Albemarle County Planning Commission
February 14, 2006

The Albemarle County Planning Commission held a meeting and a work session on Tuesday, February 14, 2006, at 4:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Bill Edgerton, Calvin Morris, Vice-Chairman, Pete Craddock and Marcia Joseph, Chairman. Absent were Jo Higgins, Eric Strucko, and Jon Cannon. Julia Monteith, Senior Land Use Planner for the University of Virginia, representative for David J. Neuman, FAIA, Architect for University of Virginia was present.

Other officials present were Wayne Cilimberg, Planning Director; Lee Catlin, Community Relations Manager; Judy Wiegand, Senior Planner; Harrison Rue, Thomas Jefferson Planning District Commission and Greg Kamptner, Deputy County Attorney. Members of the Board of Supervisors present were Sally Thomas, Ken Boyd and David Wyant.

Call to Order and Establish Quorum:

Ms. Joseph called the special meeting to order at 4:10 p.m. and established a quorum.

Work sessions*:*

Places 29 Consultant Presentation - The Places29 consultant team and County and TJPDC staff will present the three Framework Plan Alternatives, along with information about Place Types and the next steps in the transportation study and master planning process. There will be time for questions and comments. (Judy Wiegand/ Lee Catlin)

Lee Catlin made some opening comments. Staff is very pleased to be back in front of the Commission to continue our conversation on Places29. To prefix the work session, she asked that they buckle their seat belts because they were about to see a lot of really good information about Places29 and the three framework alternatives as they currently exist. She stressed that this was not a decisional opportunity and they should not expect to end this with any kind of consensus or voting. This is just an opportunity for the Commission and everyone in attendance today to give their immediate reaction and to ask questions. This is beginning the process of familiarizing yourself and deliberating on these three alternatives. There will be three distinct alternatives that have been developed to give some real comparison opportunities between what might work better than other things in terms of concepts. So, again they don't want to emerge out of this at this point with anyone saying well I really like this one or that one. This is really to set the wheels in motion in terms of considering how these concepts might fit in with Places29 plan area. She assured everyone that these materials will be made available for public review in about a month based on what they hear today and over the next several days that the consultants are here. There may be some revisions to this material. Copies will be available on the website. All of the ways that staff has been spreading the Places29 information will continue to be done. This will really be laying the groundwork and building towards the decisional moment that will come in the May charrette when they actually will be taking preferences as to an alternative for the Places29 area. So with that she introduced Harrison Rue.

Harrison Rue stated that he wanted to come before the Commission to try to integrate the VDOT end of the study and put it in its proper place with the County's end of the study. He also wanted to recognize the fact that they do have some Board members present in the audience. This is partially in response to comments that were made at a recent Board of Supervisor's meeting. As everyone is aware, they have a separately funded, but well integrated transportation study (29 North Study), which is preparing the transportation element of the County's Comp Plan. It is under contract to the County and being done by the direction of the County staff. At the same time they are looking at the major regional travel along the Route 29 North Corridor and making recommendations to VDOT for improvements on that, which is well integrated with the County's land use policies. This was a rough idea to sell three years ago. But, now they just happened to have a Governor who ran on similar issues and got elected. They just came from a VDOT briefing with VDOT leadership staff who received the same information about how the County is going about land use planning. It was very interesting to see the transportation professionals' reaction to that information. As usual they are a little ahead of the curve here and he expected this to be well

integrated. There was some comment at that last Board of Supervisor's meeting about the Ruckersville Parkway and why it is in there. There was a comment about the MPO requesting it to be in there. They had the individuals who are presenting that idea come before our MPO meetings at both the technical and policy committee meetings as well as the CHART Committee. It was the consensus of all those three meetings that rather than see that study as a stand alone project it ought to be included in this project to get evaluated against the other alternatives. That is the reason that they are seeing it there. They are treating it as several tables at one of their work shops had diagramed it. They said that this ought to get included in the same evaluation as any idea like that would get. As they proceed through, one of the things that the MPO does is work through VDOT's standard policies in making any major capital investment. They are required to look at all potentially feasible alternatives and evaluate them against each other. So it is fulfilling its proper place in the transportation evaluation. In addition, one of the things that this study is doing that most transportation studies don't do is look at it in the context of the overall land use economic development environmental issues that are of concern to the County in looking at the northern development areas. With that background, our presentation will be made by our lead consultant Philip Erickson and Fred Dock.

Philip Erickson, AIA, President of Community Design + Architecture, a member of the consultants' team, in a power point presentation presented the three Framework Plan Alternatives, along with information about Place Types and the next steps in the transportation study and master planning process to lay the foundation for the May charrette. The focus for today would be to go through a little bit of background and into an overview of the three draft framework plan alternatives. Then they wanted to open it up for questions and then get their initial reactions. The real question is if these are illustrating the kinds of choices that they think would be helpful in understanding this a little bit more. Are they showing the right kinds of variations between these alternatives so that when they come back with an analysis they will be able to answer the right kinds of questions to help the Commission and larger community make the decisions about the preferred future of the corridor. This is really about framing the questions and making sure that they have the right variables. An important issue is how it is going to be implemented because they want to end up with a plan that is going to be implemented. The County needs to think about some possible policy changes in terms of land use as well as other items as they move forward. There continue to be some concerns in the development community about the consideration of financing mixed use development. Is that really that big of an issue or are they seeing changes happening in the financing markets that are allowing these things to move forward? They need to look at different partnerships. For example, when is it appropriate to look at the state level, county level or in cooperation with the city and others in the community to implement the plan? Phasing is going to be very important. They are working towards making the alternatives very clear before their presentation in May to the public. He asked if the Commission had any discussion points.

Ms. Joseph asked about the implementation aspect regarding the Comprehensive Plan and if they thought that down the road there would be ordinance or policy changes anticipated.

Mr. Erickson replied that is what they need to think about. In other words, from a strategic implementation standpoint what are the elements where they might want to make changes to some development standards? Also, where does it make sense to continue having a layer of policy in the County in the Comprehensive Plan and a layer that is the underlying zoning and using the rezoning process to move through the approval of projects? They will be identifying some areas where maybe further master planning needs to occur and just being very clear what the responsibilities are. There are going to be a whole set of transportation recommendations that come out of this. Who does it make sense to have take on responsibility for different elements of that or the coordination between the County, the developers, TJPDC and the State to get some of these improvements to happen. So they will be coming up with the strategy to move them through a series of steps to implement. If there are concepts like the uptown, then the elements of that may take time before the market is ready to implement them at the higher level of intensity. They might say that would bracket the intensity of those areas. What is the right implementation strategy for development in those areas? Are there interim uses or approaches to development that they could look at going forward with, which would not become an impediment to the future development of the uptown? There will be a lot of different strategies to make an effective document in order to move incrementally towards the vision.

Mr. Morris noted that on a number of the alternatives, especially on alternative #2, that the UVA Research Park is an integral part of this. It is not only a continuation of Berkmar Drive, but it goes onto Lewis and Clark Drive, etc. He asked if the University is a part of these deliberations.

Ms. Wiegand pointed out that last week she spoke with Tim Rose of the University Foundation about the three alternative plans and what staff thought would be some of the advantages of having a part of their property in. For example, the uptown in alternative 3 to see what their opinions are and how they can work with them. Staff actually gave them copies of the three plans and explained the possible benefits that they might receive from retail uses that might support their employees as well as possible housing.

Mr. Erickson replied that was one of those places where the issue of being clear about what is a near term and a long term strategy was important in working out ways that the research park can continue to do what they need to do in the near term, but still facilitate the longer term potential of something like that.

Ms. Joseph noted that was where their phasing aspect concept comes in also.

Mr. Erickson agreed.

Mr. Craddock asked what is the long term phasing time period. He asked if it was forever. There are a lot of things there that would have to change. It also includes a lot of things that have never been done here before. He noted that some of the ideas that he was not keen on was going out more into the undeveloped areas, but keeping things closer to 29. Earlysville Road is already a parallel road to Route 29 just as Profit Road is to the Eastern By Pass. He asked if they were talking about 50 or 75 years at this moment.

Mr. Erickson stated that this is the beginning and they don't have an answer to that yet. But, that is something that they will be looking at as they refine these alternatives and get ready to analyze them. The build out will be a range because all of these land use categories are going to have a potential range of development. They will be looking at that and showing them the set of assumptions that they put together and how they have derived at the range of what the build out capacity might be. Then they will be very clear about what the 2025 household and jobs will be and how that translates to the amounts of land within the different alternatives. They have been talking about using consistent demographics that cross the analysis for the same number of households and jobs occurring between the base year and 2025. What they will be able to see then is in one alternative that might use up 60 percent of housing capacity and 50 percent of the employment and retail capacity. In another one it might use up 75 percent of the housing capacity and whatever percent of those other uses. Then from seeing that and knowing what the growth rate is they can come up with fairly rough estimates. Once they are out to 20 years into the future range it is a guessing game on how fast things are going to grow or how they might slow down. But, they would be able to get an understanding or a rough estimate of that. They will probably end up having different estimated ultimate build out years.

Ms. Monteith stated that in follow up to Mr. Craddock her question is are the planning horizons consistent. Is 2025 the ultimate planning horizon? Will the planning horizons be consistent between the different alternatives? Is the program the same for each one of them? For instance, what you are trying to accommodate in terms of a residential capacity? Will it be parallel even though it will be implemented to a different state in the different alternatives? Is the program the same ultimately for all three of the alternatives that they will be looking at?

Mr. Erickson stated that the number of households and the number of jobs will be the same. But, there might be some variation between alternatives in terms of how much of the residential is in the lower density category, how much is in the mid density category and how much is accommodated for in the mixed use area. There will probably be some variation in that. But, the total number of households and jobs would be the same for the 2025 analysis point. But, the capacity of the plans beyond 2025 would more likely vary.

Ms. Wiegand asked to make a couple of quick points. Staff expects to be revisiting and reviewing the plan at least every five years for changes. Since the world does not stop 20 years out, it would be foolish

to be planning that it will stop. So they expect to be watching what is happening. That would be nominally planning and leaving space for what happens out there. They would take that into account.

Mr. Erickson noted that would be part of the implementation strategy as well. They would want to think about how the plan might change over time and what kind of process they should think about going through to do that.

Ms. Joseph asked if they were looking at the other growth areas and how this is relating to everything else in the County.

Mr. Erickson replied that they have been thinking about that. Certainly that would be one of the things to think about in evaluating these alternatives. They have been looking through the economic framework analysis at some of the market work that has been done and looking at what is happening in the other areas of the county and city. Also, they have been looking at the area outside of the county as well.

Mr. Edgerton felt that the scale was almost too large to take in. He stated that Mr. Erickson mentioned earlier in his presentation about trying to create some civic green spaces and some neighborhood centers in some of the existing neighborhoods. He had heard some anxiety from some of the established communities that have been developed before the Neighborhood Model was even discussed. He felt that it was a wonderful idea, but asked if they have taken it any further. He noticed in alternative 2 there were several dots located strategically in some of these existing neighborhoods. He felt that it would really be helpful in getting the community to understand what is being talked about if they could actually orient a little bit on the detail on how that might happen. Therefore, an existing neighborhood that was not developed around the concepts of the Neighborhood Model, which so much of this depends on, could be integrated without destroying the neighborhood and causing a lot of anxiety to the existing property owners.

Mr. Erickson agreed that is something that they to need to look at. Again, he thought that was likely going to be one of these things where the plan would set up the implementation of roads so that a lot of communities would have traffic calming. They would need to set up a traffic calming program so the neighborhood could come to the city or county and say that they were having these problems with people speeding down their street and if they could come and help them do something. He envisioned this kind of thing. Is there an opportunity for a civic green in a neighborhood? They could put that idea out there, but have a programmatic approach within the county where a neighborhood could come to the county and say our homeowner's association has been talking about things recently and they would really like to have a place in their neighborhood where they could have a tot lot or place to have community barbecues or something along those lines. What would be the process that the county would take the neighborhood through in assisting them to do that? He did not think the county would take the approach of requiring a neighborhood to have a civic center.

Ms. Wiegand noted that is where staff would be reactive at their request and not proactive.

Mr. Edgerton asked what sort of analysis has occurred comparing the three alternatives in their current form as far as what impacts they will have on the three biggest problems that they have, which is traffic, traffic, traffic? Traffic really is the big issue.

Mr. Erickson replied that there has not been an analysis as part of this project of any of that yet. That is what they will be doing between now and May. Then they will come back with that information. If they have specific questions about that Fred Dock and his office will be doing that. It will be that kind of analysis that will tell you how the corridors are performing. There will be a simulation model that will be built. They will be able to see the vehicles moving down the street and be able to visually understand what is happening in terms of traffic flow. They will be looking at the viability of the transit system and those kinds of issues. They need to get the alternatives defined in a way that they are comfortable with. Then they will move forward with that.

Mr. Rue stated that everything that they are doing in terms of the transportation analysis is being done under the direction of VDOT with a very carefully detailed scope. Fred Dock at our transportation end can

answer any more detailed questions about the modeling approach. None of that modeling has been done yet. That is the work that will occur between now and May on all three of the alternatives.

Ms. Joseph noted that several Board members are present, Mr. Boyd, Mr. Wyant and Mrs. Thomas. She asked if they had anything that they would like to add or any questions.

Mr. Boyd felt that their presentation was good. They have spent 7 or 8 months and have had 4 meetings with the community. In addition, they have met with the developers, landowners and important stakeholders. What he is not seeing in this presentation, which he was sure was in there but not very easy to see, is that here is what the community tells us that they want and here is the way that they are going to provide that for them. Here is what the developers and landowners have said that they are willing to contribute to this project and here is how we can blend those two. It is all through the planning perspective. But, he is curious how they are going to present that.

Mr. Erickson stated that he was right that they were not communicating that clearly in the presentation. That is something that they could look at doing in terms of structuring the presentation as well and probably would make sense in terms of the way that they are thinking about the next workshop at the next charrette. In the way that they are going to be doing that is that on the Thursday of the week having more of a session where people are introduced to the alternatives, the analysis work that has been done and given an overview. It will be more of an educational review. That would be the point where they have the assessments. They would be able to tell people that this is what they have heard from them before and that leads to these ways of evaluating the alternatives and here is how they perform against those. Then the idea would be that on that Saturday they would have a longer workshop more interactive and actually go through with actual drawings of the alternatives out on tables and do more of a small group session and get into some of the details of the analysis. They would give people the opportunity to look at an alternative in detail and then do a focused presentation on the second alternative. Again, that might be a good point to lead people into a discussion with comparing and to again touch back on what they have heard from the community and how the three compare. That is a really good comment.

Mr. Boyd stated that he was concerned that they would present this in a way that they have in past planning where the community is not happy with what they have got or they are confused thinking they got one thing and they got something else. So he felt that it was very important that whatever they do that they change this from planner's speaking to the community speaking. They need to present it to the community such that they are not saying here is what you told us that you wanted and here is how they are going to provide that to you. They need to start from that premise rather than saying here is our plan. One example is how did you not connect my neighborhood because I did not want it here. That is just one example that he has heard from the community where people were resisting in the neighborhood in not wanting it to be interconnected. He asked how they are going to deal with it. Are they going to connect it anyway? He asked if that was the plan, and if so, they need to say that. On the plans there is a big white gap around the reservoir area. They accept that Berkmar Drive will be going through there. He realized that was not in the development area. But, did they leave it out because of that? He was talking about the line where Berkmar Drive would be near the quarry.

Mr. Erickson stated that was one detail that he wanted to point out because the alternatives do vary in that regard. Alternative one in the way that they have been looking at it holds to the existing development areas boundary. Alternative two looks at the idea that the airport has land that comes out to this point and part of the development area, but then the development area continues along Route 643. So one thing that they have looked at involves the idea of this being an impacted area. They were still in a pretty low part of the flight path of planes coming in and out of the airport. The idea was with Berkmar Drive being here that basically they trade some area so that there is a little bit of expansion of that. In alternative 3 with the Ruckersville Parkway, it is for a great part of the Hollymead/Piney Mountain area to be at the edge. Given the concept as it has been put forward by the proponents a limited access parkway which does that now becomes more of an edge. Do they take that idea of the land that is still sort of in the influence area of the flight path coming in and out of the airport to again look at the idea of trading some development area/rural area there expanding the rural area into this area and then expanding the development area here?

Mr. Boyd said in order to be a little more specific about his question, which ties back to bringing in the landowner's input and what the developer is willing to do, that there is a stretch of land in that area that somebody is willing to possibly built a lot of the Berkmar Extended Road if they were to rezone that land. If that is to be taken off the table, then that is what they should say. They are talking to these developers, the community and the large landowners and they are obviously telling them these things. Where is that going to be incorporated into this plan? Or are they simply going to say here is how they could take advantage of that and maybe get some of this road built?

Ms. Wiegand noted that some of that would happen when they get to the implementation of this. Right now what they are trying to look at is what makes the most sense for the transportation and land use. That is definitely part of it. They are aware of the property owner and the fact that he would like to have some of his property developed and the fact that there is a road that they would like to put through there. They have not made that decision yet.

Mr. Boyd noted that he understood that a decision has not been made yet. But, he wanted to make sure to get all of that information on the table for the community to listen to, hear and understand. That is a discussion that ought to be happening if in fact they want to have a Berkmar Drive and if they think that is a good parallel road. It is something that would not have to go through the existing neighborhoods. It would only be through any new development that would happen there. If that is a good plan, then they should tell the community that there is somebody willing to contribute a lot of money in doing that. But, here is the cost of doing that. The cost is that the county has to rezone the property. He asked how they could incorporate that into their plans to make the best use of that offer. But, he was sure that there were other things all along there.

Mr. Erickson stated that his response to that question and statement would be that is the kind of feedback that they would like today. In their quick overview presentation they cannot get into all of the details. But, that is a detail that is important, which they have heard from the community. Therefore, it is a detail that they need to be sure that they clearly communicate in the comparison of the alternatives. They need to make it clear that there are some trade offs for moving the boundaries. Does that create opportunities that they might not otherwise see? So those are the kinds of things that they will need to go through the plans and be clear about what it is that they are varying between the two and make sure that in May they clearly communicate all of those different choices.

Mr. Boyd noted that he understood, but he just wanted to see that as part of the process because they need to get that on the table with all of those alternatives.

Ms. Joseph agreed that there needs to be some explanation on why that space is white.

Ms. Monteith asked how the preferred alternative would be selected. She asked how will comments and concerns be consolidated and focused in on the selection of an alternative.

Mr. Rue replied that they are actually talking about and designing that process right now. They have between now and May to do that. It will incorporate public input at the work shops, public input from people who cannot make the work shops, surveys and input from the Planning Commission and Board of Supervisors with our VDOT partners as well as the city. If someone is willing to build a piece of a road then that will count for something. Ultimately, all of the public input really still comes before this board, the Board of Supervisors and the Commonwealth Transportation Board who will be making the actual decision on the framework plan as well as VDOT.

Mr. Erickson asked to add one thing to that. It is also likely in an effort this complex that it is really likely that the preferred alternative is going to be a hybrid of these. He thought that because they were trying to structure the alternatives to give people choices that it is likely that they will choose different aspects from the different plans. It is also likely that through that public process with the charrettes, meetings with stakeholders, Planning Commission and Supervisors after that May session that they will compile all of that information with staff and likely end up with a pretty complete framework that will highlight some areas where there is a really important choice to make. So he could see coming back when they have the preferred alternative and having another session or presentation, Once they have isolated some of the outstanding issues they would need to determine what are the choices that are there and then help

facilitate the decision makers making those kinds of tougher decision that maybe come out of the broader process.

Mr. Wyant reiterated what Mr. Boyd said that the citizens need to understand clearly what they are talking about. He suggested that the definitions and language be very specific and clear to everyone. From an engineering viewpoint, he asked what would be the logical approach. The first thing is that they need to get the transportation network. He was concerned about the modeling. They need to make sure that the model actually depicts what is going to happen here. He appreciated the long term, but what they were really going to be looking at is what it is going to be like in 20 to 30 years up this 29 corridor and the neighborhoods that they generate there.

Sally Thomas noted that that there were two things that jumped out. She really like the thought of having to talk in words that mean what we think they mean to the people who are actually listening. She felt that the words build out should be banned because it means very different things to the people who are using that word. She often thought that the word development rights should not be used because it means something very different to some people than others. As the public, she felt that they would say that they like different pieces of the alternatives and would hope that they could have them all. She felt that it would be helpful to be told which ones were incompatible with others. One of the things that she liked about the 29H250 was that it gave a sense of how it would proceed and how it could be built without ruining the economy as it went along. Likewise, what is it going to be like in year 5? If they choose something like this in year 20 are they going to hate it in year 5? As you know, if the public hates it in year 5 they are never going to make year 20 because they will demand that they change it all. So what pieces of it are likely to happen the first 5 years and how painful is each of them going to be?

Mr. Erickson noted that it was going to be difficult to highlight everything that is going to be incompatible. But, he thought that they could come up with a process where people could communicate why they are making the choices that they are making. Then that will help us come back in response. He felt that they should continue asking that question why. A lot of time the things they were asking people to do in terms of planning exercises was if they feel that kind of center should go here rather than here. Sometimes they might really feel that. But, other times they are trying to express something else. So they need to come up with a way to ask that why question so that people will be able to respond more clearly to. Then they can come back and help them get to where they want to be.

Ms. Joseph asked if the Commission would receive copies of this and what was their next task.

Ms. Wiegand stated that the consultants will be taking their comments back and making some variations in these and changing some road alignments, adding another transit route, etc. They were also looking to see how to simplify these for the public. Obviously, it was very difficult to follow all of the centers on the maps. They are thinking about different ways of presenting this information to the public. Once that is ironed out the Commissioners will be getting copies of the matrix that compares the alternatives with the sketch alternatives.

Ms. Catlin stated that staff wants to make sure that the alternatives are giving the Commission, as one level of the decision makers, what they feel like they need to be able to put in the mix with the public input that they get to make the choices. So one of the things that staff hopes the Commission will be looking at is not only where the lines and the centers are on the map, but what they need to understand about this that is going to help them sort through what they hear from a lot of different places and get to where they feel is a good decision place for them. Staff wants to make sure that the Commission helps them with the dissemination of the information to people. As they get these materials together, if they have neighborhood association meetings or venues of things that could help shop this around, staff would be very grateful to hear about that. What they have all touched on is that there is a level of education and awareness and vocabulary that needs to be built up before people are really ready for May. She thanked everyone for their input.

In summary, a work session on Places 29 was held by the Planning Commission to receive an overview of the framework alternatives from the consultants during their interim visit and an update on the process from the Places 29 consultant team and County and TJPDC staff. In a power point presentation, Mr. Philip Erickson, AIA, President of Community Design + Architecture, a member of the consultants' team,

presented the three Framework Plan Alternatives, along with information about Place Types and the next steps in the transportation study and master planning process to lay the foundation for the May charrette. The Commission and Board of Supervisors reviewed, discussed and asked questions about the recommendations and information presented and provided general comments. As requested, no formal action was taken. The consultants will take tonight's comments and revise the materials for the upcoming May charrette. The revised materials will be returned to staff and made available for public review within a month based on today's comments. There may be some revisions made to these materials. Copies will be made available and will be on the website. In the May charrette they will be taking preferences as to an alternative for the Places 29 area.

The Planning Commission recessed at 5:20 p.m. for a dinner break.

The meeting reconvened at 6:00 p.m.

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, February 14, 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, Jo Higgins, Eric Strucko, Jon Cannon, Calvin Morris, Vice-Chairman, Pete Craddock and Marcia Joseph, Chairman. Julia Monteith, Senior Land Use Planner for the University of Virginia, representative for David J. Neuman, FAIA, Architect for University of Virginia was absent.

Other officials present were Wayne Cilimberg, Planning Director; Amy Arnold, Planner; Louise Wyatt, Zoning Enforcement Manager and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Ms. Joseph called the regular meeting to order at 6:01 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 – February 1, 2006 and February 8, 2006.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on February 1, 2006 and February 8, 2006.

- The Planning Commission requested staff to have Mark Graham come and talk to the Commission about the five-year plan and the legislative review process.

Consent Agenda*:*

Approval of Planning Commission Minutes – December 13, 2005 & January 10, 2006 (note: portion of on Places 29 Vision Statement and Guiding Principles)

Ms. Joseph asked if any Commissioner wanted to pull the item from the consent agenda for further review.

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

The motion passed by a vote of 7:0.

Ms. Joseph stated that the consent agenda has been approved.

Deferred Item:

SP 2005-029 PRO Distribution (Sign #9)

PROPOSED: Retail tire sales/service
ZONING CATEGORY/GENERAL USAGE: LI - Light Industrial - industrial, office, and limited commercial uses (no residential use)
SECTION: 18.27.2.2.13 Subordinate retail sales exceeding 15% of floor area of the main use.
COMPREHENSIVE PLAN LAND USE/DENSITY: Crozet Master Plan designates CT1 Development Area preservation of open space, CT3 Urban Edge: single family residential (net 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 (net 4.5 units/acre single family, net 12 units/acre townhouses/apartments, net 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, Parcel 87, located at 5155 Three Notched Road/Route 240
MAGISTERIAL DISTRICT: White Hall
STAFF PERSON: Rebecca Ragsdale.
DEFERRED FROM THE JANUARY 10, 2006 PLANNING COMMISSION MEETING.
APPLICANT REQUESTING DEFERRAL – DATE TO BE DETERMINED.

Ms. Joseph stated that the applicant requested deferral to April 11, 2006.

Motion: Mr. Morris moved, Ms. Higgins seconded, to accept the applicant's request for deferral of SDP-2005-029, Pro Distribution, to April 11, 2006.

The motion passed by a vote of 7:0.

Ms. Joseph stated that SDP-2005-029, Pro Distribution was deferred to April 11, 2006.

Public Hearing Items*:*

SP 2005-031 Edward P. Allen - Home Occupation Class B (Sign #33)
PROPOSED: Multiple businesses in S/F residential dwelling; four employees
ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre)
SECTION: 10.2.2.31 Home Occupation Class B; 5.2 Home Occupation
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/density (.5 unit/acre)
LOCATION: TM 41, Parcel 1B, 4746 Sugar Hollow Road (SR 614); approx. 600 feet west of the intersection of SR 810 and SR 614
MAGISTERIAL DISTRICT: White Hall
STAFF PERSON: Amy Arnold

Ms. Arnold summarized the staff report.

- The applicant currently operates two businesses at his residence at 4746 Sugar Hollow Road employing a total of four people, which is currently in violation of the Zoning Ordinance. The applicant proposes continuance of the Home Occupation, Class B with no more than two employees on the site at one time. On rare occasions when more then two employees may be present, the applicant has offered to reduce visibility of parking off site by arranging off site parking. The applicant has indicated that in addition to the activity associated with the business they expect to receive a single UPS delivery daily.

- A Notice of Violation (2005-151) was sent to Mr. Allen on September 16, 2005 in response to a citizen complaint regarding increased activity on the property. The businesses now in operation include the administrative and managerial aspects of an asphalt driveway coating service (equipment located elsewhere) and the design and production of real estate periodicals. Business activities are confined within the house and include filing, answering/making phone calls, and computer aided graphic design. The house includes 5,000 square feet under the roof with 3,200 square feet of finished living space, 1,000 square feet of which is dedicated to the Home Occupation. The driveway and parking areas located near the house have been re-

configured to allow for the parking of employee vehicles at the rear of the house (north side) away from Sugar Hollow Road towards Route 810.

- Staff has identified the following factors favorable to this application:
  1. Support of small business activity in the County.
  2. Continuing support by the applicant of maintaining 8.723 acres of the property in the production of livestock feed.

- Staff has identified the following factors unfavorable to this application:
  1. Inconsistency with the definition of Home Occupation, Class B.
  2. Inconsistency with the purpose and intent of the Rural Areas ordinance.
  3. Inconsistency with the Rural Areas section of the Comprehensive Plan in terms of scale and intensity.
  4. The impact of increased local traffic to and from the residential location on Rural Area roads.
  5. Increased presence of parked cars, above the quantity expected in a residential context, clearly visible from nearby Route 810.
  6. The inability of the County to confirm and enforce the numbers of employees on site at one time.

- In order for staff to support this proposal, changes to the proposal were suggested to the applicant. The applicant has responded to staff's recommendations by re-stating his desire to pursue the application as submitted.

- Based on the findings contained in this staff report, staff recommends denial of SP 2005-31 based on its inconsistency with the provisions of Section 31.2.4.1 of the Zoning Ordinance, the purpose and intent of the Rural Area ordinance and the Comprehensive Plan.

- There are two letters attached to the staff report from neighbors in support of the Allen's proposal. Another letter of support has been received from neighbor Susan Murray Durbin, which was distributed this evening.

- Louise Wyatt, Zoning Enforcement Manger, is present to answer any specific questions about the violation.

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

Mr. Morris asked if the applicant currently has a Class B license, and Ms. Arnold replied no.

Ms. Cannon asked if the action that is requested the issuance of a Class B license, which was in the form of a special use permit that ultimately was approved by the Board. Therefore, this was just a recommendation from the Planning Commission to the Board.

Ms. Arnold stated that was correct.

Mr. Morris asked that staff explain exactly what a Class B license entails.

Ms. Wyatt stated that Mr. Allen currently has a Home Occupation, Class A, which states that you cannot have any employees reporting to the premises other than those residing there. During staff's two on-site visits to the property they saw three and four employees working at computers.

Ms. Higgins asked what the difference is between a Class A and Class B Home Occupation.

Ms. Wyatt stated that a Class A has no employees and a Class B can have up to two employees. There are some other differences as well. A Class A Home Occupation generally does not allow for any outdoor storage. Whereas, on a Class B outside storage can be a condition if there are certain things that are stored.

Ms. Joseph pointed out that a Class B Home Occupation can also have it in another structure.

Ms. Wyatt stated that the Class B Home Occupation would allow use of an accessory structure. She asked Mr. Kamptner to highlight some of the differences.

Mr. Kamptner stated that she had already highlighted the two main differences in the definitions.

Ms. Wyatt stated that a Class B Home Occupation would be required if there was any outdoor change to the structure indicating that a business is going on.

Ms. Higgins asked about signage, and Ms. Wyatt stated that would require a Class B Home Occupation as well.

Ms. Higgins asked if there was any signage at this location.

Ms. Wyatt stated that there was a small sign that says for deliveries to the site for the business to use the rear.

Ms. Higgins asked if there were any advertising signs, and Ms. Wyatt stated that there was not.

Mr. Cannon stated that the Class B Home Occupation would allow two employees. He asked how staff would interpret that. Would that be for two employees or two full time employees or two full time equivalent employees?

Ms. Wyatt stated that zoning staff does not think that the ordinance makes a distinction between full time and part time. In fact, in staff's comments to Ms. Arnold we noted the fact that if someone had four part time employees it was almost impossible for staff to really monitor how many employees are on the site at any given time.

Ms. Higgins noted that was consistent with any home occupation license that is granted.

Ms. Wyatt stated that was absolutely true.

Ms. Higgins stated that was just an issue with home occupation license.

Mr. Cannon stated that to put a point on it that it was a matter of some uncertainty or dispute as to whether even if a Class B Home Occupation permit were issued that it would accommodate the operations as proposed by the applicant. He asked if that was correct.

Ms. Wyatt stated that was correct. The Deputy Zoning Administrator has interpreted the ordinance to say that it would not meet the definition.

Mr. Cannon stated that it was a possibility that the applicant would still be considered by the County to be in violation.

Ms. Wyatt stated that was correct if he had more than two employees.

Mr. Cilimberg pointed out that supplemental regulations can be modified by the Commission's action.

Mr. Kamptner stated that the limitation on the number of employees is in the definition and not in Section 5. Therefore, it is not subject to modification.

Mr. Edgerton stated that two employees is the maximum number.

Ms. Joseph stated that this whole business about part time employees is something that the Board of Zoning Appeals would decide and not the Commission in regards to the interpretation of the wording by the zoning administrator.

Mr. Kamptner stated that was correct.

Mr. Cannon stated that there is now no Class B Home Occupation permit. Therefore, that is not an issue that is ready to be decided before the decision is made to issue a Class B Home Occupation permit.

Ms. Wyatt stated that was correct because there currently is no Class B Home Occupation permit. The Class A Home Occupation was granted a few years ago.

Mr. Cannon asked if there was any other special use dispensation that the applicant could seek that would accommodate without question on the part of the County being the number of employees that he would wish to have.

Ms. Wyatt stated that is a good question. She felt that the deputy zoning administrator determined that the definition says two and does not say at any given time. So that is the interpretation.

Ms. Joseph asked if what he is doing fits in the definition of a home occupation.

Ms. Wyatt stated yes, because he resides there.

Mr. Craddock stated that typically a home occupation is for one business with up to two employees. He asked if this is two businesses that could have up to two employees in each business.

Ms. Wyatt stated that is a great question, but she did not have an answer.

Mr. Craddock asked if that was a violation.

Mr. Kamptner stated that there is a section in the ordinance that prohibits someone from obtaining multiple home occupations. Ultimately, it is a decision for the Board of Supervisors and with any piece of property and any number of special use permits, one may be granted. But, the Board may decide that with two special use permits the use is too intense and it is no longer consistent with the purpose and intent of the zoning district that the property is in. It is possible, but it is kind of a catch 22 for home occupations for two permits to be obtained.

Mr. Craddock stated that there was nothing outside that would even let anyone know if there were ten businesses going on inside other than the fact that someone complained that there were two going on.

Ms. Wyatt stated that it was just the number of cars parked outside and the small the sign.

Ms. Higgins asked how many cars staff was talking about.

Ms. Wyatt stated that the first time the inspector went on site there were four cars behind the house and two in front for a total of six cars. The next time it is not noted how many vehicles were there, but there were four employees on site. The final visit, which was on February 3, there were four vehicles in the back parking area. She noted that she was not sure if there were any in the front.

Ms. Higgins stated that no one noticed more than six vehicles at any one time.

Ms. Wyatt stated yes, that was what the note seems to indicate.

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

Edward Allen stated that he would like to mention that the sign that has been mentioned several times was a 2' X 3' sign on his door bell on the house, which was about 150 feet from the closest public road. To see the sign one would have to be on private property. It is only there so the UPS man will not ring the front door bell and leave his packages in the rain. That is the sole purpose for that sign. As far as the cars parked, he wanted to go through the history and hit a few of the high points. The number of cars and their visibility seem to be the major issues. If you read the whole staff report it really comes down to their feeling that the intensity of the business is evidenced by too much traffic coming in and out of the property

on a daily basis and too many cars being parked there. He objected to both of those characterizations of the business. Number one, he personally owns ten cars. At any one time there may be six or seven of those cars parked on his property. There may be three cars parked in his three-car garage. The cars happen to be antique collectable sports cars. So on a given day maybe three or four of the cars may be in repair shops in various areas of the state. But, there are occasions that he has a good number of cars parked at both the front and back of the house. He presented photographs showing the visibility of his house from Route 810 at 50 foot intervals. He failed to see that it was a visual eyesore from Route 810 for the cars parked at his residence due to the trees. Next, he would like to speak to the intensity of use and traffic. When he moved into his house three years ago he had three children who all attended local high schools and worked after school. Both he and his wife worked outside of the house. If you take their trips to and from work, it would be four trips. If you take their three children to and from school plus home to and from a job, it is sixteen car trips per day that they were doing as a personal family of five. Now he is an empty nester and all of the children have moved. Now in the worse scenario if there were four employees showing up that do not leave the premises, it is a total of eight vehicle trips per day. That is one-half of the traffic generated when they moved in there as a personal family. So again, he fails to see what he is doing now in any way rises to the level of increased intensity. It is a decrease in intensity. He presented photographs of other properties in the area where there were businesses in people's front yards with trucks, trailers, dump trucks, trash trucks, etc. within 50 to 100 feet from the road with no screening. The photographs show what the rural area looks like. Many people in the rural areas make their living in their back yards. Many people park a dump truck in their side yard. This type of activity takes places all across the county. All he is asking is to be treated like any other property owner. In fact, if they will look at these pictures of usage right around his house within a mile that all are far in excess of what his property shows in the previous pictures from Route 810. It is obvious, in his opinion, that he should be the poster child for a low intensity home office occupation and not the scapegoat to be censored for doing what has been done traditionally in rural areas of this county and every other county in this country for the last 100 years. With computer technology it is being done more and more. It is being done with a very low intensity level inside the house and he was not disturbing anybody.

Ms. Joseph asked if there were any questions for the applicant.

Mr. Craddock asked if he would point out where those neighbors live.

Mr. Allen stated that there were only two neighbors that had physical sight of his house. One of those neighbors is Mr. Fitzgerald who has written a letter stating that he has not objections. The other person who has any views whatsoever cannot see his house. He pointed out the Old Piedmont house was the only other house that has a physical view of his property. There is also a letter from that property owner, the Durbins, stating that they have no objection. These are the only two neighbors that would have any standing to say that they object to what he is doing because no one else can see it.

Mr. Edgerton asked who made the complaint.

Mr. Allen stated that he did not know, but would love to know because it was a phoned in anonymously.

Ms. Higgins asked if he would tell them about his operations. She asked if there was any equipment involved.

Mr. Allen stated that there was no equipment involved. He has had a graphic design magazine publishing business for over 20 years. That was the business on which the application was made. In September he purchased a second business for a driveway resealing franchise called Jet Black. He bought it because it was such an easy overlay. His bookkeeper, who was one of these four people being discussed as being part-time, was already in his office. He gave her additional duties to answer another phone line and to bill for the services that his foreman performs doing driveway resealing. That is the only thing that is done on the premises. His foreman does not even report to that site.

Ms. Higgins asked what the other three people do.

Mr. Allen stated that the other three people are all graphic designers and his wife is the chief graphic designer. They actually sit in front of four computer terminals.

Mr. Strucko asked if his wife was considered as part of the three employees.

Mr. Allen stated that his wife was not counted in the three part-time employees.

Mr. Cannon asked if it was his assumption that the businesses shown in the photographs were operating illegally.

Mr. Allen stated that he had no idea and did not care. He noted that he took the position that within a mile of his house that this is the natural background look of Albemarle County. He did not believe that what he is doing can in any way be considered high intensity.

Mr. Strucko asked if they have a daily UPS delivery.

Mr. Allen stated that has changed because they now receive about 90 percent of their materials directly on line. Therefore, their average UPS delivery might be twice a week.

There being no further questions, Ms. Joseph invited public comment. There being none, she closed the public hearing to bring the matter before the Commission.

Mr. Edgerton stated that he had a question for Mr. Kamptner. Mr. Allen has made a rather passionate plea for the Commission to ignore the law. Does the Commission have the authority to ignore the law? It seems that the law is very clear.

Mr. Kamptner asked if he was referring to the law regarding putting the limitation on the number of employees, and Mr. Edgerton agreed.

Mr. Kamptner stated that the Commission did not have that authority because the limitation was in the definition. He pointed out that the Commission's recommendation is for a Class B Home Occupation permit that cannot have more than two employees.

Mr. Edgerton stated that the applicant has more than two employees.

Mr. Kamptner stated that in order for the applicant to comply, that number would have to be reduced. That determination would be through what is an "employee", and that decision starts with the zoning administrator. He did not think that employees in the context of home occupations have been nitpicked to the point where they are looking at part-time and full-time equivalencies and things like that. But, the zoning administrator has a history of interpretation of these regulations, she is better equipped to make that decision.

Mr. Strucko asked if it was possible for two Class B Home Occupations to be issued for the same residence.

Mr. Kamptner stated yes, he thought that it was possible. But, that will be up to the Board to decide whether or not more than one is too much.

Mr. Strucko stated that the issue seems to be hinging on the number of employees. He questioned if the two businesses could have two employees each.

Ms. Joseph pointed out that it was the rural areas and not a commercial zone. It is a zone that one would expect rural activities and not commercial activities. That is why the Home Occupation Class B is limited to two employees. It allows people to get a start in the business, but not allow full blown commercial activities in the rural areas.

Mr. Strucko stated that if the Commission does recommend issuance of a Class B Home Occupation, the connotation is two employees and no more.

Mr. Kamptner asked to clarify one thing because he did not know if zoning has made the decision. But, zoning may perceive various activities as comprising a single occupation for purposes of the permit, the applicant might not have to get multiple permits to do what they are doing in their home. But, he was not sure if zoning has made a call on that yet.

Ms. Wyatt stated that she believed that they would treat it as two.

Mr. Edgerton asked if one home occupation would be limited to two employees, and Mr. Kamptner stated that was correct.

Ms. Higgins asked if any interpretation of that would go before the Board of Zoning Appeals.

Mr. Kamptner stated that it would be up to any person affected to appeal it to the Board of Zoning Appeals.

Ms. Higgins stated that the Commission could not make any decision about the number of employees because it was in the definition.

Ms. Joseph asked if the Commission wants to take an action on this request.

Mr. Cilimberg asked to lay out a scenario. If there were a Home Occupation Class B approved for this location it would be required to meet all of the requirements of the zoning ordinance. Anything that an individual would want to do beyond the requirements of the zoning ordinance either would require a variance from the Board of Zoning Appeals or request for a modification of supplementary regulations, which does not include the two employees because it is part of the definition. If there is a Home Occupation Class B here and if they want to have four employees they are only going to be able to have two employees and be legal through the issuance of a variance. It really boils down to that.

Mr. Kamptner stated that the Board of Zoning Appeals could not grant a variance to change a definition of the zoning ordinance. It would require a change to the zoning ordinance by the Board of Supervisors to change the number of employees from two to four. An appeal to the zoning administrator's determination as to what constitutes an employee is what they discussed earlier. That decision could be appealed to the Board of Zoning Appeals.

Motion: Ms. Higgins moved, Mr. Strucko seconded, to approve SP 2005-031, Edward P. Allen, as stated with the limitations only with the Class B, Home Occupations license as defined in the ordinance.

Ms. Higgins amended the motion to add the condition that all employee vehicles shall be parked behind (to the north) of the residence.

Mr. Strucko seconded the motion.

The motion passed by a vote of 7:0.

Ms. Joseph stated that SP-2005-031, Edward P. Allen, would go before the Board on March 15 with a recommendation for approval.

Old Business:

Ms. Joseph asked if there was any old business.

ARB position for budget for Board of Supervisors

- The Planning Commission asked that Mark Graham come and speak about this issue before they craft a formal response concerning the request.

Biscuit Run Rezoning Work Session:

- The Planning Commission discussed the Biscuit Run Rezoning Work Session to be scheduled on March 7. Staff pointed out that City staff has indicated that four City Commissioners cannot attend due to prior conflicts and at most there would be three attending. There will probably be some City staff. The Scottsville Planning Commission will not be attending, but their Town Administrator does plan to attend. The March 7 meeting will either have to be held in Room #235 or COB 5th Street. Staff believes with a little bit of management by the Chair that it can handle the meeting at COB 5th Street with our own recording equipment. It was decided that the meeting will be held at COB 5th Street. It will be a 6:00 p.m. work session and Biscuit Run Rezoning Session will be the only regular item on the agenda.

There being no further old business, the meeting moved on to the next item.

New Business:

Ms. Joseph asked if there was any new business.

Recognition Dinner with Mr. Rieley and Mr. Thomas:

- The Commissioners will receive an email concerning the details of the recognition dinner on Thursday, February 23. Next week the meeting will adjourn to that date.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 7:14 p.m. to the February 21, 2006 meeting.

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V. Wayne Cilimberg, Secretary

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