Albemarle County Planning Commission
January 17, 2006

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, January 17, 2006, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Bill Edgerton, Eric Strucko, Calvin Morris, Vice-Chairman; Pete Craddock and Marcia Joseph, Chairman. Jo Higgins and Jon Cannon were absent. Pete Craddock arrived at 6:37p.m. Julia Monteith, Senior Land Use Planner for the University of Virginia, represented David J. Neuman, FAIA, Architect for University of Virginia.

Other officials present were Wayne Cilimberg, Planning Director; Bill Fritz, Development Review Manager; Elaine Echols, Principal Planner; Rebecca Ragsdale, Senior Planner; Scott Clark, Senior Planner; Steve Tugwell, Planner; David Benish, Chief of Planning; John Shepherd, Manager of Zoning Administration and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Ms. Joseph called the regular meeting to order at 6:00 p.m. and established a quorum.

Other Matters Not Listed on the Agenda from the Public:

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

Review of Board of Supervisors Meeting – January 11, 2006.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on January 11, 2006.

Deferred Item*:*

SDP-2005-129 Bailey Office Center: Request for relief from conditions of approval from the Planning Commission. (Steve Tugwell)
DEFERRED FROM THE JANUARY 10, 2006 PLANNING COMMISSION MEETING

Mr. Tugwell stated that this item came before the Commission last week. The item was deferred from the January 10 meeting to allow the applicant and staff time to locate the compliance letter, which they had excluded the applicant from building a planting island on the site. Staff has searched and cannot find the letter. It is our understanding that the applicant also does not have the compliance letter. The applicant has made a written request to all of the lenders involved on the property to produce the letter. There are four different lenders. In follow up to what he said last week, staff believes that the planting island is necessary, but the applicant does not believe that the planting island is necessary.

Ms. Joseph asked if there were any questions for Mr. Tugwell. There being none, she opened the public hearing and asked if the applicant was present. Since the applicant was not present, she asked if there was any other public comment. There being none, the public hearing was closed and the matter was before the Commission. The issue before the Commission deals with the planting island that was never constructed.

Mr. Morris stated that the Commission did not have any proof that the letter was ever in existence or that the original builder was told to forget it. He did not see any reason why the Commission should grant the request for the relief. It is very clearly shown on the building plans that planter should be there and they have given him more than enough chances.

Mr. Strucko asked for a reminder about the facts of this case. There was a prior property owner that did not comply with this, correct?

Ms. Joseph stated that was correct.

Mr. Strucko stated that the applicant then purchased the property and along with that purchase came the violation of the conditions.

Mr. Edgerton stated that his understanding is that during the construction allegedly, the island was waived according to what the applicant told us that was represented to him from the previous owner. We have no evidence of that.

Mr. Strucko stated that the County had to do two notices. One was for compliance with the conditions that the planter had to be built. Two, there was a notice that the property met all proper zoning for the transfer or sale. He asked if that was correct. The applicant claimed that letter was in existence, but we can't simply find it.

Mr. Kamptner stated that the Commission needs to see that letter to examine the extent to which zoning made the determination as to compliance with the zoning ordinance.

Ms. Joseph stated that it seems as if there is no letter that anyone can put their hands on at this point in time.

Mr. Strucko stated that they certainly did not want to hold the second owner of this property responsible for the deficiencies of a prior owner of the costs and what have you, which is his concern. He felt that was critical, but since they can't locate the letter he did not know what their legal options were.

Mr. Kamptner stated that in 1987 or 1989 no one on county staff, unless the ordinance expressly granted them the authority to waive that requirement, had the authority to waive that requirement in the field. So whoever was making those alleged representations out in the field was acting beyond the authority under the zoning ordinance. The county is not legally bound by those kinds of representations and is not prevented now from applying those regulations.

Ms. Joseph agreed that it was a shame that they have gotten to this point, but she felt that the parking island needs to be there. She could not support granting this waiver.

Mr. Edgerton noted that was staff's opinion last week.

Motion: Mr. Morris moved, Mr. Edgerton seconded, to deny the request for SDP-2005-129, Bailey Office Center.

The motion passed by a vote of 4:0. (Commissioners Higgins, Cannon and Craddock were absent.)

Ms. Joseph stated that SDP-2005-129, Bailey Office Center was denied.

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
DEFERRED FROM THE JANUARY 10, 2006 PLANNING COMMISSION MEETING.

Ms. Echols stated that when they last left off with this particular rezoning the Commission had reviewed it for the County Fire Station for 1.6 acres. Then some proffers were modified that related to the North Fork Research Park, which required that the legal ad for the rezoning be a lot bigger. But, the bottom line was that it was just adding a little over an acre to the park. That is what the rezoning is about. The Commission was generally in favor of the request and the recommendations in the staff report. There were a number of outstanding issues that the Commission wanted to see resolved. Staff has noted those in the current staff report and will report on those right now. The Commission also asked some questions by email about the status of different items, which staff will discuss tonight if there are additional questions. Staff would like to concentrate on the current situation. Since the Commission got their staff report staff has seen another set of proffers. A copy of the new set of proffers has been provided to the Commission, which resolves all of the outstanding issues with two exceptions. Those two exceptions are about the driveway separation and whether or not it would be 250 or 300 feet. The second exception was the timing for when the sewer would be installed. In negotiations today the County and the applicant have come up with some acceptable language so that the sewer would be extended in conjunction with the improvements for the site development plan or subdivision plat. Therefore, staff feels that they are protected in that regard. Also, additional wording would be added to the proffers that are in front of the Commission to reflect that the driveway separation would be 300 feet or less with VDOT's approval. Staff understands that the applicant intends to change the proffers to address those last two items.

One other item has come up since the last time, which is in the staff report. At the last meeting the applicant said that the Service Authority representative, Pete Gorman, thought that use of a septic system was appropriate at this particular location. Staff does not think that he was aware of what had preceded this particular issue at the Service Authority. Staff received an email from Bill Brent explaining that the Service Authority has purchased sewer capacity to be used at this particular location and he strongly recommended that the fire station be connected to public sewer because of the expenditure in reserving sewer capacity. Therefore, Bill Brent recommended that to us. Staff does not know if that changes the Commission's recommendation with regards to the use of the septic system or sewer. But, staff wanted the Commission to have that information and reconsider it. If the Commission is still comfortable with the use of a septic system and the changes that have been made to the proffers that the Commission has not reviewed, but staff has reviewed, plus these other two; then staff can recommend approval. That is a lot to ask the Commission to do without looking at proffers, but Mr. Kamptner is very familiar with the details of the proffers. Between Mr. Kamptner and Tom Foley they should be able to answer any of the Commission's questions.

Ms. Joseph asked if there were any questions for Ms. Echols.

Mr. Edgerton asked which proffer describes the separation of drive ways.

Mr. Kamptner stated proffer 8.6.a on page 4.

Ms. Echols stated that the Commission asked for a copy of the original rezoning plan for the research park. The current proposal to expand the park by another 30 acres is posted behind Mr. Morris. A portion of that area would be part of the fire station. On that plan, which the Commission has not reviewed yet, there is an interconnecting road located at the black arrow. The other connection shown in black is generally what would happen. Staff is recommending that an interconnecting public street go to the west. There is a street shown on that plan, but staff is still talking about how far the street should connect to the west. But, that is generally the location and the fire station would hook into it.

Ms. Joseph assumed that they would still maintain this entrance.

Ms. Echols stated that was correct.

Ms. Joseph asked if there were any other questions for Ms. Echols. There being none, she opened the public hearing and asked if the applicant would like to address the Commission.

Valerie Long, attorney for the University of Virginia Foundation, stated that also present this evening is Bruce Stouffer and Fred Missel from University of Virginia Foundation. The Foundation is technically the applicant for this rezoning by nature of the fact that they are the owners of the property. But, this is really a county application for the fire station. They have been working very closely throughout this process with representatives from the county staff, fire station and fire department to ensure that the plan is workable for everyone. They have been working closely with Mr. Kamptner and others on the proffers. They would certainly be happy to address any questions as they relate to the Foundation. But, they at this point will turn things over to Mr. Foley to speak more on the specifics of the fire station unless anyone has specific questions that she can address.

Tom Foley, Assistant County Executive for Public Safety and Community Development, stated that the last time that they talked about this the applicant, and really the county, requested the deferral. They wanted to bring to the Commission proffers that had been worked out and clarified. At that time they did not have any major issues. But, they wanted to make sure that they worked through any clarifications that were necessary. He would term what has been going on clarification rather than negotiation because there are really no substantial differences of intent. They just needed to get the language straight in the proffers. The items that are included in the staff report have all been resolved. Mr. Kamptner met and discussed the proffers with the applicant and worked through the language so that it was acceptable to the county and met their needs. The attorneys had to work the language of the proffers out. That is where they are on this. The information that the Commission received on the proffers, which had UREF's comments, were really the things that got worked out. He did not think there was anything significantly different than what the Commission had received. Mr. Kamptner has done the extra work of putting the proffers in proper form and getting it basically final. One of the issues that remains to be discussed today was to clarify if the distance of the new connector road does not need to be as much as 300 feet based on VDOT's requirements, and that the county would not require it to be 300 feet in the proffers. He considered that to be a clarification and really an understanding that they all had, which was that the new connector road would be the minimum distance that it needed to be. The reason that is important is because they have committed to the connecting road from the new road off of Lewis and Clark back over to the fire station. So there is no need for that to be a further distance from the fire station than is necessary. So that was really clarified. The only other issue they had was that they had interpreted the proffer to say that they would have to actually construct the sewer line before the county had actually approved the plan for any other development on parcel D. That was really not the intent. What they typically do is require that there be a bond so that the sewer line will get built, and they certainly agree with that. So it was really a matter of clarifying the language.

Ms. Joseph asked when the bond would be posted.

Mr. Foley stated that at the time the plan was approved as part of the agreement.

Ms. Joseph asked if it was this plan or the first site plan that comes besides this one within area D.

Mr. Foley stated yes, the second one within area D.

Mr. Kamptner stated that it would be for tax map/parcel 32-18, which was the adjoining land.

Mr. Foley stated that in layman terms that as soon as they develop anything else on that parcel besides this fire station the county wants them to be obligated to hook us up to sewer. So all they are saying is that as soon as they develop anything else that when you get the plan approval you have to commit to a bond that will ensure that sewer line is built to the fire station. That is going to be assured with a minor adjustment to the proffers that Mr. Kamptner has done. They thought that we wanted them to construct it before the plan was even approved. That was really a misunderstanding. So the issues have been resolved. They are in agreement that this is a very positive thing to move forward on. There has been a question about whether the sewer should be connected as a part of the fire station rather than having

temporary sewer. He felt that for the reasons that they discussed at the last meeting, which was documented in the minutes, that because this is an essential public facility and there is such a great distance between the fire station and the gravity sewer line, which has no plans for development in that whole area, that it makes a lot more sense both from a planning perspective and in getting the fire station moved forward that a temporary sewer line be allowed in this case. He did not think that sets a precedent for other private development. They are talking about an essential public facility here. It is also an area from the planning perspective that has just not been planned yet. So to put in a sewer line and require that way ahead of the development he did not think it would work well from a planning perspective either. Those are the reasons that they would request that the Commission approve this with the changes that Ms. Echols has talked about and the clarifications so that the project can move forward. If there are any questions, he would be happy to answer them. Mr. Kamptner is prepared to talk to the Commission about how he has finalized the language on these issues and so forth. He felt that it was in keeping with what the county would want in terms of good clear proffers so that there are no questions in the future.

Ms. Joseph asked if anyone had any questions for Mr. Foley.

Mr. Kamptner stated to clarify Ms. Joseph's last question about the triggering of the site plan or subdivision plat, that it is parcel 32-18, which is the adjoining parcel or parcel D.

Ms. Joseph stated that it has some connection to the original rezoning.

Mr. Edgerton asked who is going to build the fire station.

Mr. Foley stated that the county is going to build the fire station. The University of Virginia Foundation is going to build the road. They have already worked on coordinating a schedule to ensure that those work together. The proffers address temporary easements for construction and so forth so that those can work together. They can begin the station construction while they are doing some of the road work and so forth.

Mr. Edgerton asked who would be paying for the septic field and/or sewer depending on that determination.

Mr. Foley stated that the University of Virginia Foundation will pay for all of the cost of the temporary sewer, the connections and everything related to that temporary solution.

Mr. Edgerton stated that if they were to take Mr. Brent's recommendation and mandate that the sewer be connected at this time, then that would be a burden on the Foundation.

Mr. Foley stated that he would have to ask Mr. Kamptner for clarification. But, yes, to get the sewer to the site would be their obligation. Any of the costs from the property line to the fire station would have always been our obligation.

Mr. Edgerton stated that is correct.

Mr. Foley stated that when the temporary sewer solution is abandoned, which will be at their costs, we would pay for the cost to get the sewer from the property line to the station just as they would have under the subdivision process.

Mr. Edgerton stated that he wanted to make sure that he knew who was doing what and who was responsible.

Ms. Joseph asked if there was anyone else present who would like to speak to this item. There being none, she closed the public hearing to bring the matter before the Commission.

Mr. Edgerton stated that he did not support setting precedence that might cause problems. But, the beneficiary of this fire station going in now was going to be the community and not the developer. He felt that the trigger that has been worked into the proffers was if any further development occurs by the applicant that they will have to extend the sewer line. But, he felt that the benefit to the community of

having this fire station operable using a temporary septic system makes sense. He did not believe that it could be used against the county as far as a precedent because other applicants or developers are not necessarily working for the benefit of the community.

Mr. Morris stated that they were dealing with public safety here.

Mr. Strucko stated that it was a high growth area. There is a lot happening up in that area. He was the former president of the Earlysville Volunteer Fire Company and they worked with the county for literally years trying to work out response times and responsibilities for that area. Therefore, he agreed with Mr. Edgerton's comments.

Ms. Joseph felt that one of the intriguing things that Mr. Foley said was that the county has not looked at this and that it is not an approved plan. So they don't know exactly what route that sewer line should follow at this point in time since they are not quite sure what was going to happen here. So she felt that is a valid point at this point in time because this area was in such a high growth area and they need this fire station.

Mr. Strucko asked if there is a public water connection.

Ms. Joseph stated that there was public water available.

Mr. Strucko stated that they were talking about the sewer, but asked if there is no concern over the water.

Mr. Foley stated no, that they were committing to the water connection with the project.

Mr. Strucko stated that from last week his concern with the location of these connector roads was because he knew that fire response would benefit greatly if there were multiple access points or multiple points of getting to locations. So the adequacy of the connector road was important to him from last week's conversation with the adjoining parcel that they had. He saw one definite point, which was Lewis and Clark Drive, and then another one that would go west.

Mr. Edgerton stated that the black line was a suggestion, but again all that has been determined as the alignment of Lewis and Clark Drive.

Mr. Strucko stated that the response time was the major concern and one of the justifications for constructing this fire station at this location. The response time is a function of access. If moving around and in and out of roads would just simply add to that. He asked just to make that point.

Mr. Craddock arrived at 6:37 p.m.

Ms. Joseph stated that she really did not like seeing proffers come on the table the night of the meeting. However, since this is a county project and you are working for the county, then she is going to be very trusting and assume that the proffers are all right.

Mr. Craddock asked if it was on the same amount of land.

Ms. Joseph stated that it was 1.6 acres. They were still giving back and not keeping the extra acreage.

Motion: Mr. Morris moved, Mr. Strucco seconded, to approve ZMA-2005-002, County Fire Station at UVA Research Park with the revised proffers presented at the meeting and with the two changes described by staff.

1. Additional wording would be added to the proffers that the driveway separation would be 300 feet or less with VDOT's approval.
2. The timing of the installation of the sewer would be extended in conjunction with the improvements for the site development plan or subdivision plat.

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

Ms. Joseph stated that ZMA 2005-002, County Fire Station at UVA Research Park, would go to the Board of Supervisors on February 8 with a recommendation for approval. (Attachment – Proffer Form – Amended dated January 17, 2006)

***Work Sessions**:*

ZMA 2005-005 Liberty Hall (Cross Property) (Sign #69)
PROPOSAL: Rezone 8.01 acres from R1 (1 unit/acre) Residential to NMD Neighborhood Model District - residential (3 - 34 units/acre) mixed with commercial, service and industrial uses for up to 10,000 square feet of office use and up to 53 residential units (10 single family, 21 townhouses, 15 condominiums)
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Crozet Master Plan designates the property CT3 Urban Edge: single family residential (3.5-6.5 units/acre) supporting uses such as religious institutions and schools and other small-scale non-residential uses, and CT4 Urban General: residential (4.5 units/acre single family, 12 units/acre townhouses/apartments, 18 units/acre mixed use) with supporting uses such as religious institutions and schools and mixed uses including retail/office
ENTRANCE CORRIDOR: Yes
LOCATION: Tax Map 56, Parcels 97A, 97A1, and 97 (portion of) at the intersection of Radford Lane/Rockfish Gap Turnpike (Rt. 250 W)
MAGISTERIAL DISTRICT: White Hall
STAFF PERSON: Rebecca Ragsdale

Ms. Joseph stated that the Commission would go through the 8 items in the staff report. First they would ask staff for information on each of the items, and then ask the applicant if they would like to address these also. Therefore, they could go through each item by item. The applicant may also do a presentation if they want to.

Ms. Ragsdale provided the background of the project. This application has been under review since May as a rezoning to Neighborhood Model. It has been revised several times. Staff felt that this was an appropriate time to introduce the Commission to the proposal in advance of a public hearing that was scheduled in February. Staff would like the Commission to go through the discussion items that they have provided. Staff has provided some of the analysis that they typically do when they provide the Commission with the rezoning report such as conformity with the Neighborhood Model and the Crozet Master Plan.

Vito Cetta, representative for Weatherhill Homes, stated that the proposed plan is consistent with the Comprehensive Plan. He reviewed the plan and pointed out the area to be developed and the type of units proposed.

Frank Pohl, representative for Weatherhill Homes, addressed the questions about the proposed above ground retention pond, which will be dry and not always have water. He stated that all of the road will be public with the exception of the alleys.

In summary, the Planning Commission held a work session on ZMA-2005-005, Liberty Hall (Cross Property). In order to familiarize the Commission with the project and to discuss several issues that would benefit from advance input prior to the February 14 public hearing, staff and the applicant presented the proposal and answered questions. The Planning Commission held a discussion with staff and the applicant and provided feedback on the rezoning proposal and preliminary discussion topics as follows:

1. **Design and layout: Does the Planning Commission support the general layout proposed?**

   The Planning Commission was generally in support of the design and layout aspect of the proposal, with the exception of the visibility of the garage doors located in the front of the residential units interior to the project site, which was all units except those units in Block One. The submittal of elevations might be helpful. The Commission likes the road connections and street grid, but not the fact that they are going to be looking at the garage doors.

2. **Residential density: Does the Planning Commission find the proposal consistent with the Crozet Master Plan with regard to residential densities?**

   The Planning Commission was generally comfortable with the averaging and gross density for the overall site.

3. **Amenities and green space: Are the amenities and green space the applicant is providing sufficient for the residential units proposed?**

   The consensus of the Planning Commission was that they would like to see more functional amenity areas. The applicant was advised to work with staff to explore additional opportunities within the project for increasing amenities. The Planning Commission suggested the applicant pursue parking reductions and work with Engineering to see if storm water detention facilities could be placed underground.

4. **Mixture of uses: Does the Planning Commission find the mix of uses proposed in Liberty Hall appropriate?**

   The Planning Commission generally agreed with staff's judgment on the mixture of uses since the other uses suggested in the Master Plan are fairly close by. It was suggested that the parking be reduced as much as possible.

5. **Mixture of housing types: Is the mixture of housing types proposed by the applicant for Liberty Hall appropriate?**

   The Planning Commission concurred with staff's finding that the three different housing types was appropriate.

   Concerns were also raised about the massing and size of the office building in Block 1 and the relationship to the adjacent residential units. Ways of alleviating this were suggested, including compressing the parking area and making more open space or breaking up the massing of the building(s).

6. **Interconnections: Are the interconnections proposed by the applicant appropriate and do they meet the intent of the Crozet Master Plan?**

   The Planning Commission has no problem with the interconnections including pedestrian access.

   The proposed location of the traffic signal was discussed. It was the consensus of the Planning Commission that the proffers should be flexible to allow a contribution to a traffic signal on Route 250 at Radford Lane or the proposed Eastern Connector at Cory Farm.

7. **Affordable housing: Is the applicant making appropriate provisions for affordable housing within the Liberty Hall development?**

   Staff stated that the applicant is proposing that 7 of the 8 stacked units to be affordable. There is a proffer that has language in it. There was a question as far as the 90 day provision. That is something that staff has seen in other proffers. It was in Old Trail. It is something that Housing is okay with.

   The Planning Commission was concerned about the proffer that gives the County 90 days to find a buyer. If they don't find a buyer in 90 days it goes back on the open market. The Commission agreed with the applicant's proposal to work with Mr. White on extending the 90 days period to at least 4 to 5 months.

Ms. Echols pointed out that the Housing Director feels confident that the 90 day limit can be met due to the Home Buyer's Club that he works with.

Mr. Kamptner stated that this has been done with several projects. One thing that staff is constantly asking the Housing Director to be aware of is the cumulative or aggregate number of units subject to this type of proffer because the year may come that there is a flood of housing that come onto the market at the same time. He felt that they have not gotten to that point, but staff will continue working with the Housing Director to be certain that this proffer is still working.

Ms. Joseph noted that the County could lose all of these affordable units.

Mr. Cetta suggested that they have a variety of affordable housing. One is for sale housing. Two is rental housing. Three is cash proffers. Cash proffers will help the problem. Even if it did not sell as an affordable product, just by its nature it can't sell for more than about $130,000. That price would be great for a school teacher because it is hard to find a rental or something inexpensive in Crozet. But, in this case somebody can buy a new home for $130,000, which is a nice price. He stated that they were more than prepared to modify the 90 days to as much as 4 to 5 months. The language now says that when the units are ready to be offered for sale, they notify Piedmont Alliance that they are ready and they have 90 days to locate buyer. He felt that there is room to try to modify that and he was meeting with Mr. White on Monday.

8. **Off-site impacts and Proffers: Are the proffers submitted adequate to meet the impacts generated by this development?**

   The Planning Commission asked that the following issues be addressed:

   - Provide information on impacts to school and other fiscal impacts.

   - On page 12, second bullet point concerning the sidewalk/street tree issue noted that the sidewalk and street trees are not provided on all streets within the development. In addition, cross-sections on the street plan do not match the General Development Plan and Landscape Plan. Staff needs to work that out with the applicant particularly along Radford Lane.

   - **Staff pointed out that this is the only area in Crozet where there is a neighborhood that crosses over 250. The remainder of 250 in the Crozet Master Plan was shown for buffer preservation in the CT area along the road. Staff asked that the Commission weigh in on that as well.**

     There were some traffic and safety concerns expressed by the Commission regarding crossing over 250.

   - **Staff pointed out that they were still working with the applicant to make sure they address the ARB's comments about the office building. The following proffers are also being worked on: The cash proffer possibly being increased with Wickham Pond; Affordable housing proffer and traffic signal proffer was discussed; and the fiscal impact analysis was not in the packet, but staff hopes to have that for next time. Any requests for waivers will be brought to the Commission at a later date.**

The Planning Commission took a break at 7:50 p.m.

The meeting reconvened at 8:03 p.m.

ZTA-05-05 Temporary Farm Worker Housing – Amend Sections 3.1 ("Definitions"), 5 ("Supplemental Regulations"), and 10 ("Rural Areas") of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Section 3.1 by adding a definition of "farm"; section 5 by adding supplemental regulations for temporary farm worker housing; and section 10 by adding temporary farm-worker housing facilities for 20 or fewer residents as a by-right use, and temporary farm-worker housing facilities for more than 20 residents as a use requiring a special use permit. (Scott Clark)

Ms. Joseph pointed out that she was the person that appealed the zoning administrator's determination on the farm worker, which was why this was before the Commission. The zoning administrator had determined that farm worker housing is not allowed in the rural area. She noted that appeal is still pending. Therefore, she would try to sit back and listen.

Mr. Clark summarized the staff report.

- In the first paragraph under origin, the words consider the issues and recommended action appear as a series of X's. Also, in the future the Commission will receive standard summaries on top of the zoning text amendment staff reports. As mentioned, there was a determination in April of last year that temporary housing of seasonal farm workers in rural areas is not a specifically permitted use or an accessory use to agriculture use, which is a by right use. So the effort here between staff with input from other staff, the Farm Bureau and other interested parties was to rectify that situation so that it is possible to have temporary housing for farm workers in the rural areas. It is something that is already going on. Since it is not a permitted use, the existing facilities cannot be expanded or changed. There are some minor exceptions. But, new facilities cannot be created. Farms in the county that are dependent on seasonal labor, especially new ones, are not able to establish the facilities that they need to house the workers that take care of the labor that they need. There are two attachments. One is the resolution of intent to pursue this project. The second is a proposed set of definitions or regulations to be added to the zoning ordinance.

- Staff briefly went through the outline of the proposed ordinance. There will be three definitions added to Section 18.3 both defining farms and two classifications of farm worker housing, class A and class B. Class A is for up to 20 residents and Class B is for more than 20 residents. The difference is that the Class B that allows more than 20 residents requires a special use permit.

- Basically, there are three sections to be added to the proposed Section 5.0 Supplementary Regulations for these uses. The first is a concept plan that is a fairly simple sketch type plan and not an engineered site plan. It is enough to provide the information that is needed by the reviewing department, such as planning, zoning, and current development and fire/rescue department. The second part is the section on facilities' instructions, which addresses setbacks and parking. The third section outlines the steps that would be needed for the zoning compliance clearance that would allow people to begin this use. It largely consists of a set of reviews by staff and outside departments to make sure that the facilities basically meet health and safety standards and acceptable impacts on the surroundings. The fire/rescue review is probably the one that raised the most difficult issue in all of this. Fire/rescue is in the midst of a real effort to extend the number of dry hydrants in the rural areas. They see this as a real opportunity to provide a water source for these facilities that could have 20 or more people. They obviously need their own water supply for fire suppression and also to help the surrounding areas. The opposite perspective is that the landowners feel that they could sufficiently serve their water needs with a well and not be forced to build a pond and the dry hydrant facilities. The landowners feel that they are bearing the costs of fire protection for their surrounding areas as well as their own facilities. The other departmental reviews include the Building Official review. It involves a review to make sure that the buildings on the plan appear to meet the Building Code. It is almost a service to the applicant to make sure that they know before they go for building permits later that they will have some issues to address.

Mr. Edgerton stated that agricultural buildings in the rural area are exempt from a lot of regulations. He feared that they were setting themselves up for a real disaster down the road for these buildings to house up to 20 persons. He suggested that issue needs to be further explored.

Mr. Clark stated that he did not think that building would receive an exemption because it was inhabited. But, staff could clarify that issue with the Building Official.

Ms. Joseph stated that the difficulty in this is not creating a dwelling unit or increasing the density in the rural areas. They want to create a safe place for people to live that is not called a dwelling unit by the standards in the zoning ordinance. The other complication in this is that enough of the large farms are under conservation easement, which omits the dwelling units. So this has to be carefully crafted to allow

them to remain as farms so that they can hire people during different parts of the growing season and yet not be considered dwelling units so they won't violate their conservation easements.

Mr. Clark stated that staff had to address the basic public health and safety concerns that the county has while trying to support this agricultural use without complicating any existing regulations. There are federal regulations and there are state reviewers who check all of these facilities repeatedly for meeting those federal standards and for being safe. Staff is trying to create that healthy and safe environment and provide this source of labor, but staff did not want to tangle up a lot of competing definitions with other agencies' regulations. Health Department approval does not come in until the facilities are actually in place and the applicants are coming in for their zoning clearance. The Health Department will not review plans because they want to see actual physical improvements before issuing approval. The last thing is a recorded affidavit. The applicants are on record as stating that these facilities will not be used as dwelling units and will only be used for temporary seasonal worker housing. That is to ensure that it will not creep over the line into year round housing, which effectively would become more dwelling units in a place that the county does not want them. Tonight staff is looking for a possible motion on the resolution of intent so that this matter can move forward to the Board of Supervisors with the Planning Commission's guidance on these regulations.

Ms. Monteith asked what would be the mechanism to ensure that the facilities would only be used for a portion of the year.

Ms. Joseph asked Mr. Shepherd if he wanted to answer that question.

John Shepherd, Manager of the Zoning Administration, stated that part of the temporary aspect of it would be regulated by the Building Official, which will allow the building to be built with a specified amount of insulation and the heating facilities that would be needed. So if the building was not going to be fully insulated and heated it is reduced to be used during certain months of the year. That is one factor. Also, there is no requirement that the workers are limited to live there at particular time periods in the way the ordinance is written now. There are different growing seasons and seasons of work on the farms that does not lend itself to confining it to a particular time period. So that is a question for the Planning Commission.

Mr. Clark stated that staff had originally attempted to limit it to a specific set of dates, but that was not at all practical because of the different needs for the various types of agricultural uses such as orchards. There turned out to be other forms of agriculture that need labor at times that staff had not expected. This includes February for vineyards. Therefore, it was not practical to limit it in that way.

Mr. Craddock asked if this applied to existing facilities.

Mr. Shepherd stated that it would apply in the event that the existing facility wanted to expand. Existing facilities are non-conforming and can continue as such. But, to expand the existing facilities would require them to meet these requirements.

Mr. Craddock asked why the applicants could not put in sprinklers as opposed to a dry hydrant. He noted that when subdivisions are built the county does not require it to be near a dry pond or anything like that.

Mr. Benish noted that sprinklers would still require a central service for a certain pressure to function properly.

Mr. Strucko asked if sprinklers could be used off of wells.

Mr. Benish stated that it can, but it must have the proper pressure, which may end up with similar cost issues.

Mr. Shepherd noted that the regulations are proposed in a way where there is not a requirement that a dry hydrant be constructed for any of these facilities. That is something that the Fire Marshall would have liked to have had. What is in front of the Commission is really a compromise that forces a discussion of the possibility of installing a dry hydrant. In some cases if the pond exists on a property, it might not be

particularly expensive and it seems to be a reasonable and doable thing. Staff wants to make sure that question is always asked and considered in the course of review of this type of facility.

Ms. Joseph stated that the regulations say that the request requires approval by the County Department of Fire and Rescue. It does not say dry hydrant. The other question is if that is in the supplemental regulations, is that something that the Commission can modify.

Mr. Kamptner replied yes, that Section 5.0 regulations can be modified by the Commission.

Ms. Joseph asked if Fire and Rescue says that someone has to put in a dry hydrant and the applicant says that they really can't do that because it is 500 yards away, then the applicant could come to the Commission and request a modification.

Mr. Kamptner stated that the Commission could waive or modify the requirement of Fire/Rescue approval.

Mr. Strucko acknowledged the fire safety concern about 20 plus people living in this type of unit in the rural area. He noted that a dry hydrant would be a pipe going into the water. If there was an existing pond, he could agree with it. But, if the applicant had to build the pond and then put the dry hydrant in, then that would be costly.

Ms. Joseph suggested that it was asking that the applicant indicate where there is a dry hydrant in that area. That was the other thing that the Commission had talked about.

Mr. Edgerton asked if he understood that the way that they would control the occupancy was to limit the insulation.

Mr. Shepherd replied no. He explained that the Building Code permits the building to be constructed without insulation if the months of usage were limited. He suggested that the Commission think about the buildings used for a typical summer camp. It might actually be what they would expect to see for some of these facilities. It could be permitted, but it is not required.

Mr. Edgerton noted that it could be a camp type of structure.

Ms. Monteith felt that the answer to the question was that it really would come down to the management of the facility.

Mr. Shepherd stated that there would be limits on the number of people that are to reside there. The conditions would run with the special use permit if there were going to be more than 20 persons.

Mr. Edgerton noted on the bottom of page 7 and the top of page 8 that he felt that the scale of the concept plan of not more than one inch equals 100 feet was very small. He suggested that the scale be increased a little so that more detail could be included.

Ms. Joseph asked what scale was used for special events, and Mr. Shepherd replied that the scale was not specified.

Mr. Kamptner stated that the cross reference is 32.4.1, which has a requirement for a general layout design of what is proposed on a scale of not smaller than one inch equals 100 feet. That is under the site plan regulations.

Ms. Joseph asked if that was for a preliminary plan.

Mr. Kamptner stated that this is for the concept plan that is filed for the preliminary conference for a site plan.

Mr. Edgerton acknowledged that the intent was to minimize the up front expense, but at the same time he felt that it would be beneficial to increase the scale of the concept plan. Because it was providing housing

for a large number of people, he felt that they need a little more information. He suggested using one inch equals 40 feet.

Ms. Joseph noted that the staff report mentions assisting someone who comes in with the information that the county already has on file. Therefore, the county could charge them for those services to make the maps, etc., but they can make it any scale.

Mr. Edgerton asked that the scale of the drawing be increased to one inch equals 40 feet. He asked how much demand there is for this.

Ms. Joseph noted that there are probably people who do this that don't know that there are regulations. This person happened to ask her, and therefore she asked staff. That is how this came about. The applicant is doing an organic farming operation and needs a lot of people during certain times of the year to pick bugs off the plants.

Mr. Edgerton acknowledged that the vineyards need a lot of help like this.

Mr. Craddock noted that the facilities living quarters may include shelter areas for sleeping, eating, food preparation, bathing as well as toilets.

Ms. Joseph pointed out that it may be there is a separate eating place, sleeping place and area for hygiene.

Mr. Clark stated that it was walking that line between providing what people need for a healthy living situation without creating a dwelling unit. It specifies that those things can be provided in the facility overall even if it is not located all in one structure.

Mr. Edgerton noted that the down side of this proposal was that some would use this regulation to build more on their property, which gets back to the enforcement. He asked Mr. Shepherd if he had any concerns about the enforcement of this regulation.

Mr. Shepherd stated that left unregulated that if large substantial buildings that could house lots of people were built on farms that a situation could evolve that the use of them for migrant work that the workers would no longer be viable and there would be a lot of pressure on the county to allow those buildings to be used for something much more intensive along the lines of corporate retreats, etc. So the answer to that in our proposal here is the requirement that the applicant sign an affidavit that is recorded which states that the buildings will not be used for those purposes. The buildings must be only used as accessory to other uses on the place. That is staff's way to address the potential problems.

Motion: Mr. Morris moved, Mr. Edgerton seconded, to approve the resolution of intent in Attachment A for ZTA-05-05, Temporary Farm Worker Housing.

"**RESOLUTION OF INTENT**

WHEREAS, the Rural Areas chapter of the Comprehensive plan includes a goal to "[p]rotect Albemarle County's agricultural lands as a resource base for its agricultural industries and for related benefits they contribute towards the County's rural character, scenic quality, natural environment, and fiscal health"; and

WHEREAS, the planning objective accompanying the foregoing goal is "[t]o support agricultural land uses and to create additional markets for agricultural products through creative economic and land use strategies"; and

WHEREAS, ensuring the availability of farm-worker housing would help ensure viability for existing agricultural operations and encourage the development of new farm ventures; and

WHEREAS, it is desired to amend the Albemarle County Zoning Ordinance to allow farm-worker housing on farms for the reasons stated herein.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Planning Commission hereby adopts a resolution of intent to amend Section 3.1, Definitions, Section 5, Supplementary Regulations, and Section 10.2, Permitted Uses (Rural Areas), and any other regulations of the Zoning Ordinance deemed appropriate to achieve the purposes described herein.

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

* * * * *

The motion passed by a vote of 4:0. (Commissioner Joseph abstained.) (Commissioners Higgins and Cannon were absent.)

Mr. Edgerton suggested that the proposed scale for the required concept plan was too small (1 to 100). It was suggested that a scale of 1 to 40 would be more appropriate. He asked that language be included that the applicant would have to meet the egress requirements in the structure. He pointed out that he had done some work on farms where he had been told by the Inspections Department that no permit is required as long it was an agricultural building. He just wanted to make sure that people are aware that there might be as many as 20 plus people staying in a place like this.

Ms. Joseph agreed with Mr. Edgerton. She asked if staff could get Jay Schlothauer to come to the next meeting and talk about that.

Ms. Benish stated that during the public hearing they could receive public comment and Mr. Schlothauer could come and explain the inspections and approval process. If the Commission has any concerns, they don't have to act after that public hearing.

Mr. Edgerton noted that was a good plan.

Ms. Joseph stated that resolution of intent for ZTA-05-05, Temporary Farm Worker Housing, was approved. She stated that since there was no further discussion that the Commission would move on to the next item.

Old Business:

Planning Commission Committee Membership Update

- Ms. Joseph stated that since two Commissioners were missing they would defer the discussion on the Committee appointments to next week. She asked if there was any other old business.

- Mr. Edgerton pointed out that the newspaper this morning stated that the Governor was trying to help local municipalities have some control over what happens with transportation planning. He noted that he was very encouraged by that.

  Ms. Joseph stated that he also talked about the transfer of development rights, which she felt was amazing.

- Mr. Craddock suggested that some type of recognition be given to Will Rieley and Rodney Thomas of their service to the County.

  Ms. Joseph stated that she would talk with Mr. Cilimberg about those plans.

New Business:

Ms. Joseph asked if there was any new business.

Review of Breeden Property*:*

- A joint meeting of the City and County Planning Commission will be held in March regarding their initial review of the Breeden Property. The joint meeting will be held to get basic information on the plan, the basic concerns that staff has and then the concerns that the City has on this plan.
- Mr. Craddock suggested that notice of the meeting be sent to Scottsville staff and Planning Commission because of everything happening on Route 20
- A suggestion was made to hold this meeting in the COB 5th Street Building and also that it be called an "information sharing session" and not a "work session". The expectation will be to share information.

***Discussion of Work Schedule**:*

Mr. Benish stated that regarding the work schedule, staff had tentatively scheduled a follow up work session on the ZTA for phasing and clustering for the Rural Areas. The last time they left this there had been a request from the Planning Commission for information on what the impact of phasing and clustering would have on conservation easements. Staff spoke to representatives from the Nature Conservancy and PEC and has a good handle on what their opinion is. Staff has found time on February 7 when they will be available. Therefore, a work session was scheduled at 4:00 p.m. on that date. Since they are down to two items on February 7 it looks like they can do it at the regular meeting. The other work session may be Wickham Pond Phase II, which is a public hearing on a rezoning. The other item would be this clustering.

Mr. Kamptner suggested 6:00 p.m. because the Board of Zoning Appeals has two appeals that day starting at 1:00 p.m. and at least one of the two is expected to draw a large crowd.

Mr. Benish stated that due to the conflict that the work session would be held at 6:00 p.m. on February 7. Also, on February 14 there will be 4:00 p.m. work session.

Ms. Joseph stated that she would be absent on February 7, but would really like to be here for the Rural Areas work session if it was at all possible.

Mr. Benish stated that the next available date would be February 21. Staff's is concerned about providing the Board with the Commission's direction before they take their action. It has taken us so much time that it might be difficult to make a return in April even by losing a couple of weeks. On the other hand it is two weeks. If they were okay with it going on the 7th then they probably should do that. But, he thought they could also put it off to February 21. But, he wanted to make sure that Ms. Higgins is present because she was the one who asked for this to be done.

Ms. Joseph asked staff to check next week to make sure everybody else would be here on that date.

Mr. Benish agreed to check with the Commission next week to make sure there would not be less than six members present on the 7th.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 8:45 p.m. to the January 24, 2005 meeting.

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V. Wayne Cilimberg, Secretary

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