Albemarle County Planning Commission
August 15, 2006

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, August 15, 2006, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Pete Craddock, Eric Strucko, Jo Higgins, Calvin Morris, Vice-Chairman and Marcia Joseph, Chairman. Absent were Jon Cannon and Bill Edgerton. 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; David E. Pennock, Principal Planner; Elaine Echols, Senior Planner; Bill Fritz, Chief of Current Development; Ron White, Director of Housing 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.

Items Requesting Deferral:

ZMA-2004-018 Fontana Phase 4C (Signs #37,45)
PROPOSAL: Rezone 18.41 acres from RA Rural Areas which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre), R-4 Residential zoning district (4 units/acre) and R-1 Residential zoning district (1 unit/acre) to R-4 Residential zoning district which allows residential uses at 4 units per acre for 31 dwelling units at a gross density of 1.68 units/acre.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential - (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses in Neighborhood 3 - Pantops
ENTRANCE CORRIDOR: No
LOCATION: At the intersection of Fontana Drive (Rt. 1765) and Via Florence approximately 0.5 miles from the intersection of Fontana Drive and Stony Point Road (Route 20 North)
TAX MAP/PARCEL: 78E-A and 78E-118
MAGISTERIAL DISTRICT: Rivanna
STAFF: Elaine Echols
APPLICANT REQUESTS INDEFINITE DEFERRAL

Ms. Echols said that the Commission received a copy of the email received by staff from the applicant requesting an indefinite deferral. The applicant's engineer was unable to come to tonight's meeting. The applicant is requesting an indefinite deferral because he does not know what date to defer to. Staff was unsuccessful in contacting the President of the Fontana Homeowner's Association by telephone, but left a voice mail message.

Ms. Joseph pointed out that there was one person on the sign up sheet to speak. At this time there will not be a staff report. She opened the public hearing and asked if anyone was here to

speak to that issue. She invited Paul Grady who was listed on the sign up sheet to come forward and speak.

Ms. Echols noted that Mr. Grady came to the meeting tonight and was told him that this item had been deferred. His comment to staff was that he wanted to make sure that the location for the Eastern Connector was considered with this particular rezoning. Therefore, staff noted that Mr. Grady will come to the next public hearing to express his concerns. Staff was glad that he provided that information so that they could look into that.

Ms. Joseph asked if there was anyone else present who would like to speak to Fontana Phase 4C. There being none, the public hearing was closed and the matter before the Commission.

Motion: Mr. Morris moved, Ms. Higgins seconded, to approve the applicant's request for indefinite deferral of ZMA-04-18, Fontana Phase 4C.

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

Ms. Joseph stated that ZMA-04-18, Fontana Phase 4C was indefinitely deferred.

Regular Item:

SDP-2005-122 Albemarle Place – Preliminary: The request is for preliminary site plan approval for a mixed use, town center development on 64.7 acres zoned NMD (Neighborhood Model Development) and EC (Entrance Corridor). The residential component of this request includes approximately 1,320,000 s.f. floor area of townhouses and apartments. The commercial and office component totals approximately 893,175 s.f. The properties, described as Tax Map 61W-3 Parcels 19A, 19B, 23, and 24, are located in the Jack Jouett Magisterial District at the corner of Hydraulic Road (Route 743) and Route 29 North. The Comprehensive Plan designates this property as Regional Service in Neighborhood 1. (David Pennock)

Ms. Joseph noted that the site plan was before the Commission because it was called up by Will Rieley, a prior Commissioner.

David Pennock summarized the staff report, as follow.

- The request is for preliminary site plan approval for Albemarle Place which is a mixed use town center development proposal currently zoned Neighborhood Model and Entrance Corridor. This application has been requested for review by a prior member of the Planning Commission, Will Rieley. In accordance with Section 32.4.2.6, the Planning Commission must consider the merits of the Preliminary Site Plan and the recommendations of the Site Review Committee.
- The zoning map amendment for this project was submitted in 2001 (ZMA-01-007) and was finally approved in 2003. As part of that zoning map amendment an Application Plan and a Code of Development were approved for this project, which also include waivers of many of the ordinance requirements. The basis for the preliminary site plan review mainly consisted of staff's review of the changes that have been made to the plan and then making sure that they were still consistent with the Application Plan and Code of Development.
- Multiple waivers were granted for this proposal during the approval of the Zoning Map Amendment (ZMA 01-007) pertaining to this project. Alternative standards to these waived provisions were developed as part of the approved Code of Development. No additional waivers are requested.

- The applicant has worked with members of the Site Review Committee persistently in order to resolve issues presented during the initial review of the site plan. The Virginia Department of Transportation and County engineering staff were involved with the review as well. The Site Review Committee has reviewed this application and recommends approval of the preliminary site plan.
- Staff has reviewed this request for compliance with the provisions of the Zoning Ordinance and recommends approval of the preliminary site plan subject to the conditions listed in the staff report.

Ms. Joseph invited questions for staff.

Ms. Higgins questioned the recommended action under condition 4 on page 3 of the staff report, which says Fire and Rescue Division to include adequacy of proposed revisions to road network. She asked staff for an explanation.

Mr. Pennock replied that the Fire and Rescue Division is a member of the Site Review Committee. This comment is received fairly frequently. Typically he would not really speak for them, but he thought that the biggest concern is with long stretches of one way road. That is something they don't like to see in the road networks because it does not allow much maneuver ability for fire vehicles. He believed that was where this particular condition came from. At the time of the review some of the road issues were still up in the air. He did not think that this comment would apply to the current layout.

Ms. Higgins suggested if the condition is made part of the approval that should be made clearer and based on some section of the ordinance. The other conditions are much clearer.

Mr. Pennock said that most of the Fire Rescue comments actually come from the State Code. Our only link to the Fire Rescue approval is one of the site plan review requirements. They depend on Fire Rescue to provide a recommendation for approval at some point. In other words, he could not speak specifically to what conditions they might ask for in order to verify that it is adequate.

Ms. Higgins noted that staff felt that it was important enough to put it as a condition in the preliminary plan.

Mr. Pennock said that the first section of the final site plan for any of Albemarle Place has to include the majority of the road network for the entire project. That was something which was proffered. Part of the reason for some of these conditions was to reiterate some of the proffers, which were already required. It is sort of like restating the proffers to make sure they don't slip through the cracks. That was his idea behind this condition. If the Commission does not feel it is necessary it is something that staff would require in any case.

Ms. Higgins noted she just wanted to be clear on what staff meant for the applicant to do. She asked staff did not have the Fire Rescue comment that generated that condition.

Mr. Pennock replied that was correct.

Mr. Fritz noted that his recollection was that there was concern with radiuses at various points for the turning unit vehicle. He believed that the applicant corrected all of those things, but the Fire Rescue Division has not had an opportunity to finally approve all of those. That is typically done with the final.

Ms. Higgins said that it said road network, but potentially what they might be talking about is fire lanes and things around the buildings.

Mr. Fritz said that it could be fire lanes.

Ms. Higgins noted that there was a lot of discussion about interconnections and how it could be made.

Mr. Fritz pointed out that it was particular design features at radiuses and those kinds of things. It is not points of connectivity and the like. There is no deficiency in the distance between travel ways and structures for example.

Ms. Higgins suggested the wording read adequacy of proposed revisions to roads and travel ways for emergency and fire to tie it back to roads and travel ways. They are actually potentially asking for access.

Mr. Fritz suggested that they use the specific language out of the ordinance to in accordance with Section 32.7.6.1. Access ways for emergency vehicles shall be provided as specified by the Fire Safety Division.

Ms. Higgins suggested that it be placed in the condition as adequacy per Section 32.7.6.1. She felt better if the condition referenced something.

Mr. Morris asked if Engineering was satisfied with all of the retaining walls including the height.

Mr. Pennock replied that they are. In the end the final approval came from Mark Graham as basically acting as the Department Head. That is the comment that Glenn Brooks brought up numerous times. The applicant ended up dealing mostly with the Virginia Department of Transportation and with Jack Kelsey and Glenn Brooks to try to work out that issue. On page 16 of the attachment Mr. Graham weighed in and said based on VDOT's approval and Glenn Brook's previous comments.

Ms. Joseph noted that the top email says that in parenthesis that he personally agrees with Glenn that the retaining walls next to the Comdial property seem inappropriate and the grading should be revised to eliminate or minimize those walls. Therefore, he was not agreeing.

Mr. Pennock said that he thought he was saying that he believed that they had been adequately addressed, which is what staff was going on there.

Ms. Joseph noted that she did not read it that way.

Mr. Craddock asked if that also includes the interconnectivity road to Comdial.

Mr. Pennock replied that number 15 is the email from Chuck Proctor. They were anticipating that the road to the Comdial property would probably be an extension of the public road there and that is why they dealt specifically with Chuck so much on that one. In the end the concept was that a sort of a break away panel within that retaining wall would allow a connection to be made in the future.

Ms. Higgins noted that those were July 10th comments that Chuck Proctor mentioned that.

Ms. Joseph noted that it was interesting because there was a 15' difference in elevation if they were talking about the same connection.

Mr. Pennock agreed that was the one they were referring to.

Ms. Joseph noted that to break away they would have to go 32 percent slope to get up to the Comdial site or something like that. What she was having confusion with is proffer 12, which talks specifically to that Commonwealth Drive connection. It says that the owner shall reserve land engineer, bond and construct at its expense on site improvements for a street connection at the northwest corner of the property. That is why she was trying to figure out what is going on.

Mr. Pennock noted that at this point the applicant would be responsible for designing and either building or bonding the whole of the road on their portion on their site. The idea is that they provide it to the property and then facilitate some way of making sure that connection can be made in the future. In order to make that point of connection it would take some cooperation and some new design on the site next door obviously. At this point the Comdial folks have not expressed any interest in making that connection. What staff tried to do was allow for a design that they have to reasonably guarantee to us with the bond or the construction that they have done their side of it. Then the other connection would have to be made sometime in the future on the opposite side.

Ms. Higgins suggested that the applicant explain it.

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

Frank Cox, with the Cox Company, said that they have been the master planning engineering consultants for the project since its inception. He made the following comments.

- They enjoyed the opportunity over the last 6 years to work with the staff in going through the Comprehensive Plan Amendment and the Zoning Map Amendment as well as an extended process in working through roughly 25 buildings with the Architectural Review Board over the 6 to 8 months. That is the main reason the site plan did not come to the Commission during the winter. They felt that the proper approach was to get through the ARB process.
- Relative to their particular concern and comment on the interconnectivity issue, the genesis of it does go back 5 or 6 years when at the time of the Comprehensive Plan Amendment in working with the staff it was determined to look at their site not in micro consume but also to think in terms of a larger block. It became known as the "Super Block" which included the properties of Sperry, which is in place and kind of like the hole in the donut relative to their 80 acres as well as the Comdial property.
- Over the years they have worked extensively with the county. The county led them in the direction of the particular connection points that they desired to see on their zoning map amendment application plan, which extensively is a preliminary plan. During that process the grading issue came to the table and they pursued any number of grading options. However, the connectivity points if they look back at what the county has adopted a Comprehensive Plan Amendment with the "Super Block" shows connections diving directly in to the Sperry building from both sides as well into the Comdial building. The "Super Block" interconnectivity program was one that anticipated a long term future for the realization of the transportation improvements. It was assumed that at some point in time Sperry and Comdial might go away.

- As they worked through their proffers several years ago they proffered to preserve and maintain those connection points to provide to the best of their ability the improvements to the property line. They also proffered any number of off-site transportation improvements. But due to the timing and the lack of knowledge as to when Sperry and Comdial might redevelop a proffer was not included to actually construct the connection all the way through to Commonwealth. The bottom line is that they did grading studies to the extent that they had information available. They tried to anticipate proper grades that worked both for us and ultimately provide for a public street connection that would work in the geometric criteria to those streets to the best extent possible.

Ms. Joseph noted that she did not see how it would work on the site plan. But, staff thinks they can work it out with them.

Mr. Cox noted that they explored the grading as part of the zoning package and dealt with those issues. They have had extensive work sessions with VDOT in dealing with and coming up with the proper alignments and locations which would accommodate the public improvements on the property. What they can't project is how long Comdial will be there. However, what they do know and what all of the retailing experts have told them along the way is that if Comdial redevelops requiring the demolition of the existing structure and if a road connection is put in at the point where it was negotiated with the county that the interconnectivities would occur, there would be a major regarding exercise on the Comdial property. They have their own grading issues. They have to remove roughly 400,000 cubic yards of dirt one-half of which has to be trucked in. So there is not an opportunity for them within economic reality to raise their site at one corner and tilt it up in anticipation of something that might not occur for 20 or 30 years. However, they can state with some assurance that there is an alignment that can be achieved in connecting from their northern property line over to Greenbrier in such a way that it would meet VDOT criteria.

Ms. Joseph said that he was not actually tilting the property up in the one corner. It is already at that level. They are pulling it down and have a 15' high retaining wall on the side.

Mr. Cox pointed out that there is a massive differential vertically between the Comdial site and ours.

Ms. Joseph said that the whole area behind the building is just dead flat, which she would expect to be used for moving around, loading and all of that stuff. But, that is her concern. She could agree with the request if staff feels that they can work it out and make sure that some connection can occur in the future. That is her interpretation after reading the proffer form. She assumed that staff is interpreting it differently.

Mr. Cox said that in fairness to everybody's concern it would be unfair to say that it is not going to take some bit of physically manipulation to make all of this work. What they have tried to do to the best of their ability with the resources they have is to establish those connecting points at a location where it could be extended.

Ms. Monteith noted that in the email trail it mentions the ARB to note these retaining walls which will be visible from 29. She wondered if that discussion ever came out.

Mr. Cox replied that the visibility of the retaining walls were a grave concern to the ARB for those that separated their project on the south side from the southern boundary of the Sperry Marine property. As a condition of the sale of the property the owners of Albemarle Place had to enter into a very specific agreement with Sperry to provide as Sperry defines as being

deemed necessary for the security of their operations. They were not excited about building those walls. They have gone through lots of iterations with the ARB on all of those walls. If someone had hammered down on the county side that they don't want to see them and everybody had come to the table and they fully extended the due diligence on that he still thought from a legal standpoint they would be required to build those walls for Sperry. They do things that are in the interest of the National security, which is the reason for the condition for the walls made it through the purchase contract.

Ms. Monteith thought the email was in regards to the walls next to the Comdial property which seem inappropriate and that the grading should be revised. She asked if the ARB note that these retaining walls which would be visible from the Entrance Corridor.

Mr. Cox replied that in that particular area they indicated to the ARB that they would reduce the height of those walls to the extent possible. Part of that was going directly to Comdial and Comdial has the opportunity where they could do some shared grading to bring those walls down. They would need a construction easement and on-site access from their property without damaging their property to actually reduce the height of those walls. They agreed to do that with them if they were willing build that at their full expense. They were not at all interested in cooperating on that.

Ms. Monteith noted that she did not understand why it was Comdial's responsibility.

Mr. Cox said that those walls continue through the CPA and the zoning process which requires a grading plan. The grades that they have now are roughly plus or minus a foot or two coincidental with those that were approved on the ZMA application plan. That is the plan, in fact, that established the interconnectivity points with the adjoining property.

Steve Lucas, Senior Vice-President of Landonomics Group, said that they are the developers of Albemarle Place. Part of the problem they are speaking to is the differential between Comdial and their property and they are referring to a 15' differential. The bulk of that differential is because of a berm that runs the majority of the property line. Its worse case is in the rear of the Comdial property where the berm is probably 10' to 12' high. He approached the Comdial folks and suggested that at our expense they would be happy to take that berm down which would allow the retaining wall to be dropped to heights of about 8' to 10'. They agreed to landscape it. They would the money in savings on the retaining walls to apply towards the grading and the landscaping. He negotiated with them personally for several months and they were not interested in doing something like that. Independent of that they plan to move those walls in to their property and try to drop them down as much as possible. He thought that they would find when they go to final that the worse case will be something on the order of a 10' high retaining wall and not 15'. So the berm is the problem. If they look at the grades from the parking lot to our parking lot they are not as bad as they are thinking.

Ms. Joseph noted that she was not reading the plan in the same way. She could see the berm, but not in this corner. She could only see a constant grade going up from the Comdial site back up to the other connection.

Mr. Lucas said that one of the things that Mr. Cox has addressed that is problematic is that they have put a grocery store on that portion of the site. Grocery stores are not going to allow any more than a 3 percent slope, and most are less than that. They are adamant on that because of the shopping cart run away and running into vehicles. To chase all of the elevations that surround us is just not practical as Mr. Cox said.

Ms. Joseph invited public comment.

Brian Wheeler, Executive Director of Charlottesville Tomorrow, said that with respect to the Albemarle Place preliminary site plan he would like to bring another transportation issue before the Planning Commission.

- The staff report recommended actions include item 8 which states that VDOT should approve the final design of the Route 29 and Hydraulic Road interchange. This should be a requirement specifically reviewed by the Planning Commission before a final site plan is approved. In his remarks he wanted to specifically explain that requirement as it relates to projects approved by the Metropolitan Planning Organization (MPO) earlier this year. In April, 2006 the MPO approved the fiscal year 2006 Transportation Improvement Program (TIP). The TIP now singles out the grade separated interchange at Hydraulic Road and US 29 as a discrete primary road project. This project also appears in the TIP in two other locations in the appendixes. It is item #20 in the attachment that describes Albemarle's strategic secondary road priorities. It is also included in the CHART Project I-16, which captures the 29H250 recommendations for this corridor.
- In VDOT's review of the Albemarle Place preliminary site plan they state in their December 7, 2005 letter to Albemarle County that the site plan review process must "design or fund the design of the interchange" and "once approved this design will be the official map for future improvements." As he is sure the Planning Commission is already aware this VDOT requirement is not related to the intermediate short term improvements proffered by the applicant and identified by staff in the recommended action #7. This is a separate requirement to figure out the future plan for the interchange. Also the county must act on the proffer for the dedication of land for this interchange not later than December 31, 2009. By that deadline the county needs to have the official map or transportation map in place and then must request dedication of the land in the right-of-way.
- While it is in the TIP they have to acknowledge that there is not funding for this interchange today. However, the developer Frank Cox has informed Charlottesville Tomorrow that he has come to an agreement with VDOT and the county to fund at least the study as this will assist him with nailing down the final location of the buildings for Albemarle Place. In summary, it is in the public's interest to have this interchange study factored in their review of Albemarle Place. The final site plan should not be approved before they have a VDOT approved design for the long term Hydraulic and Route 29 interchange.

Valerie Long, attorney, said that she had been retained by several entities that own property in the intermediate vicinity of Albemarle Place including the entity that owns Seminole Square Shopping Center.

- They have asked that she weigh in and keep a few issues on the front burner on their behalf. She reiterated very strongly that her clients are 100 percent supportive of the Albemarle Place project. They have been from the beginning. She wanted to be clear that they are not at all trying to delay the site plan approval or cause any problems. As she understands these are just issues that have been raised over the years and they have been working very closely with the developers and the owners of the property.
- The main issues that the various entities are concerned about are drainage issues to make sure that the appropriate storm water management requirements are adhered to on site so they don't cause any problems on the Seminole property in particular or otherwise interfere with the Hillsdale Drive Extension project. The second issue is a desire that the turning movement at the light at 29 and Hydraulic don't become any

worse with the additional traffic, particularly cars heading east on Hydraulic next to Albemarle Place attempting to turn left to go north on 29 and come into Seminole Square. That left hand controlled arrow is a short signal right now and works okay. But, with the added traffic they ask that everyone focus on the fact that signal will need to continue working hopefully to be no worse than it already is.

- Finally, they express a desire for a signalized cross over at the Zan Road intersection, which is the intersection into Seminole Square between the gas station and Chili's. It is her understanding that has been a desire for a long time to have a cross over there to help improve the ingress and egress between the two shopping centers. It will be a benefit to both of them. There are some issues with the proposed cross over that VDOT has approved, which she understands is a temporary measure until any connections through the Sperry property might be available. They ask that those issues be kept on the front burner. They appreciate the good relations through the years with the developers of the project. Again, they are very much in support of the project.

There being no further public comment, Ms. Joseph closed the public hearing to bring the matter before the Commission.

Ms. Joseph asked staff about the proffer 8b, which says that the owner shall submit the engineering plats and construction documents for the improvements in the City of Charlottesville to the City of Charlottesville within 60 days after the first site plan for the initial phase of Albemarle Place is submitted to the county. She asked if that has been done.

Mr. Pennock replied not to his knowledge. He noted that the applicant has not submitted any final site plans to the county staff yet.

Ms. Joseph noted that it just says first site plan and not preliminary. She asked if staff assumes that is final.

Mr. Pennock replied yes, that has been his understanding.

Mr. Cox pointed out that the plans were submitted to the city about three months ago and they had several work sessions.

Ms. Joseph asked Mr. Kamptner to clarify proffer #12. Even though an application plan has been showing that retaining wall it seems that the plan says that they build the stub out. She asked if there was another way to interpret it.

Mr. Kamptner replied that the first paragraph on its face is looking for the construction of the connector up to the property line or a reasonable distance back and defers construction off-site until the county requests it or it is feasible.

Mr. Pennock noted that engineering staff shared her concerns and that was a comment that had been raised many times. He said that in the end the decision came down to a sequence of approvals from the Director of Planning, VDOT and back to the Director of Community Development to basically weigh in that those two major concerns about retaining walls had been addressed in a way that feasibly allowed for a future connection. Obviously it is assuming some work on the other side as well. That basically has been the direction staff ended up following.

Mr. Strucko asked how what were the height of the retaining walls.

Mr. Pennock replied that the retaining walls were shown from 3' to 15' in height.

Ms. Joseph noted concern with the one email from Mr. Graham that says he personally agrees with Glenn Brooks that the retaining wall next to Comdial yet it seems as if the applicant and staff feel that they are complying the proffers and the interconnectivity.

Mr. Strucko said that this is a development of substantial intensity in an already busy intersection. Therefore, interconnectivity and traffic flow are paramount issues, especially the flow of traffic within the development and into adjacent parcels. He heard Ms. Joseph express some reservation about the particular site plan with a 15' wall that potentially impedes that kind of interconnection to an adjacent property.

Ms. Joseph agreed because they would be relying upon the adjacent owner to cut down 15' or so to make that to catch grade. She was confused by the language because there is an application plan that has shown that retaining wall and yet that proffer is very specific to that corner. She felt that it reads that they have to construct something. She asked if Mr. Kamptner interprets it differently.

Mr. Kamptner replied no, that 7 years from now or until 2013 if the Comdial property owner consents to the connection and the county makes the request to this applicant and this applicant is obligated to complete the connection at its expense.

Ms. Higgins pointed out that Comdial has been before the Commission previously for a rezoning, but it was withdrawn. There was a lot of discussion. The Commonwealth Drive connection does go through some apartments and residential areas. But, they have allowed for it at two different locations. They can always anticipate what the grades area. But, the rear part of Comdial is up at a higher elevation than a lot going on around it. The grading that Mr. Cox was referring to would anticipate the same sort of engineering that they would want to balance their site because as everything develops around them it is simpler for them than to move the dirt than off site to on site. She thought that their acknowledgement of how much dirt they need means that they had to lower portions of their site. They have a lot of tie ins to all of the roads around the site. She felt that the tie in to Hydraulic and 29 should dominate. In this particular case this is a possible connection going through to Greenbrier, which is probably more important than connecting back to Commonwealth in that little small area. When the Comdial plan was before the Commission, which was withdrawn, there was some interconnection. She felt that they have to live with this proffer, which was a weak proffer for a couple of reasons. It can't be second guessed because it has a time limit. It also talks about no cost to the applicant. She thought that this proffer was approved before this preliminary plan was before us. If they had that as a specific concern on this particular development, then this would have been written differently. She believed that VDOT and engineering would contend that the transportation planning and evaluation that was done had to account for the traffic with the connections that are being done and not the proposed future connections. She felt that the applicant has done what the proffer required. But, in retrofit they are doing a better job with our proffers and that this one is some years old. She felt that they have to depend on the requirement to bond it because they can't plan them both at one time. Therefore, they have to assure with staff that the amount that is bonded to cover this needs to cover the engineering cost and the potentially onerous connection that has to be made. She felt that is the best that they can do at this point. In addition the applicant would be well advised to submit the documentation for the city submittals. The way it is written it appears that if it does not get approved in 6 months by the city they don't have to do it. These issues should be followed up on by staff because of its importance on that corner.

Mr. Cilimberg noted that the applicant, county and the city have been talking at some length over the past few months about satisfying the conditions of the proffers regarding the connection points in the city. They will reach a conclusion at some point in the future. The applicant has approached the city on this issue. Regarding the area for the ultimate interchange there is a requirement that the applicant has to submit information that ultimately is approved by the county in the form of an official map that indicates where the location of the ultimate improvement for the 29/Hydraulic intersection would be. In turn that would allow for the release of some of the land that actually was reserved under the proffers for that ultimate improvement. So there can not be a final site plan approved on any portion of this project that has not been released through the official map process. The official map is something that will be coming to the Commission and Board once it is done. He understands that the applicant is working on that plan and has been in discussion with VDOT about that intersection improvement and where that ultimate interchange would be located in relationship to their property as well as other properties. Staff will find out from VDOT whether that will be an acceptable plan in concept. In turn they would have the official map decision made by the Board of Supervisors. That is covered by the proffers and is a requirement of the applicant. That means while they see a preliminary now what will ultimately come in as the final will probably be in some stages. It would at the very least be the final as it relates to that area where the interchange land is reserved and it cannot be approved until that official map decision.

Mr. Morris invited Mr. Cox to address the Commission and give his read on this.

Mr. Cox agreed that Mr. Cilimberg had addressed it more than adequately. They have been working for the last 8 or 9 months in making sure that the applicant's engineering team as well as the county and VDOT were on board with the parameters that would go into the ultimate long term improvements for a split grade interchange. As a part of their original proffers they donated about $100,000 to the Route 29 planning project cause. That has ultimately led to recommendations through for a different alternative design. The county and VDOT have kind of settled in on one option that is called a Spur SPUI interchange. They began concept planning for that about 5 months ago based on the very preliminary recommendations of the 29 Study. They have had several scoping sessions to make sure that they do exactly the type of exhibits that the county and the state would want for them to submit in support of the official map for the right-of-way dedication. Back to the timing of their work with the city and the county to ensure that they meet all of the levels of understanding, he met last Thursday with the County Attorney and the City Attorney, County Engineer and City Engineer and others along with the owner's representation. He asked that they rest assured that they understand what their marching orders are there. So they are working diligently on that.

Mr. Cilimberg said that under their rezoning approval the applicant had to reserve an area large enough to accommodate what was at the time anticipated to be one of the potential interchange designs under the options that were being looked in the 29H250 Study. They made that reservation with the understanding that the reservation of that area could be released based upon a final design that was acceptable to VDOT and was then approved under that official map he mentioned. So once that is done they know what can be released and their development can proceed accordingly. It does not mean that the interchange is going to be built, but it means that the area for the interchange of a design acceptable to VDOT and the county will have been determined. Their responsibility is not to build the interchange. That is a separate matter. There was a two phased review of traffic implications as part of the rezoning. There are a set of proffers that are to deal with the traffic implications of the development itself. Then there is a proffer on the reservation for the interchange which is far beyond what is necessary just for this development.

Ms. Joseph asked if the Planning Commission wanted to take action on this request.

Ms. Higgins suggested amending condition 4a to add the reference to the particular Code 32.7.6.1.

Motion: Mr. Morris moved, Ms. Higgins seconded, to approve SDP-2005-122, Albemarle Place – Preliminary with the recommended conditions, as amended, as follows.

1. The Current Development Division shall not accept submittal of the final site plan for signature until tentative final approvals for the following conditions have been obtained. The final site plan shall not be signed until the following conditions have been met:
    a. Current Development Planner approval to include:
        i. The initial site plan submitted must include design of many items that were proffered as part of ZMA 01-007, including proffers 1, 7, 8A, 8B, 12, and 13.
        ii. Lighting Plan, including specification sheets and photometric layouts for proposed new lights in accordance with Section 4.17.3.
2. Current Development Engineer approval to include review of all applicable items as specified in the Design Standards Manual, as well as:
    a. Erosion and Sediment Control Plan
    b. Storm water Management Plan.
3. Albemarle County Building Official approval.
4. Fire and Rescue Division approval to include:
    a. Adequacy of proposed revisions to road network in accordance with Section 32.7.6.1
5. Albemarle County Service Authority approval.
6. Architectural Review Board approval to include Certificate of Appropriateness prior to final site plan approval.
7. Virginia Department of Transportation approval of plans for all State maintained portions of the property and entrances into the site from these access ways.
8. Virginia Department of Transportation approval of final design of the interchange from Route 29 to Hydraulic Road.

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

Ms. Joseph stated that SDP-2005-122, Albemarle Place – Preliminary was approved. She thanked the applicant for their patience in this matter so that they could understand what is going on. It is going to be important in the future to make sure that all of these roads connect and this is successful

Public Hearing Items:

ZTA-2005-009 Density Bonus Provisions

ZTA 2005-009 Density Bonus for Affordable Housing - Amend Sections 3.1, Definitions; 12.4.3, Low and Moderate Cost Housing; 13.4.3, Low and Moderate Cost Housing; 14.4.3, Low and Moderate Cost Housing; 15.4.3, Low and Moderate Cost Housing; 16.4.3, Low and Moderate Cost Housing; 17.4.3 Low and Moderate Cost Housing and 18.4.3, Low and Moderate Cost Housing of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Section 3.1 to add a definition of "affordable housing" and would amend the density bonus regulations for affordable housing in the VR, R-1, R-2, R-4, R-6, R-10 and R-15 zoning districts by changing the references to such housing from "low and moderate cost housing" to "affordable housing" and by reducing the percentage of bonus units required to be affordable

from 100% to 50% of the allowed bonus density. A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Mr. Ron White)

Mr. Cilimberg pointed out that the Planning Commission did not receive a staff report last week because of Mr. White's illness. Staff made sure that the Commission received the ordinance language and the background on the prior discussion in January. Tonight the first draft of the ordinance was before them for discussion. In January the Commission mentioned that they would like to provide comments on the draft language at the next meeting and not take an action. He asked for comments to be incorporated or taken out of the ordinance. A public hearing would be scheduled at a future time. The only thing that staff anticipates right now would be an actual zoning ordinance amendment under the implementation of the Affordable Housing Policy. The other items they have seen and that they would anticipate would likely be handled through further Comprehensive Plan amendments. This is to specifically deal with density bonus provisions that already exist and how they could be modified in accordance with prior discussion. Mr. White would like to focus his discussion tonight on the operational aspects in how under the provision as proposed for the actual utilization of the density bonus would be implemented by them.

Mr. Kamptner noted that he circulated a rental agreement for their information.

Mr. White summarized the background since they did not do an executive summary.

- When they first brought this idea of a density bonus proposal before the Commission the recommendation of the Housing Committee and the Housing Policy Advisory Committee they had proposed 100 percent density increase. If they could do one unit by right, they would do two units with the density bonus and one-half of those additional units would have to be affordable. At the last work session Vito Cetta, representative for the development community, talked about the idea of the existing density bonus being 30 percent. Mr. Cetta pointed out that one of the reasons it was not being used was that all of the additional units under the current density bonus would have to be affordable and that was really not an incentive for developers to use. They had the guidance from the Commission to come back with the changes to the current bonus that would make one-half of the units affordable. Their first goal was to develop something that may be workable to create affordable housing. It was not to look at who was going to be in them but the fact that the units would be built.
- The second objective that they discussed as part of the Housing Committee was to get something either in the ordinance or a programmatic attachment to the ordinance that would ensure that those houses went to what they define as "income eligible households". The current ordinance does not address that. It just says that the units are built and the sales prices are restricted, but anybody can occupy those. They wanted to develop something that changed that. Mr. Kamptner's approach was to take the current ordinance and make the changes to address the change of the 50 percent of the additional units would be affordable. That does not address the second objective. That is where the programmatic part comes in. He was going to put some options out for consideration.
- The outstanding issues probably revolve around two areas. First, the five-year term limit on affordable rental housing. That is something which has been discussed by the Commission and Board. Second is the long term affordability of for sale units. They have some different ideas and ways to go about it. The ordinance already speaks to a rental unit, which they have a copy of. It sets out the rents and what the rents can be over the five-year term. It does not address occupancy. They can address the

occupancy and the five-year term if that is something the Commission desires in three ways. These are ways that staff will have to do some more work on with the County Attorney's Office to make sure they have the enabling authority to do one or more of these ways.

- One would be to specifically specify those eligibility requirements in this ordinance. The second would be to adopt a separate ordinance called the Albemarle County Affordable Housing Ordinance or whatever they want to call it that would set the requirements for all affordable housing programs whether it is proffers or density bonuses. The third way may be to add to this ordinance simply some statement/agreement and the rental rate agreement will also specify the requirements for occupancy of the units in additional to the rental rates.
- The five-year term has been brought up as an issue. Staff cannot specify the date when the current density bonus was created or where they came up with the five year term, but he could provide a couple things for perspective. They have the authority through the Code of Virginia top establish a Housing Program where the county could actually invest money into the rehabilitation or construction of housing. That Code would require that they have a minimum ten-year affordability term on rental housing. That is when they are putting money into it. For the low income tax credit program, which is a federal program under the Internal Revenue Service Code, has a minimum 15-year affordability term for rental units. The developer on the tax credit project can opt for up to a 30-year term, but it is at the developer's choice. To get an idea of what a tax credit does many tax credit projects up to 50 percent of the development cost is covered by tax credit equity. So it is a substantial financial investment. It comes through the tax credit for those projects. Not all of the projects get the 50 percent. But many of the lower income ones can through grants and sell of tax credits get a good percentage of their development cost.
- On the for sale units the only requirement in the current density bonus ordinance is that the units be sold at an affordable price as defined by the Office of Housing. The owner is required to verify the price of the house prior to issuance of the building permit. That is where the current language of the ordinance stops. There is no on-going requirement thereafter. If our goal is to create affordable housing and that is where it ends, then that ordinance is fine as it is.
- If our goal is to have some requirement on occupancy and who can buy those units for any long term affordability, then he would put out the same three options from the rental. They could do that within this ordinance by specifying eligibility and long term affordability in the ordinance. They could adopt a second ordinance that would be a program which would cover all of their affordable housing including the proffers. Or they could add to this ordinance some kind of language that assigned a rental agreement on the for sale units prior to site plan approval that will include the requirement for any occupancy and long term affordability requirements of the for sale units.
- Finally he wanted to put one thing out on long term affordability. He suggested that if they have authority they could follow a model like Fairfax County. They were really affecting one of the main purposes that someone buys a house. One was for shelter and the other one for asset appreciation or investment. If they put something in that restricts future resale or levels a high taking of equity when that house is sold they have taken away part of one of those advantages to owning a house. If that is a direction the Commission would like to go staff would recommend some phasing of equity rather than restricting the resale. The phasing might be that they have restrictions on it for a ten-year period with a deed restriction or covenant that is recorded with the property. The option of sharing the equity in resale is something that staff would have to explore.

Ms. Joseph opened the public hearing and invited public comment. There being none, the public hearing was closed and the matter before the Commission.

The Planning Commission discussed the affordable housing issue and the various methods that could be implemented to achieve more affordable units. It seemed that one of the goals would be to keep affordable housing units on the market and that the units not flip back to the standard market when sold. A question was raised if there were any models where the owner could sell the unit with the stipulation that the unit stays in the same condition.

Motion: Mr. Craddock moved, Mr. Morris seconded, for indefinite deferral of ZTA-2005-009, Density Bonus Provisions.

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

Ms. Joseph stated that ZTA-2005-009, Density Bonus Provisions was indefinitely deferred.

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 8:05 p.m. to the Tuesday, August 22, 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.)