Albemarle County Planning Commission
September 13, 2005

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, September 13, 2005 at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Bill Edgerton, Chairman; Rodney Thomas, Calvin Morris, Jo Higgins; Pete Craddock; and Marcia Joseph, Vice-Chair. Absent were William Rieley and David J. Neuman, FAIA, Architect for University of Virginia.

Other officials present were Wayne Cilimberg, Planning Director; David Benish, Chief of Planning; Elaine Echols, Principal Planner; David Pennock, Senior Planner; Scott Clark, Senior Planner; Rebecca Ragsdale, Senior Planner; Bill Fritz, Development Review Manager; Amelia McCulley, Zoning and Current Development Director/Zoning Administrator; Jack Kelsey, County Engineer and Greg Kamptner, Deputy 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.

Charles J. Trachtra, Jr., resident of Woodbrook, addressed the Commission concerning whether the County was planning for the future through development. Excerpts from his letter are as follows:

> "There is a Red Cross Ad on TV where a girl gets a factory closed, so it would stop polluting, harming the town's children, only to find that by closing the factory, the children are worse off because now they have no health coverage. Its bottom line is that you can't save the world, but you can save a life by giving blood. I wish the person who came up with that TV spot could come here and speak to our County Officials. Like that girl, this County seems to go for the big picture without understanding all the little things which make it up. Albemarle claims it's planning for the future through development. Why isn't the development community helping with the problems of growth, and not just roads and schools, what about police and rescue? . . . "
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> "Crime is up in Woodbrook. People in Carrsbrook are finding reasons not to feel safe. Some crimes are not being reported because people perceive the response from our PD. There's a constant path of trash along Brookmere between the rear elevation of Mallside/Rio Hill (something which Woodbrook was told would not exist) and the 7-11 in the Shopping Center. . . . Our quality of life is under attack! "
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> "But why I am here today, a 13 year old girl was terrorized on the Woodbrook Schoolyard. Males ranging from the age of 16 into their 20's come to the schoolyard to "play" basketball. They do this by throwing off the young children. When they leave, cigarette butts and trash are left behind. There are times when beer bottles are left sitting on the playground equipment. Only if parents are around, who can confront these young males, are the children allowed to use their school's equipment. Why hasn't the County been doing something about this? Why can't we hire more police? All I know is when I made a 911 call to report that a 13 year old girl was robbed and that the perps were still present, it took 2 additional calls and 20 minutes to get a patrol car. Is this what the County considers good planning!?!" (ATTACHMENT – Letter to Albemarle County Board of Supervisors and Planning Commission from Charles J. Trachta, Jr. distributed at 9-13-05 Planning Commission meeting)

There being no further public comment, the meeting moved on to the review of the Board of Supervisors meeting.

Review of Board of Supervisors Meeting – September 7, 2005

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on September 7, 2005.

Consent Agenda:

Approval of Planning Commission Minutes – August 2, 2005.

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

Motion: Mr. Thomas moved, Mr. Morris seconded, that the consent agenda be approved.

The motion that the consent agenda be approved passed by a vote of 6:0. (Commissioner Rieley was absent.)

Regular Items:

SUB 2005-220 Fahim, Sherrie - Waiver request - This proposal is for a waiver to Subdivision Ordinance Section 14-404, "Lot location to allow access from lot onto street or shared driveway" in order to allow one (1) new lot. The property, described as Tax Map 21, Parcel 28, contains 9.560 acres zoned RA (Rural Areas). This site is located in the Rivanna Magisterial District on the north side of Burnley Station Road [State Route #641] approximately 0.25 miles from its intersection with Seminole Trail [Route #29]. The Comprehensive Plan designates this property as Rural Areas in Rural Area #4. (David Pennock)

Mr. Pennock summarized the staff report.

- This is a request for a waiver to the subdivision access requirements from the Subdivision Ordinance.

- This parcel was created in April of 2005 when there was a front/back split from the parent parcel, which created a 50 foot private access easement to serve both parcels. Under current ordinance requirements any further split of either lot would also require the use of that access easement. This waiver is to request not to use that access.

- Factors favorable to this request include:
  1. Approval would allow use of an existing driveway and alleviate the need for any additional clearing/earthwork caused by the creation of a new driveway.
  2. The existing private street currently serves two users and would have to be upgraded if an additional lot (lot A1-1) were to access the street. Upgrading this street would result in additional clearing and grading.

- Factors unfavorable to this request include:
  1. There are no physical barriers which effectively prohibit or prevent compliance with the ordinance. The only unique factor staff can identify is the existence of a driveway.

- **Recommendation:** Staff finds that the request to waive Section 14-404 (B) is generally appropriate in this circumstance.

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

Ms. Joseph asked if there were no further divisions allowed.

Mr. Pennock stated that was correct that these would be the final three on that lot.

Mr. Edgerton opened the public hearing and invited the applicant to address the Commission.

Roger Ray, agent for the applicant, stated that they have approximately a ten acre tract of land that has two development rights with nearly a quarter of a mile of frontage on Route 641. There was an old house site that was removed this past summer. From the plan you can see that there is an existing driveway that served that old house site. It was in poor repair and was therefore removed. The original division was done by the prior owner and not the current applicant. At that time they only elected to divide this into two parcels as shown in Attachment C. If they had wanted to at that time to accomplish this fifth lot, they would have done it differently and had all of it administratively approved rather than being before the Planning Commission. But, that is just not the case. He asked that the Commission approve this request because it would alleviate them having to construct any additional roads.

Mr. Edgerton invited public comment. There being none, he closed the public hearing to bring the matter back before the Commission for consideration.

Motion: Ms. Joseph moved, Ms. Higgins seconded, that SUB-2005-220, Fahim, Sherrie – Waiver request be approved.

The motion passed unanimously by a vote of 6:0. Commissioner Rieley was absent.

Mr. Edgerton stated that SUB-2005-220, Fahim, Sherrie – Waiver was approved.

Public Hearing:

SP-2005-016 Hope Builders International (Signs #30&68) - Request for amendment of a special use permit for a church and private school, to remove a condition prohibiting transfer of the permitted use to a new operator and to make possible expansion of office space within the use, in accordance with Section 10.2.2(5) and 10.2.2(35) of the Zoning Ordinance which allows for private schools and churches respectively. The property, described as Tax Map 70, Parcel 22, contains 13.473 acres and is zoned RA, Rural Areas. The proposal is located at 7444 Plank Road (Route 692), 0.65 miles east of its intersection with Ortman Road (Route 691) in the White Hall Magisterial District. The Comprehensive Plan designates this property as Rural Area 3. (Scott Clark)

Mr. Clark summarized the staff report.

- In the summer of 1989 the Board approved a special use permit for Christian Retreats. This organization was operating in the historic Oak Leigh house and holding church services and retreats on the site. They came in for a special use permit to add a private school in addition to the church use. The school was actually never constructed, but the church use continued with both weekly church meetings and occasional retreats for other churches and religious organizations on the site. However, the permit was approved with a condition that limited the approval to that original applicant. Therefore, the new applicants have requested to remove the condition limiting the use of that site to the original applicants, Christian Retreats. Special use permits run with the land and not with a particular owner. Therefore, staff is supporting the removal of that condition.

Ms. Higgins asked if staff has a copy of the conditions from the 1989 special use permit, and Mr. Clark stated that he had one copy of the conditions, which he passed around for the Commission to review.

Ms. Higgins asked if the building was constructed in accordance with the schematic elevation submitted in October, 1989, and Mr. Clark replied that most of those conditions are referring to the building for the private school, which was never built.

Ms. Higgins asked if staff was asking for that condition to be dropped, and Mr. Clark replied that staff was suggesting a new set of conditions. He continued summarizing the staff report.

- This is a very large historic house with 9 bedrooms.

- According to an e-mail received June 15, 2005, Hope Builders, Inc. intends to use the site for:

- Weekly church meetings (20 to 100 people)
- One weekend seminar per month (up to 100 people, with up to 20 housed on-site overnight)
- One annual training session of six to eight weeks, with up to 30 trainees housed on-site
- Administrative office for the organization
- Residence on site (currently three people live in the house)

- There are two general health and safety concerns on this site. The current entrance arrangement (one-way in, one-way out) would require a sight-distance easement on a neighboring property (Tax Map 70, Parcel 39B1) to provide sufficient sight distance for the exit. Both one way entrances/exits go through a stone wall that is part of the historic character of the site. The applicants will need to either obtain the easement, or find another entrance/exit arrangement that will satisfy VDOT's requirements. There appear to be other on-site options by which the applicant could create an entrance acceptable to VDOT. VDOT has stated that those entrances can be made satisfactory, however, the applicants would either need to get a site distance easement from the parcel to the east to allow for their exit to operate safely or they would have to rearrange the direction of travel on the site to continue to use the entrance as they have now. But, the neighbors on that side have not yet indicated that they are willing to donate that easement for this use.

- The site would also need to be inspected and approved by the Health Department. There are no records at the Health Department that indicate that the septic fields or the wells on the site are sufficient for this use. Therefore, it would need to be examined and the well would clearly need to be upgraded. The septic fields would have to be inspected and either verified to be sufficient or upgraded depending on what the Health Department found on the site.

Ms. Joseph reiterated that the first issue is the entrances. The existing entrance is one-way. At this time VDOT has not approved the entrances and they need a sight distance easement from the eastern property owner, which they have not gotten at this point in time. But, there is a way that they may be able to find an entrance on the site to meet VDOT standards.

Mr. Clark stated that the existing entrances could be made to be acceptable with some minor changes, which includes signage and the sight distance easement.

Ms. Joseph reiterated that the applicant needs signage and a sight distance easement and at that point VDOT may be able to approve them, but they don't have that right now.

Mr. Clark stated that the second issue is that the applicant needs Health Department approval. A well was approved on the site recently for construction that is not sufficient for the number of people that will be on the site for these events. Therefore, they would most likely need to upgrade to a larger well that is up to that standard. The septic systems have not been inspected and there is no record at the Health Department that it has ever been inspected for the level of use that has been occurring on the site and that is being proposed now. Therefore, the systems would have to be inspected and possibly upgraded to the satisfaction of the Health Department.

Ms. Joseph stated that there may be a more intensive use on the property so the Health Department is going to be looking at the existing well and the septic, which may or may not meet today's requirements.

Mr. Clark stated that was correct. The Health Department has gone through their records a couple of times and has found no inspections on this property. There is one change in the staff report in the summary. The applicants have requested an increase in the level of activity on the site from the original proposal. As of the end of last week the applicants informed staff that they no longer wish to request the increase of use on the site. Therefore, they are returning to their original request as outlined in the beginning of the staff report for 12 events, rather than 24 and 100 people instead of 150. Therefore, the original request is what is before the Commission tonight, and the upgraded request that arrived last week is no longer being considered.

Ms. Joseph reiterated that the attendance shall not exceed 100 people and the events shall not exceed 12 and no more than 30 persons attending conferences shall reside on the property. She asked if that was correct.

Mr. Clark stated that was correct, except that it was 12 events and no more than 30 persons attending conferences shall reside on the property.

Ms. Higgins stated that she had one question about the Oak Leigh house. There is a condition about no expansion of the existing house, but on page 4 of the staff report it talks about a house that now has a 2-story colonial style central block. Therefore, the original house has already been expanded and now they were saying no further expansion past this. She asked if staff has a footprint or something that tells us what that limit is going to be because it has already been expanded once.

Mr. Clark stated that the Department of Historic Resources has an extensive file on this property consisting of drawings, elevations, photographs, etc. Therefore, they have a pretty good record of what is there now.

Ms. Higgins asked if that included this addition, and Mr. Clark replied that it did.

Mr. Clark stated that staff has recommended approval subject to the 12 conditions listed in the staff report. Those conditions will take care of the health and safety issues; the impacts on the surrounding properties by limiting the number of people; the hours of operation; the character of the outdoor activities; and preventing further changes to the historic resources on the site. If there are any questions, he would be happy to answer them.

Mr. Edgerton stated that condition 7 places a limitation on conferences or retreats to no more than three days up to twelve times per calendar year. Therefore, that is once a month. Condition 8 talks about the missionary training program lasting up to 8 weeks, which is about two months. He asked if they were planning on doing both of those activities during a two month period so that when they are having the two month training session that they would be having the conferences and training as well. He asked if they were going to jam those in the other ten months.

Mr. Clark stated that was a good question that might be better answered by the applicant.

Mr. Edgerton asked if staff was saying that 30 people would stay in the 9 bedrooms within the house.

Mr. Clark stated that there were 9 bedrooms that were set up with bunk beds. He pointed out that the original special use permit only referred to the private school.

Ms. Higgins pointed out that condition 2 of the original approval says that the enrollment is limited to 30 students.

Mr. Clark stated that was for the school that was never constructed. The conferences that were already occurring on the site were not dealt with in those conditions.

Ms. Higgins asked if the provision for the school goes away under these conditions, and Mr. Clark replied that the school use had already gone away because the special use permit expired since it had never been built.

Mr. Edgerton asked if all of the people staying overnight at the site would be staying in the house and not in tents or campers.

Mr. Clark stated that there was no mention of tents or campers in the application. He pointed out that there was a condition limiting overnight stays on the site to 30 people. Therefore, it would not be possible for all 100 people at an event to stay on the site according to these conditions.

Mr. Edgerton suggested amending the condition to state that the people would have to stay in the house.

Ms. Higgins asked about the fourth condition of the expired special use permit. If no school is ever built, then there are no architectural limitations that will continue into the new application.

Mr. Clark stated that no, except for the limit on changing the footprint of the building because nothing new is being built for the use.

Ms. Higgins stated that the applicant can change the exterior as long as the footprint stays the same. She noted that someone thought it was important enough at the time this was done to include that condition.

Mr. Clark stated that his understanding was that was an attempt to make the school match the existing building.

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

Lance Thollander, President of Hope Builders International, stated that for over 30 years or since the early 1970's there has been a church, Oak Leigh Christian Fellowship, operating on the Oak Leigh property. He expressed the following comments.

- Different times throughout their history they had several hundred people living there. There were lots of young people living there with training and discipleship going on from the early 1970's to the late 1990's. It has always been his desire to be a part of both a ministry church and a training center. Hope Builders was started 10 ½ years ago to address that desire and to also aid ministries around the world. Out of Oak Leigh Church a number of other congregations grew. There were hundreds and thousands of people in the Charlottesville area that came out there and remember those days and the good things that came out of there. When they went out to see the property, Christian Retreats, who owned and operated it as Oak Leigh, felt that their time of ministry was coming to an end. They were looking for another ministry that could take over the site and continue the training, discipleship and Christian meetings in the same manner that they had been doing for thirty years. It was their desire for us to take over Christian Retreats and continue to operate it in the same manner. Hope Builders International agreed to do that when they took over the property. It was always their intention though to eventually combine Hope Builders with Christian Retreats and have the property clearly in their name so that it would be clear and everybody would know what they were doing there. They did not have any ulterior motives or anything like that. So in the process of turning a screened in porch into office space, which was a part of the historic footprint, they screened it in with glass to make it attractive and to continue to have the building essentially look the same way. So in the process of doing that and applying for that permit the question came up to Ms. McCulley about who is Hope Builders and who is Christian Retreats. At that time it was obvious that this was the time to go forward and explain everything that they wanted to do there and come before the Planning Commission to hopefully continue the historic use of the property as a church meeting place and so forth.

- They have been working cooperatively with staff and have tried to be very straight forward in presenting their goals. Since they have taken over the property, they have put in a new furnace, done extensive work on the outside of the building and done a lot of painting. Many people have commented on the beauty of the property and how well it is being kept. He stated that they have a commitment and love the peace out there. They have a vested interest in retaining the peaceful environment that exists on the property and have worked very hard to clear out the poison oak and dead trees and to replant, etc. But, the property still needs extensive work. It still needs a new roof. They put in a new well. They have had the septic gone through completely. They will be meeting with the Health Department to make sure that whatever is necessary to bring the property into compliance will be done. Therefore, they are anticipating working with the Health Department and VDOT to resolve the issues. He felt that the issue with VDOT could be solved simply by switching the entrance and the exit. Right now the signage has one as the entrance and one as the exit. If they switched that signage there was no barrier on the other

drive to block any kind of visibility. He felt that would probably solve the problem of the entrance and the exit that VDOT is concerned about.

- He asked to make one comment relative to the recommendations that Mr. Clark made and the fact that they did submit a different proposal. He explained that part of that just has to do with his inexperience in going through this kind of a process. Mr. Clark and Ms. McCulley had asked him for statements, which were included in their packet, regarding their intentions on the property. He thought that it was a give and take type of situation when he laid out their expectations. Then Mr. Clark called and said that he was going to fax him the conditions and would like to hear his comments on August 24. When he saw the numbers that were based on the numbers that he had given him primarily, there were some extra things that they had added in there to protect the property that he saw as limits. Therefore, he wondered whether there was flexibility here. So he emailed him back saying that he had said 100 and asked if they could go to 150. In his understanding there was a dialogue going on and he was not trying to present one thing and then all of a sudden present something else. So he emailed that to Mr. Clark not really understanding that he was going to include that. Then he emailed him back saying that the final date for discussion was August 16. He pointed out that he did not get the fax until August 24. So if he had known that he would not have bothered going back and forth on the issue. That is the reason why there was sort of a request on his part to reconsider that. But, he did not really understand how the process works. He stated that they were comfortable with the condition as recommended by the staff and they fully intend to observe those hoping that the Health Department, Fire Department and VDOT will go along with it.

- Regarding his neighbor's concerns expressed in telephone calls to the County that they were building offices on the property or were going to have some type of rehab center on the property, he stated that neither one of those things is really accurate. The training program during the summer would be basically young people between 21 and 30. There may be 20 or 25 students. Those numbers are at the upper edge of what they would feel comfortable having in the facility. They are not planning any kind of rehab ministry out there. It would be people who are interested in discipleship and Christian missions. Part of that program is for them to go overseas and work for some of the oversea groups that they work with in countries like India and Africa. Their intention is not to have some kind of a half-way house or anything like that going on at the property. It is a beautiful property and they love it. They are working hard to make it more beautiful and to really make it a place of continued blessings for the whole Charlottesville area.

Mr. Edgerton asked if the twelve conferences or retreats being requested per year and the missionary training would be going on at the same time.

Mr. Thollander stated that he could anticipate that because they don't have the retreats signed up for at this period of time. But, summer time is not a busy time for retreats. During that eight week block they would not be doing both activities at the same time. He pointed out that it is possible that there might be two retreats, for example, in October.

Mr. Edgerton asked if he still wanted to keep the twelve retreats.

Mr. Thollander stated that they would like to keep the twelve retreats in order to give them some leeway.

Mr. Edgerton asked if all of the people staying on the property will be staying within the house since it was not covered in the conditions.

Mr. Thollander stated that they are currently developing their plans for the property. But, if that is the condition that the Board thinks would be appropriate, then they will abide by it.

There being no further questions for the applicant, Mr. Edgerton invited comment from the other members of the public.

Bronwyn Bryans stated that her concern is that Plank Road is extremely narrow and already has too much traffic on it. If the applicant's request is granted to add this number of people on this property, it will make the road even more congested. There is an existing traffic problem on Plank Road with the trucks, school buses and speeding traffic. Currently she has to get off the edge of the road when meeting oncoming traffic. There has been a lot more trash on that property than it was in the old days. Also, the noise from the property is much worse at times.

Kathy Coleman, resident on Plank Road, stated that she came into the office last Friday and picked up a copy of Mr. Clark's report and would like to call several things to the Commission's attention. First, is about the number of days that they are requesting on the special use permit. But, before that she would ask that the Commission not extend the same special use permit to Hope Builders International. The original special use permit in 1989 was extended to a church that occasionally had retreats. When she called one of the board members of Oak Leigh Christian Fellowships he said that yes, they did have retreats among those in their church and any other church in the area that wanted to use it. She asked if they rented that space out to those churches and he said no, that no rent was collected. But, they did have retreats for other churches. That is the historic reference of what went on there for the last thirty years. For seven decades that house was a private Virginia home. It was a large 10,000 square foot house built and used as a private large Virginia home. Oak Leigh and Christian Fellowship took the house over in the early 70's and was given that permit in 1989 as a church that held occasional retreats. Hope Builders International is asking to be considered a church so that they may do their work and run their business as a retreat and conference center. When she researched this as to what is the by right use in Albemarle County, she found under our Rural Areas zoning that churches are an expected element in the rural landscape. She asked Mr. Clark and his staff if conference centers or retreat centers was also an expected use in that RA zoning and he said no, that would probably not be allowed in a RA zoning. Therefore, she was saying after cruising the website of Hope Builders International and looking through all of their literature that the only time that they have used the words church in relation to the Hope Builders International is when they applied to this Commission to be considered a church so that they could get this special use permit. Also, back to the number of days, if the Commission does their math they will see that they are being asked in our Rural Areas to take twelve conferences of three days of 100 people, which is 36 days of 100 people. Then they are being asked to have 8 weeks of conferences that may have up to 100 people coming to the conference with 30 of which can reside on site. So now they were up to 92 days that 100 people can be in a house that was once considered a private Virginia home. Then they add any other number of days and then they have to add 52 more days for the weekly meetings, which may go up to 100 people. Then it is not mentioned on the number of times that they will be allowed to rent out the space for weddings or other private groups as they have for the last 2 ½ years since they have been up there.

Diane Gwyn, landowner on Plank Road, stated that she has tractors and animals. They bought their property in 1986 from John Manzano, who was the head of Christian Retreat Incorporated. At that time he had a church there that had a service every single Sunday for the small rural area and its local people. He said that they did weddings and retreats for local churches. At that time the people could walk to the church if they wanted to. They did not need to drive and did not have to worry about cars. When he left the Oak Leigh fellowship the community was still part of that and they took over the church. According to her records that she found on the computer, the Christian Retreat Incorporated actually became incorporated in 1971. What she would like to know is who owns the property 1774 Plank Road right now. In 2004, Christian Retreat is not staying as a corporation because they dissolved it. So when they dissolved that corporation didn't they dissolve all of the exemptions that the County has given them as a church, school or anything else? Then the other question is that Mr. Thollander said that he had been there since 2003. But, in the going through the state records he became incorporated on 10-12-01. On that legal paper he shows 1774 Plank Road as his legal address. So does that mean that he has been there and is he the owner or what is happening to the property. Therefore, her concern is that this is an international organization and this is not a community organization. This is not a church that holds a service every single Sunday. Cars can come and go. They could bus people in. You are talking about hundreds of people. On their website she found that Hope Builders International was doing some wonderful things. They are like the Red Cross in that they collect money, they keep a percentage of it and then they distribute it out. Every sheet of paper throughout their entire website is about Africa, Turkey, Asia, and the Middle East. Yes, they do have a site that says they are collecting for the hurricane, but

there is nothing about Greenwood. There is nothing about Charlottesville. They are not doing anything to support our community. This is supporting an international community, which does not belong on our street. They are rural areas and don't want the garbage or the noise from this use. She checked their financial sheets and found that they are making a lot of money. In 2003, they made $800,000 and spent $600,000. Therefore, they have $200,000 that who knows what they are doing with. She stated that they do not want to have foreigners coming in and want their community to stay the same.

Bob French, resident of Crozet, stated that he was the former pastor of Oak Leigh Christian Fellowship and President of the Board of Christian Retreats. He stated that he was a member of the Oak Leigh Church since 1976 when he moved to this area and became part of the church there. In 1987, he became pastor and started Christ Community Church in the Woolen Mills area of Charlottesville. His church now has about 600 members and is a thriving church. He took over and was pastor for about 14 years. At the end of those 14 years they saw as a congregation that the 13 acre estate was too much for them to handle so as Lance mentioned they looked and prayed for some group to come and take it over that would put it to Christian use. He felt that they have found that in Hope Builders International. When he resigned as President of the Board he believed that Lance took over. Therefore, they had a changing of the Board of Directors. The old Board of Directors resigned and the new Board of Directors took over Christian Retreats. So Christian Retreats still owns Oak Leigh Estate. He questioned if the lady had said that in 1974 the non-profit organization was dissolved. He pointed out that it had not been dissolved and it has been totally continuous from 1971 to the present. There is a Christian Retreats and it is the owner of the Oak Leigh Estate. He pointed out that the property was purchased in 1969 from Truman Southall, who had a retirement home and summer day camp there. They found signs that said Camp Oak Leigh. So even though a large majority of the time the Oak Leigh house was privately owned by Mr. Southall, who has passed on, he tried several different venues to have a profitable go at the use of the Oak Leigh property.

Mark Haskins, resident of Charlottesville for 21 years, stated that he was a friend of Lance and Christy and was speaking on behalf of their petition or request. He noted that he would like to say three things.

- This is a place where people come from the local area to meet one another who have an interest in fostering a facility in helping overseas ministries. It includes members of Crozet, Charlottesville, and surrounding areas.
- In the gatherings that are held there the residential stays would be intended to be for the number of 20 or 30 people. There will not be 100 people sleeping on this property. But, 100 people could gather on this property because it is a large estate. There is a huge ballroom that would easily accommodate a ball of 100 to 150 people. Therefore, there is a space there that would work for a meeting setting of 100 people.
- They are all new to this process or application. If Lance Thollander gives you his word that he will adhere to whatever stipulations that you make, then he will keep to that word.

Raleigh Althisar, a resident of Charlottesville for five years, stated that he was present on behalf of Hope Builders International and Lance and Christy Thollander. He asked to reiterate and clarify that while there is an international focus if you look at the materials that there is also a focus on using the facility to bring people together. It has been used by many different churches for retreats. There is a real value in the use of that property to bring the community together and to help support the ministry on an international basis. The $200,000 is really not a profit since it is just held to go into other missions. He stated that they were not making a whole lot of money.

Dave Burton, resident of 7489 Plank Road, stated that while he has nothing against Mr. Thollander that the bottom line is that this organization is looking to expand their business and organization. With the expansion there will be an increase in traffic and noise volume to this residential community. He urged the Commission not to pass this request bearing in mind that Plank Road is a rural community it needs to be kept way.

Jeff Graves, resident of Jenevan Lane, stated that the entrance to his lane was next to the entrance of Hope Builder's International. He stated that he has no reservations towards the concept of the organization, but his concerns were for the change that they were having in their rural community such as increased traffic and noise if this special use permit is expanded to include the missionary training on the

site. His parents have lived beside this property for 65 years. He chose to build his home and raise his family beside them because it is such a peaceful, quiet rural area. They would just like this area to remain the same. He felt that the committee is being shown a lot of smoke and merit for them to achieve what they are after. It is a beautiful residence, which was what it started out to be and was intended to be. They do take good care of the property in which they can see, but they are not concerned about their neighbors and what they see. When it comes down to Jenevan Lane they chose to take all of their trash, brush, cut down trees and anything that is not appealing to their site and pile it up against the lane. His dad has worked hard all of his life to keep up the appearance of his property and it is a beautiful property. Unfortunately, the applicants don't have to look at it everyday, but unfortunately they do. He did not think they were concerned at all about the neighbors that surround them. He felt that they were concerned only about achieving their agenda and that is it. The gentleman that spoke a few minutes ago resides in Crozet and the other two reside in Charlottesville. They don't reside on Jenevan Lane and don't have to put up with the noise, congestion or the traffic on that lane. Therefore, he suggested that the Commission not give a lot of thought into what their comments were. This use is a business and is going to greatly affect their community in a negative way.

Mr. Yohung stated that he was a resident of the property and did most of the mowing of the lawn, the prepping of the trees and so on. He found it strange that the neighbors have not spoken to them directly about their concerns. He agreed that there were two particular occasions that trees have been cut down on the property. In one instance a couple of logs did go down the embankment into the gulley. But, the logs were removed. Since then they have not thrown any trash on the side of the road. Nobody that comes to our part of the world uses the lane at all. The requested maximum numbers of people are top end numbers for the possibilities that may arise in the future. They have been on the property for a number of years and to his knowledge no one has complained about noise levels, number of vehicles or anything of the sort.

There being no further public comments, Mr. Edgerton closed the public hearing to bring the matter back before the Commission for discussion and possible action.

Ms. Joseph stated that there were members of the public who did not think this use was defined as a church, but was more like a conference center. She asked Ms. McCulley to comment on that and to explain what the applicant had proposed to staff.

Ms. McCulley asked Mr. Kamptner to provide a basis of the RLUIPA Act, which is the context used to consider what is and is not a religious institution.

Ms. Joseph asked if the ordinance says religious institution or does it say church.

Ms. McCulley stated that it says church, but this Act essentially addresses church uses and what can be commonly associated in that context and what is not a church use. Under this Act it uses the term religious institution instead of church because it is much broader than church.

Mr. Kamptner stated that certainly even without the Act the word "church" in our Zoning Ordinance has to be applied much more broadly than "church" because synagogues, mosques and other types of religious institutions are certainly included. With respect to RLUIPA the key term is not church or religious institution, but religious exercise.

Ms. Joseph asked Mr. Kamptner to go back and explain what RLUIPA is because there were members of the public present that did not understand it.

Mr. Kamptner stated that it was the Religious Land Use and Institutionalized Persons Act, which was a federal law that was adopted by Congress in 2000. It was an attempt to go beyond the First Amendment's free exercise and establishment clauses to protect religious institutions. Before Congress adopted the act, it conducted three years of studies and hearings. What Congress found was that religious institutions were being limited to residential zones, limited to specific sites, allowed only by discretionary approvals, completely excluded from localities and treated differently from other places of assembly. Congress also found that the denominations that were not familiar in a locality were being

treated less favorably. Rigid zoning regulations failed to consider the actual impacts from a particular religious institution and religious institutions based on racial or ethnic discrimination. As a result, we have RLUIPA. This act deals only with local zoning decisions and the religious rights of prisoners. There is a prior act that was much broader in scope. So Congress' response was to limit the act to these two specific topics. Localities' ability to exercise their zoning powers over religious institutions is affected by this act quite significantly. He asked Ms. Joseph what her specific question was.

Ms. Joseph stated that the Zoning Ordinance says "church" and he had said that encompasses more things than more people think.

Mr. Kamtpner stated that encompasses all of the denominations, but it also encompasses activities that are much broader than Sunday services. Special use permits come before the Commission for churches for every night during the week that activities are held. The scope of what constitutes religious exercise is quite broad, but he did not know how far she wanted him to get into it. But, it goes way beyond the minister preaching to attendees of the congregation.

Ms. Joseph stated that if they allow churches they are allowing religious institutions, which goes into all of these other activities that he is talking about. She asked if that is how their reasoning goes.

Ms. Higgins asked to be more specific if he would interpret that to allow or cover offices operated to oversee the training of missionaries.

Mr. Kamptner stated that any kind of religious institution would be accessory to that use. He noted that certainly all Christian church would have offices.

Ms. Joseph stated that it would be an accessory use.

Mr. Kamptner stated, for example, if a church owned a commercial building and is leased for office space, then that would not be subject to RLUIPA since it would be beyond that.

Ms. Higgins stated that it would cover any office that was overseeing the activities related to the religious activities. In reading between the lines, she felt that he had clearly spelled out that it has no limitations as to the base of the religious activities being local or community related and its global nature really cannot be considered in our decision or it would be discriminatory.

Mr. Kamptner stated that it would include all of those things, but certainly the distinction between a local church. He stated that he was not sure what a local church is because the Catholic Church is based in the Vatican City. A lot of churches are based somewhere other than locally and the churches actually grow and expand.

Mr. Edgerton asked if anything that can be remotely considered a religious institution would be allowed in the Rural Area.

Ms. McCulley stated that there are some boundaries.

Mr. Edgerton asked if there were any requirements for a church service or any kind of religious church service to be held.

Mr. Kamptner stated that he was not aware of any. He read an example from the South Dakota Supreme Court in 1983. Religious use is not defined solely in terms of religious worship. Case law reveals that activity related to the purpose of a religious organization has been construed to be a religious use. This includes the church itself, a peripheral school with areas for recreation and extracurricular activity, a student dormitory, an orphanage**,** a center for counseling drug users and a chapel. The scope of religious use is not unlimited. The classification of religious use has been denied to the operation of day classes, to school children at locations several blocks from the church, to a church which was to be used as a healing center, to a church which wanted to construct a ritual area litigious in a highly residential district which permitted churches. More recently there are cases where activities such as community outreach,

social events including a concert series, feeding members and nonmembers of the congregation, or providing a student lounge and meditation room, may fall within religious exercise.

Ms. Higgins stated that the Commission was making sure that they are within the definition and that the public understands how they have to treat an application like this. Truly the public's concern is not about the use itself since they applauded the goals of Hope Homebuilders International, but it is really about the narrowness of the roads and the traffic on the roads. She felt that there are several conditions that would address some of their concerns. One condition limits the activities from 10:00 p.m. to 7:00 a.m., which would alleviate some of the concerns. She suggested that if the activities have the right parameters that it might address most of the public's concerns.

Ms. Joseph asked Ms. McCulley a question about the recommended action, number 5 that says that the applicant shall present evidence of the approvals required in conditions 1 through 4 and obtain a zoning clearance for use within 6 months of the approval of this permit. If that does not happen within 6 months of the approval by the Board of this permit would that void this application.

Ms. McCulley stated that it puts them in violation of the special use permit. Staff wanted a quicker time line than the normal two years given because the applicant is in the process of wanting to change the ownership of the property. Therefore, staff wanted a tighter time line to get compliance.

Ms. Joseph stated that it was such a commercial use that she felt hampered. In her mind she found it was hard to use this blanket that it was a church. She realized that they were not looking at churches anymore that are structured in their minds, but they were looking at some religious institution, which was tough.

Mr. Kamptner stated that it would ease the Commission's and public's concern to recognize that this permit is allowing the church use, which incorporates the concept of religious exercise, and the use will have to remain within those parameters. If they don't, then the special use permit does not apply. So it would be ongoing just like any other special use permit - - that the use will be monitored to make sure the use classification is correct.

Mr. Morris stated that it appears that actually what Hope Builders International is doing would be totally in the scope of religious activities. That includes hosting conferences for organizations not only their own denominations, but others as well as training sessions for discipleship. He felt that was religious in his estimation.

Mr. Kamptner stated that he would like to discuss another concept regarding RLUIPA, which is "not substantially burdening religious exercise." But, the other companion clause that goes with it is the prohibition of discrimination. The Rural Areas zoning district allows by special use permit a number of uses that permit public assembly. Two recent zoning text amendments allowed historical centers and special events. Under the special events special use permit they allow up to 150 attendees, 24 times per year. Historical centers are allowed 12 events up to 150 attendees and 4 festivals of more than 150 attendees. So the trend has been to allow regulated events of public assembly within the Rural Areas.

Ms. Joseph pointed out that their thought behind that was to allow these large parcels to stay intact. She thanked him for reminding her of that.

Ms. Higgins asked if they had been more restrictive in these conditions.

Mr. Kamptner stated that this was what was applied for and the applicant says that these conditions are acceptable. He noted that this is a smaller parcel.

Ms. Higgins stated that it was in relationship to the size of the property.

Mr. Kamptner stated that the applicant may request an amendment, and then they will have to reevaluate that.

Ms. McCulley stated that right now they have a special use permit with four conditions. A lot of those conditions don't address things like the impact on the neighborhood in terms of numbers of people, numbers of conferences and so forth.

Ms. Higgins stated that would include the hours of operation and the audio restrictions.

Ms. McCulley stated that it would address that and outdoor activities and so forth. There are twelve conditions with this special use permit that even more significantly restrict the activities on the property.

Mr. Edgerton asked if any other Commissioner shares his concern about where the majority of the people might be spending the night.

Ms. Joseph stated that she did not want to see RV's or tents out on the property.

Mr. Craddock pointed out that the lighting ordinance would cover some of the concerns.

Mr. Edgerton pointed out that the applicant had indicated that he was willing to accept a condition restricting the residents to the house.

Ms. Joseph agreed with Mr. Edgerton that a condition was needed for that. She asked Mr. Clark if there was anything that needed to be done to change the parking area to make it adequate for the 100 people.

Mr. Clark stated that there was a large gravel area at the east end of the site, which was not a traditional parking lot. It is a graveled unmarked area with no delineated parking spaces, and he did not have the exact measurements of the area. According to the applicants it is the same area that has been in use through the history of the similarly scaled operations on the site for the last thirty years. The applicant is not planning on changing or adding any parking and will continue to use the existing parking on the site.

Ms. Higgins pointed out that the Commission got into concerns about that when they talked about events in the Rural Areas, such as weddings, and did not want to go in the direction to start creating parking lots for 100 people that may be used for 20 people. She felt that avoidance of that disruption could be a concern.

Mr. Thomas asked if the daily vehicle trips would be increased, and if the staff had any idea what that number would be.

Mr. Clark stated that assuming that the two kinds of uses for the long term residential training session and the events did not overlap, and assuming that no one stays on the site, then they had 200 vehicle trips per day for the events.

Ms. Higgins stated that comparatively speaking it was a parcel that has been intact for 13 acres that has 5 division rights with the ability to support residential. When the Commission reviewed special events one of the primary goals was to keep historic structures and properties intact. An alternative to this use could be a traffic generation greater than these events if you want to look at an alternative analysis of that many houses for five (5) two (2) acre lots.

Motion: Mr. Morris moved, Mr. Thomas seconded, that SP-2005-00016, Hope Builders International be approved subject to the twelve conditions recommended by staff.

Ms. Joseph asked if he would accept a friendly amendment to one of the conditions that makes it very clear that the 30 persons on number 9 would be staying within the house and that there would be no recreational vehicles or tents.

Mr. Morris accepted the friendly amendment, and Mr. Thomas accepted the friendly amendment.

Mr. Clark asked that condition 8 be clarified to state that all of the people participating in the training program would be residing on site and would be limited to 20 people.

Ms. McCulley suggested that the condition say that a maximum of 20 people may be enrolled in the training program. She noted that was what staff intended, but did not say that directly.

Ms. Joseph asked that condition 8 be changed, also.

Ms. Higgins suggested one more friendly amendment that should the size of the parcel change, then the permit has to come back to the Commission. In other words, the applicant could not reduce the size of the parcel, which was why they were supporting these events.

Mr. Kamptner suggested that the condition read that the parcel shall not be subdivided or reduced in size.

Mr. Cilimberg pointed out that if the applicant wanted to subdivide the property, they would have to come back to the Commission if that condition was added.

Ms. Higgins suggested that the Commission ask the applicant if he understands what that means and if the condition was acceptable.

Mr. Edgerton invited Mr. Thollander to come back up and address the Commission's question.

Ms. Higgins asked Mr. Thollander if the proposed condition was acceptable.

Mr. Thollander stated yes, that the condition was acceptable. If they wanted to sell off any of the division rights that were on the property it would invalidate the special use permit or at least they would have to come back for approval.

Motion: Mr. Morris accepted all three friendly amendments to the motion, Mr. Thomas seconded, that SP-2005-00016, Hope Builders International be approved subject to the conditions recommended by staff as modified.

1) Health Department approval of well(s) and septic system(s) for all proposed church, conference, residential, and office uses;
2) Fire and Rescue Department approval of the structure for all proposed church, conference, residential, and office uses;
3) Building official approval of the structure for all proposed church, conference, residential, and office uses;
4) Virginia Department of Transportation approval of entrance and exit;
5) The applicants shall present evidence of the approvals required in conditions 1 through 4 and obtain a zoning clearance for the use within 6 months of the approval of this permit.
6) Seating capacity in any area of assembly shall not exceed 100 persons;
7) Conferences or retreats, each limited in duration to no more than three days, may occur up to twelve times per calendar year. Attendance shall not exceed 100 persons;
8) Once per calendar year, a missionary training program may be held on the site, for a single continuous time period not to exceed 8 weeks. A maximum of 20 people may be enrolled in the training program.
9) No more than 30 persons attending conferences, retreats, or missionary training shall reside on the property at any one time. All attendees shall be housed in the Oak Leigh house.
10) No outdoor amplified sound systems shall be used on the property.
11) Outdoor group activities (meetings, services, recreational activities, and other similar events and activities) shall not occur between 10:00 p.m. and 7:00 a.m.,
12) The footprint of the existing Oak Leigh house shall not be expanded, and no other structures shall be used or constructed for this use, without amendment of this permit.
13) This parcel shall not be subdivided or reduced in size.

The motion passed unanimously by a vote of 6:0. (Commissioner Rieley was absent.)

Mr. Edgerton stated that SUB-2005-00016, Hope Builders International will go forward to the Board of Supervisors on October 5, 2005 with a recommendation for approval.

ZTA-2005-001 Setbacks – Public Hearing on proposed zoning text amendment to change minimum setbacks for residential, commercial, and industrial zoning districts; to prohibit the location of accessory structures from front yards and across easements; to establish minimum front setbacks for garages; to allow for an increase in the minimum front yard to accommodate required trees and landscaping; and to make other modifications to the text of the zoning ordinance to accommodate these changes. (Elaine Echols)

Ms. Echols summarized the staff report:

- The proposed zoning text amendment would reduce the minimum front yard requirements in all residential districts from 25 feet to 18 feet. If there is no existing or proposed sidewalk in R-2 and R-4 District, the setback reduction would be from 25 to 20 feet. If there is an existing or proposed sidewalk in a higher density residential district, it would go from 25 to 8 feet. If sidewalks exist or are proposed, the amendment establishes a separate setback for garages, which would be 18 feet. For commercial and industrial districts, the setback reduction from 30 to 10 feet is proposed.
- There is language that is in the amendment that would allow for the ARB and the staff to increase the setback in order to accommodate the landscaping and street trees.
- Staff handed out some examples of illustrations that they would want to add to the text to help clarify how the measurements would take place. The amendment also proposes to add in a prohibition against accessory structures being in the front yard closer to the street than the structures. Other minor wording changes were included to clean up and better organize existing requirements.
- As part of staff's internal review they received some input from the ARB staff, which is included in the staff report. They have some concern that 10 feet in the commercial and industrial districts, which would also apply in the multi-family residential districts on the Entrance Corridors, is not really sufficient area in which to plant landscaping. Right now, of course, it is 30 feet minimum in which to plant landscaping. But, also street trees are not allowed in the right-of-way. The street trees have to be on the lot themselves. So the ARB is concerned that there is not enough area required for street tree plantings. They are also concerned that 10 feet may not be sufficient setback in the Entrance Corridor, especially along some of our Entrance Corridor roads like 29 and 250. There is a clause that allows the ARB already to establish a greater setback, but they have added one to this to ensure that the ARB could require additional setback for landscaping. The ARB staff is a little worried about that because they wonder if the ARB is being set up for a conflict if a developer wants a reduced setback and the ARB says no when they want to do the 10 feet. If the site plan section of the zoning ordinance is changed to allow street trees in the right-of-way, which is where staff wants them to be in the residential districts, the ARB staff is worried that they are going to reduce the number of tree species that they have to represent the street trees. Right now VDOT only allows six species. Staff is currently working with VDOT on that issue.
- The ARB is not supportive of the use of tree boxes to satisfy street tree requirements and have a reduced setback. Right now someone could propose to do this, and that is not changing. But, they believe that the pressure might be greater with this reduced setback for people to try and use tree boxes instead of either planting on the site or in the right-of-way.
- The County Landscape Designer believes that at least 21 feet is needed between the center of a tree and the building to allow for adequate growing space. Staff brings those comments to the Commission from the staff. There are some proposals here on how to deal with some of the ARB concerns, but they or may not be sufficient. That is why staff brings those comments to the Commission in order to get input.
- Several questions were raised in emails by several Commissioners.
    - Why is a focus discussion not happening?
    - What is it that causes us to go straight to a public hearing?
        - It was believed by staff that this issue had been vetted thoroughly through the DISC II Process and it was greatly supported by the development community. The only two issues that arose during DISC II discussions were "you are not going far enough."

- Staff is increasingly getting requests from applicants who want diminished setbacks for by right development to try and achieve some of the design principles that have been established for the Neighborhood Model. Currently there is no remedy to obtain a reduced setback except by going through the rezoning process. Staff is trying to build in an opportunity for people to be able to use this. This is to provide the flexibility. That is why staff went straight to this public hearing.
- Staff asks the Planning Commission for their direction on this issue. Staff has attempted to respond to the pressure of being asked to advance things more quickly.

o There is a comment that the rear and side setbacks should be considered with respect to the front setback. This can happen, but there is a lot more going on with side and rear setbacks than it is from front setbacks. There is a current requirement in the ordinance that you can have a 6 foot side yard setback if structures are located within a 4 mile radius of a responding fire station and in an area where available fire flows are adequate for insurance service office standards to permit a reduction. So the questions that staff needs to have answered to get into the side yard recommendations are if a 4 mile radius appropriate for response time. Is this restriction still essential? If they just use the Building Code for separation, is there sufficient space for maintenance of a structure on your own property? Those are pretty big questions and staff knows there is a lot of discussion around those. It is going to take a while.
o Questions regarding rear yards: Is a rear yard necessary to a single-family dwelling? Is having no rear yard requirement appropriate to all single-family dwellings? What can go in a rear yard? Should accessory structures have separate setbacks than primary structures? Does it matter if a garage is attached or detached from a setback situation? How do we ensure consistency between setbacks from alleys and access easements for side and rear yards and accessory structures? So it is not that staff is not trying to get as much done as they can with the setbacks. Staff recognizes that there are more things that need to be done. The front was just viewed as being the quickest and easiest to try to respond to the concerns of the community with VDOT's wider street requirements and wider right-of-way requirements with the curb and gutter, sidewalk and street tree standards for our urban areas. That is why staff has tried to advance this to provide the opportunity for the buildings to come closer to the street with our new streetscape.
o Another comment was who got notified about this. The County notified Blue Ridge Homebuilders, engineering and architectural consultants who have asked for notifications, developers, DISC II and the Planning Commission. There is also a list that she sent this information. Also, the information was located on the website. Staff tried to notify as many people that they thought would be interested in, particularly in the building community. That notice went out August 29.
o There was a question about more explanation about the ARB issues and a suggestion that this be sent to the ARB for their consideration, discussion and input. The issue related to the Entrance Corridor is if a 10 foot reduced setback always appropriate in the Entrance Corridor. If the ARB asks for a deeper setback for landscaping or design reasons are they interfering with the County's policy for more urban style development? When the ARB asks for a deeper setback will they be getting into a struggle with the developer that puts them in a bad position?
o Staff wants to make sure that all of the bases have been covered. If the Commission feels that it is essential that this go to the ARB for their review and comment, then staff will gladly do that. It will certainly extend the amount of time it is going to take to get this zoning text amendment done. This has been a very long time in coming. Part of that is a result of the work load of the individuals who are working on the zoning text amendment.
o There are many plats put to record with the building setback. Will this reduction change the requirements on existing developed parcels? Does the change in the ordinance automatically affect these cases or not? Setback requirements come from zoning. The requirements are being reduced and not increased. So this situation is not going to set up nonconformities because the regulations are being relaxed more. That means that

there is an opportunity to go closer to the street and not a mandate to go closer to the street.

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

Ms. Higgins asked staff to clarify what situations the reduced setback would apply or not apply. She asked for further clarification on the illustrations because it shows the sidewalk in the VDOT right-of-way. She asked if there was a way to handle the reduced 10 foot setback if the sidewalk was outside of the VDOT right-of-way and on private property.

Ms. Echols stated that the measurement of the setback was from the property line and not from the sidewalk.

Ms. Higgins questioned how it would be handled if there was an 8 foot sidewalk with a reduced setback of 10 feet. She felt that if that applicant could not use boxes, then it was going to be difficult to work out. She suggested that the ARB attempt to vet that issue out.

Ms. Echols pointed out that this would not preclude the ARB from asking for a deeper setback.

Ms. Joseph asked that other members of the public be involved in these discussions and that a concrete number be set and not being discretionary to the ARB.

Ms. Higgins agreed that the proposal was not acceptable if it left the setback discretionary to the ARB. She asked how the wider VDOT standards would apply. She felt that there are too many unknowns. The side setback is probably the most critical because of how it affects a corner lot.

Mr. Edgerton opened the public hearing and invited public comment.

Neil Williamson, representative for Free Enterprise Forum, spoke on ZTA-2005-001, Setbacks. He felt that this document went out way too close to this hearing. He spoke with a half a dozen people today about this. Three had looked at it. One had subsequent comments. The development community wants to embrace this. The questions coming back are very logical, such as what about putting a garage on the side. All of these are very technical issues. Therefore, he would forward all the questions on as he receives them. It is really important not to delay, but to engage. He did not think that this County would expect to go to public hearing receiving something two weeks prior. He did not think they should hold the development community to a lesser standard.

Mr. Edgerton asked if there was any other public comment. There being none, he closed the public hearing and bring the matter back before the Commission.

Motion: Ms. Higgins moved, Mr. Morris seconded, that ZTA-2005-001, Setbacks be deferred with the idea that there will be a new resolution of intent prepared covering all setbacks and yards and that the Commission will have a work session to involve the ARB and the public.

The motion passed unanimously by a vote of 6:0. Commissioner Rieley was absent.

Mr. Edgerton stated that ZTA-2005-001 was deferred. Staff will prepare a new resolution of intent covering all setbacks and yards to bring back under the consent agenda and the Commission will hold a work session to involve the ARB and public.

The Commission recessed at 7:40 p.m. for a five minute break.

The meeting reconvened at 7:45 p.m.

Work Session:

ZMA 2005-007 Haden Place (Signs #12,13) - Request to rezone 6.69 acres from R-2 (Residential) to

NMD (Neighborhood Model District with a plan for residential uses to include 28 single family homes and 12 townhomes. The properties, described as Tax Map 55, Parcel 69 and Tax Map 56, Parcel 9, in the White Hall Magisterial District on the west side of Haden Lane (Route 1209), between Haden and Killdeer Lane (Route 1215), which is approximately 500 feet from the intersection of Haden Lane and Jarman's Gap Road (Route 691). The properties are located in the Community of Crozet as designated in the Comprehensive Plan. The Crozet Master Plan designates the properties as Neighborhood Village/Edge (CT 3) and the general usage recommended is residential with limited retail such as corner stores. The recommended density range is 3.5-4.5 dwelling units per acre in CT 3 (6.5 units per acre if accessory apartments are added for 50% of the housing stock). (Rebecca Ragsdale)

Ms. Ragsdale stated that this is a rezoning that has been submitted and it is currently in the review process. In the course of review staff identified some questions that they felt would be appropriate to ask the Commission in a work session setting. She summarized the staff report.

- The site is 6.69 acres in the community of Crozet. It is located off Haden and Killdeer Lane, which is off of Jarman's Gap Road. Ballard Field is located to the south of the property, which is zoned R-6 and connects into Old Trail. The property is zoned R-2. The proposal is for 40 dwelling units with a mix of 3 housing types to include single family detached townhouses and cottages. The application plan that is submitted and that has been reviewed is in the packet. Within the Crozet Master Plan it is located within a CT-3 Edge area of a neighborhood, which calls for primarily residential uses. Staff has proposed three questions for the Commission to answer and provide some direction on. (See Staff Report.)

- Regarding the first question, staff feels that what the applicant is providing in the form of affordable units is appropriate and consistent with the master plan, but would like the Commission to discuss that this evening.

- The second question is the road conditions. Hayden and Killdeer Lane coming off of Jarman's Gap Road do not meet current standards. Staff is asking the Commission to weigh in this evening on the level of off-site improvements or road standards that would be appropriate for this rezoning.
- The third question is regarding historic resources. There is a house which the Historic Resources Planner has indicated dates back to 1882, which she had indicated as locally significant as an example of vernacular architecture. There are some substantial trees around the house.

- The application plan is the first submittal the applicant has submitted. It has not been changed according to all of the reviewer comments that they sent to the applicant. The color packet is one that the applicant distributed for you on your break. There were photographs of the housing types that they would like to achieve and also some existing site conditions. The one question that has generated the most discussion with the applicant is the off-site road improvements that would be appropriate for this rezoning.

Mr. Edgerton suggested that the Commission just start going down the list of questions.

Ms. Higgins suggested that the applicant address the access, potential connection to other developments and what are the general roads.

Ms. Joseph invited Mr. Strickland to come forward and address some of the questions.

Kelly Strickland, of Rivanna Engineering, stated that he was present on behalf of the applicant, Wendell Gibson who is also present. Mr. Gibson purchased this property from another developer who actually had a site plan that was approved, but had bonding that needed to be put in place for basically 13 lots to be approved. The memo from Mr. Brooks addresses old comments from the previous approvals. The primary one that jumped out is that the alignments on Killdeer Lane and Hayden Place are inadequate. So the other issues that he brought up there were no problems. They can resolve those through the rest of the process. But, the question about the off-site improvements on Hayden Place and Kildeer Lane through the process of clarification they've learned the County is recommending that they do full frontage

improvements on both sides of Hayden Lane down to Jarman's Gap Road including curbs, gutters, sidewalks, storm sewer and landscaping. It is a substantial amount of work on a 15 foot pavement section that exists right now with a ditch on one side and a water line that runs down that side. On the other side there is an existing sanitary sewer line. There is also a Virginia Power overhead line that runs through there and connects up to Jarman's Gap. There are all kinds of problems with the intersection with Jarman's Gap, which are planned to be accommodated when and if the Jarman's Gap plan moves forward under construction. He asked for the Commission's input.

Jack Kelsey, County Engineer, was present.

In summary, the Planning Commission held a work session on ZMA-2005-007, Haden Place to provide general guidance to the applicant on the application plan. The Commission reviewed and discussed the proposal with staff and the applicant, and then responded to the following preliminary questions posed by staff.

- Does the Planning Commission find that this proposal is consistent with the Crozet Master Plan regarding density and provision of affordable housing?

❖ **It was the consensus of the Commission that the proposal was consistent with the Crozet Master Plan regarding density and provision of affordable housing.**

- The two existing roads serving the site (Haden and Kildeer Lanes) are substandard. What improvements to these roads does the Planning Commission feel are appropriate to mitigate impacts of this proposed development?

❖ **The Commission wants one-half urban section improvements along the Haden Place frontage on both streets and an allowance for a future connection to Summerford. The Commission wants a lesser standard improvement along both streets off-site between Haden Place and Jarman's Gap Road that can be accomplished within existing right-of-way, but adequate to support the development.**

- How should the applicant address historic resources?

❖ **The Commission felt that staff's recommendations were reasonable as follows:**
1. **Have the applicant identify all existing buildings, trees and mature landscaping on the plan and indicate which will be demolished and/or removed.**
2. **Have all buildings on the site documented through a reconnaissance level survey (brief architectural description of the existing buildings, 3.5" x 5" black & white photographs of all structures within the project area, and a site sketch) by an architectural historian or other qualified individual to adequately provide an archival record of the homestead.**
3. **Include results of the survey in the Neighborhood Model's Code of Development pertaining to the treatment of historic resources on the site.**

❖ The Commission offered the following comments:
1. Provide a tot lot that the children do not have to cross the street to get to.
2. Like to see interconnections made.
3. Several issues that could be problematic are the access, potential connection to other developments, the roads being brought up to state standards, road drainage improvements and the fact that Jarman's Gap Road has not been upgraded.

Mr. Edgerton stated that ZMA-2005-0007, Haden Place will be scheduled for public hearing at a later date after all of the issues have been addressed by the applicant.

New Business:

Mr. Edgerton asked if there was any new business.

CPA 2005-006 Fontaine Avenue Area B Study – Distribution of Report and Brief Discussion. (David Benish)

Mr. Benish distributed the report and had a brief discussion regarding CPA-2005-006 Fontaine Avenue Area B Study. He pointed out that a work session would be held on September 27 to discuss how the particulars of the plan would be incorporated into the Comprehensive Plan.

There being no further new business, the meeting proceeded.

Old Business:

Mr. Edgerton asked if there was any old business.

Mr. Kamptner stated that the Planning Commission has a closed session tonight and that Mr. Craddock has a motion to read.

Verbatim Transcript for SDP-2004-074 Gazebo Plaza

Mr. Edgerton: Okay, the next item is a closed session.

Mr. Craddock: I move that the Commission go into closed session pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (7) to discuss with legal counsel and staff specific legal issues regarding pending litigation relating to the denial of a site plan. That is my motion.

Mr. Edgerton: Do I hear a second.

Mr. Thomas: Second.

Mr. Edgerton: All in favor.

Mr. Craddock, Ms. Higgins, Mr. Edgerton, Ms. Joseph, Mr. Morris, Mr. Thomas: Aye

The motion passed unanimously by a vote of 6:0. Commissioner Rieley was absent.

The Planning Commission moved to Room #235 at 9:50 p.m. for a closed session.

The Planning Commission returned to Room #241 at 10:21 p.m.

Mr. Craddock: I move that the Commission certify by a recorded vote that to the best of each Commission member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed session were heard, discussed or considered in the closed session.

Mr. Morris: Second.

Mr. Edgerton: We have a motion and a second on the table. Is there any further discussion? Could we have a roll call vote, please?

Ms. Taylor: Mr. Thomas.

Mr. Thomas: Aye.

Ms. Taylor: Ms. Joseph.

Ms. Joseph: Aye.

Ms. Taylor: Mr. Morris.

Mr. Morris: Aye.

Ms. Taylor: Mr. Edgerton.

Mr. Edgerton: Aye.

Ms. Taylor: Ms. Higgins.

Ms. Higgins: Aye.

Ms. Taylor: Mr. Craddock.

Mr. Craddock: Aye.

The motion passed unanimously by a vote of 6:0. Commissioner Rieley was absent.

Mr. Edgerton: Okay. We are now under old business and are going to reconsider SDP-2004-074, Gazebo Plaza Preliminary Site Plan. Could we have the staff report, please?

SDP 2004-074 Gazebo Plaza - Request for preliminary site plan approval for a shopping center consisting of approximately 180,000 square feet with access to Hansens Mountain Road. The development is on 37.75 acres zoned PDSC, Planned Development Shopping Center and EC, Entrance Corridor Overlay District. The property, described as Tax Map 78 Parcel 53 is located in the Rivanna Magisterial District on Hansens Mountain Road [Route # F179] at its intersection with Richmond Road [Route 250]. The Comprehensive Plan designates this property as Urban Density Residential (6.01 - 34 dwelling units per acre) and Neighborhood Service in Urban Neighborhood 3. (Bill Fritz)

Mr. Fritz: Thank you, Mr. Chairman. This is a, included in your packet is an executive summary, as well as the action letter from your prior hearing of this, and the prior staff report is included with your information. The proposal is for a shopping center of approximately 180,000 square feet located on Hansens Mountain Road at the intersection with Route 250. The Planning Commission denied the site plan on this property with the associated waivers by a vote of 4:0 at its meeting on October 19, 2004. That action letter and the justification is included in your packet.

Previously staff had identified sections significant in the review of this proposal. One of those sections dealt with structures located on critical slopes. We provided for you some additional information on critical slopes. The critical slopes covered an area of approximately 900 square feet that was on the building that was on the western portion of the site. It is significant to note that the 1980 ordinance regulated development on critical slopes only for the building. The grading was not subject to a limitation of activity on critical slopes. So there are other critical slopes on the property, but only this 900 square feet is subject to review. It is interesting to note also that the site plan was prepared with a contour of 2 feet. The ordinance allows you to prepare a site plan at a 5 foot contour interval. If they had chosen to choose the 5 foot contour interval as opposed to the 2 foot contour interval the two small areas of critical slopes that is a single contour width wide would not have appeared as critical slopes. And it is probable that the one area where it is two contour widths wide would probably also not be shown as critical slopes. But, because the applicant chose to provide it at this level of detail we picked those up as critical slopes. With the limited area and the limited amount of disturbance that is involved, we are not able to support based on this additional analysis. We are able to support the modification on critical slopes. Parking is also located on site more than 500 feet from the building which it serves. Staff had previously recommended approval of that modification and continues to do so.

There were four sections that dealt with access. Staff has those sections provided for you in the executive summary. Things that we recommended that the site did not satisfy these provisions based on VDOT statements that it would not issue an entrance permit. Staff opinion is that the preliminary site plan may be approved and ultimately VDOT would be involved in the review process of the final site plan and the actual construction of the property to ensure the design standards are met for a commercial entrance.

We are not able to recommend approval of the two modifications and recommend approval of the site plan subject to the conditions that are in your executive summary. I would be happy to answer any questions that you may have.

Mr. Edgerton: Are there any questions from the Commission for Mr. Fritz.

Ms. Joseph: I guess with the current ordinance we would expect to see some sort of, oh, the applicant to give us something concerning the modification of regulations.

Mr. Fritz: The modification for parking beyond 500 feet was routinely modified and ultimately done away with in the ordinance because it was modified so frequently that seldom something was submitted on that. The critical slopes modification, yes, under current ordinance and current provisions we would get more information than we are currently getting in this application. But, this is again, it is a very limited area and with this small area we may actually deal with it in this manner exactly the same if we had a current application.

Ms. Higgins: But, it would definitely be handled in the E and S plan.

Mr. Fritz: Yes. It gets.

Ms. Higgins: Final site plan stage it is routinely handled in the E and S plan.

Mr. Fritz: Yes, and I believe and, as we stated in here, that I believe that all of the issues regarding siltation, run off and other issues will be addressed during the normal erosion and sediment control review process, which it is subject to.

Ms. Joseph: Right, and normally we speak to things that it is in the growth area. That it is in the development area. And we feel that it is not damaging any adjacent streams. That it is not going to do any undue damage because of movement of rock and all of that other stuff because this is such a small area.

Mr. Fritz: This is a very small area. It is not shown as, it has no identified resources.

Ms. Joseph: Okay, thank you.

Mr. Edgerton: Are there any other questions of staff. Sorry. There being none, do we open this open this for a public hearing.

Mr. Kamptner: It is not a public hearing, but we routinely allow public comment.

Mr. Edgerton: Okay. Okay. Would the applicant like to address the Commission on this application? (Inaudible comment from audience.) You would need to come up and identify yourself.

Ms. Higgins: You would need to speak into the microphone.

Mr. Will Tanner: I am Will Tanner of Payne and Hordous, (inaudible) and represent Mr. Spurzem in the case that is pending in Circuit Court. And the applicant does not have anything at all to add at this point. So we will not be making any further statements. Thank you.

Mr. Edgerton: Thank you. Does anybody else want to speak to this matter?

Mr. Ron Denburg: Thank you very much. My name is Ron Denburg and I live adjacent to this plan. I am probably; this is the third time that I have addressed a public hearing on this particular development, Gazebo Plaza. I may well be and I am probably am the only person in the room who was present at the creation two and a half decades ago. I am confident that nothing I can say here this evening regardless of how passionately I say it is going to have an affect on your vote. I would simply remind you that this plan will have an enormous affect on what I am quite certain is the oldest residential neighborhood in the

Pantops area, that is Glenorchy. A dramatic effect particularly on the family, the families, the lives of properties adjacent to this particular planned shopping center. I ask you to encourage the developer to minimize that affect, particularly the affect on the families that live adjacent to the plan of Gazebo Plaza. That is all that I have to say at this point. Thank you very much.

Mr. Edgerton: Thank you very much. Is there anybody else that would like to address the Commission on this application? There being none, I will now close the public hearing and bring the matter back before the Commission.

Ms. Higgins: I have a question that based on the public comment that we just had. This plan as rezoned in 1980, but then the site plan expired at the time. So the site plan that is before us will it be reviewed under the ordinance, the site plan ordinance in effect in 1980 or the current ordinance.

Mr. Fritz: The site plan is reviewed under the 1980 zoning ordinance.

Mr. Thomas: But, I thought that it had expired.

Mr. Fritz: It said, the, the provision is a provision in the ordinance under the planned development section, section 8.5.5.5, which states that the, at the applicant's choice they can be reviewed under either the ordinance in effect today or the ordinance in effect at the time the planned development was established. And this property was rezoned from B-1 to PD-SC . . .

Ms. Higgins: In 1979.

Mr. Fritz: . . . when the ordinance was adopted on December 10, 1980.

Ms. Higgins: Okay. Does that mean that it is excluded from ARB review?

Mr. Fritz: The site plan is excluded from ARB review, but the building permits are not.

Ms. Higgins: Okay. When you say the site plan, then the level of landscaping is not subject to the ARB.

Mr. Fritz: It is subject to the 1980 ordinance and not subject to the ARB, except as may be related to the building permit if they use that as a mitigating factor on the building permit. But, I can't answer that question.

Ms. Higgins: And that hasn't gone to ARB yet?

Mr. Fritz: It has not gone.

Ms. Higgins: And then the other question as it relates to the adjacent property owners, I am looking at one of the sheets, sheet 20 or 25 depending on the circle of 25, is the requirement for buffering between the PD-MC and the residential zoning been met on this preliminary plan.

Mr. Fritz: That is a different buffering because of the way the application plan was approved. There was a plan that was approved in October of 1980, which is the application plan. So that is the plan that this is all reviewed against, and yes, it does meet the requirements of the ordinance.

Ms. Higgins: Okay, so if I am understanding this correctly, the site plan that expired . . .

Mr. Fritz: Yes.

Ms. Higgins: . . . was not vested. It was not graded. It was not built.

Mr. Fritz: Correct.

Ms. Higgins: Showed some landscaping.

Mr. Fritz: Yes.

Ms. Higgins: And that instead of using the landscaping buffer requirements that exists now you could go back and say that there is a minimal amount of trees based on that plan and just have them meet that as a standard. Does that set a standard even though it expired?

Mr. Fritz: The site plan that was approved in October of 1980 became the application plan for this planned development. Just like today when you get an application plan and you approve the rezoning and the Board approves the rezoning.

Ms. Higgins: So there is no landscape, the buffer requirements that are in existence between the PD-MC and residential are not going to be met.

Mr. Fritz: The application plan or the site plan that was done had certain limits of grading and so forth and they are allowed to meet those. The landscaping that was shown on that plan was probably, and I am doing this from memory without looking at both of the plans, was, does not meet the ordinance that was adopted in 1980. They have to meet that landscape standard still. So we have not reviewed and approved the landscape plan component of what you have before you.

Ms. Higgins: Well, but it needs a landscape plan in here. And if we are approving the preliminary plan is that in our, where is the location of the.

Mr. Fritz: And we've recommended a condition which is Current Development approval of landscape plans. We've not approved that component of it. We are not saying that the plan that is included in your packet today is approved.

Ms. Higgins: Okay. And then when you say Current Development approval of the landscape plan what standard does that staff person use?

Mr. Fritz: The 1980 zoning ordinance.

Ms. Higgins: Okay. Which does have buffering between?

Mr. Fritz: It does have buffering and it has, yes, and that is what they have to meet.

Mr. Thomas: Mr. Chairman, Mr. Fritz this is the site plan that is dated 8-23-04. Is this the one that we are passing?

Mr. Fritz: Yes.

Mr. Thomas: But, by the 1980 standards.

Ms. Joseph: Yes.

Mr. Fritz: Yes.

Ms. Joseph: Yes, so all of these recommendations for conditions will be met by looking at the 1980 zoning ordinance.

Mr. Fritz: With the exception of conditions 4 and 5 and 6, which are met by the Service Authority's reviewing it, being it was the current design standards. They are not subject to the zoning ordinance. The Fire Official is looking at it for current Building Code requirements. And road names are handled by a provision that is outside of the zoning ordinance.

Ms. Joseph: Okay. What about 2?

Mr. Fritz: Oh, yes and E and S is a State mandated component.

Ms. Joseph: Okay.

Ms. Higgins: Is it, is it worth the ones 1, 2 and 3 adding to that per standards in the ordinance in 1980. Should those conditions say that to differentiate them from the ones that are current standards? We want to be very clear that this is a different case than we would normally be handling.

Mr. Craddock: Two has to meet current, doesn't it?

Ms. Higgins: Oh, okay so two would be current State standards.

Ms. Joseph: Right.

Ms. Higgins: One and three.

Mr. Craddock: 1980.

Ms. Higgins: Would say the 1980 zoning ordinance.

Mr. Fritz: You could add it, but we, it's, it's obvious to us.

Mr. Edgerton: I would like to add it.

Ms. Joseph: I think that we should.

Ms. Higgins: I think we should.

Mr. Morris: Absolutely.

Mr. Edgerton: I would like to add it because this is, this is there.

Ms. Higgins: Because the staff person, it needs to be clear so that the applicant and the staff person knows which, which page they are going to turn to and they might have to dig that book up.

Mr. Edgerton: Okay.

Mr. Kamptner: Bill, does storm water management fall under current or former regulations?

Mr. Fritz: Just a second, the storm water management.

Ms. Higgins: That would be under current.

Mr. Fritz: That is under current, I believe. Let me just take a quick look and make sure that is the right section. Actually, I don't need to look. It is under current. I say that (inaudible).

Ms. Higgins: So then we don't need to put 1980.

Mr. Fritz: I can't remember if that comes out of 17 off the top of my head or if it is coming out of 32. I think that it is coming out of 17 and not 32.

Ms. Higgins: So that means that it would be current.

Ms. McCulley: So you said it did come out of Chapter 17 because I remember that there was a separate site plan ordinance at that time. But, I did not bring that ordinance so I don't know.

Mr. Fritz: I believe the only one of those three, the only one of those six conditions that would be

reviewed based on the ordinance provisions as it exists on December 10, 1980 is condition number 3.

Ms. Higgins: Okay, well now I would like to add that it would be the 1980 zoning ordinance standards and that 1 and 2 would be under current ordinance standards.

Mr. Craddock: So number 3 wouldn't have current in it at all.

Ms. Higgins: No, the Current Development approval of landscape plans per 1980 ordinance requirements. Current and that is their title that I think that is what they are called, Current Development. It is more of a title. Even though it does not state specifically and even though the critical slopes would not have been identified except for the level of detail being increased so that there are some minor noticeable standards, are we considering that it will take a separate action for a waiver of critical slopes?

Mr. Fritz: I would recommend that you take section actions on the critical slopes and parking.

Ms. Joseph: And the parking.

Mr. Edgerton: Okay. What is your pleasure?

Ms. Higgins: Mr. Chairman, I will make a motion that on SDP-2004-074 that we waive 4.12.3.3.b; parking located more than 500 feet from the building.

Mr. Edgerton: We have a motion. Do we have a second?

Mr. Thomas: Second.

Mr. Edgerton: We have motion and a second on the floor. Any further discussion? Can we have a roll call vote, please?

Ms. Taylor: Mr. Thomas.

Mr. Thomas: Aye.

Ms. Taylor: Ms. Joseph.

Ms. Joseph: Aye.

Ms. Taylor: Mr. Morris.

Mr. Morris: Aye.

Ms. Taylor: Mr. Edgerton.

Mr. Edgerton: Aye.

Ms. Taylor: Ms. Higgins.

Ms. Higgins: Aye.

Ms. Taylor: Mr. Craddock.

Mr. Craddock: Aye.

Ms. Higgins: Mr. Chairman, I will make a motion that SDP-2004-074 due to the reasoning that Ms. Joseph stated that the critical slopes waiver be granted.

Mr. Edgerton: We have a motion.

Mr. Thomas: Second.

Mr. Edgerton: We have a motion and a second. Any further discussion. Can we have a roll call vote, please?

Ms. Taylor: Mr. Craddock.

Mr. Craddock: Aye.

Ms. Taylor: Ms. Higgins.

Ms. Higgins: Aye.

Ms. Taylor: Mr. Edgerton.

Mr. Edgerton: Aye.

Ms. Taylor: Mr. Morris.

Mr. Morris: Aye.

Ms. Taylor: Ms. Joseph.

Ms. Joseph: Aye.

Ms. Taylor: Mr. Thomas.

Mr. Thomas: Aye.

Ms. Joseph: I just wanted to say that a lot of things have changed since this was approved and we are looking at this with our old ordinance. We are allowed to do some things and not allowed to do some other things. And sometimes it is hard because they were dealing with a current ordinance and there are certain things that they think that they are able to do and are able to do in our current ordinance that the 1980 ordinance did not allow us to do. One has to read it very, very carefully. So that is what they are dealing with tonight. And I just wanted to make sure when any current plans come in that everyone is aware that we are looking at the current ordinance standards and not 1980 standards.

Mr. Morris: Bill, if you are in charge when these folks if it moves forward at all, I will please encourage the applicant to work very, very closely with the neighbors not only of Glenorchy but in Ashcroft. They will be definitely affected by anything.

Ms. Joseph: And they might be customers.

Mr. Morris: Yes.

Ms. Higgins: Mr. Chairman, I make a motion that SDP-2004-07 be approved.

Mr. Kamptner: 074.

Ms. Higgins: 074 be approved with the conditions 1 – 6 as modified for 1 and 2 to say under current ordinance requirements, number 3 to say approval of landscape plans per 1980 ordinance requirements with those modifications and the six conditions.

Mr. Edgerton: We have a motion. Do we have a second?

Mr. Thomas: Second.

Mr. Edgerton: We have a motion and a second. Any further discussion? Can we have a roll call vote, please?

Ms. Taylor: Mr. Craddock.

Mr. Craddock: Aye.

Ms. Taylor: Ms. Higgins.

Ms. Higgins: Aye.

Ms. Taylor: Mr. Edgerton.

Mr. Edgerton: Aye.

Ms. Taylor: Mr. Morris.

Mr. Morris: Nay.

Ms. Taylor: Ms. Joseph.

Ms. Joseph: Aye.

Ms. Taylor: Mr. Thomas.

Mr. Thomas: Aye."

Note: The following actions were taken by the Planning Commission on September 13, 2005 for SDP-2004-074, Gazebo Plaza Preliminary Site Plan:

Motion on Waiver on Parking:

Motion: Ms. Higgins moved, Mr. Thomas seconded, that SDP-2004-074, Gazebo Plaza be waived under Section 4.12.3.3.b, for parking located more than 500 feet from the building.

The motion passed by a vote of 6:0. Commissioner Rieley was absent.

Motion on Waiver on Critical Slopes:

Motion: Ms. Higgins moved, Mr. Thomas seconded, that SDP-2004-074, Gazebo Plaza, due to the reasoning stated by Ms. Joseph, that the critical slopes waiver be granted.

The motion passed by a vote of 6:0. Commissioner Rieley was absent.

Mr. Morris asked staff to encourage the applicant to work very closely with the neighbors not only in Glenorchy, but in Ashcroft, since they will definitely be affected by the development.

Motion on SDP-2004-074:

Motion: Ms. Higgins moved, Mr. Thomas seconded, that SDP-2004-074, Gazebo Plaza be approved with the six conditions as modified for #1 & 2 to say under current ordinance requirements and #3 to say approval of landscape plans per 1980 ordinance requirements.

The Community Development Department shall not accept submittal of the final site plan for signature until tentative final approvals for the following conditions have been obtained. The final site plan shall not be signed until the following conditions have been met:

1. Current Development Engineer Approval of Storm water Management plans and calculations under current ordinance requirements.
2. Current Development Engineer Approval of Erosion and Sediment Control Plan under current ordinance standards.
3. Current Development approval of landscape plans per the 1980 ordinance requirements.
4. Albemarle County Service Authority Approval of water and sewer plans.
5. Fire Official Approval.
6. Approval of road name for access to the site.

The motion passed by a vote of 5:1. Commissioner Morris voted nay. Commissioner Rieley was absent.

Mr. Edgerton stated that SDP-2004-074, Gazebo Plaza was approved.

Mr. Edgerton asked if there was any other old business.

Ms. Joseph asked Mr. Kamptner to set up a work session concerning the conflict of information memo he sent as soon as possible.

There being no further old business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 10:49 p.m. to September 14, 2005 at 4:00 p.m., Room 235 or 241, County Office Building.

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V. Wayne Cilimberg, Secretary

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