Albemarle County Planning Commission
December 20, 2005

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, December 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, Jo Higgins, Bill Edgerton, Chairman; Calvin Morris and Marcia Joseph, Vice-Chair. Julia Monteith, University of Virginia Planner, attended the meeting in the absence of David J. Neuman, FAIA, Architect for University of Virginia.

Other officials present were Wayne Cilimberg, Planning Director; David Benish, Chief of Planning; David Pennock, Principal Planner; Elaine Echols, Principal Planner; Sean Dougherty, Senior Planner; Rebecca Ragsdale, Senior Planner; Lee Catlin, Community Relations; Bill Fritz, Chief of Current Development and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Edgerton called the regular meeting to order at 6:06 p.m. and established a quorum.

Other Matters Not Listed on the Agenda from the Public:

Mr. Edgerton invited comment from the public on other matters not listed on the agenda. There being none, the meeting proceeded to the review of the consent agenda.

Review of Board of Supervisors Meeting – December 14, 2005

Mr. Cilimberg reviewed the actions taken on December 14, 2005 by the Board of Supervisors.

Mr. Rieley arrived at 6:09 p.m.

Recognition of William Rieley for 8 Years of Service with the Planning Commission:

Mr. Edgerton stated that the honors tonight go to Mr. Rieley for his 8 years of Service with the County on the Planning Commission. Tonight is his last meeting since he has decided to take some time off. He thanked Will for his hard work and noted that his service was very much appreciated by everyone. The Commission will sincerely miss him. He pointed out that tonight could also be Ms. Joseph's and Mr. Thomas' last meeting since reappointments will be done in early January. Therefore, he would like to take the time now to thank all three Commissioners for their hard work.

Mr. Rieley stated that it was a wonderful experience and that he had enjoyed working with his colleagues and staff.

Mr. Cilimberg stated that, on behalf of staff, he wanted to say the same. Staff has very much appreciated the hard work of all three Commissioners. He hoped that they would have a chance to continue working with all of them. During Mr. Rieley's past eight years they have had a lot of challenging items and staff appreciates all that he has done as well as the other Commissioners. He wished Mr. Rieley the very best of luck and that he appreciated the opportunity to work with him.

Consent Agenda:

Places 29 Study - Endorsement of Vision Statement and Guiding Principals
(Judy Wiegand/ Lee Catlin)

Mr. Edgerton pointed out that there has been a request to call this item, but before they do that Lee Catlin asked to make a comment about that.

Lee Catlin, Community Relations Manager, asked to reiterate that if the Commission was interested in pulling this for discussion in January and that staff would be very happy to accommodate that. This has

been discussed several times and some good enhancements have been made to refine both the vision and the guiding principles and she thought it was a much better product than it was before. What staff was wondering was if there was any specific information that the Commission would need between now and the next discussion and anything that they could provide that would help it be a concluding kind of discussion. This is a very foundational process and the next stage builds on what they are adopting now so there is some need to get that established. But, staff wants to make sure that they bring to the next discussion anything that they feel will help that discussion be as productive as possible. The Planning Commission has an executive summary for this as a consent agenda item. But, if there were other materials, issues or items that would helpful to the Commission for the next discussion, staff would be very happy to know that so they can provide them.

Ms. Joseph felt that this was something that needed to be opened in a public discussion rather than just approved on the consent agenda. The Commission did hear from one member of the public that was really concerned about that.

Mr. Edgerton concurred with Ms. Joseph's comments. His hope is that they get it on the agenda as quickly as possible in January with the opportunity for some public discussion. Based on the information they have the Commission might want to address some of the word smithing to get it right.

Motion: Ms. Joseph moved, Mr. Craddock seconded, to call the consent agenda item and ask that it be placed on the agenda for discussion in January.

Mr. Edgerton asked Mr. Cilimberg if this item could be placed on the January 10 agenda.

Mr. Cilimberg replied that it could be.

Mr. Edgerton pointed out that they obviously don't want to hold up the process, but want to hold a public hearing on it in January.

Mr. Cilimberg stated that staff would target the January 10 meeting.

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

Item Requesting Deferral:

Ms. Higgins arrived at 6:16 p.m.

ZMA 2005-006 Logan, Clevester (Sign #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 is an item that the Commission held a public hearing on in September, 2005. This is a request to rezone .54 acres from R-2 to R-4. The applicant would like to do a boundary line adjustment and lot consolidation, which adds another dwelling unit. This property is located at the corner of Hydraulic Road and Turtle Creek Road.
- At that meeting the primary issue with this is the request by VDOT and your recommendation that the applicant's entrance and exit onto Hydraulic Road be closed as part of this rezoning. They also have two entrances/exits onto Turtle Creek Road.
- Since the deferral in September and November, the applicant did submit proffers. One set of proffers was reviewed by the County Attorney. The second set of proffers has not been completely reviewed as the revised version was received on December 8, which is Attachment D

in the packet.

- Basically what the applicant has proffered is that under two scenarios they would be willing to close the entrance if the single family dwelling there or the primary dwelling converts to some other use other than single family. The second condition is if the cottage, which is adding the second dwelling with the boundary line adjustment if that is once again occupied, as it is unoccupied now.
- Staff received a question regarding how these proffers would be enforced. Along with the first proffer, any changes of use would require all of the necessary approvals with the final permit being the zoning clearance. So that is how that would be caught.
- As for the second proffer, if someone moves into that cottage that would not be something that would require a zoning clearance. Therefore, that would be something that the owner would only be aware of and there would be no mechanism for the zoning staff to follow up with that. It would rely on voluntary compliance with the owner or if there was a complaint from the public.
- Regarding closing the entrance, staff did not feel that this was adequately meeting the Commission's comments from the last meeting. The Commission was not specified as to when they wanted the entrance closed, but VDOT has said that they would prefer that it be closed along with this rezoning approval. The ultimate goal was that, hopefully, safety would be improved with one less entrance and exit from Hydraulic Road with this rezoning.
- So based on the mechanisms for closing the entrance, staff was not sure if that adequately met the concerns. Therefore, staff did not recommend approval with this.

Mr. Edgerton asked if on attachment C, the letter from the postal service, that they were concerned if the Hydraulic Entrance was closed. He asked if that was correct.

Ms. Ragsdale stated that was noted in his letter, which was attachment C from the original staff report in September. He also pointed out that in his opinion closing the entrance would actually create more issues than it would in closing it based on how they view it.

Mr. Edgerton asked if this is contrary to VDOT's recommendation.

Ms. Ragsdale felt that they look at it from two different perspectives. This is based on how they deliver mail there currently, which if you recall from the last time the property does serve as a central location for a couple of the houses down Hydraulic Road. So in his mind he would envision the mailman having to make a couple more stops along Hydraulic Road, while the way it is now he kind of just whips through and makes one stop. But, as for the residents she was not sure what they would do. Hopefully, they would be able to walk. But, based on the way the mail delivery is it might be in a couple more stops for the mailman. Along that section of Hydraulic Road, it is two lanes.

Mr. Edgerton asked if staff's recommendation that they not review this until the proffer can be reviewed still stands.

Ms. Ragsdale stated yes, that staff has not gotten any comments from Mr. Kamptner or zoning on this revision. It is based on our suggested revisions, but she did not know if there were any typos or corrections. But, she felt that basically it was in the proper form.

Ms. Higgins asked if it was a private road.

Ms. Ragsdale replied yes, that it was a private road.

Ms. Higgins stated that in essence unless it was under a redevelopment plan or site plan that there would be no real possibility that the use change won't be addressed through a site plan so that they could control it. But, technically this property now outlets onto a public road and to put it on to a private road involves them entering into some sort of joint maintenance agreement to come off of a private road that they have not responsibility at this time to maintain.

Ms. Ragsdale stated that this was a question that had come up before on the maintenance on the right-of-way. They have two entrances and exits on there now. They are not a party to the Turtle Creek Road Maintenance agreement. Based on the fact that the Logans were there they have all of their rights and

they don't have to enter into any maintenance agreement with Turtle Creek. Turtle Creek voluntarily does the maintenance. So there would not be any issues with them having this little access from this private road or any revisions to any maintenance agreements that go along with Turtle Creek Road.

Mr. Kamptner stated that the deed referred to in the staff report appears to convey to the Logan's the right to use the 50 foot road and refers to the map which is attached. That appears to be Turtle Creek Road.

Mr. Edgerton stated that was certainly before Turtle Creek existed.

Mr. Kamptner stated that it appears that they have the right to use that road. The obligation to maintain it or to participate in the maintenance is connected to a subdivision ordinance requirement. There is nothing here at this point that is triggering an application of the subdivision ordinance.

Ms. Higgins stated that she was just thinking of the principle that there was no real change in the amount of trips in and out of the driveway on to Hydraulic. But, closing that and putting it on to the side road that is privately maintained by another party does change the use. But, at the time that it comes in for development and it is under a site plan they will have to address that. Therefore, she was just asking the question.

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

John Dezio stated that he represented Mr. and Mrs. Logan who own the property. Briefly, he wanted to review a few things that came up in September. The only reason that Mr. and Mrs. Logan are seeking this boundary line adjustment, which requires the zoning change, is so that the adjoining neighbor to their property can have access to their rear yard. Neither the neighbor nor the Logan's have any plans to develop the property. That is the genesis of this. He felt that the County attorney had correctly advised about the right-of-way. The Logan's do have access for both of their pieces of property over Turtle Creek Road and they have no obligation to maintain Turtle Creek Road at this time. Also, their right to use that road existed far before Mr. Heischman developed Turtle Creek. As to the post office boxes, as Ms. Ragsdale was saying, there are four mailboxes that are located on the Logan property, which includes three of the neighbors and one for the Logan's. The postal service went to the Logan's and said that Hydraulic Road is a dangerous place and our carrier would have to stop three times on Hydraulic Road to deliver the mail in a very short period of time and it would be safer for our carrier if we could deposit all of the mail in boxes located on your property, and Mr. and Mrs. Logan agreed. That is the safety concern that the post office has, which is the reason for exhibit C. After they were here the last time in September he frankly did not understand exactly what was being suggested for a proffer. He had understood the suggestion for the proffer was that when the Logan sold the property. The Logan's are going to continue using the property as their residents and nothing is going to happen to anything as a result of whatever the decision of the Commission and the Board of Supervisors might be. The initial thought was, since he was away most of the time and somebody else helped them in my office, was that if the Logan's sell the property they should agree to close the Hydraulic Road entrance way. He spoke with Ms. Ragsdale and that was the reason for the new proposed proffer, which has not been properly reviewed by the County Attorney's Office. It is basically the position of Mr. and Mrs. Logan that they would agree if for as long as they are doing what they are doing right now of simply having a single family dwelling, that it is safer right now to have the boxes on their property and for the people coming onto their property to be able to go out Hydraulic Road rather than backing into Turtle Creek. They request that they be allowed to continue the status quo as far as the entrance way. If the use of the property is changed so that the use is more intense, they agree that entrance to Hydraulic Road should be changed. That is the intent of the second proffer to close the entrance based on those terms. He noted that he did not quite hear what counsel said about a grammatical error.

Mr. Kamptner stated that in the second line the word "assess" should be "access."

Mr. Dezio stated that the Logan's agree if they change the use that they would close the entrance way. Also, Mrs. Ragsdale raised the question of whether that cottage is ever used as a dwelling how they would enforce that. Technically, the Logan's cannot put a restriction on their own property so long as they own it legally they can't. But, they would do anything to give assurance to the County if that rear

property is occupied as a dwelling that the entrance way would be onto Turtle Creek Road. He pointed out that Mrs. Logan's mother lived in the cottage until she died.

Mr. Edgerton stated that Mr. Dezio mentioned that their initial intent was to provide access across their property to Hydraulic Road for a neighbor.

Mr. Dezio stated no, the neighbor wants to buy 44B1. The owner of 44B wants to add the rear piece so he would own from front to back and have access to the rear of their property. Those neighbors have indicated to the Logan's that they have no intentions of developing that back piece because it is really their back yard.

Ms. Joseph asked if that piece would access onto Turtle Creek Road.

Mr. Dezio stated that was correct. He agreed that they would be taking parcel "X" and adding it to 44A.

There being no further questions for Mr. Dezio, Mr. Edgerton invited other members of the public who wanted to address this application. There being none, he closed the public hearing to bring the matter back before the Commission for consideration.

Ms. Higgins stated that as long as it is a single family residence she did not think it would have an adverse effect on Hydraulic Road. There are many other situations in the County where an entrance would not be closed until the actual use changed on the property. She felt that it was a timing thing.

Mr. Rieley stated that he did not disagreed, but that they have used the threshold of a rezoning many times to correct a situation in which VDOT or somebody else thought that there was a problem that they had no other mechanism to correct the problems. That was the basis of their discussion last time.

Ms. Joseph asked Mr. Kamptner as they are looking at the proffers and as Ms. Ragsdale mentioned it would really be difficult once that accessory cottage is used by someone for us to even know it was happening and the entrance had closed. She asked if he knew of any way that could be enforced.

Mr. Kamptner stated that he was not aware of anything, except what Ms. Ragsdale said about there being a complaint by the public. Staff has a way to track whether residences are occupied. Typically, zoning inspectors don't look into that until there has been a complaint.

Ms. Higgins stated that they do have the authority under a site plan to require the entrance to be closed. That is when VDOT usually gets involved. If there was a four-plex apartment sitting on here, for example, it could be required.

Ms. Joseph pointed out that the discussion was, as Mr. Rieley referred to, was that here is an area that they know there is a lot of traffic on Hydraulic and it was an opportunity to maybe get them because they had the ability to use Turtle Creek Road so that they could close that one entrance.

Mr. Rieley asked Mr. Kamptner if it was his understanding in the proffer that if the accessory cottage is occupied as a dwelling unit that access for both the cottage and the primary residence at that time would have to use Turtle Creek Road.

Mr. Kamptner stated yes, that all vehicular ingress and egress would have to shift from Hydraulic Road to Turtle Creek Road.

Mr. Rieley asked if he had any trigger that would impose this, which would alert the County to the fact that this proffer should be executed.

Mr. Kamptner stated that he was not aware of any, but that staff was more familiar with the workings with development approvals. He was not aware of any with new occupancy. Because it was already a dwelling unit, there is not going to be any County review or approval needed for someone to step in and start occupying. So even if they imposed a requirement that the Logan's have to notify the County, it still becomes a question of the County learning about it from outside the process.

Mr. Rieley stated that the previous proffer back in November indicated that if the property was sold or that on the death of both of the Logan's that the residence would have to change, but that would be even harder to monitor.

Mr. Kamptner stated that they wanted the access to change when there was some kind of change in the land use rather than ownership.

Mr. Rieley noted that the question was whether they agree with VDOT that this is a threshold in which they could make an adjustment.

Ms. Higgins stated that VDOT's general policy was to close or consolidate entrances. But, the post office felt it was a safety issue for mail delivery.

Ms. Ragsdale felt that it was in part based on their general policy as he had said, but they have made a site visit and have looked at this specifically and have the same recommendations.

Ms. Higgins asked if it has been sited for any particular accident frequency.

Ms. Ragsdale stated that they did not share that with them if that was the case.

Ms. Higgins asked if there was any way to allow this cottage without rezoning the property from R-2 to R-4.

Mr. Kamptner stated that if it exists as a dwelling unit, the density requirements of the zoning regulations need to be satisfied. He assumed that zoning determined that the R-2 allowed density was being exceeded.

Mr. Cilimberg stated that it was the combination of the lots to bring in the new dwelling under the same lot. Therefore, they have two dwellings on a lot where there was one on a slightly larger lot. That cannot happen under conventional zoning.

Ms. Joseph stated that if one was not considered a dwelling, yes, they could do that.

Ms. Higgins noted that adding the land to the front parcel is triggering the need to go to R-4.

Motion: Mr. Higgins moved, Mr. Morris seconded, to approve ZMA-2005-006, Logan, Clevester based on the proffers provided in Attachment C, handwritten page 8, with the two corrections noted as follows:

1. Change the date at the top of the revised proffers, and
2. Correct "assess" to "access" in the proffers.

The motion passed by a vote of 7:0.

Mr. Edgerton stated that ZMA-2005-006 will go to the Board with a recommendation for approval on January 11.

Mr. Cilimberg stated that just for the applicant's benefit due to the policy that the Board recently adopted, they will need to have the corrected proffers signed and to us by tomorrow.

Regular Item:

SUB 2005-292 Allan Family Division – Building Site Requirement Waiver and Critical Slopes Waiver Requests - Request for critical slopes waiver for drainfield in order to create one lot through family division on 11.448 acres. The property is zoned RA, Rural Areas. The property, described as Tax Map 55, Parcel 26 is located in the Whitehall Magisterial District on Blair Park Road [Route #707] approximately 0.44 miles from its intersection with Jarman's Gap Road [Route #691]. The Comprehensive Plan designates this property as Rural Area in RA-3. (David Pennock)

Mr. Pennock summarized the staff report.

- This is a request for a waiver of the building site requirements in order to allow construction of a drain field on critical slopes in order to accommodate a family division on this property.
- On the handouts, the Commissioners can easily see that there was a recently approved family division on this property with parcel X similar to this request, which is highlighted in yellow. It is called proposed parcel B.
- Attachment B1 of the staff report shows that the topography in the area where the proposed drain field is actually on slopes of a maximum of 26 percent, which exceeds the 25 percent that staff describes as critical slopes in the ordinance.
- Staff has reviewed this on the basis of Section 4.2 of the ordinance and based on strict interpretation of the ordinance is able to recommend approval. However, it should be noted that the drain field was previously approved with construction of this storage shed in anticipation that it would some day be converted to a dwelling. This request is for a family division which arguably they have attempted to make easier.
- If the Planning Commission decides to recommend approval staff does not have any suggested conditions.

Mr. Edgerton asked staff if the storage building was built with the idea of it becoming a dwelling and a drain field was approved for that by the Health Department.

Mr. Pennock stated yes that this was done probably about 10 or 15 years ago. The drain field was never constructed.

Mr. Edgerton stated that the drain field was never built, but was approved on these grades by the Health Department.

Ms. Higgins stated that the Health Department does not take exception to critical slopes.

Mr. Pennock stated that in his experience that they don't as long as there is a perk site there. Typically, if they can make it work they will approve it.

Ms. Higgins stated that the drain field will be done flat even though the ground is sloped.

Mr. Pennock stated that was exactly correct.

Mr. Rieley stated that the ordinance does require that the drain fields be out of the critical slope.

Mr. Pennock stated that our definition of building site requires that you have an area that contains a site suitable for a drain field. Basically, the 30,000 square foot envelope must contain it.

Ms. Higgins stated that they don't require that the drain fields be inside that 30,000 square feet.

Mr. Pennock stated that was correct. Once it is actually built it can be somewhere else on the parcel.

Mr. Edgerton asked if there were other areas on the site where the drain field could go or has anybody explored that.

Mr. Pennock stated that with the new parcel X as shown that is a previously approved family division, which takes up the bulk of the rear of that. Most of that area is also in slopes, although they have a good building site there. This front area, the residue and the proposed parcel B are also steep. Based on the analysis by the engineers a real large percentage of this site of possibly 71 percent might be in critical slopes depending on the topo maps that they used. It is pretty tight site as far as finding another location that is flat for that large of an area.

Mr. Edgerton asked if the Commissioners have any questions for staff on this application.

Mr. Rieley asked to clarify that the drain field encroaches into an area that is as steep as 26 percent.

Mr. Pennock stated that was correct based on the topography.

Mr. Rieley asked if they don't have to go over in the area that is 29 percent, for example, in order to put the drain field in.

Mr. Pennock stated yes, which was according to the attachment provided by his surveyor. Staff is basing their analysis on that.

Ms. Joseph pointed out that there is a special use permit on this property, also. She wished that Mr. Kamptner was here. She was curious as to when they do these subdivisions what happens to the special use permit.

Mr. Pennock stated that the special use permit is for a home occupation, which Mr. Allan runs out of his storage building. Because it is not part of the primary dwelling he had to get a special use permit in order to have a class b, home occupation.

Ms. Joseph stated that now they are subdividing that bit off. So what happens with the special use permit?

Mr. Kamptner stated that the special use permit remains in full force by the fact that it runs with the land. There are some special use permits that have been approved with conditions that have restricted further division. So it left to the option of the applicant to continue the special use or abandon that use and go ahead and divide the property. If this home occupation does not have that condition, then the approval will continue in full force and effect.

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

Richard Allan stated that he had lived in the county for over 18 years. He stated that his parcel has three by right subdivisions when he purchased it. He has wanted to subdivide the parcel so as to grant both of his sons, Daniel and Gabrielle, parcels that they may eventually build on. In the case of Gabrielle's parcel, they did approve that as parcel X that they looked at in July. In July he should have just made the request for both lots, but was just not thinking very clearly. He had always intended that the second parcel would go to his other son with the eventual conversion of the warehouse. It was configured to eventually be renovated as a single-family dwelling. So the effect of his request to the Commission is that they do grant him the family subdivision in the name of his son Daniel. As regards to the question of the critical slopes, he saw a trapezoidal drain field where soils have already been approved by his soil scientist, Roger Nelson, for establishment of the drain field. That was referred to earlier that he had been told by the Health Department that he would be able to have that when he built the warehouse back in the mid '90's. That large trapezoidal area is in fact the 30,000 square feet required by the county to actually site both a dwelling and a drain field and a back up drain field. He has no intention of building another building on this site. There is one building and there will always only be one building on the site. All he wants to do is to use that portion of this area that has already had the soil's science work done on it. He wants that approved for the drain field for the building. That is the substance of his request. He read over the engineering concerns here. But, when they get to point 5 septic effluents this is a natural concern for placing a drain field on slopes. His present drain field is on a slope. As he pointed out in his request for a waiver, the area where this drain field would go is just barely over the critical slope requirement. He would venture to say because he does not need to use the entire 30,000 square feet simply for the drain field that he could determine an area within in this. In fact, you can see if you have the shaded section that he believed that he could determine an area in there that is within the critical slope. He has also tried to point out that the slopes shown are 25.4 percent, 21.5 percent and 26.0 percent here. So they are just a hair out beyond the limit of critical slope requirement. In regards to these points he would request their approval of this second family division.

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

Mr. Morris stated that since this has been approved by the Health Department previously that he did not see that much of a problem with it.

Mr. Rieley agreed with Mr. Morris.

Motion: Ms. Higgins moved, Mr. Morris seconded, to approve SUB-2005-292, Allan Family Division – Building Requirement Waiver and Critical Slopes Waiver Request. .

The motion passed by a vote of 7:0.

Mr. Edgerton stated that SUB-2005-292, Allan Family Division, was approved.

Regular Item:

SP 2005-015 Virginia National Bank at Pantops (Sign #57)- Request for special use permit to allow for a drive-in window for a bank in accordance with Section 24.2.2 of the Zoning Ordinance which allows for drive-in windows serving or associated with permitted uses within HC (Highway Commercial) zoning. HC zoning allows for commercial and service uses; and residential use by special use permit (15 units / acre). The special use permit request is in conjunction with a request to rezone the property from HC to NMD (Neighborhood Model District). NMD allows for residential mixed with commercial, service and industrial uses (3-34 units / acre). The property, described as Tax Map 78 Parcel 16 contains 4.87 acres, and is zoned HC, Highway Commercial and EC, Entrance Corridor. The proposal is located at 1241 Richmond Road (US Route 250E), approximately 200 feet from the intersection of Richmond Road and Stony Point Road (US Route 20N), in the Rivanna Magisterial District. The Comprehensive Plan designates this property as Regional Service and Community Service in Neighborhood 3. (Sean Dougherty)

AND

ZMA 2005-008 Pantops Park (Sign #14) - Request to rezone 4.87 acres (Tax Map 78, Parcel 16) from HC (Highway Commercial) to NMD (Neighborhood Model District) to allow a 42,000 square foot bank and office building and two 22,500 square foot mixed office and retail buildings with proffers. Highway Commercial zoning allows for commercial and service uses; and residential use by special use permit (15 units/ acre). Neighborhood Model District zoning is intended to provide for compact, mixed-use developments with an urban scale, massing, density, and an infrastructure configuration that integrates diversified uses within close proximity to each other. The Comprehensive Plan designates this property as Regional Service and Community Service in Neighborhood Three. Regional Service designates areas for regional-scale retail, wholesale, business and/or employment centers, and residential (6.01-34 units/acre). Community Service designates areas for community-scale retail wholesale, business and medical offices, mixed use core communities and/or employment services, and residential (6.01-34 units/acre). The property, described as Tax Map 78, Parcel 16 is located in the EC Entrance Corridor Overlay District and the Rivanna Magisterial District on the south side of Route 250. This property is the former Moore's Lumber site. (Sean Dougherty)

Mr. Dougherty stated that there was no staff report for this evening, but he did have some handouts.

- Staff has the signed proffers this evening. Staff has an agreement that they discussed last week that was not signed. There is a memo from the zoning administrator regarding the parking calculations. Also, there is his memo just discussing the information that he has received from VDOT regarding the cost of the various pedestrian improvements.
- This is a very complicated rezoning and hopefully they could get through some of the issues this evening.
- The proffers at this point are signed and are generally in order. There are a couple of issues with them. One is a cut off for the process to work towards the dedication of the entire connection of Spotnap Road. That is to be cut off on January 31, 2006. The applicant expects to have all signatories sign the agreement that is associated with the proffers, but the signatory that cannot sign the proffers until January 19 is the Albemarle County Service Authority. But, the applicant, the Service Authority and the others signatories have been in contact and he expects Bill Brent will speak to where the Service Authority stands at this point. But, the January 31 cutoff does only for the dedication and not the improvements. The applicant is still proffering to improve the

entire connection to public standards just after the 31. At this point they have said that they might be able to extend that. They would still improve the road to public standards.

- Proffer #4 has been amended to essentially not designate a location for the pedestrian improvements, but to basically designate a range. That range would be from Richmond Road along Riverbend Drive to South Pantops Drive. If you look at the exhibit it is basically between points A and B. That proffer would apply to any pedestrian improvements that would be determined at a later date to be the best location. Point A has no pedestrian improvements whatsoever. Point B has a pedestrian signal, which means you can press the button and get a designated time for you to cross the street. Point B though contains no cross walks. This proffer allows enough flexibility for the location to be determined with perhaps a little more study. But, the other thing that was clarified in his memo was the cost for pedestrian improvements and essentially a pedestrian signal is $20,000. The total cost to provide a pedestrian signal and striping for points A and B, which would cross on one corner to the other, would be $21,100 or $21.700 depending on the standard for the cross walk. VDOT has two different standards. One would just be your conventional bars at least 6" and then pavement every 6". The other would be 24" wide diagonal stripes, which are a little more drawing to the eye that would be probably be more respected by motorist a little better.
- In terms of the agreement, the applicant does not have two of the signatories this evening. One is the Service Authority and the other is Dr. Hurt. They do have an email from one of Dr. Hurt's representatives saying that this is anticipated to be signed in the next few days and they will try to provide that as soon as possible. But, they don't have that right now.
- In terms of the Code, it is generally in fine shape. But, there were a few revisions that were sent to the applicant, which have not been made but have been anticipated prior to Board action on this. But, this was prior to his knowledge of any requirements from the Board. So it is sort of difficult to hold them to that. But, he shared with them several suggestions made by the Commission and by Mr. Kamptner after the first hearing. They anticipate making those, but they have not made them yet.

Ms. Joseph asked what those changes were.

Mr. Dougherty stated that some of the changes were those the Commission had forwarded to them, but they are very minor editing things. Most of them are consistency things and are not substantive issues whatsoever. He offered to forward a copy of the email to her that he sent the applicant last week.

Ms. Joseph noted that was not necessary because if they were acting on it tonight she wanted to be aware of any substantive changes.

Mr. Dougherty stated that the changes were very small things. Apparently the plan does not reflect a public section, which was also requested of the applicant. This has gone through an evolution from a private connection to now a full dedication. The applicant was asked if they could reflect those changes today for this evening and they were not able to do that. But, essentially they realize that they need to do that and will do that before the Board hearing. There are two things that need to be resolved. One is the time frame and the sort of constraint that the January 31 cutoff for dedication exhibits for the whole process. The other is that attachment A that goes along with the agreement is really more of a schematic diagram showing the connection and the Service Authority would be more comfortable seeing this taken to a further engineering. However, the site plan for this proposal will require that whether the road become public or private that the connection would be engineered to VDOT standards. But, what the Service Authority is desiring is a diagram or a plan that they can take to the Board of the Service Authority to illustrate exactly what they are talking about with some preliminary engineering considerations done to make sure that everything is in order for that connection. So with those two things the proffer not being constrained to January 31 and the exhibit A being updated, staff recommends approval of ZMA-2005-008. With respect to the drive through, staff has no objection to that and recommends approval of the drive through as well.

Mr. Edgerton voiced concern about the sidewalk being constructed only on the western side of Spotnap Road. He noted that the extension over the property is not owned by Virginia National Bank, which is not part of the rezoning, and part of that is providing access to the parking lot behind the Service Authority, but the sidewalks are on the other side of the road.

Ms. Higgins asked what relationship the agreement to dedicate has to the proffers. She felt that if it was signed tonight that they would be looking at this differently.

Mr. Dougherty stated that it paves the way so to speak for all of the conditions of the proffers to sort of fall in line for the public dedication.

Ms. Higgins noted that the proffers have been modified to say that if it was not done by January 31 the whole thing is null and void.

Mr. Dougherty that was true for the dedication portion.

Ms. Higgins stated that she could support the application, but if it was not going to be dedicated to public use and there is a sunset clause on the goal to get it there, then what do they have to cause the applicant to make it happen.

Mr. Dougherty stated that the applicant's representative have indicated some willingness to extend this. They are just concerned about time and were aware of the Service Authority's Board date and thought that it would work. But, of course, for us it raises a red flag because some sort of issue could come up and the Board could look at the plan and say they have an issue with something that was unforeseen and January 31 rolls around. Staff has let the applicant's representative know that this is a very constrained time frame. The applicant has identified some need to stay on schedule with their ideas of where this project is going. He added that they are still proffering to build the entire connection as to a public standard. What they were looking at on November 22 was a private connection. So what they would get is a public standard connection, but not the dedication.

Ms. Higgins asked how they could upgrade and build the entire connection to a public standard, which means upgrading part of Spotnap Road, without the permission of those property owners. She stated that they can't.

Mr. Dougherty felt that it would require Dr. Hurt's permission.

Ms. Higgins pointed out that even a private road is built to a VDOT standard, but maybe not a public standard because it was built some time ago. They will be required on their section to do it. But, it can't be dedicated to anyone. They cannot perform to do the other section unless Virginia Land and the Service Authority agreed. They can't even make the connection in the configuration shown without the Service Authority's approval.

Mr. Cilimberg pointed out that they can make the connection because they have the easement.

Mr. Dougherty stated that Dr. Hurt has demonstrated willingness for them to use his property to the west if they can't go through the Service Authority's parking lot.

Ms. Higgins asked if he could not get around to signing an agreement before tonight, and Mr. Dougherty replied unfortunately no and that the applicant might be able to respond to this.

Mr. Edgerton noted that he had sent an email around to the Commissioners in which the applicant had sent an email through Frank Cox that they are not interested in any further deferral and they want action tonight. There being no further questions for staff, he opened the public hearing and invited the applicant to address the Commission.

Frank Cox, representative for Virginia National Bank and Bill Dittmar, the owners of the property, asked to add a couple of things that might go directly to Ms. Higgins' concerns about the dedication issue and the time frame dedicated to it. They certainly appreciate Mr. Dougherty's concerns about the time frame, but they have their own concern. They want this thing done. They are going to build the same road in the same alignment within an existing easement regardless of whether someone that they have not control over signs the agreement. The agreement is one that has been carefully vetted with all of the parties over the last ever how long they have been doing this. They have been going back and forth this week.

He pointed out that he had a note from Dr. Hurt, which he would read in a few minutes. But, the bottom line is that he believed that they have satisfied at least in principle all of the concerns posed by the Service Authority's engineers relative to how they might tie into the area where there existing entrance actually sits right in the middle of this easement. So there are some engineering things to deal with that they have not been able to address because they have to get all of the engineers together to do that. They did not have any intention of doing that as part of the zoning. They have shown them an exhibit and he thought that the Service Authority might want to speak to that tonight. Relative to the time frame, they put the time frame in there because they want to get the deal done. But, the proffer voiding does not at all relate to anything to do with their commitment to construct the road exactly to the standard that they would otherwise construct it to if in fact everybody signed the agreements today.

Mr. Edgerton asked if he understood Ms. Higgins' concern that the County is vulnerable to the deadline not being met. Once you put that in there what value does this document have?

Mr. Cox asked if they would like to pick another date.

Ms. Higgins stated that her concern was not about the standards because those are givens. She was concerned that they would actually be providing an interconnection for public traffic on a private road. It did not matter who the people are that own that road. The Service Authority is one of those persons who might say tonight that they support it if it is dedicated to public use. But, then what will the County do five years from now when the road deteriorates because the County supported the interconnection and you have done your part.

Mr. Cox stated that was a principle that had already been taken care of because all of the pre-existing easement agreements have directly placed responsibility for the maintenance on that on the affected property owners. If, for example, the Service Authority for whatever reason does not want to sign the agreement, then the Service Authority and the various property owners, including us, would be responsible for maintaining that road in perpetuity. That is a part of the existing easement agreement. Dr. Hurt was very careful to make sure that the property owners were responsible. The other thing that he wanted to emphasize was that in proffer #2 the Commission had a concern last week about making sure that what you were fishing for was a complete redo of the existing Spotnap Road if it was deemed necessary to do more than just put another topping of asphalt on it and leave it. They have written that proffer in such a way as it covers all of those issues including the concern about drainage easements and assuring that those structures were up to snuff. Then the pedestrian cross walk proffer was changed in accord with some suggestions that were made by staff today. He felt that they have addressed those to his satisfaction. They received Dr. Hurt's note today at 5:30 p.m., which says, "We are in receipt of the dedication agreements for Spotnap Road and have signed the dedication to VDOT for the right-of-way within the next two to three days as soon as all of the signatories can be acquired." In one of the earlier agreements there was a deceased person that was mentioned as a signatory. They will deliver the executed documents to David Pettit as soon as they are signed.

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

Mr. Rieley asked why if all of the pedestrian improvements exceed $20,000 or in excess is the number still $15,000 in the proffer.

Mr. Dougherty stated that VDOT got back with him with the striping costs yesterday and the pedestrian signal costs today. He had not conveyed this information to the applicant's representative until just before the meeting what the cost was. Therefore, he felt that they would have to defer back to the applicant. Staff feels with the whole dedication and the improvements in place if that all happens with the connection that the $15,000 seems to be sufficient. But, he felt that they could ask the applicant if they were willing to match what the cost for those improvements would be with the proffer.

Mr. Rieley stated that it was not a whole lot of money, but the last time they looked at this they did not have those figures. But, now they have something solid to refer to.

Mr. Cox stated that when they initially talking about talking about pedestrian improvements they were not talking about bringing the existing Spotnap Road up to total VDOT standards, which in fact is a fairly

appreciable cost. Just the cost of running that through the County and VDOT system is going to be a large amount of money. He pointed out that Mr. Pettit wanted to address the time frame issue.

David Pettit, an attorney representing the applicant, stated that he was the author of the agreement to dedicate. As you can probably tell from that document they have attempted to accommodate the interest of a lot of different parties in that agreement and to satisfy ourselves and our commitment to proffer the dedication they would have the agreement of the other parties, whose consent is necessary, because they did not want to proffer something that they could not deliver. They do think that they have the right to improve the roadway because they are parties to the easement. That applicant benefits the applicant's property all the way from Route 250 up to South Pantops Drive. They certainly can improve the part that is on our property to public road standards and they think that they have the right to improve it all the way to South Pantops Drive. That is why they are comfortable proffering that. They cannot without the consent of the other parties do the dedication. They don't see any way around having some contingency for that. They have attempted to draft language that made everybody comfortable, but they might have made the Commissioners uncomfortable in the process. They are not wedded to a particular time frame. They certainly want to move forward with this process, but the last thing they want is to not have this road be dedicated and accepted by the state because that means that they participate in the maintenance in perpetuity. They are going to pay to build it and they want it to be dedicated. If some different time frame would make the Commission more comfortable, they could certainly consider that. But, their main interest is in being able to move ahead with the project, including getting the consent by all of these parties, who have been cooperative with us. He felt that they were on the same page as the Service Authority and Dr. Hurt. Their other interest is in not having a legal obligation under the proffer to do something that they are not in the position to deliver on our own. That is why they need this contingency.

Mr. Edgerton stated that it appears that he had this kick out clause on several of the proffers. It says on proffers 1 that if written consent is not obtained from the County Service Authority owner by January 31 that nothing is going to happen. Proffer 2 is the exact same thing that nothing is going to happen. Therefore, he was worried that there is really no incentive for the applicant to pursue this. They are making a promise and saying if they can't get all of the agreements by the end of next month, then they don't have to honor the promises that they made. He stated that he might be reading it wrong.

Mr. Pettit asked to explain the language because that was absolutely not what it says. They have proffered under these proffers to construct the extension of Spotnap Road to VDOT standards and to upgrade existing Spotnap Road to VDOT standards. Those proffers are unconditional. There is no kick out on those. The only portion of the proffer that is subject to getting consent by January 31 is the dedication to public use because that is the part that they don't feel they can accomplish without the participation by the parties. They think that they can build, but they know they can't dedicate it unless the other parties agree. That is why they almost have to have that extension. But, he would assure the Commission that since they are committed to spending money to improve up to VDOT standards regardless, which was an unconditional commitment. It does not benefit us to not dedicate it to public use. They want it to be dedicated to public use. If they had the signatures of these parties to that agreement they would happily take that provision out today. They are willing to adopt a time frame that might be more comfortable to the Commission because they were not looking to get out. This was drafted with that date because they want all parties who need to consent to this to be focused on a tight time frame so that they don't proceed not knowing whether they are going to consent or not. They know that it is in their best interest for the dedication to take place because that relieves them of the obligation to maintain the road and turns over the regulation of the road to governmental authorities and they don't have to deal with regulation growth. The goal is to get everybody together at the right time and that is sooner rather than later. But, if that creates a real problem for the Commission they can modify that deadline.

Mr. Rieley asked if February 28 would be sufficiently short of a time frame to feel that you are moving your project along.

Mr. Pettit stated that the applicant would be comfortable with February 28 and that would be satisfactory.

Ms. Higgins pointed out that all sections of a road done on a site plan are done to VDOT standards.

Mr. Rieley asked Mr. Kamptner what is opinion was. But from my perspective, with the exception of changing "which" to "that", he thought that these seem to say exactly what Mr. Pettit said that they said.

Mr. Kamptner stated that he interpreted the exceptions in 1 and 2, as explained by Mr. Pettit, is that they are only stating that if they can't get the consent by a certain date the only obligation that they are excused from is the obligation to dedicate to public use. The obligation to construct the road to the extension and upgrade Spotnap Road to public road standards is firm. It does raise one issue. Because of the tight time frame, they started looking at this a little bit differently. There is a question if the dedication falls through, but three years from now it becomes possible, they need to assure that the road is maintained or upgraded to VDOT standards so that VDOT will accept it if it is three years or five years down the road. That may be one thing that needs to be closed.

Ms. Higgins pointed out that since this says that it is null and void after that date then that goes off the table.

Mr. Kamptner stated that was only the proffers. It may be that three years from now there is a public need that this becomes a public road or the parties are no longer interested in maintaining it. They could reach agreement now. But, two or three years down the road if they reach that agreement, the applicant or the owner is not compelled by the proffer, even if it was built to VDOT standards and it was being maintained as a private road.

Ms. Higgins stated that it could not say null and void then or it would relieve that responsibility.

Mr. Kamptner stated that it could say "null and void." The road being dedicated and accepted into the VDOT system is no longer within the scope of these proffers.

Mr. Edgerton asked if the deadline was not met, then the applicant would not be bound by proffers to dedicate. But, if three or four years down the road they wanted to dedicated the null and void part of this statement would not preclude if they wanted to go back and get a dedication.

Mr. Kamptner stated yes, they could dedicate it down the road. The concern that the County or public might have is that it would be better to reach the agreement now. They want to be certain that the road that is ready to be dedicated three years from now is up to the standards to be accepted.

Ms. Higgins stated that there is a significant soft cost to getting this done. There are "as builts" that have to be done. There are engineering calculations and "as builts" that were probably were not done because of the age of the road. There is the coring of the road that has to be done and other things like that. Those items do not fall within this description and that point is that if it were three years down the road. It is almost like she would have felt better if it said if you can't get the cooperation of the property owners, then you don't have to do it rather than putting the date on it. In essence, they have done the same thing. She wanted to support the request, but this concern makes it a Catch 22 because they almost have to treat it as if the proffer does not exist.

Mr. Pettit stated that the applicant is willing to remove the date so that sentence would then read, "If the written consent to the dedication to public use the proffer herein is not obtained in proffer 1 from the Albemarle County Service Authority, owner of TMP 78-15C, delete by January 31, 2006 the portion of this proffer relating to the dedication of public use shall be null and void as to portions located on 78-15C."

Mr. Rieley stated that he was confused if he removed the date because it could make it null and void tomorrow.

Ms. Joseph suggested that they get rid of the entire sentence.

Mr. Morris suggested that they move it on with February 28, which sounds very reasonable.

Mr. Rieley asked if they would feel better if their proffer reflected the entire amount of $20,000 for the pedestrian improvements.

Mr. Dittmar agreed to change the proffer as requested by Mr. Rieley to $20,000 to cover the cost of the pedestrian improvements.

Mr. Thomas asked Mr. Pettit if they would agree to delete the null and void language from the proffer.

Mr. Pettit stated that they would not agree to take out the null and void language because they cannot agree to something that is out of their control.

Mr. Rieley pointed out that Mr. Dougherty raised the issue of the revisions to Attachment A. He asked if they had any problem with agreeing to do that before this moves to the Board.

Mr. Pettit stated that they would agree to do that because it is their expectation that can be done very quickly.

There being no further questions for Mr. Pettit, Mr. Edgerton asked if there were any other members of the public that wanted to address the Commission on this application.

Bill Brent, Executive Director of the Albemarle County Service Authority, stated that the Board of Directors of the Authority took up this issue on December 15. They requested certain changes to the proffers and to the proposed agreement from the applicant. The applicant has accommodated all of those requests without any exception. The only remaining concern with the Board is having an exhibit, which is being referred to as exhibit A to this agreement, which more precisely shows the land that the Authority would be expected to dedicate. He has been told that plan is in the process of being prepared now. He did not expect what they would see in a more precise drawing to vary in much detail from what they have seen already, but the Board before it is willing to really say that they will dedicate property would like to see a plan profile indicating somewhat more closely what it is exactly expected to be dedicated. With that in hand, he would expect that this agreement would be agreed to on January 19, which is the next regularly scheduled meeting of the Board of Directors. He did expect approval at that time.

Mr. Edgerton asked if there were other members of the public who wanted to speak. There being none, he closed the public hearing to bring the matter back before the Commission.

Motion: Mr. Rieley moved, Mr. Craddock seconded, to approve ZMA-2005-008, Pantops Park, with the changes that Mr. Pettit has suggested for the proffers including the following:

- The deadline for all signatures to the agreement being changed to February 28;
- The revision to Attachment A being made before the Board meeting; and
- The pedestrian improvements proffer being raised to $20,000. .

Ms. Joseph stated that she could not support the request with the null and void language still in there. She felt that there were so many things that could happen between now and February 28 that might prevent the Service Authority from signing the agreement. It is extremely important for this to be a public road, which was what they have been trying to do in many areas to provide these public road connections. She felt that it was a good plan, but it was also a rezoning request to approve and elevate this property. Financially, this property will be worth a whole lot more once this rezoning occurs. She felt that they were asking the County to do something that makes her feel extremely uncomfortable with the deadline and their date.

Mr. Edgerton stated that Mr. Rieley had been right on target that it behooves all of the parties unless they want the burden forever to be theirs and be a private burden, it behooves them to go ahead and do what they can to dedicate. From our perspective, whether it is a private road or a public road, as long as it is built to certain standards really is probably irrelevant.

Ms. Joseph disagreed because you can put up a sign on a private road that says no trespassing. Therefore, she felt that it was really important for it to be a public road. The road that connects in Carriage Hill says that this is a private road and don't come through here unless you have business here.

Ms. Higgins stated that she wanted to support this application, but the reality is if the applicant feels as comfortable as they do that the Service Authority and other parties will sign the agreement that they

would remove the null and void statement. They are being asked to be the party that has the confidence and it is totally beyond our control to make them pursue this at this time.

Mr. Kamptner stated that Ms. Joseph's concerns could be somewhat mitigated if it is made clear that the extension in the agreement to dedicate falls through, even though it may be privately maintained, if they commit that it will be open to the public. In discussing private versus public, they are talking about who is going to be responsible for maintaining it, recognizing that some public roads, such as the roads to Glenmore, have restricted access.

Ms. Joseph stated that one of the things that she was responding to was that when she spoke to Mr. Brent one of his concerns was all of that parking along that road and how difficult for those trucks to maneuver to in and out with the parking. If it were a public road there would be some means of getting those people off of the roadway parking there. The police could come in and enforce the parking along the road. If it is a private road she asked who will be out there telling the people to move their cars. Those are the type of things she was responding to.

Ms. Higgins felt that by approving this in this manner, they were creating a problem for in the future. If it could be solved before the Board meeting, then may be the concern goes away and they can take action.

Mr. Morris stated that he understood their concerns, but would ask to move the question.

The motion passed by a vote of 5:2. (Commissioners Joseph and Higgins voted nay.)

Mr. Edgerton stated that ZMA-2005-008, Pantops Park, will go to the Board with a recommendation for approval on January 11.

Motion: Mr. Morris moved, Mr. Rieley seconded, to approve SP-2005-015, Virginia National Bank at Pantops, with the conditions as recommended by staff.

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

The motion passed by a vote of 7:0.

Mr. Edgerton stated that SP-2005-015, Virginia National Bank at Pantops, will go to the Board with a recommendation for approval on January 11.

Ms. Joseph pointed out that they did not discuss the parking issue as outlined in Ms. Sprinkle's memorandum. She suggested that at some point the Commission should discuss it. Staff is asking somebody to come up with parking calculations and then come up with them again and then come up with them again. The parking calculations come in with the rezoning, when the site plan comes in and then again if any new use comes in and it is looked at over and over again. She felt that it was very important for the Commission to discuss this issue at some point in the future.

ZMA 2005-002 County Fire Station at UVA Research Park (Signs #22,23,24,44,70)
PROPOSAL: Rezone 1.16 acres from RA - Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre) to PDIP (with proffers) - Planned Development Industrial Park - industrial and ancillary commercial and service uses (no residential use), and rezone 477.67 acres from PDIP to PDIP (with amended proffers). The 1.16 acre piece of land would be added to the UVA Research Park. The property is also located in the EC Entrance Corridor which is an overlay zone to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access.
PROFFERS: Yes

EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Industrial Service -- warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre).
LOCATION: The lands proposed for rezoning are a portion of Tax Map and Parcel 32-18 and Tax Map and Parcel 32-6A located on the north side of Airport Road (Route 649) approx. one half mile west of the intersection of Airport Road and Route 29 North, and more particularly described as follows: (1) the lands to be rezoned from RA to PDIP are a portion of Tax Map 32 Parcel 18 comprised of a 1.16 acre triangular-shaped piece of land beginning at a point along Tax Map 32 Parcel 18's shared boundary with Tax Map 32 Parcel 6A at a point that is 888 feet north of Tax Map 32 Parcel 18's southern boundary line at Airport Road, thence 168 feet N 59º 48' 41" W, thence 600 feet N 30º 11' 19" E, thence 623.1 feet S 07º 52' 53" W, back to the starting point (hereinafter "Parcel A"); (2) the lands to be rezoned from PDIP to PDIP (with amended proffers) are Tax Map 32 Parcel 6A, a 477.67 acre piece of land, a portion of which abuts and is east of Parcel A.
MAGISTERIAL DISTRICT: Rio
STAFF PERSON: Elaine Echols

Ms. Echols summarized the staff report. This is a request for an amendment to the existing PD-IP for what use to be called the North Fork Research Park, but now it is the University of Virginia Research Park. It is now the University of Virginia Foundation and it use to be UREF. It is the same place and same park. They are looking to add a little over an acre to the park so that the county can have a fire station on a parcel in the park with this extra acreage. The existing zoning is RA. The proposal was for PD-IP. The North Fork Research Park was approved as a PD-IP in 1996 for 525 acres. A blown up version of the details of the fire station is on the board. It shows the building layout and the circulation and how things relate to the proposed Lewis and Clark Drive. There are also some green colors on there that were added to show where the location of the eastern and western buffers are and the area for the rezoning and what happens to the buffer. All of the buffers are 50 feet on the plan. Now there is going to be a change to that, which was discussed later in the staff report. In general staff finds conformity with the Comprehensive Plan. There are a few areas where staff could not find some conformity. Staff will discuss those areas. She assumed that everybody has read through the staff report thoroughly and will ask about any questions that they might have. What staff would like to go into right now are the outstanding issues that exist for this particular project.

The first one has to do with the buffers. The original rezoning proposed a 50 foot buffer to the east and a 50 foot to the west. The buffer to the east was very important to the residents of Airport Acres. The buffer to the west was in many ways trying to establish some distance between an industrial district and what they considered at that time as a RA district or sort of a residential zone. Through buffering they were able to establish some compatibility. What has happened to the eastern buffer here really is not the fault of the fire station, but it is more a result of final road plans for Lewis and Clark Drive. Lewis and Clark Drive was approved with the original rezoning to extend from Route 29 all the way to Airport Road. It is has been acknowledged in subsequent plans as part of our parallel system. When it goes through this very narrow section of this existing parcel, which is part of tax map 32, parcel 6A; it comes fairly close to the buffer. The illustration in the plan and the plan on the wall shows grading outside the buffer. But, that is a little misleading because there needs to be some disturbance of that buffer in order to put in the erosion and sediment control devices. Jack Kelsey, County Engineer, is present who has done extensive work on that section of road and what needs to happen in there. He can answer any questions about the buffer. The bottom line is that staff does not see any way for this road to be constructed as it was originally planned without some modification to that buffer and some disturbance. The proffers that have been made by the applicant would be to do some replanting.

Mr. Edgerton stated that his understanding was that this parcel, 32-18, has been acquired.

Ms. Echols stated yes, it has been acquired.

Mr. Edgerton asked if it was acquired after the design of Lewis and Clark Drive, which was constricted in this narrow piece.

Ms. Echols stated that she did not know, but that Lewis and Clark Drive was on the existing zoned parcel and not on the RA parcel. So the design was based on the existing rezoning plan. But, she could not tell him about the timing.

Mr. Edgerton asked if the engineering of Lewis and Clark Drive at a point where it could not be adjusted to pull it more over on to that.

Ms. Echols stated that there were some other things that relate to it including the wetlands and some road geometry that would prevent it from being moved over. The biggest thing is that the entrance has been set with the Airport Road project. So you have to make a curve to get onto parcel 18. Of course, that would require an amendment to the plan. But, you cannot curve past the wetlands and meet VDOT geometrics. The horizontal curvature just does not work. Staff has looked at a lot of different ways to try and prevent this disturbance, and they can't seem to get there from here because of the other fixed things that have already been done. But, she would invite him after she makes her presentation to ask Jack Kelsey about more of the details about what the options are. One of the things that the reviewing staff believes will be important to put in the proffers, but they don't believe that they are quite ready yet, is some language to the effect that the most minimal disturbance possible would take place and that would be at the discretion of the County Engineer. So they would be able to look very carefully at the road plans and if the engineers that are preparing those road plans bring them to us with the total wiping out of the buffer that would not be the case. It would be the most minimal disturbance possible. There is also replanting that is proposed. The buffer is interesting on the eastern side because it really varies. There are some places where there is very little buffer. There are places where there is a fairly thick buffer. There are other places where there is a fairly thick buffer on the lots that are behind the houses of Airport Acres, but are not exactly on the UVA Foundation property. So the buffer itself varies in through there. There is also some shrub vegetation in there and there is some real nice vegetation.

Mr. Rieley asked if staff was speaking exclusively of the eastern buffer.

Ms. Echols stated that she was speaking about the eastern buffer right now. There are proffers that have been made by the Foundation that staff believes needs to be modified. But, staff does not believe that there is a good way to avoid the disturbance as much as they would like to see otherwise. The western buffer exists around the park, but the vegetation is different on the western side. There is not much in this general area. Further north there is a lot of trees. But, in this general area the disturbance really is going to be more about grading in that area. Staff is not bothered by that in particular. There is a proffer that would allow for a disturbance. If it was viewed as being important in the site plan process for there to be landscaping that is put back in there, then at that time it would be put in. It will be shown on a site plan. But, right now what is happening is that property is abutting RA property that is shown as industrial service. In the proffers the expectation is that when the adjoining property is rezoned to an industrial designation, of course, that is based on our existing Comprehensive Plan and they know that Places 29 is happening. But, assuming that industrial service is to remain in this area, and then when that property gets rezoned the buffer would go away. That makes sense because you would then have a full part of an industrial district there. You would not want any buffering of industrial uses one from another. So that is why staff is not terribly concerned about the western buffer. Staff believes that the plan that the Commission received was not really clear on showing how that western buffer works, especially in relation to the property to be rezoned. Staff is hopeful that illustration on the board can show them what the issues are with the buffer. The outstanding issue relative to the proffers in that area has to do with how wide that buffer is. When this was originally rezoned 50 foot buffers were looked at as being appropriate. She thought that they were looking at buffers in the development areas a little bit differently now because of the amount of area that they take up. They are looking at them more in terms of are they really needed and why. It is not essential that it be a 50 foot buffer from staff's perspective on the western side. The application plan shows 50 feet, but the proffers show 20 feet. Staff wants them to be in line, but they are not bothered by a 20 foot buffer. Staff feels that 20 feet allows enough for the screening of objectionable uses. In the long run there might not be any need to screen there at all. But, what staff is trying to do right now if nothing else happens to the adjoining property that they would preserve that opportunity with a 20 foot buffer. Staff can support a 20 foot buffer. Staff can support the 50 foot buffer. Staff can even support less in there. But, staff feels that 20 is an appropriate number. That needs to be rectified between the proffers and the application plan.

Ms. Echols continued that the sewer was another issue that they want to call the Commission's attention to. She knew it was something that they were interested in based on the emails received. She was telling Mr. Edgerton that the lettering on these plans came late in the day and it was her lettering. Therefore, she apologized for the quality of the lettering. If you look at the aerial photo the Commissioners will see a sewer illustration. Staff outlined in black the three properties being 18A, 18 and 6A as well as a good chunk of the rest of the park. Up at the top there is a note that says gravity aided sewer. That is where the existing sewer is located for the research park. There are three options for serving this property with sewer. One is gravity sewer from the north. The other two are with forced mains down to the south. One is an 8 inch sewer that is near the Post Office distribution facility. Another one is near Airport Acres. Both of those have issues that relate to timing because there are easements that would need to be acquired and, of course, there are pump stations that would have to be put in. The gravity sewer makes the most sense in terms of serving this. But, they can see that it is a fairly long distance to get to the site. For those reasons the applicant has asked that septic systems be available to be used in the short term. From an engineering perspective, it makes sense to hold off on this because of the amount of cost involved and because you don't know exactly where you are going to want your sewer to go in the end. But, from a policy perspective there is a different story. That is that in the development areas we are asking people to provide public sewer to all uses in the development areas. The exception to the rule frequently comes with religious institutions who are asking for special use permits. And almost always it is about an addition to an existing building and not a brand new use that could use a septic system. There are compelling reasons on both sides as to why use of a septic system makes more sense than a sewer and also why a sewer extension in order to be consistent with County's policy for serving developments in the development area with public sewer are appropriate. Staff has laid those out some and feels that the Commission may have some more questions about that. Mark Graham can help us answer questions related to engineering aspects. That is the situation. The extension of the sewer also has tremendous cost associated with it. She believed that the lower cost related to the extensions from the south with the pump stations rather than from the north. That is a much more expensive solution to come from the north down through the creek. That is something the staff would like for the Commission to discuss.

Ms. Echols continued that interconnections are another issue that staff wants to draw the Commission's attention to. If they look at the plan and see the parking lot to the north and to the west of the fire station there is a parking lot. Somewhere in this area between the parking lot and probably the end of the green median strip that is illustrated on that plan there is likely to be an interconnection to the adjoining parcel. An interconnection needs to be made. Lewis and Clark Drive has four lanes and there are going to be median strips in there. Some of which will be closed. So what staff is trying to do is ensure that the fire trucks have adequate circulation from Lewis and Clark in through their site. There are different options that have been discussed as late as yesterday as ways to deal with how the eventual circulation will take place and where interconnections will occur, and where openings and cross overs would be. Jack Kelsey will be able to answer any additional questions that relate to it. She felt that it was fair to say that is an unresolved issue that the county is interested in seeing resolved and the applicant is interested in seeing resolved. But, they have some hesitation about building public roads from Lewis and Clark all the way over to their adjoining parcel. If the Commission will remember reading the staff report for the research park rezoning that was deferred. They talked a little bit about those issues. She asked that they reflect on that and be able to answer questions. The rest of the concerns such as architectural control are not huge, but they are out there. One of them is making sure that the proffers address architectural controls adequately. The original proffers allowed for the University Foundation to provide input to the county on what the appearance would be on the building. The current proffers say that they will have architectural control all based on their guidelines. The County is negotiated on what the proper level of control would be. Right now they think that the façade is appropriate. They have said that they think that other areas are appropriate. It is fair to say that the county that is dealing with the fire station, and not the reviewing staff, but the aspect of the county dealing with the fire station and the Foundation is still trying to figure out what the best place is for that one. Hazardous materials – training is another issue that still needs to be worked out with our Fire and Rescue People. Commitment to the plan – staff believes that is there, but just is not written down. That is not a huge issue. A lease arrangement is something that you wrote about and possibly staff can make that clearer. The county's perspective has been the end user. If they would be able to give UREF back any land that they did not use that was not required for the fire station. The proffers allow for five acres. The county has said that they don't need to have the full five acres for the fire station. So in order to retain the ability to establish the lot that is needed for just the fire station

the county has been amenable to a lease arrangement. This lease arrangement is not written into the proffers, but staff has given some information in the staff report that describes it. What would happen is that the county would lease the area that is shown on the plan. This is tied into sewer. When a sewer line is extended down for any other use along Lewis and Clark, then the county would be connected to the public sewer and the county would then establish the area of the land that it wanted to have for the fire station, which would likely be less than what you see on the plan. It is an arrangement that is adequate to the part of the county that is doing the fire station parcel. Reviewing staff does not see issues with it because they feel that the county is protected with it. There are people here who can answer in detail many of their questions. Staff will answer any questions, but will rely on them. The reviewing staff is unable to recommend approval right now because of the number of outstanding issues. It is not because they don't want the fire station. It is just because staff feels that they need to tidy these things up and have things in order before they can make a good strong recommendation for approval.

Mr. Edgerton asked if there were any questions for Ms. Echols.

Mr. Thomas asked if there were residences to the west of that parcel.

Ms. Echols stated that the residences were more to the south.

Mr. Thomas asked if there were no residences between the southern most part of it and Airport Road.

Ms. Echols stated that there were some, but they were up near the fire station. She did not believe that there were any in the property to the west because it also has an industrial service classification on it. The majority of that land is also zoned industrially. A small portion is zoned RA, which where the church is located.

Mr. Thomas stated that Mr. Edgerton had asked the question about moving the road to the west. Who set the location for the road going into the research park coming off of Airport Road?

Mr. Cilimberg stated that the original location as set in the rezoning for the research park. Airport Road improvements were designed to allow for the cross over as it was planned and approved in the research park rezoning.

Ms. Joseph asked if Hollymead Town Center have provisions for a fire and rescue station, too.

Ms. Echols stated no and that she had reviewed the proffers today. They have been thinking about how you establish the different community facilities in this particular area. They already had the proffer for the fire station. There is a library site that they are still trying to locate up there. But, the fire station is fixed.

Ms. Joseph stated that she had a couple of questions for Mr. Kelsey about the road itself. She noted that there was some grading down there near the eastern buffer. She asked if they used a retaining wall would that eliminate getting into that eastern buffer.

Mr. Jack Kelsey stated that a retaining wall could be put in a right-of-way, but it was at the discretion of the Highway Department because essentially it would be a structure that they would have to maintain. If they put a retaining wall in there to try to fit enough room in there for erosion control facilities they would probably end up with a retaining wall that was 14 to 16 feet high at its highest point and about 200 feet long. Essentially they would be replacing a large section of a 2:1 embankment with a retaining wall.

Ms. Joseph stated that they would then need more of a buffer.

Mr. Kelsey stated that more of a buffer would be needed. But, they would end up having guard rail on top of it.

Ms. Joseph asked what the distance is from the gravity fed line to this site because it looks pretty far.

Mr. Kelsey stated that he had not scaled the distance for the sewer line itself.

Ms. Joseph asked if they know if it is all gravity from this point back to 29.

Mr. Kelsey stated that Mr. Graham may know about that. Unfortunately, he has not had much involvement in the sewer conversation.

Ms. Higgins noted that there have other similar situations in the county where a temporary septic has been used.

Mr. Rieley asked Mr. Graham to address the questions about the sewer.

Mr. Mark Graham, Director of Community Development, stated that it can be served by gravity and as he recalled it was a little over a half of a mile. The one issue you have is that until the site is developed out there you could potentially have some fairly deep sewer to make it gravity fed. That is always an issue because until you get into the design he could not tell them how deep it would be.

Ms. Joseph stated that they were talking about the cost of this. She assumed that the county assumed the costs for the building and the site work and the access to this.

Mr. Graham stated that as he recalled the previous proffer was for a five acre lot, which means that the service would be provided. Now it is his understanding that by the proposed proffers that at the time that University Foundation would develop the site that they would be responsible for bringing the public sewer to this site.

Ms. Joseph stated that the county is responsible for developing this site.

Mr. Graham stated yes, the county would be responsible for developing this parcel.

Ms. Joseph asked if that includes access to and the septic. So there will be some kind of temporary entrance from Airport Road.

Mr. Graham stated that the entrance will be with the road that they see on the plan.

Ms. Higgins asked who would be building that.

Mr. Graham stated that the University would build the road.

Ms. Joseph asked if that was happening concurrently.

Mr. Graham stated yes, because the site plan cannot be approved without the road.

Ms. Higgins stated that they could build a two-lane road on one side up to the fire station.

Ms. Joseph asked if what she saw on the plan was what they would get.

Mr. Graham suggested that Mr. Kelsey speak to the final road.

Ms. Joseph stated that she was curious as to how this thing is going to phase itself.

Mr. Edgerton stated that the original University proffer was for a five acre site. They have a little bit less area. He asked if sewer was included in that proffer to that site.

Mr. Graham suggested that Mr. Kamptner speak to this. It called for a five acre lot and you can't subdivide the lot without providing water and sewer to the lot.

Ms. Higgins stated that it would have to specify public versus septic.

Mr. Graham stated that it was in the development area. He asked if they would ever approve a subdivision without the public sewer.

Ms. Higgins stated that the Service Authority has a standard that says that if sewer is reasonably available.

Mr. Graham stated that is the question.

Ms. Echols stated that there were actually two things. There is a site plan section and then there is the subdivision section. The Subdivision Ordinance recently changed so that whether or not it is reasonably available is actually at the discretion of the Planning Commission. It just changed. The site plan section is different. It allows that determination to be made by the planner or the Current Development person and it is based on costs. So if this was just a site plan and there was no rezoning involved, the costs would be determining factor. But, because there is a legislative action involved it is discretionary and if it were just a subdivision it would still come before the Planning Commission. She offered to answer the question about the road that was asked. It is proposed as a four lane road with only a one-half section to be built now. Staff wondered whether or not there would be any way to avoid the disturbance with just the one-half section and there is not.

Mr. Edgerton stated that one of his thoughts was that the time to pout in the sewer lines would probably be when that road is built.

Ms. Joseph agreed.

Ms. Higgins stated that it would not if it comes from the other direction.

Mr. Edgerton stated that the one-half road is going to stop at the fire station.

Ms. Higgins agreed that it would make sense to put that sewer in from the north when that section of the road is built to minimize. It gets so narrow after that there is not much land to develop.

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

Valerie Long, attorney for the University of Virginia Foundation, stated that the Foundation is technically the applicant because they are the owner of the land. Obviously, it was the applicant of the proffers for when the park as whole was approved in 1996. The Foundation has been working very closely with Tom Foley and other members of the county staff who are really driving this project from the county's perspective for the fire station. They are here this evening to be as helpful as they can be and answer any questions. They have been continuing to work well with everyone and are appreciative of that. As Ms. Echols mentioned earlier this is related to a larger rezoning application that the Foundation has submitted to. They are really the driver of the project. The adjacent property to the west that the Foundation acquired a few years after the park was rezoned they are moving forward with a proposal to seek rezoning of that property from RA to PD-IP. They may recall that they originally had a work session scheduled in late October, but that has been rescheduled to January 31. They will be back in about a month to talk with the Commission again. These projects are related because they are so close to one another and hopefully they will all be part of the research park. Those are the main issues. There are some clarifications that they would like to at some point make tonight. She felt that Tom Foley and his group would probably address most of them. But, if there is an opportunity at the end they would be happy to answer a few more questions if someone would invite them back up. They would appreciate that opportunity. Obviously, if there is anything that comes up that they can help with they would be happy to do so. Fred Missel, with the UVA Foundation, is also present this evening. He is the design person for the research park among other things.

Tom Foley, Assistant County Executive, stated that he was not official the applicant, but obviously the beneficiary of this project is the county to provide some essential public safety services. He wanted to address the Commission in two ways. One is to ask Chief Eggleston to do a very quick overview of the need for the station and the area that it is going to serve to really address the Comprehensive Plan response times for fire rescue service. Secondarily, he would like to come up afterwards just to explain

the approach and the partnership that they have worked with UREF to basically execute the previous proffer which was for a fire station site itself.

Chief Dan Eggleston presented a power point presentation to point out the importance of this fire rescue station and to really highlight the urgency of this station as well. He presented information to explain why this site is so important to the county. In early 2002 he started in this position and one of the main projects on his plate at the time was to assess the services in the northern planned development area and the Hollymead Planned Development area. At that time in 2002 they felt that they were at a critical point and that this area was under served and was likely to get worse over time. At that time they put together a pretty aggressive project that spelled out what needed to happen. They scheduled the station to open in August, 2005. It is December, 2005 and now they have a new date of 2007. There are a number of issues associated with this project. Since 2002 they feel that this thing has moved past the critical stage and is even a higher priority at this point. They are proposing this year during the budget project process to have a temporary site installed in that area. It is extremely critical that they put something in place. They believe that the point has come now that it is critical and it is likely to get worse if they continue the development in that area as well as the traffic generated at the Hollymead Town Center. They have seen over the last two years about a 25 percent increase in calls for emergency service in that area. There is a good portion of the homeowners in Forest Lakes North that are really under served and really are paying higher insurance premiums because they are outside of that five mile radius of a fire station. They are paying a penalty for that. The most critical issue before us is that our EMS response times are more than three times what our target rate is.

Ms. Joseph asked what the target rate is.

Chief Eggleston stated that the target rate is four minutes in the planned development area. Our EMS response time in that area is 13 minutes. So they are more than three times what our target is. They feel that this is right now county wide the most under served area that they have. It is vital because they feel that the planned development areas deserve a higher level of service as spelled out in the Comp Plan. This is really our only solution to put this fire and rescue station in place. The reason they are really attached to this particular site is because it helps us to meet our response time goals. If you look at the map on the screen you will see that that gray area is the planned development area. Working through our GIS Department in the county they have helped us put together some time distance maps from existing fire stations in Earlysville, Stony Point and Seminole. Those lines represent the travel time to get to that planned development area in a four minute rolling time. None of the stations come close to that area. It leaves this big hole in that area. It is under served. It is one of the fastest growing areas in the county right now as far as traffic and development. If they put the fire station at this site it will cover the majority of that area and the response standard to help plug that hole that they currently have. It will help us solve that problem. They feel that this is almost an ideal site for us. They have gone through an extensive property search and really have come back to this site. They feel that this site will really work for us from a response time standpoint. To move to the summary section, they feel that at the end that this site is best to meet the service needs in this area. It is vital that this project stay on schedule in order to meet the 2007 opening. They definitely need to commit to this. He urged the Planning Commission to consider the significance associated with this project. He asked that the Commission let him know if there was anything that he or his staff could do to keep this project on track. They really have a desperate need here in this area to provide some fire and EMS protection. There is over a 25 percent call increase in services in this area. That has raised their concern about this project. As Hollymead Town Center builds out they expect an increase in the number of calls.

Mr. Craddock stated that it was referenced in the report that the land area needed to be roughly the size of Monticello's. He asked how big that is.

Chief Eggleston stated that right now it was about 13,000 square feet. They have gone the program phase of this project right now and the difference between this station and Monticello is that this station has one more bay because of the added services in this area.

Mr. Craddock asked how much acreage is involved.

Chief Eggleston stated that this project was 1.6 acres, but he was not sure about Monticello.

Mr. Craddock stated that he would think that probably with being in the back of Airport Acres and with what UVA wants to do and their expansion possibilities that they would probably would want that whole five acre or 4.8 acres.

Chief Eggleston stated that they have looked at that, but right now they feel that the size of this station as programmed will fulfill our needs for the long term future. If they think there are additional services needed in that area, then it is likely that an additional station will be placed maybe in the northern part of that area. It really depends on where the growth goes. But, they feel that from looking at other localities that service a larger population than we do, they feel that this station as it is programmed now will fulfill those needs.

Mr. Craddock pointed out that he was thinking that it would avoid other people from building up close to the fire station by keeping the full five acres. He felt that if they are offered 4.8 acres that they ought to take the 4.8 acres. He suggested that the county not give back the acreage because they might need it in the future. It would be easier to keep it than to try to get it back.

Chief Eggleston stated that they really don't see a need in the immediate future for that space right now. They really do think that this site built as programmed will fulfill their needs. For the sake of the project schedule they feel confident enough that they would like to move forward with what they have.

Mr. Craddock asked about the circulation that is right there now. If they take away that temporary access, then they would have all of the main traffic coming in right where the trucks would be coming out in an emergency.

Chief Eggleston stated that actually what would happen is that the traffic would come in through the parking lot on the north side so that when the units are coming back from a call when they go back into the fire station they will be coming through a road on the north side coming through the parking lot back into the station. That is a similar flow.

Mr. Craddock pointed out that was not drawn on the plan.

Mr. Rieley stated that is a future connection for which there is no provision in the proffers for.

Chief Eggleston stated that there is room for expansion in the footprint itself. He felt that the day of having huge fire houses are over with. They can service this area for a long time with three bays in that fire station.

Ms. Higgins asked if they would have a ladder truck.

Chief Eggleston stated yes that a ladder truck, engine and ambulance are programmed for this station.

Mr. Craddock asked how about a police station.

Chief Eggleston stated that a substation was programmed in that building as well.

Mr. Rieley stated that staff has pointed out that one of the things that are missing is the architectural controls and the façade and it was scheduled to come on line about now. He asked Ms. Echols if the plans have changed.

Chief Eggleston stated that original schedule that they put together was based on our staff's analysis of the project. They were not aware of some of the other issues and requirements associated with this project. They put together a skeleton plan that showed major mile stones associated with getting this station on line as quickly as possible.

Ms. Echols stated that the architectural control would relate more to the façade and she was not sure if they have gotten to that point yet. The original proffers talked about consulting those guidelines.

Mr. Rieley stated that he was getting heavy vibes that they have an emergency that has to be taken care of right away, and reality is that they have all these loose ends that have not been addressed yet.

Tom Foley, Assistant County Executive, asked to address that. They certainly don't expect the Planning Commission to take any action tonight if that is not clear. They plan to come back on the 10th with some resolved proffers and these issues addressed. They have had meetings since the staff report went out that has actually moved towards resolving some of those. Chief Eggleston is here to tell the Commission about the urgency of the need for response out there, but there are some other things that he wanted to tell them about that are other objectives for this project, which are important and have to do more with the Comprehensive Plan and the parallel road system. They are certainly not here tonight to say that they need some quick action. They recognize that the Commission should not be expected to act tonight. They plan to come back with the resolution to issues and have some final discussion in a few weeks.

Mr. Rieley suggested that this request should have been brought before the Commission as a work session and not a public hearing since they were not expected to take an action on it. He questioned whether the applicant should have to comply with the time limit.

Mr. Edgerton stated that the county had to adhere to the same time limits and invited other public comment.

Mr. Foley asked for two additional minutes to finish up his comments.

Mr. Edgerton asked if there were any objections.

Mr. Rieley stated that he had no objections.

Mr. Foley stated that obviously, as Chief Eggleston's presentation outlines there is an essential need for the station to meet the county's own response standards in consideration of completing this project. However, the county looked at more than meeting the response standards. In addition they looked at the objective of trying to potentially advance the establishment of the county's own parallel road system through the establishment of Lewis and Clark Boulevard. Obviously getting this leg done does not make it a done deal and there is a lot more that has to happen. But, they did think that if they could get it built as a fire station and also get that road established that those were two important objectives. One from a public safety perspective and one from a long range planning Comp Plan perspective that they thought was important. As a result they decided to work with the University Foundation to proceed with this project. However, he wanted them to know that they looked at other sites that would have also advanced both of those objectives and the things just did not work out in terms of the analysis. Ultimately, they decided to move forward with this in a partnership with University Foundation. They felt that was a positive way to move forward. They are working with them positively to resolve these issues. Obviously, they are not just planning for a station, but were also designing an ultimate road for a parallel road system. So that has been more complicated and has delayed the project. But, they think that in the long run that it makes sense to work forward this way. He wanted the Commission to understand the approach a little bit.

Ms. Joseph asked how much of this segment of road that they were planning on building. She asked if it was up to where the little yellow box is on the plan or are they going further with a two lane road.

Mr. Foley stated that all that this does is begin the establishment of that parallel road system up to the fire station. They are certainly no accomplishing everything under the sun with this. But, they do think it is important to get that established as a beginning point for the system. They looked at the other side of the road to see if they could do something over there to get the fire station done and establish it on the other side. But, that just did not work out because of the number of development cost related issues. But, those were the objectives that they had in mind. They are continuing to work with the Foundation to finalize these proffers. He felt that they have already made some progress. He felt that the interconnection in particular was something that they could come back with some positive news on. Really tonight would have been more appropriately a work session and would have served better with your standard rules, but they did think this was an opportunity to get some input before they came back to them in January.

Ms. Higgins asked what the county would be responsible for in the proffers since the Foundation had previously proffered to give the county the land for the fire station.

Mr. Foley stated that the proffer that needs to be in here is related to the temporary drain field, which needs to be a commitment on their part if the county accepts that to commit to that at a later time. They also have to put in the septic field that will be temporary, which they have committed to do. He stated that the previous proffers were not very specific and has led to some of the challenges that they have had in executing this proffer.

Mr. Kamptner stated that the need to amend the proffers is also necessitated by the particular location of this parcel. It is within the rezoned area and it is encroaching over into land that is right now zoned RA and its impact to an established process.

Mr. Edgerton stated that they were rezoning the small triangle, and Mr. Kamptner stated that was correct.

Ms. Higgins asked if a fire station is considered a public use.

Mr. Kamptner stated that it was, but that the approved application plan showed this as area D with no roads or approved structures. There were no improvements shown at all in area D.

Ms. Joseph pointed out that the original rezoning showed the fire station in area D.

Mr. Foley stated that they have moved it much closer because otherwise they would not have been able to execute this reasonably because it was so far back into the property that was undeveloped at this point. That would not have served their response time goals either. This location makes a whole lot more sense.

Mr. Thomas agreed with Mr. Craddock that five acres would be more in line with the acreage that would be needed for the fire station due to the large amount of growth anticipated for that area. He asked if they found that it was more cost effective to have a larger number of smaller facilities all over the area.

Mr. Foley stated that this station does provide for actually dormitory types of residential in the fire station so that some students could actually live there and respond. There will be showers and beds and all those things for a fully functioning station, including meeting all of the equipment needs that they would have in that area. On the second part of his question generally what he said was correct. They would not expand this to have a whole lot of equipment come out of one station. They would instead look at the response areas and figure out if another station is appropriate. Again, he thought that the reality of this was that this development area is not going to develop to the type of density that would be similar to New York City where you might have a station on every other corner. They feel that it is positioned in the right place to serve it very adequately with its build out. So they are comfortable with this being a three bay station. Monticello has two bays. They are going to have ladder truck service. The equipment will come out of both sides of the bays. Chief Eggleston has assured him that based on his research that this is going to serve that development. He pointed out that they operate as a system and when other calls are out then other stations are put on alert to respond if that is needed. It is clearly a system response that they work with. Earlysville is about five to eight minutes away from this station. Therefore, he felt that they were adequately covered in terms of response here. On the size of the site, ultimately the Board of Supervisors will have to decide whether 5 acres is what they need or whether the 2 ½ or so that they have here is adequate. They are going to hear from staff that the proffer that said up to 5 acres for a fire station is what they are doing here, but it just does not take 5 acres to do that.

Mr. Thomas stated that if they have bingo that they will need a large parking lot.

Mr. Foley stated that there is a community room here that could be used, but this is a combination station and not fully reliant on volunteer fund raising support. This station is not designed in the same way as a volunteer only station.

Mr. Edgerton asked if there were other members present who would like to speak to this application. There being none, he closed the public hearing to bring the matter back before the Commission.

Ms. Joseph asked Fred Missel to come forward to answer her question. She asked if he had any idea or notice as to when this road will go all the way through and connect.

Mr. Fred Missel stated that they really don't. They have looked at models of development for this research park that have ranged anywhere from 20 years to 60 years. So there is really no clear way to be able to decide or judge how long it would take to do that. One point of clarity, too, is that it is actually 3,900 feet for the length of the sewer. That is based on various schematic gravity feed alignment.

Ms. Joseph asked if they could pull that sewer out and make it more valuable.

Mr. Missel stated yes that he thought that it would. At the point in which they actually have the master plan in place to move forward with it, they will be able to do the schematic alignments that make sense. At this point they are really bringing in an alignment for an area that potentially has development potential frankly, but by putting in the sewer and fixing it now they may have to build other pump stations that are not required and they would not want to be serviced by the Service Authority. It would just not be the most efficient approach not just from the financial standpoint but a marketing standpoint.

Ms. Joseph stated that from the marketing standpoint if they had the sewer and the road going all the way through would be great.

Mr. Missel stated that fortunately that it was not his decision to make.

Mr. Cilimberg stated that to somewhat answer the question as to when that road will be finished, there is a requirement of the zoning that 980,000 square, which is build out of phase one, that the road connection will be made through. He thought that was an item that they were going to be revisiting as part of their rezoning of the larger area here, too. So this is not really in play.

Mr. Edgerton asked how much they were up to now.

Mr. Cilimberg stated that he was not sure, but it was not close to 980,000 square feet.

Mr. Missel stated that it was at 350,000 square feet.

Mr. Edgerton stated that the public hearing had been closed and the matter was back before the Commission. They had been told that they were not expected to take action by one of the applicant. Their recommendation by staff was not to act. So what is the pleasure of the Commission?

Mr. Rieley stated that since this would be his last opportunity to weigh in on this he thought that the stickiest issue is the sewer and the extension. He felt that is was an irresistible object in this situation because there were two opposing values with both of them very reasonable. One is that in the development areas they should be building sewers as they develop. Any exceptions to that should be in a very extreme case. This seems to be an extreme case because the connection is in an area that is so long and has not been planned yet and coming from a different direction than the road is going. His inclination would be to show some flexibility on that issue even though it is a very important issue. Generally they should not flex on it. It does not look particularly good when they flex on it for a county project. But, nevertheless, he felt that was the situation that they were in. He felt that on the list of needed commitments in the staff report there are three very clearly articulated ones and he hoped that the Commission would insist that all three of those be met. Then the next time they meet they should be here and they should have concrete things to look at.

Mr. Edgerton asked he was referring to the three items listed on page 13.

Mr. Rieley stated that was correct.

Ms. Higgins asked if the applicant had to request a deferral.

Mr. Cilimberg stated that he believed that he heard them say that they expected that it be deferred.

Motion: Ms. Higgins moved, Mr. Morris seconded, to approve the applicant's request for deferral of ZMA-2005-002, County Fire Station at UVA Research Park, to January 10, 2006 with the condition that in the meantime the three comments on page 13 be worked on and then brought back to the Planning Commission.

The motion passed by a vote of 7:0.

Mr. Edgerton stated that ZMA-2005-002 was deferred to January 10, 2006.

Old Business:

Mr. Edgerton asked if there was any old business. There being none, the meeting proceeded.

New Business:

Mr. Edgerton asked if there was any new business.

- The Planning Commission will not meet on Tuesday, December 27, 2005 or Tuesday, January 3, 2006. The next Planning Commission meeting will be held on Tuesday, January 10, 2006.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 9:06 p.m. to the next regular meeting on January 10, 2006.

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V. Wayne Cilimberg, Secretary

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