Albemarle County Planning Commission
January 25, 2005

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, January 25, 2005 at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Rodney Thomas, Bill Edgerton, Calvin Morris, Jo Higgins, Marcia Joseph and Pete Craddock. Absent was David J. Neuman, FAIA, Architect for University of Virginia.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; David Benish, Chief of Planning & Community Development; Yadira Amarante, Senior Planner; Glenn Brooks, Senior Engineer; Bill Fritz, Chief of Current Development; Mark Graham, Director of Community Development; Amelia McCulley, Zoning Administrator and Division Director of Zoning & Current Development; and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Edgerton 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. Edgerton invited comment from the public on other matters not listed on the agenda.

Kenneth Schwartz, resident of 1933 Blue Ridge Road in Charlottesville, stated that he was an architect, community designer and planner in town and also a faculty member at the University of Virginia School of Architecture. He stated that he was here on behalf of the Central Virginia Chapter of the American Institute of Architects to honor one of your own. In fact, he was here to honor the Chair of the Planning Commission who has recently been awarded the 2004 Community Service Award from their Chapter. He read the following commendation that recognizes Mr. Edgerton's work: For significant national and local leadership in developing a sustainable environment that raises public awareness and through service as the co-founder of the National American Institute of Architect's Committee on the Environment, as a member of the Albemarle County Planning Commission and Development Initiative Steering Committee, as President for Citizens for Albemarle and as a board member of the Piedmont Environmental Council. For these various activities and he was sure there were many more, our local Chapter is very pleased to offer this award to your Chairman.

Mr. Edgerton thanked Mr. Schwartz for the award. He asked for the next speaker to come forward, Neil Williamson.

Neil Williamson, of the Free Enterprise Forum, stated that the Free Enterprise Forum was an organization that is dedicated to working on policy and procedure and not projects. He noted that he was not here last week, but understood that a report came back from the ARB that suggested extreme prejudice with a denial for a project. Specifically, he has not looked at the project and it may be worthy of a denial. But, the words extreme prejudice was misplaced and should not be used in any such report. He did not think that was the position for the ARB to be in and they should only offer their thumbs up or thumbs down for a project. Also, the ARB should offer changes that they need for the Entrance Corridor. But, extreme prejudice suggests a significant political process that he believed needs to stay out of the process.

There being no further public comment, Mr. Edgerton stated that the meeting would move on to the review of the consent agenda.

Consent Agenda:

SUB-2004-0288 Old Trail Creekside, Ballard Field, and Upper Ballard field Open Space (Francis MacCall/Yadira Amarante)

RS 2004-020 Fontana, Phase 4A, Lots 74 and 75 – Critical Slopes Waiver: Request for approval of a critical slopes waiver which will allow the construction of a single family home on each parcel. (Yadira Amarante)

Approval of Planning Commission Minutes: October 19, October 26 and December 7, 2004.

Mr. Edgerton asked if any Commissioner would like to pull any of the items from the consent agenda.

Mr. Rieley asked that SUB-2004-0288 be pulled from the consent agenda so that they could specifically talk about the issues of interconnectivity related to some of the streets. The central issue before the Commission is the open space plan. He felt that the open space system between the stream corridor protection and the spaces that are more specifically designed for the more urban part of this development are particularly well balanced and well placed. But, he did have some concerns about some of the street layout.

Ms. Joseph asked to pull RS-2004-020, Fontana for discussion. She requested that Mr. Kamptner speak to the Fontana request to explain why they are looking at this request now and why the Commission did not look at Parkview because it was subject to a rezoning also.

Mr. Edgerton asked if there were any problems with the approval of the minutes.

Ms. Higgins made a motion to approve the minutes for October 19, October 26 and December 7, 2004 as submitted on the consent agenda.

Mr. Morris seconded the motion.

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

Mr. Edgerton asked Mr. Rieley to address SUB-2004-0288, Old Trail Creekside, Ballard Field, and Upper Field Open Space.

Mr. Rieley asked Ms. Amarante to discuss what seems to be a wonderful opportunity for a connection of Killdeer Lane with Summerford Lane and why in specific that connection was not made

Ms. Amarante stated as she responded in the email, this project came before her as a final plat. The preliminary had already been approved and it had actually come through the Commission without that connection of Killdeer and Summerford. Some of the issues having to do with that was VDOT not really wanting those connections to Jarmans Gap. There may be more. The applicant is here with a little more history. It was her understanding that the intersections at Killdeer and Hayden Lane on Jarmans Gap Road, but specifically at Killdeer, are not appropriate for those interconnections. Why staff did not require at least a reservation until the Jarmans Gap improvements happened she did not know, but that did not happen at the preliminary stage. But, she believed that they have not lost their opportunity to possibly get some kind of connection. She stated that a rezoning would probably be needed to develop that property at the density at which she had seen the marketing material for this project and a collegiate had also stated that. The plat that has been approved for this section of Ballard just shows it as reserved for future development. Therefore, nothing has been specifically platted on that property. When something comes in they would have the opportunity to possibly look at that connection again. If there was not something built and then gated like Hayden Lane is now, then at least reserve for future dedication.

Mr. Rieley stated that he received an explanatory email from Ms. Amarante. Also, he received an email from the applicant. He pointed out that it might be useful for the applicant to share those thoughts with the Commission.

Mr. Edgerton asked if the applicant would like to address the Commission regarding the email.

Gaylon Beights stated that he did not have a copy of the email with him, but he thought that there were six issues of which he could recall a couple of them. The first issue was that there is a grade differential between Killdeer and the proposed, which was the approved now under construction road in lower

Ballard. The other issue was that when approving by right 232 home sites the Planning staff and VDOT wanted most of our traffic to hit the new Old Trail Drive. With the improvements with Jarmans Gap Road VDOT does not like too many connectors on to its proposed road improvements on Jarmans Gap. Also, the distance between where Old Trails Drive hits Hayden Lane, which will be connected to lower Ballard when Jarmans Gap is improved, was in excess of 650 feet. That was the preferred spatial difference between those two access points. When Jarmans Gap Road is improved they will make the connection on Hayden Lane as part of their approval if not before. Those were the main points.

Mr. Rieley stated that Killdeer and Summerford are very close together. What Mr. Beights is saying is that VDOT prefers a greater distance in the spacing and they will bring it out to this road and make the connection instead.

Ms. Amarante pointed out that staff also looked for a connection between Old Trail's creek side and right across the entrance to Waylands Grant. The property where that connection would be made is not owned by the applicant right now, but she noted that staff also wanted to make that connection.

Mr. Rieley stated that his point in bringing this up is that they have so few opportunities for these kinds of clear connections that will lead to a true network in the future that will be salubrious for everybody concerned. The spacing on this is much less between Hayden Lane and Killdeer Lane as they exist now. It is much less than a normal city block is. Because they are trying to look ahead into an urbanized situation he would point out a couple of other things that were in Mr. Beights email. Mr. Beights pointed out that Killdeer Lane is currently a narrow road, the houses are close to the street and they would be taking of some of the front yards in those areas. Nevertheless in this type of situation he hoped that our staff will look very critically at these connections. The current site distance of Killdeer Lane is not such that you would want a built connection there now. But, it is known that it is slated to be improved and it will be improved soon. He felt that it is important that they make these connections and get this network in place even through reservations for the future. That would be his admonition for the future to please look at these specifically not for immediate connections, but to think about it 20 years down the road when this is a more urbanized situation. He felt that in the future they will really wish that they had that connection and he was reassured by Ms. Amarante's assessment that the Commission will have another crack at this when that piece of property comes in for a rezoning. He hopes that this was a major consideration when it does.

Ms. Joseph requested to add to the conditions of approval that it is specific to all three of those developments. Depending upon who is next to review this the additional language added to the conditions would make it a lot easier. It would be very clear that condition 1 is for all of them. Condition 2 is for the Old Trail Creekside. Condition 3 would be for the Ballard Field.

Mr. Rieley moved for approval of SUB-2004-0288, Old Trail Creekside, Ballard Field, and Upper Ballard Field Open Space with the adjustments to the conditions as suggested by Ms. Joseph.

Mr. Morris seconded the motion.

The motion carried by a vote of (7:0) subject to the following conditions:

1. [14-313, 18-4.7] Submittal of covenants or other such instrument which evidences the establishment of a homeowner's association and provides for ownership and maintenance of proposed open space. Such document shall be subject to County Attorney review and approval and shall be in accordance with Section 14-313 of the Subdivision Ordinance - Instrument evidencing maintenance of certain improvements. This condition shall apply to all three subject developments – Old Trail Creekside, Ballard Field, and Upper Ballard Field.
2. Approval by the Board of Supervisors of the dedication to public use of Open Space and density increase for the Old Trail Creekside development.
3. Dedication to public use of Open Space B in the Ballard Field Upper development for Greenway use as identified in Attachment B.

Mr. Edgerton asked for discussion on RS 2004-020, Fontana.

Ms. Joseph asked to clarify why the Commission was reviewing this request. She pointed out that one of the proffers was written as if the County Engineer was able to approve the critical slopes waiver themselves. She noted that she was curious as to that wording and why it was before the Commission.

Mr. Kamptner stated that the wording of the proffer is curious. In looking at some proffers for Briarwood and going back and looking at earlier proffers for that project there was similar language. But, proffers are not allowed to reduce or eliminate a requirement of the Zoning Ordinance. Proffers have to impose some additional burden. So by proffer the applicant could not circumvent the normal process for obtaining critical slopes waivers. Interpreting this proffer consistent with that approach, it is really just imposing the additional burden that the County Engineer has to approve it in addition to the Commission's approval. In other words, the Commission needs to support it.

Ms. Joseph stated that with that said that it was clearer. She moved for approval of RS-2004-020, Fontanna, Phase 4A, Lots 74 and 75 – critical slope waiver.

Mr. Morris seconded the motion.

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

Items Requesting Deferral:

SP 2004-00054 Subway at Forest Lakes: Request for special use permit to allow a drive-in window to serve a fast food restaurant in accordance with Section 24.2.2.13 of the Zoning Ordinance, which allows for drive-in windows serving or associated with permitted uses. (Site plan SDP-2004-89 is currently under review for this proposed development.) The property, described as Tax Map 32 Parcel 42H, contains 2 acres and is located in the Rivanna Magisterial District on Seminole Trail (Route 29 North), just south of the McDonald's at Worth Crossing (Route 1722). The property is zoned HC, Highway Commercial. The Comprehensive Plan designates this property as Community Service in the Hollymead Community. (Stephen Waller) ***APPLICANT REQUESTING DEFERRAL UNTIL THE FEBRUARY 8, 2005 PLANNING COMMISSION MEETING.***

Mr. Edgerton stated that the applicant requests deferral of SP-2004-00054, Subway at Forest Lakes, to February 8, 2005. He opened the public hearing and asked if there was anyone present to speak regarding this application. There being none, he closed the public hearing to bring the matter back to the Commission for an action.

Ms. Higgins moved to accept the applicant's request to defer SP-2004-00054, Subway at Forest Lakes, to February 8, 2005.

Mr. Craddock seconded the motion.

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

Mr. Edgerton stated that the motion carried to defer the request to February 8, 2005.

SP 2004-00058 Dairy Queen at Forest Lakes: Request for special use permit to allow a drive-in window to serve a fast food restaurant in accordance with Section 24.2.2.13 of the Zoning Ordinance, which allows for drive-in windows serving or associated with permitted uses. (Site plan SDP-2004-89 is currently under review for this proposed development.) The property, described as Tax Map 32 Parcel 42H, contains 2 acres and is located in the Rivanna Magisterial District on Seminole Trail (Route 29 North), just south of the McDonald's at Worth Crossing (Route 1722). The property is zoned HC, Highway Commercial. The Comprehensive Plan designates this property as Community Service in the Hollymead Community. (Stephen Waller) ***APPLICANT REQUESTING DEFERRAL UNTIL THE FEBRUARY 8, 2005 PLANNING COMMISSION MEETING.***

Mr. Edgerton stated that the applicant also requests deferral of SP-2004-00058, Dairy Queen at Forest Lakes, to February 8, 2005. He opened the public hearing and asked if there was anyone present to

speak regarding this application. There being none, he closed the public hearing to bring the matter back to the Commission for an action.

Mr. Rieley moved to approve the applicant's request to defer SP-2004-00054, Subway at Forest Lakes, to February 8, 2005.

Mr. Craddock seconded the motion.

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

Mr. Edgerton stated that the motion carried to defer the request to February 8, 2005.

Deferred Item:

ZTA 2004-00009 Gas or Oil Transmission Line: Proposal to amend Section 3.1, Definitions, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Section 3.1, Definitions, by amending the definition of "transmission line, gas or oil" to mean pipelines that convey gas or oil for the purpose of supplying gas to a system, or which serve as a common source of supply from a system station or substation to one or more distribution lines as delineated in the definition if any portion of the pipeline is within the rural areas (RA) zoning district or within a public right-of-way abutting such district. (Amelia McCulley) ***ITEM DEFERRED FROM JANUARY 11, 2005 PLANNING COMMISSION MEETING.***

Ms. McCulley summarized the staff report. This was deferred at the January 11 meeting. At that meeting staff received a proposed revised text from the City of Charlottesville. Therefore, the deferral allowed staff time to review that proposed revision and make comment on it. Staff's conclusion is that they are able to support the language which they have at the bottom that would essentially grandfather existing lines and not make them nonconforming. However, the bulk of the language which would seek to essentially exclude from the transmission line definition certain lines, which she would discuss further, staff is not able to support. The requirement of a special use permit for these pipe lines will allow the County to consider both land use impacts and compliance with the Comprehensive Plan. The Comprehensive Plan addresses adequate provision of natural gas services to the development areas, providing lesser levels of public service delivery to the rural areas and minimizing the impact on resources in the rural areas. As you know, of course, the special use permit involves public process for review and may be approved subject to conditions for approval. Some of the potential land use impacts and the Comprehensive Plan implications would not be addressed by the language proposed by the City. The pending proposal for the main trunk line follows Route 29. If the text is amended as proposed by the City, then other future pipe lines could cross the rural areas by right following secondary roads or utility easements that are established. Now that could potentially impact agricultural forestal districts, historic resources and natural features such as streams. Without the definition which would make it require a special use permit, staff is not convinced that they could have adequate review and then be able to place conditions on any approval. Staff recommends adoption of the revised text which again includes a grandfathering provision. That is Attachment A. Staff has also prepared sort of an option 2 in the event that the Commission is inclined to accept the City's proposed language. Staff is suggesting a couple of revisions. One would be the definition that she believed Ms. Higgins spoke of, which is what is the date of an existing public utility easement and could be any easement in the future established after the zoning text amendment. Therefore, staff decided to tie down that date. Secondly, there would be a requirement for review under Section 15.2.22.32 for compliance with the Comprehensive Plan. That would be for those pipe lines which would be excluded from the transmission line definition as a result of their proximity to the right-of-way or their location within a utility easement. All three are attached, which may be a little confusing. Attachment A is what staff is recommending. Attachment C is what the City has recommended. Attachment B is only staff's recommendation in the event that the Commission and Board might be leaning towards the City's proposed language and it is a compromise.

Mr. Edgerton asked if there were any questions for staff.

Ms. Joseph stated that in Attachment B she did not see any reference to the rural areas. In the definition for transmission line, gas or oil in Attachment A it talks about any portion of which is within the rural areas zoning district. She asked if that was in Attachment B.

Ms. McCulley stated that it was at the beginning of number 2.

Ms. Joseph asked if there was any particular reason that they are limiting it to the rural areas.

Ms. McCulley stated that part of the concern is that there could be the most significant impact on the rural areas. There is also the issue of service delivery to the rural areas versus the development areas. She asked Mr. Kamptner if he had any thoughts about that.

Mr. Kamptner stated that the rural area is the most vulnerable, with potential for long distance pipe lines traversing a great distance, of great widths. That potential certainly exists in the rural areas because it comprises 90 percent of the County's land area. The Comprehensive Plan recognizes that natural gas service will be provided to urban areas surrounding the City. That is one reason why staff takes this position.

Mr. Rieley stated that last time one of the issues causing the City concern, which the Commission discussed somewhat, was the requirement that easements be in place because of the unique nature of these linear lines that the easements have to be in place before a special use permit can be applied for. He asked if there was any consideration of that.

Mr. Kamptner stated that there was consideration. There was discussion concerning the fact that in a typical special use permit application the owner of the property would need to sign the application. For this type of application the easement would not have to be in place at the time of the application.

Mr. Rieley stated that the cumbersome nature of piecing this together is the same as whether they have to have the easement or merely the signature on the application of the landowner of all of this patchwork.

Mr. Kamptner stated that collecting signatures over a number of small parcels could take some time.

Ms. McCulley stated that it may be a matter of timing because they would have to get those signatures before they construct the line anyway. They have indicated that the line that is proposed along Route 29 is intended to be largely within the existing right-of-way easements. Therefore, they might not need to obtain private property owner signatures for some of that.

Ms. Higgins stated that from the prior conversation, she felt that was why she was concerned when it said existing easement and that was why they tied it down to a date. But, she would assume that if someone was before the Commission for a special use permit that just like any case they would put a condition that before they put a line across somebody that they need an easement. That is a legal matter.

Mr. Rieley stated that what they heard was some concern about the timing for a project and what a cumbersome process the special use permit process can be to begin with. That process was made more difficult by requiring before making the application that the applicant has to line up all of the potential owners from one end to the other. It is not like a special use permit for a garage behind your house. There are special circumstances and he felt that they should be cognizant of those. He wondered to the degree in which that consideration was taken into account in the crafting of the language on Attachment A.

Mr. Kamptner stated that consideration was given to recognize that there would be a burden. The fact that this ZTA is amending only the definition and not the special use permit procedure and things like that really limits what they can accomplish with the ZTA. It is simply the nature of the beast. This is a linear project. This one is a mile and a half, but they could have spikes going out from there or stations out on Route 29 going in any direction. Some of them could be ten miles long throughout the County. There is no doubt that there is a burden in getting all of the signatures. But, given the magnitude of these projects in the planning for a particular alignment you would expect that they are working with these owners anyway before they conclude where a particular transmission line will be located.

Mr. Rieley asked if it was fair to say that the zoning text amendment is relatively limited in its capacity to deal with the unique nature of these transmission lines from a practical perspective and that the place to deal with that is within the special use permit requirements themselves.

Mr. Kamptner stated yes, in that our goal is not to regulate through definitions. It is simply to define the term. Here staff is really trying to define what a transmission line is. What they can accomplish through the special use permit regulations may or may not solve the City's problem. The typical application requirement is that they must have the signatures of the owners of all of the properties that would be affected by the rezoning, special use permit, variance, waivers or all of those types of applications that come before the County's Commission and Board. They can look at alternative procedure for linear projects that might reduce the burden.

Mr. Rieley stated that could be done without necessarily reducing the review, which was the point of the special use permit.

Mr. Kamptner stated that was correct.

Mr. Edgerton stated that he was not here on the 11th and missed whatever conversation took place. He noted that maybe some of this was covered then. He pointed out that his reading of the original staff report changed a little bit with the memorandum that they received today. It seemed like the big issue was trying to define the term transmission line versus distribution line. If he read the original staff report correctly the distribution line was a by right experience and the transmission line requires a special use permit.

Ms. McCulley stated that was correct.

Mr. Edgerton stated that in looking at the map and reading the other explanation from the City it appeared that what is being proposed is the extension of what has been judged by us to be a distribution line. He asked if that was correct. He pointed out that was when they start talking about pounds per square inch. He stated that this really threw him because how could they define it as a transmission line when it was connected to an end of an existing distribution line. He stated that he had trouble with the semantics of that. He asked for some help with that. He asked if that was discussed at the previous meeting.

Mr. Thomas pointed out that he could not remember the determination of what the Commission came up with, but they did talk about the pressure.

Ms. McCulley stated that she did not think that it was covered last time. She pointed out that she just asked Mr. Kamptner that question because she was a little confused about the answer to that question without looking into it a little more in depth as to whether the existing line that they are connecting to at 763 is a distribution line or a transmission line.

Ms. Higgins stated that by this definition it would be a transmission line.

Ms. McCulley stated that was correct.

Ms. Higgins stated that was the clarity to this definition because if that line were proposed now it would be subject to the special use permit. But, the City has asked that instead of that being nonconforming that it would be grandfathered under the definition. That is kind of the crux of it.

Mr. Edgerton stated that the letter from the City's Attorney refers to the transmission line having 400 pounds per square inch versus a distribution line. He stated that he had gotten the impression that what they were connecting onto was the 90 pounds per square inch, which would make it a distribution line. Then he noticed in the memo that staff had changed the terminology to a service line now. On Attachment B service line means pipe line other than transmission line. Therefore, he assumed that they were doing away with a distribution line. He asked if that was correct.

Ms. McCulley stated that distribution line is still referred to. To answer part of his question, she thought he said that previously they would have considered a line with 90 pounds per square inch of pressure

being a distribution line. Staff's determination as to whether it is a distribution line or a transmission line has not been based on pressure in the line.

Mr. Kamptner stated that there were a couple of other things that he could add. One is that the obvious thing that caught their eye about the City's application was their desire to expand into another locality, which is inconsistent with our Comprehensive Plan and the way that they look at natural gas. It is intended to serve the City and the County's urbanized area. He noted that you can take the perspective that up to GE Fanuc that perhaps they are serving the County's development areas. But, this takes it to a whole new level. They are conveying their gas to supply customers in another locality.

Mr. Edgerton stated that took it into a transmission line.

Mr. Kamptner stated that it caused staff to look at the issue carefully. Then staff realized that on this one all along the Route 29 North alignment that it perhaps has less public concern from an environmental standpoint than if they desired to serve the Orange industrial center or any other surrounding county. If the definitions stayed as they were and the City was to prevail with the BZA appeal, they would be allowed to those lines by right to serve all of these surrounding localities. That is what caused staff to start looking at these things differently.

Mr. Edgerton stated that explanation was very helpful.

Ms. Joseph stated that the reference from the letter from the City is that is how they would like us to look at this to be a distribution line versus a transmission line. She felt that there was a little bit of confusion in their letter also because they talk about that our Comp Plan talks about providing essential services to the County to ensure adequate provision of electricity, telephone, natural gas to support the existing and anticipated development in the County. She pointed out that there was no anticipated development north of GE.

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

Craig Brown, City Attorney for Charlottesville, stated that he would like to pick up on Mr. Rieley's questions about what he would refer to as the practicalities of how this would impact the City and its ability to expand its natural gas system. Contrary to what some people say about development, frequently with natural gas there is a very short window of opportunity to make a decision to serve a new development to get the lines in place and to provide natural gas. With this particular project for Route 29 the City would be required to get easements from all of the affected property owners. It would require easements from all of the affected property owners. It is not in the right-of-way. VDOT has unfortunately changed their regulations about utilities in rights of way, which means that they have to go just outside the VDOT right-of-way for their gas lines. In theory, you could probably say that they would just have to get a statement of consent from the landowner. But, if you put yourself in the position of that landowner and a City representative comes to you and says we need your written consent to apply to the County to put a gas line easement across your property that he felt that in effect they were going to have to negotiate that easement. Once they get those easements, the County schedule contemplates a six month period of review before a special use permit is granted. With respect to this line that generated this amendment, they probably need to make a commitment by the end of this year if they are going to capture the anticipated development in Greene County that makes their return on the investment work. That is why they feel very strongly about this. They had hoped that over the last two weeks there would have been a chance for some collaboration between the two staffs on an amendment that would satisfy the County's concerns about utility lines in rural areas, but would also allow the City to continue to expand its system to meet County approved development. Historically, he felt that these have been considered distribution lines. The reason he says that was that with the exception of the supply line that comes in from Free Union, they never had to get a special use permit. As he pointed out last time, they have gas lines going to GE, Farmington, Ednam Forest and all the way out to Keswick. There are certainly circumstances where the County would want to review a proposed gas line in the rural areas. They certainly don't disagree with that. Frankly, there are probably other areas where they would not care a whole lot if they have gas lines, such as the areas of the Route 29 north right-of-way. This is very important to the City. He felt that the ordinance needs to draw that distinction between areas where review is important and

perhaps it is not. He stated that he was not sure that it does that. There is language in there about the number of connections in the City, in the Town of Scottsville and in Greene County. It seems to the City that if one of their lines is going to be in a rural area where the County feels the need to have a special use permit review, that it should not matter how many connections there are in Greene County or in Scottsville. They don't even supply gas to Scottsville. This is important to the City and they would hope that they could still have an opportunity to try to work with staff to come up with some language that satisfies both sides. Unless they have some old transmission lines traversing the County, this is directed just to the City. He felt that this ordinance would only apply to the City of Charlottesville. Therefore, it is important to get it right. If they could take a couple more weeks to try to do that he felt that it was to everybody's best interest. He stated that they would be happy to answer any questions.

Mr. Edgerton asked Mr. Brown if that was a request for an additional deferral.

Mr. Brown stated yes, it was a request for an additional deferral. He reiterated that this only applies to the City of Charlottesville. They do have a BZA appeal, which only applies to this line. It does not affect any other lines in the County. It only applies to the last mile and a half up Route 29 north. He felt that even if they did not act tonight that the Board of Supervisors will take it up before that appeal, but he might be wrong about that. But, he felt that would be time well spent if the two staffs could collaborate and try to come up with some language that is acceptable to both sides.

Mr. Morris asked what connection has there been in the last two weeks between the two staffs.

Mr. Brown stated that there has been none.

Mr. Edgerton asked if there was anybody else from the public that would like to address the Commission on ZTA-2004-00009. There being none, he closed the public hearing to bring the matter back before the Commission.

Ms. Higgins asked Ms. McCulley to advise the Commission of the timing of this ZTA because it seems to be unclear about the definitions as they are in place now.

Ms. McCulley stated that in terms of the timing the BZA appeal is set for February 8. The Board of Supervisors date on this ZTA is set for next Wednesday, February 2. Staff also did not hear from the City during this two week period.

Mr. Kamptner stated that staff did talk to the City about deferring the BZA appeal one more time without putting off the time in vesting the BZA appeal. The City does not want to defer the BZA appeal.

Mr. Thomas stated that he thought the Commission left it at the last meeting that they would sit down and talk.

Mr. Morris stated that was also his understanding.

Mr. Rieley stated that during the time that he has been on the Commission he does not recall any instance in which an applicant has asked for a deferral to help improve the application and has been turned down on that request. He moved that they accept the applicant's request for a two week deferral.

Ms. Higgins pointed out that the City is not the applicant.

Ms. McCulley stated that was correct.

Mr. Rieley apologized because he was not aware of that.

Ms. Higgins stated that basically the County is the applicant. The request needs to go to the Board and they could consider any further action taken between now and when it goes to the Board. That would allow some time for them to work it out.

Mr. Rieley stated that technically the City is not the applicant. But, clearly the City is the petitioner for this definition. While he felt that it was most likely that the reasonable relief to the City's concern is going to come in the special use permit regulations rather than the ZTA regarding the definition. He stated that maybe somebody else could see something about the timing that he does not see, but he did not see why a couple of weeks would make any difference.

Ms. Joseph stated that a couple of weeks is going to make a big difference because if the BZA decides in the City's favor then they can go ahead and create this transmission line without a special use permit. That is why it is critical to take this action at this point because the Board could review it before it goes to the BZA

Mr. Thomas asked if the County would like to defer.

Ms. Higgins suggested that in between now and when it goes to the Board the City should get in touch with staff and come up with some more suggested language. If that did not happen, she did not know what the reason is, but she was sure that there were reasons on both sides. But, she would not shut the door to that at all. Many times things are resolved right before they go to the Board and the Commission really does not become involved until they have an application for a special use permit before us.

Mr. Edgerton asked how someone would put that in a motion.

Ms. Higgins stated that they would have to make a motion on which the Commission would recommend to the Board of Supervisors because they have to adopt it. The Commission is only making a recommendation.

Mr. Craddock made a motion on ZTA-2004-00009, Gas or Oil Transmission Line, to adopt Attachment A.

ORDINANCE NO. 04-18( )

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Provisions, is hereby amended and reordained as follows:

By Amending:

Sec. 3.1. Definitions.

Chapter 18. Zoning

Article I. General Provisions

Sec. 3.1 Definitions.

. . .

~~*Transmission line, gas or oil*: The term "gas or oil transmission line" means a pipeline that conveys gas or oil for the primary purpose of supplying gas or oil to a system, rather than distributing gas or oil to customers. Pipelines owned and operated by the City of Charlottesville extending from the Columbia Gas Transmission System at the Buck Mountain Gate Station to the City of Charlottesville's Route 29 Substation are gas transmission lines.~~

Transmission line, gas or oil: The term "gas or oil transmission line" means: (1) a pipeline that conveys gas or oil for the purpose of supplying gas or oil to a system including, but not limited to, the pipelines owned and operated by the City of Charlottesville extending from the Columbia Gas Transmission System at the Buck Mountain Gate Station to the City of Charlottesville's Route 29 Substation; or (2) a pipeline that conveys gas or oil, any portion of which is within the rural areas

(RA) zoning district or within a public right-of-way abutting such district, serving as a common source of supply directly from a system station or substation to: (i) two or more distribution lines within the County of Albemarle, the City of Charlottesville, or the Town of Scottsville; or (ii) one or more distribution lines located within a county abutting the County of Albemarle. For purposes of this definition, the term "distribution line" means a pipeline other than a transmission line serving as a common source of supply directly from a transmission line to a service line, or a pipeline that serves as a service line. For purposes of this definition, the term "service line" means a pipeline other than a transmission line that distributes gas or oil from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold, and which ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter. **Any nonconforming transmission lines existing on February 2, 2005 shall be deemed to be distribution lines for the purpose of repair, reconstruction or replacement but not for extension or enlargement.**

Ms. Higgins seconded the motion, but asked to add to that motion that the potential rewording or negotiation could occur between now and when it goes to the Board. In other words, she was not sending it forward exactly like it is with no option to change.

Mr. Craddock agreed to add the amendment to the motion.

Mr. Rieley stated that there was one other issue to this. It may be a separate motion. He asked that they consider with this the review of the special use permit requirements as they apply to this unique kind of facility.

Mr. Kamptner stated that one thing to think about for a ten mile project where the City wants to come in before they work it all out with the owners is that, under State law, all of these owners have to be notified anyway. So if the City doesn't have to contact these owners, they are probably going to have a lot of really upset people showing up at the public hearing and they are going to want to know what is going to happen on their property. Staff will look at the issues.

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

Mr. Edgerton stated that the motion carried and the matter would go before the Board of Supervisors on February 2.

Work Session:

Private roads work session: Discussion of the review criteria for proposed private roads in the Rural Areas. (Glenn Brooks)

Mr. Edgerton stated that the next item on the agenda is a work session on private roads. He turned the meeting over to staff.

Mr. Cilimberg stated that the essence of the work session discussion will be covered by Glenn Brooks. The section of the Subdivision Ordinance as it applies to private roads had been passed out to the Commission. Included also within this handout is the power point presentation that they will be going through tonight. Staff observed and the Commission has indicated an interest in discussing staff's review of private roads.

In summary, the Planning Commission held a work session for discussion of the review criteria for proposed private roads in the Rural Areas. Glen Brooks presented a power point presentation and discussed each pertinent section of the Subdivision Ordinance as it applies to private roads. The Commission reviewed, discussed and provided comments regarding each individual section. Wayne Cilimberg facilitated the discussion to assist the Commission in reaching consensus. The overview of the Commission's discussion of which staff will be working on to bring back is as follows:

Section 14-232A1 (ii)

- There was a concern that they would be locked into the review of the same alignment for the public and private roads analysis. That is something that they need to look at an ordinance change on.
- Criteria for alternative alignments are something the Commission wants to see developed.
- The Commission wants the benefit of staff's analysis of alternative alignments. (applies to a couple of the 232 sections)

(*See the parking lot issues listed below.)

Section 14-232A1 (b)

- The Commission wants staff's opinion in addition to the information provided by the applicant. (Includes the environmental impacts section where items such as erosion and sedimentation, storm water etc. are a factor in the consideration.)

Section 14-232A(4) General Welfare

- Use other policies of Comprehensive Plan as criteria, including the intent not to facilitate development in the Rural Area.
- The Commission agreed that this was a place to investigate other potential criteria; including the possibilities of more sensitive parts of the site being developed that would not otherwise be developed.

Section 14-234 (1) Field Run Profiles

- That is a professional call as to what helps the Commission in their judgment. The Commission asked Engineering to use judgment in determining when this should be provided.

Section 14-234(c)

- Don't need to see conclusions.

*Parking lot issues – Main item set aside to address Section 14-232 A (IV) –
Items for staff to work on to add language to address and then bring back to Commission

- Does the private road allow more lots to be developed than a public road?
- Does the private road facilitate development in the rural area?

After taking public comment the following issues were discussed:

- The Commission needs to be cognitive of the unintended negative consequences of the existing ordinance.
- In the future, the Commission should seriously look at the following:
  - Provisions for 3-5 lot and 6-10 lot subdivisions.
  - How private roads facilitate development of the Rural Area.
  - Requiring public roads everywhere.

Old Business:

Mr. Edgerton asked if there was any old business. There being no further old business, the meeting proceeded.

New Business:

Mr. Edgerton asked if there was any new business.

Mr. Graham introduced David Swales who is the new Groundwater Manager.

The Planning Commission welcomed Mr. Swales to the County.

Mr. Edgerton reminded the Commissioners of next week's deadline for the assignment given at the January 18 meeting regarding the proposed retreat.

Staff requested the Commission's response to the draft action memo of 1-18-05 by Wednesday at 5:00 p.m.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 8:54 p.m. to the February 1, 2005 meeting.

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V. Wayne Cilimberg, Secretary

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