Albemarle County Planning Commission
July 20, 2004

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

Other officials present were David Benish, Chief of Planning & Community Development; Joan McDowell, Principal Planner; Scott Clark, Senior Planner; Lee Catlin, Facilitator and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Thomas called the regular meeting to order at 4:00 p.m. He stated that the meeting would begin with the work session on the Rural Areas.

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)

In summary, the Planning Commission conducted a work session to continue their consideration of the draft Rural Areas element of the Comprehensive Plan. Staff passed out a petition signed by 76 citizens and a packet of emails that staff has received since July 12. Staff provided the Commission with a summary of the comments received from the public at the previous public hearing and by email. (Attachments – See two handouts provided by staff that includes (# 1 Citizen Petition Regarding Proposed Changes to the Comp Plan Section on the Rural Areas and # 2 Emailed Citizen Comments Regarding the Proposed Changes to the Comp Plan Section on the Rural Areas) A summary of some of the key issues that staff thought the Commission would want to discuss was provided to the facilitator, Lee Catlin. Staff asked the Commission to provide staff with any changes they would like to be made to the proposed document. Lee Catlin facilitated the Commission's discussion of the key issues. The Commission discussed the key issues and made recommendations for changes to the document. The Commission was prepared to approve CPA-03-06, Rural Areas, but wanted to see the revised language. The Commission asked staff to make the changes and bring it back for approval under the consent agenda. The Board of Supervisors is scheduled to hear CPA-03-06 at a work session on September 1. Staff requested that each Commissioner forward all of the emails that they have received on the Rural Areas to Ms. McDowell for the record. (Attachment # 3 – Staff Report)

1. Section 34 on pages 34 through 36 should be reviewed and rewritten with the idea that the underlying principle of that section is that the County is going to aggressively pursue mechanisms, ordinances and other ways to positively impact Rural Area density. That would include things like:
    - changing the formula for calculating development rights by increasing lot size,
    - timing of development right release,
    - an aggressive posture for setting a percentage for open space within clustering (which was 75 percent or more),
    - making clustering a requirement,

- making residential lots as small as possible given individual water and sewer constraints by including that kind of language in that section.

2. Insert a comment in the document that makes ACE the highest priority of expenditure for the Rural Area protection.
3. Add some strong language about continuing to pursue TDR's as they move forward.
4. For the water and sewer item on page 37 under strategy G, there needs to be some language to state what is already there, but also put something in there about long term management, and enforcing viability of the system without obligating the County to bail out long term obligations.
5. On page 38 eliminate the word "consider" in number 3 so that it reads, "The County should adopt a phasing time release program that would permit a limited number of lots to be created."
6. On the family division, number 10 the word "consider" would stay in.
7. Emphasize all of the ways that they could enhance the agricultural, forestal, and conservation uses instead of taking more about more residential development.

The work session ended at 5:50 p.m. for the Planning Commission's dinner break before the regular meeting.

The meeting adjourned at 5:50 p.m. to the regular meeting at 6:00 p.m. in Room # 241.

The meeting convened at 6:20 p.m. in meeting room # 241.

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, July 20, 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; David Benish, Chief of Planning & Community Development; Amelia McCulley, Director of Zoning & Current Development; Susan Thomas, Senior Planner and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Thomas called the regular meeting to order at 6:20 p.m. and established a quorum.

Other Matters Not Listed on the Agenda from the Public:

Mr. Thomas stated that the first item was other matters not listed on the agenda from the public. He stated that in order to accommodate Mr. Foster's schedule he would invite him to come forward and speak on neon lights. He pointed out that the Commission had requested Mr. Foster to address neon for the work session on ZTA-04-05, Signs that was on the end of tonight's agenda.

Ben Foster, owner of High-tech Signs, stated that he was a little surprised that this item was still on the agenda. He pointed out that he attended the first work session months ago when they talked about neon. There should really be no issue about neon. As far as any of these regulations are concerned there are only two things to consider. The first was health, safety and welfare. The second was the aesthetics or the appearance. Those are two very simple items that they can focus on.

First, he would address the issue of health, safety and welfare. Electricity, as everybody knows, is responsible for more fires than anything else in the arson code. Anything that is electrical has the potential of catching fire. There are various electrical codes available that prevent that from

happening with normal electricity. There is exactly the same thing available for neon. The difference is, of course, that neon runs at a very high voltage typically anywhere from 5,000 to 10,000 volts as opposed to what is in your home, which typically runs 110 or 240 volts. Without going into the details of electricity, the voltage is more or less like pressure. It is the pressure that is applied to a circuit. Just like if this was water pressure, high pressure in water is more damaging than low pressure with water. If it gets loose the same thing applies to both. Therefore, they have the potential if they get some sort of a failure on a neon circuit of having a much larger and more damaging dangerous spot than they would in your homes with a 110 volt circuit. That has been known for many years.

There are many regulations and one must comply with the National Electric Code in order to make any neon installations anywhere. If those installations were done correctly, there would be no danger whatsoever in having neon signs. Back in the late 1990's, the powers to be decided that instead of relying on the installer to put in all of these safety precautions when they were doing the installation, they would put the responsibility some place else. So neon transformers in 1998 had to become full tolerant. That is that if some problem occurred in the secondary circuit, with the secondary circuit being the high voltage circuit, immediately the transformer would sense that problem and would shut down and shut off the pressure. So now the transformers are probably too sensitive because even small changes in the voltage will cause these things to shut down. But, now they are 100 percent safe even if the installer installs them incorrectly because of the way the transformers are built. You cannot buy one that is not full tolerant. That deals with the issue of safety. He pointed out that he had a huge guide that included all of the equipment that you need to install neon, which is very detailed. Again, if it is not done right you would still be protected.

The other issue is appearance. Like most things, appearance is entirely a personal choice. You cannot make a regulation because the members of the Albemarle County Planning Commission or the Architectural Review Board don't like it. You have to be able to show how the regulation or the restriction accomplishes or advances the cause of improving the aesthetics. You cannot just say because the County has decided. What the County needs to do first is to look at the fact that neon is just one other light source. It is no different from the lights that they have here such as the fluorescent bulbs, fiber optic, etc. Many of the other light sources have exactly the same appearance as neon. From that perspective you really cannot from a legal point of view say that you are going to ban neon, but then allow people to have these other things which look exactly like neon. That would be totally wrong. Therefore, you have to decide if you don't like neon. There are many people who collect neon who pay huge sums of money on EBay and else where to gather this stuff because they feel that it is an art form. Therefore, you would have a hard time trying to prove from the aesthetic viewpoint that neon is undesirable.

The next thing you have to do, if you think that neon is undesirable, is to say what it is that is really undesirable about it because that is what we have to prohibit and not the neon. He pointed out that he could duplicate neon with so many other lighting sources to look exactly like neon. You have to decide what it is that you don't like about neon and then that has to be written into a regulation. The rules say, with many precedents, that you have to write it in a form so that any reasonably intelligent person can read this regulation and can determine ahead of time whether in fact that the sign or whatever you are doing actually complies with the regulation or whether they are likely to get a permit. So the rules and regulations have to be very specific. You have a difficult task if you want to define how to prevent neon because you can't legally say we have a ban on neon signs. They have to say that they have to ban signs that look like this and then define what this is. That is a very difficult task.

Ms. Higgins stated that the current ordinance says that covered neon is currently allowed. She asked Mr. Foster if he could expand upon the difference between covered neon and some other neon.

Mr. Foster stated that just about every channel letter sign that you see in Albemarle County is a covered neon sign. In fact, nearly all signs are neon illuminated. In Albemarle County they decided that covered neon wasn't the issue. Bojangles had channel letters which had transparent faces that were covered, but you could actually see the neon tube. Therefore, Albemarle County said that was not covered neon by their definition. But, of course, that was covered neon. He pointed out that they needed to be very careful how they specified things because that was not uncovered neon, but you could not see that it had a cover on it. It is a careful distinction.

Ms. Joseph asked for some clarification on neon. She asked if the reason in the past that neon had been prohibited might have been, in his opinion, due to the safety aspect because neon is explosive.

Mr. Foster stated that it was partially prejudice and partially the fact that there were many jurisdictions that did ban neon. He felt that they did so because they did not want their areas lit.

Ms. Joseph asked if neon was explosive.

Mr. Foster stated that if there was a breakage, just like if there was a breakage in any of your home circuits, that there was a possibility of a spark which would raise the possibility of a fire.

Ms. Joseph asked if it was the electricity itself and not the electricity in relation to the gas.

Mr. Foster stated that was absolutely correct because it had nothing to do with the gas. He pointed on that neon was an inert gas.

Mr. Edgerton pointed out that neon required a larger amount of voltage than types of lighting.

Ms. Higgins asked what the advantage was of using neon.

Mr. Foster stated that the advantage of using neon was in the eye of the beholder in what they preferred.

Ms. Higgins asked if it was a softer glow or a brighter glow. She asked why one would choose a neon channel letter versus another lighting source.

Mr. Foster pointed out that currently channel letters were being made out of LED's. But LED's have a longer life span and don't use as much electricity. Since LED's are not made of glass, as neon is, they don't break as easily. He stated that neon lighting tends to be more intense, brighter and has many ways in which its brightness can be controlled. He pointed out that neon could make things more colorful, which he preferred.

Mr. Craddock asked about the little neon signs that were plugged into a regular outlet.

Mr. Foster pointed out that the small neon signs still have a small transformer on them.

Mr. Foster stated that he would read the findings from a case that had come up about neon. As a result of this case, "The record is devoid of evidence, facts or analysis why the mere existence of neon is offensive to the state's interest and aesthetics. There is no evidence that there are unusual problems in the use of neon that cannot otherwise be regulated as other forms of lighting, specifically as to the degree of illumination and the amount of light used within a given space of size, structure, direction of light, times when the light may be used or number of lights used on the entry of the store. It is apparent that the appearance of the commercial district may be enhanced by the limited forms of lighting, but it is not apparent as a matter of experience or effect that a complete illumination of one form of lighting has any impact on the undesirable highway look of the town." That was the finding where one jurisdiction banned neon altogether. The appeal was upheld and this was the conclusion of that particular case.

Mr. Thomas thanked Mr. Foster for providing the explanation on neon.

Mr. Thomas stated that they would go back to the original agenda. He invited comment from the public on other matters not listed on the agenda. There being none, the meeting proceeded to the public hearing items.

Public Hearing Items:

CPA-03-02 Fifth Street Avon Street Mixed Uses - Proposal to change the Comprehensive Plan, Land Use Plan designation from Industrial Service to Regional Service, to allow development of a mixed-use complex including community and regional level retail and service, multi-family housing, industrial service, connector road, employment, and open space and park land uses. The property, consisting of approximately 89.4 acres, is described as Tax Map 76M (1), Parcels 2A, 2B, 4A, and 11E, and located in the Scottsville Magisterial District between Rt. 631 (5th Street Extended) and Rt. 742 (Avon Street), immediately north of I-64 in Neighborhood 4. Existing zoning is LI, Light Industrial, and EC, Entrance Corridor. (Susan Thomas)

Susan Thomas summarized the staff report. (Attachment # 4 – Staff Report) This is a follow up to the June 8 Planning Commission work session at which staff's preliminary language was reviewed. The Commissioners indicated that the Commission was ready to go ahead and have that language improved, flushed out and provided in a more final form, which staff has attempted to do. The applicant has also provided some recommended language for two versions. The first version is attached to the staff report as Attachment B. The second more updated version was provided directly to the Commission because it was completed after the staff report had been distributed. Therefore, the Commission had that version to consider as well. There is some latitude in terms of the process, specifically the notification process, for Comprehensive Plan Amendments. In this case, staff did not mail letters to adjacent owners. Staff has done that at times in the past, but other times they have not done it. This would be going perhaps to a work session and definitely a public hearing with the Board of Supervisors, who is the final action authority on this. Therefore, at that time the adjacent owner letters would be sent. Staff just wanted the Commission to know that the adjacent owner letters were not sent this time.

At this time staff has not received comments from VDOT on the updated traffic analysis. VDOT, like other organizations, is suffering from a large amount of County projects and also a vacant staff position. She pointed out that Chuck Proctor had intended to get that report to her, but he did not. Staff met with VDOT on July 7 and Mr. Proctor indicated verbally that he felt that the update was adequate and that his questions could be addressed at the rezoning. Mr. Proctor felt that his questions regarded nothing so fundamental that the issues could not be addressed at the rezoning. Staff also met with Juandiego Wade, Transportation Planner, and he felt that the language was solid. There is definitely some room for a difference of opinion in terms of how the splits are projected. Currently, with two entrances to the site it was a little more complicated to decide what percentage of the traffic might go where. But, both Mr. Proctor and Mr. Wade felt that if the Commission wanted to they could proceed with this impact analysis considering that some good base line work had been done and at the rezoning stage there would be a much more detailed traffic analysis. At that time they would be considering actual uses.

Staff is open to addressing the Commission's questions about the language to explain anything that was not clear. She noted that the old issue of the use of "shall" versus "should" seems to come up in lots of different kinds of language. Therefore, she asked for the Commission's input. Staff pointed out that there was one correction under s) on page 4 that a town center design should be a feature of the "western" commercial area, and not the "eastern" area.

Mr. Thomas asked if there were any questions for staff. There being none, he opened the public hearing and invited the applicant to come forward to speak.

Steve Blaine, representative for the applicant, stated that New Era Properties together with Enterprise Properties controls about 97 acres of the site shown on the model. The Commission has held two work sessions. Since the last work session, the applicant has met with staff a couple of times and talked about specific language recommendations. He pointed out that they could make their work easier since they are not vetted to their version of the language. There are some key or fundamental points that they want to go over tonight. He asked to reserve some time for questions and answers, if that was the Commission's preference as well.

Mr. Blaine asked to clarify one point in the staff report about the rationale for why they were trying to describe in a textual vision as opposed to a proposed plan. The applicant has had a number of proposals, interests, prospects, and letters of intent. It was felt that really through a shared vision of the Comprehensive Plan Amendment that it would be a more efficient approach in dealing with what they ultimately envision to be a rezoning with a proffered plan once they arrive at that shared vision. That would allow them to present that vision to the prospects in order to find out who actually wanted to pursue the rezoning on that basis. As indicated previously, the action that they were asking for was simply a change in the Land Use Plan designation from Industrial Service to Regional Service. The State requires us to have a Comprehensive Plan for twenty years. The last time the Comprehensive Plan on the Land Use Plan was amended was in 1996. Therefore, there is a policy in place for when applicants chose to seek an amendment to the Comprehensive Plan in an interim period. That is the policy that they followed in submitting this April submission according to the policy adopted back in January, 2000.

Mr. Blaine pointed out that they were here to answer any questions. There are two or three key points which he wanted to reiterate. This goes to the philosophical approach as to whether this property should be designated Regional Service or Community Service as suggested by the staff. He felt that was the largest gap that they had between the staff's approach and the applicant's approach. He stated that they have come a long way. They have talked a lot about the characteristics of the site that are important and dealt with those in the language. There is one fundamental approach or bias that they would like to try to bridge tonight. The policy requires that they relate their justification to the basic growth management approach of the Comprehensive Plan. It is sometimes good to go back to fundamentals and remind ourselves that our fundamental growth management approach is to direct growth into the growth areas with the view that they can better conserve the rural areas. That is how they actually had a thing called the infill policy. Before they had the Neighborhood Model there was actually an infill strategy. One of the underpinnings of the infill strategy was to seek ways to more efficiently use the land within our growth areas. A compliment of that would be to try to seek efficient and higher densities within those areas of the growth area. These 80 acres within the County, with the total tract being 92 acres, is one of the last remaining undeveloped areas within Neighborhood Four and Five. He realized that there was the Granger property, which had some access limitations, but in terms of suitability for a Regional Service use there is probably no better location of 80 acres in the County right now for this land use designation. That is because of this property's regional access points and other points that they will address.

The Community Service designation is appropriate for a smaller tract. Again, they were picking up these guidelines from the Comprehensive Plan. He stated that he neglected to hand out the Comprehensive Plan's guidelines for nonresidential uses, which was on page 31 of the Comp Plan, that was a chart which he was handing out now. (See Attachment # 5, Table 1: Non-Residential Land Use Guidelines) He stated in the chart it indicates that the Community Service designation really does not contemplate any more than a 250,000 square foot density. This property has 92 acres of developable land. If there are 50 acres that is useable and they apply just a .1 FAR that would give them a density of at least 500,000, which suggests that the Community Service designation with a cap of 250,000 is not in pursuit of the fundamental growth policy of efficient use of the growth areas. By contrast, if you take Albemarle Place, the recommended minimum density of the Albemarle Place project was .7, which would be 14 times the density suggested by the Community Service designation. Therefore, the fundamental point

here is not consistent with our underlying goals to try to maximum or try to efficiently use the growth areas.

The next policy consideration is what changes have happened in the surrounding uses or the development patterns that would justify the change in the designation. They have seen in the southern end of the County, and not just in Neighborhoods Four and Five, a rapid growth in residential and nonresidential use. For example, in the corridor for Avon Street Monticello High School has opened since the plan was adopted. In addition there have been some interesting and diverse commercial uses added, which includes a little shopping center with a Food Lion. But, what is really missing in Neighborhoods Four and Five is a large scale commercial designation retail location for the residents in the southern sector of the County to utilize. Destination retail at this location would intercept some element of commuters and consumers traveling to the north. There are over 35,000 residential units within a one mile radius of this location. There are 13,000 residential units in this County and 22,000 in the City. This is like a hole in a doughnut in terms of a commercial use that would be used by those residents.

The last point that he wanted to make in relating their justification is the Comprehensive Plan's element of assuring adequate infrastructure. In that sense the Comprehensive Plan can be used to plan for utilities and road infrastructure for projected growth. The corollary, of course, is how we are effectively using our existing infrastructure. In support of the Regional Use they have three regional arterials in Avon Street, Fifth Street and Interstate 64. The Fifth Street corridor, as the traffic study shows, is an under capacity utilized artery. The chief benefit, in terms of transportation improvements of this proposal, would be to provide the connector that they have talked about between Avon and Fifth Street, which would be another relief valve for those commuting and the consumers from the southern end of the County to be able to access Fifth Street as well as other commercial sites. In summary, those are their three justifications for the Land Use Change. They would be happy to answer any questions. They hope to have an opportunity perhaps later in the hearing to talk specifically about language proposals.

Mr. Thomas asked if they could accomplish the same end result with Community Service as Regional Service with proffers and conditions.

Mr. Blaine stated that if his question was whether there were particular uses that are a concern of the staff or the Commission that would be permitted in Regional Service that they determine not appropriate for Community Service, then yes. But, he felt that the problem was that they were starting with guidelines and if the guidelines mean any thing, then why do they want to call it Community Service. He asked why they would want to call it a duck if it was really a goose. He asked that they get to what their real concerns are. Through the environmental language, he thought that the two approaches perhaps came from different angles. But, he felt that they have a shared vision on some of the characteristics that warrant preservation, such as the stream bed, the water ways and some of the vegetation that they have identified as unique to this site. If they can accomplish that and still achieve the efficient use of the density, then that seems to be a win/win for the locality. He stated that this relates to another area that has concern for them, which was an attempt to try to limit by specifically identifying particular uses to a square footage limitation. They have had this debate for some time. This is certainly their vision or approach. He felt that staff's approach is a lay description of what they see as important elements for the development of this site. At the time of the rezoning the professionals, who have the economic and financial stake combined with the professional designers and engineers, can implement that vision in a rezoning application in the plan.

Mr. Thomas asked if there were any further questions for Mr. Blaine. There being none, he invited any one else in the audience that would like to speak on this application to come forward. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and a possible action.

Mr. Rieley asked staff to address the issue of Regional versus Community Service and the limitations and rationale for the limitations on square footage.

Ms. Thomas stated that if they go to item o), the last sentence says, "Development of this site may involve an expansion of the customary building limitations associated with the Community Service designation. That is actually something that the Commission said way back when they came up with draft language. There is no perfect category. Staff even considered coming up with a new designation, but did not think the Commission would want to do that. Staff has gone back and forth on this matter, but in the end was just not comfortable with calling it Regional Service because it did not distinguish it from other sites that are Regional Service that are just so different. She suggested that by using a Community Service/Mixed Use designation that it would alert everybody that this can definitely be a retail destination, a retail hub, and could have a big box. Actually, it could probably have more than one big box. But, she would hope that it would not be just a conventional big box shopping center. There is a little more of a crafting that has to go on. The term might not be exactly right, but she definitely had a concept that she was trying to express. The scale and mix are important. There is a balance that they are striving for on this site of different kinds of retail uses as well as other uses. The care and development of the site is very important. It seemed that the Community Service/Mixed Use designation might be one way to get at that. She pointed out that Mr. Benish had pointed out that under s), the large footprint retail of a regional nature may be appropriate in the town center if it is consistent with Neighborhood Model principles. There are a couple of places that staff tried to indicate that this is not conventional Community Service with the 250,000 square foot fixed limitation. She pointed out that it could be more than that.

Ms. Higgins stated that b) actually has the stated maximum total square footage.

Ms. Thomas stated that was intended for the large footprint buildings. It is not intended for all square footage. It would not bother staff if there were a lot of smaller footprint buildings mixed in an interesting way with 2-story or 3-story buildings. She suggested that they could do a lot of things with it, which was why staff did not use the FAR route. With no plan to really chew on, staff did not feel that was enough to go on to get into that kind of discussion. She pointed out that Albemarle Place was very different because they talked a lot about that. She stated that they did not get into the design aspects at the same level on this site. She felt that it was important to define what she thought should be the ceiling for the biggest footprint, which was in u) and v).

Mr. Benish stated that u) is a footprint of 130,000 square feet, but the total square footage is in v).

Ms. Thomas agreed with the square footage of the big boxes of the large footprint retail uses, and that the smaller ones could be very open ended. It is a design question.

Mr. Rieley stated that if you have a quarter of a million square feet in big boxes and another quarter of a million square feet in something else, then you were essentially in the same ballpark that Mr. Blaine was talking about .

Ms. Thomas stated that was correct.

Ms. Higgins stated that the way that this was written that this was not allowed.

Mr. Thomas stated that it was allowed.

Mr. Rieley stated that the only limitation was on the big boxes.

Ms. Higgins stated that the largest single box footprint should not exceed 130,000 square feet and that there should not be more than one user on the site who exceeds 100,000.

Ms. Thomas stated that was correct. Therefore, you could have a 130,000 square foot big box, then you could have a 99,999 square foot big box, and then you could have a multitude of smaller boxes, some of which could be pretty large. They could have a 65,000 square foot grocery store, which was Kroger or Giant sized. Then, they could have more than one of those. But, there is a limit to the size of any one single user. Staff calculated it that way instead of getting into the stories specifically. Staff tried not to go that route.

Mr. Rieley pointed out that staff did say that in the large footprint structures if they are developed into a two-story or greater configuration that the limitation also might be adjusted up.

Mr. Edgerton asked if they were getting a mixed recommendation. He asked how they could recommend big boxes over 130,000 square feet when in fact under Community Service we specifically stated and have maintained in the past the limitation of 65,000 square feet.

Mr. Benish stated that this language supersedes that. This language establishes exceptions.

Mr. Edgerton asked why they should make an exception here that they have not made on the other commercial developments that they have looked at in the last few years.

Mr. Benish stated that staff does think that some scale beyond Community Service is appropriate here that would accommodate some of those regional needs in that area without committing the entire site for a Regional Service type of concept. That is why they are trying to do this. He stated that maybe it was a little bit more awkward than it should be because staff does not want to open the doors to an expectation that you try to take back at the rezoning level. Staff suggests that the Commission base it on more of a conservative standard, but reserve where the exceptions are appropriate. What staff is saying is that this Community Service area could really accommodate some Regional Service and it can accommodate a larger scale than it normally would, but this should not be anticipated to be a standard sort of Regional Service area like they have had on the 29 North areas. Staff tried to define sort of a middle ground.

Ms. Higgins stated that the analysis doesn't seem to be sensitive at all to the fact that it is zoned industrial right now, which in theory has no square footage limitations. Industrial zoning has existed on this site for a significant amount of time, but has not been used. She felt that from the Regional Service perspective that they would be better off to put it at a connection point between these two types of roads and at an interstate ramp where someone who is actually passing through the County could spend money and leave their tax dollars and not their children, and then get back on the interstate and continue on. She stated that the real issue here was that they were trying to control the concept layout of the development, which is really trying to make it look like Community Service versus Regional Service. She appreciated the great effort and detail that staff has gone to try to build into it because of not wanting it to look like the Regional Service that is out there now. But, she felt that really this meets the true definition of Regional Service. She noted that it would be a down zone from Industrial and asked what would be the comparative analysis if they looked at the traffic and impacts. Industrial uses have all kinds of air, water and other implications. There is no such thing as clean industry these days. She pointed out that she did not have a problem with calling it Regional Service. She asked what she was missing.

Ms. Thomas suggested that the Commission discuss this among themselves. She stated that 130,000 square feet is about the size, give or take 5,000 square feet, of the existing Wal Mart in our community. Therefore, staff did not feel that it was such a small limitation because it was like the old Best building that was just not relevant in today's economy. Number two, she felt that if they put a building like the current Lowe's on this site that you would lose the opportunity to do any kind of interesting mix because a use that big would be so dominant that there would be nothing left to work with particularly in using the unusual and attractive environmental fixtures. Therefore, staff felt that a cap of some sort was necessary. She felt that 130,000 square feet was actually fairly big and had talked with the applicant about that. At the time, the applicant did not give a lot of negative feedback. Therefore, she felt that was quite acceptable. She felt that when

you read about big boxes and the multiple models that they are finding out that they actually have several models of a Wal Mart or a Target or many other natural franchises that could work on the site with these limitations. Therefore, staff was not comfortable with the idea of a Lowe's and she wanted to give them something that was really mid-range, and in her opinion this suggestion is mid-range.

Ms. Higgins stated that the key point here is that they were trying to get at the big box issue. She stated that they were back to the table about limiting and excluding big boxes over a certain size, which excludes a Super Wal Mart or any of the other large chains. Therefore, they were back to the big box discussion. She questioned if someone could make a big box not look like a big box. She asked if there were other ways to do it. She asked why in this location that was in close proximity to the interstate where actually people from other Counties might travel to come to was such a bad thing. She stated that economically when compared to an industrial use she did not have any problems with it.

Mr. Benish stated that through the work sessions staff has defined a number of features that some of the Commissioners felt were important to protect. The property is located on three Entrance Corridors and has a level of visibility to the interstate. Staff felt that the size of the development of the site, limiting it to more of the moderate sized big boxes and limiting the number of those would provide the best opportunity both at the Comp Plan level, where they were trying to indicate what their expectations are, and then to be worked out more fully at the rezoning level. The industrial component of the discussion of this use was very important to staff, too. It was one of the reasons why they were emphasizing that it was also a mixed use area. It is also one of the last employment opportunities. Therefore, staff was trying to seek a balance between retaining some of that employment that they feel is important and the industrial opportunity.

Mr. Thomas asked if anyone else has any questions. Concerning the discussion of the Regional Service, he stated that it could still be designated as Regional Service to go along with the Comp Plan because of the way it was laid out here with the acreage and the size. But, it was his understanding that they could live with a 130,000 square foot building and possibly live with 350,000 or 400,000 square feet of building on the ground. But, then if you go to Regional Service on the Avon Street property what would happen to that. He asked if they could condition it so that they would not be able to put certain things on the Regional Service property or is it just wide open to put anything that they want to put up.

Ms. Thomas stated that as Mr. Benish said, this language supersedes those guidelines. The other thing they could do, which is not what the applicant asked for, is continue to designate the Avon Street side Industrial Service and just change this. Staff likes the idea of leaving it open enough that they might be surprised by some creative ideas that staff can't think of right now that the professionals will think of down the road by keeping all of the property under the one designation. That was one good thing about the mixed use. She stated that you could probably achieve these goals through the Regional Service designation, too. It is just maybe a little bit more open ended.

Mr. Benish stated that they started with a basis that was on a more conservative level and then expanded on the opportunities thinking that it would send a more conservative message of our caution about the site. You could approach it in reverse and say that this is Regional Service; however, we have these limitations that we want. From staff's and the community's perspective, it was easier to be more conservative and be more careful about telling people what we don't want and have them try to address the ways in which they achieve those concerns and issues as opposed to hindsight saying that we wish we had of said that we really did not want that and then backing into those corrections. Those perimeters and limitations are very important. Whether the property is designated Regional Service or not, those directions are really going to set the limitation and perimeters. If the Commission was uncomfortable with the 130,000 square feet or 230,000 square feet total for the big box, regardless of whether it is called Community Service or

Regional Service, those are the expectations and if they are adopted they would be sent to the next step of the process.

Mr. Morris stated that it seemed that this fits more smoothly into the Regional Service model as opposed to Community Service with stipulations. If he were the applicant trying to put together something as the professionals are going to have to do, Regional Service would provide more guidelines rather than having to figure out exactly what the County wants them to do.

Ms. Higgins asked if Community Service is actually included in Regional Service.

Mr. Benish stated that there was a pyramid effect to this.

Ms. Higgins stated that they would actually be capturing the opportunity to leave the Avon Street side in Community Service if they go with Regional with some stipulations. She noted that they have not excluded it. She asked if they were not excluding the elements of Community Service on a portion of the site.

Mr. Benish stated not necessarily, but what she would be opening up would be interpretation for hotels, motels, hospitals and mobile homes sales. They would be working from a broader packet of what is available. He suggested that they might want to articulate the things that they don't want or they would be looking at the standard as what the limit was for the extra things that they could do. Again, they could attack it either way. If they were more comfortable working back from it, but staff did not anticipate taking out the things that are Regional Service. He stated that they might want to if there is anything. Staff took the approach that they were working from the Community Service basis and then these were the things beyond Community Service that were considered

Mr. Edgerton stated that staff pointed out that they don't want to commit to anything right now in the CPA, which wording indicates that the applicant continues to assert no identified tenant involved in the development of the site and it was neither appropriate nor possible to provide the Commission with a more detailed site concept. He pointed out that he was having a great deal of difficulty with that. The Commission has never looked at a CPA since he had been on the Commission with as little commitment as this has. Therefore, that put an enormous burden on staff to try to come up with language that will be clear enough that it will not leave the door ajar for something that would be inconsistent with what our philosophy is on how the County should be developed. This has been a very sensitive property. The applicant has taken a very appropriate business approach here, but he did not think it was benefiting the staff or the Commission. He felt that staff's decision to go with the Community Service designation and open it up to quite a bit more than the typical Community Service allows is a more responsible approach. If they want to consider Regional Service then he would suggest that they ask the applicant to come back with a little more definition of what they intend to do because it does open up a whole lot of uses that would not be allowed under Community Service. As Ms. Higgins points out, if they amend the Comprehensive Plan to call this Regional Service and it is rezoned that way, that would allow for Community Service but it does not go the other way. He stated that he would be more comfortable understanding what they were approving before they opened the door wide open.

Mr. Thomas asked if the language about the connector road going through the property was part of this.

Ms. Thomas pointed out that she borrowed the applicant's language for h), which was the first letter under transportation because she felt that it was a good summary of how many people have to work together and it was not just one party. Jay says, concurrent with development of the site a connection from Fifth Street Extended to Avon Street Extended via the Bent Creek Bridge should be constructed and this is the original alternative d) in the Southern City's report. That would probably be the key area. The word concurrent means that at the same time or you can't do the development until you've got that connection. She felt that they would run into real trouble

with just one access in and out when you get into the higher levels of development. One thing that she neglected to mention at the beginning of the evening was that the plan on the wall is one that the Commission got in the mail, which staff got after the distribution was made. Staff did not include anything in the staff report about that plan because she did not have it at the time. She felt that it was helpful in some areas, but she was not entirely comfortable with it because she was not sure how rigid the chunks are intended to be. But, as a general concept it might be okay. She asked how the Commissioners felt about that because it is a new piece of information. It is not totally different, but it was more general than what they saw last, which had building footprints.

Mr. Rieley stated that he was very uncomfortable in referencing that plan because of what it leaves out and what it puts in. Normally, he would argue hard for graphic representation, but this one is a twitch in between and he felt that it leaves it open to difficulties. He suggested that they would be better off not to reference the graphics in his personal opinion.

Mr. Edgerton asked if he was comfortable considering a CPA without some graphic description. He agreed with what Mr. Rieley just said because he did not think the graphics told them anything that would protect the County from a lot of uncertainty. The burden has been shifted to the staff here.

Mr. Rieley stated that it was a good point because he had repeatedly argued for a fairly specific graphic representation of the intentions, if not the specific ultimate design at this level of change. However, they would play the ball where its lies. While they have always had illustrative plans, the CPA's themselves were text and sometimes referenced in oblique ways in graphic materials that went along with them. He felt that if they end up in the right place that they should not get too obsessive about what the documents are that get us there. The other thing was that he felt there have been some excellent points raised in the relationship of whether this should be Regional Service or Community Mixed Use. He stated that the title was not as important as the substance of the text itself. Relative to Mr. Morris' point, which is a good one, the proposal does in deed seem to fit the existing Regional Service designation better just on the basis of scale. But, in fact, since the proposed language is far more detailed than the language that is in this and the fact that it supersedes it to the larger extent answers that. In fact, they were setting up a category that is specifically tailored to this site and this proposal in trying to address the initiatives of the developer as well as the limitations of the site. He stated that his opinions about this have shifted over the years. At one of the earlier work sessions when this first came before the Commission, he was an ardent supporter of the 65,000 square foot footprint limitation, and he has come to the view that a larger footprint is reasonable on this site because of the location of large scale retail in our area. As Mr. Blaine pointed out, the proximity to the off-ramps of Interstate 64 and the connections to the City as well as to the County was significant. He applauds staff's efforts to reconcile all of these things. This does not seem to be an effort at jamming something down anybody's throat. It seems to be taking what the proposal is and framing it in a way that works with the objectives of the County. After reading the applicant's counter proposal, he asked staff if there are pieces of that which staff would feel comfortable incorporating into the language to address specific concerns that the applicant has raised, which are not addressed one way or another in the staff report.

Ms. Thomas pointed out that she borrowed pretty literally from the first draft. Since she had gone on vacation, Mr. Benish and Ms. Echols did some last minute editing and added back in the last sentence under j) that the road should be designed for speeds of less than 40 miles per hour and provide improved inner neighborhood access within the southern urban development areas. She noted that staff and the applicant had previously agreed to drop all reference to right-of-way widths or speeds. This should not be much of a problem because there was not much chance that it would be higher than 40 miles per hour. They had mutually agreed to get more general and less specific because they had been going in a specific direction.

Mr. Benish pointed out that amendment was made to describe an expectation just in case this proposal was dropped and someone else comes in and had no definition of what a median speed was. Staff was just trying to establish some range for what the expectation was. There is no strong feeling about that change.

Mr. Rieley stated that Attachment B has 35 miles an hour, and he would not have any objection to adding the more specific language.

Ms. Higgins pointed out that if it was designed at 35 miles per hour, then it would be posted at 30 miles per hour.

Mr. Rieley stated that would actually make it perfect because the speed at which traffic moves most efficiently was about 30 miles per hour on a small roadway. More cars can be moved at 30 miles per hour on a small roadway than on an interstate at 70 miles per hour.

Ms. Thomas noted that what worried her about this new concept plan was that there is really a whole natural system that starts with the bluff at the end of the bridge and drops to the south and curves around to the north. She pointed out that she was not saying that they had to preserve every bit of that northern bluff as it curves to the east, but it will be interesting to see at the rezoning level what design can do to incorporate enough of it to preserve the creek. David Hirschman's comments very much reflected the preservation of that bluff as an important buffer.

Mr. Rieley agreed that was one of the areas of his concern and was one of the reasons why it would be better not to reference this plan. What is shown here as true preservation area was going to be the cut slope for this round-about. There is just not enough room in there to do anything. In some ways he felt that this is a case in which the language would be more useful at the rezoning if they were not going to get any more specificity than this from the applicant. At this stage of the game they were better off having strong language to work with at the next level. It is going to delay a lot of decisions and a lot of tough design issues to the rezoning level. At the same time he felt that it was important not to get too hung up on what they have before them.

Ms. Joseph stated that she would hesitate to make the plan part of the Comp Plan Amendment also because of the labels placed on things because they have not been defined and they don't know what it means. There is nothing within the Comp Plan language that has been proposed that really explains to us what they expect to see on there such as employment.

Mr. Thomas asked if any other Commissioner would like to weigh in on it.

Ms. Higgins stated that the transportation corridor, the definition of the linear park and the protection of those areas can be written in the language just as well.

Ms. Joseph pointed out that the other aspect of this is that staff has not had a chance to look at the plan. Therefore, it was not something that she would want to do either.

Mr. Rieley stated that he wanted to make a proposal that relates to Ms. Higgins suggestion. On the Albemarle Place Comp Plan Amendment, staff did a diagram of a road network that was somewhat different than the road network that was on the illustrious plan done by the applicant. The Commission asked staff to do a diagram of this without the open space and so forth, which simply shows the transportation network. They could do that and simply call it that as Ms. Higgins has suggested and attach that. Then they would not have the other things attached to it.

Mr. Benish pointed out that what Albemarle Place plan did was to just show the grid concept with the general intersecting points schematically. But, that plan did render the expectations for the connections.

Mr. Rieley stated that essentially what it would do in this case would be create the things that they think are important from the framework perspective, but leave out the things that the Commission was not comfortable with.

Ms. Higgins stated that it would be a black and white plan with dashed lines.

Mr. Rieley moved for approval of CPA-03-02, Fifth Street Avon Street Mixed Uses, based on staff's recommended language with the inclusion of the 35 miles per hour design speed taken from the applicant's language and the suggested changes made by Mr. Kamptner. The modifications to be made are as follows:

1. Inclusion of the 35 miles per hour design speed.
2. Remove Y. altogether noting that affordable housing would be dealt with at the rezoning level.
3. Change the reference from eastern commercial area to western commercial area.
4. Staff to provide a black and white point to point diagram of the transportation network in lieu of the concept plan.
5. The language in U. and V. should be made consistent as per Mr. Kamptner's suggestions, which includes eliminating "mixed use" in V and if "large footprint" is used that the minimal size be clarified. Staff should work on this language before it goes to the Board. (Note: Added in the following amended motion.)

Mr. Morris seconded the motion.

Ms. Higgins asked if they voted against it, if they were saying Regional Service, but if they were voting for it they were saying Community Service.

Mr. Thomas stated yes, that they would be saying that they don't agree with this staff report.

Ms. Joseph asked why the provision of affordable housing was not essential on this site because the near by neighborhoods provide different housing opportunities. She stated that she was not sure if she could go along with that because a lot of the surrounding residential opportunities are in the City.

Ms. Higgins stated that our affordable housing goals are community wide since they are recognized as County/City. All of the different entities that support our affordable housing are across that jurisdictional area, and she never perceived it as County/City. There is more affordable housing within the range of this development than possibly any place else that you could locate such a development.

Ms. Joseph stated that she felt that affordable housing was an issue that the County should consider on this site.

Mr. Rieley asked staff's view about the reference to affordable housing.

Ms. Thomas stated that in writing in the staff report staff felt that there might be an opportunity for a contribution to affordable housing that could happen here or could happen somewhere else. Staff's concern was that she was not sure that they would want the only housing on the site to be affordable housing. There should be some kind of contribution towards affordable housing because of the significance of the site and the size of the site, which was something that should be discussed at the rezoning level. Whether it happens here or not was questionable to site because she was not sure how the Commission felt about the residential on the site. That was an issue that some feel is more important than others. If it ended up not being a component of the mix, except for the affordable element, staff was not sure whether that would be good or bad.

Mr. Thomas stated that personally he did not think it should be put in, but if it was put in that it should say “may” and not “shall”.

Ms. Higgins stated that the Commission had a discussion about pedestrian connection and the difficulty to access this site, but that this proposal actually gives a level of service to people who may be are on bus transit or walking. She pointed out that the people in that region are currently under served in the area of the City/County combined.

Mr. Benish pointed out that when the Commission previously discussed affordable housing that there was no consensus to emphasis affordable housing on this site. Staff talked about the possibility of providing a small area for affordable housing on the site.

Mr. Thomas asked how the Commission felt about Ms. Joseph’s concern.

Mr. Morris stated that he thought it was said that this proposal was aimed at commercial for this entire area.

Ms. Joseph pointed out that the applicant wrote a letter that said that added residential is an appropriate use.

Ms. Higgins stated that did not exclude it.

Mr. Rieley stated that he has always argued to get these types of issues settled at least as a target at the Comp Plan level. But, this is really an issue that they can deal with at rezoning.

Ms. Joseph suggested that the language in y) be deleted altogether and then they could deal with it at the time of the rezoning. She pointed out that y) says that the provision of affordable housing on this site is not essential on this site.

Mr. Rieley asked if staff was comfortable with taking out the language of y).

Ms. Thomas stated that she had no opposition to deleting y).

Mr. Rieley amended his motion along those lines.

Mr. Morris seconded the amended motion.

Ms. Higgins stated that the Regional Service designation with stipulations makes more sense than to stretch the Community Service designation. She preferred that the Commission extract some of the uses rather than to try at the rezoning stage to justify why they added the uses back in.

Mr. Morris stated that he supported the motion simply because the staff is saying that they started at this and added it. If they go to Regional Service, then they would have to modify the Regional Service to make it fit. It has already been done here and was the reason why he was shifting.

Mr. Kamptner asked staff to clarify the language in u) and v). The language in u) and v) should be made consistent, which includes eliminating “mixed use” in v), and if “large footprint” is used, that the minimal size be clarified. Staff should work on this language before it goes to the Board.

Mr. Rieley stated that he felt comfortable with the modifications that Mr. Kamptner has suggested. If staff wants to add additional clarifications by the time it gets to the Board that would be fine also. He amended his motion to include Mr. Kamptner’s suggestion.

1. Inclusion of the 35 miles per hour design speed.

2. Remove Y. altogether noting that affordable housing would be dealt with at the rezoning level.
3. Change the reference from eastern commercial area to western commercial area.
4. Staff to provide a black and white point to point diagram of the transportation network in lieu of the concept plan.
5. The language in U. and V. should be made consistent as per Mr. Kamptner's suggestions, which includes eliminating "mixed use" in V and if "large footprint" is used that the minimal size be clarified. Staff should work on this language before it goes to the Board.

Mr. Morris seconded the amended motion.

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

ZMA-03-05 The Meadows Expansion Amendment (Sign #57) - Request to rezone 26.843 acres from PRD, Planned Residential Development to PRD, Planned Residential Development to allow the addition of 40 new dwelling units at The Meadows residential community. The property, described as Tax Map 56 Parcels 14C and 14C1, is located in the White Hall Magisterial District on Rt. 240 (Crozet Avenue), approximately 1/4 mile north of the intersection of Crozet Avenue and Rt. 250W (Rockfish Gap Turnpike). The 1996 Comprehensive Plan, Land Use Plan designates this property as Neighborhood Density Residential (3.01 - 6 dwelling units per acre) in the Community of Crozet. (Susan Thomas)

Ms. Thomas confirmed that all of the Commissioners and the applicant had received the addendum to the staff report that was emailed yesterday. Staff recapped the transportation and the connections discussion with some guidance from Greg Kamptner. The Commission had a work session on this project about ten months ago. This is a project that has been before the County two other times, once in 1997 and again in 1985. This represents an expansion from what has been a very successful project over the years and something that was well known in Crozet and very much a part of their community. Staff has recommended from the beginning that the land use is appropriate for the site. There have been some design issues and some minor land use issues where staff weighed in on. There were a number of supporting amenities that staff discussed with the applicant that he did not pursue. Similarly, there were recommendations by the ARB that are not reflected in the applicant's plan. These were things that she as one staff member could live with, but the interconnection issues seemed particularly essential since they are working so hard on that where ever they go with new development, redevelopment and infill development. Of course, it does not get any easier to make connections if you try to do it once additional structures have been added to the site. There is probably more than one way to do pedestrian and vehicular connections on this site. But, that was something that worried the applicant considerably and he elected not to incorporate any kind of vehicular or pedestrian connection other than what currently exists in the plan. For that reason staff was unable to support the request. Staff feels that the existing residential use and the way in which it has been operated makes the idea of adding additional units to The Meadows, along the same lines of what is there right now, very positive. If it were not for the interconnection issue, staff would be fully supportive. Staff would be happy to answer any questions. (See Attachment # 6 – Staff Report)

Mr. Thomas asked if any of the Commissioners had any questions for staff.

Mr. Morris stated that given the population of The Meadows, is interconnectivity really something that is advisable for this particular community.

Ms. Thomas stated that staff believes that it is for a couple of reasons. Crozet Avenue is currently the only access point to The Meadows. Although the intersection is allowable by VDOT, it is a difficult one. The north bound left turn lane, which VDOT is requiring, will help, but there are sight distance problems because of vegetation, curvature – both vertical and horizontal, and it

is not going to get any better. Crozet Avenue is only going to get more congested. Although not many residents drive, they have visitors and a lot of activity coming and going from the site. The other problem, which was uncovered in the 1977 staff report, was the remoteness of this proposed development for many supporting commercial, medical or other services. The property is just cut off, which has to do with the topography and what is located around the property. As Crozet Avenue gets more congested and as services and goods become available in other places within walking and driving distance to the west, it just makes sense to promote the access to the connection. From The Meadows standpoint there has been a lot of concern about the vulnerability of the residents to traffic because these residents are elderly people and sometimes even deaf or blind. One proposed connection, which was the one they had mostly talked about, would really skirt the residential complex altogether and not go through the middle of the residential area. It is a road on the periphery of what is now a quite community, but she would have to say that there are many places in Crozet that feel exactly that way. They will have new neighborhoods, new roads and all kind of new activity where there were horses and cattle just a short time ago. Therefore, staff does not feel this is unique to this location. There is one connector that might have some value for linking into the schools at some point. Originally, staff looked along the whole Crozet Avenue frontage for a connection point. When talking about the Master Plan there was a recommendation for a road and the alignment looks to be here. But, that was conceptual only and it was never intended to be a surveyed alignment. But, the reality is after being out there with the County engineers, Juan Wade and Matt Grimes, of VDOT, they found that this was the only good place in this whole frontage as it currently stands. If they want to shave down the top of the hill or remove large swaps of hill and vegetation there, then it might be different. But, right now this is really the only location that meets sight distance. The idea was to come in the required distance for stacking and immediately head to the south, which would probably be off of The Meadows property. Then the proposed road would skirt between the existing apartment building and the ball field. There has been some discussion about the desirability about trying to make a link to Old Trail. The Henley Middle School and Brownsville Elementary School entrance is beginning to be very problematic, particularly at peak hours. This particular entrance really backs that up. There is a preliminary discussion on would there be ways some how to get children into the back of the school, which could be an extension of The Meadows connector. But, that was one of many possibilities. There has been nothing worked out.

Ms. Higgins asked about the possibility of using Davis Drive.

Ms. Thomas stated that during the Master Plan process they had looked at Davis Drive very carefully because everybody wanted it. Mr. Beights wanted it because he owns it. The consultants wanted it because it looks like it is in a better location than here. But, the reality is that the right-of-way is 20 or 30 feet with some floodplain and a stream buffer. If you were to improve Davis Drive to meet our standards, you would actually be into the water with the level of disturbance unless they purchased pretty drastic portions of the back yards of White Oak Subdivision. It could be done, but they would be buying a lot of property. Also, they would be disturbing Slab Town Branch, which is the best stream in the entire development area. Slab Town Branch ranks the highest of any stream in the County's stream assessment. It was the best ecologically. David Hirschman, Water Resource Manager, has noted that he would not approve a mitigation plan on that stream because he did not think it should be impacted to that level. Therefore, it looks on the map that there is a ready made road, but the reality is that part of that old farm road is in the floodplain and the buffer. There is a sewer line in that area. Staff definitely sees this road as a bicycle and pedestrian greenway connection to Crozet Avenue, but there is really not enough room for a vehicular connection. That is why it is not on the Master Plan.

Ms. Higgins pointed out that Davis Drive was a state maintained road.

Ms. Thomas stated that the right-of-way narrows at the end of the road. Mr. Beights has suggested that he buy one or two houses at the end of White Oaks Subdivision and punch through that way. She stated that they would not have that level of impact at The Meadows

because no structures would be taken that would interfere with the internal workings. The idea is to deviate as quickly as you can and go around. These other routes look great on paper. But, when you really look at the topography, the floodplain limits, the location of the stream buffer and the quality of the stream, the David Drive alternative does not look good. There is a dashed connection between Rosenblum. If that connection comes into play from a development standpoint, staff would jump on to that connection. The same would be true up along Jarman's Gap Road. The Meadows Drive is a public road. That does not change the land use and impact issues that staff wants to look at carefully. But, it appears that this connection could stay out of their business and go to the south. This road could not be a very big road because of the location of the ball park and the existing development.

Ms. Higgins asked if staff has received any comments from the schools.

Ms. Thomas pointed out that the schools were naturally very protective about considering more than one access point into Henley/Brownsville. Staff would never say that the schools love this idea. The schools do acknowledge the fact that at peak hours there are some real issues there.

Mr. Rieley stated that he attended a meeting with Gaylon Beights, Al Reasor and a number of people from the schools about six to eight weeks ago. He pointed out that he specifically asked about these connections and whether the schools thought that it was too problematic to discuss further whether it was something that they could support continuing to explore. They were pretty clear that they thought that they could continue to explore it and look for ways to make it happen. The response was little more positive than he would have necessarily expected.

Mr. Thomas asked if there were any other questions for staff. There being none, he opened the public hearing and invited the applicant to come forward and speak.

Forest Kerns, President of The Jordan Development Board, stated that they were a non-profit organization that operates The Meadows and The Meadowlands that were part of the same site. They have 27 units that were built in 1979. In 1991, they built 31 additional units. Now they want to add approximately 40 more units. By adding these units they would be able to serve the expanding elderly population and meet the future needs for the growing population. The issues that staff and the Commission had previously discussed were of great concern. Placing a high speed road or street in an area where people have limited sight and physical disabilities would jeopardize the safety and health of their residents. As you have already addressed, there are several other areas and ways that access could be given to Old Trail. There is one area that has not been discussed is bringing the road from the south of the current Meadows Drive. That has been explored, but for various reasons has not been discussed. They don't feel that it would be a good thing for space to be taken from a low income area where they would not have the ability to build any additional houses. Some of the proposed units could not be built if this road was built. But, they could still build some of the units. They would not like for this road to built right on their property and be allowed to access these areas. Brian Smith is present tonight to speak about some of the other methods that could be used to put the road in this area.

Brian Smith stated that he would like to see this project work out for everybody, which includes the residents of The Meadows. County staff has worked very hard to make the Old Trail development work out. He stated that they just have a difference of opinion because The Meadows land is developed and is not an undeveloped piece of property like Old Trail is where a variety of things can be done. Regarding the road issue, if the County put in the road off of Meadows Drive from Crozet Avenue it would take out approximately five of the proposed units. The road would separate The Meadows property, which make it more isolated. Then these deaf, old and blind people would have to cross the road. The way the proposal is submitted these old folks would have sidewalks and would be able to stay off the road and be safe. It is not desirable to locate a road through this property. He pointed out that it would be difficult to make a crossing on Slab Town Branch and would probably not be the best thing for everybody involved. He felt that there was a better way to make the road alignment than what was being suggested by the

County. He agreed with Ms. Higgins' suggestion of coming across Davis Drive was a doable location. He stated that he did not think the wetlands would be an issue. He pointed out on the map that Davis Drive was about 25 feet above the river. If you continue with that same elevation going towards Old Trail, they could stay above that area of 20 to 25 feet. He noted that he had done a profile of that road and a plan of that road and sent it down to the County and asked the Engineering Department to give him some comments. When he followed up on it, he did not receive any comments.

Ms. Higgins asked how when that occurred.

Mr. Smith stated that it was just prior to the time that this item had come to the Commission. He noted that it was a long time ago. The profile was under ten percent, which was the maximum grade for a road. The beauty of that is that the road would not cross Slab Town Branch and actually staying away from it. Right now Davis Drive is about 150 feet from the closest point of the river or Slab Town Branch. In his scenario, he could keep the road about 180 to 200 feet away from Slab Town Branch. The road would not be in the floodplain and not jeopardize the quality of that stream. If they went that way it would be a win/win situation. The County and the Old Trails community would get a connection through. He stated that he was pushing for that. He pointed out that the residents of White Oak Subdivision would probably not like it. If the road went in this location, then The Meadows would be able to do an easy expansion by putting the fourplexes on the ridge of the hill on either side of The Meadows. There would not have to be any trees taken down. In addition, it could be done at a low cost and enable more people to come and live there.

Ms. Higgins asked Mr. Kerns where this project fits into affordable housing.

Mr. Kerns stated that the affordable housing was done through a rental subsidy to qualified elderly or qualified handicapped low income individuals.

Ms. Higgins asked what would be the percentage of the handicap elderly tenants.

Mr. Kerns stated that out of 58 units there were about 6 of them for the handicap and the rest for the elderly.

Ms. Higgins pointed out that she had been on the site for several meetings and never saw very many cars. She asked what type of transportation was used for the residents.

Mr. Kerns stated that JAUNT provided transportation to a lot of the residents about two or three times per week. He stated that very few of the residents can afford or have an automobile. There are probably about 15 to 18 cars. He pointed out that there were a number of organizations that meet at the community center, which was primarily during the evening hours.

Ms. Thomas stated that VDOT took a traffic count and came up with 852 trips over 4 ½ days. Staff stated that it came out to 3 ½ vehicle trips per day per unit. There is really nothing in the ITE that exactly reflects this use. With the additional 40 units VDOT determined that a left turn lane would be needed.

Mr. Thomas invited public comment on this application. There being no one, he closed the public hearing to bring the matter back before the Commission for discussion and a possible action.

Mr. Edgerton asked staff about the statement made by Brian Smith that he did not receive any response on the profile drawing that he submitted to the County Engineer.

Ms. Thomas stated that she did not know what the context of the submittal was. It would not be a part of this project because it is an off site location. It was not anything that would have been reviewed necessarily with The Meadows. At one point during the Master Planning process

Engineering spent quite a bit of time with that Davis Drive issue, but she did not know if they passed on that information. Staff has conversations with the applicant about the conclusions during that time. Jack Kelsey and Glenn Brooks prepared sample alignments that were reviewed at the work sessions in September just to demonstrate that there were alternatives to the north and south of the complex that would leave pretty much what the applicant is proposing intact, but not totally. It would require a little bit of bending. The Davis Drive issue got explored pretty thoroughly at an earlier time, but that does not mean that the applicant got the information that he wanted. She suggested that it might have fallen in that generalized request category that was not specific to this project.

Mr. Cilimberg pointed out that Ms. Thomas was not aware that our Engineering people had been given a Davis Drive Extension type of alignment. If the Commission feels that is important to this decision, then he would make sure with Mark Graham that information that Brian Smith has provided is reviewed and reported to them so that they could see how that compares.

Mr. Thomas stated that it would be very important to have that piece of information.

Ms. Higgins stated that she was aware that there had been a meeting. The feedback from the school staff person that she talked had a lot more concern about the potential alignment between The Meadows and the rear of the school site or from the capital project's perspective of disruption to a recent capital improvement to the school site and also looking at crossing Slab Town Branch versus paralleling Slab Town. In a general conversation with Mark Graham, she did inquire as to the level of Slab Town. She acknowledged that there was a lot of stream research done. Staff did answer the question in the right way that Slab Town Branch is a high quality stream to be protected. There is no stream in Crozet that would have ten points between them in measuring their quality. She realized and respected that the environmental impacts is an important and significant concern. At the same time there is a sewer collection system installed along this stream, which is very over grown. She stated that she drove along this road and looked down at this stream. The Albemarle County Service Authority does maintain the sewer line. There is a pathway which is very close to the stream. It is a tight fit and would take some very careful engineering and potentially a mitigation plan. She asked that they compare the health, safety and welfare issue of protecting this small community, which they strive for in every application to promote the elderly with affordable one-level housing and their opportunities to fully develop this site, as compared to a section of a stream that they would avoid crossing. The water resources as well as providing elderly affordable housing are both very important. Therefore, she did not support a corridor reservation through The Meadows. There is a possibility of several other points to use. She offered to sit down and discuss these issues to come up with a solution.

Mr. Edgerton asked that the Commission receive some evaluation of whether this alternative connection could work. He felt that this information is very important to have before the Commission makes this decision on how this connection will be made from Crozet Avenue over to Old Trail. These parallel connections to Route 250 are very critical to the Master Plan as has been demonstrated by Old Trail that these connections are not set in stone. But, if an opportunity to make a connection was given up, he would like to make sure they have an alternative solution in mind. He suggested that the Commission wait on making this decision. He stated that the applicant's engineer has already made a stab at trying to figure out if the alternative connection can be done. He asked that staff provide that information to the Commission.

Mr. Cilimberg suggested that if the Commission was considering deferring this request to get information on the alternative alignments, that the Davis Street extension idea is one which staff could probably look at reasonable quickly. The applicant has already developed a plan, which was actually submitted to David Hirschman at some point. But, the Planning staff has never gotten a comment on this specific alignment. That alternative could be looked at much more quickly than the southern route where they would be trying to find out what the school's opinion is and what it might be with the other properties. There has not been anything engineered on the southern route and staff could look at where it would be from a conceptual standpoint and have

the school comment on how it might affect them. The definitive alignment that they could look at is what the applicant has brought to the table for the Davis Creek extension. That could be done much more quickly without holding the applicant up for a long period of time.

Mr. Morris opposed having the southern connector going through The Meadows property.

Mr. Craddock made a motion to recommend approval of ZMA-03-05, The Meadows Expansion Amendment, without the reservation for the connector. He asked that staff look at the Davis Road connection before the request goes to the Board.

Ms. Higgins seconded the motion

The motion failed by a vote of (3:4). (Craddock, Higgins, Morris – Aye) (Rieley, Thomas, Edgerton, Joseph – No)

Mr. Thomas asked if the request could be deferred after the Commission had taken a vote.

Mr. Kamptner stated that their motion had a specific condition attached to it and failed. Therefore, the request could be deferred.

Mr. Thomas asked Mr. Kerns if he would consider requesting a deferral of the request.

Mr. Kerns asked for a deferral of the request. He pointed out that they have been working on this request for 2 ½ years and would like to see it approved. He felt that the feedback would be beneficial to their position.

Mr. Cilimberg stated that specifically what he had heard was that the deferral is to get feedback from the County staff regarding Davis Street as an extended interconnection possibility. He reiterated that the more alternatives they look at the longer it would take. He noted that Davis Street was really the one that the Commission had focused on tonight. The Commission could say that they want staff to look at other alternatives, but that was going to take some time.

Mr. Rieley stated that there was a plan prepared by Brian Smith that could be given to Engineering for an evaluation. He asked staff to bring those comments back for further discussion with Mr. Smith.

Mr. Kamptner suggested that the Commission consider a motion to reconsider.

Mr. Rieley made a motion to reconsider.

Mr. Morris seconded the motion.

The motion carried by a vote of (6:1). (Higgins – No)

Mr. Morris moved to accept the applicant's request for deferral of ZMA-03-05, The Meadows Expansion Amendment to August 24.

Mr. Rieley seconded the motion.

The motion carried by a vote of (7:0).

Mr. Thomas stated that ZMA-03-05 was deferred to August 24.

Work Session:

ZTA-04-05 Signs - Work session to discuss remaining issues relative to allowing bare neon signs and commercial flags. (Amelia McCulley)

Ms. McCulley, Zoning Administrator, stated that this information is being provided as background for a July 20 work session on two focused sign topics: neon and commercial flags. On June 1st, the Commission discussed all four focused sign topics and requested an additional work session on remaining questions relating to two topics. The first question before the Commission is whether to permit bare or uncovered neon. Covered neon is currently allowed, which means neon lighting or neon tubing that has some kind of cover, whether opaque or translucent over top of it, is currently permitted. The question is whether bare neon lighting should be permitted. The Commission heard from Ben Foster about some of the changes in technology and changes in terms of the relative safety of the use of neon lighting. Of course, there are some concerns with regards to brightness. The Sign Committee recommended that the County allow bare neon provided that there are some limitations on the maximum brightness. During the previous meeting on June 1st there was discussion about using a maximum size for the transformer that would limit the emissions to be something that is less bright. She pointed out that it was 30 milliamps.

Ms. McCulley stated that the second question relates to whether the flag protocol for government flags should be adopted in the County's zoning regulations. The Sign Committee recommended that if there is a government flag on the pole with a commercial flag that it not be larger than the government flag. Staff did not incorporate that recommendation because it is not based on land use impact. Therefore, staff does not recommend any flag protocol. The Commission wanted further information and discussion about adopting the flag protocol into the zoning regulations. Staff has provided comments from the Rutherford Institute. M. Casey Mattox, author of the comments and a member of the Sign Committee, is here this evening from the Rutherford Institute. The question before the Commission is a) whether to leave the recommendation as is and not incorporate the flag protocol or b) incorporate the flag protocol in whole or in part such that it is advisory as a guideline and not a zoning regulation. She pointed out the attachment suggests that there are some first amendment issues with actually adopting the protocol as zoning regulations. Staff suggests that either a) no flag protocol or b) that it is only incorporated as advisory. Staff will update the Board of Supervisors on the work of the Sign Committee to date. Then staff will draft the final ordinance language and start public hearings. (See Attachment # 7 Memorandum dated July 20, 2004 to Planning Commission from Amelia McCulley regarding Follow-Up Work Session on Two Focused Sign Topics.)

Mr. Craddock moved to recommend that the full flag protocol be incorporated as advisory.

Mr. Morris seconded the motion, which carried by a vote of (7:0).

It was the consensus of the Planning Commission to incorporate the full flag protocol as advisory with a reference made to the public law information and not as a verbatim insertion.

It was the consensus of the Commission to allow bare and uncovered neon with the provisions as recommended by staff. (Ms. Joseph and Mr. Edgerton disagreed.)

Discussion held on how this would affect the Entrance Corridor Guidelines, and it was decided that was not in the Planning Commission's purview since it was not included in the Zoning Ordinance.

Staff will draft the actual ordinance language for the proposed amendment and then bring it back to the Commission to vote on it.

Review of Board of Supervisors Meeting – July 14, 2004

Mr. Cilimberg reviewed the actions taken on July 14 by the Board of Supervisors.

Old Business:

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

New Business:

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

Adjournment:

With no further items, the meeting adjourned at 9:14 p.m. to the July 27, 2004 meeting.

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V. Wayne Cilimberg, Secretary

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