Albemarle County Planning Commission
August 10, 2004

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, August 10, 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; Jo Higgins; Marcia Joseph and Pete Craddock, Vice-Chairman. Absent were Cal Morris and Bill Edgerton.

Other officials present were David Benish, Chief of Planning & Community Development; Bill Fritz, Development Process Manager; Tarpley Gillespie, Senior Planner; David Hirschman, Water Resources Manager; and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Thomas called the regular meeting to order at 6:02 p.m. and established a quorum.

Consent Agenda:

SDP 04-052 Dominion Office Park Preliminary Site Plan - Critical Slopes Waiver: Request for approval of a critical slopes waiver which will allow the approval of a preliminary site plan for 9,000 gross square feet of office space. The property, described as Tax Map 78, Parcel 15C2, contains 2.107 acres zoned Highway Commercial [HC] in the Rivanna Magisterial District. This site is located on South Pantops Road [Route # 1140] approximately 225 feet east of the intersection with Spotnap Road. The Comprehensive Plan designates this property as Community Service in Urban Neighborhood 3. (Yadira Amarante)

CPA 03-006 Rural Areas Comprehensive Plan – Recommendation for approval to Board of Supervisors.

Approval of Planning Commission Minutes – June 1, 2004.

Mr. Thomas asked if there was any item on the consent agenda that any Commissioner would like to pull for discussion.

Ms. Joseph asked that item b), CPA-03-006, Rural Areas Comprehensive Plan, be taken separately from the other two items on the consent agenda.

Mr. Thomas stated that first they would consider a) SDP-04-052 Dominion Office Park Preliminary Site Plan – Critical Slopes Waiver and c) Approval of Planning Commission Minutes for June 1, 2004.

Ms. Joseph moved for the approval of consent agenda items a) and c).

Ms. Higgins seconded the motion, which carried by a vote of 5:0. (Edgerton, Morris – Absent)

Mr. Thomas stated that consent items a) and c) were passed. He pointed out that the Commission would now consider item b) Rural Areas Comprehensive Plan.

Ms. Joseph stated that she could not support the Rural Area the way that it was written. She read her response as follows, "Although I can wholeheartedly support the majority of the content of the proposed Rural Areas Chapter of the Comprehensive Plan. I cannot support creating Albemarle County Service Authority mini-jurisdictional areas within the Rural Areas zoning districts. By creating an ordinance requirement that reflects the latest iteration of strategy 7 on page 38, it is my opinion that we will be creating another means to publicly fund residential development in the Rural Areas. We are currently assisting 11 properties in the Red Hill area that have contaminated wells. The Board of Supervisors will receive an update on this issue at their meeting Wednesday night. (See Attachment) Perhaps our public funds would be better spent helping existing properties, like the folks in Red Hill, and not creating additional public liabilities and responsibilities in the Rural Areas. I do not agree that the technology available is far superior to the methods used in older existing and older failed systems in Albemarle County. If the systems available today are so technologically superior to the older systems, I question why Mr. Hirschman our water quality expert insists that these new superior systems require management by a county agency. I base my opinion on David Hirschman's recommendation in strategy 7 on page 38. He states that the "Central systems should only be considered if design, management, and maintenance are undertaken by a responsible entity, which can be the Albemarle County Service Authority or an equivalent management structure." It is hard to imagine what an equivalent management structure to the Service Authority can be to satisfy this strategy, other than the Service Authority itself. The last time I spoke with Bill Brent about this, he said that the Service Authority Board policy did not encourage the Authority to take over and manage central systems in the Rural Areas. If our expectations include the participation of the Service Authority, we should not approve this concept without their input. Because of this I cannot support the latest iteration of the Rural Areas Chapter of the Comprehensive Plan."

Mr. Thomas asked if there were any other comments.

Ms. Higgins stated that since they were actually forwarding it to the Board for additional public input that they incorporate Ms. Joseph's statement with the word output in the second to last sentence. Then they could forward it on to the Board with that information. The Board will be receiving additional information during their review, which could possibly cause some changes to be made.

Ms. Joseph pointed out that she wanted this item to move forward, but at this point she could not vote in favor of it the way it was written.

Mr. Rieley stated that his recollection from their discussion when this came up was that there was general consensus that the maintenance, management and design should be undertaken by a responsible entity. He stated that there was general discussion, but he did not remember the inclusion of the Service Authority actually in the language of the document. He stated that he did not think it is necessary and that Ms. Joseph's concerns are well founded. He suggested that they just leave out everything after "responsible entity" to the end of the sentence so that they can have a document that they can forward to the Board of Supervisors with unanimous approval. He pointed out that the subject of the document would still be the same.

Mr. Craddock stated that it sounded like a reasonable approach.

Ms. Higgins stated that the part about the Albemarle County Service Authority which can be, which she felt that they modified that to be the Albemarle County Service Authority or an equivalent management structure. She suggested that it read which can be an appropriate authority or an equivalent management structure. She felt it was not intended that it would be the Albemarle County Service Authority. When this was brought up there was discussion that the Service Authority would have a Rural Areas type of branch so that there would be differential fees and not the burden of a small system being put on the over all group. The point being is that an authority and public utilities and a management structure are an important statement. She suggested that the wording be changed by taking out Albemarle County Service Authority and saying that an appropriate authority or an equivalent management structure. She asked if that was a compromise that the Commission could live with.

Ms. Joseph pointed out that the inference would again be some kind of public authority.

Ms. Higgins stated that it has to be that way. This is what they would be coming back to when they have a certain number of well connections on a central well system. It is a utility and you must hold a license. Also, there must be a certain class of operator that oversees it. Therefore, she felt that the disagreement was over the concept and not the way that it was stated. She felt that all of the Commissioners agree with the concept, but not the Authority.

Ms. Joseph stated that she did not want the County to be responsible for this. She pointed out that she did not want County funds to be spent for this. They spend a lot of time talking about how they want the development areas to develop and the Rural Areas do not develop residentially.

Ms. Higgins stated that the Albemarle County Service Authority is not the County and also are not funded by the County of Albemarle. It is a public utility and they are funded through their fees. She pointed out that they were two separate entities. She suggested just saying authority.

Ms. Joseph pointed out that the connection is still there. It is another way that they would be encouraging residential development in the Rural Areas. She opposed the reference to the Authority being in the language. She supported Mr. Rieley's suggestion.

Mr. Benish stated that staff's intent was to identify that there was some management control. From the Comprehensive Plan standpoint to send this off in a direction to decide how they do that at the next level is sufficient. The issues that were raised are not decided at the Comprehensive Plan stage. For the record, what prefaces all of this is that this mechanism of allowing central facilities does not allow any more development to take place under the plan of development.

Mr. Rieley pointed out that was explicitly stated.

Mr. Benish stated that whether the Authority is supporting a failing private system is an arguable statement you could make, but they do that right now and are threatened to do that right now with those one-half dozen wells. This concept is not supposed to support additional development, but to establish a mechanism that would be more efficient than a collection private system.

Ms. Higgins stated that in the mean time since this will go in the Comp Plan Amendment and eventually evolve to ordinance language, could they ask staff or Bill Brent to come and educate the Planning Commission about the Albemarle County Service Authority and how it relates to Albemarle County, the City and how it all works. There is entirely no money exchanged between the two.

Ms. Joseph stated that it was still community funds that were being spent. It is user fees, but it is the community. She pointed out that this was too long of a discussion, and they should have it at another time.

Mr. Rieley made a motion to pass the Rural Areas Section of the Comprehensive Plan along to the Board of Supervisors with a vote of approval with the exception that relative to the central systems that after the word "entity" that there be a period and leave out the Albemarle County Service Authority part of that sentence until the word, "structures".

Mr. Craddock seconded the motion.

The motion carried by a vote of 5:0. (Edgerton, Morris - Absent)

Mr. Thomas stated that the motion carried. He asked when the item would be heard by the Board.

Mr. Benish stated that this item would be heard during a work session by the Board at their day meeting in September.

Ms. Higgins asked that staff still pursue the education of the Albemarle County Service Authority and how it relates to Albemarle County residents in general. She pointed out that a there was a misconception.

Mr. Thomas asked staff to have Bill Brent of the Service Authority come by and explain the disconnection between the two.

Other Matters Not Listed on the Agenda from the Public:

Mr. Thomas invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved on to the next item on the agenda.

Public Hearing Items:

SP-2004-00021 Margaret Engle, Ballet School (Sign #30) - Request for special use permit to allow a private Ballet School in accordance with Section 22.2.2.6 of the Zoning Ordinance which allows for private schools. The property, described as Tax Map 60, Parcels 25A and 25B, contains approximately 5.6 acres, and is zoned C1 Commercial. The proposed dance school is located on Rt. 250W (Ivy Road), approximately 1/10 of a mile west of the intersection of Ivy Road and the 29/Route 250 By-pass, in the Samuel Miller Magisterial District. The Comprehensive Plan designates this property for Office Service in Neighborhood 7. (Tarpley Gillespie)

Ms. Gillespie summarized the staff report. This is a proposal for a special use permit to allow a private ballet school in the existing Pediatric Associates Building, which is located on the Piedmont Tractor site just west past Bellair Market on Route 250 West. The proposal would consist of one to three employees with a series of ballet classes with no more than 12 students at any given time in a class. The school would operate generally from 9 a.m. to 9 p.m. with Saturday classes from 9 a.m. until noon and with occasional special events outside of those hours.

A special use permit for the Bellair Animal Hospital was approved for this site in September of 2003, but the special use permit was never utilized for that site. The proposed building was constructed in 1950 as a John Deere Equipment Rental and Sales building. The property was zoned B-1, Business and was changed to C-1, Commercial with the 1980 Zoning Ordinance adoption. The building to the west, currently the Piedmont Equipment Company, was the original John Deere distributor. When John Deere vacated the building the retail and service moved over. The middle building was then converted to retail and office use. As mentioned in December, 2003 a special use permit for Bellair Animal Hospital was approved with conditions on this site. Among the conditions that were approved was a condition to require a pedestrian path to be constructed along the frontage of the entire property connecting the property to the west with essentially the property to the east, which was Bellair Market. Staff presented some photographs of the general area to show that a pedestrian dirt path has already been worn on the site. (ATTACHMENT – TWO PHOTOGRAPHS)

Staff considered this proposal against the Land Use Plan and the Zoning Ordinance. The Land Use Plan calls for this area to be Office Service in Neighborhood 7, which is located on the Entrance Corridor. Staff has found that use is generally in accord with the Office Service designation of the Comprehensive Plan. Staff also looked at the request against the Neighborhood Model within the Comprehensive Plan and found that several of the twelve Neighborhood Model principles are already well represented on this site and that several are somewhat lacking under the current conditions. There is currently a good mixture of uses on the site. The ballet school would enhance this principle of the Neighborhood Model. There is a neighborhood center just to the East of this site in the Bellair Market. This use would compliment that in terms of the mixture of uses. This is an existing building that does represent redevelopment, which is one of the Neighborhood Model principles. There is a clear boundary with the rural areas. At the rear of this site there is a railroad track and then the rural area begins. Staff felt that was appropriate. However, there are several principles of the Neighborhood Model that are currently lacking on the site that relate to the pedestrian orientation, neighborhood friendly streets and paths, interconnections and relegated parking. Staff felt that the first three items mentioned related to the pedestrian orientation, neighborhood friendly streets and paths and interconnections could be addressed or enhanced somewhat through the inclusion of this pedestrian path along the site. There are several other principles which don't really relate to this site since it is an existing structure. Staff's primary concern in the review was the concern about the pedestrian access across the site and throughout the site, particularly in adding a school use where there will be parents dropping children off and children wanting to walk throughout the site. Staff feels that the absence of any pedestrian facilities on this site was of concern, although the general use was not of a concern to staff at this location.

Staff identified several factors that are favorable to the request. One, it is an existing building. Two, there is adequate parking on site to address the use. Three, the proposal reflects several principles of the Neighborhood Model as previously mentioned. Four, the ballet school will provide a neighborhood service to surrounding residential uses within this neighborhood and also the surrounding rural area. Staff finds one factor unfavorable to the request, which is the pedestrian access issue that has already been described. Therefore, staff recommends approval with the conditions listed in the staff report.

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

Ms. Joseph asked Mr. Kamptner if the other special use permit approved last fall would still be valid.

Mr. Kamptner stated that the special use permit would still be valid because the requested special use permit would not terminate the one that is already in place.

Ms. Joseph asked staff if part of this building was vacant.

Ms. Gillespie stated that was correct.

Ms. Joseph asked if the space on the other side of the ballet school could still be utilized.

Ms. Gillespie stated that other space could still be utilized, which was why staff wanted to made sure to save some parking should the building become fully utilized on the site.

Mr. Thomas opened the public hearing and asked if the applicant wanted to come forward and address the Commission.

Margaret A. Engle, applicant, pointed out that the soundproofing of the walls was already in the plans.

Mr. Thomas asked if there were any questions for the applicant. There being none, he invited public comment on this application. There being none, the request was brought back to the Commission for discussion and possible action.

Mr. Rieley moved for approval of SP-2004-00021, Margaret Engle, with the conditions as recommended in the staff report.

1. Maximum enrollment shall be 12 students per class, with class start and end times staggered on minimum of 1/2 hour increments.
2. Normal hours of operation for the school shall be from 9:00 AM to 9:00 PM provided that occasional school-related events may occur outside of these hours.
3. A pedestrian path five (5) feet in width shall be constructed across the front of Parcels 25A and 25B in the area between the existing vehicular parking area and the public travelway, to a standard acceptable to the Departments of Planning and Engineering and Public Works (Department of Community Development), to be maintained by VDOT or by the applicant in the event the pathway can not be constructed to meet VDOT standards. In the event that existing power poles or other obstructions make it impossible to meet the acceptable standard, this width standard may be modified in the interest of allowing installation of the path.

Ms. Higgins seconded the motion.

Mr. Benish stated that recently there was some question about the clarity of that last condition on the sidewalk. It is possible when it goes to the Board that staff will clean up that language. It won't be a substantive change, but there have been some questions about the condition being readable and understandable.

Mr. Rieley pointed out that in the last sentence it was unclear as to who makes that determination.

Mr. Benish stated that staff has gone over that with the applicant. He pointed out that there is no supplementary regulation for soundproofing for ballet schools.

The motion carried by a vote of (5:0). (Edgerton, Morris – Absent)

Mr. Thomas stated that SP-2004-00021, Margaret Engle Ballet School, would be heard by the Board of Supervisors on September 1, 2004.

ZTA-04-04 Groundwater - Amend Section 31.2.2, Building Permits, add Section 32.5.7, Groundwater Assessment Information, and amend Section 35.0, Fees, of Chapter 18, Zoning, of the Albemarle County Code. The amendment to section 31.2.2 would prohibit issuance of a building permit for any structure to be served by an individual well located on a qualifying lot of record until the applicant submits the groundwater assessment information (including a well drilling completion report) required by Albemarle County Code § 17-401. Section 32.5.7 would require that developers submit with each preliminary site plan the groundwater assessment information required by Albemarle County Code §§ 17-403 or 17-404, as applicable. The amendment to section 35.0 would impose fees to cover the cost of services rendered by the County in reviewing and approving the information, reports, documents and plans required to be submitted under sections 31.2.2 and 32.5.7, and other expenses incident to the administration of the Zoning Ordinance related thereto. The fees for the groundwater assessment information required by sections 31.2.2 and 32.5.7 are as follows: groundwater assessment information under Albemarle County Code § 17-401: $50.00; groundwater assessment information under Albemarle County Code § 17-403: $400.00 plus $25.00 per lot; groundwater assessment information under Albemarle County Code § 17-404: $1,000.00. The complete ordinance and information concerning the documentation and justification for the proposed fees are available for examination by the public in the Office of the Clerk of the Board of Supervisors, Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia, and may be inspected between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. The proposed fees are authorized by Virginia Code § 15.2-2286(A) (6). (David Hirschman)

AND

STA-04-02 Groundwater - Amend Section 14-203, Fees, add Section 14-308.1, Groundwater Assessment Information, to Chapter 14, Subdivision of Land, of the Albemarle County Code. Section 14-308.1 would require that groundwater assessments required by Albemarle County Code § 17-402 would begin in conjunction with the submittal of the preliminary plat, that draft groundwater management plans and aquifer testing work plans required by Albemarle County Code §§ 17-403 and 17-404, as applicable, would be submitted in conjunction with the submittal of the preliminary plat, and that all such assessments and plans would be satisfactorily completed prior to final plat approval. The amendment to section 14-203 would impose fees to cover the cost of services rendered by the County in reviewing and approving the groundwater assessments, groundwater management plans and aquifer testing work plans required to be submitted under section 14-308.1, and other expenses incident to the administration of the Zoning Ordinance related thereto. The fees for the groundwater assessment information required by section 14-308.1 are as follows: groundwater assessment under Albemarle County Code § 17-402: $250.00 plus $25.00 per lot; groundwater assessment information under Albemarle County Code § 17-403: $400.00 plus $25.00 per lot; groundwater assessment information under Albemarle County Code § 17-404: $1,000.00. The complete ordinance and information concerning the documentation and justification

for the proposed fees are available for examination by the public in the Office of the Clerk of the Board of Supervisors, Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia, and may be inspected between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. The proposed fees are authorized by Virginia Code § 15.2-2241(9). (David Hirschman) (ATTACHMENT – ZTA-04-04 and STA-04-02 Groundwater Executive Summary)

The memorandum to David Benish from David Hirschman dated July 28, read as follows:

"As you know, the groundwater ordinances (ZTA and STA) are going back to the Planning Commission for a public hearing. There are two specific reasons why this is going back to the Commission after the Commission's June 1, 2004 public hearing on the same program:

The sections on fees have been moved from the Water Protection Ordinance to Sections 31.2.2, 32.5.7, 35.0 of the Zoning Ordinance and Sections 14-203 and 14-308.1 of the Subdivision Ordinance. This shift was made at the discretion of the County Attorney's Office. This change requires the Commission to hold another public hearing on the ZTA and STA. The only change made to the fees are that there is no longer a "surcharge" on building permit fees to fund a County monitoring well network. Based on the Commission's June 1 recommendation, this network is proposed to be funded from general revenues, and fees are designed only to recover review costs for specific plans.

The second reason this is going back to the Commission is because of feedback received from the Board of Supervisors at a July 7, 2004 work session. There was some mixed feedback from the Board, with some members wanting the program to address additional needs (or be more stringent) and others concerned that the business community be kept informed. One particular issue that may need more discussion is as follows: Some Board members were interested in making the standards more stringent by requiring Tier 4 (aquifer and pump testing) for subdivisions plats of a certain size and/or density, and providing for certain plats to be rejected if some threshold of water yield could not be met, as determined by the test. Another concern raised was that the program does not necessarily prevent new wells on individual rural lots from becoming contaminated from known petroleum releases, as happened in the Red Hill area in the early 1990's. (ATTACHMENT – Red Hill Water Supply for Contaminated Wells Executive Summary)

Subsequent to the Board's work session, I poled the groundwater committee and several state agencies to get some feedback on the items above.

<u>Requiring Aquifer Testing for Certain Subdivision Plats</u>

Nobody from the groundwater committee who responded to the email pole advised that we apply aquifer testing to certain subdivisions across board, at least not at present. The various reasons given are summarized below:

The Planning Department is concerned that the groundwater ordinance could create a disincentive for clustering, which is an important element of the Rural Area Comprehensive Plan amendments. If much more stringent testing is required at certain lot size or density thresholds, then cluster designs would likely have more stringent groundwater testing requirements than large lot layouts.

Some of the committee's technical representatives expressed that we simply don't yet have the tools or understanding to develop a test to answer the specific question about off-site impacts over the long-term. There is concern that such a test would be marginally effective at substantial cost, and that we should adopt what is proposed as a starting point, and institute more aggressive testing when we have higher confidence in the results answering specific questions. Part of the proposed program is to build knowledge through time through monitoring wells and learning from the tests and plans that are conducted.

In terms of groundwater test results being used to reject subdivision plats, evidence from other counties indicates that it is extremely difficult to do and may not be supported by State Code. In almost all cases, a development is able to meet a particular numerical standard by drilling enough wells, and it is difficult for the county to prove "inadequacy" of water as a basis to deny a plat. This issue was addressed in the 2000 report, *Verifying Adequate Groundwater Supplies for Rural Subdivisions.* It should be noted that the Groundwater Committee, from a very early stage, decided to approach the standards as a vehicle to improve development design and promote good development practices, rather than as a "yes/no" threshold test for approval or denial. This decision was made because of the evidence from other counties and the desire for a program that is defensible and practical. If the Board and Commission prefer a different philosophical approach, then the committee should be urged to go back to the drawing board.

One possible compromise is to allow staff, the Commission, or the Board to require a Tier 4 test for certain subdivision plats due to concrete evidence in the groundwater management plan, such as off-site areas of special concern. Criteria would have to be developed to guide this process; otherwise, it would be difficult to maintain equity when certain projects are more politically sensitive. The Commission may wish to make a recommendation to the Board on this option.

Preventing Contamination of Newly Drilled Wells

In the early 1990's, a newly permitted and drilled well in Red Hill quickly became contaminated with petroleum products from a known underground storage tank release. Subsequently, the Department of Environmental Quality (DEQ) had to install a carbon filtration unit at that household, and ten others whose water supplies were contaminated. As one Board member expressed, this is the type of situation that our groundwater program should try to prevent. While this type of situation would likely be addressed at the Tier 2 stage (creation of a new lot), Tier 1 (drilling a well prior to receiving a building permit) would not pick it up. In other words, new wells drilled on parcels of record would not have a County staff review.

The situation described above largely involves coordination between the Virginia Department of Health (the agency that issues permits for wells) and the Virginia Department of Environmental Quality (the agency that investigates leaking tank incidents). This issue is recognized at the state-level, and the State Code was amended in 1998 to address it (Section 62.1-44.15:4.1). This Code section requires DEQ to notify VDH of any confirmed release or discharge of oil. In response to the code language, the two agencies have instituted a method of communication and coordination on underground storage tank investigations. DEQ updates the leaking tank list on a web site on a periodic basis, and VDH downloads the information for each district and makes it available to the sanitarians who issue well and septic permits.

The question for the County is whether we want to add another layer of assurance to this process. Obviously, this would involve more staff time to review each well permit (in addition to the other reviews required at the Tier 2 through 4 levels). However, checking the location of the proposed well against the leaking underground tank list would be fairly straightforward. Another question involves what to do where the two points are close together (the leaking tank and the proposed well). Should this be an advisory process (e.g., letter of warning with advice for the property owner to find more information) or a process whereby the building permit approval is withheld until a more thorough investigation can ensue?

If the Commission recommends that the County's groundwater program address this issue, then the ordinance can be amended to reflect the additional review.

In summary, staff is asking the Commission to hold a public hearing on the new ZTA and STA language. The staff recommendation is for the Planning Commission to approve the modifications to the ZTA and STA with regard to the fees. The Commission has already recommended approval for the rest of the program, and staff continues to recommend the existing version of the ordinance for adoption, with minor modifications made by the County Attorney's Office to clarify the applicability."

Mr. Benish stated that David Hirschman was here to answer any questions. This is primarily before the Commission because of the changes required for the fee schedule. Also, there were some issues raised at the Board level, which staff wanted to make the Commission aware of. Mr. Hirschman has essentially provided his recommendations to the Commission on this. Staff would encourage the Commission to readopt or recommend for approval what they had reviewed previously and recommend it to the Board of Supervisors. Staff will not make a presentation tonight, but if the Commission has any questions Mr. Hirschman was available.

Mr. Thomas asked if that would include Mr. Davis' alteration, and Mr. Benish replied that it would.

Mr. Thomas asked if any Commissioner had any questions for the staff.

Ms. Joseph asked if the Board members were interested in making the standards more stringent and if his response was that they should not be more stringent, but should remain the same.

David Hirschman stated that there were really two issues that he raised. One was whether there is a certain size of a subdivision plat that should trigger the drilling of wells, the pumping and the testing based on the concern of whether the neighbors were going to be impacted. There was a previous version that had that in there, but then it changed after they went through the public process with the Commission, the Round Table Meeting and then back to the Groundwater Committee. The memo explains what the response was when he brought that question back to the Groundwater Committee.

Ms. Joseph pointed out that was something that he initially had some concern about.

Mr. Hirschman stated that was correct. Obviously one of the major things of this program was that when new uses go in what is going to happen with the folks around them that have wells. He felt that what the Groundwater Committee said is that whatever is done was done to answer that question and not just done to make work. The technical people that he talked to on the Groundwater Committee were not comfortable at this point that they could design a test that would really answer that question. If you had a 50 lot subdivision obviously there was going to be concern about what the off site impacts were going to be. The consensus that he derived from the Groundwater Committee was that they should go ahead and adopt what they have here, put in the monitoring of wells as they go, and learn as they go. Obviously it was something that could be changed in the future.

Mr. Thomas asked if that meant that there needs to be some development of criteria in the future.

Mr. Hirschman stated that was correct. He pointed out that Mr. Rooker felt that there was a certain size of subdivision plat where they need to do a more rigorous test. He stated that there was some argument that there would be that type of case.

Ms. Joseph asked if the Groundwater Committee feels that they need time to collect the data first to see what is going to happen before they decide they are going to institute anything.

Mr. Hirschman stated that was correct. He stated that if someone was going to do a very expensive rigorous type of test, it should really answer the test and not just be a lot of work and money. That was the discussion that the Groundwater Committee had. He pointed out that he had to rely on the technical advice that he was getting from the Groundwater Committee because he felt that it could go either way. But, that was what the Groundwater Committee was saying and what the Roundtable process and the public hearing produced. Therefore, he was just generally inclined to stick with that.

Mr. Thomas asked if all the Commissioners feel comfortable if it stays like this and that they move it forward to the Board.

Ms. Higgins stated that the Groundwater Committee understood the depth of the elements of what they were trying to address. She agreed with the philosophy of don't just do testing to say you've done a test. She stated that to reach a point where one is adequately addressing what the issue was is a very conservative and steady step to take. She stated that since this has been through the public hearing and committee process that she would suggest not making any changes and recommending it.

Ms. Joseph asked why this came back to the Commission.

Mr. Hirschman pointed out that the only reason this was coming back to the Commission was the fees and including the STA's.

Mr. Thomas asked Mr. Hirschman if he felt comfortable with the Groundwater Committee's recommendation.

Mr. Hirschman stated that he felt comfortable with what they came up with as a good first step, but he would certainly hope as they develop more information and put the monitoring wells in and run through a couple years of this testing that it would be readdressed. He stated that it was a very important issue to address the off site's impacts since it was what people were expecting from this program. He stated that he really hoped that this was not something that gets adopted and then it never gets changed in the future.

Mr. Thomas stated that it was not a one step process.

Mr. Hirschman agreed that it was not a one step process. He felt that it was very critical for the County to be able to say with some assurance that when the new development goes in that they have looked at off site impacts with the best test that they could devise to try to answer that question. It is a very difficult question.

Ms. Higgins asked if the Commission had the consensus before that the monitoring of wells would be out of the general fund versus a fee base.

Mr. Hirschman stated that staff changed that based on the last time that the Commission looked at it.

Ms. Joseph asked for clarification where it says that in Tier One drilling the well prior to receiving the building permit would not pick up contaminants. Then the situation in Red Hill was referenced. She pointed out that new wells drilled on parcels of record do not have County staff review. Therefore, he saying was that we would have never determined that there was contamination or that we would not have known that.

Mr. Hirschman stated that the County would get some documentation on the new well that says basically that it had been drilled and where it is. But, in terms of someone comparing that well with some data base from the State on contaminants, it would only happen in Tier Two, but not in Tier One.

Mr. Thomas asked if there were any other questions for staff. There being none, he opened the public hearing and asked if there was any one in the audience that would like to speak on either of these requests.

Jeff Werner, representative for Piedmont Environmental Council, stated that the County wants to go backwards and Mr. Hirschman certainly wants to move on with his new life. He pointed out that Fauquier County has a requirement that monitors wells on adjacent lots during the testing. He felt that if they were going to do it right that he would agree with Mr. Hirschman that maybe this just needs to be moved forward and not be shelved. Considering that they are in the process of mandating clustering in Albemarle County's rural area, they already know that large scale northern Virginia developers are buying up land and looking to develop. Frankly, PEC is very concerned that clustering without phasing will cause the County to see large scale subdivisions in the rural area that are going to use the central well systems because they are the only folks that can afford these things. He stated that they either have to consider it now or consider it later. But, they cannot wait two or three years down the road when suddenly someone is in here with a proposal for a 50 to 75 home rural cluster. That would really only be a Forest Lakes in a rural area. He pointed out that he was very concerned that they are not looking forward and considering how our cluster rights might be exploited. The County would not be prepared to challenge a large scale development like that. Equally, what happened at Red Hills is a very big concern. He noted that he saw other costs involved in resolving that. To what extent the County is going to be resolving those issues throughout the County is unknown. Currently in Crozet there is a great deal of concern with soil and water contamination due to the apple orchards. It is alright to go ahead and move forward with this, but anything that needs to be amended needs to be amended quickly. He felt that changes were coming down the line in the rural area for a level of development that they have not experienced. He felt that the County has got to have a sophisticated ordinance in place to be able to respond to those proposals.

Mr. Thomas stated that there was one person signed up to speak on this item. He asked William Clemment to come forward and address the Commission.

Bill Clemment stated that his concern was not for this item, but for item 5A. He asked for clarification as a landowner if this ordinance makes any private individual responsible for the cost. He asked if he was reading it right that he was going to have to spend $500 to $1,000 before he could even get a building permit on his property. He asked when the County plans to put this regulation in place.

Mr. Thomas pointed out that the request goes to the Board of Supervisors after it leaves the Planning Commission. He asked staff if a date has been set for the Board hearing.

Mr. Hirschman stated that he did not think that the hearing has been scheduled.

Mr. Thomas pointed out that it would actually cost $50 for an individual property owner. He asked it there was anyone else present who wanted to speak on this request. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and a possible action.

Mr. Kamptner suggested that each text amendment have a separate motion.

Ms. Higgins moved for approval of ZTA-04-04, Groundwater, as recommended by staff.

Mr. Craddock seconded the motion.

Ms. Joseph stated that she just wished that they could do a little bit more than what they are doing right now, but she understands that they just don't have enough information at this point. She pointed out that nobody blanches that they require soil tests or septic tests before they approve a lot. It also still bothers her that they don't require the water testing before they create a subdivided lot.

The motion carried by a vote of (5:0). (Edgerton, Morris – Absent)

Mr. Thomas stated that STA-04-02, Groundwater, would be heard by the Board of Supervisors on September 11.

Ms. Higgins moved to recommend approval of STA-04-04, Groundwater, which has to do with the fees.

Mr. Craddock seconded the motion.

The motion carried by a vote of (5:0). (Edgerton, Morris – Absent)

Mr. Thomas stated that the motion carried and the requests would be heard by the Board of Supervisors on October 6.

Regular Items:

SUB-2004-00153 Advanced Mills Farm - Request for preliminary plat approval to create 11 new lots averaging 18.06 acres. The property, described as Tax Map 20, Parcels 6A and 6A1, is zoned RA, and is located in the White Hall Magisterial District on Frays Ridge Road, near the intersection with Advance Mills Road (Route 743), approximately 3.1 miles north of Earlysville. The Comprehensive Plan designates this property for Rural Area uses in Rural Area. (Stephen Waller)

Bill Fritz summarized the staff report in Stephen Waller's absence. This request is for Advance Mills Farm, Phase 2 to create 11 new lots on their approximately 200 acre parcel. Seven of those lots are 21 acres or greater and 4 are less than 21 acres. It has access on Craig's Ridge Road, which is a road that was approved with Advanced Mill

Farm, Phase 1 that was signed in April, 2003. This is a further division of that. The Site Review committee has reviewed this proposal and found that it meets all of the requirements of the ordinance. Typically staff would review this administratively, but a request was received to bring it before the Planning Commission. Therefore, this request is before the Commission tonight for review.

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

Michael Barnes, representative for C.B. Hurt Contractors, stated that he had no presentation to give, but would be happy to answer any questions. The applicant will provide the information requested in the conditions of the staff report, which will be shown on the final plat.

Mr. Thomas asked if there were any questions for the applicant. There being none, he asked if there any one in the audience that would like to speak on this application. He invited Mr. Clemment to speak since he was the only person listed on the sign up sheet.

William Clemment stated that unfortunately when this whole thing started about a month and a half ago that he only had about a week's notice to try to address this situation. The only way he had to be able to have any time to give it any thought was to force it to be heard by the Commission. He stated that he had a number of concerns. The access to this area is through a couple of different ways. One is through a bridge that is reduced down to a 6,000 gross vehicle weight load, which comes in across Route 743 that will handle some of that traffic. The other part would get shifted up towards Advance Mills, which is also a very busy road. He stated that he was concerned that the existing roads will not be adequate to serve the proposed development. He questioned why the County keeps pushing more and more residences on this road when it already does not have proper access. Route 641 coming from Route 29 is at best a lane and a half road in places with a lot of blind spots. It is a very dangerous road. He pointed out that there have been many times when he had just about gotten hit by school buses. The poor visibility on the turns creates a dangerous situation. It is not a safe road. He voiced concern with adding more homes on a road that is already unsafe. There seems to be no desire by the County to make sure that there is a plan to make sure that the roads are in place to properly service the new developments. That is one aspect. The second aspect gets back to the County's needs regarding schools. Our schools are already overloaded right now, but the County keeps increasing the number of students by approving new subdivisions without requiring any help or consideration from the developers. The developers continue to make a lot of money from the new subdivisions without the County requiring any sort of impact fees. The community will have to continue supporting the costs created by the impacts generated from these new subdivisions. At some point the County is going to have to start requiring the developers to help pay for some of these costs. They cannot wait until they are like northern Virginia when the roads are so choked that they can't get down the road and that they don't have enough schools. He pointed out that Albemarle High School has been overloaded for a very long. He challenged this group to at least try to help him understand how they were going to deal with that from the County's standpoint. The

County has no right in approving these subdivisions until they have plans to cover these items. If the County can't cover these costs, then who will? He pointed out that the burden will be placed on the rest of the community.

Mr. Thomas asked if there was anyone else in the audience that would like to speak on this application. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and a possible action.

Mr. Rieley stated that Mr. Clemment raises legitimate concerns, but the difficulty is that this is a by right subdivision that meets the requirements of the ordinance. The Commission's action in this type of situation is a ministerial one and they have almost no discretion. If the Commission denied this subdivision plat on the basis of traffic and the Board upheld them, then they could be sued and they would lose. The same thing is true with the burdening of the schools because this property is zoned for this level of development. He agreed that impact fees should be looked at, but that the difficulty is that they lack the legislative authority to deal with that just like the transfer of development rights. That is another good idea that the Commission does not have the authority to deal with. Therefore, this is one of those situations in which they agree on all of the broader concerns, but they have virtually no alternatives in this case. He pointed out that he just wanted to make the point that it was the limitation of the position that they are in. It does touch on a number of issues that they have been talking about a lot over the last few months concerning revisions to the Comprehensive Plan section in the rural areas and what tools they can utilize better. He felt that almost every one agrees that this kind of large lot subdivision in the rural areas is something that they want to do everything that they can to get away from, but they were not there yet.

Ms. Joseph stated that as she looked at the tax map that was included with the staff report and all of the subdivisions that were created around this area that it was even hard to even call this a rural area. She stated that ten years ago she use to ride her bike in this area, but now she would not because she knew that one would have to be praying constantly as you ride. It is depressing to see this. They have been working on the rural areas section of the Comprehensive Plan hoping that maybe they could make the development go in town instead of out of town.

Mr. Thomas asked if there were any more comments. He agreed with Mr. Rieley's comments. He asked if there was any one else in the audience who would like to speak regarding this application.

Jeff Werner, representative for Piedmont Environment Council, stated that we need the Commission to get involved in the rural areas section discussion of the plan because that is the only way that the County was going to be able to make a change. The fact is that clustering only makes the development prettier. It does not take any cars off the road. It does not put any money into improving the roads. It just simply creates smaller lots in the rural areas. Twenty lots are twenty lots whether they are twenty-one acre or two acre. Therefore, let's not kid ourselves. He stated that he appreciates what this gentleman said. He felt that there were an awful lot of Albemarle County citizens who were concerned

about their property rights. This County needs to wake up and pay attention to what they are saying.

Mr. Thomas stated that he could not speak for all the Commissioners, but he believed that all of them have the same sympathies as Mr. Werner and Mr. Clemment on situations like this, but they don't have the legislative power at this point to make that decision. He asked if there was any one else in the audience who would like to speak on this application. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and possible action.

Ms. Higgins stated that one add on comment to that previous discussion is that yes we would still be looking at the same density, but this is one piece of a larger area that had there been a way to cluster develop it that there could have been a substantial amount of acreage preserved or conserved more readily than this. She pointed out that she could not see the benefit of having the large lots. This situation would have been a perfect opportunity if clustering has been approved years ago for the development to be made under a different template.

Mr. Craddock stated that along those same lines it should have had its number of development rights cut down so we would not have had this whole discussion today.

Mr. Rieley moved for approval of SUB-2004-00153, Advanced Mills Farm, with the conditions as recommended in the staff report.

The Department of Community Development shall not accept submittal of the final subdivision plat for signature until tentative final approval for the following conditions has been obtained. The final subdivision plat shall not be signed until the following conditions have been met:

1. The plat shall be subject to the requirements of Section 14-303 (Contents of final plat), as identified on the "Final Subdivision Checklist" which is available from the Department of Community Development.
2. Approval of all new road names by the E-911 Addressing Coordinator.
3. Release ditches and drainage easements shall be required for the concentrated flows exiting road ditches along the Frays Ridge Court right-of-way.
4. Please revise the statement of consent to read, "The division of land *described herein* is with the free consent…"
5. Submittal and approval of the following information:
    a. A stormwater management/BMP plan, computations, and maintenance agreement;
    b. All drainage easements must be shown on the final plat,
    c. An erosion and sediment control plan, narrative and computations; and,
    d. Road plans and computations.
7. Virginia Department of Transportation approval for road plans in accordance with the requirements for acceptance into the state system.

Ms. Higgins seconded the motion.

The motion carried by a vote of (5:0). (Edgerton, Morris – Absent)

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.

Ms. Joseph pointed out that she had been contacted by the American Planning Association to do a survey. They are teaming with the health professionals, which was funded by the Center for Disease Control Prevention. They are doing some survey work to see how planners are planning communities and how it connects with public health. It asks all kinds of questions on whether they were contacted by people from public health, whether we work with them or whether we consider that in our designs. She pointed out that her concepts about pedestrians and linking all of these communities, public health and obesity in this country; she felt that it was coming to the forefront of planning. She noted that she was not the only one that was thinking that way.

Mr. Benish stated that the Planning Commission has no items scheduled for Tuesday, August 17, 2004. The next regularly scheduled meeting is Tuesday, August 24, 2004.

Ms. Higgins stated that it was a public health issue when it comes to BMP's and storm water management in creating standing water in view of almost daily or weekly articles about mosquito born West Nile viruses and that sort of thing. She stated that she was still feeling torn about the BMP's that are being designed and how they were educating people about controlling insects. She pointed out that this area did not have that type of water here before being a more stream oriented flow through kind of situation. She asked how much they were doing about this with public education. Within subdivisions this has been troublesome. She suggested that some education on that would be good.

Mr. Thomas asked if there were any committee reports.

Mr. Craddock stated that there was a Mountaintop meeting last Monday. He stated that it was moving forward at a very slow speed. He pointed out that the meetings were planned to go through the spring of 2005, and he felt that it would take that long.

Mr. Rieley gave a brief overview of DISC II. Just today they had an interesting discussion about trying to reconcile language for waivers for urban street improvements. The committee is struggling with the balance between two things that the development community is interested in. One is predictability if you need a certain bench mark can you expect a waiver and flexibility, which calls for a more open ended kind of determination that somebody will make. The question will eventually come back to this

group because the question is at what point are the decisions administratively approved and at what point they should be granted by the Commission. In general the consensus is that for those categories that are predictable they should be administratively approved. For those that are more open ended and flexibility should come to the Commission.

Mr. Thomas stated that the MPO Tech Committee met two weeks ago and were working on the CIP. They were working on the figures that were spent, figures that were left, and the figures that were allocated and then what was left. They could never come to an agreement with Wayne on where the figures were. They had to actually alter a few of the figures. Now there is a meeting on Friday where they will go back through the revised figures before they make a recommendation and it goes on to the MPO Policy Board. A lot of the monies that were suppose to be there before was not there and vice-versa. The PACT Committee will be meeting on Thursday. He noted that there has not been a quorum for the past two meetings. He pointed out that he had seen a lot of progress made on the PACT Committee since he has been on there.

Mr. Benish asked for a clarification on what the Commission's expectations were for the work session on the Service Authority describing their relationship to the County. He asked if it would be useful to explain through the jurisdictional process and how they go about designating areas for jurisdiction.

Ms. Higgins suggested that Bill Brent or Paul Shoop be invited to give a five to ten minute synopsis of how the money works, where their funding comes from and how it affects citizens. She suggested that they could provide information for educational purposes particularly on why the Service Authority is a separate entity.

Mr. Benish pointed out that it would probably be mid-October before this item could be placed on the agenda.

Ms. Higgins stated that there was no rush because it was just for educational purposes.

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

Adjournment:

With no further items, the meeting adjourned at 7:10 p.m. to the August 24, 2004 meeting.

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V. Wayne Cilimberg, Secretary

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