Albemarle County Planning Commission
September 20, 2005

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, September 20, 2005 at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Rodney Thomas, Pete Craddock; Calvin Morris; and Marcia Joseph, Vice-Chair. Absent were Jo Higgins; Bill Edgerton, Chairman; and David J. Neuman, FAIA, Architect for University of Virginia.

Other officials present were David Benish, Chief of Planning; Margaret Maliszewski, Design Planner; Bill Fritz, Development Review Manager; Rebecca Ragsdale, Senior Planner; Juandiego Wade, Transportation Planner; Ron Lilley, Project Manager; and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Ms. Joseph 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:

Ms. Joseph invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved on to the next item.

Review of Board of Supervisors Meeting – September 14, 2005

Mr. Benish summarized the actions taken by the Board of Supervisors on September 14, 2005.

Consent Agenda:

Approval of Planning Commission Minutes – July 12, 2005 and July 19, 2005

Ms. Joseph 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. Morris moved, Mr. Craddock seconded, that the consent agenda be approved.

The motion that the consent agenda be approved passed by a vote of 5:0. (Commissioners Higgins and Edgerton were absent.)

Public Hearing Items:

ZMA 2005-006 Logan, Clevester – Rezoning (Signs #10&11) - Request to rezone .545 acres from the R-2 (Residential) Zoning District to the R-4 (Residential) Zoning District to allow property boundary line adjustments. The property is described as Tax Map 61, parcels 44A and 44A1 (portion of, 17,503 square feet adjacent to Tax Map 61, parcel 44 including an existing dwelling) located at 2530 Hydraulic Road (Route 743) at the intersection of Hydraulic Road and Turtle Creek Road in the Jack Jouett Magisterial district. It is zoned R-2 (Residential) and EC (Entrance Corridor) Overlay. The Comprehensive Plan designates this property Urban Density in Neighborhood 1 and recommends 6.01-34 dwelling units per acre. The R-4 Zoning District allows for up to 6 dwelling units per acre. (Rebecca Ragsdale)

Ms. Ragsdale summarized the staff report.

- This request is to rezone .54 acres from the R-2 Zoning District to the R-4 Zoning District to allow for a boundary line adjustment and lot consolidation plat to be approved. The property is located along Hydraulic Road and Turtle Creek Road. The property is located among a row of single-family homes zoned R-2. The zoning surrounding the property ranges from R-10 to R-15 Planned Residential.

- Rezoning the property from R-2 the R-4 Zoning District is necessary because the proposed boundary line adjustment would result in two dwellings on one parcel. This would exceed the density allowed in the R-2 Zoning District but would be permitted in the R-4 Zoning District.

- There is no new development proposed with this rezoning and no negative impacts to adjoining residences were identified.

- The applicant has indicated that the rezoning request will allow TMP 44-A1 to be developed in the future. The applicant will retain the property being rezoned and plans to convey the remaining .84 acres to the owners of Tax Map Parcel 61-44B1.

- The property has several entrance points, two on Turtle Creek Road and one on Hydraulic Road. The only issue that surfaced out of this was from VDOT regarding their preference to have the applicant's entrance on Hydraulic Road closed.

- The Virginia Department of Transportation (VDOT) has recommended that the driveway onto Hydraulic Road be closed and provided the following comments on the development of the site:
    - *All accesses and roadways shall be designed in accordance with the current Subdivision Street Standards, The Minimum Standards for Entrances to State Highways and the Road Design Manual;*
    - *Access should be restricted to only Turtle Creek Road (a private road) for all the parcels, and the private residential entrance on to Hydraulic Road should be closed;*
    - *The Turtle Creek Road connection with Hydraulic Road is adequate for the increase use;*
    - *Entrance and profile, drainage computations, and intersectional sight distances will be required.*
- In this proposal there is no new development proposed and the applicant would rather not close the entrance on Hydraulic Road at this point.

- The applicant's property serves as a central location for mailboxes of three neighbors and the United States Postal Service has indicated that closing the drive onto Hydraulic Road would pose an issue with their mail delivery route. There is a letter from the United States Postal Service in the packet regarding that. Staff feels closing the entrance would be more appropriate if the property redevelops and is not recommending it be closed at this time.
- The house on the property was constructed in 1955. The 50 foot right-of-way for Turtle Creek Road that runs along the western property line was shown on plats dating to 1955. Turtle Creek Condos were built in the mid 1980's. There is no other history on the parcels to be included in the boundary line adjustment.

- The Comprehensive Plan designates this property for Urban Density Residential in Neighborhood 1, which is intended to be a mixed-use community.

- Staff recommends approval of this request. No proffers were submitted.

Ms. Joseph asked if staff had any answers to her email questions.

Ms. Ragsdale stated that the applicant has the right to use the Turtle Creek Road right-of-way. She pointed out that Turtle Creek Road is a private road that serves as the primary and sole access to the condos. That right-of-way was in existence prior to the development of the Turtle Creek Condos. She asked Mr. Dezio, the applicant's attorney, if there were any maintenance agreements. But, to answer the question, the applicant does have access to it. Currently there is no shared maintenance agreement. It is maintained by the Turtle Creek Development.

Ms. Joseph stated that the other question regarded staff's statement that closing the entrance would be more appropriate when the property redevelops. Staff is not recommending closing the entrance at this time. She questioned what sort of mechanism the County has when the property develops to ask that the Hydraulic Road entrance be closed and that the access be limited through Turtle Creek Road.

Ms. Ragsdale stated that staff's reference was to the future development of the site when someone came in requesting a new use that required a site development plan. Then VDOT would again comment on the new proposal and make their requirements known concerning closing the entrance. At the time that these properties are rezoned for more intense development than just the boundary adjustment being requested now, it may be a more appropriate opportunity to see that requirement in a form of a proffer.

Ms. Joseph stated that the applicant was rezoning the property, and it was not just a boundary line adjustment.

Mr. Benish stated that they were rezoning to what they need to accommodate the development they have now. But, if the applicants were to intensify the development to a higher rezoning request, then they would have the leverage to look at access issues.

Ms. Joseph stated that they are rezoning to a more intense zoning district.

Mr. Benish stated that at this time the applicants were not changing the intensity of the development of this site.

Ms. Joseph asked what mechanism they have if that happens. She pointed out that right now VDOT was asking that the entrance be closed for this rezoning request.

Mr. Rieley asked if by making this boundary line adjustment if there would now be two residences in the place where previously there was only one with a residue.

Ms. Ragsdale stated that the residue would also be consolidated and one dwelling would be permitted under the current R-2 zoning.

Mr. Rieley stated that in effect this is going to go from two dwelling units to three dwelling units. Therefore, it is an intensification of the use. That is why he had the same basic question that Ms. Joseph had in why it would not be the opportunity to go ahead and make that change.

Mr. Benish stated that it was the Commission's choice. But, staff did not think the level of change was that significant at this point in time. If the development appreciably changed in intensity, such as a request for R-6 to get twice as many units or something like that, then the request would be a greater consideration than an additional lot that results from a boundary transfer. But, that is a judgment call.

Mr. Rieley stated that it seemed if this was a new subdivision that they would require that the access not be off of Hydraulic Road.

Mr. Benish stated that they would want it centralized.

Ms. Joseph stated that they would also want to know that they would be able to use Turtle Creek Road. What she heard was that easement existed before Turtle Creek Road went in and so this particular piece of property has rights and access to it. But, the Commission does not have any real documentation of that.

Ms. Ragsdale stated that staff has the plat that shows the right-of-way from the 1950's, but other than that staff did not get any other documentation.

Mr. Craddock stated that the residue property would be combined so that 44A1 and 44B1 would be as one when this is done. That will stay in the designation as it is now, but in the future it could go as high as R-6.

Mr. Benish stated that the Comp Plan shows this area for Urban Density. Therefore, rezoning conceivably as high as R-15 could be an appropriate zoning. But, that would be a future discussion of the merits of that level of zoning on that site. Under the Comp Plan this strip along Hydraulic Road, which includes a number of lots similar to this, could be developed rather intensively.

Mr. Craddock asked why someone else could not do the same thing by taking some residue and adding it to another property for two residences. Then they could get the open land changed to R-15 since it would be right next to it.

Mr. Benish stated that conceivably they could do that along the core area subject to a rezoning.

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

John Dezio, attorney for the applicants, stated that he would like to answer some of the questions. As far as the right-of-way, Mr. and Mrs. Logan have frontage on a 50 foot right-of-way that existed sometime prior to 1940. Actually the 1955 deed grants that right-of-way to them. The Turtle Creek property owner voluntarily in the development of their property had to improve that right-of-way. There was no obligation on the Logans for either of the lots they own to participate in the maintenance. The right that the Logans have to use that right-of-way is superior or at least equal to the right of the Turtle Creek property. Secondly, as far as the question raised as to how many houses might be built, in reality by doing this they end up instead of having four lots they have three lots because two lots are being combined. They would have the plot that the Logans own, the plot next door and then the two lots behind combined into one. Therefore, they would end up with three lots as opposed to the current four lots. Also, the current second residence so to speak on the Logans property was a house that was used by Ms. Logan's mother as a mother-in-law cottage. It is no longer occupied by anybody. Even though this does not affect that use in the future, the Logan's don't have any plans right now for somebody to use that dwelling.

Mr. Dezio noted that the next issue involved VDOT's recommendation. There are four mailboxes on the Logans property. The Logan's use one mailbox. Three mailboxes are used by strangers or people that are not related to the Logans in any way. There is no contractual relationship between the Logans and those people. The Logans did not grant anybody the right-of-way or an easement to put these mailboxes on their property. The Post Office Department came to the Logans and said that it would be safer if they could place these Post Office boxes on their property, and the Logan's agreed. What happened is that in effect there is somewhat a circle where people can come in either off of Hydraulic Road and pick up their mail and go out on Turtle Creek Drive and then make the circle back up Hydraulic Road or vice-versa. If the Hydraulic Road entrance was closed, then they would have the situation of where one of two things would happen. One, the people would have to pull into the Logan's property and back up on to Turtle Creek Road and then come out again. Or, they would pull up to Turtle Creek Road and back into the Logan's property. The second approach is that these people would have to have their mailboxes back on Hydraulic Road where historically they were. The Postal people would be stopping on Hydraulic Road making deliveries and these people would in theory have the right to stop and pick up their mail. It would interfere with traffic, which was why the United States Postal Service supported not closing the entrance. On behalf of the Logans, he agreed with the Planning Commission recommendation to leave it. He felt that it had been well thought though by the staff and that the proposal was fitting with the Comprehensive Plan and what the neighborhood should be. He asked for approval of the request by the Commission. He noted that Mr. and Mrs. Logan are here if there were any questions. He pointed out that the Logans have owned this property for fifty years.

Ms. Joseph asked if there were any questions for Mr. Dezio. There being no questions for Mr. Dezio, she invited further public comment. There being no further public comment, the public hearing was closed and the matter brought back before the Commission.

Mr. Rieley asked where the access was to parcel 44B1.

Ms. Ragsdale stated that parcel was currently vacant and she did not know if there was any access to it.

Mr. Benish stated that it was an old parcel and there may be a right-of-way that is not showing up on this plat. They would have to look at that in more detail.

Mr. Rieley stated that it was quite possible that this combination would give access to parcel 44A1 and access to all of 44B1. He noted that he was not suggesting that was a bad thing.

Mr. Benish stated that would give them frontage on a private right-of-way.

Mr. Rieley pointed out to which they have just heard the current owners have complete access. He stated that he would be interested in what other Commissioners think about the relative issue of the driveway. On the one hand it is quite true that more mailboxes spread along the street are an issue. One reason that their ordinance would require a new lot to exit onto the subordinate street is that is a safer relationship and the fact that four mailboxes quadruples the problem in the amount of traffic or at least adds to it substantially on the number of people who are coming through there every day coming home to this extra access onto Hydraulic Road. He felt that it was a mixed issue.

Mr. Morris stated that the traffic and the mailboxes have been there for some time, which has not seemed to create a problem.

Mr. Craddock stated that in the old days when Hydraulic Road was two lanes it probably did back the traffic up when the mail man came through. But, he would say that is a Post Office problem. He felt that there were probably some unsafe issues now as it is also. He stated that at some point Turtle Creek is going to pick up some land over in the back part, which is going to become more of a major road coming through there at Turtle Creek Road. Therefore, he would put it back in the Post Office's ballpark.

Mr. Rieley felt that Mr. Craddock had a good point. He felt that the Post Office could park their vehicles, get out and deliver the mail.

Mr. Benish stated that if the owner decides to fully develop in some way that under the site plan they could require that the entrances be consolidated. There are provisions in the ordinance that can require consolidation of the entrances on internal roadways. Therefore, there are mechanisms to do it in the future. But, this is obvious an opportunity to get it done now.

Mr. Rieley pointed out that the properties to the rear would probably be the ones coming in for redevelopment in the future and not the lots on the road, which would create more pressure on the road.

Mr. Thomas stated that there were eleven more houses in this area with entrances onto Hydraulic Road. He felt that the way it is was probably fine. But, he understood what the other Commissioners were referring to in the future. He questioned if the other eleven houses would make the same request if this was approved.

Mr. Rieley stated yes, if they came in for a rezoning.

Ms. Joseph asked Mr. Kamptner if a site plan comes in if that entrance could be located on Turtle Creek Road instead of Hydraulic Road.

Mr. Kamptner stated that as part of the County's and VDOT's review of the site plan for safety and convenience access that they certainly would have the authority to require the closure of existing entrances. Now whether or not they would require it be closed or simply recommend it he could not say for certain because he was not familiar enough with their guidelines.

Mr. Rieley stated that there were two different owners and he did not see any mechanism for closing an entrance onto 44A. He asked how the County could require an adjacent landowner to do something that does not have anything to do with their property.

Mr. Kamptner stated that he did not think so and would agree with Mr. Rieley.

Mr. Rieley stated that he felt that this was the time to do it.

Ms. Joseph asked is there any way other than a proffer that this rezoning could be approved with the understanding that when this comes in for development that entrance will be close on Hydraulic Road and they will use access only through Turtle Creek Road.

Mr. Kamptner stated that the proffer would be the means that would bind the owner of the parcel to close that entrance at a certain point. The proffer can specify what that event would be.

Mr. Rieley stated that they cannot ask for that in the future, none the less to ask for it now since that would only relate to 44A. It would not relate to the separate parcel.

Mr. Thomas stated that he understood the point that they were making, but he did not see any problem with the way it was right now.

Motion: Mr. Morris moved, Mr. Thomas seconded, that ZMA-2005-006 Logan Clevester – Rezoning, be approved.

Mr. Rieley asked to make it clear that if they approve the rezoning in general that he felt that the additional density in this area is both warranted and desirable. But, he would cast a dissenting vote on this so that when it gets to the Board that it remains an issue. He felt that it was a legitimate issue.

Mr. Craddock agreed with Mr. Rieley.

Ms. Joseph stated that she felt the same way in that if there was some sort of agreement connected with this when future development occurs that entrance would be closed, and then it would be something that she could support. But, she was in opposition to the request at this stage.

Mr. Rieley stated that it was a perfect opportunity if the applicant wanted to proffer the access point.

Ms. Joseph suggested that it be when future development occurs.

Mr. Rieley stated that he did not know what the mechanism was.

Ms. Joseph suggested that it be when a site plan is submitted.

Mr. Benish asked for clarification if it was on the adjacent parcels or this parcel.

Ms. Joseph stated that it would be on this parcel.

Mr. Benish stated that he heard that there was a concern about if the adjacent parcel developed as well.

Ms. Joseph stated that the adjacent parcels don't have any way to go but on Turtle Creek Road.

Mr. Benish stated that it was the intensification of the use on those parcels because they were not getting this closed now. So he was a little confused about the timing mechanism. It seems like what they were asking was for them to close the entrance. The timing mechanism would be kind of a complicated proffer.

Ms. Joseph stated that the property was currently zoned R-2. When they combine the properties it will be rezoned to R-4, which means they could put more units on it.

Ms. Ragsdale stated that they could not put more than two.

Mr. Benish stated that the additional unit came from combining the two lots in the back. They would now have the potential for one more lot to be created, but it has not been rezoned yet.

Ms. Joseph stated that she was very sensitive to entrances at this point in time.

Mr. Benish stated that he wanted to be straight about the timing mechanism that they were asking for. If it was timing on this parcel, that is fine. If it was timing for 44B1 and 44A1, which was what he had heard some discussion of as well, then he would need some clarification.

Ms. Joseph stated that she was concerned about 44A if they come in with some sort of plan in the future. As everyone is saying, the area is developing. Therefore, it is possible that someone in the future might

want to request a condominium use that matches Turtle Creek. It does not necessarily have to close right now, but if something happens in the future that changes this, the buildings are removed and new buildings are replaced and a site plan is submitted for this property, then that is what she was concerned about. She stated that she did not know if it won't happen.

Mr. Benish stated that under the zoning proposed, it would still be two units.

Ms. Joseph stated that she understood that.

Mr. Thomas stated that if they wanted to intensify the zoning they would have to come back. He asked if it would matter whether it was done now or later since they can only put two residences on it now. If they come back in and intensify the density, they would have to request another rezoning and at that time they could close the entrance onto Hydraulic Road.

Mr. Benish asked Mr. Rieley if he was concerned about whether the parcels in the rear develop, which would create an intensifying situation. That is why he wanted the access on this parcel addressed now because they might not be able to deal with closing the access on this parcel when the one in the back intensifies.

Mr. Rieley stated that people drive fast on that section of road and he felt that they ought to take the opportunities that they have. This is a rare one. Mr. Thomas is right that they might never have the opportunity to close the other twelve entrances that are along that stretch. He felt that when they have an opportunity to make a situation safer and better that they should.

The role was called.

The motion failed by a vote of 2:3. (Commissioners Morris and Thomas – Aye) (Commissioners Craddock, Rieley, Joseph – Nay)

Mr. Kamptner suggested that another motion be made.

Mr. Craddock asked if they could make a recommendation for its approval with the requirement that the entrance be closed.

Ms. Joseph stated that they could not because the applicant would have to proffer that.

Mr. Thomas invited Mr. Dezio to come up and offer a proposal.

Mr. Dezio stated that he had not discussed this with the Logans since this is the first time that they have heard what the concerns are. They recognize that the Virginia Department of Transportation said that they want that driveway closed. Therefore, he had not had a chance to review this with them. First of all as he understands the ordinance and the law if everything stayed the same as it is right now, another house could be built on 44B1. There is no prohibition that he was aware of for 44B1 to cross 44B to have an entrance way onto Hydraulic Road. There is a lawful right-of-way for 44B1 over 44B.

Ms. Joseph stated that right now there was a rezoning before the Commission and one of the concerns is that VDOT talked about closing that entrance. There are three Commissioners who are concerned about that.

Mr. Dezio stated that he was trying to go the step forward that Mr. Rieley was taking in saying that should these two lots in the rear be combined.

Mr. Rieley asked if he was willing to proffer that the driveway would be closed.

Mr. Dezio replied that he would have to ask Mr. and Mrs. Logan that question because he did not have any authority to answer that.

Mr. Logan stated that he did not want the road closed off of Hydraulic Road. The Post Master came by to see what they have and said that it would be unsafe to put those mailboxes on Hydraulic Road. He assumed that the Commission received a copy of the letter that he sent them. He felt that it would be awful to have to close that entrance. If they had to put the mailboxes in any other place they would have to back out into Turtle Creek Road in order to turn around. He stated that he did not understand it. He suggested that the Commissioners come out and visit the site because he just could not see it nor understand it.

Mr. Thomas asked Mr. Logan if his answer was no that he did not want to shut that down, and Mr. Logan replied that was correct.

Mr. Dezio stated that due to the circumstances and the position of the panel that he would move that this be deferred. This would give the Logans the opportunity to consider that there may be some other option. But, as Mr. Logan said, closing the entrance to Hydraulic Road is something the he personally does not consider to be safe. Certainly the Post Office has agreed with him. He did not know if VDOT has ever considered and saw what the situation was with those mailboxes and knows that these people would have to back out into Turtle Creek Road.

Ms. Joseph asked if he had a specific date in mind or would it be an indefinite deferral.

Mr. Dezio asked for a specific deferral.

Ms. Joseph asked Mr. Benish for a specific date to defer to.

Mr. Benish stated that October 4 is the next available date, but the request could probably not be heard by the Board on October 12.

Mr. Dezio stated that he could not be present until after mid-November since he was going to be out of the State for six weeks.

Mr. Benish suggested that the hearing be deferred to November 22 since the November 15 meeting has been cancelled.

Motion: Mr. Morris moved, Mr. Thomas seconded, that ZMA-2005-006 Logan Clevester – Rezoning, be deferred to November 22 as per the applicant's request.

The motion passed by a vote of 5:0. (Commissioners Higgins and Edgerton were absent.)

Ms. Joseph stated that ZMA-2005-006, Logan Clevester - Rezoning was deferred to the November 27 meeting.

CPA 2005-001 Land Use Plan Transportation Update – Proposal to amend the Transportation Section of the Comprehensive Plan to include, but not limited to, references and updated information based on adopted regional transportation plans. (Juandiego Wade)

Mr. Benish stated that the public hearing was scheduled tonight primarily for staff to provide the Commission with a round of changes, receive public comment and answer any questions. Staff will follow up on comments and questions given by other staff members. Since this is a public hearing, staff is ready to answer questions either before or after the Commission takes public comments. The Commission does not have to take action tonight. Staff could provide another round of changes and place the final version on the consent agenda for the Commission to review and act on. But, it is ultimately the Commission's decision. The following changes have been made to the document.

- Staff had a discussion in July or August about references to rural routes and language which implies that they were fostering improvements to roadways that were not consistent with the rural policy. Therefore, staff made some language adjustments on page 6 in the second bolded paragraph. References were taken out to curb and road improvements and replaced with a statement that said addressing the sight distance and visibility issues.

- On page 22, at the bottom of the page in number 2, staff added the following sentences, "In this regard, improvements which contribute to increased vehicle speed, such as straightening alignments, the general widening width may not be consistent with rural areas policies."
- Ms. Joseph provided a list of comments to staff. Staff has responses to all of Ms. Joseph's comments.

Mr. Morris asked if staff had a response to the first comment regarding adding a statement on how it relates to the environment.

Mr. Benish stated that the Commission could add to the general principles because this is the County's Comprehensive Plan. The general principles are essentially taken from the UNJAM CHART plan.

Ms. Joseph agreed that some of the aspects about the environment, which are struck out, are covered in other sections. She suggested that a general statement be included saying that they are concerned about the environmental impact of transportation issues, which acknowledges that they are cogitative of the fact that when they are planning their transportation routes that is something that they consider..

Mr. Benish agreed to add that language to the document.

Ms. Joseph opened the public hearing and invited public comment.

Neil Williamson, representative for the Free Enterprise Forum, stated that he loved working on these matters. He pointed out that he had traveled to Portland and Minneapolis to look at transportation plans and light rail lines. He provided the following comments and suggestions:

- In his review of figures from Los Vegas and other places that are looking at light rail, he has not found one light rail line that has worked. He did not believe that this County has vetted light rail as an effective transportation mode. Therefore, he did not know if any where in the Neighborhood Model that anything is mentioned about light rail. There is something about that in here that is inferred, which is located on page 7, that says, "The Neighborhood Model supports convenient routes for pedestrians, bicycles, buses and other forms of transit including light rail." But, he was not certain that he saw that in any of the Neighborhood Model reports that he has reviewed. He agreed with transit, but thought that the jury was out on bus rapid transit. But, he felt that the idea of investigating that is a good idea. He has looked at light rail systems that have received significant government subsidies and found that they still failed to meet rider ship objectives. Then they got smart about five years ago when the Highwaffer Line was founded in Minneapolis by setting the projections so low that all they say is that they are exceeding projections.

- In May he was in Minneapolis at 9:01 a.m. during the rush traffic and there were empty trains running. The Highwaffer Line is a diagonal road, which was supposed to be a road. But, they took that right-of-way and put a light rail on it. Now they have had a multitude of accidents because the road was a diagonal. That is a specific issue with that particular design. All of the research that he has seen has indicated that it requires more government subsidy than a bus line. When a bus line runs on infrastructure, cars can run on that same infrastructure and generally they are called roads. That information is found on page 7.

- He supported the addition of the Meadow Creek Parkway. Therefore, he would love to see the addition on page 1 of, "Complete the Meadow Creek Project."

- On page 22, general design standards for roads, he thought that the idea of building roads that can accommodate bus lane pull overs was a great idea. He thought that the idea of acquiring right-of-way that would be required for a light rail system is a bad idea and he would recommend dropping rail service, etc.

- He questioned goal #4 on page 33, which was in regard to establishing a system to coordinate study implementation of the plan. The last objective was to hire staff at each locality or region to be in charge of grant writing. He did not think that this Board wishes to put any kind of onus on

any other locality. He felt that it comes out of the other plan and just needs to be adjusted. If this Board wishes to add to the bureaucracy another person to write grants, then that is their inkling. But, he did not think they wanted to put that on other localities.

- Finally, on page 39 he would point out that he was not a big fan of light rail service and did not feel that there was sufficient density to provide that service to Standardsville or out Route 250 West. It may be that it is projected for the County to have sufficient density in the future, but he felt that roads and mass transit, other than light rail, would better serve the public.

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

Mr. Thomas agreed with Mr. Williamson that right now the light rail service was not a feasible project. He asked if setting aside land for the future use of a median strip along Route 29 was in this document.

Mr. Benish stated that the general statement directed staff to consider the broad range of mass transit, including buses or other alternatives that allow us to consider that as something that is on the table and should be considered in future planning. The UNJAM and CHART Study have components that discuss transit and the timing of transit other than buses. Under our current 5 to 15 year growth period that might be more problematic, but there will be some point in the future if they continue to grow that density will be there. Those opportunities are lost now when lower density development takes those opportunities adjacent to rail lines or medians. That is staff's concern. Staff might not be ready for it now, but it is awful difficult to get those borders and preserve them in the future.

Mr. Rieley stated that paying attention to an unrealistic form of transportation takes their eye off of the ball and makes an excuse for not dealing with the realities of the situation. Every figure that he has ever seen about the functioning rail systems is that it requires a metropolitan area of at least a million people to make any sense. The density has to be far greater. He agreed with Mr. Williamson's comments that they ought to back off on the references to light rail. He did not think there was a real prospect for a light rail system in the next 20 years. He stated that he loved the idea of a light rail system, but felt that they have to deal with reality. The reality is that this is not a viable option within the next 20 years.

Mr. Morris felt that the light rail system was just not realistic and should not be included. He agreed that goal #4 on page 33 should be eliminated concerning hiring grant writing personnel in each locality. All of the ideas that Ms. Joseph has identified really deserve some attention.

Mr. Benish asked if goal #4 should be deleted or reworded. In this draft they were basically accepting the regional recommendations by mimicking them here. But, if the Commission wanted to delete it that it could be deleted from the local plan, but it would be kept in the regional plan.

Ms. Joseph asked that goal #4 be deleted from the document.

Mr. Thomas suggested that the wording of #4 be softened.

Mr. Morris stated that he liked Mr. Rieley's suggestion that they cooperate regionally in acquiring grants.

The consensus of the Planning Commission was to use Mr. Rieley's suggested wording, "That they would cooperate regionally in acquiring grants."

Ms. Joseph asked Mr. Craddock to weigh in on the light rail system.

Mr. Craddock agreed with Mr. Williamson's position to eliminate the reference about the light rail system.

Ms. Joseph asked Mr. Rieley if he was suggesting staff to eliminate the specific reference to light rail and replace it with just to be aware of the corridors.

Mr. Rieley suggested that staff downplay the references to the light rail system, but not to take it out everywhere in the document.

Mr. Benish stated that it would be more of a preliminary statement to keep it in your mind that there may be reason to be aware of it, but not to be making direct recommendations about providing it.

Mr. Rieley suggested that they be honest about the fact that if it comes about that it will be in the 30 to 50 year range.

Mr. Wade felt that it was general knowledge that they were not ready for it now, but if they don't plan for it or at least note it that if or when they ever get there if they have to acquire a right-of-way that it will be very difficult.

Mr. Rieley noted that they have been building subdivisions in the way of road routes that they know they have to have and they will not be setting aside light rail corridors.

Mr. Benish stated that staff will do a rewrite on light rail and tone it down a bit. He suggested that they discuss Ms. Joseph's questions, skipping the typos that staff would automatically fix. On page 2 at the bottom of the page, Ms. Joseph asked for some information about that policy. He noted that staff drafted a very simple policy.

Mr. Wade explained that the policy was adopted by the Board in July, 2005. Traditionally what had happened with unpaved roads was that when private citizens agreed to pave it if it was within VDOT's right-of-way, that VDOT would just do it without contacting the County. But some controversial projects came up in the last couple of years and the County wanted to have some control over this. The Board has essentially adopted this policy. Now whenever these requests come in, VDOT contacts the County and the Board lets us know if a public hearing is required. Then the Board makes a decision and gives a recommendation to VDOT. Previously VDOT basically did this without contacting the County on an official basis.

Mr. Benish reviewed the list of questions raised by Ms. Joseph and explained the following changes.

- On page 13, regarding the question about the multi-modal transportation plan, staff felt that the wording might be a bit confusing. The second bolded paragraph on page 13 says that a conceptual multi-modal transportation plan to address these deficiencies (around 250 East) will result from the study. The 250 East Study has been completed by VDOT and has been put in our hands. Staff is using it with the Pantops Study and may use it for future work regionally with the Thomas Jefferson Planning District Commission on the Zion Crossroads Study to come up with a multi-modal plan. Multi-modal here, as VDOT intended it in the original 250 East Study, was multi-modal in terms of bicycles, sidewalks, roads and bus stops. There are recommendations in those studies for those modes. Ultimately, staff is going to include those appropriate recommendations in the Pantops Study. Staff will clean the language up because it seems to be suggesting that there is another study that VDOT is doing.

- The correction will be made on page 14.

- On page 19, a separate bullet and recommendation will be added for each road. Meadow Creek Parkway, 29H250 and 29 North will be added.

- On page 22, "urban areas" is the appropriate language to be used.

- On page 24, standard #11 is a hold over from prior plans in 1989. At that time there were intersection separations that were desirable by VDOT. This references arterial roadways. But, certainly exceptions can and have been made in the past. After discussion, it was determined that standard #11 would stay in the plan.

- Staff will make the corrections on page 25, which deals with the bus transfer system to explain in more detail how it is used.

- On page 40, the reference to the Western By-Pass can be removed. That part of the profile was to explain what the existing conditions were. Since that was a proposed road, staff did not feel it was necessary. In the recommendations of the transportation study, it would be useful to refer people back to the discussion of the Meadow Creek Parkway in the transportation section to follow the CHART recommendations for the Western By-Pass. That would leave something in the profile that would send people to the right information.

- In the transportation section, including the third item, "Southern Connector" will be replaced with "Southern Parkway."

Mr. Rieley questioned to what degree that number 2 on page 22 was reflective of the conversation that they had. From his perspective it should be a little bit wider. He felt what they had talked about was that the increased vehicle speed may in fact not be consistent with the rural character of the County and lead to more rapid development of rural areas. He suggested that they reconsider including "generally widening pavement width" because the issue is partially horizontal alignment and vertical alignment because that is what controls design speed. He preferred not to include language that discourages the paving of shoulders, particularly because it was very beneficial on safety, particularly on bicycle use. He suggested the following language, "Disregard improvements which contribute to increased vehicle speeds such as straightening alignments" deleting the parenthetical phrase "both the horizontal and vertical." Also, leave out "in generally widening pavement width" and go straight to "in the number of lanes." In other words, leave in "increasing the number of lanes in may create less safe conditions and may not be consistent with it." Paving the shoulder for enhanced safety for bicycle use shall be encouraged. That is clearly making a big separation between horizontal alignment and design speed and the width of the roadway for safety.

Mr. Benish stated that the language was adequate in the third hyphen under #1, and Mr. Rieley suggested that staff make that more consistent.

The Planning Commission agreed to include the following statement made by Mr. Rieley: "Paving the shoulders for enhanced safety and bicycle use should be encouraged" and to leave out "both horizontal and vertical" and "in generally widening the."

Ms. Joseph asked staff what would happen next with the document.

Mr. Benish stated that there were a couple of things that staff wanted to go back and look at, make the changes and then bring it back as a consent agenda item for review by the Commission in a few weeks.

In summary, the Planning Commission did not take final action on CPA-2005-001, Land Use Plan Transportation Update, but held a public hearing to obtain public comment and allow staff to respond to their questions. The Commission asked staff to make the changes and provide the final version on the consent agenda at a later date.

Work sessions:

ZTA-2005-003 Outdoor Lighting – Proposed zoning text amendment to revise certain sections of the Zoning Ordinance regarding the burn-in rate of light fixtures, the spillover of lighting into the right-of-way, and other related lighting provisions. (Margaret Maliszewski)

Ms. Maliszewski summarized the staff report.

- The Free Enterprise Forum has proposed a Zoning Text Amendment to change two regulations in Section 4.17 of the Zoning Ordinance:
    - Recognize the burn-in rate for lighting,
    - Eliminate the spillover requirement. The applicant cites safety reasons for both changes.
- The burn-in is the period of time that is required for a lamp to reach the level of illumination that it will emit for the majority of its life. When commercial lights are first installed they burn brighter generally for the first part of their life. That period of time can vary between lamps and lamp types. It is generally considered to be about 100 hours and that 100 hours has generally been considered as the burn in period or burn in rate for the light. Lighting designers will generally

design lighting plans for the brightness of the bulb that is emitted after that 100 hours and not during the first 100 hours of the bulb's life.

- Generally the industry standard is to do it for after the 100 hours. Because in the County to receive a Certificate of Occupancy the light levels are suppose to meet the levels that are shown on that photometric plan, what staff did to get around that problem is that they asked for the plans not to be done for after the 100 hours, but for the maximum light level which is the 100 hour period.

Mr. Craddock asked if a bulb lasts for about 2,000 hours, and Ms. Maliszewski stated that generally it is longer than that.

- The applicant contends that there is a problem by requiring that the plans be done at that maximum level because lighting designers are generally designing to have safe lighting. But if you are designing for that 100 hours that as soon as that 100 hours is over then the site is no longer safe.
- There is also an additional argument that additional pole lights are required to do it the way that they are doing it. That means there is an extra expense for the property owner. Although staff is not convinced that using the maximum light levels creates unsafe sites, they do believe that there are other options for dealing with that burn-in rate. One may be just a simple mathematical calculation that the inspector would do out at the site using the reading that they have out there and based on the maintained value of the light and not the maximum value of the light. That could work, but there may be other options. So based on the fact that there are other options that do exist, staff is recommending with the resolution of intent that the burn-in issue be further studied as a possible result of recommending a zoning text amendment.

Mr. Rieley assumed that all of the different type of lighting has different characteristics in this regard. He presumed that the burn-in rate was probably different from one to the other and the differential between the initial fire up and the long term is also different. He asked if that difference is understood and taken into consideration when the lights are inspected. He asked if that data was available.

Ms. Maliszewski stated that she did not know if that data was documented specifically for each and every type of lamp. But, the general opinion is that you can do that sort of calculation and it is generally close.

Ms. Joseph stated that there are all types of factors involved in this. One of the things that they have talked about in the past was that some of the lights are prisms. As your car idles and you are pumping gas that exhaust gets up there and that dims the lights, too. There is all kind of factors that make it so that light intensity is not going to stay what it says on the photometric plan for the rest of the bulb's life.

Ms. Maliszewski stated that the next issue was the spillover.

- Spillover is the amount of illumination that is typically measured in foot-candles that extends or spills over a property line. The ordinance currently limits spill over on to public roads and properties in residential and rural areas to one-half foot-candle.
- The applicant is asking for an amendment to change the ordinance because the lighting in the right-of-way, particularly pedestrian paths in the right-of-way, should not be regulated because incidental spillover could illuminate that path and therefore increase safety of the path.
- The applicant is also suggesting that spillover into the right-of-way should not be regulated at all unless it hampers the safe operation of vehicles and limiting spillover in an already lit right-of-way just does not make sense.
- Spillover regulations were included in the County Zoning Ordinance prior to the adoption of the Lighting Ordinance in 1998. Staff's understanding is that spillover in the right-of-way was included at that time primarily to deal with the issue from glare from motorists. That issue continues to be a concern for staff. Staff is concerned that eliminating the spillover regulation completely would re-establish glare for motorists as a safety issue and could lead to brighter overall lighting levels on sites.
- If spillover were to be eliminated, staff would likely recommend other regulations to replace it. That would be things like possibly limiting maximum pole height and establishing limits for maximum overall light levels on a site.

- While staff at this time does not support complete elimination of spillover regulations, they do believe that the issue of limiting spillover in an already illuminated right-of-way might make sense and desires further consideration.
- Staff is recommending with the resolution of intent that the spillover issue be further studied with a potential of a zoning text amendment.

Ms. Joseph asked if spillover would be waiveable.

Mr. Kamptner stated that spillover falls under subsection b of 4.17.4, which does not appear to be waive-able.

Mr. Rieley asked if there is an upper end foot-candle.

Ms. Maliszewski stated that they do not, but sometimes the ARB will deal with the maximum light level issue, but the ordinance does not set a maximum level.

Mr. Rieley asked if it is the spill over or the brightness of the lights in the canopy.

Ms. Maliszewski stated that it contributes to it, but not everybody is trying to go super bright.

Ms. Joseph stated that it also had to do with the fact that before the Lighting Ordinance that some of the fixtures came down. Once the lights had to become shielded and placed within the canopy itself rather than just hanging down you get less light coming out.

Mr. Morris stated that the current Lighting Ordinance was very confusing for a lot of people who are trying to do it right.

Upon the Commission's request, Ms. Joseph invited the applicant, Mr. Williamson, to come forward and address the Commission.

Neil Williamson, representative for Free Enterprise Forum, thanked Ms. Maliszewski for explaining the issue fairly well. The one thing that was clear in the staff report, but not in the verbal report tonight was that there was a second phase of lighting review that was planned that was going to address glare. But, that never got accomplished. A lot of the glare issues are there and are worthy of study. The idea of limiting light spillage when you have a street lamp boggles the mind that you have VEPCO coming in putting in these street lamps and a commercial provider here that literally have to cut off the street lamps next door to test the lights. That does not seem right. The idea that the Neighborhood Model is an interconnective walkway if I am a commercial entity I don't want to have my light spilling into the residential district. That is not the goal. But, if there is spillover to a pedestrian walkway it makes it safer for someone to walk with their dog or walk to get a gallon of milk, which would make it a more walkable community. He felt that was a benefit. He questioned why the County was regulating it. The burn-in rate was something that was brought to his attention by the lighting engineers. Ms. Maliszewski has explained it ten times better than he could. It seems logical that our zoning folks should have the flexibility to do the mathematical calculations. Right now you go out to get your Certificate of Occupancy and get denied if your light is burning too brightly. Then you basically have to replace the bulbs. Most lighting designers design to the standard of the maximum life of the bulb. There are ways to address that with more lights, but isn't that burning more electricity. It probably is not the most efficient use of the landowner's, leaser's and our precious resources. Therefore, he brings this forward as something that he thinks is worthy of discussion and continued exercise. He appreciated staff's recommendation to do so. If there are any questions, he would be happy to answer them.

Ms. Joseph asked if he had looked at the City's Lighting Ordinance.

Mr. Williamson stated that he looked at the City's Lighting Ordinance at the beginning of the process.

Ms. Joseph pointed out that they require the same things that the County does as far as the one-half foot candle at the property line. She wondered if he had talked to anybody over there about how that works and what they were thinking about doing. She was really happy to say that he was concerned about their

resources and felt that was valid. If they are doubling doing some things, then they really need to look at it. As you said, they were supposed to be looking at glare at some point in time. She worried about the glare particularly on a rainy night. She questioned how they were going to test those things.

Mr. Williamson stated that they have identified some folks in the lighting industry that are interested in this. The industry is not trying to light up the County and is not interested in blinding drivers. The conversations he had in regards to glare was one that it is a tough thing to determine exactly what glare is. The lighting engineers that he spoke with worked in different localities all over the place on the east coast, and the City did not come up in their conversations. Most of the instances they discussed were in the County. If they can break some new ground he would be happy to take this to the City. He questioned the validity of the issue when you have a street light right on the property line.

Mr. Craddock asked if the night lights installed by VEPCO have to meet the County regulations.

Ms. Maliszewski stated that she has never had anyone from VEPCO ask to have a plan reviewed.

Mr. Benish stated that there were actually VDOT standards that they have to meet for spillover and illumination for the right-of-way. They are very concerned about pole illumination in streets. The County asks that in public projects that they meet the intent of our ordinance for full cut-off.

Ms. Joseph stated that anything over 3,000 lumens has to comply with the ordinance.

Mr. Kamptner stated that the limits would be within a commercial or industrial zoning district or is associated with a use in which a site plan is required or if it is within the residential or rural areas zoning district and it is a high intensity discharge lamp. That is defined to mean a mercury vapor metal halide or high pressure sodium lamp or a low pressure sodium lamp.

Mr. Benish stated that he was not sure who regulated private requests for security lights in the rural area. He pointed out that there was no permitting process.

Mr. Kamptner stated that was dealt with on a complaint basis.

Motion: Mr. Rieley moved, Mr. Morris seconded, to approve the following resolution of intent for ZTA-1005-03, for Outdoor lighting – Burn in and Spillover.

RESOLUTION OF INTENT

WHEREAS, Section 4.17, Outdoor Lighting, of the Albemarle County Zoning Ordinance establishes regulations pertaining to outdoor lighting; and

WHEREAS, it is desired to amend Section 4.17 to establish a burn-in rate for outdoor lighting, revise outdoor lighting spillover limits, and establish minimum lighting standards for pathways.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to amend Section 4.17, Outdoor Lighting, and any other regulations of the Zoning Ordinance deemed appropriate to achieve the purposes described herein.

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the zoning text amendment proposed by this resolution of intent, and make its recommendation to the Board of Supervisors, at the earliest possible date.

* * * * *

The motion passed by a vote of 5:0. (Commissioners Higgins and Edgerton were absent.)

Lane Auditorium Renovation Review – Work session to present current renovation plan for discussion and seek guidance in moving forward to a final design. (Ron Lilley)

In summary, the Planning Commission held a work session on the Lane Auditorium Renovation Review. Ron Lilley presented a power point presentation regarding the proposal and asked for the Commission's comments and suggestions before the end of next week when staff's report on the final design will be sent to the Board. The Commission discussed and provided the following comments.

- The wide horseshoe dais design was generally preferred because it was more inclusive.
- The scale of the room is too large and the Commission will be removed from the public. The dais area will be bigger than the area of Meeting Room #241. The Commission does not want to have their backs towards the audience.
- The exhibits on display will be too far away for the Commission to see.
- The Commission does not fill up Meeting Room #241 very often and would hope that the room will remain available for their use with the existing dais. The Commission does not want to be sitting up above the public and feels that the scale of the room may overwhelm the majority of the public. The Commission feels that they can interact with the public much better in a smaller scale room.
- The Commission uses Room #235 for work sessions, but feels that it is too small when the public wants to attend. They feel that the auditorium would not contribute to the type of "intimate" setting that they prefer for work sessions and hope that the resources of Room # 235 and # 241 will not be lost.
- A request was made to see a $250,000 scheme coupled with $750,000 for the sidewalks in Crozet since they did not see an application for this kind of expenditure of a million dollars since the existing room works most of the time. During the last two years, the Commission has met once in the auditorium.
- The Commission questioned how the press would be handled and what would replace the existing press box area.

Old Business:

Ms. Joseph asked if there was any old business.

- The Commission questioned why staff has not provided a presentation on the Board's Strategic Plan or the standard staff report format, which was discussed at their retreat. It was noted that the Board is currently working on revisions to the Strategic Plan and the Commission would like to know more about it.

- Mr. Rieley asked that when staff works with the applicant on ZMA-2005-006 that they look more carefully at the entrances off of Hydraulic Road and Turtle Creek Drive. He reiterated what Mr. Craddock said that the request should not be driven by the way the Postal Service wants to locate their mailboxes. The Commission hopes that staff will explore other options such as putting the mailboxes on Turtle Creek Drive.

New Business:

Ms. Joseph asked if there was any new business.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 8:45 p.m. to the September 27, 2005 meeting.

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V. Wayne Cilimberg, Secretary

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