Albemarle County Planning Commission

September 28, 2004

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, September 28, 2004 at 6:00 p.m., at the County Office Building, in Meeting Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley; Rodney Thomas, Chairman; Bill Edgerton; Cal Morris; Marcia Joseph; Joe Higgins and Mary Hughes, Landscape Architect for University of Virginia for David J. Neuman (non-voting). Absent was Pete Craddock, Vice-Chairman.

Other officials present were David Benish, Chief of Planning & Community Development; Stephen Waller, Senior Planner; Bill Fritz, Chief of Current Development; Amelia McCulley, Zoning Administrator; John Jones, Zoning Inspector; Francis MacCall, Senior Planner; Susan Thomas, Senior Planner; Rebecca Ragsdale, Planner and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

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

Other Matters Not Listed on the Agenda from the Public:

Mr. Thomas invited comment from the public on other matters not listed on the agenda. There being none, the meeting proceeded to an update on Dan's Auto Mart, which was item of old business.

Old Business:

Update on Dan's Auto Mart –

Ms. McCulley asked John Jones, Zoning Inspector, to provide an update since the last time the special use permit was before the Planning Commission, which was July 13. At that time the Commission deferred the special use permit with a proviso that the applicant be in compliance for a continuous period of 30 days. Mr. Jones will explain what has happened since then.

John Jones, Zoning Inspector for Albemarle County, stated that he had photographs from the right-of-way where Dan's Auto Mart is not allowed to be parking vehicles and of the dealership itself. (Attachments 1 through 7 Photographs taken by John Jones) The photographs were taken on August 25 and August 27. The reason that the photographs were taken was because the County is pursuing civil penalties. Some of the photographs are not very clear because they were taken from across the road to try to get a better view of the site. Basically, the dealership itself has not been in compliance due to their vehicles being parked in the designated customer parking areas. There was parking at the access and egress with little scooters and vehicles for sale. As far as parking in the right-of-way, there are cars parked there. But, a drive by visual inspection cannot determine whether those cars belong to the dealership and are for sale or not. The cars are licensed and tagged. The County sent a letter to the dealership delineating the conditions of the deferment that the Commission had decided on last time around. (Attachment – Letter dated August 2, 2004 to Benjamin D. and Rosetta Dickerson from Amelia G. McCulley, Zoning Administrator.) Along with the letter, he sent a full site plan of everything on the dealership property highlighting the areas that were to be left open for customer parking. He sent a copy of that letter, which included the entire package, to Mr. Dickerson and his counsel. As shown in the photographs the condition of the site is unchanged. He stated that he drove up Route 29 at least six times a week due to the large amount of work he does in the northern part of the County. While driving on Route 29 it was just a matter of looking over at the site as he drove by to confirm the site's status. The County received civil penalties yesterday in a civil case. Now that counsel is involved, our hope is that as they move forward at this end that it will put the property in compliance. They are fully aware of the situation.

Mr. Thomas asked if the sign was going to be replaced because it is open in front.

Mr. Rieley stated that the sign has a many open fluorescent bulbs.

Mr. Jones stated that the sign might have been damaged by the storm, but that the County had not pursued that yet.

Mr. Thomas asked if any Commissioner had any questions.

Mr. Edgerton stated that Mr. Jones indicated that civil penalties were awarded yesterday. He asked if staff could tell the Commission what the amount was.

Mr. Jones deferred the question to his supervisors.

Mr. Kamptner stated that the Court awarded $900. They have another case that is pending for a later date, which would be filed in the next week. Therefore, the inspections and civil penalties are continuing. The case is reaching the point where it will go the Circuit Court and the County will ask for an injunction.

Ms. McCulley stated that at this point they have paid several thousands of dollars in civil penalties over quite an extensive period of time without getting their special use permit approved, the site approved and then the site in compliance with those conditions of approval. Obviously, the civil penalty has not been a deterrent. She stated that perhaps it has been chalked up as a cost of doing business. Therefore, staff is going to have to move on to something more rigorous and different.

Mr. Thomas stated that was discouraging that somebody does not do what was asked of them, which makes the County out to be the bad guy. He thanked staff for the update.

Public Hearing Items:

ZTA-2004-007 Tier II Personal Wireless Service Facilities Fees. Amend Section 35.0, Fees, of Chapter 18, Zoning, of the Albemarle County Code to 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 for Tier II personal wireless service facilities under proposed amended section 5.1.40 ("Tier II review") of Chapter 18, and other expenses incident to the administration of the Zoning Ordinance related thereto. The fees for each Tier II review would be $790.00. 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). (Stephen Waller)

Mr. Fritz stated that as the Commission knows, staff has been undertaking substantial revisions to the Personal Wireless Service Facilities provisions of the ordinance. The concept of the three tier wireless review policy is under review right now before the Board of Supervisors and will go back to them in October. There are three new tiers. Tiers I and II have fees already associated with them. However, Tier III does not. This zoning text amendment is to add to the ordinance a Tier II fee. Staff is recommending a fee of $790. The recommendation is based upon the fact that the review will be substantially similar to the review that would occur for a final site plan that comes before Planning Commission. Staff has to go out in the field, send notices and prepare staff reports. There is a great deal of work associated with this review. The suggested language to be added to the ordinance is included in the Commission's packet. If the Commission has any questions, he would be happy to answer them. He pointed out that Stephen Waller, Senior Planner, was also present and could answer any questions since he was the assigned planner on this project.

Ms. Higgins asked what the basis was for the $790 fee and how did staff arrive at that amount.

Mr. Fritz stated that when the fee of $790 was adopted in the ordinance for a final site plan that staff had done an analysis. Staff's analysis compared the number of hours spent in the review and how their fees related to other jurisdictions before the fee was established. He pointed out that he was not sure if staff actually recommended the amount of $790 or if they recommended a higher fee. He noted that was the extent of his knowledge regarding that procedure.

Mr. Thomas asked if there were any other questions for staff. There being none, he opened the public hearing and noted that the County was the applicant. Therefore, he asked if there was any one else present who wanted to speak regarding 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. Morris moved to approve ZTA-2004-007, Tier II Personal Wireless Service Facilities Fees, as submitted.

Mr. Edgerton seconded the motion.

Mr. Kamptner stated that the Commission may recall that when the main zoning text amendment for the Wireless Policy came before them that there was a process that was added to the ordinance. The new process was for when an applicant for Tier II is determined to no longer qualify for Tier II, that it then became a Tier III special use permit. For this fee there may be an applicant who paid the Tier II fee, and then once it was determined that they don't qualify for a Tier II they would need to pay the Tier III special use permit fee.

Ms. Higgins asked if that meant that the applicant just had to pay the difference.

Mr. Kamptner stated that at this point the way the ordinance is set up is that the applicant would have to pay two separate fees. As time goes on, staff will be able to see whether the fee matches the additional work that goes with processing the request as a special use permit.

Ms. Higgins asked where the special use permit category lists wireless facilities.

Mr. Kamptner stated that it would probably go under Section 35.a.3.

Ms. Higgins asked if it would go under commercial use.

Mr. Fritz stated that it was not specific because it includes all commercial uses falling in that category.

Ms. Higgins suggested that some wording be added to that section which specifically says that.

Mr. Kamptner stated that this language has served the County very well up until now.

Ms. Higgins suggested that some wording be added stating that the fee for Tier II Wireless Facilities is $790, and then if it was administratively determined that a Tier III review was required then an additional fee is required. She felt that they were sending something forward with no basis for why the number is that way other than in a vague comparison. It was possible that someone applies under Tier II and then was told later that the fee does not apply. She stated that it seemed like a vague area for even staff to understand.

Mr. Fritz asked if she meant vague in terms of why staff was recommending $790.

Ms. Higgins stated no because she felt that it was vague if someone comes in, makes an application and pays the $790 fee, and then through the process suddenly finds out that the fee is inadequate when they go to a Tier III review. She stated that if there was no reference back to a Tier III fee and it was just covered under commercial use that it could cause some confusion. She suggested the wording should say that it would be $790 unless it was deemed to be Tier III, which would mean that a commercial use fee is due. She felt that it needed to be clarified that it would be the difference between the two fees or an additional fee of $790.

Mr. Kamptner stated that unless the administrative practice is different as written, if the applicant filed for a Tier II and then later it had to be processed as a Tier III, then there would be a separate fee.

Mr. Fritz stated that was done administratively and that staff has done that before. If an application is made and mid-way through the review staff determined that it should have originally been filed as a different type of application, then they charge the difference and not a new fee. That has been a normal administrative practice. But, if the applicant goes all the way through the process and then tries to force the issue that they think it is a Tier III, then they pay the difference and process it as a Tier III. But, if the applicant comes forward with a Tier II and have it turned down, then they don't pay the difference between Tier II and Tier III. Since they received their Tier II review, they would have to the pay the new fee.

Ms. Higgins stated that since the Tier II fee is the only one being added here on the list, would it be appropriate to say Tier III falls under commercial use under Section 35.a.3.

Mr. Fritz stated that it automatically falls under that section because it is a special use permit. That section is picking up all special use permits for all types of commercial uses. Therefore, they don't need to single out Tier III Wireless Facilities.

Ms. Higgins stated that they were assuming that someone knows that a Tier III is a commercial use.

Ms. Joseph pointed out that all commercial uses that come in fall under that category and that is the fee that they pay.

Mr. Fritz stated that a drive-through window or anything that falls under a commercial use falls under that category.

Ms. Joseph asked if Tier I falls under the building permit category, and Mr. Fritz stated that was correct.

Ms. Higgins asked if it specifically says that some place in the ordinance.

Ms. Joseph stated that Tier I requires a building permit. Therefore, the applicant has to pay the building permit application fee.

Mr. Waller stated that was covered in the Wireless Ordinance that the Commission had already reviewed and passed on to the Board of Supervisors.

Mr. Fritz pointed out that it was the only one that does not fall under something that already exists, which was the only reason why it was being pulled out separately.

Mr. Kamptner stated that the motion was to approve the ordinance as written. He noted that Ms. Higgins's concern about the duplicate fees has been addressed by the longstanding consistent administrative interpretation of the fee regulation. Therefore, the motion is fine the way it is.

The motion carried by a vote of (6:0). (Craddock - absent)

Mr. Thomas stated that the motion carried for ZTA-2004-007, which would be heard by the Board on October 13, 2004.

SP-2004-00030 Old Mills Trail (Sign #11, 12, 13) - Request for a special use permit to permit fill in the floodplain and allow for bridges and culverts for the purpose of constructing a Class A greenways trail, in accordance with Section 30.3.5.2.2(3) and Section 30.3.05.2.1(2) of the Zoning Ordinance which allows for fill in the floodplain and for installation of bridges and culverts, respectively. The properties, described as Tax Map 77, Parcel 41 and Tax Map 78, Parcel 58L, contain a total of 26.213 acres, and are zoned C-1 (Commercial) and EC (Entrance Corridor) and RA (Rural Area) and EC (Entrance Corridor), respectively. The trail will be located within the floodplain of the Rivanna River south of Richmond Road (US Route 250 E) from Free Bridge to the southeast side of the Riverbend Garden Apartments and just north of Richmond Road along Free Bridge Lane almost up to Elks Drive. The Comprehensive Plan designates this property as Parks and Greenways in Neighborhood 3. (Francis MacCall)

Mr. MacCall summarized the staff report. The applicant is requesting approval to allow fill in the floodplain in the construction of bridges, culverts and retaining walls to allow for the upgrade of the existing greenway trail. Staff has reviewed this request for compliance with the Comprehensive Plan and the Zoning Ordinance and recommends approval with the conditions as stated in the report. If the Commission has any questions, he would be happy to answer them. He pointed out that the applicant is here.

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

Dan Mahon, Outdoor Recreation Planner/Greenway Coordinator for Albemarle County, stated that the only thing that he might add that was not written here that that might help describe this a little bit better for this particular site was that they started with a Class B type of trail, which was a simple Appalachian type of trail standard with very minimize disturbance of the ground. It was primarily for the clearing of brush for opening an area up. As shown on the plan, the whole trail comes all the way down and around that loop. Actually the area they were talking about right now terminates at the bottom at the river bend. There was an area of deposit or a depositional zone which was created when the river floods and drops its sediment. It is a fairly level area to start with. It was really easy to put a Class B trail in that area. He pointed out that the sewer lines have established a very decent trail bed in most of this route which he was using in his design of the trail. The impact is there and whatever major grading that has occurred out there happened when the sewer line was put in. If you have ever walked in that area, there is an area that is cut

through with a man hole within the canyon. That was done by the Service Authority when the sewer line went in. He stated that he had been working very closely with the Service Authority. The Service Authority likes the idea of the County co-locating trails in these areas because they need to maintain them as open anyway. That has existed up until very recently as a Class B trail, which has already been put in. The Rivanna Trails Foundation has worked with the County along with numerous volunteers to do that work. Much of the work that he was doing right now has been done with volunteer groups, which includes fraternities. Recently, the County has hired a foreman. Currently they are running a crew of inmates from the jails. It is a program where the inmates get some time off or some compensation or understanding for their contribution to this. Typically, they always have three or four individuals who are eager to work as opposed to them just sitting in the jail. The inmates have been great workers. It is a permanent program that the County has started around the parks, but primarily they are there for the trail system as it emerges. The County has the desire to bring this up to a Class A trail. This is significant because they hope to be able to define it better, widen it and provide the kind of access that emergency vehicles need to get down it. The standard width that they have set for the trail would be to accommodate an emergency vehicle for police and fire/rescue ATV's. As a result, it will give a nice firm surface that is suitable for bicycles and hikers. The one issue that really brought this forward is staff seeing that there was a need to review it. There is an area that has been eroding that was identified on the plan. That area is very unstable and the path comes right through that area. Working with the volunteers he began to build a structure to stabilize that area and to create trail surfaces. That detail is shown on page 8 in Attachment C, which was the first cross section that he had drawn in a long time. But, this work was being done with volunteers. Finally, when he stood back and looked at it, he determined that this area needed to be looked at. Actually, all along the way he has worked very close with Glen Brooks, Dave Hirschman and internal staff and having them check what he has been doing. He stated that he felt that this structure has reached the point where it needs to undergo a special use permit. This issue is something that is going to occur quite often as they are working in some of these areas where they need to either stabilize or retain an area of the river that will require a structure and some fill.

Mr. Thomas asked what the plans were for coming under Route 250 Bridge and connecting the northern section to the southern section.

Mr. Mahon stated that they have permission from VDOT to actually level that rip-rap out to create a shelf. If you go down there that work has actually been done with volunteers. They have gotten permission from VDOT to work in that area and to level it out to create a nice tread. It served very well under the Class B standard, but they are at the point it needs to be wider in order to allow the ATV's to go through. They have worked very carefully up to this point. But, currently they have stopped the work until there is an understanding to what the impact will be and if there is any more fill that needs to come in. Primarily, it was just for moving that rip-rap and leveling it out.

Mr. Thomas asked if there was an entrance or exit right here.

Mr. Mahon stated that he wished that it was. It is incredibly steep there and at this point they don't have an egress point for someone coming down the river on the trail. The County owns the property to the road, but without building a staggering stairway or something that it is too steep at that point. He noted that he met with the owner of the property three parcels down that has an access point that they may be able to use. Those three parcels down the river are currently on the verge of being signed as easements and then may come on line.

Mr. Thomas asked how high the trail would be above the level of the water and if it would all be in the floodplain.

Mr. Mahon stated that all of the trail would be located in the floodplain. If you look at a typical cross section of the river where the river slows down that there is a hump or an edge to the river where sediment is dropped when it floods and the water reaches the bank. The trail is actually on the inside of that edge, which is one of the things that we need to address in creating a Class A trail because when it floods and the river goes over that it gets behind that edge. But, when the river goes down that water needs to go back out. Then it starts racing, eroding and defining its way in different avenues. That is where they were looking very carefully at the materials that they used and the way that water leaves the site. They have identified a couple places where culverts should be put in. They have been looking at

using compacted stone dust of about 3 to 4 inches over a gravel base. But even with using that they know that they are going to have to address it. This is a very dramatic landscape to try to design within. Around the bend, that area use to be mined for gravel. There are many piles that were created with that use, which makes that a really complicated area to work with.

Ms. Joseph asked who the County received the grant from.

Mr. Mahon stated that the grant was received from the Virginia Conservation and Recreation Trail Fund. The County received a grant of approximately $30,000 to $40,000. He added that the County has a budget for the greenway system, but he was doing everything he could to find additional grants or any other extra way of complimenting this effort. He pointed out that he was working to expand those funds. The County also received a grant for the plan that had greenways and blue ways written on it for $2,000 worth of hand tools from the State Forestry Department.

Ms. Higgins stated that the application says that this is to create Class A trails along this particular strip. She asked if the whole trail was going to be Class A.

Mr. Mahon pointed out that it was going to be Class A just to that point. Beyond the river bend the landscape was just too difficult and they would not be able to carry it any further. It was going to terminate there as a Class A trail with a wheel chair access path with a viewing area and an area to watch wildlife.

Ms. Higgins stated that the Class A talks about an 8 foot wide paved surface or an 8 foot wide crushed stone surface. She asked if they were leaning towards using crushed stone or would this ever be paved.

Mr. Mahon stated that he would not say that it won't, but the crushed stone was what he was finding as being one of the best materials to use out there. He stated that asphalt does hold up better, but it does erode and this is a very sandy soil. The one thing that he has learned about this is that to have one standard and to try to apply it across this whole thing is going to be a problem because the soil and composition changes so much that it really has to be site specific.

Ms. Higgins stated that Mr. Brooks' memo was an overall perspective, which was very good. In the memo Mr. Brooks talks about a level area of about 5 feet wide. She pointed out that she got confused because the 5 feet seems to apply to the Class B.

Mr. Edgerton pointed out that it showed 6 feet also.

Ms. Higgins stated that the reason that she brought this up was that at the point where the Class A trail becomes a paved surface that she felt that the dynamics of a lot of things can change because if it was paved and when water is on the asphalt that it moves faster and then it becomes more destructive. Therefore, she was not sure that if a section was going to be paved or if there was a way to incorporate it into this that a more detailed engineering approval may be considered. The other reason why she brings this up is that they were looking at a permit here for the County to do a part of the greenway trail. The County is also looking at various developments with sections of greenway trails. What she sees in this is not a real clear explanation of when they are going to create 2:1 slopes and she did not see any mention of an erosion control plan. She acknowledged that most of the destruction that was done down there was probably done concurrent with the sewer line installation. But, they were going in a direction to hold people to a different standard and she wanted to make it clear when they see these types of things come in on plans with sensitive areas that it would require a lot more information. She stated that she did not have any problem with filling in the floodplain where it was located. But, if it was a Class A trail and it was non-paved, she felt that they would do the least amount of destruction as possible. But, there were some areas in which they would be leaving behind 2:1 slopes and our own erosion and sediment control regulations don't seem to be applying here. If they do this she wanted to make sure everyone was aware that they were going in that direction.

Mr. Rieley stated that he thought that was an excellent point. In fact, he felt that this plan ought to be cleaned up. He noted that 50 percent was 2:1 slope. When you cut into 2:1 slopes it means that you are creating a slope greater than 2:1. The County would be creating a slope that was steeper than 2:1, which was in violation of our own standards. He noted that Ms. Higgins's point was very well taken because the

Commission is going to see these coming in and they need to hold the County to the same standards that they hold other people.

Mr. Mahon stated that they actually don't have anything in this section that is cut like this at all because they are just following the sewer line. This detail was just stuck in here to show typical cross sections.

Mr. Rieley stated that there were some discrepancies. He suggested that they should probably take that out. He stated that he did not know what their limitations were, but if this was less expensive to build than what they were going to require to be built on a piece of greenway somewhere else that they had better think about it.

Ms. Higgins asked how they could close that gap. She stated that they don't want to make this more tedious for the County to do on a minimal budget when a sewer line is already there and the path of the sewer line could be used. She pointed out that the access to the Service Authority's manholes was needed. Also, access for emergency vehicles is a reality. She stated that she wished there was a way to close that gap. Staff's prior work on the trail could be washed away today and they might need to be in there repeated times. It is troublesome to see some of the slopes and the fills on the down sides. Mr. Brook's memo talks about a zoning text amendment to be pursued to allow filling in the floodplain for trail building subject to approval by the County Engineer. She suggested that his comment not be disregarded because the review could be helpful.

Mr. Mahon stated that was the character of most of this work. There may be some steep cuts, but it might be for 5 to 10 feet. The comment that Mr. Brooks made about that 5 foot wide trail was for this one structure, which was 40 feet long where the detail is.

Ms. Higgins asked if he was possibly looking at something that was very specific and then staff used it in a general sense. She stated that she had taken it as a general comment.

Mr. Mahon stated that the Service Authority keeps their easements open enough to drive a pick up truck through in order that they can survey the lines. County staff was looking at once it gets into the open areas to maintain it at about 8 feet. But, there are areas such as this where it will get narrower. It will still allow the emergency vehicles to pass.

Ms. Higgins stated that the CCC has been building these trails for a long time. Those trails are very much the same in that there are rocks piled up on one side with similar retaining structures. She stated that she did not know what the right answer is, but she just wanted to bring that up because there might be another request before the Commission and they can't leave it out of the limits of an erosion plan and then they have got issues.

Ms. Joseph asked if there was a Design Manual Team.

Ms. Higgins stated that there was, but that the team has never met.

Ms. Joseph suggested that this was something that could be included in it.

Ms. Higgins stated that the last time the Commission had any greenway discussion was on Old Trail. She stated that she still had not gotten any good feeling about whether the County is working with developers to get them to build and maintain the trails or is it totally going to be done by the County. She questioned how all of those details would work. One of the things that was brought up was what are the standards going to be. If these are going to be the standards, should they be in the Design Manual.

Ms. Joseph suggested that a meeting should be called to address these types of issues.

Ms. Higgins stated that she was trying to come up with a good way to be helpful to make staff feel comfortable that what he is doing is the right thing. But, is this project being given priority within the Engineering Department to provide some guidance possibly on the capital project side. This has been an issue for many years in the County when the County does its own project if they call on internal staff or hire somebody. She stated that they hate to spend that money, but still want to do it efficiently. She noted that she did have concerns when you start talking Class A because of the effects.

Mr. Thomas asked how many sections will be Class A trails.

Mr. Mahon stated that actually there were very few sections of Class A if you look at the overall plan. This is the section of greenway that they would invite tourist to, which would be a very public type of trail. The other trails are located in remote areas, such as along Dunlora, and are all Class B. However, he would like to add that in Crozet through the master planning process that what was originally put down as a Class B trail system was being upgraded to a Class A. That was done through the process after listening to the community's input due to their desire to bring bicycles in. The County will be doing something similar in the Pantops area as they begin inviting public input regarding the master plan for that area, particularly for this Class B trail and what is desirable in this area.

Mr. Thomas asked if any other Commissioner would like to weigh in on this discussion regarding if it was a Class A and what the Commission should require or recommend.

Mr. Joseph stated that she would feel comfortable if they added another condition that required engineering approval so that would cover any erosion and sedimentation issue.

Mr. Fritz stated that there was another condition # 2 that goes over to the second page, which was County Engineer approval of the construction plan. This is difficult language and staff struggled with many of the same things. If it was over 10,000 square feet, then it would require an erosion and sediment plan. He pointed out that those concerns were similar, and he hoped that it picked up what she was after.

Ms. Higgins stated that she thought that it did, but just wanted to bring it to the Planning Commissioner's attention that they would agree with these same conditions if it were any applicant. She stated that she was not so much of a component of holding the County to a higher standard, but to an equivalent standard. She felt that was pretty reasonable. But, there might be spot areas that someone has to flag and bring to the attention of the Engineering Department to have them look at. The other down side is that it will repeatedly wash out if you don't use some sort of technique or put a pipe in or whatever. That would not be the path of least resistance for the well meaning people.

Mr. Mahon stated that while that was not a policy, that has been his practice. When there was an area that he felt like he needed a second opinion he would call the landowner out or someone on staff out to check on it.

Mr. Thomas asked if there was any public present who would like to speak on this application at this time. There being no one, he closed the public hearing to bring it back to the Commission for discussion and possible action.

Ms. Joseph moved for approval of SP-2004-00030, Old Mills Trail, with the conditions as recommended in the staff report.

1. Approval by the Service Authority of the grade changes that may affect the sewer lines located within the greenways trail.
2. County Engineer approval of the construction plan.

Mr. Rieley seconded the motion.

The motion carried by a vote of (6:0). (Craddock absent)

Mr. Thomas stated that the motion carried for the SP-2004-0030, Old Mills Trail, and would go to the Board of Supervisors on October 13, 2004.

ZMA- 2004-010 UVA Research Park Amendment (Sign #96) - Request to amend existing proffers for 5.9 acres in Fontaine Research Park, zoned CO, Commercial Office, and EC, Entrance Corridor, to allow an increase of 40,000 square feet, for a maximum of 535,000 square feet of research and laboratory space. The property, described as Tax Map 76 Parcels 17B, 17B(1), 17B(2), 17B(3), 17B(5), 17B(6), 17B(7), 17B(8), 17B(X), and 17B(W), is located in the Samuel Miller Magisterial District, in Fontaine Research Park, on the south side of Fontaine Avenue (Route 29 Business) immediately east of the 29/250 By-Pass. The Comprehensive Plan designates this property as Office Service in the southern portion of Neighborhood Six. (Susan Thomas)

Ms. Thomas summarized the staff report. The applicant is seeking to amend an existing proffer approved with ZMA 2000-00, to allow additional square footage within the University of Virginia's Fontaine

Research Park for research and laboratory space. (See Attachments A, B and C). If approved, no other site plan changes will be necessary. Because the laboratory use requires less parking than the previously approved office use, existing parking capacity will accommodate the additional building. An existing proffer limits total buildings in the park to 495,000 square feet. If approved, this proffer amendment would add 40,000 square feet, increasing total park capacity to 535,000 square feet. The applicant has also agreed to provide a bus shelter within the park for transit riders.

Ms. Thomas stated that this proffer request is as straight forward as it appears to be. If the Commission has any questions, the applicant is here to answer any questions. In the course of building out Fontaine Research Park staff believes that the Foundation has discovered a lot about what it needs and what is really in demand now that the buildings are being built on the ground as opposed to the original master plan. Like all master plans it was somewhat conceptual. They have discovered that they need lab space and laboratory space does not generate the number of people working in it generated by office space. Therefore, it is possible to have more of it with the same number of people. This proffer amendment request is for an additional 40,000 square feet. Most of the square footage will go in the remaining building to be built in the park. A little of it might go in to an existing building to add some supplementary office type of space. Zoning has worked closely with the foundation to ensure that the parking that is available in the park would be adequate for the increased square footage. Because of the lower human occupancy in laboratory buildings, they have calculated the amount of square footage that they could add with the existing parking. She stated that she had gone over this with John Shepherd in Zoning and he has gone over his cheat sheet and he has been very meticulous in quantifying parking to make sure that there would not be a problem. Certainly based on what staff knows since parking regulations allow a little more flexibility than they use to, staff feels that this is a conservative calculation. This actually was the master plan used in the previous rezoning in 2000 and it shows two buildings. These buildings have been combined into one, but the square footage has to meet the proper amount. The foundation possibly may go into further detail. She noted that these two buildings have been built. She noted that this was the only remaining pad, and then this other one was not happening. She pointed out that she had not been through all of the site plans, but the square footage has been divided up in slightly a different way. This is an approved site plan. The Clinic Building has been built. There is another building that does not show on this site plan sheet because it was previously approved called the Hour Block Building, which is located down in this area. There is only one remaining building pad that can go in under the rezoning. The Foundation is asking for some additional square footage for that. She pointed out the location of the entrance and the two new buildings on the site. There is a level pad with existing parking, but there is no building there. She pointed out that in her original staff report that she indicated that the additional square footage was going to the Hour Bock Building, but she has since learned that it was another building. Overall, from staff's standpoint they are glad to maximize the benefits from Fontaine Research Park because it was in a location that if not now, but in the future, can be served by transit and it was close to neighbors. It was a close in office park. Staff feels that Fontaine Research Park is a good one to use wisely. She suspected that in the future that they would see more requests for more density because certainly the Area B Study, which the City, County and University all jointly worked on, showed it as an important center for both employment and as a neighborhood center with a lot of potential that is not really being realized with the current plan. But there were future opportunities for that. If there were any questions, she would be happy to answer them.

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

Valerie Long, attorney for the applicant, who is the University of Virginia Foundation, stated that there were also present this evening two members of the Foundation, Mr. Tim Rose, the President of the Foundation and Fred Missile, who if the Manager of Real Design and Development. She expressed their appreciation to Susan Thomas for all of her help as they have worked through this application. Her assistance and guidance has been invaluable, particularly in coordinating the various comments from the departments and helping them make final the language for the proffers. They appreciate all of her help. To summarize, she stated that this request is as straight forward as staff indicated. The Foundation is requesting an increase in the permitted square footage at the park. They are proposing to amend proffer number 5, which would increase the total density cap from 495,000 to 535,000 square feet. Approximately 30,000 square feet of this space is needed to provide additional research and laboratory

space at the building that Ms. Thomas pointed to on the plan, which they are currently calling the Advance Research and Technology Building. As she indicated, because the majority of this space would be research and lab space, which has fewer trip generation and fewer parking requirements, they are confident that they can increase the size of that building without developing or creating a need for any additional parking on the site. The remaining 10,000 square feet of space would likely be allocated to what currently is known as the Medical Office Building. That building is located on the far left side and would probably be increased. The increase of the Medical Office Building can be accommodated through the existing parking that is located on the site. There is some excess parking capacity near that building. Therefore, they are confident that there is plenty of parking there to accommodate the minor increase of square footage there. As staff indicated, the zoning staff has reviewed the proposal carefully and crunched the numbers with Fred Missile. They are confident that the parking on site is more than adequate to support it. She pointed out that the parking ordinance was amended just over a year ago and is as Ms. Thomas indicated much more flexible than it use to be. It also updated the parking requirements for a variety of categories of uses. She stated that one of those updated categories was for research space and the recognition that laboratory and research space did not require as much parking as standard office buildings. Therefore, they are happy to say that they think that this application is very consistent with the parking ordinance as it was recently amended. Finally, there are a few other proffer amendments. Most of them are really housekeeping and clarification amendments to the proffers to reflect and indicate, among other things, that some of the proffers have been satisfied to clarify some maintenance obligations with a few other requirements. They also want to point out that there is also one new proffer that the Foundation is proposing to construct a bus shop within the park to make the use of transit service there more comfortable for its parked tenants and employees. She stated that they know that the increased square footage of the park will enable the Foundation to respond to the increased damage for the increased demand for research and laboratory space at the research park all without increasing the need for parking on the site. It is consistent with the current parking ordinance. Therefore, they feel that this merits the support of the Commission. She stated that she would be happy to answer any questions or comments from the Commission or any one from the public.

Mr. Thomas asked if there were any questions for Ms. Long.

Ms. Joseph asked why the bus stop was not included in the transportation management plan because it seems like that was part of that.

Ms. Long stated that she did not know the answer to that, but that she would be happy to check. It is certainly something that was recommended by the County's Transportation Planner as part of this rezoning proposal. The Foundation was certainly very pleased to accommodate it. It may well have been that it was something that was sort of planned for all along once they had the build out of the park more established and complete. They feel that it will be a very positive addition to the park.

Ms. Joseph asked if they have any plans for any sort of cellular communications on any of these buildings going up. It is a site that everybody wants. She asked if they planned to have them hanging off of buildings.

Ms. Long stated that she was aware that the Foundation frequently receives inquiries from the representatives of the wireless communications industry and believes frequently works with them to see if they can put together proposals for facilities on the buildings that will certainly be of the appropriate design and location for the strict standards of the research park's design as well as a site that would function. Therefore, she believed that they were talking with some current wireless companies right now. She stated that she did not know if there were any current plans, but she felt that it was a good location if they can find a way to do it that is mutually agreeable to both sides. She stated that the first building when you come in on the right does have at least one set of wireless antennas on it and possibly more. They have certainly demonstrated a willingness to work with the applicants in that regard.

Ms. Joseph stated that it would be nice if they were not visible.

Mr. Thomas asked if there was any one in the audience that would like to speak on this application at this time. There being none, he closed the public hearing to bring the request back to the Commission for discussion and possible action.

Mr. Rieley asked Ms. Thomas to tell the Commission about the findings of the Area B Study.

Ms. Thomas stated that the Area B Study is currently at the PAC TECH level. The PAC TECH members are Wayne Cilimberg, David Neuman, and Jim Tolbert. They are talking about the findings of the study and are going to make a recommendation to the committee, which will take the matter up at their November meeting. Therefore, an official outcome will come out at that point from the study. The study has been under way for about 1½ years. It has been added to twice. One component dealt with a contract addendum for the redesign of Fontaine Avenue in the City. The second one added in about $25,000 to do more detailed engineering of several connection possibilities between Fontaine Avenue and Sunset Extended from the County. That was something that was originally identified as a need way back in the Southern City's Report, which was done in the late '80's. It seems to be that the preferable recommendation is for a connector road coming through the Granger property from Sunset Extended through the eastern portion of the Research Park parking lot, which seems to be the one meeting with the most interest and support. That would come out to Fontaine Avenue in a new intersection. They were not at all at the level of detail where anybody knows who is going to build what. But, with the Granger property being down here, it would roughly come up through this portion of the far eastern section of the Research Park staying away from the buildings so that there would be a safe way for pedestrians to get into the building. It would probably meet at some point with the structured parking. But, it would provide a connection up to Fontaine Avenue. The existing entrance would remain open. All kinds of things could happen with that existing entrance. It could become right in, right out. It could stay signalized. They were not quite at the point of knowing all of the details of the intersection analysis. This would allow good connections and better access to the park for employees and users of the park. It would provide a much needed link between Fontaine Avenue and the southern part of the urban area in the County. She felt that it would open a lot of possibilities for increased complimentary development within the park that could make it a more balanced array of uses, but still a very heavy use on medical employment with perhaps some supporting commercial or some things that would allow people to come to work and stay on the park campus without having the need to leave for lunch or other kinds of things. Of course, it would disperse traffic with another southern access point, a northern access point and perhaps a rearrangement of some of the traffic signalization and management within the park. With some additional density they would hope to have a better chance for transit to the park. Staff did talk with CTS as a part of this review. Although their long range plan calls for a route serving this park, CTS just did not feel that it was supportable quite yet. The Area B Study recommendations, if implemented, could offer some really nice possibilities.

Mr. Thomas pointed out that he had copies of all of those maps that he could bring and show the Commissioners. Also, away from this piece of property they are proposing a cross over from Stribling Avenue over to Fontaine Avenue with a new bridge crossing the tracks. That was another possibility.

Ms. Thomas pointed out that there are really about six different alternatives. This one probably received the most discussion, but they looked at all of them. The PAC TECH has had some initial discussions and is at least investigating this one. There was also a connection to National Resources Drive by the Forestry Department that was looked at. The road comes down further there, but it does not offer the benefit of taking traffic right to where the most activity is in the park. That is a relatively low level area. They also looked at reopening the Sunset Avenue Bridge, which of course was something that would be contemplated with care because those neighborhoods are very concerned. There is a potential new road extending from Sunset Road northwest of Fontaine, which would take out some existing structures and require the purchase of right-of-way, but that might offer some interesting options. She pointed out that possibly some of these things may be done in combination with each other. There has been that discussion, too. The PAC TECH has not made a decision, but it certainly received a lot of discussion.

Mr. Thomas stated that he liked the alternative coming through the Park because it creates a lot of openings in that neighborhood.

Ms. Thomas stated that everybody sees that Park as a tremendous resource in a lot of different ways.

Mr. Rieley stated that he appreciated the answer. It creates an inevitable question. Staff articulated very clearly the vision of the Area B Study for this particular parcel and it does need flushing out in terms of the use. There are transportation issues. Typically the Commission does not review rezoning applications

that have an opportunity to further a long range vision. He stated that he did not disagree with any of the conclusions of the staff report, but wondered why they were not utilizing this opportunity to push along any of these alternatives.

Ms. Thomas stated that staff found that the level of maturity of the study, its conclusions and the PAC TECH final position on it that made it difficult to incorporate the findings of the study in a relative recommendation. Certainly the study has taken some direction, and she outlined some of the options. She stated that Mr. Rieley was correct that on rezoning applications that staff tries hard to rely on any current guidance that they have in the form of Comprehensive Plan Studies. But, in this case it just did not seem to be quite at a level of maturity where they could know what the final recommendation by the PAC TECH was going to be.

Mr. Rieley stated that it was also the issue of scale with this, but he would presume that everybody was on notice that the next time they get a proposal for this piece of property that they will be looking hard at that.

Mr. Benish agreed that it was the issue of scale. The other thing is that overall the concept they find that it is consistent and supportable with our policies to encourage infill development and greater utility of the site. That along with the scale issue, staff felt comfortable moving forward. But it is a good point to make.

Mr. Thomas any if there were any more questions. He noted that on page 2 of the previous report in the third paragraph from the bottom, the applicant is acknowledging and supports the potential for additional development within the park of both employment related and supporting commercial. Similarly, the applicant's proposal does not conflict with any of the connector road alternatives between Fontaine Avenue.

Ms. Higgins moved for approval of ZMA-2004-010, UVA Research Park Amendment, with the proffers as recommended by staff.

Mr. Rieley seconded the motion.

Ms. Joseph pointed out that she was very happy that the Commission waited another week to get this because she really did not like seeing proffers the night of the meeting.

The motion carried by a vote of (6:0). (Craddock - Absent)

Mr. Thomas stated that the motion carried for ZMA-2004-010, UVA Research Park Amendment, and would be heard by the Board of Supervisors on October 13.

Work Session:

ZTA-2004-006 Historic Center and Community Center. Amend Section 3.1 to modify the definition of community center and to add the definition historical center; Amend Section 5 to include supplemental regulations for historical center; Amend Section 10.2.2 to allow historical center as a use permitted only by approval of a special use permit in the RA Rural Areas Zoning District of Chapter 18, Zoning, of the Albemarle County Code. (Rebecca Ragsdale)

Ms. Ragsdale stated that this zoning text amendment was initiated by the Planning Commission's resolution of intent in June as a result of the Lewis and Clark application for their exploratory center. That resolution of intent instructed staff to amend community center and also to look at amending the definition of museum to allow such historical, educational and interpretative centers similar to what Lewis and Clark proposes. In looking at the Comprehensive Plan framework for this amendment, there is the concept of heritage tourism already addressed in the Historic Preservation Plan. Therefore, that was sort of staff's starting point in what they were looking at in regards to what kinds of activities and what kinds of resources these interpretative centers would be interpreting to provide education to the public on. Heritage Resources include resources or sites significant to the heritage of a locality that relate to the unique culture, character, development, life styles, architecture or that type of thing. This work session is really a starting point to get some feedback from the Commission on what they are proposing. The only

change that staff proposes for community center is to amend the definition, which is located on page 2 of the staff report. A community center is a place, structure, area or other facility used for cultural, educational or recreational activities, which is open to the public and serves the local community and is not operated for profit. To address historical center, staff proposes that they add that definition to the Zoning Ordinance as a historical center and that it be allowed by special use permit in the Rural Areas zoning district with supplemental regulations in Section 5.0 of the Zoning Ordinance. That would be sufficient to replace what is existing for Agricultural Museum in the Rural Areas and its supplemental regulations. In devising a framework for the supplemental regulations, staff looked at what is already in the Zoning Ordinance for farm wineries as far as the scale of activity that they felt might be appropriate in the Rural Areas. The definition staff proposes for historical center is one or more buildings or structures or facilities used for educational interpretative activities that relate to natural or cultural or agricultural histories that are not operated for profit and are open to the public. As far as what the supplemental regulations should cover regarding items for display or sale, the items should be directly related to Albemarle County heritage resources as defined and related to the past or present people, places or things or events in Albemarle County. The activities of such centers may include displays, demonstrations, tours, public participation and activities, educational classes, research or outdoor activities. Staff would expect that they would have daily tours. The hours of operation, given it is the Rural Areas and staff's concern about excessive lighting, would be during regular business hours. To address the noise concerns, there would be no amplified sound. Staff has proposed some standards for parking based on that there is no current parking calculation in the Zoning Ordinance for this proposed use. Therefore, it is still in development. Staff thinks the parking should be based on the occupancy load of the building plus employees and any outdoor facilities. Regarding the setbacks in the Rural Areas for new construction of new facilities, staff suggests that the setbacks be used which are typically recommended for churches. That would be the commercial setback and buffering standards for the side and rear property lines, which would be a minimum of 50 feet. Staff suggests using the Rural Areas setback for the front of 75 feet that would be appropriate for new construction. For historic sites that may not conform with setbacks in particular cases where the historic structure was not built to Zoning Ordinance requirements that lesser setbacks may be approved by the Zoning Administrator to facilitate rehabilitation or reuse of those structures. Regarding accessory uses, staff suggests that full scale restaurants would not be appropriate, but they could have a snack bar type of set up. There would be administrative offices and research library facilities possibly allowed. There is a suggested square footage cap for retail sales. It was also suggested that those items should relate back to the heritage of Albemarle County. The special events and festival regulations mirror what is allowed for farm winery special events and may be permitted if requested during the special use permit process twelve times per year. Festivals would be possibly allowed four times per year. With regards to sites with historic structures or sites, which would include properties that are listed on the State or National Register, there is an additional requirement that any rehabilitation or new structures proposed on those sites would be completed to the satisfaction of the Department of Historic Resources. That condition is there to ensure that anything that is proposed as far as reuse or rehab or new construction would not jeopardize the historic resources or the listing on the State or National Register. As part of this zoning text amendment, it is designed to accommodate uses such as the Lewis and Clarke Exploratory Center, but also structures like Pine Knott or houses that may want to provide tours to the public. This is a starting point for the Commission's discussion in order to provide some feedback. Staff coordinated with the Historic Preservation Committee, but they have not provided their comments yet. Staff plans to take the zoning text amendment to their meeting on October 25. Staff provided a few discussion topics concerning whether the level of development with these historic centers would be something appropriate for the Rural Areas of if there is a need to address the accessory uses and whether they are appropriate for the Rural Areas. She asked for any possible negative impacts that staff has not included or thoughts with regard to historic sites being reused. She asked if there were any other resources such as agricultural or natural that people may want to consider in the interpretation. She asked for the Commission's input. Staff did not propose any changes with the museum definition. Currently museums are allowed in commercial zoning district. Staff wanted to leave that a little broader with a little more flexibility in the commercial districts, but then in the Rural Area have the option of an interpretative center that would be limited in scope with the type of interpretative activities.

Mr. Rieley stated that he had a question to ask for clarification. He stated that clearly this relates to Rural Area zoning, but this reference to Rural Area in the Comprehensive Plan sometimes is not the same thing. The genesis for this proposal is not primarily at all in the Rural Areas.

Mr. Benish stated that the property is actually in the development area because it was part of the park and zoned Rural Areas. The theory and general intent is that within the urban areas museums could be used as the primary definition and also used for our development areas in the Rural Areas zoning corresponding to our Rural Areas Comprehensive Plan Districts. The whole intent here is primarily for the Rural Areas, but these cases can arise.

Ms. Joseph stated that the staff report talks about having a focus group. She asked if staff has any idea when this is going to happen and who would be included within the focus group.

Ms. Ragsdale stated that staff allowed the Lewis and Clark representatives to know about this upcoming work session. Also, notified were Monticello and Pine Knott. Staff is meeting with the Historic Preservation Committee. They have not planned a separate focus group, but felt they could incorporate those people in the process.

Ms. Joseph asked if it meant that staff has notified those folks about this meeting.

Ms Ragsdale stated that was correct.

Mr. Benish stated that interested parties were a general term that staff uses for that process when they do a zoning text amendment. Normally, staff has what they call a focused group with interested parties. This is kind of narrow and staff felt that they could just notify them with a work session. If the Commission feels that they need a special meeting to set down with those folks, then they could certainly do that.

Mr. Rieley stated that so much of this proposal affects the Rural Areas in the Comprehensive Plan. He asked staff where the recommendations that the Commission made regarding the Rural Areas section of the Comprehensive Plan stands right now with the Board of Supervisors.

Mr. Benish stated that the Board of Supervisors had their first introductory work session in the afternoon of their second meeting in September. They are scheduled for their work session on the 6th. Staff has at least 3 plans and probably more than that. But, they are going to gage how rapidly the Board of Supervisors goes through this. Staff has broken the work sessions up into focused discussions. The guiding principles and some issues with density and development are the first topics that will be discussed. The Board will discuss Rural Areas uses at their second or third meeting.

Mr. Rieley pointed out that he could not help remembering back in 1999 when the Commission had a session with someone who wanted to have weddings. It was a very interesting proposal and issue and they talked about it. That applicant was basically told that their proposal related to the development of the Comprehensive Plan for the Rural Areas and it should be heard concurrently with that discussion. He pointed out that was over five years ago. He stated that applicant still calls periodically saying that she paid an $850 application fee, which the County will not act on because staff wants to see how it fits within the Comprehensive Plan. It seems that the Comprehensive Plan is a lot farther along now. In fairness to other people who have been on the run way, he noted that he did not see any reason why that issue should not be included.

Mr. Benish stated that he would begin working on those other items.

Mr. Rieley stated that five years ago when he agreed to defer action on that request that he did not know it was going to take five years. It certainly made sense to discuss that within the context of the Comprehensive Plan discussion of the Rural Area. He felt that this was exactly the same issue here. He pointed out that wedding receptions was mentioned in this language.

Mr. Benish pointed out that staff plans to meet with the Board of Supervisors on a monthly basis for at least three months, which would take them into early spring before there was an adoption. He stated that when they approve the Neighborhood Model they would have an action agenda that X amendments will be pretty high on the priority list of implementation measures for the Rural Areas. The one distinction with this request is that this approach is one remedy to an ongoing variance request that has been made by

an applicant. There is a specific inertia behind this particular request in that there is an action that they were responding to that was different from overall text amendments for the Rural Areas.

Mr. Rieley stated that he was not trying to slow this down, but just wanted to put both items on the same track as expeditiously as possible.

Mr. Benish agreed that they needed to get started as soon as possible. But, he did not want to get involved with uses that the Board may not agree with.

Ms. Joseph stated that if they were going to open this up, then they should allow this to happen in the growth area also and in different zoning districts other than RA.

The Planning Commission brought up the following questions and concerns:

- Should "not for profit" be included in the definition?
- The term "commercial kitchen" was questioned and whether it was too limiting.
- Should the scope of acceptable activities be broadened?
- Is the scope of acceptable activities too broad?

Mr. Benish stated that he was not clear on the Commission's comfort level with the use of museums in urban zoning districts as sort of the alternative for this or whether they want within residential districts in the urban areas some ability to allow this type of activity. Right now the way staff has this contemplated they were not recommending changing any zoning districts in urban zoning districts to allow museums other than the commercial district.

Ms. Joseph stated that if they were going to force something like this upon the Rural Areas with that kind of commercial activity, then they ought to be able to look at it if you have some type of historic structures in more residentially zoned properties people ought to be able to use those and maintain those to make sure that the buildings don't fall apart.

Mr. Benish stated that the other remedy would be to consider a rezoning of this request under museum, which is another option that this concept sort of lays out. That would be a whole different review process.

Ms. McCulley stated that if it were zoned commercial, then it could come under museum.

Mr. Benish stated that staff has not evaluated that type of request for Lewis and Clarke would be appropriate or not. The Comprehensive Plan calls for that area to be a park and not a commercial area.

Mr. Edgerton stated that the Rural Areas was a valuable resource and they need to be careful about opening up commercial activity.

Mr. Kamptner made the suggestion that rather than opening up 90 percent of the County to this use that they limit it to areas where they know that adequate roads exist. They have to make sure that theoretically the use is available outside of the district.

Mr. Benish stated that staff would work pursue the issue of site relevancy to the historic site and the definition and that would be one of the issues that they would come back with. He stated that the consensus of the Commission was to take out the nonprofit language.

Mr. Rieley stated that since this issue was generated by a specific project that it seemed to have a huge ripple effect on the issues applied to the Rural Areas in general. He suggested that they take a step back to determine if this is the most appropriate mechanism.

The Commission discussed and questioned whether the community center definition should include open to the public, but did not reach a consensus.

Mr. Benish stated that staff would obtain the requested information from the Board of Supervisors, work on revisions to the language and then schedule another work session.

Mr. Thomas, upon the consensus of the Planning Commission, invited Mr. Lawrence to speak.

Fran Lawrence stated that historically they were okay with the Commission making them show why this use ought to be located on this site. There were several reasons. One reason was that the property was located on the Rivanna River. Jefferson and Lewis and Clark were up and down that river, and 80 percent of their expedition was on water. This property was the trail head of Lewis and Clark's expeditions, which was a part of the Clark property. The 17 acres at the end of Darden Towe Park was their proposed area to be used. The landowner of the next parcel has granted access easements across their property which connects to the George Rogers Clark birthplace. That was definitely part of their story. It is their expectation that the 9 acres of land including the cabin would be included. They know that the Commission can exercise their legislative function in deciding about a special use permit. Therefore, they challenge to show the Commission that they have to be here because they are unique to the site. What they are undertaking can only be done on this site. It is the only river location in the urban area. They are prepared to meet the challenges of providing some sort of connection and preserving the historical significance. He stated that as they started this process some eight years ago and looked for the place for their use to be they met with some County people early on and was told that this was part of the growth area. Therefore, they would not have continued to pursue this if there was not at least some hope.

In summary, the Planning Commission held a work session on ZTA-2004-006, Historic Center and Community Center. The Commission reviewed and provided comments on staff's proposed language for an amendment to Section 3.1 to modify the definition of community center, to add the definition for historical center and to amend Section 5 to include supplemental regulations for historical center. The Planning Commission asked staff to obtain some direction from the Board of Supervisors during their review of the Rural Areas section of the Comp Plan concerning what uses should be allowed in the Rural Areas and how it relates to this proposal and the prior proposal to hold weddings in the rural areas. The definition of historical center might be too broad and could possibly open a whole new commercial focus on the Rural Areas, which they are trying to preserve. Staff should work on revising the language of the proposal and schedule the next work session upon receipt of the Board's feedback.

Old Business

Mr. Thomas asked if there was any old business.

Faulconer Hearing Comments:

- Ms. Joseph distributed the Faulconer approval letter in order that the Commission could see what went out to the applicant from the September 7 meeting. She asked that the Commission review the letter and provide comments to staff. (Attachment – Letter dated September 13, 2004 fromYadira Amarante, Senior Planner to Faulconer Construction Company, Inc.)
- Mr. Rieley stated that he saw something that caught his attention right off the bat. In number 8, there was a piece of this that he asked several times to be included and it was not quite what said. He stated that this was what Bill Fritz said, but it was not what he had said. He had trusted that staff would listen to the tape. He stated that his concern there was the vehicles that relate to the use of the site itself coming out onto those roads and not coming from somewhere else onto the site.
- Mr. Benish stated that the vehicles that relate to the use of the site are the type of phrase that they were looking for.
- Mr. Rieley suggesting saying that it was vehicles utilizing the travel ways to and from the site shall be of a scale that can be safely accommodated. He stated that he was sure that what he said was unintelligible since it was a long night.
- Mr. Thomas stated that under condition 7 that it seemed that there was a 100 foot buffer somewhere on that property. He asked if the buffer was increased to 50 feet.
- Mr. Morris stated that he thought the buffer went from 30 to 50 feet.

Mr. Rieley stated that he wanted to refer to a historical document of the Commission. They have been dealing with a number of rezoning applications and found that they wanted information that was not in the staff reports. This came up last week during a discussion on a private road request. He stated that he went back and dug the document out. This was something that the Planning Commission took a formal action on and was given to staff. He distributed copies to the Commission to refresh their memory. (Attachment – Planning Commission Request for Information to be Submitted with Re-zoning Applications dated 7 March 2000)

Mr. Thomas pointed out that he had a copy of the document in his book.

Mr. Rieley stated that they had talked about visiting the site and analyzing the impact on adjacent properties. Last week the applicant's consultant for the Starfield Preliminary Plat said that he had not been to the site for six years, which was relevant to the neighbor's concern. Obviously, that was not a rezoning and this document was just pertinent to rezonings.

Mr. Kamptner stated that he had an original copy of the document in his notebook, which was adopted on April 4, 2000 by a 6:0 vote and Mr. Finley abstained.

There being no further old business, the meeting proceeded.

New Business:

Mr. Thomas asked if there was any new business.

Ms. Joseph stated that the Farm Tour is on October 16. They were going to Hidden Hills, Seastock Farm and First Colony Vineyards. She stated that volunteers are needed to help.

Mr. Rieley stated that he was asking for advice from the Commission and Mr. Kamptner on a call that he received this afternoon from an architect that worked on the Kappa Sigma project. When the Commission reviewed this project we made a lot of suggestions concerning the building. The applicant did everything they asked and came back with exactly what they had asked for. The Commission saw all of the elevations and information requested and responded with all good comments. The building went through the entire project and nobody caught that it did not meet the height requirements. The architect was under the impression that because it was a special use permit that the special use permit covered it. That is how it works in Richmond, but not how it works in Albemarle County. In Albemarle County you still have to comply with the conditions of the underlying zoning. They have an appeal next week with the Board of Zoning Appeals. Unless somebody has objections, he would like to go to the BZA and simply tell them that the Commission saw the information and the scale, had no objection to that, and that the applicant and architect did everything we asked them to do. He asked if there was any reason that he should not do that.

Mr. Kamptner stated that it was an application for a variance for the height limitation. The reason that it came up was because the way that the regulations pertain to determining the height of a structure. It is measured based on the frontage and the front of the building. The dispute is what the front of the building is. Under the regulations the front of the building is the part that is closest to the road, and it is not what the applicant believes the front to be, which is the other access in the back. Therefore, the part of the building that is closest to Route 20 is 55 feet from ground level to the top. The rear of the building is 35 feet.

Mr. Rieley stated that it was a tough situation. He stated that he would try to make a case, but he did not know if their hardship would technically meet the zoning administrator's hardship criteria.

Mr. Kamptner stated that Ms. Amarante picked it up during the final review of the site plan.

Mr. Thomas agreed with Mr. Rieley that the applicant did come back with all of the information that the Commission had requested.

It was the consensus of the Commission to support Mr. Rieley's suggestion to attend the BZA meeting.

THERE ARE NO ITEMS SCHEDULED FOR THE COMMISSION ON TUESDAY, OCTOBER 5. THE NEXT SCHEDULED COMMISSION MEETING IS TUESDAY, OCTOBER 12.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 8:45 p.m. to the October 12, 2004 meeting.

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V. Wayne Cilimberg, Secretary

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