Albemarle County Planning Commission
October 19, 2004

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, October 19, 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; Bill Edgerton; Cal Morris and Jo Higgins. Absent were Rodney Thomas, Chairman; Marcia Joseph; Pete Craddock, Vice-Chairman; and David J. Neuman, FAIA, Architect for University of Virginia (non-voting).

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; David Benish, Chief of Planning & Community Development; Bill Fritz, Chief of Current Development; Sean Dougherty, Senior Planner; Juan Wade, Transportation Planner; and Greg Kamptner, Assistant County Attorney.

Mr. Cilimberg stated that the Planning Commission needed to nominate a temporary Chairman for tonight's meeting due to the absence of their Chairman and Vice-Chairman.

Mr. Morris nominated William Rieley to act as temporary Chairman for tonight's meeting.

Mr. Edgerton seconded the motion.

The motion carried by a vote of (4:0).

Call to Order and Establish Quorum:

Mr. Rieley called the regular meeting to order at 6:05 p.m. and established a quorum. He pointed out that they have a slim quorum since only three Commissioners are present.

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.

Review of the Board of Supervisors Meeting – October 13, 2004

Mr. Cilimberg summarized the actions taken by the Board of Supervisors at their October 13 meeting.

Consent Agenda:

a) **SDP 2004-075 Charlottesville Self Storage @ Crozet** - Request pursuant to Section 4.2.5.2, to allow for the disturbance of critical slopes and 26.10.3 to allow the disturbance of a required buffer. (056A2-01-58 and 56A3-1, 6, & 7) (Francis MacCall)

b) **SDP 2004-077 Avon Park Preliminary Site Plan** - Critical Slopes Waiver Request. (Tax Map 090, Parcel 32) (Stephen Waller)

c) **Review of the Moorman's River Agricultural & Forestal District -** Required 10-year review of the Moorman's River Agricultural & Forestal District. ***PLANNING COMMISSION MUST REFER APPLICATION TO ADVISORY COMMITTEE.*** (Rebecca Ragsdale)

Mr. Rieley stated that the next item was the consent agenda. He pointed out that he had a question about one of the items. He asked if any Commissioner would like to pull an item from the consent agenda for discussion.

Ms. Higgins suggested that the Commission vote independently of item a) SDP-2004-075, Charlottesville Self Storage @ Crozet.

Mr. Rieley stated that was the item that he wanted to take a look at as well. He suggested that the Commission pull SDP-2004-075 for a quick review. He stated that his question centered on the nature of

the graphic material that they had. On page 4 there is an existing conditions and demolition plan that shows some areas of critical slope, but it does not show where within that the improvements are. Then on the page behind that on page 5 it shows the location of storage units and a few critical slopes, which were very incidental slopes, and some grading. It says match lines see drawing L-1, but the Commission does not have drawing L-1. He pointed out that he was having some difficulty figuring out where this was.

Bill Fritz stated that on sheet 11 of 12, the landscape plan, you can see on that particular page that there are some shaded critical slopes. The critical slopes are in the area of bio-retention on down through building C. Of course, those areas were going to be disturbed. He stated that he had a full size plan which he posted on the board for the Commission. The other critical slopes being disturbed are along the entrance road both to the left and to the right. Some of the critical slopes in that area are going to be disturbed for the development of the site and some of them for the storm water detention basin. Therefore, some of the critical slopes are subject to review and some are not.

Mr. Rieley stated that his general request is that when they have critical slope waivers that come before the Commission that he felt that it was really helpful if they have them in a format where it is easy to see where they are located, how extensive and how many of them there are. He asked if for the overall site plan the Commission received the existing conditions and demolition instead of the grading plan.

Mr. Fritz stated that the Commission received the information just for that rear section. He pointed out that the Commission should have received the other information because it showed the buffer. What is happening is that there are critical slopes located in several different areas. As you can see in this larger area here that some of the critical slopes are being disturbed as part of the construction of the travel ways and part of it as storm water management facility. It is hard to differentiate which is which. Staff is making no distinction in which of those slopes are exempt because they are part of the storm water management facility and are just including all of it in the analysis.

Mr. Rieley stated that they use to typically get these plans with the areas of critical slope disturbance marked as separate things. It is very helpful to have them in that way. At the very least they need to have the grading plan for that whole area that shows that.

Ms. Higgins asked before the Commission takes any action on this that she wanted to declare that she disqualifying herself from participating in this transaction, SDP-2004-075, Charlottesville Self Storage at Crozet. Eventually she will have a minor Class B equity interest in this business, which will be located at 5393 Three Notch'd Road on Tax Map/Parcels 56A2-01 and 56A3 parcels 1, and 6 and 7. (Attachment One - State and Local Government Conflict of Interest Act - Transaction Disclosure Statement for Officers and Employees of Local Government [Virginia Code Section 2.2-3115(E)]

Mr. Rieley stated that it appears that the critical slopes are pretty incidental. Therefore, he felt that it was proper that it was a consent agenda item and he certainly supports it. He noted that he only raised the question because he wanted to know what was going on.

Mr. Morris recommended approval of SDP-2004-075, Charlottesville Self Storage @ Crozet.

Mr. Edgerton seconded the motion.

The motion carried by a vote of (3:0). (Higgins – Abstained)

Mr. Rieley stated that the motion passed for SDP-2004-075, Charlottesville Self Storage @ Crozet. He asked if there was a motion on items b) and c).

Ms. Higgins made a motion to approve the consent agenda items b) and c).

Mr. Morris seconded the motion.

The motion carried by a vote of (4:0).

Mr. Rieley stated that the consent agenda passes.

***Public Hearing Items**:*

SP 2004-046 Lighthouse Worship Center Inc. (Sign #82): Request for special use permit to allow church expansion in accordance with Section 13.2.2.10 of the Zoning Ordinance which allows for churches in R-1 residential zoning district. The property, described as Tax Map 32 Parcel 36E contains 2.217 acres, and is located in the Rivanna Magisterial District at 3349 Worth Crossing. The property is zoned R-1. The Comprehensive Plan designates this property as Transitional in the Hollymead Development Area. (Sean Dougherty)

Mr. Cilimberg introduced Sean Dougherty, the new Senior Planner, to the Planning Commission.

Mr. Dougherty summarized the staff report. This is for a special use permit for the Lighthouse Worship Center, Inc. It is located in the Hollymead neighborhood at the intersection of Proffit Road and Route 29 on Worth Crossing. It is located just off of Route 29 behind Mercer Carpet. The applicant proposes to construct a one-story steel frame class room building on the Lighthouse Worship Center property. It will be located to the rear of the church property behind the existing church building. The applicant has submitted a concept plan, which should be attached to your packet. The building will serve as a fellowship hall and a Sunday school facility for about 30 to 40 people. There is no existing special use permit for the church. The proposed special use permit will bring the Lighthouse Worship Center into compliance. The Comprehensive Plan designates this area as transitional in the Hollymead Neighborhood. The Comprehensive Plan defines transitional areas as intended to be used primarily between residential areas and commercial or industrial areas, or in areas where flexibility of land uses may be necessary to blend changing circumstances. This is where long term public improvements are anticipated or areas where development/re-use is encouraged. The zoning is R-1, Residential and within R-1 churches are permitted by special use permit. The site was analyzed and measured by a County Engineer and the Zoning Administrator. Based on the one space per 75 square feet requirement it was determined that the site contains sufficient existing parking to fill their requirement for the new building. The County's Chief of Zoning has granted administrative approval. The special use permit was reviewed in relationship to the Zoning Ordinance, Comprehensive Plan and the Neighborhood Model. In summary, staff has identified the following factors, which are favorable to this request:

- The proposed building makes more efficient use of the church property.
- There is adequate parking available on site to address this use.
- The church will continue to provide a neighborhood service to surrounding residential areas.
- No unfavorable factors have been identified.

Mr. Rieley asked if there were any questions for Mr. Dougherty. There being none, he opened the public hearing and asked if the applicant would like to address the Commission. Since the applicant did not wish to speak, the Chairman invited other public comment. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Rieley stated that he had one question about the recommended conditions of approval. He stated that he did not recall seeing the limitation that the building be used only on Sundays and one evening per week in other church related applications. He asked what the reason was for that limitation.

Mr. Dougherty stated that there was really no reason for having that limitation. He pointed out that he was following the different items listed as conditions for approval for churches. One of those conditions had sort of designated the times of usage, but that is not something that they have asked for. Staff can delete that condition if the Commission is not happy with it. It was just to get a little specific about what the uses were in the event that the church would have a lot of week night uses that might disrupt other neighbors.

Mr. Cilimberg stated that it has become a type of condition used in some circumstances where adjacent issues or traffic issues might be relevant. But, that is not the circumstance in this case.

Mr. Rieley stated that the condition was not solving a problem. He pointed out that his reservation was that they should not imply a condition if there is no specific reason, particularly with religious institutions.

Ms. Higgins stated that she found this one to be worded in such a way that it would be potentially difficult to enforce and interpret with the occasional meetings and gatherings differentiated. Therefore, if they were to include one that was limiting at all that it might be broken down differently. She suggested that the condition be deleted.

Mr. Morris moved for acceptance of SP-2004-00046, Lighthouse Worship Center, as recommended in the staff report excluding condition 3.

1. The improvements and the scale and location of the improvements shall be developed in general accord with the concept plan dated November 4, 2003.
2. The size of the proposed building will be no larger than 50X100 feet
3. ~~The building will be used on Sundays and one evening per week for worship services in addition to occasional meetings and gathering~~
4. There shall be no daycare center or private school on site without approval of a separate special use permit.

Ms. Higgins seconded the motion.

The motion carried by a vote of (4:0). (Thomas, Joseph, Craddock – Absent)

Mr. Rieley stated that SP-2004-00046 will go forward with a recommendation for approval, and would be heard by the Board on November 3.

***Regular Items**:*

SDP 2004-074 Gazebo Plaza - Request for preliminary site plan approval for a shopping center consisting of approximately 180,000 square feet with access to Hansen's Mountain Road. The development is on 37.75 acres zoned PD-SC, Planned Development Shopping Center. The property, described as Tax Map 78, Parcel 53 is located in the Rivanna Magisterial District on Rt. 179 (Hansen's Mountain Road), at its intersection with Rt. 250 (Richmond Road). The Comprehensive Plan designates this property as Urban Density Residential (6.01 - 34 dwelling units per acre) and Neighborhood Service in Urban Neighborhood 3. (Bill Fritz)

Mr. Fritz summarized the staff report. This is the Gazebo Plaza, which is located on Hansen's Mountain Road. There is a power line that runs along the rear of the property. It has very limited frontage on Route 250. The actual frontage and entrance to the property is located on Hansen's Mountain Road. There is an existing house located on the property. This application is for an 180,000 square foot retail shopping center. It has an interesting history. This particular site plan was approved on Oct 14 1980. The plan did not copy very well, and is one of the few copies that staff has. What it shows is Route 250 and Hansen's Mountain Road's entrance in this location. Those features are all the same. The building locations are all the same. The parking layout is essentially unchanged. The big difference between the two plans is that the grading goes all the way to the power line on one plan, but it stops prior to that location on the other plan. One of the differences is that in order to achieve that they have made use of retaining walls, which is not shown on this particular plan. This plan was approved on October 14, 1980. On December 10, 1980 this property was rezoned from B-1, Business to PD-SC, Planned Development- Shopping Center, which is the current zoning. This property has been the subject of two other rezoning or special use permit applications, with one in 1988 and one in 2002. In 2002, the Planning Commission actually held a work session on the request. But, ultimately both of those applications were withdrawn. Therefore, no action was taken on either of those two particular applications. This site plan is subject to a very seldom used provision in our Zoning Ordinance, which says in essence that the applicant has the choice of using the ordinance to review the site plan currently in effect or in effect at the time the district was created. In this case the applicant has chosen to use the ordinance in effect on December 10, 1080. Therefore, this plan has been reviewed against that ordinance and not the current ordinance. Staff has provided the Commission with a copy of that. The major differences on this plan and the one staff identified are critical

slopes. The 1980 ordinance regulated construction of structures on critical slopes, whereas the current ordinance deals with any sort of disturbance on critical slopes. There are very minor areas that are on critical slopes that these buildings are actually located on. Staff indicated those areas in purple. The current ordinance has yard requirements that require an undisturbed buffer for commercial property adjacent to a residential property. The 1980 ordinance had no such buffers. Therefore, no buffers are shown on this plan. The grading is consistent with the two ordinances with the exception of a buffer along the back side. There is actually nothing going on in that area. The 1980 ordinance had no Entrance Corridor. Therefore, it has not been reviewed for compliance with the aspects of the Entrance Corridor District. The landscaping provisions in 1980 were radically different than this plan. This plan actually shows landscaping generally consistent with the 1980 ordinance. The 1980 ordinance had a requirement that all parking be located within 500 feet of the entrance of a structure. This portion of the parking is beyond the 500 feet of the entrance to that structure. Staff has reviewed this site plan for compliance with the various provisions of the ordinance. Staff has outlined those revisions in the staff report. He stated that he would highlight those provisions, and then answer any questions that the Commission might have.

- Structures on critical slopes: The applicant did submit a request for modification. Those critical slopes were not shown in the 1980 plan. However, there was no detailed analysis of any protective measures that would be necessary to accommodate those disturbances of the critical slopes. The area is extremely limited. The application plan approved in 1980 did show disturbance. Approval of the modification request would be consistent with the approved plan. The Commission may choose to approve the modification request. But, staff has not analyzed any of the engineering aspects. Therefore, staff is unable to recommend approval.
- The parking located more than 500 feet from the building from which it serves. That provision was ultimately withdrawn from the ordinance and was routinely modified. Therefore, staff is recommending approval of that modification. It is also consistent with the approved modification plan. There is no alternative location that they could put the parking that is beyond 500 feet which would be consistent with the application plan.
- The primary issue in this particular project is the issue of access. Staff has cited various provisions of the ordinance. The Virginia Department of Transportation is unable to recommend this. In fact the Virginia Department of Transportation has not informed the County that they will issue a commercial entrance to the property. From VDOT's comments access to a signalized intersection with adequate design on Route 250 will accommodate the proposed development and no potential signalized intersection has been identified. Therefore, we believe that an adequate entrance has not been identified and we are not able to support the application and are recommending denial. Staff cited the various provisions to support their finding.

Mr. Rieley asked if there were any questions for Mr. Fritz.

Ms. Higgins stated that she had two questions. In the 1980 Planning Commission action, which there is no copy of in our packets, there was an application plan and this has been deemed to be consistent with that application plan. In that action in 1980 there is some assumption that the Planning Commission considered issues such as traffic before the PD-SC zoning was allowed. The first part of that question is did they and the second part is what has changed since then.

Mr. Fritz stated that the Planning Commission reviewed the site plan in October of 1989. There was no rezoning before the Planning Commission on that day. They only reviewed the site plan. The Planning Commission did approve it subject to various conditions. One of the conditions was that a building permit will be issued when the following condition has been met: The Virginia Department of Highways and Transportation approval of the commercial entrance and improvements shown on the site plan and overlay, including a traffic light if deemed necessary by the Highway Department. That was in their 1980 action.

Ms. Higgins asked how many conditions were associated with the 1980 actions. She pointed out that those conditions were not attached here. She asked with the exception of that one does this meet all of those conditions.

Mr. Fritz stated that this plan does not have a final storm water drainage plan. It does not have an approved erosion control plan. It does not have final Service Authority approval or Fire Official approval. It does not have VDOT approval.

Ms. Higgins asked if staff has repeated those conditions in these 7 conditions.

Mr. Fritz stated that he had included them in general concept, but not in the same exact wording.

Ms. Higgins asked if those conditions now go away.

Mr. Fritz stated that the 1980 plan has expired. But, it is still valid for purposes of the application plan component of the Planned Development-Shopping Center. The site plan has expired, but it became the application plan for this property.

Ms. Higgins asked if the application plan is consistent and meets the zoning administrator's interpretation of being substantially in accordance with, and Mr. Fritz stated that was correct.

Ms. Higgins stated that the second part of that question is what has changed on the access issue. For example, what was the timing for putting in the four lanes on Route 250? She asked if that has occurred since 1980.

Mr. Fritz stated that the 1980 plan actually showed Route 250 as having four lanes in this section.

Ms. Higgins stated that it had not occurred, but it was anticipated.

Mr. Fritz stated that he did not believe that was true. He stated that he was not sure if that section was four lanes except right by the bridge. He stated that he believed that it was four lanes right there before the bridge, but he could not remember how far back it went.

Ms. Higgins stated that seems to be pertinent to this issue. She stated that staff was implying that the Architectural Review Board has no application here.

Mr. Fritz stated that the Architectural Review Board's review of this will be limited to the building permits, but the site plan will not be.

Ms. Higgins asked if that was because the zoning was in place before the ARB was formed. She asked what the basis was of that.

Mr. Fritz stated that when they review the site plan they have to review it against the ordinance in effect on December 10, 1980. It is only the current ordinance which requires approval of the Architectural Review Board prior to the signing of the site plan. Because it is zoned PD-SC, the applicant can have the site plan reviewed under either the 1980 ordinance or the current ordinance.

Mr. Rieley asked if that choice is something in our ordinance or is it state regulated.

Mr. Fritz stated that it was still in their ordinance. He stated that if you approved a planned development of any sort two years ago and they reviewed the site plan today it is the applicant's choice to be reviewed under the ordinance two years ago or the ordinance of today.

Ms. Higgins pointed out that was consistent with other localities because she had seen that done before.

Mr. Fritz stated that they have reviewed site plans where the applicant uses the old parking standards as opposed to the current parking standards, and that is still done today. But usually the projects that are reviewed for planned developments are a few years old.

Ms. Higgins stated that was the advantage of getting a planned development approved rather than not and that is some incentive to understand what you will be entitled to.

Mr. Rieley asked if there were other questions for staff. There being none, he opened the public hearing and asked if the applicant would like to address the Commission.

Richard Spurzum, owner of property, stated that he had some prepared remarks which he would pass out. The property in question is zoned PD-SC, Planned Development Shopping Center. In October of 1980, a site plan for the development of this shopping center was approved by the Planning Commission as Bill Fritz mentioned. The property at the time was zoned B-1, general Business. Subsequently, in December of 1980, the County adopted a comprehensively revised zoning ordinance. At that time the property was rezoned from the former B-1 to the PD-SC. Under the terms of the revised zoning ordinance the approved 1980 site plan constitutes the approved application plan. The ordinance provides as follows: If such a planned district was previously established in conjunction with an approved site plan the approved site plan shall be deemed to be the application plan and the district shall be deemed to have complied with the requirements of Section 8.0. The staff report raises three objections to the approval of the site plan application currently before the Commission. The first is the critical slopes waiver. The staff claims that the plan cannot be approved because there appears to be areas where the proposed development exceeds 25 percent in slope. The staff further claims that the applicant has failed to provide adequate justification for granting a waiver or modification of these regulations. Unfortunately, for the staff's position the applicable provisions of the ordinance do not support this position. Under the terms of Section 8.0 of the ordinance the planned district regulations contain specific provisions for waiver and modification of ordinance provisions which would otherwise apply. The specific language in question is found in Section 8.2, which reads in part as follows: Not withstanding any regulations in Section 4.0, 5.0 or 32.0 establishing a procedure for considering a waiver or modification, any waiver or modification to a regulation applicable to a planned development shall be reviewed and considered as part of the application plan. Accordingly, the cited provisions of the ordinance related to the critical slopes contained in Section 4.2 simply do not apply. More over, since the approved 1980 site plan constitutes the approved application plan under Section 8.5.5.5, the plan is deemed to have complied with the requirements of Section 8.0. Accordingly, the Planning Commission has no authority to deny the plan or to condition its approval upon compliance with Section 4.2. The second objection raised by the staff report was parking. The staff notes that the site plan before you now would comply with the parking provisions of Section 4.0 of the ordinance. Since the applicant has elected to have the plan reviewed under the provisions of the ordinance which applied in December of 1980 the staff notes that certain parking spaces do not comply with the 500 foot maximum separation between buildings and parking spaces. The staff notes that it believes that it is not a substantial matter and would recommend approval of a modification for this purpose. However, as noted above since the approved application plan shows spaces in the location noted the plan is deemed to have complied with Section 8.0 of the ordinance and no further modification is either needed or required. Accordingly, the Planning Commission has no authority to deny the plan or to condition its approval upon compliance with the noted parking design requirement. The third objection raised by the staff was grading and retaining walls. The staff notes that the site plan proposes to install retaining walls rather than to carry out the extensive grading which would otherwise be required to implement the approved application plan. The applicant would be prepared to carry out this grading, but submits that the retaining wall will more completely protect the public interest by reducing the amount of grading and land disturbance, a position which the staff agrees. Under Section 8.5.5.3.c the County's agent is authorized to approve such a modification. Accordingly, the Commission has no authority to deny the plan on the basis of the change in the grading plan. Lastly is the staff's objection about the road access. Access to the site is provided by Hansen's Mountain Road. This road is unusual that it is a frontage road designed and built by VDOT in conjunction with the construction of I-64 to provide road frontage for properties which otherwise have been landlocked by that construction. The three issues raised by the staff in this connection are these:

1. The proposed access is inadequate site distance along Hansen's Mountain Road.
2. Hansen's Mountain Road is inadequate in design to accommodate the traffic from the proposed development.
3. The traffic from the proposed development would adversely affect the traffic flow of adjacent US 250 and its intersection with I-64.

None of these provide a proper basis for denying the proposed site plan. As far as the first issue, which is the site distance issue, the site distance issue is entirely within the control of VDOT since the site distance limitation arises from the terrains of land within the right-of-way for I-64. As noted in the applicant's submission, adequate site distance already exists under the circumstance of this case since the road ends at a distance less than the site distance which would otherwise be required. In addition, the applicant cannot obtain a site easement since VDOT does not grant easements. However, VDOT can grant a permit for the applicant to grade on their property and the applicant is prepared to grade the property to provide adequate site distance in accordance with VDOT regulations as they may apply to this site. The second issue is that the County has no power to deny approval of this site plan on the basis of inadequacy of adjacent public roads. The ordinance addresses the issue of road access in Section 25.4.1. Since the approved application plan is deemed to comply with the ordinance and since the proposed site plan before you concededly conforms to the application plan under a previously cited section 8.5.5.5. The Commission has no authority to deny the plan on the basis of the inadequacy of the adjacent roads. More over, the only alternative to the proposed access which is suggested would be for the applicant to provide access to US Route 250 through an adjacent residential subdivision. This alternative is legally impossible since the applicant does not control the route over which alternative access would be constructed and is squarely at odds with the approved application plan. In addition, routing all commercial traffic from the proposed shopping center through an established residential area is prohibited by the language of Section 25.4.1 of the ordinance. Thirdly, the applicant has a property right to access through adjacent public roads for the uses to which the property is suited. Since the property is zoned for shopping center under the PD-SC provisions of the ordinance the applicant has one and only one lawful use of the property. Not only a shopping center, but the exact shopping center depicted on the approved application plan. Neither the County nor VDOT has the authority to deny such lawful use, and any such denial would constitute the taking of all reasonable use of the property under the existing zoning. For all of the reasons that he has mentioned, the County has no authority to deny the proposed site plan. The applicant stands ready, willing and able to comply with the conditions of approval recommended by the staff including road improvements necessitated by the demands of the propose development as may be required by law.

Mr. Rieley asked if there were any questions for Mr. Spurzem.

Ms. Higgins stated that she was assuming that the area that he was talking about from the VDOT right-of-way is on the east side of Hansen's Mountain Road where it says VDOT/I-64 right-of-way. She asked if VDOT has indicated that they will grant the necessary permits to grade on that property. She pointed out that he had said that he was willing to do that.

Mr. Spurzem stated no that they have not asked them and they have not said that they would grant permission. But, they believe that since it is the only way that they could get the site distance and that is legally within the power of VDOT to give us the site distance that they need that they would have no choice but to do so.

There being no further questions for the applicant, Mr. Rieley invited public comment. He stated that there was one person signed up to speak being Ron Dimberg.

Ron Dimberg, resident of 105 Viewmont Court, stated that his property backs up against this property and that he has lived there since 1975. He stated that he had one question for the applicant.

Mr. Rieley stated that he would need to address the Commission because they were here to hear his point of view.

Mr. Dimberg stated that he would assume that the developer and his associates are astute business men and women. Being astute business men and women he would assume that they have done a market study and a market survey. Based on that they are convinced that the inhabitants of the Pantops area want and need another shopping center when they already have two partially vacate strip malls only a few minutes away. Further, based on that market study he was assuming that they can identify for us

some of the retailers who will occupy the space in Gazebo Plaza. One follow up question if they have not done a market survey, then how do they know that they want and need another shopping center when they already have two partially vacate strip malls only a few minutes away?

Stan Lapicus, resident of 1714 Wright Lane, stated that his property adjoins the proposal also. He stated that he just has a few comments. As far as developments go in general, he was not against developments. But, this is not 1980. This is 24 years later. He stated that his concern about this development is the access to the property. He felt that it would be fair to say that if anybody on this Commission went out to the property and stood there and looked you would have to agree that there is some potential for some serious problems there. The access off of Hansen's Mountain Road is just totally inadequate to handle any proposed traffic that would be entering that facility on a daily basis. If VDOT is of the opinion that there is a problem he felt that they ought to take a closer look at this. He suggested that they have someone from VDOT come here to explain what the potential problems are to include the safety issues.

Jewell C. Hay, resident of 368 South Pantops Road which is a condominium in Overlook Condominiums, stated that his major concern as a Pantops resident is the kind of shopping malls that they have in that neighborhood. As Mr. Dimberg pointed out they have strip malls with vacant spaces. Personally, he stated that he does not like strip malls because in ten years they look horrible. He stated that he really hopes that the Commission will find out what kind of businesses the owner is planning on having in that shopping center. In his opinion, he did not feel that they needed any more Star Bucks, fast food restaurants, dollar stores or any of that kind of stuff that you find on Route 29. He stated that they just don't need it.

Lee Shapiro, resident of 214 Lego Drive, stated that he was one of the adjoining property owners who also lived in Ashcroft. He reemphasized the concern about the traffic on Hansen's Mountain Road. He pointed out that he had not see any exact estimates of how much the traffic would increase with the existence of this shopping center. But, he would be interested in the multiplier effect and how much more traffic would be trying to come off of Hansen's Mountain as compared to what already exists there. As pointed out it is already a challenge.

Mr. Rieley asked if anyone else would like to address this application. There being no one, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Ms. Higgins asked if there was anything that VDOT sent that actually quantifies or qualifies the general statements in the staff report about what other areas are lacking except site distance.

Mr. Fritz stated that the comments that they received from VDOT are those comments that the Commission has in their staff report. In their September 15 letter they are speaking directly to this particular project. One of the things that they do is refer back to comments that they made in 1998. Their concern is not just site distance. Their concern is also the impact on Route 250 at the intersection with Hansen's Mountain Road and the crossover, which is outlined in those two letters. The general concern is the adequacy of the design for the Route 250 crossover and the entrance into Hansen's Mountain Road. Their other general statement asked for additional information in how this is going to be mitigated. The traffic study that was prepared was an analysis of the trip generations generated by this development versus the proposed 1998 development and not versus the existing development, other than that is a fairly straight forward calculation of single-family dwellings of 10.

Mr. Rieley stated that he had a couple of questions for Mr. Kamptner. The crux of the applicant's presentation is that we don't have any authority in this matter. He wondered if they could go down each of these issues and get your opinion on them concerning the degree to which they have authority on these. The first one is the critical slopes. Staff is not supporting a critical slope waiver, and the applicant argues that they have no authority over that matter.

Mr. Kamptner stated that he thought that the general comments throughout all of the applicant's comments is that his reliance on the provisions in Section 8 apply to an application plan, but what is

before the Commission tonight is a site plan. The applicant chose to proceed under the 1980 zoning regulations, which included provisions, for example, that no structures be on critical slopes except for a waiver or modification, which was the terminology, used back then. The modification provisions require the applicant to demonstrate to the Commission's satisfaction that the modification is consistent with sound engineering and design practice and that the public interest and the intent of this section would be served to at least an equivalent of such modification. He stated that he was assuming that Mr. Fritz's statement in the staff report was correct in that staff has not analyzed the engineering impacts because staff has not received the information from the applicant that would allow engineering to do that analysis.

Mr. Fritz asked if there were any special considerations or protective measures during construction that may be necessary as an issue that they have analyzed during a critical slope modification.

Mr. Kamptner stated that with respect to parking, Mr. Fritz has indicated that staff has recommended approval of the parking that is located more than 500 feet from the building which it serves.

Mr. Fritz stated that on that particular one that he would like to add something. He noted that he failed to point out in his presentation that he would like to note that 500 foot limitation also existed in October, 1980 when the site plan was approved by the Planning Commission. There is no discussion about granting a modification in that 1980 action when they approved the site plan. But, the Commission did approve the site plan. So you can infer that the modification was granted back in 1980 also. He pointed out that he had missed that in his presentation.

Mr. Rieley stated just so that he was clear on this that the staff's recommendation, notwithstanding, your opinion is that since they were reviewing this under the 1980 ordinance that in fact they do have the authority to not grant that waiver.

Mr. Kamptner stated yes, because Section 8's provision applied to application plans and not to site plans. With respect to grading and retaining walls in item 3, he noted that within the staff report that he could not recall a recommendation.

Mr. Fritz stated that it was just an identification of issues where they find no inconsistencies. Staff is not raising that as an issue, and is simply providing the Commission with information.

Mr. Kamptner stated that with respect to road access, the Commission has the two key provisions in the 1980 zoning ordinance. One is the safe and convenient access under Section 4.12.6.1. Section 4.12.6.1 provides that all off street parking spaces and off street loading spaces shall be provided with safe and convenience access to a street. All permitted uses shall have entrances constructed in accord with the specifications of the Virginia Department of Highways and Transportation. Section 32.5.8.1 requirements state that the Commission shall consider whether existing public roads that will serve the present development are adequate to accommodate the increase in traffic which can reasonably be expected to result there from. In the event that it is the opinion of the Commission that such roads shall be inadequate, then the Commission is required that such roads be improved so as to accommodate such results in traffic as a condition placed in the approval of such plan. In the two letters that the Commission has from VDOT, VDOT has stated that this project as proposed would create an excessive cue at the eastbound direction of Route 250. The trip generation information supplied with this site plan is not a replacement for a traffic study showing the impact the development would place on the existing roadway network. A follow up traffic study would need to be submitted to reflect the impacts that commercial development would place on the roadway network. The study would also need to show how the impacts are to be mitigated. That letter also referred back to the November 5, 2002 comments from VDOT. VDOT does not recommend building on the site under existing conditions from the results of the traffic study in which the inadequate access was demonstrated by severe delays and daily levels of service at the intersection of U.S. Route 250 and Hansen's Mountain Road. Additionally, the impacts of the development are underestimated due to errors in the trip generation and the capacity portion of that study. Then down further in the letter VDOT states that these analyses predict that the site traffic causes severe system degradation in the a.m. peak hours scenario manifested in intolerable cue lengths and delays. VDOT is asking for more information based on the information that they received back in 2002

and 2004. They have identified that the road serving this development is inadequate. Staff has also identified that the access from this development is inadequate.

Mr. Rieley thanked Mr. Kamptner. He stated that there were some good questions from staff.

Ms. Higgins stated that in follow up to the VDOT issue in the September 15, 2004 letter that they are really asking for more information. There is an implication that the study will need to show how the impacts are mitigated. That information seems to be lacking in this application, which is consistent with most. But, what she finds in this letter also is that item 3 talks about the connection of Hansen's Mountain Road being closed or relocated to go through the adjacent development, which is Route 1109. She felt that could be considered as an independent issue because in reality that might be VDOT's fix to the transportation impacts or degradation of the level of service on Route 250, but what is the County's position on running it.

Mr. Fritz stated that they were not basing their recommendation of denial based on anything involving the VDOT plan to go through Glenorchy. That is not a plan adopted in the Comprehensive Plan.

Ms. Higgins stated that basically he was saying that the third item in letter of September 15, 2004 or maybe the last sentence of it that staff does not agree with.

Mr. Fritz stated that staff was not basing their decision on that at all, but he agreed that she could say that.

Ms. Higgins stated that they were picking some that they wanted to agree with and some that they would not support if VDOT were to recommend it versus require it.

Mr. Fritz stated that if the plan did show that connection, then the plan would not be consistent with the application plan for one thing and they would have another set of problems.

Ms. Higgins asked if they should take that out of the discussion. She felt that it was a little bit confusing because VDOT talks about bringing this traffic to a signalized intersection. That is how it could be done to remove it some distance from I-64.

Mr. Fritz stated that was one way.

Ms. Higgins stated that VDOT was recommending that way.

Mr. Fritz stated that VDOT has a plan and they are saying that it does not accommodate that plan, but it is not a plan of the County's. Staff did not base our findings on that.

Mr. Morris stated that he had one other question. In the 1980 ordinance, Section 32.5.2.4 really gets to the heart of his concerns that the approval constitutes a danger to the public, health, safety, and general welfare. He asked if that would apply.

Mr. Kamptner stated that he would take that as a catch all provision. He felt that the failure of the plan to address particularly those other two more specific road sections are captured in that umbrella provision. He felt that they were the key sections that would be needed if the Commission was inclined to deny the site plan or to approve it with conditions; they need to address in particular those two specific road regulations regarding the adequacy of the roads and the safe and convenience access.

Ms. Higgins asked if it would appropriate to ask the applicant a question about whether they are ready, willing or able to come forward with the information requested in a mitigation plan.

Mr. Rieley stated that she could ask the applicant anything that she wanted to.

Richard Spurzem asked what the mitigation plan was for.

Ms. Higgins stated that in other words in each of the cases that the VDOT letter talks about additional information that they need such as the traffic study, a way to mitigate the effects on Route 250 and the site distance issue. She asked if he is proposing that he wants approval of this without addressing those issues.

Mr. Spurzem stated yes, that was what they were proposing.

Ms. Higgins stated that he does not propose that he will come back with VDOT information as they have requested.

Mr. Spurzem stated no, they would not.

Ms. Higgins stated that in essence they could approve the site plan and VDOT could withhold the entrance permit anyway. If you don't do it now you would have to do it later.

Mr. Spurzem stated that was right since the Commission could approve it with a condition of the commercial entrance permit.

Mr. Higgins asked what about other traffic implications from the entrance to the development to Route 250.

Mr. Spurzem stated that he felt that that site plan shows the improvements to Hansen's Mountain Road that they are planning to make, which is a third lane.

Mr. Fritz stated that there was a third lane from the entrance all the way back out.

Ms. Higgins stated that from the commercial entrance back to Route 250 there would be a third lane, but there would be no altering of the Route 250 right-of-way.

Mr. Spurzem stated that was correct.

Mr. Kamptner suggested that Mr. Morris put his motion in the form as he recommended in his written statement.

Mr. Morris moved that SDP-2004-074, Gazebo Plaza Preliminary Site Plan, be denied because it fails to comply with the following requirements of the Albemarle County Zoning Ordinance in effect December 10, 1980:

1. The site plan shows that structures are located on critical slopes in violation of section 4.2.3.2. In order to comply with this section, the site plan must be revised to remove structures from the critical slopes or the applicant must obtain a modification from the requirements of section 4.2.3.2.
2. The site does not have safe and convenient access as required by section 4.12.6.1 and Hansen's Mountain Road, as it presently exists, is inadequate to accommodate the increase in traffic resulting from the proposed development in violation of section 32.5.8.1. In order to comply with these sections, the applicant must address VDOT's comments in its September 15, 2004 and November 5, 2002 letters to the satisfaction of VDOT and obtain a commercial entrance permit from VDOT.

Mr. Edgerton seconded the motion.

Mr. Rieley asked if there were other thoughts. He stated that before they took a vote on the motion that he would like to have everyone comment on the request. He stated that he wanted to go back to the issue of the parking located more than 500 feet from the building. It certainly minimizes impervious surface, which is something that this Commission has taken seriously. Since the applicant has chosen to have this application reviewed according to the 1980 ordinance, they must comply with the provision that

parking be located no more than 500 feet from the building which it serves or specifically be waived. Since that has not been done it seems that whether it could be supported or not is an additional reason why it cannot be approved. He stated that he would like to get a sense of whether Commissioners would support a waiver for parking 500 feet or more away from the building in this location. He stated that he would not simply because it creates additional parking and additional grading in a steep area.

Ms. Higgins stated that in her opinion she did not agree with the items listed for denial. She agreed with the denial, but on the one basic reason that has to do with meeting VDOT's requirements for a traffic study and modifications to make safe and convenient access. The reason that she does not agree with both the critical slopes issue and the parking modification waiver was that the one for critical slopes back in the year when this application plan was approved that typically USGS topo was used. She would be interested to see that when the USGS topo was used on the site on whether there would even be any critical slopes due to the minor nature of it. Over the years the County has become more sophisticated in our review of contour requirements and we have been more detailed about the analysis of it. So she would suggest that when the Planning Commission acted in 1980 and approved this plan that in effect to be consistent or in substantial concordance with this plan, it is assumed that critical slopes were under the building. Therefore, she did not agree with that one. The one she did not agree with regarding the parking waiver is that there is parking in only a minor amount and no one has analyzed it. What that means is if you took a 500 foot measurement from the door that probably only a small portion of this plan is outside of the 500 feet. When she thinks about the 1980 plan, the Planning Commission cannot impose a plan that is impossible to do without the waivers. Therefore, where is the presumption of having granted them that by that action? She pointed out that they have become more sophisticated too in taking separate actions to the Planning Commission. But, if you go back to those years there are probably many plans that have been approved assuming that if the application plan was approved that those things were incorporated in it. But, for the one reason she felt that was maybe not appealable would be the VDOT issues. She felt that it was very critical both for the development's health, welfare and activity if the commercial entity is to survive here is to look at how to get people safely and conveniently off of Route 250 with relationship to the crossover at the ramps for I-64 and into the site. Therefore, she would not vote for denial under the particular items that are listed. She felt that the VDOT one was the biggest and the one that can possibly stand under direct analysis.

Mr. Edgerton stated that he had tried to figure this out. The lengthy letter argues strenuously that we should be considering this under the '68 ordinance because the approval was granted before the rezoning in December of 1980. He felt that was a real stretch. He felt that it was very generous to consider it under the December, 1980 ordinance, but he would have to defer to the legal minds on that one. But, as noted by staff this plan does not comply with that ordinance. He agreed with Ms. Higgins' point since he really thinks that access is the issue. He felt strongly that this Commission is not only authorized to deny this application, but they are required to deny this application unless safe and convenient access can be provided. He stated that his reading of the VDOT letters say that is not going to be possible. He stated that he was going to vote to deny the request. He pointed out that Mr. Rieley was suggesting that they add a third condition for the parking. He noted that one did not bother him as much.

Mr. Rieley stated that he just raised it for consideration.

Mr. Edgerton stated that he would be happy to deny the request with just the second item on the motion.

Mr. Rieley stated that there is clearly a provision in the ordinance that if parking is further than 500 feet that it has to be waived. He asked why that can't be treated the same way.

Ms. Higgins asked without that waiver how could the parking be incorporated into 500 feet and still be in substantial accordance with the application plan.

Mr. Rieley stated that was why he had questioned Mr. Kamptner and he made a very clear distinction between the application plan and the site plan. They are two different things.

Ms. Higgins stated that the site plan must be in substantial accordance with the application plan.

Ms. Kamptner stated that in general accord, but when you reach the site plan stage they have to comply with all of the site plan requirements. An application plan is not reviewed at the same level of technical specificity as a site plan.

Ms. Higgins stated that if the plan was modified so that the 500 feet did not need to be waived, then they would deny it because it was not in substantial accordance with the application plan.

Mr. Fritz stated that there is one other alternative. The applicant could reduce the square footage so that it would not require that additional parking beyond the 500 feet.

Ms. Higgins stated that if they reduced the square footage, then it might not necessarily be in general accord.

Mr. Fritz stated that the County never requires an applicant to build everything as shown; they just don't allow you to build beyond.

Mr. Edgerton asked if the Commission would consider a friendly amendment.

Mr. Morris stated that he would absolutely consider an amendment.

Mr. Kamptner stated that if the Commission denies the request then the Commission has to tell the applicant all of the deficiencies. Although the critical slopes are a minor item, he suggested that it stay in.

Ms. Higgins asked if as a compromise that the Commission could make the first condition include providing the safe and convenient access to the satisfaction of VDOT and County staff since the Commission has not been provided with that information. The other conditions could be in the same priority order or something like that so that condition 1 is really the key issue.

Mr. Rieley stated that he had no objection to putting them in some type of order.

Mr. Morris amended the motion to include that the site plan does not comply with Section 4.12.3.3.b that there is parking located further than 500 feet from the building.

Mr. Kamptner stated that in order to comply with that provision the applicant either needs to obtain a modification or reduce the square footage of the building.

Mr. Morris stated that Mr. Kamptner was absolutely correct.

Mr. Rieley asked if they may also in an effort to comply with Ms. Higgins request put these in the order of safe and convenience access being first, critical slopes being second and the parking third.

Mr. Morris agreed with Mr. Rieley's suggestion.

Ms. Higgins stated that if it were not for the VDOT issue that she would not find a problem with this.

Mr. Edgerton seconded the friendly amendment.

The motion was denied (4:0) for the reasons enumerated. (Thomas, Craddock, Joseph – Absent)

1. The site does not have safe and convenient access as required by section 4.12.6.1 and Hansen's Mountain Road, as it presently exists, is inadequate to accommodate the increase in traffic resulting from the proposed development in violation of section 32.5.8.1. In order to comply with these sections, the applicant must address VDOT's comments in its September 15, 2004 and November 5, 2002 letters to the satisfaction of VDOT and obtain a commercial entrance permit from VDOT.

2. The site plan shows that structures are located on critical slopes in violation of section 4.2.3.2. In order to comply with this section, the site plan must be revised to remove structures from the critical slopes or the applicant must obtain a modification from the requirements of section 4.2.3.2.
3. The site plan fails to meet section 4.12.3.3.b because there is parking in excess of 500 feet from the building which it serves. In order to comply with this section, the site plan must be revised to remove parking spaces more than 500 feet from the building, the buildings be reduced in size (to reduce the number of parking spaces required), or the applicant must obtain a modification from the requirements of section 4.12.3.3.b.

Mr. Rieley stated that SDP-2004-064, Gazebo Plaza, is denied for the reasons enumerated.

Work Session:

The Albemarle County Priority List of Road Improvements - Annual review of the County priority list of road improvements. (Juandiego Wade)

Mr. Wade stated that this is the annual update of the six-year secondary road plan. The County adopts a priority list and VDOT develops a financial plan to implement that priority list. This is the first year that VDOT did not actually create a draft implementation plan to match the County's draft priority list. They instead created a list of projects based on the County's current priority. VDOT will modify that list to the implementation plan after the Board's final approval. What staff has found out is that between the Planning Commission's work session and hearing and the Board's work session that there are several versions of that draft plan and VDOT said that they would just create one list at the end when the County adopts the priority list. Then VDOT will adopt a plan to modify to that. On attachment B, the Commission will find the draft priority ranking that staff proposed. There were only six new projects this year and five of those projects were unpaved road projects. There was one school priority in front of Stone Robinson. Staff essentially has two priority lists for unpaved roads. There is one for rural rustic roads and one for regular paving. VDOT has not determined whether these five new projects are eligible for rural rustic roads. When they do that, then staff will incorporate the projects into whether it is a rural rustic road or a regular paving road. But, for right now staff has prioritized them with the regular unpaved road projects. The County based the priority of these new six projects on the criteria found on attachment B, which has been changed a little from last year. Last year during the adoption of the plan the Board of Supervisors had some concerns with the criteria based rating system. Those concerns dealt primarily with the length of time that a project gets on the list and the use of the VC ratio when they are determining priority. He stated that just to give a little bit of background that there were a couple of projects last year that got a lot of attention, which included Gilbert Station and Doctor's Crossing. There was evidence presented that some of these projects had been on the list for twenty or thirty years. The Board asked if there was some way that staff could list the time that a project has been on the list as part of the criteria. That is something that staff is still looking into. Staff has done some work on the VC ration, which was basically a computation that they have to do for each project. That is not readily available for each project, but staff is going to work with VDOT to get as much of that done as they can for each project. Some Board members are working with staff to see if there are some other ways that they can modify that. Staff is still working on that. But, in reality it is not anything that they are going to do this year that will have a big impact on any projects that could be done in this fiscal year. Therefore, staff has some time to work with it. Staff plans to have a work session with the Board of Supervisors not only to address the six year priority list, but also to address some of their concerns with some of the criteria that staff uses. Staff is here today to get some of the Commission's comments and input and to receive approval on the draft plan that is found on attachment B.

Mr. Benish stated that in the end staff would like a recommendation from the Commission on attachment B, and then they would move forward to the Board.

Mr. Rieley, Mr. Edgerton and Mr. Morris pointed out that they did not have attachment B.

Mr. Rieley stated that unless there was something pressing about this item that they should probably carry this conversation over so that they would have had a chance to look the material.

Ms. Higgins stated that she had two comments. The County's proposed ranking of 8 was VDOT's secondary plan for Georgetown Road or Route 654 to Route 743. The traffic count is 17,000. It does not have an estimated advertisement date. It is described as a spot improvement urban cross section. She asked if that traffic count considers any sort of expansion, widening or other improvements. The second part of the question is that the project is pretty far down the list compared to its traffic count. She asked why that was the case.

Mr. Wade stated that about five or six years ago there was a Georgetown project because VDOT had plans to widen the road to four or five lanes. The residents along there did not want it widened.

Ms. Higgins stated that it was seven or eight years ago.

Mr. Wade stated that VDOT put together a plan to basically come up with a three lane cross-section with sidewalks and bike lanes. That was why it is not planned any sooner.

Ms. Higgins stated that this description needs to say three lanes because it does not imply that it is being improved with any additional travel lanes. It says pedestrian urban cross section. She pointed out that was what she was looking for. Based on the number of the 3.2 million she thought that they would get more than that because it already has pedestrian access. She stated that project just jumped out to be made as a high priority. The second part of that is that she wondered how the residents would feel about a three lane cross section because it will put some houses under derive.

Mr. Wade stated that staff believes that the residents would support it because they realize it is a very long process and they were involved with coming up with this plan. It does not have a date on it yet because it is something that staff is requesting for the first time this year. He thought that it was the Board's belief that they could possibly take some of the funds from a couple other projects. These projects just keep getting put back, but the funding continues to decrease from VDOT and the price of the project is increasing. The three lane cross section is what they are proposing. If the Board supports this, VDOT would then give it a date.

Ms. Higgins stated that if that was to happen would they lift the truck restriction. She pointed out that lots of people have brought that issue up. She asked if she could drive a horse trailer on that road.

Mr. Wade stated that he had never heard that there was a consideration to remove through trucks from Georgetown Road.

Mr. Benish stated that the emphasis is to build this road as a neighborhood street. The reconstruction is to get the bike lanes and sidewalk on both sides. It has power lines in certain locations on both sides of the road, which increased the cost quite a bit. The three sections, as he recalled, is to ensure that they have left turns at all of the higher volume intersections. There are actually a number of left turn lanes already on that road. It may not be from end to end a three lane section. He stated that he did not think the community literally wanted a center suicide lane, which some people call it. It would really be a controlled left and right turn lane. It would end up with a cross section with about three lanes because there would be a number of them.

Ms. Higgins stated that she thought that all of the power poles were out in the state right-of-way so that it would not cost for it to be widened. If the power poles are in the state right-of-way they would have to move them out.

Mr. Benish stated that he understood that was a significant factor in the costs. Staff can look into that issue.

Ms. Higgins stated that the other question was about number 18 of the County's proposed ranking of Rio Road at Penn Park Lane intersection. The improvement is requested by the City to be funded from a

private source, which had a 23,000 count. She asked how that fits in since it was to be funded from a private source. She asked why that project would be on this list.

Mr. Cilimberg stated that there is some history on this project. The City has been very interested in seeing the old Meadow Creek Treatment property developed. The City had a development interest that wanted to move forward with the project, but they did not feel that an alternative access could be made that would relieve that intersection. Therefore, in order for the project to work and the traffic to move that intersection would need to be improved because there would have been a couple of hundred homes on this Meadow Creek property. They were willing to pay to have that intersection improved, but they were not able to obtain the right-of-way to do it. They needed to get into the six-year plan. Actually the Board member at the time representing that area agreed that they should put it in the plan so that it had a place when that project was ready to move forward. When it was time to try to purchase the right-of-way they would have that money transferred into the state proffers basically to do the project.

Ms. Higgins asked if that would be from the City or from the developer.

Mr. Cilimberg stated that it would be from the developer the way that staff understood it. But, very honestly that is between the City and the developer. Staff just knew that the money was necessary.

Ms. Higgins stated that it was an unusual circumstance because it was a City property that only has access from a County road. She asked if that was setting any kind of precedence that they would basically send the money through so that VDOT could purchase the right-of-way. There are a lot of other cases with development that would be feasible if someone would purchase the right-of-way for them.

Mr. Cilimberg stated that one of the hang ups right now is that VDOT has indicated its reluctance to purchase the right-of-way even with the private funds.

Ms. Higgins stated that was what she was getting to.

Mr. Cilimberg stated that it would then just have to rise to its place on the project list where it starts getting public funds when they were going to do the project. Then some private monies would end up getting transferred into it. But there has been some contact with the County about the County actually obtaining the right-of-way. But, that to this point it has not been something that the County has been interested in. To be very honest, he felt that this was very unusual and they have not had a case like that. With the Albemarle Place approval there were things that were proffered there that are going to get the County in to business which we have not been involved in before potentially in making that project happen. He stated that he would imagine in the future for urbanization projects from the County that there are going to be some things that we are doing as a County that will be different in order to potentially enable that to happen in a way that we feel is consistent with the plans that we have.

Ms. Higgins stated that she did support it. She stated that there were some gyrations that they would have to go through to give an equal level of service so that it could be done more smoothly. Obviously in this case it is the off-site improvements that will affect that neighborhood, but how else could it be accomplished. It is a valuable property that the City wants to develop.

Mr. Benish stated that the other factor is that the condition of Rio Road in and of itself probably has merit for it to be considered as a public project anyway. While it was not being driven by the development, it may be speeded up by the development and the condition may become worse. The condition of Rio Road right now, without the Meadow Creek Parkway being built, warrants the need for this type of intersection improvement and the community warrants it to be done.

Ms. Higgins stated that what she was wondering is if the portion of the Meadow Creek Parkway within the City that ties into Rio Road affects this one in its priority consideration. Without the answer to that they did not really know.

Mr. Cilimberg stated that its place on the list was anticipating Meadow Creek Parkway being constructed. As you notice that is up much higher.

Ms. Higgins stated that project description and comments should be updated to make it sound different than just funded from a private source to understand that it might meet the City goal for that. It would be helpful for someone looking at the list. The one above that for Eastern Avenue on Route 240 to Route 250 to interconnect future neighborhoods to include the railroad underpass and the bridge over Lickinghole was in the fore front of a lot of people's thoughts. That particular description makes her wonder. She asked if there was a way in the interconnection or may be with some information that staff already has, to be able to compare these. She stated that she always goes to the highest traffic load on roads. Although this is a whole new avenue or connection from point A to point B, is there a way to put projected in these to make the whole Crozet plan work. There are going to be significant portions of it already built. The bridge over Lickinghole is probably even a priority more to say than the railroad underpass because there is already one railroad crossing. She asked if staff would want to keep those together or explain it differently. But, a projected traffic count would be more effective.

Mr. Benish stated that where staff can do that they will certainly provide that.

Ms. Higgins stated that it was a new road and they would not put it in there without some idea of how much the road would carry.

Mr. Rieley stated that he felt that was a good point. He stated that he was also struck by the one project in the top ten in the priority ranking that had no money associated with it, which was the Southern Parkway.

Mr. Benish stated that at this time it was still questionable if it was still questionable whether it was still eligible for VDOT funding. As you may have known, a Board member was pushing that issue and staff has been getting initially conflicting responses as its enviable eligibility for that funding. As of right now staff has found out that it was only eligible for revenue sharing funding. Staff had actually assumed that was the case anyway. But in terms of use of VDOT secondary or construction funds as of right now it is considered ineligible for those funds. Therefore, it would have to be privately funded.

Mr. Rieley asked what the basis was for the determination.

Ms. Higgins stated that it has been in the Comprehensive Plan.

Mr. Benish stated that it was also in regional transportation studies that were done as part of the MPO, which was a planning organization.

Ms. Higgins asked what made it different.

Mr. Benish stated that he honestly could not recall. He stated that he would have to go back and look at the rationale.

Mr. Rieley stated that there was something about it that fell in this no man's land between primary and secondary roads.

Mr. Benish stated that the initial comment was made that made absolutely no sense to staff. But because they have private road standards and rural road standards somehow that made us ineligible. That did not make any sense to VDOT. The reason that Meadowcreek Parkway has been eligible for secondary funding is that it has been considered as a replacement to an existing roadway. It serves as an upgrade to what was known as Penn Park Road and Old Rio Road. So that use of secondary funds upgrades the existing secondary system. Where this road is a new road does not necessarily augment any existing road system. But, it creates new connections from one area to another. Traditionally VDOT has been very defensive about funding construction through new lands as it theoretically might support private

development. They went into that issue with the Meadow Creek Parkway and the Free State Road connector, too.

Ms. Higgins asked what about Eastern Avenue.

Mr. Benish stated that what he was putting together was old comments from other plans and other times this type of issue has come up. He stated that he did not know if they have ever gotten a clear response exactly in writing as to why it is not eligible.

Mr. Wade stated that staff has not received anything in writing. They did request a lot of information from staff concerning the properties between Fifth Street and Avon Street concerning what the current zoning was and the future development potential. That was about 2 ½ years ago. Staff has not received anything back from them in writing. He felt that the local residency supports the project, but that they have to get approval from the central office. He stated that he thought they support it 100 percent, but they don't have the final say.

Mr. Benish stated that at one time the resident engineer, Jim Bryant, was going to try to take the lead on this and take care of it for us. He was actually trying to be the liaison for us. Therefore, since he has gone the County has lost some continuity there as well.

Ms. Higgins stated that she only has two more remarks. If that were the case, then Eastern Avenue could have been in the same category. She stated that the one question that she had was if staff had ever gotten the Route 240 study from VDOT. She stated that when she left in 1997, it was about 5 of 6 years old. They rejected it and told them that they needed to bring it up to date. There is a study that talks about different spot improvements. She asked where that falls in on your funding because it does not fall on the list.

Mr. Benish stated that those functional plans are projects that would go into the list for funding. Route 240 is a primary road, too. Therefore, that would have to be in the primary plan and not the secondary plan.

Ms. Higgins stated that she felt that the Route 240/Route 250 split was becoming dangerous. She stated that she would be interested in any input that VDOT has from that point. She stated that she had the plan in her hands in 1996 and he could check with Jack Kelsey. It was so out of date at that time that it was sent back to be updated and never returned.

Mr. Benish stated that the same thing happened on Route 20 South. They did the same sort of functional plans that we've felt were not really consistent even at a functional level with what they would want to see on that roadway. They asked them to reconsider some of the impacts of that alignment.

Ms. Higgins stated that on the primary plan, and she guessed that she did not pay attention about the difference, that is almost instrumental to know what to feed into these categories. She felt that has kind of been lost. They keep talking about a connection. They have two roads out there. They are not really looking at what they have got versus if Eastern Avenue falls in that category of not being able to be funded. Then, what can they do with the existing roads.

Mr. Benish stated that he was not sure if they mentioned the functional planning of Route 240 when they updated the primary plan. It use to be in there, but he was not sure. Staff will check into that and put that on their consideration list when the Board reviews that the next time.

Mr. Wade stated that staff would bring this back to the Planning Commission next week. He apologized that all of the Commissioners did not receive the necessary information.

Mr. Rieley stated that it would give them a chance to do their homework.

In summary, the Planning Commission held a work session to review the Six Year Secondary Road Plan for 2005-2011. The Board reviewed, discussed and provided comments on the County's Priority List for

Secondary Road Improvements. Since Attachment B was missing out of the Commission's packets, they agreed to carry the conversation over to the next meeting so that they would have a chance to study the materials before taking an action. After next week's meeting, staff plans to take the Commission's comments and make the necessary adjustments to both the County's Priority List and the VDOT Secondary Plan and then pass their recommendation on to the Board of Supervisors.

Old Business:

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

New Business:

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

Adjournment:

With no further items, the meeting adjourned at 7:45 p.m. to the October 19, 2004 meeting.

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V. Wayne Cilimberg, Secretary

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