Albemarle County Planning Commission
July 29, 2008

The Albemarle County Planning Commission held a meeting, work session and public hearing on Tuesday, July 29, 2008, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Eric Strucko, Linda Porterfield, Thomas Loach, Jon Cannon, Vice Chairman; Bill Edgerton and Calvin Morris, Chairman. Marcia Joseph was absent. Julia Monteith, AICP, non-voting representative for the University of Virginia was present.

Other officials present were Susan Stimart, Business Development Facilitator, Phil Custer, Engineer; Amy Pflaum, Senior Engineer; David Benish, Chief of Planning; Elaine Echols, Principal Planner; Bill Fritz, Chief of Community Development; Wayne Cilimberg, Director of Planning and Larry Davis, County Attorney.

Call to Order and Establish Quorum:

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

Other Matters Not Listed on the Agenda from the Public:

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

Consent Agenda:

Approval of Minutes: November 13, 2007 January 15, 2008, January 22, 2008 and April 29, 2008

Motion: Mr. Cannon moved and Mr. Strucko seconded for the approval of the consent agenda.

The motion passed by a vote of 5:0:1. (Ms. Porterfield abstained.) (Ms. Joseph was absent.)

Regular Items:

SDP-2008-00003 Crown BMW Retail Parts & Service Bldg – Preliminary
The request is for Preliminary Site Plan approval for construction of a one-story retail parts and service building totaling 14,269 square feet on M&P # 78 - 15B, containing 1.0470 acres, and M&P # 78 - 15B1, containing 0.7940 acres. Both parcels are zoned HC - Highway Commercial and is in the EC - Entrance Corridor. The properties are located in the Rivanna Magisterial District on Richmond Road (Route 250) approximately 625 feet in a westerly direction from its intersection with Stony Point Road (Route 20). The Comprehensive Plan designates M&P# 78 - 15B as Community Service and M&P# 78 - 15B1 as Regional Service in Urban Area 3. (Bill Fritz)

Mr. Fritz presented a power point presentation and explained the staff report. (See Staff Report)

- The action before the Planning Commission is only for the consideration of the critical slopes. The rest of the site plan will actually be approved administratively. The proposal is to add an additional building of about 14,000 square feet. The existing site will have its entrance closed and moved to the west. It will be a joint entrance, which will have shared access and inter-parcel access.
- The critical slopes all appear to have been man-made before they actually required site plans. Therefore, staff could not exempt the critical slopes. About ¾ of an acre are in critical slopes.
- There is one other issue that deals with sight distance around one of the intersections at the corner of the building. Staff will include a condition in the site plan approval that will obtain adequate sight distance. Therefore, the layout will look a little bit different.

- Therefore, staff recommends the Commission approve a waiver of Section 4.2.3.2 to allow activity on critical slopes with no conditions. If the Planning Commission approves the critical slopes waiver, staff will administratively approve the site plan subject to conditions. The Commission does not need to act on the preliminary site plan.

Mr. Morris opened the public hearing and invited the applicant to address the Planning Commission.

Ankita Kott, representative for the applicant, offered to answer questions.

Mr. Morris invited other public comment. There being none, he closed the public hearing to bring the matter before the Planning Commission for discussion and action.

Motion: Ms. Porterfield moved and Mr. Strucko seconded for approval of the critical slopes waiver for SDP-2008-00003 Crown BMW Retail Parts & Service Building – Preliminary with no conditions acknowledging that staff has conditions to impose in the site plan approval.

The motion passed by a vote of 6:0. (Ms. Joseph was absent.)

Mr. Morris noted that the critical slopes waiver for SDP-2008-00003 Crown BMW Retail Parts & Service Building – Preliminary was approved. This item does not go before the Board of Supervisors.

Work Sessions:

ZTA-2008-00002 Amendments to PD & NMD Regulations
The request is to amend regulations for Planned Districts and Neighborhood Model Districts to modify the grandfather clause, provide clarification on requirements, update titles in accord with County reorganization, and change architectural requirements.
(Elaine Echols)

Ms. Echols presented a power point presentation and explained the staff report. (See power point presentation and staff report)

- In summary, the Planning Commission held a work session on ZTA-2008-00002, Amendment to PD & NMD Regulations. On April 22, 2008, the Planning Commission adopted a resolution of intent to begin work on changes to the Planned District regulations to require that site plans and subdivision plats permitted under old planned development zoning comply with current rather than "old" regulations that existed at the time of rezoning approval. The resolution also noted that some "clean-up" of Sections 8 and 20A would be provided, as well. The Commission asked for a roundtable discussion on the proposal to get input on the proposed changes as well.
- Staff recommends that the Commission review the content of the proposed changes. If the Commission believes that the changes appropriately address the issues raised by the Commission and staff, then the staff will schedule a roundtable meeting with the development community. Staff will include any recommended changed to parking studies with the ordinance amendment brought to the Commission.
- The proposed changes are in the staff report, which would require current regulations to be applied to Planned Districts where no vesting has occurred, to bring the staff titles in line with the current titles in Community Development where there is some decision making authority, to remove redundancy, make clarifications and consistency in the requirements, to modify the requirements for detailed architectural information and to add a special use permit option for the Code of Development where the applicant may not be able to anticipate conditions. Not included in the staff report, but proposed, staff wants to bring something else back to the Commission that is to make the required parking study in the Neighborhood Model District optional rather than mandatory. Because so many of the Neighborhood Model Districts have so much flexibility built into the uses it is really hard to know what the parking requirements are going to be at the rezoning level. Some of these Neighborhood Model Districts are fairly tightly defined and there is knowledge about what the parking needs would be.

- There needs to be more work done on one part of what staff has given the Commission with regards to vesting and variations. On page 9 of the staff report in item 6 of Attachment C, there is some proposed language variations to applicable requirements where the Planned Development was approved under prior zoning and subdivision regulations. At the time the site plan or subdivision plat is reviewed under current applicable zoning and subdivision regulations and the applicable requirement cannot be satisfied without amending the application plan, the variation shall be only to the extent necessary to allow the site plan or plat to be approved without amending the application plan. No requirement may be varied to a standard below that in effect when the Planned Development was approved. This is one that the County Attorney's Office wants to provide some additional information on at a later date. That section may need to be modified somewhat because they want to make sure that there is no conflicts between approved Planned District zonings and what a variation might be allowed by the Planning Director. Therefore, that one is not totally settled and staff will bring some information back.
- Staff has not published this greatly because they wanted to get Planning Commission input first. Several regular applicants have contacted staff about this. One applicant has suggested that the Neighborhood Model District sign regulations be modified with this amendment to allow for commercial signage that is consistent with commercial signage in the other zoning districts. The Neighborhood Model is a mixed district and has commercial aspects and residential aspects. For example, the Albemarle Place Mixed Use Development would like to have signage that is consistent with what they allow for commercial zoning districts elsewhere in the Zoning Ordinance rather than be restricted to signs of a residential size. By and large staff supports this request and thinks that is something they could include in this packet. Also, staff has heard from the development community that they want it to be included. Staff totally agrees with that request.

Mr. Strucko questioned if the signs in the Neighborhood Model District are going to be the same size as the signs in a commercial district.

Ms. Echols replied that there are different types of signage for commercial uses. Staff is hearing from the public that they would like to have commercial uses in a Neighborhood Model District to have the same area of signage that is allowed for commercial uses in commercial districts. This is something that staff would like to bring back to the Commission.

Mr. Strucko pointed out that he would like to understand what the impact of that would be. He questioned if it would be a billboard or something similar. He noted that this was not a commercial district, but a Neighborhood Model District. Therefore, he may be concerned about that.

Mr. Loach echoed Mr. Strucko's concern.

Ms. Echols said that it was on the order of magnitude of a 48 square foot sign versus a 36 square foot sign. It is not a huge different. Staff would want to bring that back in its entirety so that the Commission could consider including that with this set of amendments.

Mr. Edgerton said that he shared the other Commissioner's concerns. He would keep an open mind, but only wanted to see it back as part of this if they can really fully vet it.

Ms. Echols noted that staff's recommendation is for the Commission to review the packet information, to ask any questions about the changes in wording and provide input. After that staff will schedule a round table discussion with the development community. That input would be brought back to the Planning Commission for review and input. The public hearing would be set and then Mr. Kamptner would draft the final version of the ordinance. The public hearing would be held and the Commission would make a recommendation to the Board of Supervisors.

Mr. Edgerton suggested that the round table discussion be held in the form of a work session where the Commission could hear the input from the development community.

Ms. Echols replied that it could be done as a work session and would actually be easier for staff.

Mr. Morris opened the public hearing and invited public comment.

Neil Williamson, with Free Enterprise Forum, thanked staff for coming forward with bringing the development community into the loop. He encouraged the Commission to reach out to the commercial community in the mixed use/neighborhood model. In the discussions of DISC II the commercial aspect of this is a vibrant part of the Neighborhood Model. They need to give every opportunity for that commercial district to succeed and be on a level playing field with the other commercial districts in the county, which generates the signage issue. He asked the Commission to discuss the format of a work session/round table with the development community. The benefits of a round table are that the folks are able to comment back and forth rather than having three minutes to comment and an opportunity to sit down. He felt that there is an opportunity here to really talk with the folks that are implementing it to find out the challenges with the projects in order to clean up the language. He hopes they can find a middle ground on the signage that allows the businesses to succeed. He thanked the Planning Commission for considering the entire community because the residential and the commercial aspects are important parts of the Neighborhood Model.

Valerie Long, attorney speaking on behalf of her clients, expressed her appreciation to the staff for the very helpful memo that explained the changes. She reviewed the memo and the vast majority of the changes are all very positive. She looks forward to working with the staff to address and fine tune some of those and provide some comment. She echoed Mr. Williamson's comments about the benefits of a round table discussion with the development community. The ones she has participated in the past have been some of the most productive and collaborative discussions on a number of different topics from the subdivision ordinance to the wireless telecommunication policy over the years. It is really an opportunity for people to sit around, roll up their sleeves and have some give and take. It is the give and take between staff and the development community that is really so valuable. She asked that the Commission keep an open mind about a round table. She thinks that it is very productive. They are more than willing to share their comments with the Commission as well. But, Mr. Williamson is right that sometimes just speaking for three minutes and not having that give and take is not nearly as effective as a round table. Usually they come to consensus on a lot of issues and can come back to the Commission with that information. They appreciate the Commission taking the time to look at it.

Mr. Morris asked what time she would recommend holding the work session or round table since they want maximum turn out.

Ms. Long replied that the afternoon might be the most likely to result in a large turn out by the most number of people. It is important to get as many people participating as possible. But, she would suggest getting staff's opinion on that.

Mr. Cilimberg noted that late afternoon would work best for the community. One approach they could take was to hold the round table as planned and any Commissioner could attend. He suggested that if the Commission wanted to participate, then they need to adjourn to that meeting. Otherwise, if they were just interested in hearing the discussion between staff and the various participants from the public and development community he did not think they need to adjourn to it.

Mr. Davis recommended that if three of more Commissioners were going to be in attendance that they adjourn to that meeting rather than just being observers.

Mr. Edgerton said that by law the Planning Commission has to have a public session if there are more than two Commissioners together at one time. He would welcome the opportunity to possibly change the format of the work session so that it would allow for more comfortable conversation. He would hope that the Commission would be able to participate in a discussion with the development community. The Commission needs to understand first hand what the development community's needs are, but at the same time the development community needs to hear the Commissioner's concerns as well. Rather than having those meetings separate, as has been done in the past, it would be a healthier experience to have this as a public forum where everybody can participant. If that means changing the structure, he would welcome the opportunity of changing the structure and not limiting people to certain specified times the way they do now.

Mr. Morris agreed and that it can be worked out. He suggested that they use room 241 or Fifth Street so they would have a large area.

Mr. Loach suggested that staff contact groups like the Crozet Advisory Board, Places 29 and the Glenmore Master Plan. Essentially, these are the people who are going to be living with the changes that they are talking about. If staff thinks that it is substantial enough they need to make sure that they get the word out to those people. Also, hopefully they can send some documentation out before hand in words that everybody is going to understand so that they can react to those.

Mr. Morris invited other public comment. There being none, he closed the public hearing to bring the matter before the Planning Commission for discussion and action.

Ms. Echols noted that Bill Fritz and the Current Development staff support the proposed changes. They don't want the Commission to think that they enjoy the process of using the old regulations since it is very time consuming and a difficult process to go through.
Ms. Porterfield questioned how the Clifton Lake proposal would be affected by this.

Mr. Davis replied that is the type of development that would be impacted by this. Instead of having the automatic option to go under the old rules there would have to be an evaluation as to whether or not they have established vested rights under state law. Ms. Echols' memo identified the statute of the test that basically has to be met. So they would have to evaluate whether or not there was a substantial governmental act, whether or not that has been relied upon and whether or not there has been due diligence in expenditures of funds to advance that approval. In some of the old cases that test may not be met and they would have to comply within the current regulations under this ordinance. For most other developments that have actual active plans, probably almost in every instance, they would be vested and would still have the option to choose to act under the zoning that was in effect at the time that they were approved. The extent of the effect of this is going to depend upon how many existing planned developments are out there that have not basically begun.

Mr. Morris asked Ms Porterfield if that answered her question.

Ms. Porterfield said that it sounds like under that particular issue staff would have to evaluate specifics from the applicant to show the vesting.

Mr. Davis replied that is correct in a development that is already being brought forward in which they were now advancing the application and they would have to analyze whether or not it would impact that development.

Mr. Edgerton asked staff if they have covered everything except the parking mentioned. He asked when that would be done since they had been waiting for that.

Ms. Echols replied that there are different ways to deal with the parking. One would be just to add that there is an option here. Another way would be to establish a new parking standard for mixed use districts. Staff has not done that. It is something that the zoning administrator thinks would be a very good idea. Right now if they want to move this quickly staff would put it in the optional category and they could be working on it. She did not know how quickly that could be brought back. Staff could bring the sign information to the Commission fairly quickly because there are people who have already been working on amending Neighborhood Model Districts. But, the other issue may take a little more time.

Mr. Edgerton questioned if that was the reason for some of staff's recommendations that were not part of the staff report that came up on the screen that the parking plan be made optional.

Ms. Echols replied yes.

Mr. Edgerton noted that he was nervous about making a parking plan optional for a community of this scale. Perhaps until they are able to work out a particular parking requirement for a Neighborhood Model

they could as an alternative make it optional and at least have the applicant show the worse case scenario of the parking. They are not going to know and it may change with the market. But, it would be a shame to think that they might be including commercial and not have enough space for the parking with the plan they look at. Rather than leaving it out and not thinking about it maybe they could as an interim step have the applicant show a worse case scenario for parking so that they would not be kidding ourselves to approve a plan thinking that they are going to get something that they could not possibly get because there was not enough space for parking. That would be one example. He asked if that is something that could be worked on.

Ms. Echols replied that is something that they could talk about. What staff originally thought with the Neighborhood Model District is that there would be greater clarity in the uses that were going to occur in a Neighborhood Model District so that an applicant could get a pretty good handle on what that mix was going to be so that when they provided a parking study it was realistic enough that the zoning administrator felt comfortable to be able to recommend approval of it. What has happened with a number of the Neighborhood Model Districts, such as Rivanna Village at Glenmore, Biscuit Run and North Pointe, which is a planned district, when they have gotten the list of possible uses that could occur in those districts they are so broad that the zoning administrator has a real difficult time saying yes this parking study is realistic. The applicants just don't know what kind of use they are going to get. For example, Berkmar Business Park has 275,000 square feet, which is a maximum amount that they would be asking for plus 190 units. They don't know if they are going to be doing 190 units. They don't know if they are going to be doing any units. The kinds of uses they put in their Code could be something like a light warehousing for documents, which requires very little parking, to a restaurant, which requires a great deal of parking.

Mr. Edgerton suggested that they could be done in an average. He noted that it was not good planning to just leave the door wide open for any use, show a plan that they all hammer out and then find out later after they decide their use that they don't have enough space for it and can't do that. He would like to avoid a lot of confusion in the planning process as opposed to having the zoning administrator make this determination case by case. As projects are developed in phases this would be important to get hammered out as much as possible before hand.

Ms. Monteith suggested rather than an average to use a range based on the proposed uses.

Mr. Morris said that was a good point.

Mr. Edgerton agreed. He noted that the third paragraph mentions bringing titles of staff in line with current titles used in Community Development, which means that some titles have changed. In the middle of the paragraph it mentions administering architectural standards. Staff is making the case for the difficulty in establishing the architectural standards at the early stage. It says the applicants for building permits have not always provided the information that the Codes say will be provided. He questioned why staff would accept that as a completed application if it was missing something that was required. He asked why that would ever happen.

Ms. Echols replied that it happens when people submit less than all of the information because properties get sold and builders come in with their building plans and there has been some kind of failure in communication between the sellers and the buyers. The builders are coming in with the building permits wanting immediate action on a building permit and staff has to go back and get all of this information and analyze it. The applicant should be providing the information with the building permit applications. Staff has found from a practical standpoint that they can spend a lot of time trying to get that together.

Mr. Edgerton said that an applicant comes in to get something rezoned and they promise A, B and C. Then they sell it to a second developer and forget to tell them that they promised A, B and C. So now the second developer comes in and says that they did not know that they were required to do that. Does staff feel that the county should take responsibility for straightening that out?

Mr. Cilimberg noted that it was staff's responsibility in reviewing the permit to make sure that it does satisfy A, B and C. If it does not, then the permit would be rejected. So that really is not the issue. The

issue is the judgment that has to be rendered regarding architectural designs where they don't have staff that can really review the architectural nuances to say yes it does or does not meet the architectural intention in the application as it was approved. Staff feels like it is at the level of detail that they really don't have the staff that has the judgment from the architectural standpoint to say that is the architecture that the Code said would be provided. Staff wonders if that is critical anyway. He questioned if they are trying to get too much in a Code regarding architecture. It is like the discussion last week on using the Secretary of the Interior Standards and passing judgment on that and the Commission questioned why are they doing that. This is really about not including in the Code requirements regarding architecture that they don't have staff that can really judge. It is probably not in the public's general interest to have staff rendering on these issues one way or the other, which would make the process work more smoothly. It is not about the ability to accept or not accept the permits. Staff can reject permits and they do when they don't meet the requirements of A, B and C. It is really about whether A, B and C is needed to begin with. That is what it is really about. Architectural standards are something that has been included in Codes to the degree that has gone far beyond what they even have the professional ability to judge. That is really what this is about.

Ms. Echols said that some of the Codes get down into the details about what the different colors on the building will be and a lot of the details the ARB would be quite interested in, but they don't have things that they are evaluating those against. When they look at the Code of Development regarding architecture, staff's ability to look at that for what is going to look good does not exist. But, what they are looking for are the things that the ordinance requires and whether it is something staff can judge when they get a building permit. Staff does not have the guidelines similar to what the Architectural Review Board would be looking for in an Entrance Corridor.

Ms. Monteith assumed that they were only talking about buildings when they are talking about architectural standards because sometimes it is broader in terms that a building could have a cloister figuration versus not having a cloister configuration. One would consider that to be part of the building so that part of what they might be looking to achieve is whether or not the building establishes the same principle of enclosure or the same benefits in the original plan. That can make a big difference.

Ms. Echols pointed out that the way they have been trying to deal with the elements of enclosure or less about the architectural features was to deal more with the heights, the proportions, the setbacks, the build to lines and what they think that the Commission would look for in the proportions, scale and massing and those kinds of things. That is what staff is suggesting that they would keep in. But, the little details would include such items as the façade treatment.

Mr. Edgerton said that it looks like they don't have the staff to deal with this so they are not going to worry about it. Frankly, a lot of the projects at the varying level of detail that comes are often established not by a requirement, but by a desire of the applicant to sell a project as being something that has some aesthetic value. He was nervous if they are swayed by that and think it is a good project and then a subsequent owner of that property disagrees with that judgment, then they have a problem. He would like to avoid that problem, but did not know if the way to avoid it is to just pull that requirement out and just hope that it comes in nice.

Ms, Echols suggested that the Commission review the two columns on the screen regarding the Architectural Landscape standards that apply to the Neighborhood Model District, which will address the following: The form, massing and proportions of structures, which may be provided through illustrations.

Mr. Cilimberg said that the column on the left is what is in the ordinance now. The middle column is what is being proposed.

Ms. Monteith asked the reason why they were not retaining the landscape treatments.

Ms. Echols replied that the landscape treatments are where they would be asking for what is in addition to what is already required in the zoning ordinance. There has been some confusion over landscape treatments because people don't know what it means. The applicant proposes their own landscape treatment. But, if it is less than what is in the zoning ordinance, staff would not be endorsing it. There

has been a lot of confusion about what they are doing with the landscape treatments. They have some applicants that want to provide a greater amount of landscaping in their project and they want staff to know that is important. These are the standards that they can hold them to. Other applicants feel that what their ordinance requires is sufficient and unless there is some need for screening that they could not otherwise require. Staff might agree with them.

Ms. Monteith questioned the consistency if a portion of a development was developed and a portion was sold to another owner. She asked if there is a way to have consistency between what the first owner did and the second owner.

Ms. Echols replied that their expectation in terms of materials would be that there would be some covenants that would go along with the land that the original owner established regarding the kinds of materials and façade treatments. When they deal with the form, massing and proportions they would not be looking at the consistency of the architectural materials.

Ms. Porterfield pointed out that she was a little concerned about leaving out architectural styles. For example, the Rivanna Village is supposed to be a Williamsburg type of look, which it was approved at. It would seem that they would need to leave something in that indicates what each one would look like. She questioned whether staff or the ARB would help with this particular situation. It is important for everything built to be in that style. They are going to lose that totally with what staff is showing here.

Mr. Edgerton asked if a rezoning was in the Entrance Corridor and the ARB was being asked to review it to see if it was consistent what they are going to judge it against.

Mr. Cilimberg replied that it would be reviewed under their guidelines.

Mr. Edgerton asked if it would have nothing to do with what has been promised by the applicant.

Mr. Cilimberg said that the ARB's review of the Entrance Corridor is based on the Entrance Corridor Guidelines, which is what they are allowed to do under the ordinance. The ARB can't reach into other areas of review. If there were totally different architectural styles, materials, colors, roof forms and pitch that were part of the zoning action, they don't actually have jurisdiction over those either being or not being in conformance with the zoning. They are evaluating the project based on the Entrance Corridor Guidelines.

Ms. Echols noted that the ARB would be able to look at the form, massing and proportions during the rezoning. The Design Planner would be looking at those for consistency with the Entrance Corridor Guidelines. They would get the framework established early on, but those details that are important to the ARB are what they would be setting the perimeters around.

Mr. Edgerton voiced concern over the hodge-podge effects that will come out of this because projects do get broken up into phases and pieces of projects get sold to other developers. As Ms. Porterfield points out without some kind of a theme for the entire project, which they hope would occur at the rezoning level, it could be a real problem down the road. Down the road money could be the reason for future developers to go to a less sympathetic style.

Ms. Echols asked if it would be sufficient for the applicant to say what kind of architecture that they are going to be providing and provide more of the details that are currently the ordinance, but provide for the recordation of covenants which would ensure that those things are taking place. Then it becomes solely a private matter of enforcement where the staff is not doing the enforcement of those details. But, the applicant is because he made a commitment that they were going to record these things.

Mr. Edgerton agreed that would work.

Mr. Loach asked to what degree does the community during the master planning process help make these architectural decisions. In the original Crozet Master Plan there were a number of suggestions, which were published by staff, about elements that they could incorporate in the Master Plan. If they

were doing away with a lot of these do the communities have the ability to make some of these judgments during the master planning process. On the optional parking he had the same concerns as Mr. Edgerton. It goes back to the master planning where they identified in Crozet those centers. So they did have an idea of what they would be in size and scale. Even in downtown Crozet they established minimums for the parking. He felt that is important. He asked if this would lead in the master planning process, to a call on the community for a higher degree of specificity within the plan. That is one concern, which may be good or bad. He asked if the master planning process override this vested interest they have since the master plan is a Comprehensive Plan change.

Mr. Davis replied that it would not unless it was a comprehensive down zoning, which was difficult to achieve. It would be treated like any other rezoning. If someone has an existing zoning and it has vested rights to that zoning or to a plan that would supersede any subsequent action by the Board unless the developer chose to abandon the plan.

Mr. Loach asked if staff has identified how many exist in the growth area. He asked if this was a large problem they were going to be facing.

Ms. Echols replied that staff was still working on identifying how many are out there and will bring that number back to the Commission. With regards to the kinds of things that are in the Crozet Master Plan that relate to architectural what they had in there was building height and stories (how many stories are appropriate) and the kinds of setbacks that are appropriate. Those things are still in the Code of Development. Those are still requirements. If someone came in for a rezoning and wanted to use the Neighborhood Model District their Code of Development would be assessed against what the Master Plan says for the number of stories, for the walkability aspects and the setbacks. It would be similar to what was down in Downtown Crozet. It is very similar. There were no specific architectural regulations for Downtown Crozet, but they had requirements that related to the proportions to the façade breaks as to how many stories were allowed by use. Those requirements would remain.

Mr. Cilimberg said that if by chance there was a master plan done for a particular area that specified a certain architectural style that should be achieved for that master planned area that is an expectation that any rezoning would be evaluated against. The other thing to think about in terms of zoning that exists, whether it is planned development or any of the conventional districts, any zoning that is in place is by right and can be utilized by the owner contrary to what the master plan calls for unless the county takes an action to change the zoning. One place where they did that proactively was Crozet for the downtown area, to actually establish in zoning allowances that would permit them to develop differently than what their by-right zoning was at the time. That was considered an incentive in that case. But, without an action to actually change zoning anyone can develop according to the zoning that they have whether or not it is consistent with the master plan for that area.

Mr. Morris noted that the Commission had questions about the parking and the architectural standards.

Mr. Edgerton noted that on pages 8 and 9 it talked about the review of plans and subdivision. It refers back to the vesting and reviewing the applicable Code of Development in effect when the site plan or subdivision plan was under county review. He questioned if that was what they were trying to get away.

Mr. Davis noted that what this basically says is as compared to currently planned development the developer has the absolute option to choose whether or not he is going to use the rules that were in effect at the time it was approved or today's rules. It is his choice. What this would say is unless the developer has vested rights there is not a choice. The developer would have to assert that he has vested rights. The way that the State Code deals with that is that the zoning administrator with the concurrence of the county attorney has to make a determination as to whether or not vested rights exist. That determination then would be binding unless it was appealed.

Mr. Cannon noted that there was a question of "diligence" in the applicant's pursuit of his vested rights.

Mr. Davis said that determination of vested rights was going to be the totality of circumstance on a case by case basis.

Ms. Porterfield suggested that architectural style be left in and that the applicant is required to submit renderings.

Mr. Davis said that the challenge is if it is something essential to the approval and they leave it up to covenant, then there are always some provisions for covenants to be amended. Covenants have to be self enforced. The county does not have the legal authority to enforce covenants. That would be the challenge of trying to balance what is essential versus the details that really is not essential. Staff does not feel it should codify if it is not essential.

Ms. Echols noted that one of the challenges that they have in terms of the styles is that they don't have anything to compare against. For example, Rivanna Village at Glenmore, there was a preference for a particular architectural style, but it was based on the aesthetic value of that particular community with the developer. The county does not have something to evaluate against. So when it comes to staff's evaluation regarding architectural style there is not a lot they can say about them. It becomes something that the applicant thinks is important in this particular setting, and then it would be accepted by the Planning Commission, the Board and the County. Staff would not have something to evaluate against like the ARB has with the Entrance Corridor standards. Staff has a hard time getting an applicant to make a commitment to a rendering because they are setting up the zoning and have not designed the buildings yet to know what the buildings are going to look like. It has been a difficult to challenge to have an applicant to submit a drawing and say it is what the development will look like.

Ms. Porterfield suggested that staff ask the applicant to submit the style to be used on the development.

Mr. Edgerton suggested that if a Code of Development shows a style and includes a commitment to some sort of covenants, which may be adjusted as noted by Mr. Davis, but at least it would declare an intention. The only issue would be whether that could be legally transferrable to the next owner if the property were sold.

Mr. Davis said that the challenge would be in the covenant documents itself. Sometimes covenants require 100 percent of the property owner approval. If it is only one property owner, that would be easy to achieve.

Mr. Edgerton noted that if they are crafted the right way the applicant controls that as long as they need to in order to market the property.

The Planning Commission noted the following for further staff work:

1. The architectural standards and parking are the two areas of concern that need to be further addressed.
2. Staff should schedule a round table discussion with the development community to include Planning Commission participation.

The Planning Commission took a break at 7:09 p.m.

The meeting reconvened at 7:15 p.m.

CPA-2008-00001 Water Supply Update

This is a proposal to amend the Natural Resources and Cultural Assets and the Land Use sections of the Comprehensive Plan. (Tamara Ambler)

Mr. Benish distributed copies of the proposed resolution of intent, presented a power point presentation and explained the proposal on CPA-2008-00001, Water Supply Update.

- This proposal is to amend the Natural Resources and Cultural Assets of the Land Use sections of the Comprehensive Plan. These sections refer to outdated supply and demand information from 1995 and call for the creation of the Buck Mountain Reservoir for supplementing the urban water service supply. This alternative was determined to be defunct due to endangered species in the Buck Island Mountain. Since the adoption of these sections of the plan numerous new studies

have been adopted with new recommendations for providing public water supply. Therefore, the Comprehensive Plan needs to be amended. Staff sees this as mainly a housekeeping item to reflect the decisions and actions by the Board of Supervisors and the City Council and refer to updated information generated from the new studies. These amendments eliminate some of the redundancies between the two sections, streamline some of the language of those sections and moved some points of information from one section to another where staff felt it was more appropriate to be located.

- On June 7, 2006 the Albemarle County Board of Supervisors approved the Ragged Mountain Reservoir expansion as the preferred alternative for the water supply to the urban service area. Water quality permits for the project have been issued by both the Department of Environmental Quality and the US Corps of Engineers. Separately the county has begun preparation of a county-wide water supply plan as mandated by the Commonwealth for local and regional water supply planning. That process requires the county to do a comprehensive plan that not only covers our urban area, but county wide. The County is doing that in conjunction with the City of Charlottesville. That will take in account groundwater supply issues. That work is not required to be completed until 2011.

- The proposed amendments to the Natural Resources and Cultural Assets component of the Comprehensive Plan are contained in the staff report. Staff recommends that the Planning Commission adopt the Resolution of Intent that was provided at the work session. The proposed language will be brought back to the Commission for a public hearing at the next available date. Staff requested comments on the proposed amendments. (See staff report)

Mr. Morris invited questions for staff.

Mr. Edgerton questioned if they are leaving agricultural activity out on purpose or is it required by law. A lot of the siltation issues with the drinking water impoundment causing a lot of that erosion.

Mr. Davis replied that this was just stating a historical fact, which was the intent. In 1977, it was not intended to deal with agricultural activities. It only dealt with on lots that were being built upon in a setback.

Mr. Benish noted that the language in blue was proposed and for most part it was just rephrasing the existing language that they deleted and put in bullet form.

Mr. Edgerton asked why school sites are exempted.

Mr. Cilimberg replied that it was just the historic history stated and the reason for it.

Mr. Edgerton said on the last page in the last paragraph starting with the software model it says at this time the county does not possess sufficient well monitoring data. He suggested putting a date in there.

Mr. Loach noted that the resolution of intent references a 50-year planning period to be analyzed. He said in the DISC report from 1999, CHK did a build-out analysis. It was their point that the expected population growth in the county through the year 2015 will seriously challenge the ability of the designated growth area to provide enough developable land area. In fact, it is clear unless the density is achieved in the remaining developable parcels that at some point well before the year 2015 a serious shortage in housing would exist. On one hand they have a county summary build-out analysis that says by 2015 they are going to be running short of property. But, on the other hand they have a 50-year water supply plan for those who are on city and county water. But, anything outside of the growth area is on wells. He questioned a 50-year plan for water and a reasonable 20-year supply of property.

Mr. Benish replied that the 50-year plan was a state planning standard for public utilities. Therefore, the Service Authority is mandated to plan for that 50-year period. He believed the CHK Study was addressing our land use capabilities within those 20 years of absorbing the amount of growth that was planned for that 20-year period. In our evaluation of the development areas, they consider that 20-year

period and the types of land use designation changes, such as intensifying development zoning that would allow for the accommodation of future development. The planning process takes into account the population growth that they think may occur. In the Land Use planning they try to accommodate that growth through the holding capabilities of our development area.

Mr. Cilimberg noted that the CHK Study was trying to point out that if they continued utilizing land the way they were at that time, they were going to run out.

Mr. Loach said that he understood that. But, unless the growth areas expand, essentially that flattens out at some time in the near future as they are getting closer to build-out.

Mr. Cilimberg pointed out that one of the things that have happened since is that they have had a number of rezonings at a much higher density than what the CHK projection was based on in terms of the land use patterns they were receiving at that time. He thought they were speaking to if they continue with two dwelling units an acre, which was basically the way they were developing at the time, that they were going to run out. Now they are trying to factor in the idea that they are getting projects at higher densities. They are getting projects with more than two dwelling units an acre. They have actually had rezoning to enable that. There is now an opportunity at least to see the curve extend further out.

Mr. Loach said that he understood. It is just his programmer side that wanted to see the data to support 142 million dollars or whatever they were talking about for a water supply plan. Essentially it is not far above even what under the best expectations might be needed.

Mr. Benish pointed out that a section on conservation is being deleted with the anticipation that when they come back with future updates of Chapter 2 within the next year or two they would be providing more information on their water conservation efforts.

Mr. Morris opened for public comment. There being none, the public hearing was closed and the matter before the Commission for discussion and consideration of the resolution of intent.

Mr. Benish said that staff needs an action on the resolution of intent and then can set a public hearing.

Motion: Mr. Cannon moved and Mr. Edgerton seconded to approve the resolution of intent for CPA-2008-001, Water Supply Update and to ask staff to schedule the public hearing.

The motion passed by a vote of 6:0. (Ms. Joseph was absent.)

Mr. Morris said that the resolution of intent was approved for CPA-2008-0001 Water Supply Update and staff will schedule the public hearing.

Economic Development Policy – LI Land (Susan Stimart)
The work session was rescheduled from last week's July 22nd Planning Commission meeting in order to obtain feedback from all Commissioners.

Mr. Morris noted that the discussion was deferred from the last meeting due to several Commissioners not being available. The discussion was continued to tonight. Public comment would be taken.

Ms. Stimart, Business Development Facilitator, noted that the work session is to solicit comment from the Planning Commission regarding support for the two strategies and any other comments about light industrial land to address the shortage. This is a continuation of the Economic Development Policy update on Light Industrial land. Staff learned from the updated data that they have a shortage of LI land. In looking through the policy it seemed as though the best place to address this issue was under the policy's Objective V, Provide Local Business Development Opportunity. She asked to review the two current strategies in the policy.

Mr. Strucko asked how staff made the determination about the shortage of LI land.

Ms. Stimart replied that it was done when staff updated the data for the Economic Development Policy.

Mr. Strucko asked what variables were in play. He asked if staff was looking for enough currently zoned Light Industrial land to support a community of 140,000 people.

Ms. Stimart replied that was correct.

Mr. Strucko said that 140,000 people would be the population of the City of Charlottesville and the current population of Albemarle County.

Ms. Stimart noted that it really focused in on Albemarle County's workforce population and the land under current Light Industrial zoning in the County.

Mr. Strucko asked if staff was looking at the currently zoned Light Industrial parcels in the entire county and not just within the designated growth area. He asked if there were an explicit number of acres they were looking for.

Ms. Stimart replied that was correct, which was what she would cover in the presentation.

Mr. Strucko asked if staff made the determination that there was not enough LI land.

Ms. Stimart replied that was correct. There is 111 acres that are both zoned Light Industrial and designated in the Comp Plan. She presented a power point presentation and explained the staff report regarding light industrial land. Comment was solicited from the Planning Commission regarding support for the two strategies and any other comments about light industrial land to address the shortage. (See staff report and Power-point presentation)

- The first strategy is to support existing businesses and industries through an open door policy, communication and exchange of information and concerns.
- The second strategy is to coordinate with existing entities that assist new, small, locally owned and minority and micro-enterprises in their start up and early operation efforts.
- The map shows where the vacant Light Industrial zoning is located. She noted that the green stars indicate two light industrial parks that presently are outside of the development areas.
- Staff looked at employment numbers from VEC by industry breaking it down into North American Industrial Classification Codes and identified all of the codes allowed in light industrial zoning. Staff looked at the two digit macro level as well as the four digit more detailed level. That showed a base of employment between 9,083 and 9,101 for all non-office uses. If you include offices, which is currently allowed in LI zoning, that 2006 base jumps up to 13,477. Again, looking at the updated data from a previous work session staff saw employment growth at an average of 3.5 percent from 2000 to 2006. Applying that same percentage growth giving it a time frame of 20 years says that they have a resulting shortage of about 121 acres with no office uses. It would be as much as 139 acres if office uses were allowed considering that they would have used up the 300 acres that presently exist.

Mr. Strucko asked if the 3.5 percent was the annual growth rate.

Ms. Stimart replied that it was the average annual growth rate between the year 2000 and 2006 for all industries. That statistic is on page 11 of the updated data.

In discussing recent trends with LI land she noted that they have seen what was designated in the Comprehensive Plan for Industrial Service convert to other uses.

- Thirty-five acres went for the Hollymead Town Center.
- Sixty acres went for the Willoughby Fifth Street project.
- Forty acres went for Albemarle Place.
- Twenty-three plus acres went for Willow Glen.

They have seen some recent plant closings, which included Avionics Specialties and Badger. Among the cottage industries, which are basically those home occupation class B, they have seen some zoning violations as those businesses have grown beyond what the class B allows for.

In the discussion of the general characteristics of a light industrial use and the economic policy direction in the Power-point presentation staff noted the reuse of older buildings for flex space. That is something seen in the Badger building, which is now on the market for flex space.

This work session tonight is to ask the Commission to discuss important supporting strategies that they could look at in meeting Objective 5, Provide Local Business Opportunity. Staff has looked at several options as noted in the staff report. Staff recommends the following:

- Option 1 - As part of the master planning process designate and practically rezone development land to LI zoning somewhat similar to the Crozet Downtown Project.
- Option 2 - Modify the zoning as regards to allowed uses in the LI and other zoning districts. It would involve looking at that perspective comprehensively.
- Option 3 – Staff is seeking Commission input if there are certain location conditions that if met the Planning Commission would support modifying the growth management policy to meet LI need. Some of the conditions might be adjacency to the development area, locations approximate to an interstate interchange and availability of water and sewer.

Mr. Morris invited Planning Commission comments.

Mr. Strucko asked if staff has considered the option of continuing to look to the designated growth areas for all development opportunities both residential and non-residential. He suggested that they look for redevelopment opportunities within the designated growth area for light industrial and also rezoning opportunities within the designated area for light industrial. He was not convinced that they have to go outside the designated growth area to accommodate this perceived need for additional light industrial land. He felt that within the designated growth area there may be rezoning opportunities to go from what is currently there, whether it is R-1, etc. to light industrial if an applicant so desires to do so. That should have been one of the policy options for staff to recommend because it is consistent with County policies.

Mr. Morris said that sounds like options one and two.

Mr. Strucko noted that it says proactively rezone. He questioned why they should have to go out and proactively rezone land light industrial. They did something similar to that in the Downtown Crozet area, which was in response to a master planning process. He suggested perhaps just stating the course should be an option.

Mr. Loach said that it has to be done within the context of the master plan. The community has to look at this and see within that area where they would like it. He felt that it has to be within the context of the master planning.

Mr. Benish noted that the best parallel is the Downtown District for Crozet where there was a designation for a certain activity and the county essentially zoned that land to allow by-right activity there. Staff's suggestion here is that it be part of the master plan process. In order to address some of the market issues in which there is a history of the property tending to move to its highest and best use, which tends not to be industrial, staff suggests putting an inventory out there that may get better utilized for that purpose. The second option is to create some restrictions on the zoning to sort of continue to force by-right to be used for true industrial purposes.

Mr. Strucko noted his concern about the assertion that there is not enough light industrial land. He was not sure what is included in numbers. From what they have heard, they are looking at currently zoned vacant land zoned light industrial. He would like to include a census of the growth area land to see what is currently a redevelopment opportunity or a vacant parcel that could be rezoned light industrial within the designated growth area. He truly believed that if the county is going to meet this objective of providing local business development opportunities that the growth area is that economic development

area. That is where the infrastructure exists and that is where they are all willing to consider rezonings. He did not see the emphasis placed on that in this recommendation. Therefore, he would like to express his view that he did not think they have to encourage sprawl by going outside of the designated growth area. He suggested that they look inside the designated growth area for these light industrial opportunities. That is what they ought to encourage.

Mr. Edgerton said that the only one referring to having some flexibility of going outside of the growth area is option 3. The first option actually says in the development area. He did not believe that option 2 for modifying the by-right uses was intended to be outside of the growth area. He felt that it was a healthy way to go to be consistent with the Comp Plan until they hear from the Board, who would get their direction from the citizens, that the Comp Plan needs to be changed. The challenge that they have been facing in recent years is the market value of this land that is in the development area. If the County is serious about preserving the option of light industrial zoning within their development areas, they need to figure out a way to remove from the existing light industrial use the option to develop it in a less sympathetic way. If offices are allowed and something they don't need, then maybe they should take that use out of the by-right use of LI land. If they are serious about this, then they have to be serious about not allowing light industrial property to be used for other uses. There have been instances due to the economics of an applicant not being able to get a market return for typical light industrial use because of the land cost that the county has allowed another type of use. This was done at Willow Glen. If they are serious about this, then they need to make sure not to make exceptions like that in the future.

Mr. Strucko questioned how they decide if there is a need. He was not in support of the county proactively doing this.

Mr. Edgerton recalled the recent Faulconer Construction Yard situation, which was a LI grandfathered business, which had serious problems in finding a new light industrial location. It was an eye opening experience to realize that they were looking at a million dollars an acre for properties zoned light industrial within the development area. It is a problem when they have a locally based employment base or organization that wants to be here and can't find land.

Ms. Stimart noted that she had asked Nora Gillespie, Director of the Small Business Development Center, to share some of the information she has gained from our local business owners in trying to figure out how they can grow to the next business level.

Nora Gillespie, Director of Central Virginia Small Business Development Center, said that they are an agency that is in part funded by the U.S. Small Business Administration and by local sponsors.

- Albemarle County is one of those sponsors. With that financial assistance what they do is one-on-one counseling in a confidential nature with small businesses. Albemarle County businesses and residences are just under 40 percent of the businesses that they counsel with. Most of their clients are existing business owners who are expanding their business operation. They also do some training, which includes about 300 persons per year. About 40 percent of those are from Albemarle's existing businesses.
- What their clients encounter after two or three years of business operation is that they are outgrowing the space in their home. They need more flexibility in their space at home or they need more employees, which causes them to be in violation. When the clients seek assistance the agency does not do anything with real estate or financing. The clients are looking for space that is small and flexible that they can grow into and is affordable for them. Moving a business from a home base to outside the home creates many concerns, such as how they can afford the rent and utilities on a regular basis and accommodates the needs of their employees.
- They typically see about 200 business clients per year. She has to be vague in her descriptions. Many clients come from downsized businesses and need warehousing space. The businesses have ended up having to go outside the county due to the high cost of warehouse space. There have been caterers looking for commercial kitchens. When the business owners are coming to them they are finding that there is not enough availability or enough alternatives for them to find cost effective solutions to operate outside of their home. She sees that there is a need that is not being met on a regular basis from the 6 to 10 cases they get per year and the inquiries. Many of

the warehouse needs are met by looking at sites as far away as Goochland, Augusta and Rockingham County.

Mr. Morris thanked Ms. Gillespie for identifying the magnitude of the problem.

Mr. Benish agreed with Mr. Strucko's suggestion that redevelopment is something that should be added. It needs to be made clear that it is not just new land they are looking at, but redevelopment potential.

Ms. Monteith suggested looking at the slide about the three concerns of the Planning Commission. In terms of the three points, which are not exclusive, she suggested adding the concerns of adjacent land uses and/or view shed issues. On option one she suggested, "As part of the master planning process consider designation of LI zoning within development area land." That might be too weak and need to be amended. But, she thought that the suggested change would make it less confusing.

Mr. Strucko asked staff if HC or any other kind of commercial land was included in this study that could be converted into light industrial.

Ms. Stimart replied that staff looked at land that was in the development areas zoned RA and R1. There would not be any concern with downzoning. There is roughly 6,000 acres in the development areas.

Mr. Strucko noted that Highway Commercial is a very close use to Light Industrial in terms of permitted uses. He asked if Highway Commercial zoned land was in the inventory calculation.

Ms. Stimart replied that staff just looked at the LI zoning.

Mr. Benish noted the pattern staff has seen is that it does not become useable for what they see as the types of industry that they are trying to locate. It may become an office type of use that is more of a service use. But, that is really not what our needs are. It did not include the Highway Commercial.

Mr. Strucko asked what are the uses they are looking for and how do they determine that. He questioned if they are addressing a problem that is out there. He suggested that they define the problem and then they could come up with some policy solutions.

Ms. Stimart pointed out that just this week they had a data center inquiry for 40,000 square feet. That is potentially a 50 million dollar operation that they could not accommodate. But, that is a new business. In terms of expanded businesses they have a pretty good growth rate among the bio-tech companies and not all of them fit within the research parks. So to be sensitive to their future growth needs in the county they just want to make sure they have enough resources for those types of companies. One of our major transportation and shipping companies, UPS, is fairly well constrained at this point in their current location and, as noted in the newspaper, is taking on the DHL market for the North American Continent. So they are going to be continuing to grow and how do we accommodate them.

Mr. Benish pointed out what they are hearing is that there is a competitiveness for the land that is creating difficulties for true industries, those that assemble and manufacture or are industrial in character such as contractor storage yards, to achieve a site in the county because of the investment that they need to make.

Mr. Strucko said what they are considering here is looking to provide pre-zoned affordable land for businesses to locate.

Mr. Benish noted that it was an inventory of land that helps adjust the market so that they have more of a competitive chance to compete in the market. It is not for Kinko's or for contractor's necessarily that serve NGIC. It is office uses that do that. By contractors he meant consultants and engineers. It is not that space, but those that are assembling or doing research at a start up or small scale that are having difficulty competing as staff understands.

Mr. Cannon noted that this seems to be in some way like affordable housing. This is an activity or use that they want to exist in the county, but it is not competitive economically. So they don't have people coming forward with rezonings because they would rather do something else with their land because there are higher returns. It seems that it is more than just a rezoning. It is really a subsidy program as they are creating a special economic space for people who have these uses so they can come into our community and work here. It seems that Option 2 comes closer to that because that would basically establish a light industrial zone that would exclude other uses. Therefore, the land would only have value as light industrial. So in a way they would be stacking the deck competitively so that they rule out other uses and therefore make the land available for that. There might be other options associated with large new developments that would bring in some requirement for providing light industrial or contributing to some space for light industrial at some central area.

Mr. Edgerton said that it would be similar to the affordable housing proffer.

Mr. Cannon agreed that it could be something like that. It does not seem like a typical zoning problem of what use is where. It is how to stimulate, support or make space for a use that is not competitive otherwise. That requires another more elaborative device.

Mr. Morris suggested that it needs to be so they can say yes to that 40,000 square foot operation. One thing that he found in option 2 that he liked is to cut down the current 40 uses that are available for the LI zoning area. As expressed by Mr. Strucko, he questioned what they are looking for as something they could get their hands on.

Mr. Strucko said like affordable housing, he felt that they have been very consistent with following the policies. They never changed the growth area boundaries to accommodate affordable housing. They looked for other mechanisms. He would not be in favor of a policy change that would look to change the growth area boundaries to accommodate this perceived need for light industrial zoning. There are plenty of opportunities within the designated growth area for that. In fact, that is their economic development policy as he stated. The designated growth area has the infrastructure in place, all roads lead to it, water and sewer and it is the area that this community is willing to rezone fairly readily for uses. They have done that consistently over the last several years for mixed use residential. They could certainly do that for light industrial. The Commission worked on an application in Crozet not that long ago for Watkins Landscaping where they were able to work something out.

Mr. Edgerton said that it would have been a lot easier to work that out if they went back and were able to amend the Comp Plan in such a way to state that they want to respond to a perceived need here. He agreed with Mr. Strucko that until they totally exhaust the use of the current development area he would like to try to keep the focus there instead of expanding it. There may be exceptions to that possibly with properties adjacent to the development area. He felt that they need to go back and have some strength in the Comp Plan to encourage this. As long as they are allowing in Neighborhood Model developments large scale retail outlets he did not see why they could not include structures that could serve very adequately as light industrial units. It could serve all of the needs that they have heard about tonight.

Mr. Strucko noted that to do this in good faith they had to figure out whether the growth area can accommodate it. That is his concern with the study. He thought that the study was too narrow in its focus. To just look at vacant currently zoned light industrial land does not really grasp the whole picture. There are rezoning and redevelopment opportunities within the growth area that should be counted towards the inventoried space that could accommodate this. They can argue about the variables and whether there is a 3.5 percent annual increase in employment. He asked are more of the existing population working since our population growth rate is not that high per year?

Ms. Stimart agreed that it is not.

Mr. Strucko asked if that was strictly the University or does that include Charlottesville. He believed that they should really look at what is in the designated growth area, look at highway commercial designations as well as other commercial designations and look at redevelopment opportunities. Then maybe they can conclude there is enough light industrial potential to handle this perceived need.

Mr. Morris felt that both options one and two, and a combination of them, really address what Mr. Strucko is saying. They need to look at what they have right now, but consider option 3.

Mr. Loach said that he had a problem with option 2. From a growth area perspective, like in Crozet, what he was looking for in his community is jobs so that the people are living and working in the same town. He would hate to say that they specifically set a piece of land for LI and then wait for someone to come. In the meantime he could put in something like the Joiner building in Crozet that was a high tech firm, which rents the top floor and a physical therapy department business in the bottom. So he is looking for the best thing that is going to come to his community that is going to provide jobs. They have not talked about the infrastructure. Additional infrastructure is going to be needed for LI if it is manufacturing.

Mr. Benish agreed with Mr. Loach. One of the reasons staff wanted to emphasize the master plan is that as you look at those areas there may be unique needs within the community. That is what they would want to take into account. The whole transportation system for Crozet was built on the fact they had some employment out there that they are not getting. It might change the dynamics of when they apply these general guidelines. He asked to step back to bring us all back and make us all aware of where. They are beginning to set broad planning policies and this does not turn into an implementation step tomorrow. They will take this and weigh it with other recommendations including the Comp Plan. They are all very good points that they need to be aware of. The next step is not to craft a rezoning to up-zone or change properties tomorrow. They are trying to get an understanding of what is an acceptable type of approach by the Planning Commission and the Board.

Mr. Morris noted that there were a lot of good questions, but he wanted to back off and ask for public comment.

Ms. Porterfield noted that she had received a lot of emails. She wanted to commend staff for coming up with this particular slide. This is looking at some areas that are not designated in the Comp Plan. It is looking out of box and trying to see if there is anything that might work. She is the Planning Commissioner for the Scottsville District and there is lots going on. She has had some land that has been looked at this year already that meets some of this. It is adjacent to the development area and approximate to the interstate I-64. There is water that goes by it. There is a possibility of a sewer plant or boring under I-64. It is the land on the north side of Route 250 running from the VDOT Headquarters west to I-64. It has a lot of old zoning. Obviously, it has VDOT Headquarters, the Hunter's Way section, a hotel, the trailer park area and a parking lot that is used for all kinds of different things. In between are a lot of parcels that are rural. There is also the land on the south side of 250 running from I-64 to the new Jarman's Motorcycle Shop. That is what she is talking about. She is not talking about extending it way to the east. She suggested that they look at some land that fits into this kind of a parameter. There may land in other parts of the county, but this is the land that she hears about all of the time.

Mr. Morris invited public comment.

Will Yancey, representative for the Yancey Family of Albemarle County, presented a power-point presentation.

- This is a preliminary conceptual proposal. It has been demonstrated by Ms. Stimart that the county has a need for more light industrial land with there only being 111 vacant buildable acres left in the county. At least three members of the Board of Supervisors agree that the County has a deficiency of LI land based on their comments just within the past year. Maybe they can help. Located behind RA Yancey Lumber Corporation and Western Albemarle High School on Rockfish Gap Turnpike the Yancey family property is 148 acres in four parcels just outside of the development area all zoned RA.
- If their plans were approved, they would lose about 40 acres to stream buffers and floodplains. They propose a Comprehensive Plan Amendment followed by the rezoning from RA into a PD-IP, Planned Development – Industrial Park catering to LI uses that currently have a difficult time finding a site from which to operate in Albemarle County.
- They understand that the rezoning of 148 acres outside of the growth area is at odds with the Comprehensive Plan. The land already borders the single largest (by far) area of HI-zoned land

in the entire county. Given the County's need for more LI zoning, a contiguous extension of land already zoned HI is both logical and appropriate. Out of the other PD-IP District Characteristics – it meets three of the four characteristics: Conformity with Comprehensive Plan; Water & Sewer Available; Served by Major Highway and 50 Acre Minimum Area Requirement.

- Approval of their application will require some unorthodox or out of the box thinking. After the last few months of working with the staff, the Planning Commission and the Board he had no doubt all engage in such thought on a daily basis. Water and sewer is available via their 1,100' border with the rear of Western Albemarle High School. There are major highways available with arterial road assess on Route 250 as well as being 1,000' from the I-64 on-ramps. The 50-acre minimum requirement is not a problem. Suitability is a little tricky because it is a subjective standard. But, the existing sawmill has a 60 year history. It is evident to him that it is suitable. With water, sewer and roads all right there the infrastructure is all in place. They are ready to work with anyone willing to contribute to making this ambitious undertaking successful for the county, the community and the Yancey family.

Morgan Butler, present on behalf of the Southern Environmental Center, said that the purpose of this discussion is to consider new strategies to increase the availability of affordable lands zoned for light industry or LI in the county.

- The staff report does a good job of identifying some of the possible options. Perhaps more importantly it also points out the causes of the lack of affordable LI land.
    - First is the rezoning of industrial land to higher value non-industrial uses.
    - Second is the fact that the current LI zoning category allows a number of uses, such as office buildings, that typically generate more money for the land and therefore make it overly expensive for more traditional industrial users to try to locate there.
- The first step should be to address these underlying causes of the problem. If the county continues to approve rezonings of its industrial inventory to non-industrial uses, and if the breathe of uses allowed in the LI category continues to mean that office parks can block out small businesses, they will not get anywhere by simply designating more land as industrial.
- Option 2a of the staff report suggests cutting back some of the by-right uses in the LI districts. This seems to be a wise first step. Option 1B, designating and rezoning privately owned development area parcels also offers some promise. The county is currently working on two growth area master plans and next year county staff will need to update the Crozet Master Plan. This work presents ideal opportunities for designating growth area parcels that are appropriate for LI uses. This would be setting the stage for the county to then initiate a rezoning of some of those parcels later on. Notably, residential densities and recent growth area proposals are falling short of county goals. So it seemed to be a win/win situation to set aside some appropriate growth area parcels for only light industrial use.
- Although staff has not recommended going forth with option 3, expanding the growth areas or broadening the uses allowed in the rural area, staff has asked for the Commission's thought on it. Our general opinion is that this major policy reformulation should only be considered as a last result after all reasonable options have been exhausted. Beyond undermining key county growth policies this approach would reduce marketing incentives for cleaning up and reusing vacant industrial lots where businesses have recently closed. Setting aside rural area where existing industrial land sets with empty buildings make the reuse of those vacant parcels much less likely. Option 3 may also end up doing little to address the affordability problem, as the staff report points out, because it could put all newly designated LI land in the hands of a very limited number of people.
- As a result the proposals for expanding grandfathered industrial uses into rural zoned parcels, like the one Mr. Yancey just presented, should be approached very cautiously. They don't want to suggest that there is no conceivable situation in which an individually tailored proposal like this might make some sense, but they think that the presumption should be the opposite and all other options for making LI land more affordable exhausted first.

Peter Hallock, a resident of Keswick, said that as a community they had long and hard discussion on Glenmore. They were promised by the Supervisors at the time that there would be no hook ups for water along 250 because they were opposed to strip zoning. It was his fear that if they make that light industrial the next person will come in with the land and say they just want to put a Walmart or other use there. He

asked that they please keep the word of the county that they would not allow hook ups along 250. It is between two historic districts. The uses described by Ms. Porterfield are small uses that have grown there, but they don't want Route 250 to look like 29 north.

Neil Williamson, representative for the Free Enterprise Forum, asked to make three points. He would like to hear the entire Commission discuss the philosophy of the conflict that occurs in some of the county, which is the development area. Mr. Edgerton mentioned the Faulconer case where there were intense conflicts between residential uses and light industrial uses in how we resolve those conflicts. To be clear the Free Enterprise Forum has no opinion with regard to projects such as Ms. Porterfield's and Mr. Yancey's suggestions.

Mr. Williamson continued that he did believe that each Commissioner is aware of small cottage industries that have moved out of the county. He has seen several cases where a landscaper or an air-conditioning contractor has moved over the county line. It is fine for that county to accept his business, but then their client base is still in Albemarle County. That puts more trucks on the road and affects the infrastructure without having the businesses taxes. It causes some timing issues on how fast the plumber can get to your house. Finally, he suggested that the Commission have a discussion of strategic enterprise zones that would be adjacent to the growth area and to highways. There are businesses that they want to keep in Albemarle County. If that is true, they need to find some place for those businesses to grow. Or, perhaps they don't want industrial service in Albemarle County.

Mike Marshall, Editor of the Crozet Gazette, said that he came to the meeting to listen to Mr. Yancey's presentation. He was also the Chairman of the Crozet Advisory Council. He agreed with Mr. Strucko that he did not think that the case has been made that this need is tangible. If it is he would like to say that there is a lot of space at Con- Agra left. The whole north side of the property is undeveloped. Also, the vacant 60,000 square foot old Acme building is vacant with an enormous parking lot. He noted that freight transport is growing rapidly. He suggested that they look at rail access as much as they look at interstate access for industrial use. He pointed out that both of those properties did have rail use. Also, Barnes Lumber still has a CSX spur on it that could be reactivated. He supported Mr. Loach that this is something that should be looked at in the context of the master planning. They may actually have enough available property now. On the terms of subsidy he asked what definition of affordable is. It is a very subjective term

There being no further public comment, Mr. Morris closed the public hearing to bring the matter back to the Commission for discussion.

Mr. Strucko asked that the first bullet be reworded to say, "Within the development area." Development adjacent to the growth area means suburban sprawl, which is how he viewed it. He noted that Mr. Yancey's conceptual proposal goes against his principle because it would extend the designated growth area south of 250, which was not envisioned during the master planning process. He thought it was counter to county policy. He suggested that the Commission made a recommendation to staff as they work on this proposal to look within the development area. He recommended deletion of the wording in the first bullet of the wording, "adjacent to."

Ms. Porterfield disagreed with Mr. Strucko. She would like for them to be able to look at land because there are some differences within that land that should at least make them willing to look at it. The land she was talking about has a lot of old zoning. Even though they say it is not in the designated growth area the old zoning has made a large chunk of it in the development area because that is what is there. She felt that they need to at least have the ability to look at it. In several discussions several Commissioners have suggested that they consider a comprehensive plan amendment. There might be something worth looking at because the land is not exactly rural. She suggested that there may be other areas like this in other parts of the county other than her district.

Mr. Strucko said that any land owner can propose anything they want on a rezoning before the county. He did not think that the county policy should be opened in that regard here. County policy on the Economic Development Policy should encourage strictly within the development area.

Mr. Cannon agreed with Mr. Strucko that the focus has to be on developing opportunities in the growth area. He encouraged further exploration of Option 2 and maybe more aggressive options for basically, as Mr. Williamson said, in putting our money where our mouth is if they want these businesses here and they want them in the growth area how are they going to ensure that is going to happen in a realistic way that takes into account the market and realities. He felt that there should be a strong presumption against opening up additional development in the rural area. That is the underlying policy of the whole Comprehensive Plan. He did not know why they would abandon it in any systematic way here. They have not done it for affordable housing. They have not done it for other things that they want in the county. They have tried to funnel all of that into the existing growth area. If they get to the point where they have exhausted their options and can't do what they want to do, then they could consider that alternative.

Mr. Loach said that there seems that there is no problem in this county where there is not a growth area solution. Growth area residents now make up the majority of the population. He thought that within the context of master planning they will make the proper decisions for the future development of their communities. That is why he felt that Mr. Yancey's proposal, which was outside of the growth area, should only be taken up in the master planning process. It is a decision that the community should have a part in the decision making, if not the majority. He worried about Option 2 where the county sets aside land. He felt that was in the free market system and did not want to set aside property that could be used for something else that would put jobs in his community. Taking into consideration the businesses in Crozet referred to by Mr. Marshall, they are a long way down the road from solving these problems. To some degree it is the catch up in other growth areas to find out for them and letting them start developing their solutions.

Mr. Edgerton opposed Ms. Porterfield's suggestion. He felt that Mr. Hallock's suggestion was well taken to not expand the growth area in that region. He agreed with Mr. Cannon and Mr. Butler in that the modified uses in the light industry was a good step. They need to look hard at it. With some of the inclusiveness of activities that are allowed in other zoning districts it is making property too expensive to actually support the need that has been identified for LI. They should try to start in the growth area as it exists right now. He has not been convinced that there is a need or will be a need to extend the growth area in the near future. He agreed with Mr. Loach that the folks living in the development area should participate. He felt that the Light Industry could be integrated into the growth areas through rezonings in a sympathetic way that will no infringe on the Neighborhood Model concept any more than some of the large retail has already. Regarding Option 3, until he felt a greater need to expand the growth area he would have a hard time with proposals to do that.

Ms. Monteith pointed out that she had made several suggestions. She agreed that it should be within the growth area. Also she would advocate for what David Benish said to reinforce the concept of redevelopment and avoid the use of green fill sites.

Ms. Porterfield said that she did not disagree with the others on the other sections put out. But, she firmly believes that they should look at other ideas, even if it does not fit in the Comp Plan, to explore the good and bad points in whether they have unusual land that could be considered. Since part of her district was unusual she would like people to think about it and not reject the idea because it is not in Comp Plan. She was just asking that they look at it.

Mr. Morris noted that he liked staff's option one and two and some combination thereof. He agreed with Mr. Cannon and Mr. Strucko that Option 3 is not a viable option at this particular time. They have plenty of land in the development area and they should really look at that. He liked the use of areas that are almost dormant at this time. He liked Mr. Cannon's idea about subsidy. At one point they have to look at it one way or another even if it was county land, which was an option he was not in favor of.

Mr. Benish summarized the Planning Commission's comments as follows:

- The majority of the commissioners were comfortable with option two. The next step would be to look within the development area for additional land. This should be done in a strategic manner

consistent with the master planning processes, which seems to be the next step in terms of priority.

Mr. Strucko asked if they are looking for policy language that explicitly states that economic development will happen within the designated growth area.

Mr. Benish said that the policy basically says that now. He did not know if they need to change the policy. But, they could look in making sure that is reinforced. He thought that was consistent with the current policy.

Mr. Strucko noted that obviously agricultural and forestal uses would have to happen in the rural areas. That should be explicitly stated as well and not light industrial.

Mr. Benish said that the Planning Commission was comfortable with emphasizing the reuse of a component of that. There is a consensus that they should be pursuing additional innovative approaches other than land use designation as an approach. They should possibly be looking at this similar to affordable housing and use those types of approaches in investigating the options in the future. He asked if there was a consensus on that.

Mr. Cannon said that he was not suggesting that should be the alternative they should take. It is just an option. They have a market failure problem here. The question is how they can overcome it. It is not just by traditional zoning.

Mr. Strucko said he did not know if they have a market failure.

Mr. Loach asked how he would define a market failure.

Mr. Cannon said that it was not a market failure problem. The market is doing everything just right. But, it was doing things right in a way that produces a result they don't want, which is to exclude these uses to outside our jurisdiction.

Mr. Strucko pointed out that he was not sure it was doing that.

Mr. Cannon noted that if the economic analysis is correct, that is what is happening.

Mr. Morris pointed out that is what they heard from the people who work with it.

Mr. Benish said that there are actually other strategies in other sections of the Economic Development Policy that address those types of approaches. Staff will take a closer look at how they will work within those.

Ms. Porterfield agreed with Mr. Loach that there is a lot to be driven by the people who live in an area, what they are looking for and that type of thing rather than just saying they are going to have X amount of affordable housing or X amount of affordable Light Industry. If they need it, it will be there.

Mr. Benish said that those are the areas staff will follow up on and will come back with revisions.

Mr. Morris pointed out that from just listening to everything that has been said this evening it was worth bringing it back from last week. He thanked staff for going through this a second time. It was extremely beneficial.

In summary, the Planning Commission noted the following for further staff work (as summarized by staff):

- The majority of the Commission was comfortable with option two.
- The Commission recommended the next step would be to look within the development area for additional land. This should be done in a strategic manner consistent with the master planning processes, which seems to be a next step in terms of priority. The majority of the Commission

asked for reinforcement of the policy language that explicitly states that economic development will happen within the designated growth area, which is consistent with the current policy.

- The Planning Commission directed staff to look at other options to assist businesses in affording sites (similar to methods used to address affordable housing), considering new approaches and re-examining existing policies.
- The Commission asked staff to evaluate strategies that promote the re-use of LI buildings and properties.

Old Business:

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

New Business:

Mr. Morris invited new business.

- The Planning Commission should advise staff if a work session on the adopted Pantops Master Plan (distributed tonight) is desired.
- Staff will be distributing paper copies of the full Comprehensive Plan to the Planning Commission.
- Any Commissioner that will be absent on August 12 should contact the Chairman.
- There will be no Planning Commission meeting on Tuesday, August 5, 2008. The next Planning Commission meeting will be Tuesday, August 12, 2008.

Adjournment

With no further items, the meeting adjourned at 8:55 p.m. to the Tuesday, August 12, 2008 Planning Commission Meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

(Recorded and Transcribed by Sharon Claytor Taylor, Clerk to Planning Commission and Planning Boards)