Albemarle County Planning Commission
April 18, 2006

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, April 18, 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, Jo Higgins, Jon Cannon 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 present.

Other officials present were Wayne Cilimberg, Planning Director; Claudette Grant, Senior Planner; Elaine Echols, Principal Planner; Scott Clark, Senior Planner; David Benish, Chief of Planning & Community Development; 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 6:02 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 – March 15, 2006.

Mr. Benish summarized the actions taken by the Board of Supervisors on March 15, 2006.

Consent Agenda:

Approval of Planning Commission Minutes – February 21, 2006.

Ms. Joseph asked if any Commissioner wanted to pull an item from the consent agenda.

Motion: Mr. Morris moved, Mr. Craddock 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:

ZTA-2005-005 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 definitions of "Farm", "Farm worker housing, Class A" and "Farm worker housing, Class B"; 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 (farm worker housing, Class A), and temporary farm-worker housing facilities for more than 20 residents as a use requiring a special use permit (farm worker housing, Class B). (Scott Clark)
DEFERRED FROM THE MARCH 28, 2006 PLANNING COMMISSION MEETING.

Mr. Clark summarized the staff report.

- Before answering questions, he asked to do a review of the proposal as it currently stands. He noted that Mr. Shepherd has a response to provide on most of Ms. Higgins' questions. Also, Mr. Kamptner will be able to explain the recorded instrument or affidavit that is mentioned in the staff report. Mr. Ken Shaver from the Virginia Employment Commission is here to answer questions about other regulations that affect these facilities.

- The origin of this request was a proposal for an internship program on an organic farm that would involve student interns living on the site and learning about agriculture while doing the farm work. The result of that request was a zoning determination that farm worker housing was not considered to be accessory to agricultural uses in the county. So this determination affected not only that one specific request, but also all of the existing or any future migrant worker housing facilities and the various farms in the county that use those. So it has fairly serious implications for agriculture in the county. The Comp Plan identifies agriculture as one of our main features of the rural area to protect. So this zoning text amendment is an attempt to make up for that gap acknowledging that zoning determination.
- Staff's drafting process to develop this proposal began with a review of the Comp Plan policies. The Comp Plan focuses on agriculture and forestry as high priority economic activities in the rural areas that we need to not only support, but also to find ways to be more flexible and creative with existing uses and new forms of agriculture to support that need to continue in the rural area.
- Staff has had quite a lot of input from the farming community from various sectors such as vineyards and the Farm Bureau. Generally the input was from the various sectors in the agricultural economy that might use seasonal workers in order to get an idea of what their needs were. Staff also reviewed some of the existing regulations that Mr. Shaver can talk about so that staff could make sure not to create conflicts or contradictions in the draft.
- At the March 28 hearing, the Commission identified several changes to be made to the draft text amendment. Those changes are addressed individually below. Please see Attachment A of the staff report for the current draft ordinance that includes these changes.

Clear indication that workers living in these facilities may only work on that farm.

The proposed section 5.1.44(e) specifies that workers living in these facilities must engage only in seasonal agricultural work, and only on the farm where the facilities are located.

Individual structures cannot have all of the features of a dwelling unit.

The revised definitions for Farm Worker Housing Class A and Class B now specifically require that "no single structure contains all of the following: provisions for sleeping, eating, food preparation, and sanitation (bathing and/or toilets)."

Remove "human habitation" as a reference in subsection d. Subsection d. should be rewritten to permit any use accessory to a primary agricultural use.

This section, now 5.1.44(f), has been changed appropriately.

Ensure that the facilities will not be permitted to convert to uses that are not consistent with the ordinance, which can be done through the affidavit.

As noted in the meeting, proposed section 5.1.44(d) (2) (c) requires a recorded instrument that will address this concern. This instrument will run with the land.

Determine a threshold for the number of facilities which will trigger a requirement for a special use permit.

The proposed definitions for section 3.1 now specify that a Class A facility may contain no more than five structures "designed and arranged for sleeping." Staff felt that setting this limit on the structures for sleeping would address the concern without making the regulations unreasonably inflexible. Various farms and types of farm work might require different arrangements of structures, and regulating the total number of structures might force some less-impacting uses into the Class B category while leaving larger uses in the Class A category.

"Seasonal agricultural workers" should be defined more specifically.

The proposed definitions for section 3.1 now include a detailed definition of "seasonal agricultural work." The other proposed definitions and the proposed regulations for section 5.1.44 refer to this

definition. The definition allows for workers to change from one form of seasonal work to another on the same farm, in order to provide flexibility for farm owners and workers.

Indicate what types of units (structures, trailers, vehicles, etc.) should be either included or excluded.

The proposed section 5.1.44(b) specifies that the units shall include only structures, and not motor vehicles or "major recreational equipment" (including travel trailers, pickup campers, motorized dwellings, tent trailers, boats and boat trailers, house-boats, and trailers). However, it does specifically permit industrialized buildings and tents that are erected on concrete or wooden platforms. Tents were raised as an option by the organic-farm internship proposal that led to this amendment.

RECOMMENDATION:

Staff recommends that the Commission forward the attached text amendment to the Board with a recommendation for adoption.

Ms. Joseph asked if there were any questions for Mr. Clark.

Mr. Morris asked what an industrialized building was.

Mr. Clark replied that it was a form of a pre-manufactured building which Mr. Shepherd has provided a definition for. Examples given include temporary classroom buildings and contractor's office trailers.

Mr. Shepherd pointed out that the definition was included in the ordinance.

Ms. Joseph invited Mr. Shaver to address the Commission.

Ken Shaver, Farm Placement Specialist with the Virginia Employment Commission, stated that he was present to answer questions.

Ms. Joseph pointed out that the Commissioners had been given a copy of the Code of Virginia that talks about migrant labor camps and a copy of the field check documentation. She asked Mr. Shaver if that was something that his office uses.

Mr. Shaver replied that is the OSHA regulation, which is the checklist that the Virginia Employment Commission and the State Health Department use to inspect migrant labor camps.

Ms. Joseph asked how often these inspections occur.

Mr. Shaver replied that the inspections have to occur every year at least thirty days before any migrant workers are allowed in. There is no set schedule after that. Last year the health department did monthly inspections. But, inspections will be done after a complaint has been made. In addition, the Department of Labor Wage/Hour Division does surprise inspections at any time of the year.

Ms. Joseph asked if they have repeat customers and if it is complaint-driven so that people know that they are not supposed to do this without complying with certain regulations. She asked how it usually works.

Mr. Shaver stated that they don't have many complaints of that nature. He felt that the federal and state agencies both have done a pretty good job of educating the agricultural community about what they need to do.

Ms. Joseph asked if the education was through the Farm Bureau and Cooperative Extension Office.

Mr. Shaver agreed it was and he attends all of the Albemarle/Nelson County orchard and vineyard meetings, which are held several times a year. In addition, the Cooperative Extension Office has different

meetings over the year. He usually tries to attend those meetings and give out any information that might be needed at that time.

Ms. Joseph asked how many migrant labor camps currently exist in Albemarle County.

Mr. Shaver replied that they really only have two growers that have camps that are inspected at this time. One is an orchard grower in the County who has more than one camp. All of those are permitted by the Health Department. At this point they have one vineyard that is using what is called H2A workers, which is the present day agricultural guest worker program. There is a health department inspection, which is done for the federal government. Also, the Wage/Hour Division can do an inspection under the Migrant Seasonal Agricultural Worker Act.

Ms. Higgins asked what the size was of the camps.

Mr. Shaver replied that the vineyards had five people. But, he felt that as the vineyards became larger that more seasonal workers would be needed.

Ms. Higgins asked how long the migrant worker was typically residing on the farm.

Mr. Shaver stated that in the case of an orchard or vineyard it would run about the same from late February or early March up until late October.

Ms. Higgins noted that in the ordinance they are considering 20 or less and then over 20 in two different categories. She asked if that was a large number. She asked if they have missed what is the norm and what is actually needed. She felt that it sounds like a lot of people.

Mr. Shaver stated that 20 was not a lot. If you look at the labor camp that the orchard has there are more than that within that camp, but those camps have been here for years.

Ms. Higgins asked if they have more than five people and multiple camps.

Mr. Shaver replied that they have more than 20 people and more than one camp. He thought that most of the future camps would fall under that 20. There may be a vineyard that has more than 20, but it was not going to be the norm.

Ms. Higgins questioned the level of activity if this use were more prevalent.

Mr. Shaver stated that if most of the future workers come in under the H2A Program, or whatever guest worker program they have in the future, those people would come in on a bus. The grower has to pay transportation for those workers and has to provide transportation for them when they get here. So they are coming in on a bus and living at the camp. Then the grower provides transportation to the grocery store or whatever.

Ms. Higgins pointed out that there would not be a lot of individual cars. She asked if there is a way to monitor that under this type of inspection program.

Mr. Shaver replied that would be covered under their inspection if it is the visa program. But, if it is just regular migrant workers, then they can come in however they want to. Normally they are traveling together from wherever they worked before.

Ms. Higgins asked if they come individually or with their families.

Mr. Shaver stated that usually they come in groups, but not families.

Ms. Higgins asked if they govern whether the children are in school.

Mr. Shaver stated that as far as the Virginia Employment Commission they would not. But, the Albemarle County Schools has a migrant education department that does monitor that. Each county has a migrant education department.

Ms. Higgins asked how many students are in that program.

Mr. Shaver noted that he could get that information. He pointed out that there were probably more students in Nelson County than Albemarle County.

Ms. Higgins asked if the workers normally are just working on the farm where they are housed.

Mr. Shaver said that migrant workers only work at one location about 95 percent of the time. Most farmers are not going to hire that many people so that they have a lot of down time to allow them to work in other places. Currently that may occur in small vineyards where they need the workers for one or two days to harvest. If the workers are in the H2A Program, it is against the law for them to work for anyone else other than the place that sponsored the visa for them.

Mr. Strucko asked what the prevalent violations were that he sees.

Mr. Shaver replied that it was probably things that are minor such as holes in screens or the bedding that needs to be changed before the people get here.

Ms. Higgins asked if he knew of any other counties that have an ordinance similar to this that allows for farm worker housing.

Mr. Shaver replied no. There are none in the areas that he covers from Madison and Culpeper down to Amherst and Buckingham County. At this time he did not know of any other ordinance like this yet. But, it may be coming to that.

Ms. Higgins asked if it was allowed by right in the other areas.

Mr. Shaver replied that in the other areas this use was allowed by right.

Mr. Cannon asked where the migrant farm workers live in the other areas and if their housing is provided.

Mr. Shaver pointed out that some of the workers live in existing old farm houses that have been remodeled.

Ms. Joseph noted that if the farmer had the development right to build another house it could be done in Albemarle County.

Mr. Shaver stated that there were some migrant worker camps that would fit into this, but those camps have existed for many years. The camps are grandfathered uses that have been remodeled.

Mr. Kamptner pointed out that some of the localities may have determined that farm worker housing is accessory to the agricultural use. Albemarle County determined that it was not accessory to agricultural use.

Ms. Joseph asked if the number of 20 persons triggered other federal regulations.

Mr. Shaver stated that above 25 persons they would run into other health department regulations that kick in some of the water work problems. But, as far as 20 people he did not think so.

Ms. Higgins pointed out that water testing was required at a certain level.

Mr. Shaver stated that water testing was required for any migrant camp. There has to be a well sample taken every year before the camp opens.

Ms. Joseph asked if beyond what he has read here if there are many more regulations that the owner has to comply with to meet his standards.

Mr. Shaver replied yes, there are other regulations. If the Commissioners would read through the inspection sheet they would find that a lot of houses would not pass.

Ms. Higgins pointed out that this also allows vehicles, trailers and converted buildings.

Ms. Joseph noted that was the Code regulations, but they could be more restrictive than the Code. There being no further questions for Mr. Shaver, she asked if the Commission wanted to go through Ms. Higgins' questions.

John Shepherd noted that his answers to Ms. Higgins' questions really focus on how the zoning ordinance functions now as well as how the zoning ordinance would function as they regulate this use. He suggested that they go through this question by question.

1. The definition of "seasonal agricultural work" seems to cover all the plant-it to harvest-it activities. It seems to leave out significant agricultural activities associated with livestock such as horses, cattle, sheep, swine or other animals that are bred, sheared, or otherwise requires "farm workers" for associated agricultural activity. Was this on purpose?

Staff did not address livestock at all. They could add that to the ordinance, but the definition has been used for plants.

Ms. Higgins noted that she made that suggestion because of people who shear sheep and also for horse events. If they are addressing seasonal workers, she felt that should not be excluded whether it is done by broadening or not being so specific about the seed planting and harvesting.

Mr. Shepherd felt that made sense because it really does fall within the perimeters of seasonal work. In particular, shearing is an example of that.

2. Seasonal agricultural work seems to have no beginning and end so it can continue throughout the year. Does this impose upon the County staff a need to know if a "worker" is multi-talented or do the worker's change over during the year? What about overlap? I would suggest this is impossible to monitor fairly.

Staff originally thought that the simple clean way to do this would be from the spring to the fall. But, in talking with the people from the farming community they realized that different sorts of work occurs really throughout the year. It is seasonal, but it is not limited to particular dates. Staff chose to define it as they did. In the course of a particular owner defining their use on their concept plan and zoning clearance, they could define what periods of time would be in operation on that particular farm. Staff could then enforce it on that basis.

The definition would allow a person to work year-round on one farm, provided that they are there for separate seasonal tasks.

This was done to provide some flexibility and avoid forcing any workers to leave once a particular type of seasonal work was finished. Of course, there's a risk either way--too rigid, and farmers lose good workers; too loose and the idea of "seasonal" housing gets stretched.

Ms. Higgins stated that she was okay with that, but was just questioning that it was going to be hard to monitor. She did not know any other way that they could do it.

3. Sec. 5.1.44 b - the first sentence has the wording "industrialized buildings" - what does this mean? Does this suggest "industrial use"? Please provide examples.

Mr. Shepherd pointed out that industrialized buildings are defined in the ordinance. Examples of industrialized buildings include temporary classrooms and contractors' office trailers.

3.1 DEFINITIONS

Industrialized building: A combination of one or more sections or modules, subject to state regulation, and including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. For purposes of this definition, a manufactured home is not an industrialized building. The structure and use identified in this chapter as "temporary nonresidential mobile home" is an industrialized building. (Added 10-3-01)

Ms. Higgins pointed out that what troubled her about that was that it implies that the structures could include industrialized buildings, which includes modular and contractor's trailers and things like that. She questioned whether they were crossing that line. She had no problem with using that term, but it does raise those kind of issues with the trailers that are done by contractors by special order and don't have kitchens in them. So basically someone could bring four units in and set them up and then they could have a fifth one with a kitchen and bathroom facility in it. That definitely is a concern.

Mr. Shepherd noted that the ordinance as it is written would permit that for an industrialized building, which would have to be approved by the building official. It would also have to be approved by the fire marshal. With that said there is nothing in this ordinance as staff has written it that would preclude the use of modular buildings like that. If they take a manufactured home and remove the kitchen, it would then lose its status as a HUD-approved manufactured home and would then be regulated as an industrialized building. So they have not precluded that, but it is regulated by the building official.

Ms. Higgins stated that the crux of all of her issues really is that this is a supportable use, but to do it without public notice to the adjacent neighbors under a special use permit process is her biggest issue. She felt that something like this could involve 5 plus units, with 2 other units with one being for cooking and one for bathroom facilities. There could be 5 to 7 contractor trailers mobilized and set up in an intrusive place to an adjacent neighbor and they would have no knowledge of it until after the fact. Those are the kinds of things that could make it controversial. But, she accepted his definition in that nothing can be done about that.

Ms. Joseph noted that on the flip side she tends to think of this more as an agricultural use in the rural areas. She was hoping that they all were thinking of agricultural uses as the highest and best use rather than residential. She felt that is where the conflict comes in with the residential use and the agricultural use.

4. Sec. 5.1.44 b seems intended to exclude licensed motor vehicles used for camping purposes. Is the intended to exclude real "temporary housing"? If so, is it intended that farm worker housing be considered permanent? With respect to "major" recreational equipment - what defines "major" versus "minor" mean? If a licensed motor vehicle is parked on a farm and used for temporary housing, how could you determine that the use exists?

Our intention was to align this regulation with the prohibition of the use of major recreational equipment set forth in Section 4.12.3.b.1. Our zoning enforcement program is prepared to address the issue if it arises.

4.12.3 PROHIBITED ACTIVITIES IN PARKING, STACKING AND LOADING AREAS
The following activities are prohibited:

1. *Parking, storage or use of major recreational equipment*. No major recreational equipment shall be used for living, sleeping or other occupancy when parked or stored on any lot or in any other location not approved for such use. For purposes of this section, the term "major recreational equipment" includes, but is not limited to, travel trailers, pickup campers, motorized dwellings, tent trailers, boats and boat trailers, house-boats, and trailers, cases or boxes used for transporting such recreational equipment, whether occupied by the equipment or not.

Ms. Higgins noted that Section 4.12.3 actually applies to parking, stacking and loading areas. So again, are they excluding something being used now or could be potentially. She would find that less intrusive than something that gets set up on blocks and that sort of thing. But, she does not have a problem with it. They are creating something that to comply with it almost makes people do things that might not be as good as they would do not having an ordinance. In other words, why wouldn't they do it in a single structure, which might be preferable versus multi cabins? Why wouldn't they do it in something that the workers could come for four weeks and then leave? That is just a philosophical issue. This leads to question 5.

5. At our last discussion, the idea of limiting the structures was brought up. The ordinance language as presented will allow for 20 workers that can be housed in 20 cabin like structures or 2 to a cabin with 10 cabins, a separate food prep structure, a separate bath/toilet structure or several of each. In reality, a small "village" can be created to house farm workers and will occur because it will be necessary to break down the structures in some way to fit the limitations imposed. If we are going to allow a "use" that is aimed to house people, why can't a "dwelling" be used? If so, a single structure with kitchen, bathrooms, and "bunk rooms" could be built that would minimize the structures and associated impacts and fall under the typical code and regulations for a dwelling. Why are we not considering a limitation that involves a single structure?

The proposed text allows 5 or fewer structures by right and 6 or more structures by special permit.

Dwellings can be used to house workers on farms. The use of dwellings for this use may be limited by the definition of family, the availability of development rights and cost.

Family:
1. An individual; or
2. Two (2) or more persons related by blood, marriage, adoption, or guardianship, and/or not more than two (2) unrelated persons living together as a single housekeeping unit in a dwelling or dwelling unit; or:
3. For the purposes of this ordinance the following shall not apply to the R-1, R-2 and R-4 residential districts: a group of not more than six (6) persons not related by blood, marriage, adoption or guardianship living together as a single housekeeping unit in a dwelling or dwelling unit.

Dormitory: (Repealed 10-3-01)

Ms. Higgins stated that they were trying to come up with a way that someone could either take an existing building or create a new building and house migrant workers. If they have all of the enforcement in place why are they splitting it up into little pieces? Why can't they just allow a dwelling that is designated for that purpose? The reason why is it takes a division right to add an additional structure. Most of these farms, if they are large enough, will have more than 21 acres, and with 42 acres they have 2 rights. In multiples of 21 they have a division right. She questioned why they are not considering doing this in a more consolidated way.

Ms. Joseph stated that if they have a division right they can go ahead and do it without any review. She felt that one of the things was that it was a response to someone who came in and wanted to do several on a property that is under a conservation easement.

Mr. Shepherd noted that there are several other factors involved here. Dwellings are limited by the definition of family. So in the rural areas they can't have more than six unrelated people or people who are related and two additional people. In many cases this would not work for a group of migrant workers. So there is the family definition. There is also the division right or development right question. Also, it is fair to say the expense. The proposal that staff is looking at for the internship program that prompted this whole thing was much less expensive than building a dwelling to house these people. They were ultimately hoping to have 24 people. That was their dream to build four dwellings, which would be a substantial expense compared to something that the Commission saw last week at Camp Watermarks. So from an economic standpoint that is a factor. If they are housed in a dwelling, then this ordinance does not come into play. Someone can always have people live in a house on their farm.

Ms. Higgins suggested limiting 5 to the sleeping structures, which would be an overall limit. There could be individual structures for bathrooms, food preparation and that sort of thing. She asked if they might want to consider 6 total structures with five for sleeping. They were not saying how many other structures would be allowed, particularly for the classification for under 20.

Mr. Kamptner stated that once they get to the 6 the special use permit is required. The conditions impose maximum.

Ms. Higgins noted that addresses her concern.

6. Sec 5.1. 44 b - Does not address "mobile homes" or manufactured homes assuming kitchens are removed, manufactured housing or other more typical prefab structures that may be used for this purpose. Are these to be allowed?

A manufactured home with its kitchen removed loses its certification as a manufactured home is considered to be an industrialized building. These are permitted subject to the approval of the building official. However, the utilization of major recreational equipment for this use is not permitted.

Mr. Shepherd asked to back up for a second and talk about major recreational equipment. The reason staff put that in the proposed text was because now it is prohibited to use major recreational equipment as defined in the ordinance for living. So to use that term in the farm worker ordinance just aligns the same regulations that govern the entire rural areas and its major recreational equipment. It just coordinates that with the farm worker housing. Staff felt that was the way to address the concern that was raised last week about the use of mobile homes, travel trailers and that sort of thing.

Ms. Higgins asked if industrialized buildings were basically the same thing potentially because they included contractor trailers and that sort of thing. But, they would not be on wheels and would not have licenses.

Mr. Shepherd agreed that they were different.

7. If there are 20 workers that don't have families living on the farm, this would not require a special use permit. "e" limits the housing to workers only. What about weekends and holidays (summer vacation), the family joins the worker for short periods of time - this could result in from 40 (if just wives/husbands come) to 60 - 70 (if children visit) - coming and going from a specific farm. If a child lives with her mother, will a zoning violation be issued for having a child in the structure because the child is not a "farm worker"?

The Class A permit is limited to 20 persons, including members of the immediate family. The child would be considered a member of the immediate family of the farm worker, assuming the mother is a farm worker or related to a farm worker. The proposed ordinance only regulates residents, not their guests.

Ms. Higgins pointed out that from Mr. Shaver's input she has a better feeling of comfort about the family members, but if this ordinance were used like it is written and someone has a different intent and established something that has a rolling seasonal worker base it could be a lot of activity. That is her concern. They have no way to capture that except through enforcement. So that is a significant concern. If this was covered by special use permit there would be more ways to put conditions on it that they don't have under the by right scenario.

8. With all the possible activity (see 7 above) What sort of road is required to serve the "farm worker housing" structures? Will a private road standard be applied to assure safe and convenient access? On farms with multiple dwellings, this is typically required.

This use would not trigger a requirement to upgrade the roads on the farm to a standard. However, the concept plan would be reviewed for safe and convenient access by the zoning administrator and the fire marshal.

Ms. Higgins noted that without the special use permit review the zoning administrator and fire marshal would address this. But, safe and convenient access is usually an engineering department review. If it is a third dwelling, then they would get into a private road standard. They cannot have substandard access to some cabins that are placed in the woods where a fire truck could not get there. She acknowledged that this was making it more expensive, but some how that needs to be done because engineering cannot just throw up their hands.

Ms. Joseph noted that if fire marshal review and approval is required that they will be looking at those things. At one point staff discussed that they may be looking to see if there is a pond near by that needs a dry hydrant. So there are all kinds of things that the fire marshal will be looking at.

Ms. Higgins pointed out that the fire marshal does not review roads and what standard the road is built to.

Ms. Joseph suggested that staff talk about what they see the process including. The zoning administrator would talk to the engineering department about the road standard since she would not be making that decision herself. She questioned whether that was the normal course of events.

Mr. Shepherd stated that the inclusion of the fire marshal amongst the reviewers was in large part to make sure that fire protection would be taken care of with these camps. As far as roads on farms, there is no road standard for farm roads. When a third dwelling is built on a parcel, then the road standards are brought in. Since these are not dwellings, it is not something that triggers the need for private road standards. The fire marshal is being asked to make sure that there is access to these structures for fire fighting. That is something that would be important in the review and zoning would be looking at that as well.

Ms. Higgins questioned how they would capture that in here since it did not meet the requirement of a dwelling. It falls in this gray area of whether the fire marshal says it is okay for a fire truck to get into the site. She asked if that was going to be done by physical inspection. She noted that is a concern.

Mr. Shepherd pointed out that would be addressed on the concept plan.

Ms. Higgins suggested that there should be some detail added to say adequacy of travel ways or road ways needs to be specifically called out. Just showing the location is not the same as what she is talking about in whether a fire truck could get in or not.

Mr. Shepherd stated that should be further clarified.

9. Sec. 5. 1. 44 c - Why are "minimum yards" specified in this ordinance? Where will the front yard of 75 ft be measured from if there is no road/property line? With this kind of front and rear yard will it cause the structures to be spread out in a village like fashion?

The entire facility must meet the proposed yards or setbacks measured to the property lines and road right of ways of the parcel. There are no proposed regulations governing separation between the structures.

10. All occupied dwellings are required to have an address for E911 locating purposes. This address needs to be posted on the road so emergency responders can find the location. By creating a situation where there is not a "dwelling", how will this be handled? Would a road name and addresses assigned to each building? This could end up with lots of "addresses" showing up on the driveway and mailboxes. What assurance that the road serving the building will allow a fire truck to gain access if some kind of road standard is not applied?

Occupied structures, including farm offices located in barns, are assigned E911 addresses.

Ms. Higgins asked if every cabin would have an E911 address, which would be assigned and posted at the road.

Mr. Shepherd stated that was correct.

11. Should there be a provision to address where the "farm worker housing" structures are located? Since the definition of "farm" include one or more parcels of land, should the farm worker housing be located on the primary parcel or any parcel under the same ownership? management? If allowed on parcels where there is no primary dwelling, what if the parcel is sold and the farm worker housing is used by the new owner who lives in and/or wants to convert the structures to a "dwelling". What other regulations could come into play? Are there issues we have not considered? Would this cause other difficulties with enforcement or re-use?

The proposed ordinance does not address the location of the facility in the event that the farm contains more than one parcel. The proposed ZTA could be revised to address this issue.

In the event that a property is sold, a new clearance will be required and the affidavit will run with the land.

31.2.3.2 ZONING COMPLIANCE CLEARANCE
An occupant shall obtain a zoning compliance clearance from the zoning administrator when: (1) a new commercial or industrial use is first established on a parcel; (2) an existing commercial or industrial use is changed or intensified; or (3) the occupant of a non-residential use changes. The zoning compliance clearance shall be issued only if the zoning administrator determines that the structure or premises and its use comply with the requirements of this chapter. For purposes of this section, production agriculture is not a commercial or industrial use; a home occupation is a commercial use. (Added 9-9-92; Amended 10-3-01) (§ 31.2.3.2, 9-9-92; Ord. 01-18(6), 10-3-01)

Mr. Shepherd pointed out that when ownership changes that a new zoning clearance would be required to continue a use. That includes the affidavit.

Ms. Higgins asked if it should be clear in the ordinance that when a farm worker facility is built should they actually be allowing it on some out lying parcels that is not where the primary use is. Should there be a relationship between the farm worker facility and the main part of the farm. There could be something built on a separate parcel and then now it is on a stand alone parcel. There are potential headaches with reuse of someone upgrading it and using it again. But, the county could pull out the affidavit and say that these are not dwellings. She thought that might be a can of worms that they could avoid and questioned whether there is a reasonable way to accomplish that.

Mr. Clark stated that a lot of farmers did not own or use multiple parcels that might not be contiguous, and those uses could change over time. A parcel that was being used in one way might be shifted to another use, and staff did not want to be too restrictive in which parcel they have to use. Staff was trying to leave that open.

Ms. Higgins asked if a 50 acre parcel were sold and was not under the same management or ownership does that mean that someone has to remove the existing farm worker facilities because the justification for allowing it would be gone.

Mr. Kamptner stated that once it was no longer associated with the farm, then it is no longer a permitted use.

Ms. Higgins noted that this says that the buildings can be used for other agricultural uses.

Mr. Kamptner stated that it could be used for other purposes if it is accessory to a primary use that is on that same parcel. So it would have to be serving what is on the same 50 acre parcel.

Mr. Shepherd noted that once you provide for a yard, a road standard/fire truck access, building code applicability, and all the other details above, this ordinance is just about the people that occupy the structures which creates an environment for getting around the rules due to its difficulty to enforce. If a large farm desires housing on the farm for employees, it can be done under the present regulations. The farm owner uses a division right to construct a second or third "house" geared for this with kitchen, toilets, and bunk rooms in a consolidated manner and farm workers live there. Often a manufactured home

(double wide) is used for this purpose. There is no limit on the number of bedrooms other than to meet health department standards. This, of course, assumes the farm has a division right to use, which most large farms do and for a farm to be large enough to employ farm workers making this cost feasible. Another way to provide additional housing without using a division right is the accessory apartment provision. For example, a house of 5,000 sf is allowed to have a 1,500 sf accessory apartment. Again, farm workers can reside in dwellings. While there is no limit on the number of bedrooms in a dwelling, the occupants must meet the definition of family. Accessory apartments provide an option to house farm workers without using a development right.

12. Last question - which is related to the Time Release of division rights - For a property owner to add an additional residence thereby using a division right, how would this be affected by the proposed new ordinance provisions?

The discussions regarding time release have focused on the creation of lots. The use of timed release of development rights has not yet been evaluated.

Ms. Higgins stated that the time release question has to do with the existing by right things. Right now on a large farm with hundreds of acres if they decide to do a dwelling it could be used for farm workers or farm managers. But, in the time release situation it could be that a farm could be prevented from doing that. She asked staff if they have considered that in how their division right scenario will carry out. It could hurt farms in another way without them making some kind of exception for that on the same farm.

Mr. Clark pointed out that if they were creating a dwelling on a farm without dividing things off that they might have to go as far as providing a site plan, but right now the phasing would not affect them.

Ms. Joseph asked if there were other questions for staff.

Mr. Cannon asked if this has the support of farm organizations such as the Farm Bureau or other organized agricultural interests. He asked if any of these organizations voiced their opinion.

Mr. Clark stated that most of the people who were involved in the input sessions were members of the Farm Bureau. So they have discussed this at their meetings and brought comments back to us.

Ms. Joseph noted that she heard from Corky Shackleford this week and he said that he would not be able to be here at this meeting, but he was in support of it at their last meeting.

Ms. Joseph opened the public hearing and asked if there was any public input. There being none, the public hearing was closed and the matter brought before the Commission for discussion and an action.

Mr. Edgerton asked if Mr. Shaver said that an inspection would be required every season.

Mr. Shaver stated yes, that a new migrant labor camp permit had to be issued every year by the health department.

Mr. Edgerton asked if the wording that allows this for different seasons would mean that there would be a different inspection each time.

Mr. Shaver stated that usually there were not different seasons on one farm. Typically migrant workers would come in and work for a whole season for the one farm. The original inspection, which includes the water sample, is done before the workers get here. What was being talked about as being different seasons is that you may have grape growers needing the workers for one period of time and orchards needing them for another period of time or that type of thing.

Mr. Clark noted that there may be a possibility of having two different crops on the same farm. Vineyard owners, as things expand, may need more than one season. They might need more than one season of workers for a month here and a month there scattered throughout the year. Staff was trying to make sure that they did not shut that out.

Mr. Edgerton asked how many inspections would occur on that scenario.

Mr. Shaver stated that if they brought in workers at different times for a month now and then three months later had the workers come in for another month they would need an inspection each time they brought in new workers.

Ms. Higgins felt that it was quite clear that the monitoring of the occupants of the housing is going to be well maintained, but she was just concerned about the land use aspect. She supported the intent of this if it involved the special use permit when someone put all of their money into establishing this type of use. Being a person that lived in the rural areas, she had concerns about the potential residential uses. There is a vineyard down the road and a large farm across the street from her residence. If a farm worker facility was submitted to the county, approved and put on that farm, and she as an adjacent property owner was not notified that would be a concern. Therefore, she felt that was something that should be considered. She could not support this without going through the special use permit procedure. They have been told about how much paper work is involved and how it is needed, but that notification to the adjacent property owner is a huge thing to allow to up to 20, which is maybe not that atypical and may be it is up to 5. But, to not require a special use permit for all facilities is something that she cannot support. She supported doing this with the right verbiage in here to cover it. There is a lot of residential out there and there may be things from her side of the property line that she might have concerns about that someone on staff might not have without her input. Staff might not be looking at drainage and whatever other effects this could create. She felt that without notifying the neighbors that it would be a disservice to the adjacent property owners whether it was a big farm or small residential uses. She knew it was a good thing, but she could not support it for that reason. If someone were to say that they would make it by special use permit, then it would run with the land each year and be a known thing, and then she could support it.

Ms. Joseph pointed out that she also lived in the rural areas, but did not want to see any more regulations put on things like flies being a nuisance and horses or chickens being a nuisance and all of those other things that happen in the rural areas. She wants to make sure that they encourage agricultural use and not to be so differential to residential use in the rural areas. She supported the proposal. She stated that she has been working with staff on this and has not received a penny of compensation. She felt that this is a very important aspect. If they don't approve something like this, it is critical. The reason they talked about limiting it to 20 or allowing 20, depending on how you look at that, is because they don't want to add one more burden for the people who are trying to farm. They did not want them to have to go through a 6 month to whatever month special use permit process, but allow them within a couple of months to be able to get approval and start work. It is seasonal. If the farmer thought they needed something to happen, then they would have a couple of months to get this thing approved.

Mr. Cannon stated that Ms. Higgins' concerns were about how this might play out on the land and the effect that it might have on neighboring uses. But, he was strongly in favor of enhancing agricultural uses and making it feasible in modern circumstances to carry out those uses economically. He felt that was important for preserving the rural areas. He takes it from the support of the farm community that this is something that people who are actually farming the land would benefit from and would look upon favorably. For that extent, he is in favor of it. But, he could see Ms. Higgins' point in requiring it all be done by special use permit. That can be a burdensome process that requires review and approval by the Board of Supervisors and a special action. That may be more than is reasonable to ask the agricultural community to bear for facilities below a certain size. He did not know what the magic of 20 is, but he felt that there was an appropriate cut off. He would be happy to be informed of that number by the expertise of staff. Taking all of that into account, he would be in favor of this. He felt that this should be monitored so that they know what is actually happening under it. So if things start to create problems they can adjust and can be adaptive and put additional requirements on it before significant unintended consequences occur. He was willing to give this a try and could support it on that basis.

Mr. Morris stated that he supported the request.

Mr. Edgerton stated that he supported the request and concurred with Mr. Cannon.

Mr. Craddock stated that he supported this proposed ordinance. Mr. Shaver answered a lot of the questions that he had in his mind. It appears to be heavily regulated. He did not want to over burden the agricultural aspects of the county. Therefore, he supported it.

Ms. Higgins asked Mr. Kamptner if there was a way that they could insert something that notifies the adjacent property owners when a request like this has been made. It could be done similarly to calling up a site plan for review.

Mr. Kamptner stated that the regulations could require that once the application for the conceptual plan is submitted, notice is required to be given to abutting owners.

Ms. Higgins questioned if anyone had a problem with that. If there is a troubled aspect, then people would have a venue with staff. She was not sure how to incorporate it, but she had a concern that it not be allowed to just pop up without adjacent property owner notification. That would alleviate her major concern with a couple of the other recommendations.

Mr. Strucko felt that they were having the same tug of war with this issue. He agreed with Mr. Cannon and the way he paraphrased Ms. Higgins' concerns. He had no problem with the additional requirement that the adjacent property owners be notified.

Mr. Craddock questioned if that notification would then give somebody a false hope that they would be able to stop it or is it just notification that it is going to happen. Is this like a by right development?

Ms. Higgins stated that any time you give notification it appears to be a false hope, but it gives a venue for adjacent owners to voice their concerns that can be addressed accordingly.

Mr. Kamptner stated that Ms. Higgins is correct that, with notice going to the abutting owners, the applicants can have a discussion and then work out any impacts to everyone's satisfaction.

Mr. Shepherd stated that it might be a situation where the false hope is there, but the end result would be much better to have worked through it so that the end result would be something that would be better for everybody. From staff's point of view, they would welcome that.

Mr. Kamptner said that one thing that perhaps the notice would do is to identify whether or not the particular application is for a by right farm worker housing facility or one by special use permit. That would modify the tone of the review.

Motion: Ms. Higgins moved, Mr. Morris seconded, to approve ZTA-2005-005, Temporary Farm Worker Housing, with staff's recommendations, with the following modifications.

- Notification of adjacent property owners shall be required after the submittal of the concept plan for temporary farm work housing.
- Modify the seasonal agricultural work to include livestock operations activities by inserting the clause, "work related to keeping livestock and/or poultry."
- In subsection e, page 6, strike the phrase ("farm worker"). That was relating to some additional language in an earlier draft that did not make it.
- In 10.2.2.1 on page 6 in "(up to twenty occupants)" for the by right insert "and five or fewer sleeping structures." This change will help clarify the language for the people looking at the rural areas regulations.
- In 10.2.2 on page 7 in "(more than twenty occupants)" insert "or six or more sleeping structures."
- On page 5 under a (iii) "vehicular access to, and parking for, the facility;" change it to read, "Vehicular access and adequacy of travel ways and parking for the facility."

The motion passed by a vote of 7:0.

Ms. Joseph stated that ZTA-2005-005, Temporary Farm Worker Housing would go to the Board of Supervisors on June 7, 2006 with a recommendation for approval.

Work Sessions:

ZMA-2005-017 Biscuit Run (formerly Fox Ridge) – Signs #52, 56, 63
PROPOSAL: Rezone approximately 920 acres from R-1 Residential (1 unit/acre), R-2 Residential (2 units/acre) and RA--Rural Area: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre) to NMD Neighborhood Model District - residential (3 - 34 units/acre) mixed with commercial, service and industrial uses. Maximum number proposed residential units: 4,970. Commercial uses proposed also.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential-residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses.
ENTRANCE CORRIDOR: Yes
LOCATION: Tax Map and Parcels 90-5, 90-6D (portion), 90-17D, 90-A-3, 90-A1-1, 90-A1-1E, 90-15A, 90A-1A, 90A-1B, and 90A-1C. Between the east side of Old Lynchburg Road and the west side of Route 20; adjacent and to the south of the Mill Creek subdivision, adjacent and to the west of the intersection of Avon Street, Extended and Route 20.
MAGISTERIAL DISTRICT: Scottsville
STAFF: Claudette Grant

Ms. Grant summarized the staff report.

BACKGROUND:
The first in a series of work sessions was held on March 21st, 2006. This work session provided discussion on general conformity of the proposed rezoning to the Comprehensive Plan. During the work session, the Commission agreed that:

- The proposed non-residential uses would be appropriate and consistent with the Comprehensive Plan as long as these uses are provided at a neighborhood scale and the Code of Development reflects this description for non-residential uses.
- It is appropriate for the applicant to use the proposed transect district description similar to what is used in the Crozet Master Plan regarding density and the clustering of density.
- The proposed density is consistent with the Comprehensive Plan, but, the Commission is not able to support the maximum density proposed until the results of the traffic study have been completed and reviewed.
- Since the traffic study has not been completed, the next work session should be devoted to site planning that respects terrain.

The Commission discussed the proposed location of the school and park in the rural area and whether this was appropriate and consistent with the Comprehensive Plan. No consensus was achieved or decisions made regarding this issue.

DISCUSSION:
The purpose of this work session is to discuss environmental issues; site planning that respects terrain, and other related topics. The work session will also be used for the Commission to advise the applicant on any problematic areas or changes needed for the rezoning.

RECOMMENDATION:
The project site is rich with important environmental features and protection of these resources is important to the well being of the community and to ecosystems in the rural areas. While staff believes that the applicant has shown a level of commitment to preserving some of the environmental features on this site, more protection is needed for development of the site. Disturbance and encroachment should not occur in the stream buffers. A different layout for streets and lots should be considered that doesn't impact grades as severely. Disturbance for utilities should be as minimal as possible. The Commission is asked to articulate for the applicant, staff, and the public whether or not disturbance of the environmental features discussed in this report are acceptable and appropriate for the development of this project.

Future discussions with the Planning Commission are expected on the following topics since detailed discussion will not be possible at the April 18 meeting:

1. Transportation issues
2. Neighborhood Model issues
3. Traffic Study
4. Historic Resources/Entrance Corridor
5. Build out/Phases
6. Impacts to schools, fire-rescue, and police

Alia Anderson, with Alliance for Community Choice to Transportation, made a brief power point presentation about the Safe Routes to School Program.

Scott Collins, representative for the applicant, made a power point presentation and explained the environmental aspects of the proposed project. Steve Blaine, attorney, was present to represent the applicant.

In summary, the Planning Commission held a work session on ZMA-2005-017, Biscuit Run to discuss the environmental issues, site planning that respects terrain and other related issues. The Commission reviewed and discussed the proposal with staff and the applicant, and then responded to the preliminary questions posed by staff. The Commission provided the following feedback on the issues mentioned in the staff report as follows:

- The Planning Commission plans to hold an informal session, possibly on a Saturday, after receipt of the transportation study. The traffic information will be made available for the public at that time with the Commissioners, staff and the applicant in attendance. There will be an opportunity for the public to have their comments recorded at that time. No date has been set.
- The Commission agreed that the discussion about the form of the site should be put on hold until the transportation information has been received, particularly because of the unresolved density and interconnection issues. The Commission needs additional information to determine what density this property can support. Therefore, staff will provide information back to the Commission for discussion on the scope of the traffic study and the capacity that includes school, fire/rescue and police impacts.
- A suggestion was made that they keep track of how density is being affected by the protection of the site and its conformity to the Neighborhood Model.

Should disturbance of the significant environmental features shown on the Open Space Plan be allowed for the development?

- All but one of the Commissioners said that the disturbance of the significant environmental features shown on the Open Space Plan as the circled areas on the plan should not be allowed for the development. These areas need to be protected and the applicant should find alternative ways to do storm water management.

- One Commissioner questioned if grading the four circled areas for storm water management was worse than leaving it natural. She noted that in three cases, disturbance was adjacent to tributaries to the streams. She said that the stream closest to the west or towards Old Lynchburg Road, is a less sensitive area than the other three because of its proximity to Biscuit Run. Its adjacency is more isolated. She felt that the applicant could work with the other three areas using them for mitigation or beefing them up for mitigation versus leaving them in a truly natural state. She said that the applicant could preserve them and not run roads through them and that sort of thing. The fourth stream valley closest to the road is a critical point because it provides connections to the main road. She said she would be receptive to disturbance of that area because it is not in direct proximity to Biscuit Run. But, the Commission would have to closely study the plan to make that determination. The Commissioner said that in the other three areas the applicant could do a better job to minimize the disturbance.

How should ecosystems in the Rural Areas affect the decision on whether or not the school and park area should be located in the Rural Areas?

- All commissioners agreed that the school should be located within the development.

- There was no agreement reached on whether a park should be in the Rural Area. There were several viewpoints as noted below.

- Four Commissioners felt that protection of the Rural Areas is important and that a school and park with playing fields will have a negative impact on the ecosystems of the Rural Areas and should be avoided. Several Commissioners felt that the 92 acres of Rural Area was a significant environmental feature and they should avoid development on the 92 acres for the school site and park site. The applicant should be encouraged to preserve the Rural Area. Two Commissioners felt that the 92 acres should be put in a conservation easement.

- One Commissioner felt that there is an option to put the park location in the development area, but the door should not be closed on placing the park in the Rural Area because of the park needs the Commission has heard from the Parks and Recreation Director.

- One Commissioner was not willing to exclude soccer fields and active recreation on some of the useable part of the 92 acres because it is a Board decision. There will be a demand and burden from the additional children coming from this area for active recreation area. Therefore, she felt that the park site could possibly be accommodated on either the proposed site or in the designated growth area.

- One Commissioner felt that as the County grows this would be an opportunity to have something that is a very natural park for people to enjoy. It could be something that is not built and does not have soccer fields. It could be a park with walking trails.

How should woodlands be dealt with on the site?

- The Commission asked that staff identify the location of the woodlands by the submittal of a reconnaissance survey. They could not disagree with staff's viewpoint that there will be significant trees that will be identified in a field reconnaissance survey and that protection of some of these trees will be advantageous for the development in the Development Area. But, the Commission needs to see where the trees are located. The Commission asked that Ches Goodall provide information on the trees located on the site.

Should a different layout of the site be considered that would lessen the impacts and level of grading proposed with the existing plan?

It was the consensus of the Commission that a different layout of the site should be considered that would lessen the impacts and level of grading with the existing plan to be a little more sensitive.

Julia Monteith left the meeting at 9:06 p.m.

The Planning Commission took a ten minute break at 9:06 p.m.

The meeting reconvened at 9:14 p.m.

ZMA-2006-005 Avinity (Sign #75)
PROPOSAL: Rezone 8.81 acres from R-1 Residential (1 unit/acre) to PRD Planned Residential Development (3-34 units per acre with limited commercial use) for a maximum of 113 units at a density of 12.83 units/acre, with proffers.
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential (6.01-34 units/acre) and supporting uses such as religious institutions, schools, commercial, office and service uses.
ENTRANCE CORRIDOR: Yes
LOCATION: Avon Street Extended (Route 742) approx. 1/2 mile south of intersection with Mill Creek Drive
TAX MAP/PARCEL: TMP 91-14, 90-35J, 90-35K

MAGISTERIAL DISTRICT: Scottsville
STAFF: Elaine Echols

Ms. Joseph pointed out that the Commission would allow public input on this particular item.

Ms. Echols noted that staff had written the staff report using a new format in hopes of providing essential information without making the Commissioners read paragraphs. This format would replace the executive summary requested by the Commission because the information would all be there in the form of a table. Staff is trying a pilot project on this application, which will carry through to the next meeting. There have been two pilot projects. Staff is working on project improvements. One of the things staff is finding that is important to the applicants and the public and hopefully the Commission is to look at the big picture items first. First, they wanted to look at the overall issues before going into the details so that when someone is two or three months down the road getting to the Planning Commission and there is something that is fairly fundamental to the plan that should have changed two or three months before the applicant went to all of the detailed work, staff would like to get that input early on. Staff has two willing applicants who have agreed to go through the pilot project to see if it is helpful and beneficial. Staff hopes that it will be a time savings to everyone. She asked for comments from the Commission on this format and process. Staff notified all of the adjoining property owners about the work session and advised them that they would be allowed to speak. She made a power point presentation and summarized the staff report.

Specifics of Proposal: Avinity is an apartment and townhouse development proposed for the 8.8 acre parcel located between Cale Elementary School and single family houses located on a private road in the Development Areas. The rezoning is proposed from R-1 to PRD.

The rezoning plan (Attachment A) shows the desired layout which contains townhouses at the entrance, two streets or drives on the perimeter of the property with units and an amenity area internal to the development. The amenity area contains passive and active areas. Storm water management is proposed under the “open green space” shown on the plan.

In addition to the plan, the applicant has submitted proffers indicating a commitment to provide 15% affordable housing, a commitment to provide an interconnection to properties to the east, allowance for a water main to be constructed to the property for use by adjoining parcels and construction of a path to Cale Elementary school.

Ms. Joseph opened the public hearing and invited the applicant to speak.

Mark Keeler, of Tara Concepts, PC, stated that they appreciate this opportunity to present and discuss the macro issues associated with this development proposal. The Planning Commission’s reaction to the current vision and the directives that they give them tonight will help them determine the overall feasibility of the project and guide the detailed engineering work that hopefully will follow. Due to the topography of the site, the conflicts arise when they start discussing the retaining walls and interconnectivity. This site drops roughly 70 feet from its high point to its low point. He reviewed the proposal with the Commission noting that they were trying to deal with the sensitivity of the site due to the steep topography. He noted that they were trying to create a highly accessible environment. He pointed out the location of the proposed retaining walls since they will have to create cut section. He pointed out that they were working with an adjacent property owner to acquire additional property. If they were able to acquire that parcel the project layout would be changed.

There being no questions for the applicant, Ms. Joseph invited public comment.

Dottie Hill, an adjacent property owner, noted that she had a little contact with the applicants in terms of a trade of her property for a unit. She liked living in this area. She knew the property was going to be developed and there was no question that it was going to be a multi density use. When Cale Elementary was built they burned trees and she had ashes everywhere for months. She pointed out that she would be interested in a trade of property if they were able to work out something that would work. The concerns she would have if the trade does not happen would certainly be what kind of privacy and noise barriers could be provided. She had lived at this location for 20 years and had planted the Leyland Cyprus that was 30 to 40 feet high along her southern property line.

There being no further public comment, Ms. Joseph closed the public hearing to bring the matter back before the Commission for discussion of staff's questions.

In summary, the Planning Commission held a work session on ZMA-2006-005, Avinity to discuss the proposed rezoning. The Commission reviewed and discussed the proposal with staff and the applicant, and then responded to the preliminary questions posed by staff. The Commission provided the following feedback on the issues mentioned in the staff report as follows:

Is the proposed development sufficiently in keeping with the Comprehensive Plan?

In general, the Commission agreed with staff's opinion that, in terms of density and use, the development is in keeping with the Land Use Plan; however, the Commission believes that density is closely tied to form and that the form is not sufficiently in keeping with the Neighborhood Model to justify the density with the design proposed.

Does the layout and design sufficiently support use of the retaining walls at the perimeter of the property?

In general, the Planning Commission did not think that the layout and design sufficiently supports use of the retaining walls at the perimeter of the property. Staff needs to work with the applicant to see what they can come up with because 20' retaining walls are very massive. Terracing was one suggestion made by the applicant. The Commission believes that some redesign is necessary to create better lot-to-lot relationships.

Where should interconnections take place?

In general consensus, the Planning Commission preferred the second interconnection recommended by staff on the south side and shown by the applicant on the plan.

Are there impacts to community facilities which should be mitigated with this rezoning?

Because of the level of increased use in the property from 12 potential units to 113 units, the Planning Commission agreed with staff and felt that there should be some contribution or cash proffers to mitigate impacts. Contributions to the CIP for a future library and transportation improvements need to be worked out with staff.

In addition, the Planning Commission added the following comment:

- The Commission asked staff to work with the applicant on fencing to keep the dogs off the school property and security issues.
- The Commission loved the new staff report format and asked staff to change to the new format in the future.

Old Business:

Ms. Joseph asked if there was any old business. There being none, the meeting moved on to the next item.

New Business:

Ms. Joseph asked if there was any new business. There being none, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 10:20 p.m. to the Tuesday, April 25, 2006 meeting at 6:00 p.m. at the County Office Building, 401 McIntire Road.

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V. Wayne Cilimberg, Secretary

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