edgerton pointed out that Fairview was being used by the existing community.

Mr. Thomas stated that Fairview was very active.

Mr. Rieley stated that there were two issues relative to this. Both of the issues have been touched on by the staff report. One is the configuration and the relationship between the Free State Connector and the proposed development. As it was shown now there are a row of lots and it was either one or the other for a roadway or for the lots. It could end up with one road directly parallel to another with a single row of lots. It seems like a curious combination. It almost looks that the line on the plan is a gratuitous alignment as shown to check that box off with the tactic understanding that it will never be built. They all know that there are challenges to extending to the north because of the cost of the bridge as it goes across. To the very least they need to have that designed so that it was a plausible, reasonable connection to the north. That is a very long term transportation plan. Then, how much of that gets built is another issue. It may be that while the swim club is there that a good case could be made that it does not have to be built. But, the plan should be in place that is realistic and it makes sense with the road in there.

Mr. Thomas stated that was what he thought they had discussed at length and what they wanted to have happen. He stated that especially after the second phase of Meadow Creek was discarded in view of the Eastern Connector that they wanted that to be there.

Frank Stoner stated that they have wrestled with that. The public has struggled with the number of connections to this road, particularly if the road is a two lane road. At the previous meeting there was a fair amount of discussion of that fact that it could end up as a two lane road, which might look more like a connector than a major artery. With there only being one connector north of Free State Road to this two lane then what is the appropriate response within the neighborhood for a road layout standpoint and how do you integrate that without ending up in the short term with cul-de-sacs. That would be the alternative rather than having the U-shaped roads that parallel this connector with the Free State connector road. They could run little stems out and put cul-de-sacs on it and then either connect them or not connect them in the future depending on the nature of the road. That would not be in keeping with this notion of trying to eliminating creating roads that don't dead end. They have struggled with that and have gone through several different versions. He stated that he would be lying if he said that they have a lot of confidence that this road was going to be built in his lifetime. Again, they want to accommodate it, but they don't want to sacrifice the integrity of the community today for something that maybe forty years away and may never get built.

Mr. Rieley stated that there were lots of ways that this could be designed better. He pointed out that they were now paying the price for somebody not thinking twenty years ahead. He stated that we don't want to do that to the next generation. He felt that he was probably right that this was a twenty year thing and that they should be planning for it and to the degree possible integrating it into his plans and getting as much of it built now with him paying for it instead of the taxpayers paying for it for as much of it that is reasonable and practical to do. He felt that should be the target.

Mr. Stoner stated that they were open minded, but if integrated that in and actually building that connection of road they would end up having a connection every 200 feet. He did not think that would be in keeping with the vision that the Board had articulated for that session of the parkway.

Mr. Rieley stated that he did not remember that as being anything written in granite. He pointed out that he remembered the Commission acknowledging the fact that this is a more urban condition and this is not going to be a by-pass and that in fact they will have periodic connections.

Ms. Higgins pointed out that Michael Barnes reiteration of their meeting said limited.

Mr. Rieley asked what limited means and if they need to be adamant about that. He pointed out that they could revisit that question.

Mr. Stoner stated that you could see all of those coming down and connecting if it was a neighborhood road. He stated that their perspective was that was not the goal.

Mr. Rieley stated that there certainly was a discussion that there would be less access when it gets above the town center, but he did not think anybody had said it would be in a particular location.

Ms. Higgins stated that it goes back to the Meadow Creek Parkway Alignment Study. That is where the basics of all of this came into this.

Mr. Rieley pointed out that this was no longer the Meadow Creek Parkway. It is a different kind of road and it has a different name.

Mr. Thomas pointed out that it was now the Free State Connector.

Ms. Higgins stated that they talked about a neighborhood road at the corner of Free State and that the swim club was an obstacle and that beyond that just like it says in the summary. She pointed out that Michael Barnes had said something that came back to the Commission and no one said to change it, and that was what the applicant was working from.

Mr. Stoner stated that they were left with the impression that it was not a by pass by any means, but something that had intermediate access, as opposed to every 200 feet without lots fronting on it.

Mr. Rieley stated that a range of options were discussed. He pointed out that he hated to see them get hung up on that and say that they cannot do it because they talked about it in a work session with this strategy. He suggested that there might be another strategy that makes it work better.

Mr. Thomas stated that he would like to see the road reserved in this plan for that road.

Ms. Higgins questioned if he came back and said the there was no problem with the reservation, but it was just physically making it as a prescribed road.

Mr. Rieley stated that the problem with the current proposal was very clearly dealt with in the staff report is that this is not a practical realistic phasing program. They are not going to build development lots and then come back in twenty years and put the road in the middle of them. It just does not make any sense to put in a single lane road and then put a by-pass beside it. It is just not plausible. He pointed out that he did not think it was intended to be plausible because the applicant does not think that this road is ever going to get built.

Mr. Stoner stated that they had some real problems with the way it was proposed. What they proposed was that they keep the vertical legs and that they effectively build lanes with small scale connections between. These horizontal connections would be 14 foot with no curb and gutter and essentially be a way to get from the end of this road to the end of the road next to it.

Ms. Higgins stated that would grade the corridor.

Mr. Stoner stated yes that they would grade the corridor, but it would not be a full scale road. That was really their design concept.

Mr. Rieley stated that the lots were shown going in the middle of that right-of-way, if he was reading the plan correctly.

Mr. Stoner stated that those were future lots. He pointed out that if the road never got built they wanted to show those.

Mr. Edgerton asked if the road got built wouldn't it destroy the little community that he was creating.

Mr. Stoner pointed out that one of the roads was a lane.

Mr. Rieley stated that there was a road and a lane, which were two roads parallel to each other with nothing in between. He noted that does not make sense.

Mr. Stoner stated that if the road got built they could then take the vertical connections and then the lanes would become lots.

Mr. Rieley stated that was certainly not clear on the drawing.

Ms. Higgins stated that it was an either/or and the lot would be created if the road was not built, but if it does get built there would be a lane.

Mr. Stoner stated that if the road got built they would want to make a bunch of those connections presumably if they had the opportunity. So it preserves the flexibility in the plan without compromising today what is a reasonable road.

Mr. Rieley stated that strategy needs to be made clear and worked out.

Mr. Stoner pointed out that they ran into road standard issues. The Neighborhood Model Design Standards did not provide for the scale that they wanted to achieve. He pointed out that they wanted to go with almost an alley.

Mr. Rieley stated that something there needs to be resolved.

Mr. Stoner stated the alleys run parallel. They would have the roads and then the little lanes that connect to those roads.

Don Skelly stated that the idea was that the road would come through and the alley would essentially be grassed over and the two roads would then connect into the now existing Free State Road.

Mr. Stoner stated that if they allowed that connection.

Mr. Rieley stated that it would depend on how those connections were made. He pointed out that all of that needs to be worked out. This is a very important issue because of the north side connections.

Ms. Thomas asked that the applicant clarify the status of the potential road and if a connection could be made there.

Mr. Stoner stated that there was a cemetery there.

Ms. Thomas asked what the little road was that was shown before.

Mr. Stoner stated that was a construction entrance. He pointed out that it was possible, but they would have to come in at an angle because of the cemetery. That is something that the Dunlora community would need to be involved in because of the impacts. Right now they have a secure front entrance.

Mr. Morris asked the applicant to explain how the connections between Dunlora and Belvedere are proposed. He pointed out that he only saw one potential connection on the map.

Mr. Stoner pointed out two potential connections to Dunlora. He pointed out that they don't own the property for one of the connections because the property is owned by the Brown family. He noted that one connection was the emergency access route into Dunlora. Again, he felt that the Dunlora community would need to be involved in whatever connection decision was made. He pointed out on other connection.

Ms. Higgins asked what the status was of the bridge for the existing and future use.

Mr. Stoner stated that the bridge was slated for replacement and then VDOT took those funds and was going to apply them to this road for a connection. If they were to build this connection, then perhaps VDOT would take the funds and upgrade the bridge.

Ms. Higgins asked if there was any kind of drop dead on that decision because they usually shift money around if it was not committed.

Mr. Stoner stated that he believed that this road was partially funded.

Mr. Benish stated that the road was in the Six Year Priority List. The amount would double without the connector because they would have to build a temporary bridge. That was the

advantage of taking the money and building the connecting road or with the developer constructing that with the cost of that bridge project. He stated that he thought it was a million and one-half assuming that they would build a temporary bridge.

Mr. Rieley stated that he thought that they could build a railroad bridge for that.

Mr. Stoner suggested that perhaps VDOT could take some of that money and build this bridge.

Ms. Thomas stated that the third question was about recreation. She pointed out that her thoughts were very clear in the staff report. She stated that they have a good start with the conservation areas and that the existing topography contributes nicely to the creation of distinct neighborhoods and blocks in some cases. She felt that they need more useable space for recreation in Belvedere because there will be a lot of families with this level of single-family detached residential. She did not think that one or two health clubs is really enough for an area with this much potential population, particularly for children since it was not easy to get to near by places for the children to play. Staff does not expect a community park, but she felt that taking what the applicant has already designated as open space and making it useable will make it a much more useable family friendly community. She pointed out that grown ups like recreational areas for walking and exercising, too. Staff feels that might be possible to do with some relatively minor changes to the plan.

Ms. Higgins asked if the area shown on the map would be part of the greenway.

Ms. Thomas stated that the greenway was very important and something that they really want, but the greenway is not the same as multi-purpose field space. There is a big question because the area or fields available for multi-purpose field space is not owned by the applicant, but by Dunlora Farm. The potential fields are not something that the applicant controls right now and are not part of the application. She suggested that rather than having the scattered pocket parks that the applicant put them together in fewer locations in a more useable arrangement. She pointed out that it would take some redesign.

Ms. Higgins pointed out that Dunlora does have some soccer fields in the floodplain.

Ms. Thomas stated that it was not in the open development areas, and she was not sure if Dunlora will do anything for Belvedere.

Ms. Higgins asked what Belvedere will have.

Ms. Thomas stated that they could say don't worry about creating playfields now, but when this northern chunk comes in try hard to get it there. That might be a very reasonable way to do it. She felt that there was a lot of density in this area and if the applicant could create at least a 2 acre park, by increasing the size of that village green just a little bit of at least .5 of an acre.

Ms. Higgins asked if this application is going to completely leave out that upper end, and Ms. Thomas stated that was correct that it was not involved right now.

Mr. Rieley asked why the ball fields could not be put in this area if the greenway area could.

Ms. Thomas stated that it could possibly be done.

Ms. Higgins stated that they were leaving a gap because of this moving line that has not been identified and might not be identified until some point in the future. It might be a dead end or it could ramp over the railroad and river and go into another connection on Route 29. But, in the meantime if they are still looking at this as an overall plan that she felt that the green area, open space, recreational lineal area part of it still becomes a component of Belvedere.

Mr. Edgerton stated that to go back to the question of what is more desirable the pocket parks or the consolidated park. Frankly, he felt that a community this dense is going to need some small parks, but they are not going to serve the recreational needs. He noted that some larger areas in the development were still going to be needed for some playing fields. He stated that he would like to see more effort put into this for some type of commitment to the northern property. He noted that the applicant was not prepared to commit to other things now because of the unknowns of the parkway.

Frank Stoner pointed out that they have a connection with Fairview Club here of about 12 acres.

Mr. Rieley pointed out that they could not put it together with Fairview because it was a private club.

Mr. Stoner pointed out that a lot depends on how their negotiations go with Fairview. He stated that their expectation in the current plan is that all of that becomes open recreation and it can be utilized by the residents of this area.

Mr. Rieley stated that they would have to make some deal before that is even an issue. He pointed out that it might as well be a shopping center for all of the recreational advantages that it has to this development as it is now.

Ms. Thomas noted that the northern floodplain area has a tremendous potential. She pointed out that the village green area would be handy to have as a park because of it central location. She noted that there are lots of options.

Ms. Joseph stated that they were discussing having this parkway go through this property, but she saw the dashed lines and the arrow going through the area that they had just talked about having the very sensitive archeological finds. Therefore, she was wondering about that.

Mr. Edgerton noted that area has some fairly critical slopes in it.

Ms. Joseph asked that they keep that in mind as they are going through this process.

Ms. Thomas stated that the final question was about affordable housing. In Ron White's memo he states that it is likely that the affordable housing products will be in attached housing units. While this is not unacceptable it would be good if some affordable housing was located on some of the proposed single-family detached lots. To make this financially feasible it is likely that any affordable housing on these lots would be in the form of duplexes to quads. The builders would have to be creative in the design to maintain visual impacts and have a product that blends well with single-family detached units. Also, the use of accessory apartments would provide options for affordable rental units. Townhouses would be the easier product to make affordable through size and interior amenities. Condos are an option, but the condo fees sometimes impacts unfair pricing and sometimes impacts affordability and market ability of condos to the target market. Staff just does not have many examples of this type of affordable housing product.

Mr. Thomas asked if any Commissioner has any more comments or questions for the applicant.

Ms. Higgins asked what the applicant expected from the Planning Commission at this point.

Frank Stoner stated that it was nice to be able to sit down in this type of environment and talk through these issues because it helps them to receive feedback to be able to respond to staff's comments. He pointed out that they felt that they could work through these major issues by having some idea of what the Commission wants to see. If they are able to respond effectively, then their hope would be that the Commission could push them through this process quickly.

Ms. Higgins asked if they have had any other conversations with the any of the entities on the other side of the railroad tracks to deal with the Free State bridge issue.

Mr. Stoner pointed out that they have met with Northfields twice and then compiled a list of comments. He stated that they had been in touch with County staff members as well. He pointed out that the traffic measures were an important consideration for both of them regarding the traffic coming through the neighborhoods.

Mr. Rieley asked to make one quick observation. He stated that the organization of this in relationship between the street, the lot layouts and the topography is really elegant. This is one of the nicest combinations of land form with the village green right on that knoll and things falling away from it. He agreed with Ms. Thomas that it would even be better if it were bigger. He felt that was really skillfully done and once they get some of these issues resolved this is going to be a very good project.

Ms. Joseph pointed out that there have been several developers who have given 15 percent affordable housing. She noted that it was something that was starting to happen.

Mr. Stoner stated that they were prepared to discuss affordable housing today. He stated that the difficulty and danger for them in crafting proffers for the project now was that the Housing Implementation Task Force has really just gotten started. They met this morning and made a list of the impediments for them to actually achieve their goals. He stated that they could make proffers all day long, but if they are not realistic what happens when market conditions dictate otherwise in the future. He pointed out that there were all kinds of issues that they need to take into consideration. Given the timeline of this Affordable Housing Task Force and their timeline is that their expectation is that they will report out long before they are through the process. That will give them the opportunity to benefit from it.

Ms. Joseph pointed out that they have to start somewhere.

Mr. Stoner stated that they were committed to the concept, but he was scared to begin throwing out $3,000 a unit because nobody has any idea on how this is to be done.

Ms. Joseph stated that there was also the fact that they could design the units themselves that are a little less expensive.

Mr. Stoner stated absolutely because they were committed to that and that was the simple part.

Ms. Higgins suggested that possibly staff could share with the applicant one of the examples that has already been to the Board. She noted that it was a test case and they don't know if it would work or not, but it was the best that they could do.

Mr. Stoner stated that they were willing to work with staff on affordable housing.

Ms. Higgins asked if rental units could be used as a component of affordable housing.

Ms. Thomas stated that they could use both types of housing.

Mr. Thomas pointed out that they were short on time because of the regular meeting that starts at 6:00 p.m. He stated that they had made some progress.

In summary, the Planning Commission held a work session to review the proposed plan for ZMA-04-07. Steven Allshouse presented a fiscal impact analysis using the preliminary information submitted by the applicant and explained how this proposal would affect the County. Julie Mahon presented information regarding historic archaeological and architectural resources that have been identified on this property, and in the immediate area, by the Department of

Historic Resources and through the survey conducted on behalf of Stonehaus Development by the William and Mary Center for Archaeological Research. The applicant was asked to provide a development plan including the locations of identified resources as per the William and Mary survey. Once this information has been received staff will provide additional comments. Staff presented the proposal and asked for comments and suggestions from the Commission on several specific questions. The Commission discussed the proposal with the applicant and provided comments and suggestions.

The work session ended at 5:42 p.m. for a dinner break for the Commission before the regular meeting.

The meeting adjourned at 5:42 p.m. to the regular meeting at 6:00 p.m. in Room # 241.

The meeting reconvened at 6:10 p.m. in meeting room # 241.

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, June 29, 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; Bill Edgerton; Jo Higgins; Cal Morris; Marcia Joseph and Pete Craddock, Vice-Chairman.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; Yadira Amarante, Planner; Bill Fritz, Development Process Manager; Joan McDowell, Principal Planner; Margaret Doherty, Senior Planner and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Thomas called the regular meeting to order at 6:10 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, he stated that the meeting would move on to the consent agenda.

Consent Agenda:

ZTA-04-03 and ZMA-04-05 Planned District Monticello Historic District (PD-MHD) – Resolution of Intent to revise certain sections of the Zoning Ordinance, in order to create a planned district. (Joan McDowell)

Approval of Planning Commission Minutes – May 4, 2004 and May 25, 2004

Mr. Rieley stated that just as he had done previously during the work session that he would recuse himself from ZTA-04-03 and ZMA-04-05 because of the consulting work that he had done for Monticello.

Mr. Craddock moved for approval of the consent agenda as presented.

Ms. Higgins seconded the motion, which carried by a vote of (6:0). (Rieley abstained)

Public Hearing Items:

CPA 03-06 Rural Areas - Amend the Albemarle County Comprehensive Plan by adding Chapter 4, Rural Areas. Chapter 4 would describe the existing rural areas, the history of land use policies for the rural areas, and trends in rural areas land use and development; establish a vision for the rural areas within Albemarle County; identify guiding principles for the rural areas and land uses

therein; establish policies, objectives and strategies for achieving desired land use patterns, density and residential development for the rural areas; establish policies, objectives and strategies for infrastructure and providing community services within the rural areas; and establish policies, objectives and strategies towards using and developing fiscal tools that will enable the County and its citizens to fulfill the guiding principles and achieve the policies and objectives of Chapter 4. (Joan McDowell)

Ms. McDowell stated that we all know that this chapter in the Comprehensive Plan for Rural Areas has been a long coming. She pointed out that she wanted to thank a few groups. One is the citizens who met with staff a couple of years ago during a very cold winter. They had four meetings out in the Rural Area. Until recently staff has summarized nearly everything that they have said and posted it on the County web site. Staff derived a lot of information and a lot of what is in the Comprehensive Plan from those meetings. Staff met once a month for a couple of years with the Rural Area Focus Group. A lot of what they said and a lot of their issues have been included in the Comprehensive Plan in one fashion or another. Also, she wanted to thank a group that met in 1994 and presented a report to the Board of Supervisors. That group was the Agric/For Industries Support Committee, who did a lot of groundwork for us. Staff used a lot of things that they included in their report. She also thanked a couple of ex-County staff. One is Mary Joy Scala and the other is Stephen Biel for their great help in producing this Comprehensive Plan. In addition, she thanked the Planning Commission and Board of Supervisors. Along the way they have looked at the trends of what is happening in the Rural Areas and what has happened over time. From 1985 to 2000, 3, 662 new parcels were created through subdivisions in the Rural Area. Also, development right lots have been created at higher densities within the designated water supply protection areas than outside of those areas. In 1996, the Thomas Jefferson Planning District Commission estimated that the Rural Areas could accommodate 54,867 more housing units. Going by those statistics and also with meeting with the Commission and the Board in single and joint work sessions the plan evolved and in there you will see a vision for the Rural Areas as well as guiding principles. Those principles were especially helpful for staff because everything that they included in the Comprehensive Plan they checked against those guiding principles to see if they would fulfill the principles that were set out. To the best of staff's knowledge they do fulfill those principles. She asked to leave most of their time tonight for the citizen's who came to express their concerns and issues and things to change or not. She acknowledged a few letters that were in front of the Commission from people who sent staff either emails or letters. She thanked everyone for their comments and suggestions throughout this process.

Mr. Thomas asked if any Commissioner had any questions for staff before the public hearing was opened.

Mr. Rieley thanked Joan McDowell and David Benish for their hard work.

Mr. Thomas opened the public hearing and asked Whitman Cross, who was the first person signed up, to come forward and speak.

Whitman P. Cross stated that he was speaking tonight as a member of the Board of Directors of ASAP – Advocates for a Sustainable Albemarle Population. The Albemarle County Board of Supervisors unanimously adopted the 1998 Sustainability Accords that emerged from years of work by the Thomas Jefferson Sustainability Council chaired by our own David Bowerman. In doing so, our supervisors affirmed the belief that we must pass on our resources undiminished to future generations. The sustainability accords have been incorporated into the revised Comprehensive Plan in the section on Natural Resources, but are no less relevant for the section on Rural Areas. One of the first of these accords states that we will, "Strive for a size and distribution of human population which will preserve vital resources of the Region for future generations." This accord on population size flows from a statement in the "Principles" section of the 1998 report: "In a sustainable community, the members understand that there are limits to growth." While there is much to applaud in the current draft of the Rural Areas section of the

Comprehensive, we are concerned that this section really does not reflect our understanding that there are, indeed, limits to growth. At built-out in the Rural Areas, that is, when all legally permittable residences are constructed – the population will be more than four times its current size. Four times what it is now. The Comprehensive Plan essentially ignores this potential population growth, as it also neglects to examine the costs of this potential growth on the character of our rural areas, on the natural environment (including our watershed), and on the quality of life in Albemarle's countryside. Our County's approval of the Sustainability Accords implies that we will plan not merely for WHERE growth occurs, but for HOW MUCH growth occurs. Has anyone on the Planning Commission or planning staff asked if we really want to grow inexorably in the Rural Area until we reach build-out at more than four times the present population? How does this document incorporate the wishes of large majorities of our residents who, in every survey undertaken by the county, say they want growth to be limited? Do you acknowledge ANY stopping point of growth short of maximum build-out? If so, shouldn't we be planning for it? ASAP believes our population size need not be an accident of fate, nor dictated by a minority who profit from growth, any more than our water supply and public safety are matters beyond our control. As it stands now, the Rural Areas section of the Comprehensive Plan ducks this issue. It essentially accommodates growth, it doesn't plan it. You've acknowledged the goal of striving for a sustainable community. This implies, as you know, that there are limits to growth. We urge you to establish a thoughtful, farsighted plan for a sustainable population for Albemarle County. (See Attachment entitled, Statement to the Albemarle County Planning Commission, June 29, 2004.)

Rex Linville, representative for Piedmont Environmental Council, stated that PEC urges the Planning Commission to revisit the draft plan and consider what it will accomplish. The key objective outlined in the existing Comprehensive Plan and the draft plan is to preserve the Rural Area by limiting the development and fragmentation. At that same time both plans explicitly acknowledge the failure of the existing regulations to meet this objective. Unfortunately, the draft plan does not offer a clearly delineated and effective means of accomplishing this key objective other than clustering, which by its self will only accelerate the rate of development and suburbanization within the Rural Area. Clustering will accomplish little to stem the tide of rural development. No matter how pretty the packet suburban scale development is counter to the County's stated policy of limited residential development in the Rural Area. Whether development is clustered or scattered the same number of wells, septic systems, car and school bus trips and responses from police, fire and rescue will result. The cost of a suburbanized Rural Areas include increased sediment into our streams and public reservoirs, increased demand for improved Rural roads, increased need for public services, increased demand on ground water, and increased fragmentation on the agricultural and forestal industries. Rural development is not free and numerous studies have shown that this type of development has the greatest impact on our natural resources at the highest financial cost. PEC offers the following specific comments regarding the proposed plan. Prohibit any form of centralized well and septic plants in the Rural Area. If, however, these plants are to be allowed, the County policy should require a ring easement around the development so as to preclude these systems from becoming growth generators for adjacent parcels. If clustering is adopted, we should enter a requirement that 85 percent or more of the clustered development be placed into a preservation tract. A model of this exists in Fauquier County's Ordinance. Phasing should be required to limit the scale of the clusters such that the provision is not exploded by large scale suburban subdivisions in the Rural Area. Phasing is well outlined in the draft plan and a model of this exists in the Madison County's Ordinance. Adopt more stringent review requirements which would prohibit small lots not related to agriculture, forestry or land and water conservation uses. These criteria must be sufficient to fulfill the key objectives of the plan. If the County is truly serious about reducing the amount of development in the Rural Areas, then it must adopt a plan and an ordinance that works for that goal. Aside from the ACE Program, which needs significantly increased funding to accomplish these goals, the draft plan offers not means by which County action will reduce the growing development pressure within the Rural Area. A plan that facilitates to build that density of approximately one dwelling unit per six acres cannot become the Rural Areas plan. There are additional issues to be raised, but time does not permit it. (See Attachment from Piedmont

Environmental Council entitled, "Proposed Revisions to the Rural Areas Section of the Comprehensive Plan – Statement to the Albemarle County Planning Commission June 29, 2004.)

Sherry Buttrick, of the White Hall District, stated that when she compares this plan with the old plan that it makes her miss the old plan because she thinks that the old plan is clear. She stated that most of the new plan is not simple and clear, particularly when she looked for the main and first objective of the goal to promote the continuation of a viable agricultural and forestal industry and resource base. It seems that the new plan has more words and less clarity than the old one. Alexander Pope said words are like leaves where they most abound much fruit and sense beneath is rarely found. She suggested that was the situation here. For those of us who do conservation easement work who deals with the Internal Revenue Service and their desire for what they call clearly delineated public conservation policy. It is especially important that there be conservation policy and that it be clearly delineated and that there are goals. There are no goals in the new plan. There needs to be objectives that one can cite as reasons for conserving the Rural Areas or for doing other things. She looks for and hopes to see again the primacy of agriculture and forestry. This new idea of conservation is not parallel to agriculture and forestry and is a confusing and not well articulated notion. A very small point is that the plan mentions that the ACE program needs consistent funding. The ACE program has been enormously consistently funded thanks to the good grace of Mr. Tucker. It is not, however, permanent or predictable. There is no guarantee from year to year except by the good grace of Mr. Tucker, for which they are very grateful. It would be nice if the ACE program could have a line item in the Capital Improvements Budget rather than having to rely on using discretionary funds each year. It is completely consistent and the plan should not state that it is not. On page 19, the plan talks about taking advantage of reducing development rights at every opportunity. It is written as if they were not in charge. You are in charge and are in the position to create the opportunities. The thing that she had hoped to see, which is critical, is changing the 21-acre residual lot size. The lot size needs to be changed to 50-acres or 40 or 42-acres.

Carleton Ray, new President for Citizens for Albemarle, stated that he speaks on behalf of their Board. The draft Rural Area chapter displays an encouraging understanding of the consequence of growth, most notably that: "Conservation ranks with agriculture and forestall use of land" and that conservation areas are one essential tool that "can assure the persistence of our water and biological resources." However, the draft also contains some warnings: "Under current regulations, rural subdivisions can be created at least as easily as within the designated Development Areas". RAs could accommodate almost 55,000 more housing units, projecting to a population of almost 190,000 in a generation or two. Such growth is in direct conflict with the 2002 citizen survey, in which 73.1% favored maintaining our rural character with both "little residential development." The bottom line is that: ". . . policies must be changed to stop the on-going trend toward fragmentation and loss of rural character" and that: "The most effective methods for protecting rural land from these impacts will continue to be those that ensure long-term or permanent prevention of development in the Rural Areas." Three major problems are before us. First is the statement that: "the number of development rights should be maintained." This is clearly contrary to a solution. The second is that environmental protection can be achieved by voluntary actions. History tells us that volunteerism does not work. "Voluntary best management practices" have failed to reduce nutrients into Chesapeake Bay, which is an example. The third is the interpretation of "rights' as entitlement to carry out environmentally harmful activities. But who has a "right": to deplete the natural diversity and beauty of our environment; to prevent water from percolating into groundwater; to increase pollution, erosion, and sedimentation; or to impose costs that cause tax increases. Clearly, "rights" deserves re-evaluation. Citizens for Albemarle make two suggestions. First, Albemarle County urgently needs enforceable Best Management Practices on a number of fronts. One set would be for land practices that help preserve ground water, another for biodiversity, and another for mountains. These should be applicable to ALL citizens and ALL properties throughout the County. The second would be to establish land protection, both acquisitions and easements, as the highest priority, and to target natural resources and ecologically sensitive areas at far greater scale than is currently the case. All County easements cover only about 10% of our land area, but only a

twentieth of that area has been protected by County action. Therefore, we strongly urge proactive land acquisition supported by a bond issue of at least 20 million dollars for this purpose. Finally, do the Planning Commission and Board of Supervisors wish maximum build-out, clearly contrary to citizen's wishes? If so, what would the environmental, social, and fiscal costs be? If not, what is to be done to limit to limit development and when? Decisions should not be delayed. At current rates our demand for water will exceed supply by 2008 and our population will double in our own grandchildren's time. Does this mean yet more infrastructure and costs, or is there a better way through land-use practices and conservation areas? (See Attachment entitled, Statement before the Albemarle County Planning Commission on Rural Areas, Chapter Four of the Comprehensive Plan - - G. Carleton Ray, President, Citizens for Albemarle – 29 June 2004.)

Tom Loach, resident of Albemarle County, stated that it could be said that the Rural Area Plan before the Commission tonight reads like the New York Times best seller list in being part fact and part fiction. After reading the report it is clear to see the fictional aspects of the plan when the staff waxes poetically about concepts like rural protection and rural character while at the same time telling a factual tell of rural build out of 54, 867 new housing units. Unfortunately, the sad conclusion of their tale comes with a mission of failure to prevent the conversion of rural landscape to development when they write, "Despite the community's established goals for Rural Area protection, the existing regulations are not achieving these goals because they are permitting this conversion to continue with few hindrances. But rather than take these signs as signs of defeat as a call to arms, it would appear that staff has held up the white flag and has shouted to every developer and every rural land owner wanting to cash in, we give up." The new position seems to be one of if you can't beat them, join them. Therefore, they get a plan that calls for the clustering of rural homes in a new breed of development called the crossroads community. If it is to be the County's stated position that complete build-out of the rural landscape is to be our future, then it also must accept the consequences of such action. First, if this plan is accepted with its proactive approach to development in a Rural Area and is to become policy, it will mean that there is no further need for development areas. Neither the Planning Commission nor Board will be able to tell another growth area community that we must accept one more development because if we don't it will grow to the Rural Area. With the passage of this plan the resident's simple answer will be, so what. Giving up the old we have to protect the Rural Areas will change from the reason to approve a development to being a convenient excuse to approve a development. If there is not lowering of the development potential in the Rural Area, then there is no reason for accepting higher densities and all of the associated problems that go with growth. The growth areas as we know them will no longer be acceptable to residents who live there. No one will accept second class citizenship if there is no reason to do so. Simple put if this plan is such a good plan for protecting the community and its rural character, then we, the residents of the growth area want it too. The second major consideration to accept this plan will be the elimination of the land use tax program. Why would any citizen not receiving the benefit of the tax break support such a program with a clear history of failure. As shown, if not by the 3,662 new parcels created in the Rural Areas from 1985 to 2000, and then by the fact, as they sit here now, that the developers of North Pointe, one of the biggest developments to come down the pipe, have been allowed to get the land use tax break. The County has spent over one hundred million dollars for this program in the last twenty years and has no objective proof that the program achieved anything other than a giant rip-off for the taxpayer. In conclusion, he asked the Commissioners to weigh very carefully the full impact of this plan and the potential consequences before coming to a conclusion.

Tom Olivier, resident of the Schuyler area in the Scottsville District, stated that he was a biologist by training and has been involved in biological resource protection in the Albemarle County since the early 1990's. Since 1987 he has operated a commercial sheep farm. Although, he was a part time farmer, he has raised over 2,000 lambs here in the County. Overall, this chapter represents a major step forward in our thinking about the rural landscape. Over the past fifteen years, the circumstances within and surrounding our Rural Areas have changed greatly as have our understanding of the natural systems that must have room to operate in our open spaces. In a very deep way this chapter recognizes that in our Rural Areas we must protect the systems of

lands and various uses. Natural resource conservation must be an integral part of land use planning. He commended the Commission and staff for presenting a document in so many ways is outstanding. Conservation areas or areas committed and managed to protect natural resources in them, are vital to successful protection of water and biological resources. This at last gives conservation as a land use the standing it needs to be properly treated in County policy development. The new voluntary land conservation subsection broadly discusses voluntary approaches to protection of open spaces. This section is thoughtfully written and he supports the proposals it contains. However, he cautioned that the conservation of open space and the dedication of an open space parcel of the natural resource conservation are somewhat different things. To reduce potential confusion he suggested the voluntary land conservation section be located outside of the conservation uses discussion, but it should be retained. The root cause for loss of agricultural acreage in Albemarle County is the lack of profit in the production of agricultural commodities. The best prospects for return to profitability in our agricultural sector lie in the direct marketing of local produce. He suggested that they consider adding a recommendation somewhere in the chapter that Albemarle County create an agricultural direct marketing working group that would partner local farmers, the extension service and the VPI Direct Marketing experts, interested food retailers and other relevant organizations to help develop local skills in retail channels needed for wide spread local direct marketing. Finally, in the long run we must reduce the build up potential of our Rural Areas. Doing so equitably very likely means a great deal of purchasing of development rights by the County. He also suggested that they consider recommending in the chapter that before the next Comprehensive Plan update that a staff and citizen group be created to investigate mechanisms for raising the sums of money needed to accomplish sufficient protection of our rural resources. He seconded the proposal of the Citizens of Albemarle because it will no doubt take a lot of money.

Paula Beazley, resident of Southern Albemarle County, stated that she was born and raised on a farm near Warrenton and lives with her husband on a farm in Esmont, with more than 350 acres in conservation easement and primarily timber. While this draft of the Comprehensive Plan is improved from some of the prior drafts, we urge the Planning Commission to reconsider and redraft the Rural Area Plan because it fails to require a use of tools necessary to keep the Rural Areas rural. The stated objective of the plan is to prevent urbanization, suburbanization, and fragmentation of the Rural Area plan. In both the existing plan, the 1989 version of the current draft, the Planning Commission acknowledges a complete failure to discourage much less limit growth in the Rural Areas with as much growth occurring within the Rural Area as in the growth development areas. The vision is good, but like prior plans it lacks the teeth. The current draft of the plan acknowledges the effect of prior Zoning Ordinances that have fragmented the land by permitting an extraordinary number of small development lots, the effects of which, if fully developed, will eliminate all of the Rural Areas of the County. Notwithstanding, the hard policies necessary to impact persistent small lot development in the Rural Areas simply remain unaddressed by the RA Plan. Looking at plan statistics 7 years ago in 1997, only 37 percent of the County was still left in farms (as compared to 84 percent in the 1920's). Between 1992 and 1997, and less than 5 years, agricultural lands in the County decreased by 9 percent. Forests declined at a similar rate. Extrapolation using the same rate, in less than 15 years, there will be no farms. These rates also all suggest we only have this decade to deal with this issue of development lots in the rural areas in this plan. The Planning Commission has support of residents to solve the problem. In citizen surveys and four public meetings, as cited in your plan, 94 percent agreed with existing Rural Area policies of directing residential growth into the development areas and preserving the rural lands for rural uses, even if they did not agree necessarily that they have been effectively implemented, which obviously by these statistics they have not. But what tools are offered in this draft of the Rural Area plan to prevent further development of the development lots, diversion of growth into the development areas and avoidance of further land fragmentation? There are few new policies and no new solutions in this draft of the RA Plan. The RA Plan stated the County provide tools that offer alternatives to fragmentation and to direct residential development into growth areas, but neither offers, nor requires, any of the necessary tools to achieve the goals. The RA Plan does not offer a moratorium on growth while the necessary studies can be conducted to figure out how to stem

the tide of the land fragmentation. It does not advocate down zoning, as has been done in a number of visionary neighboring counties. Nor does the RA Plan any longer even require that all activities and development in the Rural Area be exclusive agricultural, conservation, forestall, historic, or one of the other Rural Area uses identified. While prior versions of the plan at least state exclusive Rural Area uses and development as objectives, this RA Plan appears to concede, and thereby permit, unrelated development. While there is good text throughout the plan relating to fragmentation, it is void in the necessary measures to achieve it. It does not offer any solution other than voluntary conservation. She suggested that it should look at 85 percent of the land being developed in Rural Preservation Tracts or 200 acres. In addition, there should not be uses in the Preservation Tract such as septic fields or otherwise. If the rational for permitting any development of any Rural Areas Parcels is to provide needed income, then the remainder of the land should be within one of the permitted Rural Areas uses. There should be criteria that are required for those tracts. Unless the land preserved is sufficiently large, such as 100 or 200 acres, then any other land size such as 50 acres merely ensures that the Rural Preservation tract will become a suburban Planner's dream with multiple homes clustered around their own private park. To provide incentives for true preservation tracts, there should be stringent or no small lot or family exceptions. (See Attached Statement to the Albemarle County Planning Commission – Re: Proposed Revisions to the Rural Areas Section of the Comprehensive Plan – June 29, 2004 – from Paula Beazley.)

A.G. Shackleford, President of Albemarle County Farm Bureau, stated that in that role he wanted to speak for a few other fairly sizeable landowners who are desperately trying to take advantage of this weather to make their hay and can't be here. He pointed out that he farms 365 acres. He pointed out that he did not know of any active farmers who would like to see their land subdivided, but they want to maintain the value of it and they have to get that value out if they retire. Land can be just as fragmented in 50 acre farmettes as in 21 acre farmettes. Neither is going to be viable as agricultural land. The other concern is the set of priorities. On page 11 of the plan it says that the priorities listed in a-h are equal, whereas, the current plan puts agricultural, including forestry, as the preferred use. Of all these uses agriculture is the only one that produces income that would support ownership of the land that would help to keep us there. He doubted if many people were able or willing to buy land and maintain it for scenic resources or even archaeological resources. He suggested if the County wanted the farmers to keep this land open that they give them as much encouragement as possible to earn their living on. If the County wanted to limit growth and reduce the number of lots, then let some of these people who live on 2 acre lots share the cost rather than mandating a reduction in the farmer's division rights. In conclusion, a couple of general observations are that they would prefer that the County not look at the farmers as speculators because most of them do not want to subdivide their land and would do so only as a desperate last resort. He reminded the Commission that this was private property that they were talking about and all of these great plans on what to do with the land involve land that people own and are paying taxes on. Finally, he would therefore urge the Commission to find ways to encourage and give incentives for maintaining open space rather than using mandates.

Wren Dodson Olivier stated that she grew up on a farm in southern Albemarle County and she and her husband still reside there and raise sheep on their farm. The County must take steps to contain suburbanization of the Rural Areas through the clustering of residential development. She urged the County to look at down zoning as a means of containing development in our Rural Areas. She supported the recognition in the new Rural Areas Chapter of Natural Resource Conservation as a goal of rural land use planning. They also need to strengthen the County conservation easement program.

Fred Scott, farmer at North Garden, stated that this plan is beautifully written. He commended Ms. McDowell for listening so hard to the citizens and trying to draft what is a very good philosophical statement of how to reverse the 1980 mistake when they went to a 21-acre zoning. He suggested that the County get away from those large lots of 21, 42, 50 or 100 acres. He supported making these development lots smaller and providing alternative uses. On page 31 he

hoped that the reference to 42 acres is a typographical error. He pointed out that he sat on the Rural Areas Focus Group for almost 2 years, and he did not think that any one on that committee thought that bigger or more is better when it comes to lot sizes. If someone was going to build a house, it should be built on as small a lot as possible and give it as many services as possible. If they can't obtain public sewer and water, then allow them to collect their own. He agreed with Mr. Shackelford regarding page 11 that agricultural and forestry resources are in fact income generating ventures. As such, those two uses listed under a and b should be encouraged as senior to all of the other items, c through h. If you get a and b, then they would get a lot of c through h by definition. That is simply the nature of agriculture and forestry because when it is successful there are a lot of the other benefits obtained secondarily. He felt that c through h are not as important, will not generate revenue and should not stand as equals. He agreed with Carlton Ray in support of the idea of the bond issue for conservation funding. The County is going to have to raise a lot of money either for the ACE Program or for a comparable bond issue to go out and pay for what this County wants. Otherwise, he felt that there were going to be wars among the citizens. He felt that they could do this in a civil way. He suggested that some wording regarding this concept should be added to the plan so that the Board of Supervisors could start thinking about it.

Ann Mallek stated that she owned a farm in Earlysville. Tonight she was present representing the Earlysville Area Residents' League since their president, Joe Rinkevich, is unable to attend. The Earlsyville Area Residents' League surveys its members every two years. In surveys over the last eight years, the most important feature needing preservation has been the rural quality of life and the open space. The open space is valued for its scenery, its environmental benefits, such as air and water quality, wildlife habitat, its production of local foodstuffs, and its recreation benefits. To the farmers like myself who enjoy the daily challenges of raising animals and crops, we have the support of our neighbors who are patient when following our slow moving tractors and tolerant when smelling our animal's powerful fragrances. While this pastoral environment is highly valued, many of the residents must travel to Charlottesville to work or study, thus creating logistical nightmares on our county roadways. For that reason and many others, EARL hopes that the County will adopt forward-looking and proactive regulations in this revision of the Comprehensive Plan to protect both the rural area and its residents. Most severely impacted are our long term and frequently retired neighbors in the rural areas. Many have lived in their houses for 30 – 50 years. They are suffering from increased tax assessments due to housing which has grown up around them. The life investments of these residents should be protected, and also the value of moderately priced housing, so that people do not have to leave their homes due to property taxes. New residents to the area should bear more of the increased public costs that their buildings create. In our opinion, the most successful ways to protect the rural area is to enhance the attractiveness, both aesthetically and financially, of the urban area while creating a disincentive for building in the rural area. The urban area and the new communities should have enhanced services, reduced need to drive autos, infrastructure such as sidewalks, mass transit options and shopping. To building in the rural area should include the costs project to cover road improvements, longer distance travel for school buses, extensions of service lines, and the inefficient fire and police services. Earlysville Road seems to break down and require repaving every 3-4 years due to 18 wheeler and commuter traffic. Promoting agriculture and forestry in the rural area has added benefits to protect water quality for all residents. Land use taxation should be restructured to assist producing farmers, and the simple requirement of annual production dollars, or an accredited forestry management plan, which would easily weed out the landowners who hold land in reduced assessment until the price is high enough to sell for houses. The County needs to restructure the land-use tax program and increase penalties for dropping out. Conservation easements need to be promoted. The County needs to close the loopholes for rural and family division. The future of our rural area depends on you. (Attachment from Ann Mallek for Earlysville Area Residents' League, A Community Association, dated June 29, 2004.)

Neil Williamson, representative for Free Enterprise Forum, passed out a statement to the Commission. (See Attachment) He asked to touch on a couple of issues that have been brought up by a number of speakers rather just reading the statement. Free Enterprise Forum recognizes

the significant benefits of the rural areas and cherishes rural areas, but attributes their protection to private landowners. He stated that they encourage the Commission to consider those individual landowners in any decision that they might make with regard to the rural area. They echo the Farm Bureau's concern with regard to the prioritization internal to the plan because eight (8) (a-h) seems like a large number of priorities. The idea of agriculture and forestry being the primary uses in the rural areas is something that they whole heartily support. He stated that they would be remiss if they did not mention significant portions of the Comp Plan chapter that are addressing symptoms rather than the real issues that are driving home buyers to the rural areas in the first place. The Free Enterprise Forum must raise again the real issue of the lack of coordinated support of development within the growth area. The increasingly burdensome regulatory cost and application complexity in the lack of government supported concurrent amenities, the increasing scarcity of buildable growth area lots and the resulting increase in land prices within the growth area. Regardless of what is written in the Rural Areas chapter, until these issues are properly addressed, Albemarle County will be driving more (rather than less) development into the rural areas. The Free Enterprise Forum believes the issues of rural area preservation, property rights, watershed management, mountaintop protection; growth area development (perhaps expansion), subdivision ordinance and housing affordability are inextricably linked together. Any significant change in the County policy in any one of these areas must be weighted for its "domino" impact across all of Albemarle County. In considering all of the above concerns, the Free Enterprise Forum applauds the work of staff, the committee, the public and the Commission on this plan and would whole heartily support the plan provided the prioritization of agricultural and forestry is returned to the current plan language.

Jim Balheim stated that it was disappointing to see that there is nothing being done to reduce the number of lots in the rural areas. Clustering and phasing will do nothing but lead to more suburbanization. It does nothing to cut down on the number of lots. He asked the Commission to reexamine some of the old ideas and possibly try to look for some new ones for some way to address this. He felt that what Sherry Buttrick said was very relevant in that they were in charge and if they don't take charge pretty soon there will be nothing left to take charge of.

Mr. Thomas thanked everyone for coming forward and speaking because it meant a lot to the Commission. He closed the public hearing to bring the matter back before the Commission for discussion and comments. He pointed out that the Commission will not be taking any action on this tonight. The Commission will be returning this issue to staff to get the comments back so that they can evaluate them and take into consideration all of the public's comments.

In summary, during a public hearing on CPA-03-06, Rural Areas, the Planning Commission received comments from the public. The Commission took no formal action. Staff was requested to compile all of the public comments for the Commission's consideration at the next scheduled work session on July 20. The Commission asked that the public be allowed additional time to make comments on the proposal by email, mail or telephone to staff or any Commissioner up until the work session. Staff requests that all comments be forwarded or submitted to the Planning Office at least two weeks prior to the work session in order that all comments can be taken into consideration at the work session.

Deferred Items:

ZMA 2004-002 Fontaine Avenue Townhomes (Sign # 80) - Request to rezone 12.606 acres from Highway Commercial (HC) to Planned Residential Development (PRD) to allow 61 dwelling units. The property, described as Tax Map 76 Parcels 12A and 12G are located in the Samuel Miller Magisterial District on the north side of Fontaine Avenue [Route #702] approximately .25 miles west of the intersection of Fontaine Avenue and Route 29. The Comprehensive Plan designates this property as Neighborhood Service, in Neighborhood 6. The Comprehensive Plan designates this property as Neighborhood Service, in Neighborhood 6. (Margaret Doherty) ***DEFERRED FROM THE JUNE 22, 2004 PLANNING COMMISSION MEETING.***

Ms. Doherty summarized the staff report. The applicant, Weatherhill Homes, proposes rezoning 12.6 acres on Fontaine Avenue from Highway Commercial to Planned Residential District to allow 61 dwelling units, 55 town homes, and 6 garden level apartments. The proposal seeks to protect the ponds, wetlands and stream buffer and develop the property with residential uses instead of what could be permitted by right given the Highway Commercial zoning. The Planning Commission has seen other proposals on this site. They could all agree that the site presents some challenges in that it is quite a balancing act. But, staff thinks that this project is successful. It provides a mix of sizes and affordability. The project includes town homes with garden level apartments, smaller town homes and then larger town homes. Nine of the units or 15 percent will be offered to the County to market as affordable housing. The project provides a community of natural amenities and good pedestrian connections. Staff passed out the revised proffers to the Commission before the meeting. (See Attachment A, Amended Proffer 7/14/04) In addition, staff passed out an email received from a resident of Buckingham Circle. (See Attachment B, Email dated 6/24/04 from Regina Carlson to M. Doherty) She pointed out that there was a big discrepancy between the proffers in the staff report and the proffers distributed tonight. Staff had mistakenly written in the staff report and its attached proffers that the applicant would be proffering 15 percent of affordable units and $3,000 per unit towards the CIP, but that was wrong. Staff has had a lot of back and forth discussions with the applicant about the proffers and it was essentially a typo and should be $1,000 per unit for the market rate units and then 15 percent of the total units as affordable housing. This is exactly as they did it for Avon Park, which the Commission saw last week. Therefore, the revised proffers reflect that same arrangement. If the Commission has any questions, she would be happy to answer them.

Mr. Thomas asked if the Commissioners have any questions for Ms. Doherty.

Ms. Joseph asked what the proposed density on this proposal is.

Ms. Doherty stated that staff would have to calculate that figure.

Ms. Joseph noted that under the general notes of the application plan that it referenced waivers. She asked if the Commission was considering any action on the waivers tonight because it was shown on the plan.

Mr. Rieley pointed out that the proposal was for 4.8 dwelling units per acre.

Ms. Doherty stated no that she was inclined not to do the critical slopes waiver request tonight because staff does not have a recommendation from the Engineering Department.

Ms. Joseph asked if they could assume that they would not be taking action on any of the waivers on the application plan and that the applicant knows that. Therefore, that information should be removed from the application plan itself if this is the one that the Commission approves.

Ms. Doherty stated yes that she definitely wanted to remove waivers from the application plan.

Ms. Joseph stated that schools are always discussed during this process, and staff indicates that the impact is minimal. She asked if staff ever takes a look at what is happening in the area itself to see if it was not so minimal because they have X amount happening in one particular area. She pointed out that it seems as if these things are going to add up at some point in time.

Mr. Benish pointed out that the Commission could not condition a rezoning. When the Commission takes action they could direct staff as to what their action is on these waivers and staff would make sure that the applicant has that corrected by the time it goes to the Board in taking the notes off.

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

Vito Cetta, of Weatherhill Homes, stated that Roxanne White had told him that there has not been a change in the school enrollment for about four or five years. He pointed out that it may be that there is just an increase in older population, and the school enrollment has not been affected. He noted that the children might be going to private schools, but he was not sure. This is the last of their three projects that they were processing through the Planning Commission. He noted that they very much agree with the Neighborhood Model and developing in the growth areas. He stated that he would very much like to think that his projects reflect the Neighborhood Model. This particular site is less than a mile from Cabell Hall and about a mile and a half from the University of Virginia. When they first got involved with this project they met with the University Housing Office. As you know, the University does not get involved very much with housing. They allow the private sector take care of housing for them. He noted that they have always felt this was a very good location for faculty and the hospital housing. There is a very strong need for housing in our community for folks who have a large house and want to downsize. They finished developing out Ednam where the prices are very high. The average price in Ednam is probably about $650,000. There is a big desire for people to move closer into town. The neighborhood is very mixed and there is not a whole lot of activity that passes the big park beyond it. There is a church right around the corner. The Park Service has an office there. There is a school across the street. The Fontaine Business Park is about a quarter of a mile away. Therefore, it is a very mixed area. The heart of this area is the Buckingham Circle residents who have been there since the fifties. It is an interesting community and they are very vocal as the Commission knows. They have been in close contact with these residents and have written them three letters with lots of drawings. They have met with many of these residents and exchanged phone calls and emails. He stated that these residents were very well informed with what they were doing. He felt that the Commission would find that they were generally supportive, but that there would be some differences in opinions. The site is more than 12 acres and only a portion of it is buildable, which was what they were planning to build on in the plan. It is a very urban solution. The houses to the left are uphill and you park on the lower level and live at the level above it. In the elevation you can see that the houses are three stories. On the right side there are townhouses designed for elderly folks with the master bedroom on the main level. There would be a level above it with a walkout basement below it. There are some apartment built in, which he would discuss later. The bottom end would be apartments and the top end would be the larger townhouses. Therefore, there is a mixture of uses. There are also some narrower and smaller townhouses as well that are offered as affordable. The engineers and architects are present to answer any questions. The major water line coming into the site will be replaced. Nine affordable units will be provided. They have worked close with Ron White in the Housing Office and the Planning staff in coming up with this proposal. He felt that this is a win/win situation because they were able to provide the affordable housing without increasing the density on the site in an imaginative way. He pointed out that Ron White was instrumental in helping them with that. He noted that it is a lesson that tells him that if developers have a big open mind that they can figure out ways of solving the affordable issue. He felt that they have not sacrificed anything on the project and they were servicing the community. It is a needed service to the community and everybody has a friend or staff that is driving to other Counties to live. He noted that if everybody pitches in, then it would help solve the problem. The roads that are in their site are meant to be extended if that is needed, which was part of the Neighborhood Model concept. He pointed out that they have cash proffers in addition to the affordable units. The improved lot cost in this project is over 90 thousand because it is an expensive piece of land. The lots will sell from $300,000 to $400,000. There will be considerable positive cash flow to the County, which would be an economic benefit.

Ms. Joseph asked for some history of the constructive wetlands.

Mr. Cetta stated that was done by the prior owner and it was improved in a way that was beneficial to the community. He pointed out that he was not sure what it was before that. There was a fair amount of activity done in that area four or five years ago. He noted that their intent was to leave it as natural as they could, but that it would require a little bit of cleaning up.

Mr. Rieley stated that it was a pond that sediment has filled in over time.

Mr. Thomas stated that the island actually was never there early on and the sediment filled it in.

Mr. Benish stated that the owner had worked with David Hirschman on that project, but he did not know a lot of details about it. It was a prior lake and the beaver dam began the degradation of it.

Mr. Cetta suggested that the neighbors might be able to answer that question. As you all well know, processing projects that require rezoning or special use permit requires more engineering and architecture than it has in the past. The applicant cannot come in with just a sketch. Therefore, they have been designing this project for quite a while and certainly Water Resources and Engineering have had a lot to say in what they have done here. They have justified things to satisfy them. There are a lot of bio-filters that clean up the water, which releases the water into that pond. That has all been worked out with Water Resources.

Ms. Higgins questioned what the stated purposed of proffer 2 was, which says, If the cash contribution has not been exhausted by the County for the stated purpose within ten (10) years . . .” She asked if there was an intention for the $1,000 amount because without a stated purpose she was not sure how that applies.

Ms. Doherty stated no because they just said capital improvement program, which would be the only stated purpose.

Ms. Higgins stated that it could be anything such as schools, sidewalks, etc.

Mr. Kamptner stated that it could be for anything in the capital improvements program.

Ms. Higgins stated that there was no chance that it would be exhausted.

Mr. Benish stated no because they would try to use it on a project that relates to this area through service areas.

Ms. Higgins pointed out that was where she was trying to draw the conclusion that it would be used for something related to this. She asked how he could have nine affordable housing units in the $300,000 category to someone at 80 percent of the area medium income.

Mr. Cetta stated that the down hill units to the right, which were the larger ones, are forced to be three stories. The person would live on the main level with guest bedrooms and an office above. They would end up having a basement due to the three stories. They took the end units on those buildings and made them apartments. The owner would own the entire building with an apartment in the lower level. The unit itself would sell as a whole building, but there would actually be two dwelling units in that space. Six of the units would be for rental and three units would be for purchase, but all of the nine units would be affordable.

Ms. Higgins pointed out that the proffer’s language is geared totally and has an out that talks about subsequent purchaser.

Mr. Cetta noted that three of the units, which were townhouses, would be purchased.

Ms. Higgins suggested that the proffer’s language needs to be direct about the affordable units because it says nine units when it gives that price range. She felt that the language needs to be made consistent because if they were going to set a pattern and a track record with this that it needs to be made clear. That item needs to be either broken into two or a line placed in there that indicates that.

Mr. Cetta pointed out that if the units had been for sale that they would have had an issue with having a condominium regime, which they would prefer not to do.

Ms. Higgins noted that it says all purchasers and then an out after a certain period. A purchaser is like a one time thing and she did not know how you would handle rentals. She pointed out that it was a challenge for them to work out with the County Attorney because it did not read that way.

Mr. Thomas asked if there were any other questions for Mr. Cetta. He stated that Mr. Cetta mentioned that they were going to install a 24 inch sewer line and there is already a water line there.

Mr. Cetta stated that the sewer line was 100 years old and they would have to replace it.

Mr. Thomas asked if there was anyone else present who would like to speak regarding this application. The first person listed on the sign sheet to speak is Elena Day.

Elena Day stated that she has been a resident of 151 Buckingham Circle since 1979. She stated that she was very happy that they have made some head way in what the possibilities for the site are. However, she still feels very strongly that the addition of 61 units that will add at least 120 persons to the five or six acres at the end of a dead end street should not be done. She noted that it was also located on the banks of a perennial creek known as Morey or Moury Creek, which feeds into Moore's Creek that is a primary tributary of the Rivanna River. She asked why so many people should be congested on such a small site that was so close to Morey Creek. She asked if there was another example of such congested planned residential so close to a stream in another part of Albemarle County for something that has come about recently. Run off is run off from human habitation regardless of the state of the art methods to deal with it. She noted that she often hears it claimed by the Planning Department that Morey Creek is already degraded by run off from Bellair and from the Birdwood Golf Course. But, why do we have to increase that run off. She felt that they should be trying to decrease the run off. Since the last three year drought she felt that they ought to have a greater appreciation for our water resources. Is this Comprehensive Plan that we are in the growth area written in stone. Is there any possibility for down sizing in order to protect the water shed from increased pollution? That is really what they are talking about here. This is to close to the bank of Morey Creek. She stated that they have quickly forgotten their problem with the three year drought. Personally, she noted that she would like to see these 12.6 acres protected in perpetuity and become a park. This wetland pond has become quite a wildlife thoroughfare over the years. The destruction of this wildlife thoroughfare would certainly occur if the site is constructed upon and a host of wild creatures would just disappear. She pointed out that Mr. Cetta claims that these condominiums are to be marketed to the Boar's Head and Ednam sects, but the reality is that the site is across from the Forestry Service Headquarters and on the University side of town and it is very appealing to students. It is no big deal for parents these days to drop $300,000 on a condo for his kids to attend the University of Virginia. If you allow this rezoning, she felt that the City, County, University and the developers need to agree and they need to kick in some money to bring bus service and sidewalks the length of Fontaine and extend it all the way up to the Amoco Station. If you cannot do that then she could not see any way, shape or form that you should allow this to be rezoned away from the Neighborhood Service Model because this does not follow the Neighborhood Model itself. She asked that they allow the property to remain as it was and they would take their chances.

Dick Smith, resident of 156 Buckingham Circle for ten years, stated that many of their neighbors could not be here tonight; however the points that he was going to make have been expressed in previous public hearings on this property by numerous residents of Buckingham Circle. They were in favor of the Comprehensive Plan and the Neighborhood Model. More than one half of this land is flood zone and so the population density is much higher than 4.8 units. The research park and the church cause significant congestion in the area. The off ramp to the Route 29 by-pass continually backs up at peak times. Often they cannot get out of their street because of

traffic. The increased density in the area would make this a bigger problem. Without a VDOT commitment to increased traffic control, it is just going to get worse rather than better with this proposed project. Also as mentioned, without widening the bottle neck on the east side of the research park this area is not really pedestrian friendly or connected with the City in any real way. It is dangerous to walk, ride a bike or do anything other than drive a car through that bottle neck. They understand that the highway commercial zoning is not the best zoning for this land; however they feel that the best use for this property is a true mixed use development. As staff pointed out, the research park on the other side of Route 29 and the church is contributing to the mixed use, however he did not think that these large specialized entities contribute to mix use in our area. This space should have low density residential with office space for other small commercial use combined in the property, and this would help create a community center in our area. In conclusion, this area has been designated Neighborhood Service and this proposal is an urban density plan with no service and it does not meet the criteria for the Comprehensive Plan nor the Neighborhood Model.

Mary McClaren stated that she lived across the street from this property and this development would be located in her front yard. The pond has been something that they have watched over the past 17 years while they raised their children. They have watched developers come and do many terrible things. One developer brought in truck loads of hay and completely covered as much of the site as he could and threw down lots of grass seed. The next developer came in and tore out the dam that the beavers had built and put in a rock dam. They have seen the entire area flood up to the road during some major storms. Therefore, she could speak about the pond and the nature that they have seen there. She noted that her son brought it to her attention that there were snapping turtles in the pond. She stated that her son actually pulled out an alligator snapping turtle out of the pond. They have seen ducks nesting their babies there. They have seen and observed geese, swans, blue herring, scarlet tanagers, red fox, silver fox, squirrel, possum and blue birds. They have tried to be good neighbors to the folks who live in these woods and also would like to be good neighbors to those who would like to build there. It seems like a lot. It is a lot less than was proposed before, but it seems like a lot of people moving into a little area. She asked if the neighbors could meet with the developer before this comes to a vote. She asked to speak to the Neighborhood Model and the mixed use idea that was spoken about before. There is just a narrow bridge and a small road, which has a speed limit of 45 miles per hour. That makes it difficult to do anything else on the road but drive. There is a little preschool around the corner that her neighbor used to try to walk her daughter to, but the road was too dangerous. She pointed out that something to improve the road definitely needed to be in the plans. There is no bus service out that far, which is really needed. She pointed out that she did not represent all of her neighbors, but there are many who could not attend this meeting and they have heard their view expressed before.

Tom Loach, resident of Albemarle County, stated that there was some good news and bad news. He noted that he lives in Crozet so he could say one thing for Mr. Cetta as far as his developments. Mr. Cetta's developments are first rate. There are several of his developments in Crozet. One development has 85 units on less than 20 acres that he lives next to and that was an excellent development. Compared with the other developments in Crozet, his developments are first class. He pointed out that there was another problem here in that there was a lack of infrastructure. It is consistent with everything that they see in the growth areas. If they were going to call this a Neighborhood Model, then it has to be a pedestrian oriented neighborhood. That means that somebody has got to come and say that if we are going to have this we are going to build sidewalks for these people. The same situation exists on Jarman Gap Road. As you know, they have 285 new units and no sidewalks. It is some where down the horizon in the never, never land. He felt that all growth area residents have a valid complaint when they say it can accommodate infrastructure we mean it can accommodate infrastructure and that it comes with development. It just goes back to the last discussion about the rural areas. How are you going to continue to ask residents in the growth area to say we want you to put up 61 units on this amount of acres while you are not seeing a reduction in the development in the rural areas? That is what this is all about. For us it is the infrastructure. If you are going to use the Neighborhood

Model let's make it neighborhood friendly. Let's get the sidewalks in and make sure that we are being served as well as we should be with the type of development that we have to put up with.

Mr. Thomas asked if anybody else in the audience wanted to speak on the application. There being none he closed the public hearing to bring it back to the Commission for discussion, comments and possible action.

Ms. Higgins asked if someone could explain to the Commission on the full plan what is happening with that since she did not see that plan in the packet.

Ms. Doherty pointed out that there were sidewalks on all of the streets out in front of all of the town homes and it came down to a sidewalk that goes along Fontaine and curves up. The sidewalk could not be continued along Fontaine because of the bridge culvert.

Mr. Rieley asked if she meant that it would be an expense to increase it along the road and it was not that they cannot do it.

Ms. Doherty pointed out that they would have to fill in the floodplain and it was a wetlands permit. It got so complicated that the applicant proposed an alternative. In addition VDOT discouraged it. That was reviewed on the previous application that she reviewed two years ago and everyone decided that was not the way to go. She stated that this would actually connect Buckingham Circle to the sidewalk that exists in front of Fontaine Research Park.

Ms. Higgins pointed out that a couple of the residents had indicated that even walking is dangerous along this section. She asked if this would be off the road and a separate pedestrian path.

Ms. Doherty pointed out that David Hirschman and the Water Resource people wanted that sidewalk to cross that existing dam.

Ms. Higgins pointed out that plus there was a 30 foot greenway or dedication that goes along there. She asked if there was another pathway system that starts at the intersection and goes back along Buckingham Circle.

Mr. Rieley stated that unless he had the wrong scale or was counting the contours incorrectly it looks like that sidewalk is going up about a 35 percent slope. Normally stairs are used when you get above 11 percent. That is three times as steep. That is not a sidewalk, it is a staircase.

Ms. Higgins noted that you can see steps in it.

Mr. Thomas stated that there were thirty steps on this side and forty on the other side.

Ms. Higgins stated that the plan has breaks in it where they must have steps. She felt that there was some pedestrian access at least for that short of a stretch if it was to pick up at Buckingham Circle and go all the way over to the Foundation Park that gives people a way to walk underneath.

Mr. Rieley stated that nobody can walk on a 35 percent slope.

Mr. Edgerton stated that there was no way that pedestrians were going to go out of their way on that path because they would simply walk on the road.

Ms. Higgins stated that the Design Standards Manual has slopes on 6 percent slope and they will have to design to it.

Mr. Edgerton asked if she really believed that somebody is going to go around this way to get to this point.

Mr. Rieley stated that he did not want to lose sight of the big picture. There have been five proposals on this property since he has been on the Commission and this by far is the best plan that they have seen. There is not question about it. But, there are nagging difficulties with the proposal. He agreed with Mr. Smith's about there not being mixed use. There does not need to be a lot of mixed use to break the pattern of these monolithic housing developments that the Commission was seeing one after the other. He applauded the inclusion of affordable housing, but he wished that a larger percentage of it was for purchase and a smaller percentage of it was for rental units in the basement. But, nevertheless the affordable housing was there. There are several areas that are very troublesome. They have to have a sidewalk system. If they are going to take the Neighborhood Model seriously they are going to have to make it easy and convenient for people to get to one place to another. He felt that there was not a financial issue or a wetlands issue that is sufficiently compelling to not have a sidewalk along the side of this that leads into town. In addition, he felt that they could not be approving high density residential development this close in with no bus service. They just cannot do it. Provision has to be made for those things. Despite of the fact that this is a handsome plan and a huge improvement, he felt that those are fatal flaws. He noted that Ms. McClaren made a really good suggestion to have Mr. Cetta get together with the community and see if they can work out these issues. These are not overwhelming issues that could not be adjusted. Overall, he felt that this is a plan that deserves to take the next step, but it needs to have serious attention paid to some of these issues.

Ms. Joseph stated that one of the reasons that she asked about the density was that if you look next door it is zoned R-4 and what they were looking at is 4.8 units per acre. Therefore, R-4 was not that far removed.

Mr. Rieley asked what the Comprehensive Plan call for in density in this area.

Mr. Benish stated that the Neighborhood Service is for a nonresidential designation and it was in the plan based on the existing uses that had been there at the time.

Ms. Higgins asked if it was unrestricted highway commercial and was not proffered out because it was the existing grandfathered use.

Mr. Benish pointed out that there have been so many plans on this site that he did not know if they had approved a plan with other proffers on it or not, but he did not think so. Therefore, he thought it was unfettered.

Mr. Morris echoed all of the concerns that the other Commissioners have had on the sidewalks. He pointed out that he lived in the Walton Farm area and they were just now getting into the sidewalk that should have been put in ten or fifteen years ago. He noted that he could not imagine the cost now, but that it needs to go in. The sidewalks need to be a primary concern.

Mr. Benish pointed out that was a half million dollar project and about two-thirds of the cost is getting across the stream at the Dorrier's property.

Ms. Higgins stated that the fourth general note said information regarding the type of pedestrian bike bridge proposed to span Moury Creek is included as an attachment to this application. She pointed out that she did not see it anywhere. She asked if some of these things might have greater detail and explanation.

Mr. Benish suggested that the applicant may be able to shed some light on some of the design issues, too. He pointed out that he was not sure staff could answer all of the concerns that the Commission had raised.

Ms. Doherty pointed out that the applicant has been discouraged by staff because initially they wanted to put that sidewalk along the road. Engineering staff and VDOT have discouraged the applicant to put the sidewalk along the road and encouraged to put it in the location shown. Therefore, the applicant is feeling caught in between difference opinions.

Mr. Rieley asked if staff encouraged the applicant to run a sidewalk on a 35 percent slope.

Ms. Doherty stated no because they have been in discussions about how to finalize that and certainly it would have to meet the design standards. Staff has already been talking about how that bridge is going to work, but have not gotten to that detail of the site plan.

Mr. Rieley stated that there is a fairly detailed application plan before the Commission that is completely inconsistent with what would be required by the Design Standards Manual. Therefore, it is not a little difference, but a huge difference because this is already a long way around and it would have to zigzag up the back of a hill. That just exasperates the point that Mr. Edgerton pointed out.

Ms. Higgins stated that it seemed that some of the information was missing.

Mr. Benish stated that there was some technical information that they were not going to be able to help them with, but they were at a conflict here that was a barrier and they were trying to figure out how to get across the bridge.

Ms. Higgins asked if the applicant could answer the question on where that information is or does he want to take an opportunity to address the Commission as a rebuttal.

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

Mark Keller, representative with TARA, stated that the important thing that they were trying to get across here is that they know that the sidewalks are an important component of this. That is why they are on the plan. Typically, the sidewalks are not a very technical thing when it comes to a rezoning, but they have chosen to put them on there. Also, they have chosen to speak with the people who would be involved later at the site plan stage of approving these types of things. They talked with VDOT who have some serious concerns about the bridge that they own right there not only for its width, but the actual crumbling condition on the downstream sides of one of the headwalls. Therefore, VDOT was very concerned not only about our attaching a future waterline improvement to that, but bringing gas service and attaching it or hanging it from that structure. But, VDOT was even more concerned about adding people to that structure. Therefore, VDOT discouraged us from attaching to that abutment or that physical improvement. At that point there was the option of not attaching to the bridge, but yet staying within the right-of-way, which is where a lot of sidewalks end up being. But, they also know that is going to require a lot of back and forth with VDOT because now they are placing a second bridge within their right-of-way which they would now be liable for. Therefore, it was suggested that they look at alternatives to not placing it in the VDOT right-of-way. At that point they would be a ways away from the road and would have to talk with David Hirschman and Glen Brooks about how else they could do this. It was very clear that free spanning this creek as opposed to doing a culvert or any sort of fancy thing was the way to go. The recognition there was, and a resident has suggested this, that during very heavy rain storms from time to time, which he was not aware of the frequency of that, that the water actually gets up and passes over to some degree the roadway itself. So attaching something to the road way means that there is just one more thing that is over the top of that. The advantage of locating a bridge at that location aside from all of the disadvantages is that at that point there is a very sharp gradient drop in the water. It goes down a water fall if you have been to the site. By having that bridge being a certain height above the flood elevation, but at or near the point where the water makes a hydraulic drop means that they don't run the risk of a large tree that has fallen into a swollen stream coming by and taking out not only a bridge and anybody

that may be on it, but also the gas and water mains that are going to be hanging from whatever facility we choose to span that. He stated that they could place that bridge anywhere from where it was at now all the way to the right-of-way and even within the right-of-way if they chose to. VDOT has not said that they can't put it in the right-of-way. There is no real magic in that, but that Glenn Brooks actually suggested that they move it to that location. The area on the eastern side of that branch is actually a really nice flat area and there is a park. It is pretty obvious that people play soccer in that area. Even across the street there is a net that people kick soccer balls from across the road into. Therefore, they don't want their trail to transect what appears to be a miniature soccer field that is used by the community right now. Therefore, rather than putting it on one side they just shoved it to the other. That is pretty plain and simple. If you go out there you will notice that there is a small trail that comes down to the dam and the area just above the dam that is on the eastern side that is really a pedestrian walkway down to engage that pond. It is steep in some areas, particularly more steep on the western side. But, it is traversable by foot and he could conveniently walk down there in topsiders without bushwhacking his way down there. He agreed that the grading is going to have to be looked at and they are going to have to be able to get in there. His point in closing is that this is not a deal breaker or a show stopper. They have a sidewalk that they are taking all the way to Fontaine Avenue. In the technical end of all of this stuff if the plan looks good, they are going to come up with a winning concept that the Commission will approve.

Mr. Thomas asked if there were any more comments from the Commission.

Mr. Rieley stated that he would be happy to vote for it when that winning concept comes up, but not now.

Mr. Edgerton agreed with a lot of Mr. Rieley's comments. With the various plans that they have seen for this property he definitely felt that this is by far the best. He stated that he could not support this request in its present configuration. The density is too great. It was actually about ten units per acre if you discount the wetland area, which is about one-half of the site. The traffic impact is going to be significant. Without more attention to a pedestrian focus, which is called for in the Neighborhood Model and asked for in the development area, he did not see anyway of ignoring the enormous traffic impact to an already over stressed area. From the geographic location he was convinced that this will in fact be housing for students and/or faculty and they need safe access to the University. The plan before the Commission does not provide safe access. Therefore, the County needs to mandate some sort of public transportation as well as pedestrian access. He stated that he would like to see a solution to these problems before they rezone the property.

Mr. Rieley asked if there was something that they were not seeing here in this cross section or do these units come out onto that steep slope. This is an issue that they were dealing with the proposed over lot grading plans and so forth. There would be a 10 foot flat section required outside of each of the units.

Ms. Doherty stated that those elevations were done before staff negotiated these apartments. The application plan shows steps coming off of the driveway. The elevations provide guidance for the architecture.

Mr. Rieley stated that it was important that this be resolved to the extent that it was consistent with the grading recommendations that the Engineering Department now has relative to the access from these areas. That should not come out onto a small ledge with a steep slope off of it. It should be pretty clear what the criteria should be.

Ms. Higgins made a motion to recommend approval of ZMA-04-02, Fontaine Avenue Town homes, exclusive of the waiver requests for critical slopes and stormwater, subject to the proffers recommended in the staff report and with an additional stipulation that an acceptable pedestrian connection come back for approval by the Planning Commission on the preliminary site plan.

1. The approval is subject to the attached proffers.
2. The pedestrian connection must be approved by the Planning Commission prior to approval of the final site plan. If a pedestrian connection cannot be provided along Fontaine Avenue, the applicant must justify why the connection must be located where it is proposed.

Mr. Morris seconded the motion.

Mr. Thomas asked if there was additional discussion before a vote was taken.

Ms. Joseph pointed out that there were a couple of issues brought up concerning the applicant meeting with the neighborhood and that some more investigation be done concerning getting transit to this area. She asked how the other Commissioners felt about those issues. She agreed with Ms. Higgins that it was confusing for the applicant to receive conflicting messages about what to put on the plan and what to leave off. She asked if these were issues that the Commission would like addressed.

Ms. Higgins pointed out that there could be a lot of other things placed on this property that would generate more traffic and more impacts than the residential neighborhood. She pointed out that there was a lot of merit to this proposal. She suggested that the applicant and the neighbors meet between now and going to the Board. If they choose not to, then there could be implications.

Mr. Craddock agreed with Mr. Rieley about this is the best proposal that they have seen on this property. There are some other good things about it as far as affordable housing being one. He noted that he would support Ms. Higgin's proposal. He stated that since the property was zoned Highway Commercial that they could have the same situation as was right up the street at the Amoco Station. Personally, he would prefer to see $300,000 townhouse than highway commercial uses and a run down Chinese Restaurant.

Mr. Thomas agreed with Mr. Craddock and Ms. Higgins. He pointed out that he had a lot of concerns about the piece of property. Specifically the sidewalks are a definite needed item for pedestrian access coming back into town and also the buses are also needed. The Commission cannot require the buses, but they could request to work towards that point. He noted that there would have to be a place for the buses to turn around, but that there was the large church parking lot. He asked where the City/County line was at the little tunnel that they have to go through to get to the City or County on Fontaine.

Mr. Benish stated that it was on the other side of Fontaine Research Park and the County line was where the stream crossed.

Ms. Higgins stated that on the north side of Fontaine that it was a jagged line and that the research park was in the County.

Mr. Thomas stated that it was the City's responsibility to widen that road. He noted that it would be nice to get sidewalks up in that area.

Mr. Benish stated that the City was now looking at their JPA improvements again, but they have all along called for pedestrian and bicycle improvements, which would tie into the pedestrian and bicycle improvements along Fontaine.

Mr. Rieley stated that the primary reason that he could not support Ms. Higgins' motion, although he was sympathetic with the intention of doing this in a efficient way, is that the language of that motion would allow somebody to come in and put in a sidewalk that is going to have to be substantially longer than the existing one is. It will meet her motion and there will be no way that they can turn it down because it will be consistent with the Design Standards Manual and nobody

will ever use it. He felt that the people will still walk down the street. This project, if Mr. Cetta's numbers are roughly correct, is about a 25 million dollar project. To say that you can build a 25 million dollar project and you can't afford to put a sidewalk because there is a fill section there and an old bridge is irresponsible. They would not be bearing their fair share of this project. If this project goes in it is suppose to be pedestrian oriented because it is in the development areas. To allow the applicant to run this zigzag path down there and call it a sidewalk is why he could support it.

Ms. Joseph stated that because this land was in the urban ring that she did not have a problem with the density. She felt that they need to build out the potential of these lots in the urban area. Safe pedestrian access is needed to get people back and forth to the University from this neighborhood.

Mr. Thomas asked that a vote be taken on the motion.

The motion carried by a vote of (5:2). (Edgerton, Rieley – No)

Mr. Thomas stated that the motion carried and the request would go to the Board of Supervisors on July 14.

Mr. Benish stated that he would check with VDOT on the maintenance schedule on the Fontaine Avenue bridge, just east of this project. If the bridge is crumbling to the extent that you can't hang anything off of it, then it could potentially be an unsafe bridge. If the bridge was scheduled for improvement, then it would probably solve some of the costs and the environmental issues if they are going to have to get in there and repair the bridge. It appears that the problem is a deteriorating infrastructure, and they were trying to figure out how to get around that.

SUB-2004-00098 Digiacomo Subdivision - Request for preliminary plat approval to create 2 lots on 31.73 acres on a private road which will access a third, existing parcel. The property is zoned RA, Rural Area. The property, described as Tax Map 81, Parcels 8 & 8B is located in the Rivanna Magisterial District on Rt. 648 (Clarks Tract), approximately 1.14 miles to its intersection with Rt. 22 (Louisa Road). The Comprehensive Plan designates this property as Rural Areas in Rural Area 2. (Yadira Amarante) ***DEFERRED FROM THE JUNE 15, 2004 PLANNING COMMISSION MEETING.***

Ms. Amarante asked if all of the Commissioners had a copy of the executive summary that was emailed. Attached to the executive summary is a copy of the VDOT approval email that was talked about at the last meeting. (See Attachment) This project was previously before the Commission as a preliminary subdivision to create two lots on a private road. That private road would serve an existing lot. Therefore, the applicant also needs approval for the private road. The Commission suggested that the applicant defer so that staff could come up with a solution with their request for preventing further development. Staff came up with condition number 10 to try to limit further development, but could not come up with a way to extinguish development rights. Other than that, the only alternative to extinguishing those development rights is if the applicant wanted to pursue some kind of voluntary restriction, such as placing an easement on the property.

Mr. Kamptner asked that Ms. Joseph be allowed to give her statement.

Ms. Joseph read a disclosure statement as follows. I, Marcia Joseph, am a member of the Albemarle County Planning Commission. The transaction involved is SUB-2004-000098, Digiacomo Preliminary Subdivision Plat. The nature of my personal interest affected by the transaction is that she is an owner of real property having value exceeding $10,000 identified as tax map 81, parcel 8A, which has a street address of 418 Clarks Tract, Keswick, Virginia that is adjacent to the real property that is the subject of the transaction. I declare that I am a member of the following business, professional, occupation or group, the members by which are affected by

the transaction, the group of three or more persons who own real property in proximity to the real property that is the subject of the transaction. I am able to participate in this transaction fairly, objectively and in the public interest.

Mr. Thomas opened the public hearing and asked if the Commission wants to invite the applicant to speak.

It was the consensus of the Commission to invite the applicant to speak.

Kurt Gloeckner, representative for Mr. Diagiacomo, stated that his client was satisfied with the conditions that staff has placed on the property. He pointed out that there would only be one more lot created. In addition they were trying to get access to an existing lot.

Mr. Rieley asked Mr. Kamptner if in the event that the applicant comes back for a re-subdivision that includes a public road if this would this be null and void at that point.

Mr. Kamptner stated yes, that the limitation of this condition is that it applies only to the private road approval.

Mr. Thomas asked if any one else in the audience would like to speak on this application.

Mr. Balheim stated that he spoke previously on this application. He pointed out that he did not like the request period, which he knew was out of the Commission's control. It seemed a reasonable compromise in this situation that Mr. Digiacomo offered to give up his development rights. It gives the applicant what he wants and also gives the neighbors some protection. He pointed out that his concern was if condition 10 would stop further development or does it just put off the question until such time that he might come back and want to extend the private road or put in a public road. He noted that would be his interpretation, but he was not a lawyer. He suggested that the wording of the second sentence be changed a little bit to read that the final plat must contain the following note as a condition of approval of the current request of the approximately 175 private road that no further division of parcel X, Y or 81-8B is permitted. If that condition could be changed it would seem that it would preclude further subdivision, which the applicant has already offered to do. He thanked the Commission for listening because it was a big issue for their neighborhood.

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

Ms. Joseph stated that this condition was stating the obvious that when staff approves a plat the approval is for only what is on that plat. It does not prohibit anything from happening in the future. She pointed out that the applicant can come back and request the extension of this private road, which would enable them to subdivide more. This is really not doing anything except making them feel a little better about the request.

Mr. Kamptner stated that the applicant may have the ability with this private road to create more lots without extending the private road. Therefore, the condition is addressing that situation so that, if they do need to extend the private road, they would have to come back to the Commission.

Mr. Cilimberg stated that the fact that results is that by this condition if they are utilizing only what is approved here they cannot create two more lots that they otherwise could theoretically create under the three to five lot standards for private roads. They would be restricted to the three that are served by this private road. The ordinance would otherwise allow them to subdivide two more and not get any approval from the Commission for up to five lots.

Ms. Joseph pointed out that the applicant could still come back and subdivide.

Mr. Cilimberg stated that the extension of the road further beyond where it is would bring the matter back to where they are now.

Ms. Joseph stated that she just wanted everyone that lived along the road to know that this is not really stopping anything. The applicant can still come back and do additional subdivision.

Mr. Thomas pointed out on the other side of the coin what happens if the adjacent property's easement ends and they sell their property and their development rights come back. He asked how they would stop them.

Mr. Rieley stated that he thought when they left off on this that Mr. Digiacomo had agreed to forego in exchange for this private road for the subdivision. He asked if there is a way that they could institutionalize that willingness and accept his offer.

Mr. Kamptner stated that certainly he could approach Planning staff to look at the property and evaluate it for an open space easement. He pointed out that they have accepted small parcels. The smallest one that has been done for an open space easement was around fourteen acres.

Ms. Higgins asked if that was separate from ACE, and Mr. Kamptner stated yes.

Mr. Cilimberg pointed out that it was a donation, but that would not be institutionalized in your subdivision action since it was a separate activity altogether and was voluntary on the property owner's part.

Mr. Kamptner agreed with Mr. Cilimberg. He stated that the Commission could impose a condition that has some reasonable relationship to the approval that is before them, which is simply the approval of a private road. He stated that a condition requiring someone surrender two development rights was way beyond having any reasonable nexus and proportionality to the approval they were seeking. That is why we ended up with this condition. He noted that they could only encourage the applicant to come to the County to voluntarily give up those development rights.

Mr. Edgerton questioned what the advantage would be to that because the applicant would have already gotten what he wanted. He pointed out that the applicant had offered to give up the development rights and somehow they can't seem to find a legal way to do that. He pointed out that the ACE Program pays citizens money to purchase development rights. He questioned why the County could not purchase these two development rights. He feared that the minute that the market conditions change that the applicant could decide to upgrade the road to a public road and then they would not have any say in it. If they don't reduce the number of development rights in the rural areas the County will end up with a dense development area and a dense rural area.

Mr. Thomas asked if any Commission would like to invite Mr. Gloeckner back up to speak.

Mr. Morris invited Mr. Gloeckner back up to address the Commission.

Mr. Gloeckner questioned why they could not put the easement on the plat for the residue and call it an open space easement to meet whatever the County wants. If it is on the plat, then the other paperwork could follow.

Ms. Higgins pointed out that there is a process that they could pursue to create the easement.

Mr. Kamptner stated that they would have to go to the Public Recreational Facilities Authority and it would be evaluated against the Authority's guidelines to determine if it meets the guidelines. He noted that he understands the Commission's frustration, but that this is a platting process and not a rezoning process. The forum to downzone property is in the zoning process. The

Commission could place a condition that says that the applicant could not further divide the property, but it would still be a condition of the private road approval. Then the applicant could circumvent it simply by not building the private road and going to a public road. He pointed out that the PFRA meets this Thursday with the next meeting after that being on the first Thursday of August.

Mr. Gloeckner stated that the conditions of approval are extensive and it was going to take a while for him to design all of VDOT's requirements, but a condition eleven would be that the plat could not be signed until the open space easement is obtained. That way they don't have to come back to the Commission again.

Mr. Edgerton moved for approval of SUB-2004-00098, Digiacomo Subdivision, subject to the conditions recommended in the staff report and one additional condition as offered by Mr. Gloeckner.

1. Engineering approval of an erosion control plan, narrative and computations. [14-311, 17-203]
2. Engineering approval of a Stormwater management/BMP plan and computations. Computations must include water quality and detention routings for the 2yr and 10yr storms. [17-304]
3. Engineering approval of a completed Stormwater management facilities maintenance agreement and fee. [17-323]
4. Engineering approval of road plans, pavements design sheets, drainage computations, and access easements. [14-512, 14-514, 14-304, Policy]
5. VDOT approval of the entrance will be required for the final subdivision plat. Any needed computations must accompany plan submittals.
6. Show or note that there is a building site on the residue parcel. [14-302N]
7. State the development rights used, the development rights remaining, which parcel(s) the remaining development rights are staying with, and the acreage limitation imposed on those development rights. [14-302(O)]
8. The final plat must meet all of the requirements of section 14-303 of the subdivision ordinance. [14-303]
9. The subdivider shall submit a maintenance agreement that satisfies the requirements of section 14-313.
10. As a condition of approval of the private road, no further division of Parcel X, Parcel Y or TMP 81-8B is permitted. The final plat must contain the following note: "As a condition of approval of the private road no further division of Parcel X, Parcel Y or TMP 81-8B is permitted."
11. If the Public Recreational Facilities Authority determines that it will accept an open space easement on the property, the deed of easement shall be executed by all parties prior to County approval of the final plat.

Mr. Craddock asked what would happen if the Authority does not accept the easement.

Mr. Kamptner stated that the applicant would then be released from that condition.

Mr. Morris seconded the motion.

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

Old Business:

Mr. Thomas asked if there was any old business.

Mr. Cilimberg asked if the Commission wanted to chose a substitute for the Mountain Overlay District Committee.

It was the consensus of the Planning Commission that any Commissioner could act as a substitute for the Mountain Overlay District Committee in Mr. Craddock's absence.

Mr. Cilimberg stated that he would forward that information to the Board of Supervisors because they have to affirm the members on the Mountain Overlay District Committee.

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

New Business:

Mr. Thomas asked if there was any new business.

Mr. Morris pointed out that he had received an email from a gentleman who lives in Franklin Subdivision. He has received a letter from the County informing him that Dr. Hurt plans on a subdivision right in back of his property in North Lexus. He pointed out that there had been a meeting in his area in the past and they were told that there would never be any building there because it was on a mountain side.

Mr. Cilimberg stated that part of this project is an old Planned Residential Development that was still on the map. He pointed out that the applicant was filing the proposal under that zoning. There are stipulations in that zoning as to how they can develop, which was something that would certainly be reviewed as part of the project. There is a small area that is rural area, but about one-half of the development is actually within the development area.

Mr. Thomas asked if there was any other new business.

Mr. Cilimberg stated that the Planning Commission has no items scheduled for Tuesday, July 6, 2004. The next regularly scheduled meeting is Tuesday, July 13, 2004.

Adjournment:

With no further items, the meeting adjourned at 8:45 p.m. to the July 13, 2004 meeting.

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V. Wayne Cilimberg, Secretary

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