Albemarle County Planning Commission
June 7, 2005

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, June 7, 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, Calvin Morris, Marcia Joseph, Vice-Chair, Jo Higgins, Pete Craddock and Bill Edgerton, Chairman. Absent was David J. Neuman, FAIA, Architect for University of Virginia.

Other officials present were Wayne Cilimberg, Planning Director; David Benish, Chief of Planning; Judy Wiegand, Senior Planner; Lee Catlin, Community Relations Manager; Francis MacCall, Senior Planner; Bill Fritz, Development Process Manager; Sean Dougherty, Senior Planner; and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Edgerton called the regular meeting to order at 6:03 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. There being none, the meeting moved on to the review of the Board of Supervisors Meeting.

Review of Board of Supervisors Meeting – June 1, 2005

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on June 1, 2005.

Consent Agenda:

Approval of Planning Commission Minutes – January 18, 2005, January 25, 2005, February 1, 2005; and April 26, 2005.

Mr. Edgerton asked if any Commissioner would like to pull an item off of the consent agenda for discussion or if there was a motion.

Ms. Joseph moved for approval of the consent agenda.

Mr. Morris seconded the motion.

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

Items Being Deferred:

SP 2005-009 Cedar Hill Mobile Estates Extension (Sign #32): Request to amend the conditions of SP 03-06 to extend the period in which to commence the special use permit, in accordance with Section 15.2.2.14 of the Zoning Ordinance which allows for mobile home subdivisions. The property, described as Tax Map 32 Parcel 22I, contains 25.95 acres, and is located in the Rio Magisterial District at 2073 Cypress Drive, approximately one quarter mile south of the intersection of Route 29 and North Park Road. 21.13 acres of the property are zoned R-4 residential and the remaining 4.82 acres are zoned LI Light Industrial. The property is also zoned EC Entrance Corridor. The Comprehensive Plan designates this property as Neighborhood Density Residential in the Hollymead Community. (Elaine Echols)
ITEM MUST BE DEFERRED DUE TO ADVERTISING ERROR. ITEM HAS BEEN RESCHEDULED FOR JUNE 21, 2005.

Mr. Rieley moved to defer SP-2005-009, Cedar Hill Mobile Estates Extension, to June 21, 2005.

Ms. Higgins seconded the motion.

The motion carried by a vote of (6:0). (Joseph – Abstain)

Mr. Edgerton stated that the Planning Commission deferred the request to June 21, 2005 so that the application can be readvertised.

Regular Items:

SUB 2005-108 Lindsay Station: Request for preliminary plat approval to create a 16 lot Rural Preservation Development (15 lots averaging 3.49 acres and 1 preservation tract of 43.48 acres) with internal public roads on 97.64 acres with the only entrance being in Louisa County. The property is zoned RA, Rural Area. The property, described as Tax Map 51 Parcels 19A, 19B, & 20A, is located in the Rivanna Magisterial District off of Lindsay Road (Route 675) approximately .75 miles from the intersection of Lindsay Road and Harrington Road. The Comprehensive Plan designates this property as Rural Area. The Comprehensive Plan designates this property for Rural Area. (Francis MacCall)

Mr. MacCall summarized the staff report. The Lindsay Station proposal is located to the northeast in Albemarle County and is immediately adjacent to Louisa County. The proposal is for a 16 lot rural preservation development proposed to be divided into 15 development lots averaging 3.5 acres and one preservation tract of 43 acres. Staff has reviewed this proposal for compliance with the Subdivision and Zoning Ordinance and does recommend approval of the preliminary plat with the conditions as in the staff report. If there are any questions, he would be happy to answer them. He pointed out that the applicant was not present this evening.

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

Ms. Joseph thanked staff for contacting Louisa County and including the letter in the staff report, which is very helpful.

Mr. Craddock asked if the assignment of development rights would go to the preservation tract.

Mr. MacCall stated that was correct, which was the condition.

Mr. Craddock asked what it means by the preservation tract being in a perpetual easement with the Public Recreation Facilities.

Mr. Fritz stated that all of the development rights have to be assigned. By putting the development rights on the preservation tract the easement then essentially prohibits its usage and locks it away.

Ms. Higgins questioned whether the condition should be deleted that requires Louisa County to approve the plat.

Mr. Fritz stated that whether the Commission puts this condition on this plat or not that it still has to be done. It was helpful to leave the condition because it alerts everyone that it has to be done.

Ms. Higgins asked that condition 3 be reworded to make it clearer that the plat shall be reviewed and approved by the Current Development engineer.

Mr. Fritz stated that all of the proposed conditions, excluding #5 and potentially #7, are not exactly necessary because the applicant would have to get the plat approved anyway. Therefore, staff uses these as standard conditions.

There being no further questions for staff, Mr. Edgerton opened the public hearing and invited public comment. Since the applicant was not present, he invited general public comment.

Neil Williamson, representative for the Free Enterprise Forum, pointed out that the Free Enterprise Forum does not take positions on projects. He asked that the Commission's reviewer speak to the issue on the bottom of page 3 of the staff report, item e, which says, "While I have no objections to this proposal, future divisions of farm land. . ." He questioned whether this verbiage belongs in the staff report and

asked if the Commission could give any kind of guidance on it.

Katie Hobbs, resident of Albemarle County, agreed with Mr. Williamson on this because she felt that this does not need to be in the staff report.

There being no further public comment, the public hearing was closed and the matter placed before the Commission for discussion and a possible action.

Mr. Rieley stated that in response to Mr. Williamson's concern, he felt that typically staff's support is phrased a little differently than it is in this staff report. It sounds like staff supports this proposal, however feels that it is important to point out that future subdivision or something along those lines.

Mr. Edgerton stated that he read that as almost quoting the historic resource. Therefore, it is a report to the Commission of what staff thought about this.

Ms. Higgins stated that it had been written in kind of an opinionated known type of thing. But, any subdivision in the rural area could be attributed to changing the rural character of the region. She felt that it sounds a little more personally vesting the way it is written.

Ms. Joseph stated that the statement makes it sound like the person that is writing this has some authority to tell us not to do this. But, there really is not any authority and it is just a statement that future divisions of farmland, etc.

Ms. Higgins suggested that it would better if stated in just an objective staff report type of way.

Mr. MacCall stated that he could make that change in future reports.

Mr. Rieley stated that this proposal lives up to the requirements set forth in the rural preservation provisions of our ordinance. Therefore, he supported it. He felt that it was one more illustration of the way in which the rural preservation ordinance was utilized for what is essentially suburban subdivision on agricultural land and it is not achieving the goals that it was set out to. It also underscores the fact that they really need to work hard on looking very carefully at this ordinance and how it is going to work in the future.

Mr. Edgerton and Ms. Higgins concurred with Mr. Rieley.

Ms. Joseph reiterated that when one sees where all of the good soils are and that it has not been used in determining how this is designed that it really goes against what they are trying to do.

Ms. Higgins moved for approval of SUB-2005-108, Lindsay Station, subject to the conditions recommended in the staff report with the exception of the rewording of condition 3.

The Division of Zoning and Current Development shall not sign the final subdivision plat until the following conditions have been met:

1. The plat shall be subject to the requirements of Section 14-303 (Contents of final plat), as identified on the "Final Subdivision Checklist" which is available from the Department of Community Development.
2. Approval of all road names by the E-911 Addressing Coordinator.
3. The plat shall be reviewed and approved by the Current Development engineer.
4. Virginia Department of Transportation approval for road plans in accordance with the requirements for acceptance into the state system.
5. [14.302.o] All existing development rights are not being utilized by this proposal. Allocate the additional development right appropriately to the preservation tract.
6. [14.309 & 310] Written approval from the Health Department for all drainfield locations.
7. [10.3.3.3.f] Approval of a preservation easement by the County and the Public Recreational Facilities Authority for the Preservation Tract.
8. The plat must be approved and signed by the Louisa County Department of Planning & Zoning.

Mr. Morris seconded the motion.

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

Public Hearings:

ZMA 2004-012 Luxor Commercial (Sign #86): Request to rezone 3.523 acres (portion of Tax Map 78, Parcel 55A4) from R-6 (Residential) and R-15 (Residential) to PDMC (Planned District Mixed Commercial) and to rezone 1.377 acres (Tax Map 78, Parcel 55D) from C-1 (Commercial) to PDMC to allow a 1,500 square foot bank and 80,000 square feet of mixed commercial in a planned development. The properties, described as Tax Map 78, Parcel 55A4 (portion thereof) and Tax Map 78, Parcel 55D, are located in the EC Entrance Corridor Overlay District and the Rivanna Magisterial District on the north side of Route 250 East between the Montessori School and Aunt Sarah's Restaurant. The general usage allowed in the PDMC zoning district is large-scale commercial with a broad range of commercial uses under a unified planned approach; the PDMC zoning district does not have a density range. The Comprehensive Plan designates this property as Urban Density and the general usage recommended under this designation is residential. The recommended density range is 6-34 dwelling units per acre in Neighborhood Three.

AND

SP 2004-038 Luxor Commercial Drive-In Window for a Bank (Sign #86): Request for a special use permit to allow for a drive-in window for a bank in accordance with Section 25A.2.2 of the Zoning Ordinance which allows for drive-in windows serving or associated with permitted uses within PDMC. The property, described as Tax Map 78, Parcel 55A4 (a portion thereof), contains 23.168 acres, and is pending a rezoning to PDMC (ZMA-04-12).

AND

SP 2005-001 Luxor Commercial Drive-In Window for a Coffee Shop (Sign #86): Request for a special use permit to allow for a drive-in window for a coffee shop in accordance with Section 25A.2.2 of the Zoning Ordinance which allows for drive-in windows serving or associated with permitted uses within PDMC. The property, described as Tax Map 78, Parcel 55A4 (a portion thereof), contains 23.168 acres, and is pending a rezoning to PDMC (ZMA-04-12).

AND

SP 2005-002 Luxor Commercial Veterinary Office (Sign #27): Request for a special use permit to allow for a veterinary office in accordance with Section 25A.2.2 of the Zoning Ordinance which allows for veterinary offices and hospitals within PDMC zoning. The property, described as Tax Map 78, Parcel 55D contains 1.377 acres, and is pending a rezoning to PDMC (ZMA-04-12). (Sean Dougherty)

Mr. Dougherty summarized the staff report. He presented some photographs in a power point presentation.

- Luxor Commercial requests to rezone 3.523 acres from R-6 and R-15 Residential to Planned District – Mixed Commercial (PD-MC) and to rezone 1.377 acres from C-1, Commercial to PD-MC to allow for a 300 square foot bank and 8,000 square feet of mixed commercial. There are two parcels involved in the rezoning, tax map 78, parcels 55D, which contains 1.377 acres and was rezoned to Commercial in 1995 to allow for a veterinary office. This parcel is surrounded by tax map 78, parcel 55A4 to allow a larger 23.168 acre parcel of the larger parcel of only 3.56 acres, which are proposed for a rezoning. This also includes the request for three special use permits for 1) drive-through window for a bank; 2) drive-through window for a coffee shop, and 3) veterinary office.
- There was significant discussion about this on March 29, 2005. There are some outstanding issues that are left to be figured out. Regarding ZMA 2004-12, the issues raised by the Planning Commission were:

- The appropriateness of staff's recommendation for approval of the ZMA as it relates to the Comprehensive Plan's recommendation for "no strip development" along this side of Route 250.

- Successful preservation of the two mature pines along Route 250, given the proposed sidewalk location.

- Adequacy of pedestrian access from front of site to rear.

- The Comprehensive Plan recommends: Limit "strip development" of Route 250 East by preventing commercial development along the north side of the roadway from the Interstate 64 interchange to the Regional Service designated area. This issue still needs to be figured out.

- Regarding SP 2004-38 for the drive-through window for the bank, the following issue was raised by the Planning Commission: The suitability of a waiver request to reduce the number of stacking spaces for the bank's drive-through window. Since the hearing, the Zoning Administrator received additional information from the applicant relative to the waiver request to reduce the number of stacking spaces for the bank drive-through. She administratively granted the waiver.

- Staff feels the proposal is appropriate for the following reasons:

  - A by-right scenario with R-15 zoning is maxed out with structures up to 65 feet tall on this ridge line would be much more visible from Monticello among others.

  - The existing light at Rolkins Road and access roads for the larger Luxor site allow for safe and convenient assess.

  - The Pantops Master Planning process identified a desire for walkable destination oriented developments to be located on Pantops.

  - Westminster Canterbury has expanded significantly and whether they would walk, drive or be driven, this development provides a convenient and close destination for the hundreds of people who live there.

- Staff recommends approval with the amended proffers if a direct pedestrian connection across the parking lot from the buildings along the front of the site to the buildings at the rear is added by the applicant. This connection would have to be reflected in the proffers before the Board of Supervisors hearing.

- Regarding SP-2004-038 regarding the bank, there was an issue with the stacking. The Zoning Administrator after receiving additional information has eliminated this issue and has granted the waiver for the less than ordinance required stacking of basically one spot per window. Staff recommends approval of SP 04-38 with the following conditions:

  1. Drive-through windows will be limited to three (3); including one to be used for an ATM.
  2. Architectural Review Board issuance of a Certificate of Appropriateness.
  3. Applicant is responsible for installation and maintenance of control devices such as signage, and pavement markings as indicated on the application plan. The crosswalk just beyond the drive-up window bays for the bank shall be identified with crosswalk signage on either side of the drive aisle.

  There was some question whether these conditions were appropriate. These are the standard conditions. After discussion with Mr. Kamptner, staff decided that the conditions were fine with some small adjustments.

- Regarding SP 2005-01 for the coffee shop drive-through, staff recommends approval with the following conditions:

1. Drive-through windows will be limited to one (1).
2. Architectural Review Board issuance of a Certificate of Appropriateness.
3. Applicant is responsible for installation and maintenance of control devices such as by-pass lanes, signage, and pavement markings.

- Staff recommends approval of SP 05-02 for the veterinary clinic with the following condition:
  1. A separate entrance and exit be provided for the clinic in accordance with Section 5.1.11d.

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

Mr. Thomas asked the photograph of the view from Monticello taken at an elevated position.

Mr. Dougherty stated that the photograph had been taken at an elevated position, but not as high as the house. It was taken about 20 to 30 feet below the finished level of the first floor level of Monticello.

Mr. Morris asked what staff's request for a walk through was going to do to the availability of parking.

Mr. Dougherty stated that it would eliminate some parking, which would make the applicant have to reduce the total square footage of this mixed use development in order to accommodate this connection. He explained that they could look at it as the bare minimum of just the curb cuts and a way for someone in a wheelchair, walker or cane to get from the front to back of the site. It is about 250 feet from the front to the back of the site. Essentially, those two parallel lines that are the tree planting strips would have a break basically on center with the walkway between the two larger buildings on Route 250 and extending back to at least the median or planting strip that was in the smaller parking lot surrounded by the three larger buildings. It would require the elimination of at least four parking spaces to get to that location, which would be 8 foot wide sections.

Mr. Edgerton asked if there would be an avenue for the applicant to reduce the number of parking spaces if he chose to put in a pedestrian linkage.

Mr. Dougherty stated that he would have to defer that question to Mr. Cilimberg.

Mr. Cilimberg stated that there was a schedule for reductions in parking in the Zoning Ordinance that allowed the Zoning Administrator to do that, which had recently been revised. The plan shows the parking based on the current ordinance requirements.

There being no further questions for staff, Mr. Edgerton opened the public hearing and invited the applicant to address the Commission.

Matt Short, representative for C.W. Hurt, stated that they believe that Luxor Commercial was a very thoughtful design, which demonstrated the use of the Neighborhood Model in its accessibility to the people in the neighborhood. This use would provide neighborhood services for the residents of Westminster Canterbury and the surrounding neighborhoods. They have worked hand in hand with staff to design this plan to address all of the concerns and issues. They also feel that all of the requirements of the ARB were met in this particular instance. If there are any questions, he would be happy to answer them.

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

Mr. Rieley noted that the Commission had just been talking about one of the staff's concerns that they have not addressed, which was the internal connections. He asked if he could defend that.

Mr. Short stated that they feel there is good access based on the location of the buildings in this plan and the amount of pedestrian access that they have granted. He stated that they are willing to work with staff to accommodate their request. However, their initial reaction is that they feel that access is adequate.

There being no further questions for the applicant, Mr. Edgerton invited comment from other members of the public. There being none, Mr. Edgerton closed the public hearing to bring the matter back before the Commission for consideration.

Ms. Higgins stated that the context of her discussion on the coffee shop drive-through window was geared at that it was now shown as a coffee shop and if its use changed. She pointed out that the Commission recently reviewed the Subway in Forest Lakes that was adjacent to McDonald's. During that review it brought us very vividly the idea that certain uses attract a certain amount of traffic. Therefore, the stacking and the arrangement for the coffee shop might be okay with one drive-through with the area that is defined, but not necessarily for a different type of use. Therefore, she was hesitant to approve a drive-through without a condition that if the use changes that the drive-through has to be looked at again. She pointed out that McDonald's has twice the amount of traffic as a Subway. She felt that they might not need to address that now. She felt that requiring a separate entrance and exit for the veterinary was appropriate because of this mixed use scenario. She suggested that it say that an exit be provided for the clinic animal handling activities in accordance with 5.1.1.d and that the wording of the condition be made clearer.

Mr. Edgerton stated that he shared Ms. Higgins' concerns about the coffee shop drive through because special use permits goes with the property and not with the activity. If the special use permit exists, then the drive through would be allowed regardless of what went on in that space.

Ms. Higgins noted that perhaps it was something that could be reviewed at the time of the zoning clearance.

Mr. Kamptner stated that a condition could be imposed that limits the special use permit solely to a coffee shop use that will continue to run with the land.

Mr. Dougherty stated that he had worked with Jan Sprinkle on the stacking issue. The ordinance has separate classifications for fast food and coffee shops.

Mr. Rieley felt this limitation was a good idea because of the scale of the use. If they were going to condition it they needed to figure out a way to do so which was consistent with the ordinance.

Ms. Higgins stated that if there were a lot of cars stacked that it would interfere with the parking, which was the only concern.

Mr. Rieley stated that they would have to come back with a way to deal with the stacking issue. He asked that the Commission not let the conversation about the Comprehensive Plan drop because he felt that it goes all the way back to Eckerd. When Eckert was approved he felt that it was not a smart thing to be approving things that are inconsistent with the Comprehensive Plan because according to what they are suppose to be doing that is the bench mark that they are suppose to use to judge whether something is appropriate for a rezoning or not. He pointed out that his anxiety about that was that it is a bad road to go down, and now they are using Eckert as the justification for doing another one. He felt that there is a reason why rezonings are supposed to relate to a Comprehensive Plan and that there is a process to change the Comprehensive Plan if it is not pertinent anymore. Then there are two small issues that relate to it, which is compounded because of not having this within a better framework of a modified Comprehensive Plan. The first is the internal circulation. He agreed with staff's position on that. It is very important to make the connection through, which is a part of what the Neighborhood Model is all about. It is not enough to have a sidewalk all around the perimeter, particularly when there is an important entrance point that they need to be able to get to and one would have to walk all the way around on the public streets in order to get to it. The applicant said that he was willing to work with staff to get that addressed. He felt that it was very important that they have a commitment that is addressed before they rezone this property. The third thing relates to the trees that they talked about last time. Those trees are an important part of the amenity and the scale in the way that a project of this size can fit in to its surrounding. There is a provision in the proffer that the trees be fertilized and that they will make some adjustment in the sidewalk location. But there really is no remedy for the failure to keep the trees alive. He suggested that a more appropriate way to address it is to establish a value of the trees living. There are ways for doing that. The National Society of Arboriculture has a tree evaluation guide that you can

set a very objective number on the trees so that some kind of a bond could be established in a reasonable amount of time associated with that be established so that there really is some serious incentive to keep those trees alive and not just say that they fertilized the trees and moved the sidewalk.

Ms. Joseph agreed because proffer #5 reads as if the expectation is that the County's Landscape Planner is going to figure out how to keep the tree alive and where to put them. She felt that was not her responsibility. There needs to be a plan submitted for her review done by a certified arborist showing how those trees will be treated, especially with the paving around that area.

Ms. Higgins suggested that a landscape bond be required for the project.

Mr. Rieley suggested that condition be added to the proffer by the applicant.

Ms. Higgins pointed out that she had not received an Attachment A, which showed which uses would be allowed.

Mr. Morris asked if the pedestrian cross walk would make the traffic pattern even more complex for vehicles.

Ms. Higgins felt that putting pedestrians where one would not expect them is a little bit of an issue, particularly in the middle of the parking lot.

Mr. Cilimberg stated that very generally over time staff has worked on trying to have the orientation of the parking isles perpendicular to the use rather than parallel to the use. Essentially, if cars were parked across these isles there are going to be people walking towards the uses all over the place. Therefore, he did not think having a dedicated area for people walking across the parking lots is going to be a whole lot different than the other people walking to and from cars in terms of introducing another hazard. That is not the ideal arrangement of parking as related to use and the front doors are essentially parallel to the parking. It would probably be perpendicular to it. If you look at the parking lot where Giant is located, the parking is perpendicular to the stores. In two of those isles they have included walkways, which was a lot easier to accommodate. That keeps people out of the path of traffic a lot more than this kind of arrangement.

Mr. Dougherty stated that the applicant was keeping in mind the view shed. Actually, the rows of trees would actually help.

Mr. Cilimberg stated that he did not believe the movement of people in this situation was going to make a walkway across an addition hazard, especially when the people need to go directly across.

Mr. Rieley stated that in fact they could argue this to be a lot safer if there was a prescribed place. There might be painted lines on the street so that the people in the cars would have some expectation that people are coming out in between those cars and walking across in one reasonable identified place. In this arrangement there are going to be people walking in between cars at any place in there. Therefore, to put it in one place where there was an expectation that was where people were going to cross would be a good deal safer.

Mr. Edgerton stated that he shared Mr. Rieley's concerns regarding the Eckert review. That he saw a more traditional strip development than this project. He felt that an argument can be made that this could support the surrounding communities. But when the largest population base is Westminster Canterbury, they are not talking about people who are just able to walk, but they are talking about people that if they can walk are going to be walking more slowly. He felt that staff's recommendation has validity in this particular location. He acknowledged that there is adequate pedestrian circulation provided around the property, but well over 60 to 70 percent of the property is going to be an obstacle course for anybody trying to get from the south side to the north side of this development. He pointed out that yesterday he had a long discussion with the applicant. The applicant's concern, which he did not express this evening, was that he would be required to lose parking spaces to accommodate a pedestrian circulation from the south side to the north side. He supported granting a waiver for the loss of four parking spaces if that is

what they were talking about rather than requiring them to reduce the square footage on the buildings. He asked if that could be waived.

Mr. Kamptner stated that could not be waived. But, there are options available to reduce parking requirements. One possibility was the zoning administrator's ability to examine transportation demands, but he was not sure if that would be available under PD-MC zoning.

Mr. Dougherty stated that he was not sure if people would walk from Westminster Canterbury to this site, but that it was possible that they could be shuttled down to this site. He pointed out that a lot of people might be dropped off and not even require a parking space, which might be a consideration.

Mr. Edgerton asked that they back up to the rezoning issue of going completely against the Comprehensive Plan's declaration that they don't want any strip development. He felt that an argument could be made that this is a lot softer than most strip developments. The parking has been relegated and the buildings brought closer to the street. He felt that they need to do whatever they can to make this as pedestrian friendly as possible if they are going to rezone the property. The reality is that if they don't address the pedestrian concerns there is no chance that it is going to work as a neighborhood center for this. He asked that the Commission figure out a way to solve this problem to be able to provide a pedestrian connection.

Ms. Joseph pointed out that the Comprehensive Plan actually calls for this area to be residential. It is not only the fact that it calls out strip development, but it shows it on the map for a different kind of use. She asked what the entire property was zoned.

Mr. Dougherty stated that it was a mix of R-15, C-1, and R-6. He stated that there was some R-15 next to Route 250.

Ms. Joseph stated that the R-15 zone allows for special use permits for offices and some retail space. She pointed out that was the current zoning and not the Comprehensive Plan designation. She pointed out that she had looked at how this would relate to everything else around it and how does it relate to the residue parcel. If this is something that the Commission considers, it totally goes against what the Comprehensive Plan means right now. Therefore, she had hoped that this had come back to the Commission as a modification to the Comprehensive Plan itself with some justification in how that could happen. She felt that it was very important that the Commission adhere to the Comprehensive Plan. She stated that she was interested in comments made during the Pantops Master Planning session that people were looking for other sorts of uses along Route 250 that were not contemplated in the current Comprehensive Plan. She asked if that was correct.

Mr. Dougherty stated that people identified a desire for walkable destinations and walkability for places that offered some of the features and characters of the downtown mall. The people definitely did not want something that looked like the typical strip development. He felt that this proposed development would qualify with that.

Mr. Rieley stated that if you evaluated this from the perspective of the existing zoning that it is clear that this is a substantial improvement over how the property could be zoned by right. He would feel a lot more comfortable about this if it went back to have several things adjusted. He stated that if these issues could be resolved that he would support the proposal.

1. A stronger statement by staff on how this relates to the Comprehensive Plan and the degree to which where it is not in compliance that there is a justification for it. As it is now it seems like they are ignoring the Comprehensive Plan.
2. Because of the absence of this being supported by the Comprehensive Plan, he would like to have three issues resolved being: internal circulation as recommended by staff; a clearer prescription on how the trees will be protected and what the penalty will be if they don't survive; and clarification of the issue about the coffee shop and the drive through relative to a change of use in the future.

Ms. Joseph agreed with Mr. Rieley. She pointed out that they were hoping to get a better project in the end by this delay.

Mr. Rieley suggested that the Comprehensive Plan be fixed in this area.

Mr. Craddock pointed out that there were only a couple more parcels to be developed.

Ms. Higgins asked if the Commission could possibly move this request forward to the Board of Supervisors with the three conditions.

Mr. Rieley opposed moving this request forward prior to these issues being worked out because the applicant has not worked these concerns out that were discussed at previous meetings.

Ms. Higgins stated that the applicant would have to voluntarily defer or ask for a vote.

Mr. Kamptner stated that the Commission has the ability to impose conditions with special use permits that increase traffic congestion. Therefore, the impacts from special use permits that increase traffic congestion could offset it by making the project more available to pedestrians through conditions.

Mr. Rieley stated that was a good way to work with one of the four issues. He asked for clarification on the Comprehensive Plan issue from staff because it was really fundamental.

Mr. Cilimberg stated that the second and fourth concerns can be addressed in the conditions of the special use permits. The first is obviously a staff statement, which they were focused on. Staff will take work on that issue again. The third issue would be advising language in a proffer that would ensure that the trees have a provision for long term maintenance or replacement. Essentially, that is what the Commission is looking for.

Mr. Rieley asked that the figures for the bonding come from a recognized tree evaluation mechanism.

Mr. Cilimberg stated that they need to have the applicant agree to defer.

Mr. Edgerton stated that he would hope that the applicant would be willing to address those four issues.

Mr. Rieley asked if the applicant could work quickly to get these issues addressed how quickly could he get back to the Commission.

Mr. Cilimberg stated that the applicant would need to develop proffer language, which would need to be reviewed with the County Attorney. Therefore, it would probably take three weeks minimum. If the applicant ended up doing it with a proffer that was not shown on the application plan, but it was proffered to be provided for, then it was something that they could work out at the site plan. Therefore, it would not have to be on the application plan, but it would have to be specified in the proffer how it would be provided for. The cleanest way is for it to be shown on the application plan.

Mr. Rieley invited the applicant to come forward and address the Commission.

Mr. Edgerton asked if they understood what the Commission was asking.

Matt Short stated that Tucker Hurt and he work for the agent, C.W. Hurt, and they understood what was being addressed.

Mr. Edgerton stated that the Commission cannot ask for a deferral at this point, but they can offer one and the Commission can accept it. If they do not offer one, then the Commission has to act on it tonight or by State statute it becomes automatically approved, which he did not feel was going to happen. Therefore, the choice is whether to ask for a deferral.

Ms. Higgins asked if the applicant has anything to say in rebuttal to what they have just heard.

Mr. Short stated that they were more than willing and happy to work with staff of engineering and planning to accommodate the request. He stated that they do not view this as a traditional strip mall. They think

that it works very well with the ARB and that they have done a good job with keeping if off of Route 250 with required landscaping that is going to mask it appearance. But, the greater issue is the interconnectivity. They are willing to accommodate that, but their major concern is what Mr. Edgerton spoke of earlier of a prior conversation that they would lose some square footage. But, again they were willing to address this interconnectivity.

Tucker Hurt asked if this could be an issue that the Commission made subject to the Board of Supervisors approval if they have the proffer included. He asked if it was possible to have that vote.

Ms. Higgins pointed out that it was possible, but they might have to proceed with an unfavorable recommendation. She asked if they were agreeable to the three conditions described previously.

Mr. Short stated that they were in favor of doing that. He stated that they had ever intention of maintaining those trees and would do anything that they could as the applicant to preserve those.

Mr. Rieley stated that the Commission does not know whether the applicant will lose some square footage in the building. He pointed out that Mr. Kamptner made some suggestions for trade offs for evaluating the site relative to the number of people who will be dropped off and things like that. He felt that there was a spirit of cooperation in trying to work this out from the Commissioners and staff. He stated that it looks like there are some options for that.

Mr. Dougherty asked if there should be landscaping incorporated with this connection.

Mr. Rieley stated that he would favor some landscaping, but that the Commission should not be designing this. He asked if the applicant was requesting an indefinite deferral or a deferral to a date specific.

Mr. Cilimberg suggested that the request be deferred to a specific date. Then if necessary the request could be deferred to another date.

Mr. Edgerton asked what the specific date would be.

Mr. Short stated that they would like to defer for four weeks to review the plan and address the issues.

Mr. Cilimberg pointed out that staff would need to take care of one of the four items.

Mr. Kamptner pointed out that a four week deferral would be to July 5. Since there is no meeting on July 5 it would need to be deferred to July 12.

Mr. Rieley moved to accept the applicant's request for a deferral of ZMA-2004-012, SP-2004-038, SP-2005-001 and SP-2005-002, Luxor Commercial to July 12.

Mr. Cilimberg asked that as part of the record that the Planning Commission itemize the three things that they were looking for from the applicant to work with staff on.

Mr. Rieley amended the motion to include the following three items that the applicant and staff will work on together:

1. Internal pedestrian connection with landscaping,
2. Trees with the bond and a arborist report; and
3. Clarification of the issue of the coffee shop and should it change use that the special use permit does not go with the change in use from a coffee shop to another kind of a restaurant.

Mr. Cilimberg asked for one more point of clarification. The Commission had talked about the idea of the pedestrian access being a condition of the special use permit or a proffer and shown on the application plan. He asked if the intention was that it be one or the other or if that was open right now.

Ms. Higgins stated that it should show in some way on this plan.

Mr. Cilimberg stated that therefore, it should be a proffer and shown on the application plan.

Mr. Morris seconded the motion.

Mr. Edgerton asked if there was any further discussion.

Ms. Joseph stated that in talking with staff about the other proffers, Mr. Dougherty had said that the other proffers were going to be cleaned up. One of the proffers talks about if there are conflicts between the Director of Planning and the ARB. The other proffer talks about creating some sort of inter-parcel connection. The last phrase states that it is so long as a mutual maintenance agreement can be achieved. She suggested that it either be or not be and not be left up in the air.

Ms. Higgins stated that on that same note, she would suggest that condition 7 be made more understandable. Condition 7 refers to the connection of Westminster Canterbury and she was not clear about where that actually applies as it relates to this plan. She asked that proffer be clear and explain how it applies to this plan. It talks about a width, purpose and an ultimate connection. She asked that the uses referenced in item 2 be attached. The recommendation on the condition for the veterinary talk about the clinic's animal handling activities and it does not mean that they must have a separate entrance. She pointed out that she did not know what that means. Therefore, she felt that proffer should be made clearer. It just says that a separate entrance and exit be provided for the clinic in accordance with Section 5.1.11.d. Therefore, since that section is not attached that unless you knew what it applies to that it could be a separate entrance.

Mr. Dougherty stated that basically what it says is if the Planning Commission chooses when you have a mixture of uses they could enforce or impose that they have a separate entrance.

Ms. Higgins pointed out that the Commission had discussed that and agreed to it, but it is for animal handling activity. It is a separate entrance to keep the animals away from the public entrance, which she felt was what Section 5.1.11.d says.

Mr. Kamptner stated that it has two provisions. The biggest one referenced in this condition is to have separate entrances and exits to a building for animal conflicts. He stated that the proffer would just have to mirror that language.

Ms. Higgins felt that it should be made clear so that when someone reads the condition later that they understand what you mean by entrance. Therefore, the building official would not have to figure it out.

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

Mr. Edgerton stated that ZMA-2004-012, SP-2004-028, SP-2005-001 and SP-2005-002 for Luxor Commercial were deferred until July 12.

Old Business:

Mr. Edgerton asked if there was any old business.

Places 29 – Advisory Committee Update

Lee Catlin updated the Planning Commission on Places 29 and their Advisory Committee role. She debriefed the Commission about where they stand after having the first public meeting and the charrette process, which was discussed last time. Several items of information were distributed to the Commission, which included an agenda and some information for their review. (Attachments)

The first item of information was a memo from Judy Wiegand which summarized the sidebar meetings, etc. With the charrette coming up in mid to late October, the sidebar information will come to the Commission very early in the process. Staff will tell you what groups the consultant is recommending meeting with. If the Commission feels that there are additional special interest groups or categories of groups that should be included, then that will happen. Staff will give the Commission a list of suggested

sidebar attendees which they will have a chance to look at and add to in any way that they feel is appropriate. Therefore, they will have a clearer sense of how those meetings will come together and how they will be shaped. Because of some of the time restraints and some of the division of labor this time around they did not control all of the sidebar meetings to the level that they feel that they need to next time around. Therefore, things will happen differently with the sidebar meetings and the focus groups for the October charrette.

Concerning the public meeting, staff sent the Commission by email a copy of the questionnaire that was distributed and the agenda and materials that were used as part of the discussion. They also have the power point presentation available if anybody did not see it. To summarize, they had about 150 people who they feel were present at some portion of the evening. There were approximately 115 participants who were divided up between 16 tables and actually did the entire exercise with us. Each of the tables generated a marked up map at which they were allowed to make notes and comments. They also generated flip chart lists in response to the questions that were asked to them that the Commission saw a copy of. Therefore, that is the product of that meeting that the consultant is now working through. Several Commissioners attended this meeting.

The next item in the packet is an analysis of the neighborhood participation in this process to this point. They do want to keep a careful eye on who is getting engaged, who is involved and how they were doing with that. The first sheet is the attendees at the planning academy broken out by neighborhood. This is not a complete list of attendees because not everybody there identified themselves by a neighborhood. But, this is the people that they could specifically say were in one neighborhood or another. They also have attendance lists for both of the events. Therefore, they have a list of everybody that was there and not just the neighborhood based people. The second sheet is the public meeting itself broken down in the same way. Therefore, they could look through this and get a sense of what subdivisions were represented, how many people were there from each subdivision and who was there from each subdivision. Therefore, they could start to sense whether they missed some huge areas. They could figure out from this whether the Commission feels that additional sidebar conversations this summer are necessary to bring in people who may not necessarily be reflected here. The sign in sheets are available in the office. Only the neighborhood information has been posted on the web site so that people can get an idea of that kind of representation.

In looking through this information preliminarily, staff felt that there was really a good turn out. There were a lot of neighborhoods represented and a number of people from a lot of neighborhoods. Therefore, it was not just one perspective that was being brought to the table. But, when they take a closer look at it they may feel that they did not get representation from some of the trailer parks in the area or apartment complex representation. That is something that they could take a look at now and decide whether they need to go back and pick that up at this point.

In getting back a little bit to the expected work products from the consultants, they have told us that we can expect in two to three weeks to have the preliminary summary of results from the maps and the flip charts so that they can begin to create the foundation of the vision and the guiding principle statements. Also, they can start to have the preliminary information for the assets needs and opportunity workshop in October. As soon as they get the draft summary of that information, that will come back to the Commission to review. Then they can decide whether it is accurate and reflects what happened at the meetings. All of the original working materials will be returned as well. Therefore, they can do a cross reference and make sure that the summary information does bring forward all of the information that they think is critical on those original working materials.

To follow up what they are doing right now, staff has posted information to the web site to keep people as up to date as they can. The items posted to the web site include the summary of the planning academy, summary of the first public meeting, the neighborhoods that have been represented in the process so far and an online version of the questionnaire for input. Therefore, anybody that was not at the session who wants to get the questionnaire in they have plenty of time to fill it in and send it in to Judy Wiegand. Therefore, it should go at the same level of attention to the consultant as anything that was generated at the public meeting itself. Staff has already identified some additional stakeholder or focus group type of people that they need to do an outreach to. The airport and the County school division are included in that list. As the Commission looks at these lists, she asked for input as to who else has been missed

individually or as a group that they really need to pay some special attention to. That is something that they are very prepared to do as needed for the next couple of months.

She pointed out that she wanted to advise the Commission on what kind of activity that staff is expecting in the next several months in the community so that they would know what was going to be happening here from the consultant level. Basically, it is her understanding that the consultant has completed all of the on-site traffic counting and measuring type activities. But, they do have the access management plan that they talked to them about that they are expecting to produce a draft of sometime in September or so. That may involve them contacting some of the business owners and folks along the frontage of Route 29 north to be getting some information to feed into the access management plan. That is something that will very likely be happening over the next several months. Also, there is an economic consultant that is a part of the consultant team. That person will be contacting some of the retail, commercial and real estate contacts in the area to do their background research on the current economic picture and what the future might look like. Staff has told them that they will get a list from them of who they will be contacting in the area before they make any contacts. That information will be shared with the Commission. That is a point that if they are missing somebody that is important that the Commission feels needs to be included in developing the economic picture, then they will add them to the list and make sure that those people get talked to as well.

Mr. Edgerton asked when that information will be received.

Ms. Catlin stated that she was expecting that information fairly soon. That is something that they need to be thinking about now even before they get the list. They could start thinking about who would be key folks for them to talk with to get the economic picture of the area that is going to be comprehensive and accurate.

Ms. Joseph pointed out that one of the things that she noticed was that there were stakeholder meetings for employers, but she did not see GE or the spy place. She felt that it was interesting that they were invited, but they did not choose not to participate. She asked how they could reach them.

Ms. Catlin stated that may be one that they go ahead and just do again ourselves because she did not know if there was a timing issue or if they did not have enough notice. She pointed out that the consultants were constrained by time in a way that they were not. In looking at that list, she felt that the employers were not well represented. She suggested that they add those to the list with the school division and the airport as the first out of the box kind of folks that they need to bring into the process.

Mr. Edgerton asked about the University and the City participation.

Ms. Catlin stated that they have identified them as being a definite sidebar group in October as a regional partner group. They can do something preliminarily with them this summer to prepare them for that, but they are definitely on the list as a focus group.

Mr. Edgerton stressed how important it was that they be engaged.

Ms. Catlin stated that they acknowledge that the City, University and Green County are all folks that need special attention in that way.

Mr. Benish stated that staff acknowledges that Green County and the City are very important. From staff's perspective, what they felt was the most important in this fact finding stage and the early stages was to make sure that they had good representation with the County and what the County residents felt was important. At the time where they take that information and start to articulate what the issues are and what the divisions are, then they are definitely going to be drawing in the City and the City becomes a significant player from here on out.

Mr. Edgerton asked if they were targeted as sidebar meetings in October.

Ms. Catlin stated that was correct.

Mr. Edgerton asked that there be some effort made in the next few months to try to encourage their participation.

Ms. Catlin stated that basically that was what staff was imaging the consultant will be doing. As soon as staff finds out exactly when and exactly who, they will share that with the Commission. In the meantime, she asked that they keep thinking of people that they would want to add to the list of people that they would be talking to. One of the most important things is the preparation for the October charrette. Currently, the time frame will probably be the middle to the latter part of October. At that time the consultants will be coming to town for a week. There will be two public meetings during this time. They will be having a public meeting fairly early on and then a couple of days to process some information and prepare, and then another public meeting. There will also be sidebar meetings. Regional partners, the ARB and housing type folks have already been identified. She asked for suggestions for other sidebar groups. The Commission will also have another chance to meet with the consultants less in their advisory committee role and more in their advocacy and stakeholder role. By then they should have some material for the Commission to actually take a look at and commenting on.

Ms. Higgins suggested that they include private schools and day care facilities in the list of stakeholders.

Ms. Catlin stated that they plan to do a better job in this because of the amount of lead time that they have in bringing the Commission into the process. What they were envisioning right now is probably six weeks out from the meeting to talk with them about some initial thoughts on what they need to make sure happens. At that point they will not have a meeting plan from the consultant, but it does not stop us from having our own conversation about what do we want to make sure happens and what are important outcomes and sidebar conversations. Also, they want to make sure that they meet regularly until a week or two before hand to make sure that they have reviewed the materials and have had a chance to look at all of the presentations to ensure that it is done the way they want to do it this time around. Staff envisions coming back to the Commission with an update as soon as they get the summary material from the consultant. Staff will come back as necessary to continue the conversation. As they get closer to October they will have more intensive sessions that are about gearing up for two public meetings and all of the sidebar meetings and things that they want to do. As mentioned earlier, staff is definitely on call to meet with interested groups, individuals and employers. As the Commission has time to look at the lists or materials and sees some holes or gaps, staff is very anxious to get out and bring those people into the fold. She asked that all of that information be sent to her and she would distribute it to the other staff. She asked for comments from anyone that attended the public meeting. It seemed to work well and generated a lot of material. She realized that they need to continue to do work this summer in getting prepared for October to make sure that they keep the momentum. She thanked the Commission for their input and asked that they continue to be engaged in the process by providing the names of anybody that they have missed, neighborhoods that they don't see represented and groups like employers that they did not talk to, etc. She asked for feedback from the Commission on their thoughts, feedback and reaction to the information within a week to ten days. Staff will develop a plan on how they can reach out to others within in the next month or so and share that with the Commission.

Mr. Edgerton asked that each Commissioner respond to Ms. Catlin's request for information within the next week or ten days.

There being no further old business, the meeting proceeded.

New Business:

Mr. Edgerton asked if there was any new business.

Mr. Edgerton distributed copies of an email received on May 24, 2005 from Lynda Harrill and a letter dated May 25, 2005 from Betsy Gohdes-Baten regarding their concerns about revisiting the plans on The Rivanna Village. In this correspondence it was pointed out in that many Glenmore residents are concerned because they were not actively involved in the process in 2001 and 2002. Also, it is their understanding that ZMA-01-08 is not consistent with CPA-01-03 and that work sessions and hearings will have to be held again. They indicated that they want to actively participate in that planning process and be able to do so in an intelligent and informed manner. Therefore, they asked for a deferral of the ZMA

so they could catch up and participate in the process. He asked for guidance from the Commission on how to respond to these citizens. He passed out two draft responses for the Commission to review. He pointed out that the Planning Commission will be holding a work session with the applicant (Real Estate III) on The Rivanna Village on July 12, 2005. After talking with Mr. Cilimberg, he suggested that the Commission not take any action until the work session occurs. He would encourage Ms. Harrill or anyone else that wanted to come to that meeting and to possibly make comments to the Commission within reason. He asked how the Commission wanted to respond to the requests.

After discussion, the Planning Commission requested Mr. Cilimberg to draft a letter in response to the two requests. The letter should invite them to attend the work session in which public input will not be taken, define the process of the work session and advise the citizens that there will be plenty of opportunity for input at the future public hearings.

Mr. Cilimberg made a suggestion that the letter should explain to people what the Planning Commission tries to accomplish in work sessions. The letter would say that the work sessions of the Planning Commission are really for them to be able to review project proposals with the applicant; that there is the public hearing opportunity that obviously comes later; but that the Planning Commission would very much invite any of their comments in advance of the work session in writing that would specifically speak to the project proposal and what people feel they would like to see in that project. Therefore, the Commission would have the benefit of that in writing and be able to receive it in advance of the meeting. If the Commission wants to bring up any of those points with the applicant when he is talking with them that they could do that.

Ms. Catlin stated that it was very important for them to look at this as an educational opportunity because of some of the points that they would bring up might not come up from their conversation with the applicant. This is their chance to set up the parameters for some things that this group needs to hear.

Ms. Joseph suggested that staff provide a time frame for this information to be submitted.

Mr. Edgerton suggested that the letter be sent to Mr. Dick Wagaman and the people who have expressed an interest. He suggested that the letter indicate that the Planning Commission asked staff to write the letter.

Mr. Cilimberg pointed out that staff will not have a chance to address the comments that come in. The Commission will have to evaluate them on their own. It will not be subject to any staff evaluation, but it will be there for the Commission to see and consider talking to the applicant about.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 8:50 p.m. to the June 14, 2005 meeting.

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V. Wayne Cilimberg, Secretary

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