Albemarle County Planning Commission
September 18, 2007

The Albemarle County Planning Commission held a work session, meeting and a public hearing on Tuesday, September 18, 2007, at 4:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Calvin Morris, Vice-Chairman; Marcia Joseph, Chairman; Duane Zobrist, Bill Edgerton and Jon Cannon. Mr. Cannon arrived at 4:15 p.m. Absent were Eric Strucko and Pete Craddock. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Other officials present were Rebecca Ragsdale, Senior Planner; Elaine Echols, Principal Planner; Wayne Cilimberg, Director of Planning and Greg Kamptner, Deputy County Attorney. Mr. Kamptner arrived at 4:20 p.m.

Call to Order and Establish Quorum:

Ms. Joseph called the meeting to order at 4:05 p.m. and established a quorum.

Work Session:

ZMA-2007-00008 Airport Road Limited Partnership
PROPOSAL: Rezone 2.098 acres from C1 commercial zoning district which allows retail sales and service uses; and residential use by special use permit (15 units/ acre) uses to Highway Commercial HC zoning district which allows commercial and service uses; and residential use by special use permit (15 units/ acre) to allow for construction of a hotel.
PROFFERS: No
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Office Service - office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in Hollymead Community.
ENTRANCE CORRIDOR: Yes
LOCATION: 1770 Airport Road, Charlottesville, VA 22911. Property is located on the south side of Airport Road approximately 700 feet west of US 29 in the Hollymead Community.
TAX MAP/PARCEL: 32-41B; construction of hotel will also include TMP 32-41H.
MAGISTERIAL DISTRICT: Rio
(Rebecca Ragsdale)

In summary, the Planning Commission held a work session on ZMA-2007-0008, Airport Road Limited Partnership to provide guidance on the proposed use at this location, scale and intensity of development, including building height, and grading and layout as related to adjoining properties, along with any other issues the Commission believes are important to resolve before a public hearing. In power point presentations, staff and the applicant's representative, Valerie Long, reviewed the proposal. The Commission reviewed and discussed the proposal, made comments and suggestions and answered the questions posed by staff as follows. Public comment was not taken. No formal action was taken. The Planning Commission provided the following comments to staff's questions.

Does the Commission support the hotel use on this site?

The Planning Commission agreed that a hotel use was appropriate on this site. The Commission commented that, given the existing topography, it would be difficult to achieve the hotel as currently proposed on plans submitted, without extensive grading and massive retaining walls.

Is the scale and intensity of use proposed appropriate, including building height?

- The Planning Commission felt the scale and intensity of the use was too great, including the building height, based on the proposed plan.
- The Commission commented that it appeared the plan presented was designed for a flat site and did not respond to the topography of the proposed site.

Is the layout, design, and grading appropriate, especially in relation to adjoining property?

- The Planning Commission felt that the layout, design and grading were too intense and not appropriate, especially in relation to adjoining property.
- The Commission recommended additional relegated parking, with parking relocated behind the building and that underground/structured parking should be considered for this site.
- The grading plan could be reworked to be a lot more sympathetic with the adjacent properties. The Commission encouraged creative design from the applicant and to integrate the building and parking into the site, using the grades with buildings and parking.
- Regarding the applicant's request for 5 stories, the Planning Commission indicated that they needed more information. The Commission would be willing to consider the 5 stories, but it depends on what the applicant comes back with so they can see how it can be done.
- The Commission suggested the applicant consider LID, low impact design.
- The Commission commented that this site may require extensive landscaping.
- The Planning Commission questioned if the applicant had been working with the Service Authority on the sewer capacity. The applicant should contact the Service Authority and bring back additional information before the public hearing.

Spring Hill Village – Pre Application Work session
Request for preliminary comments on a possible rezoning of a 13 acre parcel from R-1 to PRD zoning for 168 apartments and 38,400 square feet of office. The existing comprehensive plan land use/density for this parcel, Tax Map 90-28, is Urban Density Residential - (3.01-34 units/acre) in Neighborhood 4. It is in the Entrance Corridor and is located approximately at 1776 Scottsville Road and south of Snow's Pointe (storage buildings) on Avon Street Extended in the Scottsville Magisterial District. (Elaine Echols)

In summary, the Planning Commission held a pre-application work session on Spring Hill Village to address the questions and issues posed by staff. The following issues were discussed: mixture of uses and office uses along Route 20, orientation of buildings to street, public street interconnections, the layout, design, and grading and the appropriateness of the form in relation to the grading shown on the plan. In power point presentations, staff (Elaine Echols) and the applicant's representative (Steve Edwards) reviewed the proposal. The Commission reviewed and discussed the proposal, made comments and suggestions and answered the questions posed by staff. Public comment was not taken. No formal action was taken.

The Commission provided the following input for the applicant and staff prior to the next step on this proposal.

The Planning Commission provided the following input on the questions posed by staff.

- Is a mixture of uses appropriate at this location? If so, should office uses be developed along Route 20?

  The Planning Commission said that a mixture of uses can be appropriate at this location. The office use is appropriate and does not have to be integrated into the development. It may face Route 20 if the architecture is embellished.

- Should the buildings on both Avon Street Extended and Route 20 show a face to those streets?

  As indicated by the applicant, the buildings would have a face on both streets. The applicant was encouraged to be more creative in the building design so that the mass is broken up along Route 20 and the buildings do not look like they have been placed in a rigid line.

- Should a public street interconnection be provided?

A public street connection is not necessary; however, a pedestrian or bicycle interconnection should be provided to make it comfortable for someone to walk or bike between the two areas.

- Is the form appropriate with the grading shown on the plan?

  In general, the grading is acceptable. The applicant is terracing the site from Avon Street Extended down to Route 20. Use of the grade and putting the parking under the buildings is a positive attribute to the development as is avoidance of use of retaining walls, which the applicant has done. One commissioner believed that a better design of the development could be achieved without as much grading and that, as proposed, the site was being shown with too intense a development. The other Commissioners did not agree.

  The applicant was asked to provide a phasing plan if he brings the proposal in for a rezoning. By "phasing", different Commissioners offered suggestions. These suggestions included: the whole site is not graded at once, the site is not built out at once, some transportation improvements are in place, and the office use is not built unless there is a demand for it. The idea was that the new development would not be overly burdensome on the existing community which lives in or travels on Route 20 or Avon Street Extended.

The Planning Commission took a dinner break at 5:30 p.m.

The meeting reconvened at 6:05 p.m.

The Albemarle County Planning Commission held a work session, meeting and a public hearing on Tuesday, September 18, 2007, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Calvin Morris, Vice-Chairman; Marcia Joseph, Chairman; Duane Zobrist, Bill Edgerton, Eric Strucko and Jon Cannon. Absent was Pete Craddock. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Others present included Greg Kamptner, Deputy County Attorney; Summer Frederick, Planner; Allan Schuck, Senior Engineer; Steve Allshouse, Fiscal Analyst; Mark Graham, Director of Community Development; John Shepherd, Chief of Current Development; Rebecca Ragsdale, Senior Planner and Wayne Cilimberg, Director of Planning.

Call to Order and Establish Quorum:

Ms. Joseph called the meeting to order at 6:05 p.m.

Other Matters Not Listed on the Agenda from the Public:

Neil Williamson, Executive Director of the Free Enterprise Forum, said that about six months ago the North Charlottesville Business Council of the Charlottesville Regional Chamber of Commerce asked the Free Enterprise Forum to assist them in quantifying the economic impact of the North US 29 Corridor. Today he was present to submit their "WorkPlace 29 Report", which was just released to the public. (See Attachment A - "WorkPlace 29 Report", the non-residential tax contributions of the North U.S. 29 commercial corridor by Natasha Sienitsky, Research Associate, Free Enterprise Forum, 550 Hillsdale Drive) As the Planning Commission is the Steering Committee for the Places29 effort he felt that it was important to get this research into their hands quickly. They believe that this report indicates that North29 is the economic engine to Albemarle County. Based on this report the Free Enterprise Forum hopes to better inform the discussion regarding the future of Places29 and the future of US Route 29. He encouraged the Commissioners to read the report and follow up with any questions. He noted a couple of points in the report as follows:

- WorkPlace 29 which is slightly larger than the Places29 footprint, which includes the H250 Study area contributes over 45 percent of Albemarle County's local tax revenue from less than 2 percent of the land area. WorkPlace 29 supports 20,000 jobs, including his job. It provides over 800 million dollars in annual salaries to these workers.
- The non-residential properties in WorkPlace29 equate to .4 percent of the County's land area and generate 60 percent of the non-residential taxes.

Mr. Cilimberg recognized Mr. Edgerton's completion of 5 years of distinguished service on the Albemarle County Planning Commission. This past January Mr. Edgerton completed 5 years of service on the Planning Commission. The County is awarding him for that service and has expressed its appreciation to Mr. Edgerton for loyalty, diligence and outstanding performance since January 1, 2002. With that he recognized Mr. Edgerton and passed along a plaque of the County's recognition for those years of service and a big thank you as well.

Review of Board of Supervisors Meeting – September 12, 2007

Mr. Cilimberg summarized the actions taken by the Board of Supervisors at their September 12, 2007 meeting.

Consent Agenda:

Approval of the Minutes - December 12, 2006

Motion: Mr. Morris moved, Mr. Cannon seconded for approval of the consent agenda.

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Deferred Items:

SUB2007-00120 Pounding Branch Phase II – *DEFERRED FROM MAY 22 PC MEETING*
Request for preliminary subdivision plat approval to create 15 lots (14 development lots and one (1) preservation lot) as a Rural Preservation Development on 245.29 acres. The property, described as Tax Map 72 - Parcel 54 (portion) and Parcel 32A (portion), is located in the Samuel Miller Magisterial District on Dick Woods Road [Route 637] and Pounding Creek Road [Route 689] approximately .53 miles east of the intersection with Miller School Road [Route 635]. The Comprehensive Plan designates this property as Rural Areas in Rural Area 3. (Megan Yaniglos)

AND

SUB2007-00135 Pounding Branch Phase III – *DEFERRED FROM JUNE 12 PC MEETING*
Request for preliminary subdivision plat approval to create 20 lots [18 development lots and two (2) preservation lots] as a Rural Preservation Development on 299.1 acres. The property, described as Tax Map 72 - Parcel 52 and Parcel 36B, is located in the Samuel Miller Magisterial District on Dick Woods Road [Route 637] approximately .07 miles [422 feet] northeast of the intersection with Pounding Creek Road [Route 689]. The Comprehensive Plan designates Parcel 52 and Parcel 36B as Rural Areas in Rural Area 3. (Megan Yaniglos)

Ms. Yaniglos presented a power point presentation and summarized the staff report. (See Staff Report.)

Mr. Zobrist asked if there were four phases and if so he would like to see all four phases.

Ms. Yaniglos replied that phase one was by right and phase four will be coming before the Commission in the future.

Ms. Joseph opened the public hearing and invited the applicant to address the Planning Commission.

Justin Shimp, representative for the applicant, summarized the request. He said that lot four had a power line easement that the house site had to be setback from. The house site is on the corner of that lot. He

requested deferral of the requests in order to provide the additional information requested by the Planning Commission.

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

Action on SUB-2007-00120, Pounding Branch Phase II:

Motion: Mr. Morris, Mr. Strucko seconded, to approve the applicant's request for deferral of SUB-2007-00120, Pounding Branch Phase II to October 2, 2007. The Planning Commission asked the applicant to provide additional information on Pounding Branch Phase IV prior to the next meeting.

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Ms. Joseph stated that SUB-2007-00120, Pounding Branch Phase II was deferred to October 2, 2007 at 5:00 p.m.

Action on SUB-2007-00135, Pounding Branch Phase III:

Motion: Mr. Edgerton, Mr. Strucko seconded, to approve the applicant's request for deferral of SUB-2007-00135, Pounding Branch Phase III to October 2, 2007 at 5:00 p.m. The Planning Commission asked the applicant to provide additional information on Pounding Branch Phase IV prior to the next meeting.

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Ms. Joseph stated that SUB-2007-00135, Pounding Branch Phase III was deferred to October 2, 2007 at 5:00 p.m.

Mr. Cilimberg asked that the Planning Commission hold on to their staff reports for these two items. Additional information on Phase IV will be sent out next week to the Commission.

Regular Item:

SUB-2007-00102 Warthen Estates
The request for preliminary plat approval to create five (5) lots on 102.559 acres, to be served by a private street. The property is zoned Rural Areas (RA). The property, described as Tax Map 89 Parcel 72 and 72A is located in the Samuel Miller Magisterial District on Ambrose Commons Drive approximately 1.7 miles from the intersection of Ambrose Commons Drive and Old Lynchburg Road (State Route 631). The Comprehensive Plan designates this property as Rural Area in Rural Area 4. (Summer Frederick)

Mr. Shepherd introduced the next item as a private street request.

- In this particular application and in the future until further notice, staff has not made a recommendation either for or against the request. Staff based that on the idea that the Zoning Ordinance Section 2.32 specifies that a private street may be authorized if one of 3 criteria is met. One has to do with environmental degradation. The second criterion has to do with whether or not it is a non residential or agricultural lot. The third criteria address general welfare. Staff is clear on the findings that must be made to make a positive recommendation based on environmental impact. Staff is less clear on what the criteria for a positive finding regarding general welfare is.
- What staff has been doing in the review and also what the Commission has been expecting of the review and has considered in their deliberations have been requiring more than just a finding that there is 30 percent less degradation from a private road request and have applied general welfare criteria as well. Until staff is clearer on how they do that they will offer these up as a special use permit is often submitted in terms of factors that are favorable and unfavorable to the request and not do the recommendation. Staff will provide enough information so the Commission can make a good deliberation and good decision. That is built into this report that is before the Commission. Staff can discuss this process at a later time in a longer session.

Ms. Joseph noted that staff was going to leave it up to the Commission to look at more of the welfare aspect of it.

Mr. Shepherd replied that staff addressed the general welfare, but is not going to be making a final recommendation.

Summer Frederick presented a power point presentation and summarized the staff report. (See staff report.)

- SUB-2007-0102 Warthen Estates Preliminary Plat with a Private Street Request – The applicant requests preliminary plat approval to create 5 lots on approximately 98 acres, which is zoned Rural Area. The property consists of 2 parcels on tax map 89, parcel 72 and 72A. The property is currently accessed via an existing access easement from Ambrose Commons Drive, a public street within the Mosby Mountain and Mountain Valley Subdivisions which in turn accesses off State Route 631, Old Lynchburg Road approximately 2.5 miles south of its intersection with I-64.
- This item is before the Commission because the applicant has requested that the proposed street for this subdivision be approved as a private street in accordance with Subdivision Ordinance Section 14-232 and 14-234. The property southwest faces a heavily wooded mountainside. She presented photographs taken by staff along the proposed mountain alignment and the existing driveway. Currently there is an old forest road along the alignment.
- Staff has found the following factors favorable for this application.
  1. Construction of a public street would result in significantly more environmental degradation.
  2. A private street does not promote more development in the rural area than a public street
- Staff has found the following factors unfavorable for this application:
  1. Long term private maintenance of the road is not guaranteed.
  2. Staff is unable to make a positive finding that the private street will serve the general welfare.
- If the Commission should approve the requested private street, staff recommends the following conditions:
  1. The private street be designed in accordance with the preferred option described by the applicant on the plans as typical private street section.
  2. A maintenance agreement be approved as specified in Section 14-317 of the Subdivision Ordinance.

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

Mr. Strucko asked how lots will the private street serve.

Ms. Frederick replied 5 lots.

Mr. Edgerton noted that he was a little confused about how the 5 lots were served. He asked if the 5 lots would be served by the existing Ambrose Commons. He asked if towards the south all the existing lots border the proposed private street.

Ms. Frederick replied that was correct.

Mr. Edgerton asked if the hatched area on the 5 lots was all critical slopes.

Ms. Frederick replied that was correct.

Mr. Edgerton said the staff report says that it appears that the critical slopes disturbances would be roughly the same when talking about environmental impacts. Yet staff has made the statement that a private road as favorable would result significantly in more environmental degradation. There seems to be a little conflict in those 2 statements.

Ms. Frederick noted that Mr. Schuck could address that better.

Mr. Edgerton said that it seems that critical slopes are the big issue here in either case.

Allan Schuck said that he did the engineering review. Based on the proposed alignment they agree with the applicant's proposed alignment that it disturbs the least amount of critical slopes for an alignment. That is where the first comment came in. Based on the disturbance of critical slopes this would potentially be the best alignment because they would be going along an existing road as opposed to going through other sections of the proposed subdivision to access the lots. To the degradation part, it would be a lot more significant with the public street versus the private street in any alignment chosen because of the existing topography is heightened throughout the subdivision.

Mr. Edgerton said that was because the public street is going to only allow certain maximum grades.

Mr. Schuck replied that is correct. The public street maximum grade would be a 10 percent vertical. With the private street it would be a maximum of 16 percent. There is a 6 percent difference in grade allowance.

Mr. Edgerton said that some are showed as where it is 30 percent in grade or greater right not on the existing old lumber road. They are going to have to bring that down if granted permission to do that.

Mr. Schuck pointed out that in the last picture shown it was an approximately 30 percent estimate on staff's part when they did the field visit. That would have to be cut down to 16 percent even for a private street and even significantly more. With a deeper cut they would have to extend the grading out more to accommodate the future grades of the streets.

Mr. Edgerton noted that statement supports the second part in that the critical slopes impact would be about the same.

Mr. Schuck replied that was correct.

Mr. Cannon asked if a private street would take adequate care of the drainage issues that seem to be apparent in the pictures. He asked if that would be adequate to manage the run off.

Mr. Schuck replied that it would adequately take care of the run off whether it was a public street or a private street. With adequate ditches, erosion control, storm water management and the correct size of the pipes that would occur. The only difference is that there is a potential for more erosion with the steeper slopes there would a higher velocity of the water. Therefore, there would be a potential for more erosion with the private streets at final grade just because it was steeper. That would be the major difference for drainage. Otherwise, it would be taken care of with the final plans required for this subdivision.

Mr. Edgerton said that there is that other issue that was mentioned in the staff report. The significant difference is that if it was a private street they must have a private maintenance agreement. The enforcement of that would not be as easy to rely on as the enforcement of the public maintenance.

Ms. Joseph said that the profile was showing 16 percent slopes. She asked what would be the maximum slope on public road.

Mr. Schuck replied that right now it would be 10 percent. Staff has not recent history where VDOT has approved the Mountainous Terrain Standard which allows the 16 percent grade. The highest grade they have seen VDOT approve is the 10 percent grade for vertical.

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

Rob Cummings, with Kurt Hughes and Associates, said that he was present to represent Ben and Terry Warthen and Evergreen Land Company to request approval for Warthen Estates preliminary plat and the private road serving it.

- Warthen Estates would be a 5 lot rural by right subdivision lying on 98 wooded acres adjacent to a mountain valley. It would consist of 5 lots, 4 of which are greater than 21 acres and the 5th being 13.5 acres plus or minus. Warthern Estates would be accessed from Old Lynchburg Road

via Ambrose Commons Drive. The private road serving Warthen Estates begins actually at a point along an existing current 50' private access easement 350' from Ambrose Commons Drive. The owner would also improve the existing access down Ambrose Commons Drive. Their request for the private road is due to the following.

- In designing roads he takes a logical approach when designing and comparing public roads and private roads. First he tried multiple options to meet or exceed VDOT requirements for public roads. Basically, he looks at it as if he was to build a public road with the least amount of environmental impact on a nearly balanced site and how he would do that. He would take the same approach to private roads again with the least environmental impact on a nearly balanced site and how would he do that. He would keep those separate and when they were all said and done he would review it and come up with the best public road and private road design for comparison.
- He presented the comparison in a power point presentation. In this case it falls in favor of the environment. To break down the impact a private road would only create only 19,000 cubic yards of cut material as opposed to a public road, which would create a cut volume of nearly 48,000 cubic yards of cut material. For the private road he would be able to balance the final design basically by lowering the road or increasing the fill slopes of the fill section 2 to 1 or trying to reduce some of the grades. Right now they are at the 16 percent. He would look at trying to reduce that grade as Mr. Schuck brought up to reduce the amount of site erosion that could occur. Of course, that would be their ultimate goal.
- In doing so he also to try to give a better give an idea of what they are doing they have as seen in the exhibit he has multiple ones to follow. The red hatched area in the exhibit shows the amount of area that would be impacted by a public road. The environmental impact is shown to have a greater impact on the public road in the cut section. With the use of a public road the site unfortunately cannot be balanced. Therefore, not only would a public road create a much greater impact on the environment, but approximately 31,000 cubic yards of excess material would have to be trucked over and across their roads. They find that unnecessary and feel they have proved that in their exhibit. He has additional plan profiles to be able to answer any other questions in certain areas along the design. Ultimately, their goal is to limit the environmental impact. This can be done through the Commission's approval of the preliminary plat of Warthern Estates and the private road that serves it.

There being no questions for Mr. Cummings, Ms. Joseph invited public comment,

Haley Finley, a Mosby Mountain resident, spoke in support of the private road both personally and professionally. He worked for an environmental consulting firm in downtown Charlottesville. When he was looking at this plan he felt strongly that the private road was the better option mainly from an environmental perspective because of the amount of trees that would remain standing. Global warming is a big issue in our world and the more trees that can be saved the better. From a personally perspective he supported this because the one thing he had found that have visited the Mosby Mountain area as well as Mountain Valley the main comment has been about how great it is because of the trees that were left in the development. When he was considering the difference between the public and the private road and looked at the data it was clear that the private road would have a less environmental impact than the public road. He was present as a resident of that area and neighborhood to support the Commission's approval for the private road.

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

Mr. Strucko appreciated the presentations and the arguments, but right now he was not ready to accommodate rural area development with exceptions to ordinance rules. That is what acting environmentally is to not develop 5 sites in the rural area. They need to develop something less that could be served with a common drive or a private driveway. That is his inclination.

Mr. Edgerton concurred with Mr. Edgerton 100 percent. With Mr. Cummings presentation there is no question if they just want to put on blinders and compare the environmental impact of the private road versus the public road that there is no question which is going to have more of an impact. But, as Mr. Strucko points out to approve this would be encouraging the development of this property. Frankly, he

thought that this property should not be developed and the Commission should not do anything to encourage it. Mr. Cummings worked out the cut and fill and determined the amount of waste dirt that would have to be hauled away as being 760 cubic yards versus 31,000 cubic yards of dirt for the public road. There is a significant cost to that. The Commission is being asked to reduce the cost of the development to the developer, which he was not comfortable doing.

Mr. Morris said that this was a by right development that could go in even though they have a public road. The public road would cause more disturbances to the environment. Therefore, he was in support of the request.

Ms. Joseph said that she was amazed to see all of the critical slopes that each of those 21 acre parcels had. It did not look like it was something that is a positive development in the rural areas. It is not something that she could support because it is not the Commission's job to make it easier to develop the rural areas especially when it is on an incredibly sensitive piece of land as shown.

Mr. Cannon said that he persuaded to not support the request.

Mr. Zobrist asked Mr. Edgerton if it was economically not feasible if they have to build a public road.

Mr. Edgerton said that he was not sure. As far as carrying away waste dirt he would have to do the math.

Mr. Zobrist said that if it was a right development and the applicant can do it anyway. The applicant is going to tear up the mountain if they don't give them the option to do a private road. Therefore, the Commission needs to think about it. The Commission has followed one very careful principle here. They have permitted private roads where they felt that it would discourage further development in the area. If they build a public road standard what impact is that going to have on other people that have property up there that are going to want to hook onto it and develop? They have a lot of competing problems here. If it is going to get developed anyway he would rather see it developed with a private road. He did not want to encourage development in the rural areas any more than the other Commissioners.

Mr. Edgerton said that there was no way around it as Ms. Joseph and Mr. Strucko have point out. To give them an exemption to what is required by the ordinance they are encouraging development on very critical environmentally sensitive lands. They are asking for a waiver. The ordinance requires them to build a road to a standard that they don't want to build. In the drawings that Mr. Cummings showed he went to great lengths to prepare to show the significant amount of dirt that would have to be removed. Frankly, it boggles his mind that someone would consider this. Back to the economic question, he was not.

Mr. Strucko said that he did not know what would they were saving environmentally by going to a private road. Right now they have 98 acres of rural area land. Then they will have 5 developments out there with a private road. It looks like the road is stubbed out and is going to end at lots 21 and 1. Therefore, he did not know what further development could happen out there. He was not sure what they gain environmentally by going from public to private roads in this case. Frankly, he was just listening to the argument made by the applicant. If environmentalism is the concern, then the applicant should develop 2 lots instead of 5 lots and use a common drive. That has the biggest environmental conservation impact than doing 5 lots and a private road.

Ms. Joseph said that also in looking at the profile of this road it is 15 percent, then up 13 percent and down 16 percent. So it is has a lot of movements. The rescue folks have said that they are not worried about 16 percent grades. But, she was worried about rescue vehicles getting out on a private road where they don't know what the maintenance is going to be. She did not want to put those rescue folks in jeopardy.

Motion: Mr. Strucko moved, Mr. Edgerton seconded, for denial of SUB-2007-00102, Warthen Estates, as proposed.

The motion for denial passed by a vote of 5:1. (Mr. Morris voted nay.) (Mr. Craddock was absent.)

Ms. Joseph stated that SUB-2007-00102, Warthen Estates was denied. The applicant has ten (10) days from the date of the decision to appeal the decision to the Board of Supervisors.

The Planning Commission took a break at 7:26 p.m.

The meeting reconvened at 7:41 p.m.

Public Hearing Items:

CPA-2007-00004 Proffer Policy
Amend the Growth Management and Facilities Planning Sections of the Albemarle County Comprehensive Plan, Land Use Plan Chapter, and other appropriate sections as necessary, to incorporate expectations for addressing the fiscal impacts of development on the County's public facilities and infrastructure and to adopt a policy to address the impacts on schools, public safety, libraries, parks and transportation (the "public facilities") caused by residential development resulting from a rezoning through a voluntary cash contribution proffered by the landowner seeking the rezoning (the "cash proffer policy"). The cash proffer policy establishes general guidelines, the methodology for calculating the cost of the impact each new dwelling unit has on the public facilities, and the maximum cash proffer that will be accepted for various types of dwelling units. (Wayne Cilimberg)

Mr. Cilimberg summarized the staff report.

- The Planning Commission is very familiar with the history of the consideration of proffers. On a number of occasions in the past the Commission has expressed frustration over how to best address the impact of development on capital facilities through the proffer process. The Board as well was really struggling, particularly in the past several years with how to best address those impacts. The Board dealt with them on a case by case basis with some reliance on what they had done in the past. There has been some increase in of the cash proffer amounts in projects over v last several years. But, it was not based on a set of standards. The closest they came to discussing impacts was through the fiscal impact analysis that came with rezoning considerations. Potentially the fiscal impact analysis could have been a way to determine the cash proffer needs on a project by project basis. But, it really does not establish a standard. The Board seemed to be more interested in establishing a standard for the amount of cash per type of dwelling unit that would be provided as a starting point at least for the expected proffer that would address the impact of residential development.
- The Board made the decision to have the Fiscal Impact Advisory Committee go through a process of identifying what the best approach would be in calculating a cash proffer amount based on impacts. At the Fiscal Impact Advisory Committee level, over a number of meetings with Steve Allshouse, staff representative, and Mr. Strucko, Planning Commission representative, it was decided that the proffers should be applied to residential development as most are in Virginia and not apply to commercial development. Commercial development in and of itself usually from the standpoint of a balance sheet is providing more in revenue than it is requiring in expenditure. Also, it is with the understanding that in most commercial development projects they are getting proffers that are addressing the actual aspect of that project through improvements to capital facilities, such as major road upgrades and transportation system type of proffers. The proffered amount would focus on residential use only and look at five areas of the capital facility provision, which were Parks and Rec, public safety, libraries, transportation and schools. The calculations that were developed through the Fiscal Impact Advisory Committee were to determine how the residential development by dwelling unit type related to the impacts of residential development on each of those capital facility types. They judged the costs associated with anticipated development based on the capital improvements program and the capital needs assessment, which takes us out 10 years in terms of identifying capital facilities.
- The cost out process led the Fiscal Impact Committee to make a recommendation to the Board of a particular per unit amount by dwelling unit type. Attachment A on page 2, which is the executive summary that went to the Board on May 2, the Fiscal Impact Advisory Committee's recommendation, was for certain dollar amounts per dwelling unit type. In this calculation there was an assumption that 10 percent of the future costs would be vetted and would be considered to be covered out of revenues received by the County as general revenues. The Board had an extended discussion when that was delivered to them as to giving any kind of credit towards

impact from general revenues. Several Board members wanted it to be 0 percent, which would have meant 100 percent of the cost that had been calculated would be recovered in these per unit amounts. Ultimately, the Board decided that they would give a 6 percent credit. That was based on what the current debt level for the County is in terms of its standard it uses for indebtedness, 6 percent of revenue.

- The actual dollar amounts seen in the policy ended up being somewhat higher than the ones shown on page 2 of the executive summary because there was a lesser percentage being discounted off of the actual costs. The other decision the Board made was not to include mobile homes because traditionally and typically mobile homes are a type of affordable housing when they are provided. The items before the Commission tonight attempt to address the incorporation of cash proffer policy into the Comprehensive Plan both with language in the plan as well as an appendix to the Comprehensive Plan, which would be the actual policy document itself. It addresses why they need to recover the impacts to help pay for facilities and to be expected for participation of different sources in recovering impacts and costs of capital facilities. It is Attachment E. Attachment D covers the language that would be included in the appropriate sections of the Comprehensive Plan. It makes reference to responsibilities for paying for the cost of growth. There is an amendment under the growth management section on page 8 of Attachment D. There is also a section on page 10 under facilities planning in Attachment D. Attachment E covers the actual policy itself, which is referenced out of the main Comp Plan document. This is an adaptation of some earlier policy considerations that the Board had in its work sessions.
- The policy in the beginning makes reference to what is covered, how it meets the test and is authorized under the Virginia Code. It goes over what the policy is in requiring residential development to pay for its proportional share. Section B speaks to the dollar amounts per dwelling unit type that would be expected. It also talks about the annual adjustment that would be computed to increase these amounts each year. In Section C it describes how the per unit cash proffer amount was calculated and would be calculated in the future. Periodically this will need to be revisited.
- On page 3 of Attachment E there is a section on credits. This is a section to note. While there is a calculated cash impact for projects based on residential unit types, there are credits that are allowed against that impact that can reduce the actual dollar amounts per unit that get paid. The first credit is for the provision of affordable housing that meets the County Affordable Housing Policy. If it is actually provided for on site as part of the development the developer would get a credit for those units. There is also the potential of providing land and public infrastructure that meets the needs of the capital assessment. If there is a school site, as an example, that is anticipated in the CIP, the capital needs or the master planning for particular areas that school site, if provided in a project, can be credited against the impact calculated for the project in determining how much cash the project will provide per unit. There is a way set out to determine the value for land and infrastructure being provided. It can not exceed what the development's calculated impact is. There is an occasional possibility of operational expenses that might be allowed, such as public transit eliminating the need for planned road improvements. That could be a credit. Where there is a very minimal increase or no increase in density being proposed to an infill development where existing dwellings are in place there is a possibility for credits where there is substantial upgrade to design and development standards. This could possibly be taking something that could happen by right and having it instead developed in more of a Neighborhood Model approach.
- In summary, the section on credits explains what can be potentially considered. Outside of the cash that is expected and the affordable housing credit the rest of the potential credits need to be determined on a case by case basis with each project. That is all set out in this section. There is timing for the contribution as well in Section D and how they will expend the money as a County. The result is intended to create a standard that can be used where expectations are clear for the County, the staff and the developers as to what should be provided in each project. It is the starting point for an evaluation of a project in terms of its impacts. It is understood by the Board that there are going to be other considerations that also need to be weighed in on each project's case. As an example, the Biscuit Run project among its different proffers actually proffered over 400 acres for a park. That was not in any plan for either the capital needs assessment or capital improvements plan. But, the Commission and Board felt that it was an important enough

opportunity in that particular area that it should be considered as having a value to the County that could be an offset against the cash expected to address impacts in that particular project.

- What is before the Commission tonight is 2 recommendations that identify responsibilities for the provision of public facilities and infrastructure and implement expectations for the residential component of new development to address their particular public infrastructure impacts as part of the rezoning process. To address the long standing concern to get to this point and the Board of Supervisors resolution of intent, staff recommends approval of these amendments to the Albemarle County Comprehensive Plan.

Mr. Morris asked if the monies coming from the various proffers would be applied to projects within the area where the zoning change is taking place.

Mr. Cilimberg replied for strictly cash a determination on what the impacts would be are covered under the calculation section where they talked about how they are geographically addressed. Transportation tends to be in a particular area. The idea would be the impacts are being created there and monies would theoretically be going to projects in that area. Some of these facilities may be more generally needed in the County because there may be one or two of the facilities serving a very large area. Therefore, it would depend on the circumstances. They have had the case so far that in some projects the applicants have specified where the cash should go. In so doing if they list particular projects staff has gotten them to also have in there allowances as a "kick out" saying that if it is not used on those particular projects that the monies can be used more generally in a geographical area associated with the project. But, in its cleanest form this cash proffer policy would be on a per unit basis and there would be no targeting of the proffers by the applicant in their proffer. The decision will be made by the County based on accumulating the cash for that particular project and others. It is going to come in on a per unit basis so it is going to be extended over time. By the time the money accumulates if they are waiting to accumulate the monies for a particular use in a certain location it may be many years out. One of the things they note in the Comp Plan Amendment is that one way of utilizing resources is to consider debt service. One thing about the cash proffer flow is that it can be tied to servicing debt rather than letting it accumulate and paying it in a lump sum at some later point in time if they are trying to get a project started earlier.

Mr. Strucko pointed out that the Fiscal Impact Committee went through a series of debates. There was not complete unanimity on some of these things. What came out of the committee was the best consensus that they could pull together. Some of the discussions and debates centered around what Mr. Morris just asked on whether the proffer dollars should be regionalized or localized to just the area of the particular development that the proffers would apply to, or would it be considered on a County wide basis. They looked at the financial impacts of that. What if a development is proposed in an elementary school district that school is currently at a 110 percent capacity? That would have a different fiscal impact than a development that was in a school district that was at a 70 percent capacity. So what the committee did was to take a County wide view of things. There are several remedies to that particular example he gave such as redistricting. As they went back and forth on the committee debating these issues they felt that a County wide approach was best. The committee debated the difference between residential development and commercial development. There were some on the committee that felt that commercial development may have a significant financial impact on the community that is not readily recoverable through taxes. Major shopping centers generate significant traffic. If those shopping centers are designed to bring in customers from outside of Albemarle County, then that would have a greater impact on a community than perhaps the taxes that the County receives from that development. In the end they all acknowledged that residential development certainly was the driver of additional costs to the community. Again, the committee came to a consensus that focused on residential development in what is before the Commission today. In Attachment D on page 8 he assumed that the bold italics were the additional language. The concept of a cash proffer is represented by the phrase at the very end, "funding commitments from new developments."

Mr. Cilimberg replied that was correct among other things.

Mr. Strucko said the concept of a cash proffer was represented by the phrase at the very end, "funding commitments from new development."

Mr. Cilimberg agreed among other things. That is because it can be used in the cash flow and the needs.

Mr. Strucko said that another subject that received substantial discussion was debt issuance versus collecting cash and covering the cost immediately. Mr. Cilimberg was always very vocal with noting that road projects would cost a lot more than any one potentially small development could generate in proffers and there needs to be an accumulation of cash over a period of time before they reach a critical mass so that the road could actually be built. So it may take years of collecting that cash. A way of doing it in lieu is to finance that debt through proffers over time and get the thing built if the applicant was unwilling to actually build the road or contribute capital outlay. He noted that he had a question on credits, which was on page 4, letter c. He articulated what he hoped this was not. Is this a credit for adopting a Neighborhood Model zoning. The one concern he has is if they are potentially giving credit for applicant's coming for rezoning to adopt the Neighborhood Model Model District.

Mr. Cilimberg replied that this was intended to address a rezoning similar to Belvedere where they were not having an increase in the potential density of the project. It is about the design. It is to improve what could otherwise be done by right. It is not a set credit. It is an optional consideration and a possible consideration during the rezoning review.

Mr. Strucko said that in the past he has been critical of applicants attempting to proffer Neighborhood Model design. That is what he is concerned with here. He thought that the whole point of the Neighborhood Model design was to actually see an increase in density, but follow a form that made the community livable that could utilize the designated growth area land efficiently. To adopt the Neighborhood Model without necessarily an increase in density was something that he was not sure if he would allow credit for.

Mr. Cannon asked if the concern here was as follows. They have a zoning designation that allows a certain density and they want to operate it in a more flexible productive appropriate zoning category that basically allows the same density. They need proffers to get from one to the other. There is some disincentive to adopt the more useful or appropriate form. So they don't want to produce a disincentive in the system to keep people from doing that. There is a balance here. They should not give credit for the Neighborhood Model. But, it is important to recognize when there may be disincentives generated by the proffer policy that is something that they would like to avoid as a matter of policy.

Mr. Cilimberg noted that section E gets into the design and the development, such as Neighborhood Model and LEED, etc. where there may be a consideration given for credit in pre-existing lot yield with some increase in density. But, again these were to be considered on a case by case basis.

Ms. Joseph asked to go back to Mr. Morris' question about having the money go into a general fund. If there are proffers that are spelled out for transportation that directly affects this particular proposed development, those monies will stay in that area to deal with whatever transportation issues have been addressed.

Mr. Cilimberg noted that as an example, in Biscuit Run they listed a number of transportation projects for which the money could be used. They put language in their proffer that said if not used in those areas it had to be used for transportation projects in the southern development area, Neighborhoods IV and V. It is geographically specific in that case. Staff has had a lot of discussions on this and is more interested in seeing if they are going to be giving per unit cash that would be put into a fund to be used for projects as identified under the policy. On Page 2 under 3c Transportation it says, "with respect to transportation the fiscal impact of rezoning requests will be analysized on a County wide basis with cash collected from a rezoning and spent on transportation projects in the County's Comp Plan, associated Master Plans and so forth that relates to the impacts resulting from the rezoning."

Ms. Joseph said that it would be targeted. They heard a lot about transportation issues with Biscuit Run and she would hate to think that people would not get those improvements that they thought were going to be done.

Mr. Cilimberg noted that in that case those were specifically spelled out anyway.

Mr. Strucko asked how this will work with these funds going into a general fund. He remembered discussion by the committee on whether these funds stay earmarked in perpetuity until the particular project or something is built or do they just simply rely on the discretion of the elected officials at the time as to where the money gets spent.

Mr. Cilimberg said that it goes into the proffer fund associated with capital projects. It gets spent according to this policy. In the case of transportation it will be spent for projects with impacts resulting from the rezoning. If they have one project in the eastern urban area, one in the southern urban area and one in the northern urban area each proffering money for the transportation component of those projects, the policy says that money as it is collected needs to be spent on projects that are associated with that rezoning. In other words, the money would be spent for projects in that area of each one of those approvals.

Mr. Strucko questioned how the accounting will work.

Mr. Cilimberg said that is a challenge. He suggested that Mr. Graham could address that. Staff has told the Board that there is a real administration to proffers. There is going to be a cost to the County actually.

Mr. Strucko said that the real upfront work of determining what the per unit dollar amounts were depending on the type of unit were based upon projects already enumerated in the CIP. The onerous was on the Board of Supervisors ultimately to ensure that the CIP was comprehensive and had everything that the County needed to accommodate what was going on at the time. When cash proffers were collected they were not earmarked as specific things. There was so much for transportation, schools and parks and rec. The $17,500 for a single-family detached unit would be given to the Board to spend it on whatever they think needs to happen. That is not what is happening here. Those dollar amounts are designated for specific needs based upon what is in the CIP at the time.

Mr. Cilimberg said that for schools and transportation the money is going for projects in the area so to speak. The other can be used anywhere.

Mark Graham noted that staff is working on this issue right now. That part of the policy is not set. The recommendation that is going to come forward is this will have to tie into the CIP process. It is part of the annual approval of the CIP. The CIP Technical Review Committee will be looking at what they receive in cash proffers, what the demands are in the CIP or capital needs assessment and decide where they need to allocate it. Some of that money will be spent very quickly. Some of that money could be ear marked for a future project that may be 8 years down the road. It is going to take a lot of situation by situation analysis.

Mr. Zobrist said that under the State law there were some limitations in terms of the impacts that are being occasioned by the development. He asked for Mr. Kamptner's input.

Mr. Kamptner said that under the enabling authority they are currently operating under they have a little more latitude. There still needs to be some type of connection, but the express connection Mr. Zobrist was referring to was in the old enabling authority and does not exist now. The conditions just need to be reasonable. They look at that under more of an exaction standard that is a little looser than the statutory standard that they previously had.

Mr. Zobrist suggested that they use more general language than specific language. The County is heavily monitored by people who watch what they do. The last thing that they want would be that the people on Old Lynchburg Road come in and say that part of that money for transportation was imposed with a constructive trust for Old Lynchburg Road and the County better spend it down there. He felt that they have the ability to have their options open wider than maybe where they are going. He would not be any more specific than what State law allows.

Mr. Graham said that they are a little more specific. He would refer them to the October 3 Board agenda. It is on the consent agenda. There is a report on proffers collected and how they were expended. Staff gets fairly specific on what money went to what project.

Mr. Zobrist said that his point was that when Biscuit Run makes a proffer of 1.5 million dollars for transportation that money is imposed with a constructive trust and can only be used there if they accept the proffer.

Mr. Graham noted that if the almost all of the proffers have a "kick out" clause at the end that allows the cash to be used for other uses as determined appropriate.

Mr. Kamptner noted that at least for the transportation related cash proffers the General Assembly made a change a couple of years ago. It provides regardless of the date that the cash was received if it was received for a transportation improvement, the locality can use it for any transportation project in its CIP.

Mr. Strucko noted that money was ear marked.

Mr. Graham agreed that the money was ear marked, but there is some flexibility. For example, they might have collected a million and a half dollars, but if it is a 20 million dollar project and the other funding for the project is not in the foreseeable future and the impacts area was still occurring, they may want to shift how that money would be used to address transportation impacts on that project.

Mr. Strucko voiced concern because they don't know how much of the $17,500 from each unit would go to transportation from each unit.

Ms. Joseph said that this "may be stuff" made her a little uneasy. She asked if the County decides that Berkmar Extended has to happen and decides to build that with the proffer funds how could that be justified to benefits those citizens around Biscuit Run.

Mr. Strucko noted that it depends on the elected officials.

Mr. Cannon said that the proffers are based on an average cost or an average impact of new development wherever it occurs. Conceptually it is not linked specifically to any development in any particular place. It is a general level of contribution by the developer designed on average to take care of at least some of the significant external costs that the development is likely to pose on the community. Given that concept there is no reason to ear mark it to a particular project or development. It is used generally to develop infrastructure needed by the community for all of the development that is taking place within it.

Mr. Graham noted that in other localities that was a decision that was made. Other localities have done it differently. Chesterfield, for example, divided their county into 2 transportation districts. The cash proffer money stays within that transportation district and they don't shift it from one to the other. They have chosen not to do so and have one district for the entire county.

Mr. Strucko said that when the Fiscal Impact Committee started looking at other jurisdictions they saw that different localities all did it in different ways. Hanover dedicated 2/3 of the proffer money to schools. That was a decision they made. They had nothing for parks and rec. Fairfax County had the most comprehensive list. They gave 42 percent to schools and 10 percent to parks and rec. Affordable housing was only in Fairfax County. They came up with policies to allocate these monies. He thought that was made by the decision making body or ultimately their elected representatives or the Board of Supervisors here. When they looked at an average across the whole community the point was to give lead way to those decision makers to accommodate the changing circumstances in the community. If a critical road need or a bridge need pops up somewhere they can go into the general proffer cash and dedicate resources for it. When they looked at specific areas and specific zones it became very problematic in terms of accounting and calculating need. Legally if he was a developer and the County said that he had to proffer money for a specific school he would suggest that they redistrict. He would note that was the remedy and ask why they are charging cash.

Ms. Joseph questioned why they do traffic impact analysis if they already have these projects in the CIP.

Mr. Cilimberg said that there are a whole set of transportation system improvements that can be related to development proposals that are not covered under the CIP or capital needs assessments. VDOT does

those with impacts to the whole system. Calculations are done based on capital needs and capital improvements projects. The traffic study gives a bigger picture of the overall needs.

Ms. Joseph asked if the Commission would be reviewing rezoning requests differently.

Mr. Graham replied that staff had hoped that it would simplify rezoning reviews, but it seemed to make it more complicated.

Mr. Strucko noted that there was a lot of discretion as seen in the Biscuit Run Park.
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Mr. Cilimberg said that it has given us a starting point. It may be a range and dwelling unit types might not be decided, but potential credits are outlined. In its simplest form it provides the per unit amount as the policy was laid out.

Mr. Morris said that at least they have a solid starting point.

Mr. Cilimberg said that staff would not be doing a fiscal impact analysis project by project. That is the route that was taken.

Mr. Edgerton asked when the annual adjustment will occur.

Mr. Cilimberg said that he was not sure, but that would be decided by the Board of Supervisors.

Mr. Edgerton said that it can be adjusted annually and the public is going to want to know.

Mr. Kamptner said that other localities it seems to be a yearly review that goes to the governing body. They don't always adjust it even though they recognize it might be falling behind in addressing the CIP issues

Mr. Edgerton suggested that it might be appropriate to set a time in the year when that will be done or not done at the Board's discretion.

Mr. Cannon suggested an annual review be set from the date of enactment.

Mr. Graham said that he had talked with Mr. Allshouse and probably the best way is have it run with the CIP process as a fiscal year review. They can decide where the money will be allocated at the same time.

Mr. Cannon said that it was a wonderful discussion. It is a wonderful document that has had a lot of conscientious work with strong factual support. There are folks at all levels impressed with the balance and care in which the proposal has been worked out.

Ms. Joseph opened the public hearing

Valerie Long asked to make a few comments about the credit issue. She was pleased to see some provisions in the policy that would permit credits for projects that have some by right examples. The Belvedere is an often used as an example that is used where there are has some conventional units in place where someone could build some units by right. There is a desire to come forward with a better plan to be more consistent with the Neighborhood Model principles and other components of the Comprehensive Plan had there not be the perverse disincentive that Mr. Cannon referenced. She was happy to see that. She was happy to see that request that the Commission consider something that would be a little broader. It talks about that the credit is only available if there is a minimal increase in density. There are some properties in the designated growth area that have R-6 zoning that permit quite a few dwelling units by right while there may be some good reasons in particular cases to rezone to higher density and to give credit even if the increase density is more than minimal or nominal. In line with the discussions tonight about preserving flexibly for the current and future Planning Commission there should at least be some language that would grant flexibility to provide greater density when an applicant can demonstrate that the overall request warrants giving credits for those units that could be developed

by right. It would provide quite an incentive on certain projects that have that to under go an added expensed to go to Neighborhood Model. That is her suggestion. The suggested granting some credit for commercial components of projects that in light of the fact that commercial generates significant tax revenue. There should be some consideration for the off set of revenues generated by the commercial development.

Jack Quinn, a city resident, said that the gentleman that first started talked about the commercial job engine that generated all of the jobs north of the city for where all the jobs are located. He wondered why the southern part of the County was a high density growth area for human residential and all of the jobs are in the northern part. These people have to go through the city to get to their jobs. It seems to put a lot of stress on the city streets to get to their job. The City and County need to consider the community as a whole. He felt that would help alleviate the tension between the city and city officials. Have we ever thought about doing transportation as one group? He would like to see the city and county merge on the transportation issues, but knows that will never happen. He had concerns about the proffer thing regarding where the money may go for the Old Lynchburg Road transportation improvements. He questioned if they were considering the City and County or if the City worries about the City and the County worries about the County.

Jay Willard, Executor Director of the Blue Ridge Home Builders Association, said that this has been a wonderful discussion tonight. The original intent of the proffers discussion was to establish a clear road map for the County and developers so that they would know what to expect in terms of costs and credits. From the questions asked tonight, as Mr. Graham implied, that in a lot of ways it would be making the process more complicated. That concerns his group as well as the Commission. He has 2 concerns. There has been is a lot of discussion about the transportation related funds. There is a difference between those proffers that are allocated for an additional cost to a project and there are transportation related costs related to the $17,000 per house. He wanted to speak to the piece related to the $17,000 consumed per house. The assumption is that charge will go towards addressing the transportation aspects of the development. As discussed, the concern is that money could go any where. If the Advance Mill Bridge suddenly needs money even though this money was derived from Crozet, the solution never happens in Crozet but goes to solve the Advance Mill Bridge problem. The folks in Crozet say that they got this new development, but the transportation impacts did not get addressed. They are going to come back to the developer and say that enough money was not paid to do this. The answer will be that in the formula they paid the appropriate amount and their appropriate share. If the money was sent somewhere else the impact is never addressed. The community is lead to believe that it was going to be taken care of by the developer. Then the developer is going to get blasted when the County did not pay its share or spent the money somewhere else. They have some significant concerns about the impacts of that. Regarding the issue of credits, the intent of process is to make it as simple as possible. It needs to be carefully laid out and very clear. The developers want to come into a project knowing what it will cost and what kinds of credits will be given. He urged that the Commission try to be clear as to what the credits are, how they will be credited and what it will take to qualify so they don't have to come before the Planning Commission and be told. They want to find a solution to this problem, which was the original intent of this process.

Ms. Joseph closed the public hearing to bring the matter before the Commission.

Mr. Morris said that the comments about the credits are very well taken. It is a difficult topic, but it needs to be as objective as possible to get rid of the subjectivity as much as possible.

Mr. Cannon said that there were some concerns expressed that some of the language for the credits was vaguer than the language for determining the actual amounts. That is true because the credits are a kind of safety valve. They are designed to allow some judgment to work. In C on page 4 Attachment A there was a suggestion that instead of a minimal increase in density that there be an alternative formulation that this kind of credit could be allowed where the overall benefits to the community would be warranted by giving additional credits. That language submits to some judgment. His inclination was to note the concerns that were raised, which he felt were real, and trust that the language here that gives discretion can be used to exercise good judgment in the allocations of these credits so that they do produce results in the best interest of the community.

Mr. Strucko said that the $17,500 per single family detached home is supposed to cover the costs for schools, libraries, roads, fire/rescue, roads and parks. So unless that design provides a part for one of these items, he was not inclined to give credit for that. The whole point of these proffers was to off set the costs of those things found in the plan for residential development.

Ms. Joseph said that it should be made clear that there are circumstances the proffer cannot have a "kick out" clause. There will be designated areas surrounding rezoning that transportation should be addressed.

Motion: Mr. Strucko moved, Mr. Zobrist seconded, to recommended approval of CPA-2007-00004 Proffer Policy.

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Ms. Joseph stated that CPA-2007-00004, Proffer Policy will go before the Board of Supervisors on October 10, 2007 with a recommendation for approval.

ZMA-2007-00006 Three Notch'd Center
PROPOSAL: Rezone 2.3 from LI Light Industrial, which allows industrial, office, and limited commercial uses (no residential use)to PD-SC Planned Development Shopping Center, which allows for shopping centers, retail sales and service uses; and residential by special use permit (15 units/ acre). The proposal is to redevelop the site with two office/commercial buildings with a total of 40,500 square feet.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: CT5 Neighborhood Center in the Crozet Master Plan which allows for a mix of uses and residential types at net densities of up to 12 units per acre; up to 18 units per acre if in a mixed use setting.
ENTRANCE CORRIDOR: Yes
LOCATION: 5368, 5374, and 5382 Three Notch'd Road, located on the northside of Three Notch'd Road approx 500 feet west of its intersection with Parkview Drive.
TAX MAP/PARCEL: Tax Map 56A3, Parcels 9 and 11
MAGISTERIAL DISTRICT: White Hall
(Rebecca Ragsdale)

Ms. Ragsdale presented a power point presentation and summarized the staff report. (See Staff Report)

Proposal: Rezone to PDSC Planned District Shopping to redevelop the property into two buildings, a total of 40,460 square feet.

Staff noted that there was an error in the staff report that said that residential uses would still be allowed by special use permit. The applicant has submitted proffers that would restrict these uses which are considered not compatible with the Neighborhood Service type center that is envisioned with the development.

The applicant has provided for the shared entrance drive, which will be located partially on the adjoining property. The applicant is working with the adjoining property owner to accomplish this interconnection and also some landscaping that is being requested by the ARB.

Staff has a favorable analysis of the project in relation to the Neighborhood Model principles in terms of relegated parking. This application plan does include a parking reduction that was approved by the zoning administrator. It provides adequately for pedestrian paths around the building and then plaza areas of landscaping between the two buildings.

It was noted in the staff report that staff had not fully addressed conceptual grading with the applicant. The applicant did get back to staff and that is no longer an outstanding issue that is factoring into the recommendation. Staff was able to follow up with the reviewers who had some comments related to grading and that has been resolved. The engineering review did note that, again, there should be an emphasis noted in approving this application plan that it is contingent upon how they are able to work with the adjoining property owner to the east. The applicant has provided documentation in the

correspondence that they have had with that adjoining property owner in providing this interconnection and the associated grading easement they will need to get that constructed. Also, it included the landscaping.

Factors Favorable:

1. The rezoning is consistent with the Crozet Master Plan recommendations.
2. The applicant has provided an application plan that meets Neighborhood Model design expectations.

Factors Unfavorable:

1. A conceptual grading plan has not yet been provided, but the applicant is working to respond to this request.
2. Minor revisions and notes are needed to proffers and the application plan.

However, the applicant has indicated they intend to provide revised proffers and an application plan to address these outstanding issues listed.

Recommendation:
Staff can recommend approval only after conceptual grading is provided that satisfactorily addresses Entrance Corridor and critical slopes considerations and minor revisions to the application plan and proffers are made. The applicant has provided the conceptual grading as noted. She presented the application plan notes from the ARB comments. Staff indicated that proffer revisions in formatting and language are needed based on County Attorney comments. Additional proffers to address storm water are recommended by staff and the applicant has indicated a willingness if they are able to during the site plan process to provide those measures. But, given the features of the site and it is a small site they don't feel it is something that they could proffer and commit to. So that is no longer included in the staff recommendation if the Planning Commission chose to recommend the rezoning.

The two waivers are for critical slopes, which are about 3 or 4 percent of the project site or .09 acres around the edges. Staff has looked at the grading and there were not any engineering concerns or ARB issues associated with the grading. No significant retaining walls are anticipated. So that waiver is also recommended.

The waiver for the buffer zone adjacent to residential is required because this property has existing LI zoning, but rezoning to commercial requires that there is a 20' undisturbed buffer and screening requirement along the eastern property line adjacent to the rural area. That property is also designated CT-5 in the Master Plan. It is vacant now and currently zoned rural areas. Staff and the applicant are unable to achieve that based on the need to locate the shared access and provide for the interconnection in this location. Staff also supports that waiver provided that the landscaping is in accordance with the ARB as provided to that adjoining property. Staff evaluated the need for buffering and screening and did not find that given that it is in the development area and the anticipated future uses on the site that there was a need and supports the approval of the waiver.

Ms. Joseph invited questions for staff.

Mr. Edgerton asked about the third condition about providing for the additional pedestrian way central to the parking lot. He was confused about what was intended there.

Ms. Ragsdale replied that staff did not see a defined pedestrian way as you were getting from these parking spaces to the buildings. The applicant has begun to address that and indicated they can provide it.

Mr. Edgerton said that it was where the drawing shows loading zone, and Ms. Ragsdale replied yes.

Ms. Joseph asked if there was any documentation about the joint entrance.

Ms. Ragsdale replied yes, that staff has received correspondence that the applicant has forwarded to staff from the adjoining property owner indicating their willingness to allow what they have shown. They have not executed the final agreements, but they are indicating a cooperative intention towards it including the landscaping as well.

Mr. Edgerton asked if that should be a condition for approval that the applicant provides some documentation of that. The project does not work without that.

Mr. Cilimberg noted that it was on the plan so that the plan can't be executed as in conformance with zoning without that.

Ms. Ragsdale said that there was a note that the shared driveway with the adjacent property was subject to joint access agreement and easement.

Ms. Joseph noted that it was on a separate property that is not part of this rezoning request.

Ms. Ragsdale said that the applicant is indicating on the plan that it is only achievable with the adjoining property owner easement agreements. That can be put in the conditions of approval as well.

Ms. Joseph opened the public hearing and invited the applicant to address the Commission.

Jo Higgins, representative for the property owner Jeff Sprouse, said that Ms. Ragsdale had gone over most of the details and history of the site.

- The use of the property has been established under its Light Industrial zoning to support the retail and office use that is currently viable supporting the employment center and neighborhoods emerging in this part of Crozet. At the present time there are two special use permits that were required in order to support the restaurant and Laundromat use because that is not compatible with the Light Industrial zoning. This property was sold off from ConAgra and really has never been used for the light industrial purpose. The goal of this down zoning is just to make the uses that have been present historically more viable for the property owner and under a more acceptable model in the county's vision for Crozet.
- The site is very level and treeless. There is no stormwater detention, water quality or quantity measures on the site. They have worked cooperatively with both of the neighbors. There is an agreement in place with the self-storage facility to share the basin, redesign it and configure it to support it for the requirements for this redevelopment project. Also, they have two letters of cooperation from the only other property owner on this side of this road, which is the Beaver Hill Creek Corporation, regarding their willingness to grant easements and work on the shared entrance. They felt that the goal to have the interconnection off of Route 240 line up with the master plan and those attributes were more important than trying to isolate themselves from rural area property. In long term they expect that would potentially be covered under a rezoning plan. The ultimate goal here is that there are five or six entrances involved in this project that exist now and they will end up with one entrance on the west side of the project, which will line up with the entrance across the street. Then there will be a shared entrance to the east side of the project, which is a large reduction of entrances and conflicts on Route 240.
- It is not really clear in the plan, but also the continuance of the lane across the front of the property, the planting strip and sidewalk, which right now is an abrupt change between this project and the self-storage property. This will actually help with the transportation aspects in this area. They came in with a relegated parking plan. There has been an evolution of the site design. They started with relegated parking, but they have deleted spaces that were located on the east side due to the concerns raised by the ARB and staff. That is the visual that the ARB is concerned because when driving west on Route 240 the road curves to the north. They removed some parking spaces and justified a parking reduction that zoning has supported. They articulated the buildings a little better. They added more sidewalks, a central plaza between the buildings; the buildings were reduced slightly and included an expanded list of excluded uses under the PD-SC request in working with staff. The plan was shown to the Crozet Advisory Committee and they received feedback on architectural elements. It was shown to the ARB also for comment. They got comment back to the ARB initially on the same sort of things.
- She asked that the critical slope waiver be approved. They don't feel that the buffer to the rural

area property is part of what the future of the vision for this area.

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

Mr. Zobrist asked that the appropriate agreement with the neighbors for the joint access be provided as shown on the plan.

Mr. Cilimberg said that these are the conditions that they expect to be addressed before public hearing with the Board of Supervisors.

Mr. Kamptner said that it should include the proffers and any other changes that the Commission wants to recommend that staff has identified and the requirement of the joint receptacle easement. He recommended that it be included in a proffer and they would expect that prior to final site plan approval.

Ms. Joseph said that should also include any other grading that is outside of this because it looks like that may happen, too. So it is not only the easement for the access, but easement for any grading that occurs.

Mr. Edgerton asked if the easement would have to be large enough to include any of the grading.

Ms. Joseph replied not necessarily because it would just be for the access easement itself.

Motion: Mr. Zobrist moved, Mr. Edgerton seconded, to recommend approval of ZMA-2007-0006, Three Notch'd Center with the conditions, as amended, recommended by staff that are to be met before the Board takes action.

- Clarify the "Evergreen screening trees for EC Corridor" note or delete it from the plan.
- Provide conceptual grading.
- Provide for the additional pedestrian way central to the parking lot.
- Revise the plan to indicate that landscaping will be provided along the east side of the shared driveway, to the satisfaction of the ARB, with a landscape easement provided by the adjacent owner.
- Add the following note to the plan: "Landscaping shown on this conceptual plan does not meet ARB Guidelines and will be redesigned at preliminary and final site plan review to meet the Guidelines, as required by the ARB, with additional planting area provided, as necessary, to accommodate ARB requirements."
- Minor format revisions are needed by the County Attorney to the proffers and the applicant should proffer to provide the off-site landscaping on the adjoining property to the east. [Check with Greg on this please.]

The motion passed by a vote of 6:0. (Mr. Craddock was absent)

Ms. Joseph stated that ZMA-2007-0006, Three Notch'd Center will go before the Board of Supervisors on December 12, 2007 with a recommendation for approval.

Motion on Critical Slopes Waiver and Buffer Disturbance Waiver Requests

Motion: Mr. Morris moved, Mr. Edgerton seconded, to approve the critical slopes waiver and buffer disturbance waiver for ZMA-2007-0006, Three Notch'd Center with the conditions recommended by staff for the buffer waiver.

1. A landscape easement is obtained by the adjoining property owner and landscaping is provided to the satisfaction of the ARB on the adjoining property to the east.

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Ms. Joseph supported the critical slopes waiver because of the additional landscaping.

Work Session:

Crozet Downtown Zoning

Crozet Downtown Zoning- A review and discussion of the Crozet Downtown Zoning project, including the public process to date and presentation of the recommended draft Crozet Downtown Zoning concepts and boundaries by the consultant for Downtown Crozet. (Rebecca Ragsdale)

In summary, the Planning Commission held a work session on Crozet Downtown Zoning. The primary purpose of the work session was informational to provide an overview of the public process to date and for presentation of the recommended draft Crozet Downtown Zoning concepts and boundaries by the consultant. The presentation provided an opportunity for the Commission to get an initial understanding of the concepts and ask questions. Public comment was taken. No formal action was taken. Follow up work sessions at which further details will be further discussed will be scheduled in the future. Ultimately, text language will be developed and a public hearing scheduled. **A work session on Downtown Crozet Zoning Project was scheduled on October 2, 2007 at 5:00 p.m.** The Commission agreed to limit the work session to 45 minutes and to bring their own sandwiches.

Sandy Wilcox, President of the Downtown Crozet Association (DCA), addressed the Commission and noted that the group that he represents owns approximately 75 percent of all of the land that would potentially be affected by the recommended zoning changes. He indicated that they have worked very closely with the consultants at their meetings and are generally supportive of the zoning project. The DCA has developed a position statement on every recommendation in the consultants report and would like to provide that to the Commission. Mr. Wilcox also requested that he be allowed additional time to speak to the Commission at future meetings, since he would be representing a larger group.

Ms. Joseph asked that they figure out a different format for the upcoming work session.

Old Business

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

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 10:25 p.m. to the Tuesday, September 25, 2007 meeting at 6:00 p.m. at Charlottesville City Hall Basement Conference Room at 610 East Market Street, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)