Albemarle County Planning Commission
June 21, 2005

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, June 21, 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, Jo Higgins and Pete Craddock. Absent was Bill Edgerton, Chairman; Marcia Joseph, Vice-Chair; and David J. Neuman, FAIA, Architect for University of Virginia.

Other officials present were Wayne Cilimberg, Planning Director; Elaine Echols, Principal Planner; Judy Wiegand, Senior Planner; Bill Fritz, Development Process Manager; and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Cilimberg called the regular meeting to order at 6:00 p.m. and established a quorum. He asked for a nomination for an Acting Chairman for the evening.

Mr. Rieley nominated Mr. Thomas to act as Chairman for the evening.

Ms. Higgins seconded the motion.

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

Other Matters Not Listed on the Agenda from the Public:

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

There being none, the meeting moved on to the review of the consent agenda.

Consent Agenda:

a) ZTA-1999-006 Special Events – Revised draft ordinance according to the recommended Planning Commission changes from their May 24, 2005 meeting. (Rebecca Ragsdale) (**For Information Only)**

b) SDP-2003-086 University Village Phase 3 Preliminary Site Plan – Critical Slopes Waiver Request (Stephen Waller) (Tax Map 060B2, Parcel 1)

Mr. Kamptner pointed out that if anyone did not get Ms. Ragsdale's email today, that ZTA-1999-006, Special Events, was listed on the consent agenda for informational purposes only and not for action

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

Mr. Morris moved for acceptance of item b on the consent agenda.

Mr. Craddock seconded the motion.

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

Items Being Deferred:

ZMA 2004-011 Charlottesville Power Equipment (Sign #37) - Request to rezone 2.142 acres from C-1 (Commercial) to HC (Highway Commercial) to allow 12,000 square feet of commercial use in two buildings with proffered plan. The proposal also includes requests for outdoor sales and display and fill in the floodplain (see SP-04-36 and SP-04-37).

AND

SP 2004-036 Charlottesville Power Equipment – Fill in the Floodplain (Sign #37) - Request for a special use permit to allow fill in the floodplain in accordance with Section 30.3.05.2.2(3) of the Zoning Ordinance which allows for filling of land. See concurrent requests, ZMA-2004-11 and SP-2004-37.

AND

SP 2004-37 Charlottesville Power Equipment – Outdoor Sales and Display (Sign #37) - Request for a special use permit to allow outdoor sales and display associated with permitted uses, which would be visible from an Entrance Corridor Street in accordance with Section 30.6.3.2(b) of the Zoning Ordinance. The property, described as Tax Map 78, Parcels 4A1 and 4B, is located in the Rivanna Magisterial District on the northwest corner of the intersection of Route 20 and Route 250 East behind McDonald's Restaurant. The Comprehensive Plan designates this property as Regional Service, in Neighborhood Three. (Judy Wiegand) ***APPLICANT REQUESTS DEFERRAL TO JULY 26, 2005.***

Mr. Thomas stated that the applicant has requested deferral of ZMA-2004-011, SP-2004-036 and SP-2004-37, Charlottesville Power Equipment to July 26, 2005. He noted that there was no staff report. Therefore, he opened for public comment. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and a possible action.

Ms. Higgins asked why the applicant requested the deferral.

Mr. Thomas pointed out that staff had indicated that the applicant was working with an adjoining neighbor. He asked Ms. Wiegand to explain the situation to the Commission.

Judy Wiegand, Senior Planner, stated that the applicant has been working to clear up some grading issues with an adjacent property owner. The applicant has taken the project before the ARB, but they may have to make some changes to the plan depending on whether they are successful in their negotiations with the adjacent property owner.

Ms. Higgins made a motion to accept the applicant's request for a deferral of ZMA-2004-011, SP-2004-036, and SP-2004-37, Charlottesville Power Equipment, to July 26, 2005.

Mr. Morris seconded the motion.

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

Mr. Thomas stated that the Planning Commission deferred the requests to June 26, 2005.

Regular Items:

SP-2005-009 Cedar Hill Mobile Home Park Re-approval of Special Use Permit to Expand Existing Mobile Home Park(Sign #32) - Request for reapproval of an expansion of an existing Mobile Home Park from 77 lots to 109 lots(SP 03-06) 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 is 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)

Ms. Echols summarized the staff report. This request previously came before the Planning Commission on May 6, 2003. The applicant has been working on making sewer arrangements. He is still in the process of negotiating an easement for sewer. The original game plan for a sewer easement did not pan out in the sense that there potentially was a better route. Therefore, he is working on getting the arrangements made for the better route to provide sewer to the mobile home park. During the time that he has been working on that the special use permit has actually expired. So the applicant is actually

asking for a reapproval basically of the original special use permit. Staff has provided a copy of the staff report plus the set of conditions, which were the same conditions that were previously approved. Staff would also like to ask the Commission to reapprove the waivers and modifications that are in your staff report, but not in the recommendation for action. Copies of the minutes were distributed at the beginning of the meeting, which notes excerpt from the minutes of May 6, 2003. On the second page it lists all of the waivers and modifications that the Commission previously granted. She recommended that the Planning Commission reapprove the special use permit, SP-03-06, with the conditions listed in the staff report, which allowed the 32-lot expansion of the Cedar Hill Mobile Home Park. Also, she recommended approval of the waivers and modifications that are listed both in the staff report and in the Planning Commission minutes of May 6, 2003. If there are any questions, she would be happy to answer them. This is one of those projects that a previous planner worked on and she was working to bring it back to life.

Ms. Higgins stated that it was good that staff brought a copy of the waivers. On page 2, under Section 15.4.3, it says that the applicant shall enter into an agreement with the County in showing that the lots will be available for low or moderate cost housing for a minimum of five years. She asked if the applicant entered into that agreement. They need to make sure that agreement will now start over since the project never occurred and the five years only has a short time left on it.

Mr. Beard stated that he had.

Ms. Echols apologized because that was not one from Section 5.

Ms. Higgins stated that it had to do with the density bonus factor and in reapproving this without addressing when the five years would start. She felt that the five years would start when the Board approves the special use permit. But, since it is an agreement they would have to make a statement of some sort to make sure that the agreement is kept.

Mr. Kamptner stated that he was aware of only two rental rating agreements that he had prepared. One of those agreements was sent out today. He asked if they had a different representative. One thing about the standard after having done two similar agreements is that the five year period starts from the date of the issuance of the Certificate of Occupancy.

Ms. Higgins stated that they need to confirm that there is an agreement and that it reads the same way as the current ones. This was not a big issue, but affordable housing is the reason why the request was supported.

Ms. Echols asked Mr. Kamptner is he had a recommendation of how they would handle that. If they keep the same language it continues to start on the date of the issuance of the Certificate of Occupancy.

Ms. Higgins pointed out that it does not say that in this statement or in these minutes.

Mr. Kamptner stated that the condition needs to impose the term of the agreement because ultimately the Board has approved a form rental rate agreement. It would have to be consistent with that.

Ms. Higgins pointed out that this one was less clear because it was done a while ago. It just says shall enter into an agreement. By this time it should have already been an agreement and now they might want to consider changing some language within it.

Mr. Rieley stated that in their action it should say they want the clock to begin upon the issuance of the Certificate of Occupancy.

Mr. Thomas asked if any other Commissioner had any questions. There being none, he opened the public hearing and invited the applicant to come forward to address the Commission.

Ray Beard, owner of Cedar Hill Mobile Home Park, stated that Ms. Echols has stated their reasons very eloquently and he could not add to that. He asked to address the bonus density and the low to moderate

income issue. It is his understanding that it should start when the spaces are occupied. After the Board of Supervisor's approval he asked if they could tell him what the rate was. They said no that they could not. He asked the Board how they could tell him that he could have a bonus when they could not tell him how much the rent. He noted that he could not understand that. The Board said to give them some more time and they would find out. In sixty days the Board called him and said that including utilities the low and moderate income starts at $325. Then he could take off the utilities of $125, which makes the base rent about $200. That, of course, was two years ago. Therefore, he did not know what it would be now. But, he would guess that they would have to go back and reconsider that, but he did not know where the Board had gone to get that information. The Board also told him that it did not have to pertain primarily to the new spaces. But, it could also pertain to the existing spaces. The agreement did not have to name any particular lot for any length of time except for a year. It could be different lots for every year. The agreement did not have to designate the same lots as long as there were 30 percent of the lots used for low to moderate income. The new lots would probably go up in price because they will be a little bigger and there is obviously more money involved.

Ms. Higgins stated that he was saying 30 percent, but it was not clear how many lots that would involve in Section 15.4.3. It says meet certain criteria for low to moderate cost housing, but it does not say how many of the lots or whether it applies to the older of the newer lots. She suggested that some clarification be made to that before the request goes to the Board.

Mr. Beard stated that in the planning book it says that in order to ask for a density bonus that you have to agree to have so much of a percentage of low to moderate income housing, which he thought was 30 percent.

Ms. Higgins asked staff to clarify that issue between now and when the special use permit request goes to the Board. She felt that would be very helpful.

Mr. Thomas asked if there were any other questions for the applicant. There being none, he asked if there were any other members of the public present to speak on this application. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and a possible action.

Ms. Echols asked that the Commission also reapprove the waivers and conditions granted with the previous special use permit request. She provided a copy of those waivers and conditions from the 6/5/03 Planning Commission meeting minutes to the Commission.

Mr. Rieley moved for approval of SP-2005-009, Cedar Hill Mobile Home Park Extension of Special Use Permit, subject to the conditions recommended in the staff report.

1. Pending the satisfaction of all conditions of approval for the special use permit and modifications and waivers, a maximum of thirty-two (32) new mobile home lots shall be allowed in the mobile home park. Those new lots shall be arranged generally in the areas and configuration shown on the application plan, dated January 27, 2003;

2. No mobile home units shall be relocated or installed, nor shall any new construction activity take place in the expanded area as illustrated on the application plan dated January 27, 2003 until after a site plan has been approved. No change in unit location shall occur on the existing or expanded areas without a site plan approval;

3. A landscape plan shall be submitted for review with the required site plan; and

4. The stormwater and utility improvements illustrated on the application plan dated January 27, 2003 may be adjusted as approved by the agent on the final site plan if the agent determines the adjustments to be more site sensitive, environmentally sensitive, visually sensitive, and less obtrusive method to achieve the same results.

Ms. Higgins seconded the motion.

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

Mr. Thomas stated that SP-2005-009 would go to the Board of Supervisors on July 6, 2005 with a recommendation for approval.

Regarding the waivers and modifications:

Mr. Rieley moved for approval of all of the waivers, including the addition of the language "after issuance of a certificate of occupancy" to 15.4.3.

Mr. Thomas asked if the date 5/6/03 needed to be included in the motion so that it reads, "Mr. Rieley moved approval of all of the waivers granted on 5/6/03…"

Mr. Kamptner stated that it needed to be included. He asked staff if his condition was included back in 2003.

Ms. Echols stated that it was.

Mr. Morris seconded the motion.

Mr. Rieley amended his motion to add the date May 6, 2003 to the motion.

Mr. Morris seconded the amendment to the motion.

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

The approved waivers and modifications from the 5/6/03 meeting in addition to the amendment to 15.4.3. are copied below:

1. **Section 5.3.3.1:** Modification to allow for the reduction in the 4,500 square foot area and required 45-foot width for the 73 existing unit locations. No conditions recommended.

2. **Section 5.3.4.1/ 5.3.7.1:** Modification of the requirement, which states that each mobile home shall be located on a mobile home lot, and that the lot shall provide space for outdoor living and storage and may provide space for a parking space. This waiver shall only apply to existing lots.

3. **Section 5.3.4.2:** Modification to allow the existing lot 109 to remain, without frontage on an internal road. Adequate access shall be provided to this lot from a private driveway.

4. **Section 5.3.4.3:** Modification to allow for a reduction from the required 50 feet of minimum distance between a mobile home and any service or recreational structure to be used by more than one unit. The recreation area shall be screened in accordance with the standards of section 32.7.9.8.a of the Zoning Ordinance.

5. **Section 5.3.4.4:** Modification to allow for the reduction of the 30-foot minimum distance between mobile home units. Fire hydrants shall be provided with the final site plan and installed in conjunction with the improvements shown on the final site plan.

6. **Section 5.3.5.2:** Modification to allow both existing and proposed mobile homes to be located within the 50 foot required setback when the mobile home park is adjacent to a residential or rural area district. Screening along the rear of lots 32-38 shall be provided in accordance with the standards of Section 32.7.8.9a of the Zoning Ordinance.

7. **Section 5.3.5.3:** Modification to allow for a reduction of the 15 foot minimum setback from the right of way of internal private streets, common walkways, and common recreation or service areas. This distance may be increased to twenty-five feet for mobile homes or structures at roadway intersections and along internal public streets. This modification shall be conditioned to apply only to the existing lots.

8. **Section 5.3.5.4:** A modification to the required 6 foot set back from any mobile home space lot line. This modification shall be conditioned to apply only to the existing lots.

9. **Section 32.7.2.4:** A waiver of the requirement for a development of 50 of more dwelling units that reasonably direct vehicular access shall be provided from all residential units to two (2) public street connections. Staff recommends that approval of this waiver be conditioned upon the following: 1) An emergency access shall be constructed connecting Cedar Hill Mobile Home Park with the access drive to Ennstone prior to any building permits being issued for any new mobile home units; 2) The applicant shall submit to the county a legally binding contract permitting use of the Ennstone access drive for emergency access; 3) When the access road to Northside Drive is constructed, the applicant shall construct the connection from the Cedar Hill Mobile Home Park to the new access road as shown on the application plan dated January 27, 2003. Items 1 and 2 are to be submitted with the site plan for review prior to final site plan approval.

10. **Section 15.4.3:** This code section provides a density bonus for low to moderate cost housing, including for mobile homes in an approved mobile home park, provided the development meets certain criteria for low to moderate cost housing. The applicant shall enter into an agreement with the County ensuring that the lots shall be available as low or moderate cost housing for a minimum of 5 years from the issuance of a certificate of occupancy.

Mr. Thomas stated that the motion carries and will go to the Board of Supervisors on July 6, 2005.

Mr. Cilimberg asked to just clarify for the record that these are Commission waivers and they are not acted on by the Board. He stated that he was not sure if 15.4.3 even needed an action because it is an administrative process in our Zoning Ordinance that allows bonus density and it has to follow the Zoning Ordinance requirements. He stated that he was not sure why there was an action then or why it was even needed as an action tonight. But, Mr. Kamptner recently prepared such an administrative agreement that did not need to be granted by the Board or the Planning Commission.

Mr. Kamptner stated that was correct.

Ms. Higgins stated that since they were redoing the special use permit they wanted to make sure that the agreement is looked at and dated accordingly.

Mr. Cilimberg stated that would happen as part of the procedure. But, what he said that was saying was it may not even need to be dealt with before the Board's meeting other than to make sure that the applicant understands how the agreement is processed with the County.

Mr. Rieley stated that in that case the minutes be reflective of the Planning Commission's desire that the agreement for affordability for a period of five years be connected to the Certificate of Occupancy.

Old Business:

Mr. Thomas asked if there was any old business.

Ms. Higgins stated that Ms. Joseph had brought up a suggestion previously about how to handle minutes. The suggestion was that the minutes be divvied up so that each Commissioner was assigned one set to thoroughly review. She pointed out that she skimmed all of the minutes, but that sometimes she gets overwhelmed. Therefore, she thought that Marcia's idea was a good one particularly due to the large volume of minutes. She asked how the other Commissioners felt about that.

Mr. Craddock stated that would not preclude others from reviewing the minutes.

Ms. Higgins stated that it would not preclude anyone else from reading them. She suggested that the minutes be assigned on a list so that each Commissioner would read the seventh set. It would be so

much easier to know that one Commissioner would be putting a careful eye on the entire set. She noted that sometimes spell check might miss something and words get misstated.

Mr. Thomas asked Ms. Taylor to send the Commissioners a reminder.

Mr. Craddock offered to take tonight's set of minutes.

Ms. Higgins stated that there were three sets of minutes currently being reviewed for March 29, April 5 and May 3.

Ms. Taylor offered to send out an email to the Commissioners of the minutes to be reviewed with the person's name assigned to review them.

Mr. Morris stated that it was a great idea to just go down the list.

Mr. Thomas pointed out that in order to approve the minutes that all of the Commissioners need to read them.

There being no further old business, the meeting proceeded.

New Business:

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

Adjournment:

With no further items, the meeting adjourned at 6:24 p.m. to the June 28, 2005 meeting.

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V. Wayne Cilimberg, Secretary

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