Albemarle County Planning Commission
September 30, 2008

The Albemarle County Planning Commission held a meeting, work session and public hearing on Tuesday, September 30, 2008, at 4:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Eric Strucko, Linda Porterfield, Bill Edgerton, Marcia Joseph and Calvin Morris, Chairman. Thomas Loach and Jon Cannon, Vice Chairman were absent. Mr. Edgerton arrived at 4:10 p.m. Julia Monteith, AICP, non-voting representative for the University of Virginia was present.

Other officials present were Susan Stimart, Business Development Facilitator, David Benish, Chief of Planning; Elaine Echols, Principal Planner; Amelia McCulley, Director of Zoning/Zoning Administrator; Wayne Cilimberg, Director of Planning; Mark Graham, Director of Community Development and Greg Kamptner, County Attorney.

Call to Order and Establish Quorum:

Mr. Morris called the regular meeting to order at 4:01 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.

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 gave an overview of the previous discussion regarding ZTA-2008-2, Amendments to the Planned Districts and Neighborhood Model Districts. (See power point presentation and staff report)

In the work session the Planning Commission reviewed and discussed the content of the proposed changes to the Planned Development regulations in a round table discussion with the development community. Comment was received from the several members of the public, as noted below:

- Chuck Rotgin;
- Neil Williamson, with Free Enterprise Forum;
- Valerie Long, attorney; representing several clients and as one involved in several of these type of projects;
- Morgan Butler, with Southern Environmental Law Center;
- Wendell Wood;
- Charlie Armstrong, with Southern Development; and
- Don Franco, with KG Associates.

Mr. Morris said that they have gotten a very good start on the beginning of the discussion. That is about as far as they have gotten unless they are willing to come up to the table. He felt that the next item on the agenda deserves some of the Commission's attention, also. Therefore, he suggested that the discussion of this be ended at this time and brought up at a later time.

Mr. Cilimberg noted in order to end the discussion he wanted to point out what he heard. It is not complete in terms of what the Commission wants to further explore for more specific thresholds or

standards that are important to be preserved from our new regulations for old zoning. So it is not just about vesting. It would also be about vesting in combination with those things. He also heard that the real concern is the old zoning and it may be that they can look into what might be even a date in time before which planned developments would be required to show that they meet those tests of vesting or they would be subject to new regulations. They would tend to be the old planned developments that never had a plan and if they did get a plan as part of the 1980 rezoning of the county it was the site plan in existence at the time that became the application plan. That is not a good standard to be working from in a lot of cases. They can pursue that.

Mr. Morris said that was a good point. He echoed what Mr. Edgerton saying that he really thought that the thing that was triggering this was those things that happened prior to 1980. That not only caused the confusion to the Planning Commission, but a lot of confusion with the development community.

Mr. Strucko pointed out that he was also hearing that the real concern was what the future implications are. They can have a lot of discussion about the past in looking at the old zoning from 1980, but he thought they needed to look at the implications of what this decision is for the future. That is background that he would like to get from Mr. Kamptner. He would like to know the definition of "vesting," "diligence pursuit" and "significant government act" so he could truly understand this.

Mr. Kamptner said that the whole vesting issue was codified about ten years ago. There has been one Supreme Court case that has considered these issues. It was based on an unusual case with unique facts. He can look at finding the applicable criteria.

Mr. Morris noted that the Commission could revisit the discussion at a later time. He thanked the public for their attendance and dialogue.

Mr. Rotgin said that it needs to be recognized particularly for the recent rezonings that go back up to 15 years ago that the process was so detailed that those rezonings should not be subject to this criterion. He felt that new rezonings should only be subject to subdivision and site plan review.

Ms. Echols pointed out that staff would come back with information about the signage next time. There will be opportunities for further dialogue.

In summary, The Planning Commission held a work session to discuss the proposed changes to the Planned Development regulations. The Planning Commission received an overview from staff, discussed the proposed changes, took public comment and made comments. No formal action was taken.

The Planning Commission noted the following for further staff work:

1. Staff should schedule an additional Planning Commission work session with the Development Community to discuss this zoning text amendment further.
2. The Commission wants to further explore specific thresholds or standards that are important to be preserved from our new regulations for old zoning. The issue is not just about vesting, but also about vesting in combination with those regulations.
3. Because the real concern is the old zoning, staff is requested to look into specific dates before which planned developments would be required to show that they are vested; otherwise, they would be subject to new regulations. For example, developments with a planned development zoning designation approved before 1980 were rezoned to a "planned development" zoning designation under the 1980 zoning ordinance without an application plan.
4. Staff should bring back information on sign regulations (in particular, information pertaining to sign size) applicable to the Neighborhood Model District at the next meeting.
5. The Commission needs to look at future implications of this decision. Mr. Kamptner was asked to provide background information pertaining to vested rights, including definitions of "vesting," "diligent pursuit" and "significant governmental act."

Economic Development Policy – LI Land (Susan Stimart)
The work session was rescheduled in order to obtain feedback from all Commissioners.

Ms. Stimart, Business Economic Developer, made a power-point presentation and explained the draft policy changes to the Economic Development Policy. (See staff report and power point presentation.)

Staff provided an overview to discuss:

- The project's timeline,
- Review of the policy's main goal,
- Review of the Planning Commission's comments thus far, and
- The three remaining areas:
    - Agricultural vitality,
    - Workforce development,
    - Light Industrial land, and
    - Questions and comments about policy changes.

David Benish assisted in the discussion.

Ms. Stimart reviewed the graphics of the employment base. The Planning Commission had recommended that they incorporate the overarching statements in the existing policy and add in some of the action strategies that they had talked about. They are looking at objective 6, strategy 1, which is an increased workforce development opportunity. Three bullets are to be added.

- Increase support for initiatives that foster career planning for K-12 level.
- Increase support for testing facilities. Increase support for residents seeking industry licensing and certifications.
- Promote employee certification licensure to the business community. There needs to be a group looking for this service.

Ms. Joseph asked if there was a one-stop career center.

Ms. Stimart replied that there was a one-stop career center that was a model for the state.

Ms. Joseph suggested that that it be defined instead of being called out.

Mr. Morris suggested such as a joint career center.

Ms. Stimart said that it was 12 agencies that are co-locating to assist residents obtain employment and also in helping employers find resources in employment potential.

Mr. Cilimberg suggested that they just need to describe what it does rather than just the name.

Ms. Joseph suggested adding "and other things" that would give them latitude to add other things. Also, a description should be added on what a one-stop career center does.

Mr. Morris noted that the concept was very valuable because they would not be sending a person to 12 different places.

Ms. Stimart moved on to the next strategy, which was to increase support for worker training programs.

Ms. Joseph questioned the underwriting and funding being included.

Ms. Stimart noted that she took out underwriting and it now says "increase support for it."

Ms. Joseph asked that the second bullet to increase support for increasing training and support for training programs be changed from "significantly support" to "support" so the Board can decide in the future if they want to provide funding.

Ms. Monteith suggested adding the wording, "such as incumbent-worker career-ladder training" so that they are able to actually spell that out, but that is not the only thing that is getting funded support.

Mr. Edgerton asked what an incumbent worker was, and Ms. Stimart replied that it was somebody already working for a company.

Mr. Strucko asked if the County was going to fund an internal business career-ladder training program.

Ms. Stimart replied that the idea here is that grant funding would go to a non-profit managing the opportunity. Last year the Piedmont Workforce Network had such a grant program in place, and they are able to fund with the private company match incumbent work training opportunities. The UVA Health system was one, and the Charlottesville Design Electric was the second.

Ms. Joseph noted that the language was not clear that the money was coming from grants, but sounds like the money was coming from the county.

Ms. Monteith suggested that it say "grant funding."

Mr. Benish said that the concern was the commitment to funding as opposed to a broader commitment to support. He felt that the Commission was comfortable with support that may take different forms. He suggested that they get rid of the funding and increase the support and there are various mechanisms to do that.

Ms. Stimart noted that there was new software coming out on October 8 called "Business First." It is software that practitioners, such as she, could use to check in with every company in Albemarle County and find out what their specific needs are. By and large they are going to hear a lot about worker training needs. If they are able to aggregate information about companies that do need training in certain area, it could inform PVCC, CATECH or other resource partners about what kinds of programs might be helpful for them to develop.

Ms. Joseph asked that the language be made more generic. Don't specify programs or the funding mechanisms--just talk about the county being the vehicle through which the grant travels. Or if the county decides to support it with funding of its own, then they would be able to do that with the word "support" and not be mandating the funding. That is what the language sounds like now.

Mr. Morris said what they were getting at here was that the county has to be part of the partnership in developing a viable workforce.

Mr. Strucko agreed with Ms. Joseph.

Ms. Stimart said that the language would be made more general.

Mr. Benish noted that specific programs would be taken out.

Ms. Stimart pointed out that another suggestion under workforce was brought forth by another Commissioner that was not here. Under strategy #3, the Commissioner suggested that when and where possible examine options to help create a local business incubator resource to encourage both workforce development and local entrepreneurship. A local business incubator is a good tool for a business trying to transition out of a home office, but can't afford a commercial market rent.

Mr. Strucko questioned what a business incubator was.

Ms. Stimart replied that a local business incubator would be seen as many small businesses sharing resources.

Ms. Joseph noted that it was a facility.

Ms. Stimart noted that the City was looking into having a business incubator on the downtown mall. There might become a time that the County might want to become a partner in that. She suggested that

the Crozet Elementary School could potentially be used as a business incubator for a short time period when it becomes vacant.

Mr. Morris noted that Louisa used vacant strip malls as business incubators.

Mr. Strucko said that he liked the idea, but felt that more specificity was needed. He suggested adding that a business incubator may parenthetically state a lower rent venue or facility of shared resource, for example PC's, desks, phones, etc. It would be helpful to clarify that.

Ms. Monteith suggested that it could be business incubator or comparable or equivalent. Therefore, it could be a design shop or many other things. It could be created by foundations.

Mr. Benish noted that it would not have to be a public facility.

Mr. Edgerton pointed out that the county sometimes owns land not being used to its best potential that could possibly be used in this manner to help the community develop the workforce.

Ms. Stimart moved to the light industrial issues. She shared recent data concerning companies that showed that LI land in the County has become restrained and limited. This information is in response to questions at the last meeting.

Ms. Joseph asked staff to provide the Commission with copies of the data.

Ms. Stimart noted that staff looked at some changes to Objective II, Strategy 4, which was saying that they were including consideration of practically rezoning land as needs are identified through master plans and other efforts. Initiate zoning text amendments that further enable business and industrial uses of the appropriate zoning districts.

Mr. Strucko noted that he had gotten tripped up on this in the past with the words proactively and initiate. He asked if the county was the applicant for a rezoning.

Mr. Cilimberg replied that it would be the county doing something like it did for the Crozet Downtown Zoning by initiating the zoning itself and writing language in as appropriate and actually identifying the area for the rezoning.

Mr. Edgerton noted that the language was different. Staff took out the words "of the plan" that he thought referred to the Comprehensive Plan.

Ms. Stimart replied that was correct. The challenge of working strictly through master-plan updates, which can be addressed by Mr. Benish, is that they are on schedule to work through the remainder of Places29 and then they will be looking at the Crozet Master Plan update in 2009. But, there are other areas in Albemarle County that might be more adequate and more appropriate for LI activity.

Mr. Cilimberg noted that they don't have master plans right now for Neighborhoods 4, 5, 6 and 7. At this point they might be delayed for budget or staff resources. So the idea was that they might decide in an area that has been identified in one of those areas that has not been master planned might be good to pursue zoning for the provision of this kind of light industrial activity.

Ms. Joseph said that this wording is better than what they have been given.

Mr. Strucko said that he liked the wording as needs are identified through master plans.

Mr. Benish noted that they would go back and review the Land Use Plan to determine where their needs are at a county-wide level. Then they would pursue how much and where if they need to do this. Based on their analysis, they feel that there needs to be an option to be able to go out and proactively zone.

Mr. Strucko asked that they eliminate the last sentence. He asked if that would be a hindrance.

Ms. Stimart replied that it would because they have some issues within the zoning code that are also a hindrance to LI usability. One of the problems they see is that LI is getting filled up with Class A offices. It is not a level playing field.

Mr. Benish noted that there were two steps here. One is a text amendment to more constrain the uses in LI and perhaps create another zoning district and looking at that and adjusting the zonings. He suggested that the last sentence be first.

Mr. Benish suggested making more of a statement about following the intent of the LI land and using it for that purpose.

Ms. Joseph assumed that they could use the last sentence. One of the things that they have been talking about is allowing for different kinds of uses of different scale in the rural area to help people with businesses that grow a little that is somewhat connected to agricultural use.

Ms. Stimart noted that it could possibly be a greenhouse, but they were looking for a size of 50 acres.

Mr. Benish noted that the statement is broad enough that it is not only looking at the LI District but potentially the uses in the Rural Area District. There is a work schedule item to look at the uses in the Rural Areas.

Mr. Kamptner said as that sentence applies to the LI District that is to address the concern that the LI regulations allow a lot of commercial type uses that are squeezing out the purely industrial uses.

Mr. Strucko asked that Objective II, Strategy 2 include an explicit statement saying doing this within the designated growth areas and some mention of master planning and community input as to what areas get designated for office, commercial and industrial development.

Mr. Edgerton noted that master plans are part of the Comprehensive Plan. Therefore, he suggested putting (including any adopted master plans).

Mr. Benish pointed out that had been included in another one, but he felt it would be good to include it in this one as well.

Ms. Porterfield noted that she did not support that suggestion. There is a terrible economic slump right now. The County residential market has two times the amount of real estate for sale than appears to be needed at this time. The Board has already raised the real estate taxes. If this Economic Development Policy is going to have any weight, it has to recognize that the County has got to try to come up with ways to help the bottom line. She noted that many people move to this area to retire. The County needs to remain a vibrant economy to attract such individuals. She suggested that the County needs to encourage business relocations. She has heard many times from other Commissioners that they don't want to go against the Comp Plan. They need to be realistic and put things in the Comp Plan to encourage business relocations to at least give people the opportunity to come in and talk to the PC.

Mr. Strucko pointed out that the Comp Plan makes the development area a better place to live. He did not want to have sprawl in the rural area. He was not willing to compromise because that is the policy is to protect the Rural Areas. Therefore, he cannot support softening the language.

Mr. Morris noted that some good points had been raised.

Ms. Stimart opened the discussion up for any other red line strikeouts as the document exists.

Mr. Strucko recommended some explicit mention that they want to keep the designated areas for all of this commercial and industrial development inside the designated growth areas.

Mr. Morris asked that they hang onto that and they would revisit it. But, he wanted to open it up to the public to get their input. He invited public input.

Valerie Long, attorney, said that her comments were not subjective to the document although she appreciated the opportunity to sit, participate and listen. She asked to make a clarification that Better Living is not leaving Albemarle County. They have expanded into Fluvanna County at Zion Crossroads. Their operations on Route 29 are going to continue.

Neil Williamson, of Free Enterprise Forum, asked to speak to the policy statement on the first page of the report. In comparing this to other counties, this is a very weak economic development position. There is no real recognition in the one line of the multiplicity of community benefits that the business community presents. From someone that works with the business community, he sees this document as not holding the businesses up. It reads here as what we want Albemarle businesses to have to do. It is a challenge. He thought that there should be a strategy to recognize, identify and quantify any new regulation or action prior to action. He thought that it was important for the Commission and Board to recognize the ramifications from their decisions on land use and other policies including how much it is going to cost the folks that are paying for it and the County. They currently do an analysis on how much it is going to cost the County, but not for the folks that are paying for it. Often times they have to make a decision without that information. He was not suggesting that the cost-benefit analysis is going to go one way or the other. But, making the decision without the information is troubling. For what it is worth he would really like to see this policy should be more business friendly. He would love it if that strategy could be adopted.

John Lowry, Chair of the Economic Development Authority of Albemarle County, said that he came in to pick up a packet on their next meeting. He was torn on whether he should be general or specific. He went to the library to look at the Comprehensive Plan. There are five parts to it. The fifth part is the Economic Development Policy, which is very skinny. That is fine because one does not need a detailed plan to have a strategy or a policy encouraging business in the county to the extent that they would like to have businesses come to the county. In the way of specifics, he has not seen so far any focus on tax incentive for businesses. The Economic Development Authority does tax-free bonds. He suggested that they might consider that. He believed that from a distance that the structure of this component of the Comprehensive Plan could have been handled quite differently and there would be a different discussion today. As he observed it, the Board of Supervisors passed it along to the Commission to handle in a very narrow way and they will probably pass it. As a business man it immediately came to his mind a vision that he would challenge them to have vision and show leadership. He felt that the structure was such that they were not allowed to have that. The Board could have given it to the Commission and said that they wanted them to hire a consultant, spend X amount of money and have a real policy. So he did want to encourage the Planning Commission a little bit. There was discussion early on about agriculture. There was a lot of emphasis on keeping our rural character. He absolutely understands that because it makes our county a beautiful place to live. In measuring the revenue it is a net loss of two million dollars. It is not a healthy business. Therefore, he did not think that there should be much focus on the economic growth of the area, which has to come organically. Albemarle County is a great place to retire to, raise a family and have a healthy life style. They have seen these during the past six months. The emphasis should be on a really big focus, which he did not see that coming. He wished the Planning Commission well and appreciated the invitation to speak.

Wendell Wood asked to try to challenge the Commission with some of the comments that have been made in response to Mr. Strucko on how strong he feels on maintaining the boundary line. Last year the Commission chose to not expand the boundary line in areas where they have expended money to build infrastructure, water, sewer and the road system. They chose to leap over an area. He had difficulty with how they could sit here and take that position when on the same token won't expand an area that is served with utility today with the best roads. He had to question their sincerity in what their goal was for the county for industrial growth and growth in general. They have an opportunity today to really shine, particularly with NGIC coming to this area with jobs. The rest of the country would love to have this opportunity to add jobs to their community.

Mr. Strucko made the following comments regarding the policy: He agreed with Ms. Porterfield's comments about the introduction. He suggested eliminating the first two paragraphs to get right to the

point saying, "The purpose of the Economic Policy is . . .", and then state it. He agreed with what Mr. Williamson said. If they are truly working toward encouraging businesses to develop in the development growth areas in the county, they really need to step up some of their analysis efforts to see how policies and regulations do impact the businesses. He would like to see some language in here discussing cost impacts on businesses as a result of regulations on businesses. He would like to eliminate the first two paragraphs of the introduction and then start with the purpose of this policy and then state the goals, objectives and strategies.

Mr. Morris asked what they thought about Mr. Lowry's comment that it was too narrow.

Ms. Joseph noted that was a big step because the county has never talked about doing rezoning of parcels.

Mr. Edgerton noted that the only county-initiated rezoning since 1980 was in Crozet.

Ms. Joseph felt that there was strong language in the document, and that they were stepping up to the plate with some things that they had not done in the past. It takes small steps to do some things. They have not been in any kind of economic dire situations that has caused them to have to do that. There is language in here about the Thomas Jefferson Partnership for Economic Development. They are moving forward. This is something that they have never done. They have added Ms. Stimart's position. She felt people were trying to push them into an economic realm that she was not ready to go into. She agreed with Mr. Strucko's comments about the health of the area.

Mr. Morris noted that it was a very good start. They need to keep moving forward.

Ms. Porterfield noted that she did not support spot zoning. But, it was not sprawl if what they were doing was connecting the development to the core as they were moving it out. Because of the way everybody keeps referring to the Comprehensive Plan, it prevents someone that comes in with an idea to keep development up close to an I-64 interchange from proceeding. She suggested that they come up with some wording that at least gave within the next eight years those persons an opportunity to come in and at least sit down and talk about. There might be a good idea that the County could go along with. She noted that Ms. Stimart brought up a number of entities that are looking for space that can't find it.

Mr. Morris said that they have mechanisms in place that allows those requests to come forward.

Mr. Strucko pointed out that anyone can apply for a rezoning.

Mr. Cilimberg noted that there was one request that the Commission was going to be looking at.

Ms. Porterfield suggested that it say that the primary purpose is to use the development area. But, if there was a real logical area that has reason behind it, that it would at least be looked at.

Mr. Strucko said that would be an exception to the policy that they were reviewing.

Mr. Morris noted that the suggestion was to put that in the policy.

Ms. Porterfield agreed so that someone would know that in the next ten years if they came up with something that was logical that they could come in and bring in the background information for the PC to take a look at.

Mr. Strucko noted that the entire Comprehensive Plan and all of the other provisions say that they are not encouraging growth outside the designated growth area.

Ms. Porterfield said she was saying as far as the economics go, if there are businesses that have a logical place location, then they could come and discuss it without being told that it is not in the Comprehensive Plan. If it was worded right it would work.

Mr. Strucko disagreed.

Mr. Edgerton did not agree with Ms. Porterfield. Until the over 70 percent of the county that expresses their opinion every year, who are not here in the room except through representation, tell us that the rural area is not the most important part in the county, they need to respect what the Comprehensive Plan says. That is that they need to protect the rural area. To put in the Comp Plan to undercut that directive would be very inappropriate.

Mr. Morris asked Ms. Stimart if she had consensus.

Ms. Stimart replied that she had the consensus.

Ms. Porterfield asked that the record indicate that there was not consensus. She would love to have a few of the pieces Ms. Stimart suggested back in. Specifically, she referred to land in close proximity to the I-64 interchanges, land adjacent to development areas and land currently with or adjacent to water and/or sewer services.

Mr. Benish said that staff would go over the suggested changes. The public hearing will be set for October 21. Staff would give the Commission a draft to look at the changes on the consent agenda to make sure that they captured all of the comments.

Mr. Cilimberg asked if the Commission was comfortable with staff advertising for the public hearing.

The majority of the Planning Commission was comfortable with staff advertising and scheduling the public hearing with the comments listed in the summary of the meeting, as follows:

In summary, the Planning Commission held a work session to review and provide comments on the draft revisions to the Policy section of the Economic Development Policy. No formal action was taken. The Planning Commission asked staff to advertise and schedule the public hearing for October 21, 2008 and to bring back the draft amendment language with their recommended changes, as follows.

1. Eliminate the first two paragraphs of the introduction. Start with the purpose of this policy and then state the goals, objectives and strategies.
2. Suggested referring to the "One-Stop Career Center" as a "Joint Career Center" and add a description of what a "One-Stop Career Center does." Add "and other things" to give latitude to add additional information.
3. In the section on worker-training programs, change from "significantly support" to "support" to give the Board latitude to provide funding in the future.
4. Add the wording - "such as incumbent-worker career-ladder training" so that they are able to actually spell that out. But potential funded support is not to be limited to only this item.
5. The language should be made more generic and not include specific programs or the specific funding mechanisms. It should be made clear that the county is a vehicle through which the grant funds travel; and if the county decides to support it with funding of its own, then they would be able to do that with the word "support" and would not be mandating the funding.
6. Strategy #3 would state, "When and where possible, examine options to help create a local business-incubator resource or equivalent resource to encourage both workforce development and local entrepreneurship."
7. Objective II, Strategy 2 should include an explicit statement that says this must be done within the designated growth areas with some mention of master planning and community input as to what areas get designated for office, commercial and industrial development. (Ms. Porterfield disagreed because she felt that some consideration was needed outside of the designated growth area due to the current economy. She also reiterated her belief that Ms. Stimart's original reference to potentially looking at land adjacent to a Development Area or proximate to an interstate interchange or the availability of sewer and/or water should remain under consideration.)

Old Business:

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

New Business:

Mr. Morris invited new business.

- The next regular meeting of the Planning Commission will be Tuesday, October 7, 2008.
- Staff to schedule meeting with Albemarle County Service Authority Board.
- October 28 Joint City/County Planning Commission meeting at City Hall. Staff to email details of the meeting.

Adjournment

With no further items, the meeting adjourned at 6:47 p.m. to the Tuesday, October 7, 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 and Stephanie Mallory, Planning Assistant)