Albemarle County Planning Commission
January 19, 2010

The Albemarle County Planning Commission held a meeting, work session and public hearing on Tuesday, January 19, 2010, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Russell (Mac) Lafferty, Ed Smith, Thomas Loach, Chairman; Linda Porterfield, Don Franco and Calvin Morris. Absent was Duane Zobrist, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

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

Call to Order and Establish Quorum:

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

Review of Board of Supervisors meeting – January 13, 2010.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on January 13, 2010.

Consent Agenda:

Batesville District Review
Review of the Batesville Agricultural and Forestal District: Periodic (10-year) review of the Batesville Agricultural and Forestal District, as required in Section 15.2-4311 of the Code of Virginia. The district includes the properties described as Tax map 70, parcels 40, 40A; tax map 71, parcels 23A, 23C, 24B, 24C, 24C1, 26, 26A, 26B, 26B1, 26B2, 26C, 27A, 29C, 29D, 29E, 29G, 29H, 29I; tax map 84, parcels 35A, 69; tax map 85, parcels 3, 3A (part), 4J, 17, 17B, 21, 21D, 21D1, 22B, 22C, 30D, 31; tax map 85, parcel 21. The area is designated as Rural Area in the Comprehensive Plan and the included properties are zoned RA Rural Areas. (Eryn Brenan)
TAKE ACTION TO FORWARD TO THE AGRICULTURAL AND FORESTAL DISTRICT COMMITTEE.

Mr. Loach asked if any Commissioner would like to pull an item from the consent agenda for further review or if there was any member of the public present to speak on an item listed on the consent agenda. There being none, the matter was before the Planning Commission for action.

Motion: Mr. Franco moved and Ms. Porterfield seconded for approval of the consent agenda.

The motion carried by a vote of (6:0). (Zobrist absent)

Mr. Loach noted the consent agenda was approved.

Work Sessions:

Capital Improvements Program: FY 11-15 CAPITAL IMPROVEMENTS PROGRAM & FY 16-20 CAPITAL NEEDS ASSESSMENT (Bill Letteri)

Bill Letteri, Director of Facilities Development, presented a Power-Point presentation to explain the CIP Oversight's Committee recommendations for this year's Capital Improvements Plan (FY 11 – 15). (**Attachment A** – PowerPoint Presentation FY 11-15 CAPITAL IMPROVEMENTS PROGRAM & FY 16-20 CAPITAL NEEDS ASSESSMENT)

No formal action was taken.

Mr. Strucko thanked Mr. Letteri for his presentation.

ZTA-2009-00018 Farm/Wayside Stands
Review of New Provisions for the Sale of Locally Grown Agricultural Produce and Merchandise. (Amelia McCulley)

Ms. McCulley noted that J.T. Newbury distributed two handouts on the proposal showing the existing and proposed regulations. (**Attachment B** – Farm/Wayside Stands: Current Ordinance, Proposed Ordinance following Roundtable Discussion, Overall Changes – Current to Proposed Ordinance-Revised 1-19-10) She presented a Power-Point presentation, as follows.

What is the County doing and why?

- In response to a recent zoning complaint about off-farm sales, the Board directed staff to re-examine the regulations pertaining to the sale of farm products

- Current regulations pre-date several of the goals and strategies adopted with the Rural Areas portion of the 2005 Comprehensive Plan

The fact is that in the rural areas, except for sales within a country store, farm products cannot be sold even those grown in Albemarle off the farm.

Amending the current regulations…

- Through a zoning text amendment process, staff will incorporate citizen input to modify the regulations to be more consistent with the goals of the Rural Areas

- The outcome should better promote the preservation of rural lands and activities, while also supporting the economic viability of farming

Staff suggests amending the Ordinance to provide for Farm Stands, Farm Sales and Farmer's Markets.

There are three different terms or uses that staff feels should accommodate the different types of opportunities and locations for selling agricultural products:

- Allow **Farm Stands** for selling "local" agricultural products and merchandise off-site from the producing farms. This is what does not exist now for off-site sales.
- Allow **Farm Sales** for the on-site sale of agricultural products and merchandise with subordinate sales of non-agricultural merchandise. This would often take place in a parking lot.
- Allow Farmer's Markets would allow for a more intensive off-site sale of agricultural products and merchandise and would also allow for subordinate sales of non-agricultural merchandise.

What are some of the differences between the current and proposed regulations?

Farm Stands:
Current: *On-site sales only in RA
By-Right: RA, MHD, VR,
PUD-C, PDSC, PDMC & HC.

Proposed: *On-site sales only in RA

By-Right: RA, MHD, VR,
PUD-C, PDSC, PDMC & HC.

Farm Sales:
Current: By-Special Use Permit: RA & MHD.

Proposed: By-Right: RA, MHD & VR.

Farmer's Market:
Current: By-Right: PUD-C, PDSC, PDMC, HC, C-1 & DCD.

Proposed: By-Right: PUD-C, PDSC, PDMC, HC, C-1, DCD, NMD, CO & LI.
By-Special Use Permit: RA, MHD, VR and Residential Districts

Farmer's Market is mostly for outside sales for agricultural products instead of an open air/flea market. Therefore, the restrictions are geared towards differentiating to that end.

Definitions:

Farm Stands:
Current: Structure for sale of ag products or merchandise produced by the owner on their farm.

Proposed: Off-site sale of local ag prod. and merchandise, including value-added products (but no subordinate sales) for an owner/leasee of farmland in Albemarle County. The other change is that farm stands would allow the sale of local produce, of which the definition proposed would go beyond Albemarle County. There is often a need to find a product that is available elsewhere but not available here at the time. So there is a listing of local localities, which include all adjoining localities.

Farm Sales:
Current: A structure used for the sale of ag products produced on-site and subordinate sales of products not produced on the farm.

Proposed: On-site sale of ag products and merchandise, including value-added products with sub. sales of non-ag merchandise. This would not be restrictive to local produce so the owner could supplement what they are growing in order to stay open.

Farmer's Market:
Current: Existing parking area used by two or more farmers for off-site sales of ag products from their farm

Proposed: Exterior sales (and/or interior within existing building) by one or more farmers for off-site sales of ag prod. and merchandise, including value-added products, with sub. sales of non-ag products.

Approval Requirements:

Farm Stands:
Current: Preliminary site plan, VDOT approval and supplemental regulations.

Proposed: Administrative: Clearance with sketch, VDOT approval and supplemental regulations.

Farm Sales:
Current: Clearance with sketch, VDOT approval and supplemental regulations.

Proposed: Administrative: Clearance with sketch, VDOT approval and supplemental regulations.

Farmer's Market:
Current; Site development plan, VDOT approval and supplemental regulations.

Proposed: Administrative (except for SP use): Clearance with site plan waiver, VDOT approval and supplemental regulations.

Structure and Retail Sales Area

Farm Stands:
Current: Structure, including vehicles, shall not exceed 600 sq. ft.

Proposed: No cap on retail area; new permanent structures shall not exceed 1500 sq. ft. (existing structures not limited).

Farm Sales:
Current: Shall not exceed 1500 sq. ft. and subordinate sales not more than 50% of retail sales area.

Proposed: No cap on retail area; new permanent structures shall not exceed 4,000 sq. ft. (existing structures not limited).

Farmer's Market:
Current: No cap; subordinate sales not more than 15% of floor area.

Proposed: No cap on retail area; no new permanent structure shall be established (existing structures not limited).

Important Terms:

- **Subordinate Sales**: the retail sale of non-agricultural merchandise that is accessory and incidental to the agricultural products sold onsite. These should be companion items that are directly related to the culture, care, use of, or processing of the agricultural products for sale. Permitted accessory products include pottery, baskets, canning jars, pumpkin carving kits, wreath making supplies, floral arranging supplies, and garden accessories.

- **Local:** agricultural products and merchandise grown or produced in Albemarle County or any area within its adjoining localities, including Greene, Rockingham, Augusta, Nelson, Buckingham, Fluvanna, Louisa, and Orange Counties.
- **Value-added products:** raw agricultural products that have been altered to enhance their value through cleaning, freezing, drying, processing, bottling, canning, baking, churning, etc. "Value added" products shall not be considered apart of subordinate sales.

Focus Questions:

1. **Review / Approval Process**: Recommend administrative process without adjacent owner notice. If there are concerns, we can do adjacent notice allowing them to request Commission review (as with Farm Worker Housing applications).
2. **Subordinate Items for Sale**: Propose using definition (which links these items to the agricultural produce sold) with discretion in the field. Only flagrant violations would be pursued. Does the Commission have any input on this issue?
3. **Technical Requirements – Access Road and Parking Spaces:** Recommend gravel or pavement ONLY when necessary to control dust or to prevent tracking, drainage or erosion problems. Because pavement generally required (unless less than 4 parking spaces), staff seeks the Commission's input.

   The third one staff received information on tonight regarding technical requirements. It is staff's duty to assure basic public health and safety is met. They also know there are state requirements they can't supersede. That is where state requirements such as VDOT for an entrance have to happen. They can't prevent that. Health Department requirements if bathrooms are required have to happen. But in terms of any approved surface for the parking spaces or the

access road staff is suggesting that it be purely based on an engineering analysis of whether they need gravel or pavement because there is a potential erosion problem or potential dust problem. These are used generally and frequently and not a seven day per week ten hours of day kind of business and they can be served by a lesser standard than our other commercial uses. This is another requirement staff seeks Commission input on.

4. ***Off-Site Signage:** On-site signage available larger than other commercial signs and without a permit; however, off-site signage currently requires a special use permit (from the BZA). Staff recommends off-site agricultural product signs allowed by-right subject to a permit.

The technical item that came up tonight relates to setback. In the chart staff is suggesting some setbacks from public roads and adjoining properties. That is basically to minimize the impact on others and their own private activities. The question came up what happens when somebody can't meet that setback. The way staff envisioned it is that they could come before the Commission and seek a reduction in that setback. Apparently in a lot of these setbacks at some of these prime locations it may be smaller properties and it may be difficult to achieve that setback. What was offered is that if that neighbor with who they are supposed to have the setback (35') would agree to reduce the setback would the County care. If they have an agreement from that neighbor saying I waive the setback completely or I agree to reduce it from X to Y would the County take that as an administrative process. Staff would suggest that they should. There is no reason to bring it to the Commission public meeting for that kind of approval since that adjacent owner is the most impacted. Staff asks that the Commission consider that under the technical requirements as an amendment, which came up tonight.

Next Steps:

1. Draft Ordinance;
2. Public hearing with Planning Commission (after notice);
3. Public hearing with the Board of Supervisors

Mr. Loach invited questions and comments from the Commission.

Ms. Porterfield noted concern with selling out of the back of a pickup truck and how the County will be sure that anything sold out of the pickup truck at least came from the adjoining county or Albemarle County.

Ms. McCulley replied that would not be easy and to some extent they will have to assume that it is somewhat self enforcing.

Ms. Porterfield asked how the County would enforce the items produced on some farms that are not allowed to be sold to the public. She was referring to unpasteurized products, etc.

Mr. Kamptner noted that responsibility would continue with the State Department of Agriculture. One thing that was clear at the Roundtable held in December was the local farmers are well aware of all of the state and federal requirements as far as the food and produce that is made available for sale.

Mr. Lafferty asked if there were any zoning districts left out, and Ms. McCulley replied that they had left out HI.

Mr. Franco asked if there was a reason for leaving HI out.

Ms. McCulley said that it could work in some locations, but had not been brought up. The concern was with the traffic.

Mr. Franco favored allowing it anywhere and to include the HI if it was in the right place. He questioned subordinate items for sale. He suggested if the definition is clear enough in terms of what items are allowed and it is subordinate, then they should go with that and not worry about floor area and things like that.

Mr. Loach invited public comment.

Public comment was taken from the following persons:

Lee McCauley, owner of Hunt Country Store on Garth Road, noted that their space was the location that initiated the complaint. He allows Nathan Yoder to use the site once a week to sell produce. This location has been used for 16 to 17 years. Staff has tried to make this a simple approach and not be highly regulated. He supported the proposal and asked that it not be made too complicated.

Jeff Werner**,** of Piedmont Environmental Council, supported the proposal. He wanted to make sure subordinate sales would be allowed in all these categories and the definition related specifically to the agricultural product being sold. He was concerned with the third bullet relating to the traffic ways leading from the public road that there would not be any construction standards. He asked that a farm stand not be allowed to be built on top of a mountain or on steep slopes or streams.

Sara Henley, of Henley Orchards in Crozet, supported the proposal and the work that has gone into this. They want to work with the other farmers in the community. There is a need for a place for the local farmers to get together to sell local produce. Regarding the health department issues, they want repeat customers. Therefore, the farmers will make sure what they are selling is healthy. Between July and October subordinate sales would probably represent about 5 percent of their sales. Between November and February it might represent 50 percent since they don't have peaches and apples in February. That percentage will be dictated by the season.

Corky Shackleford, owner of a farm in Stony Point, said that as a commodity farmer and citizen he wanted to express his appreciation to the staff for developing this kind of proposal. He appreciates the common sense approach staff has taken and supports the proposal.

Neil Williamson, with Free Enterprise Forum, supported the proposal since the sale of local produce supported the rural areas.

Mr. Morris commended staff for coming up with a no nonsense easy item to follow. Regarding subordinate items if people within that family do in fact make necklaces and earrings, then they should be allowed to sell them. He did not see any problem with that.

The Planning Commission considered the public comment, discussed the issues and provided comments and suggestions.

Ms. McCulley summarized the Planning Commission's direction, as follows:

- **Review/Approval Process**: In terms of the review and approval process the consensus was to provide for notice to neighbors to let them be informed about the application; and, once the determination of approval is made to let them chose to appeal it to the Board of Zoning Appeals.
- **Subordinate Items for Sale**: In terms of subordinate items for sale, to go beyond and allow jewelry sales and things like that they would have to do that separately with amending the resolution of intent, which is strictly worded to support agricultural products. Staff would like to move forward with the current recommendation to see how that goes. It could possibly be broadened in the future. Mr. Franco's suggestion was that if the definition is clear enough in terms of what items are allowed and it is subordinate, then they should go with that and not worry about floor area and things like that.
- **Technical requirements – Access Road and Parking Spaces**: It was the consensus of the Commission that the setback reduction is allowed with adjacent owner consent. The performance based requirements are to be recommended as staff proposed. If there is an issue, then it will be addressed later.
- **Off-Site signage**: The Commission agreed with staff's recommendation that agricultural product signs be allowed off-site and by right for Farm Stands and Farm Sales. The Commission raised

the question about temporary signs, which was not addressed, that should be incorporated in staff's future work on signs.

- **Farmer's Market** – Add Heavy Industry as a district.
- Utilize recommendation from speaker that Certificate of County approval be used to indicate that it has been approved.

Mr. Franco noted that he had another question. The farm stand is off-site and limited in the proposal to a new stand being 1,500 square feet. Farm sales would be limited to 4,000 square feet. He asked why there is a difference. He asked if staff envisions that if he puts up his farm sales that all of a sudden it becomes a farm stand because other people come and start using it. He questioned if the size should be the same.

Ms. McCulley replied that the thinking is that with the farm sales being that which is located on the farm that they would want to allow somebody to make a larger investment. It would more than likely be a more permanent business. For example, AM Fog and some of these other businesses that are open five or six days a week as a business as opposed to the farm stand, which may be vacant property except for the stand, they would want to limit the investment to some extent and limit the size because it may be subject to people wanting to use it for other things that are not permitted for sales.

Mr. Franco said that farm sales could still sell things that were made off-site.

Ms. McCulley replied that they don't have the restriction on local produce, which was heard in the comments from the Roundtable.

Ms. Monteith asked on the subordinate item if they don't want to require that product to actually be sold for some percentage of the year so that they don't have a location that has baskets and jewelry all year round.

Ms. McCulley replied that the term itself, subordinate, means that it would be incidental and it can't be the main use. It does begin to raise some debate. In terms of enforcement if they got a complaint today and it has to be based on a certain number of months a year that is a long term process of investigation for staff to know whether they are in compliance or not. It would be more difficult to enforce if it is a certain number of months a year-

Mr. Kamptner requested to ask a question on the farmer's market regarding the limitation on new structures. He wondered particularly in the Planned Development districts as to whether or not they would ever have a qualifying farmer's market structure.

Ms. McCulley replied yes, she could envision it particularly in what they are trying to do in the development areas to make a farmer's market more of a lively downtown center. Because this will be in the supplemental regulations, the Planning Commission can modify the regulation size and whether it is allowed a new structure or not. It would not be in the definition and would be eligible for someone to come to the Planning Commission to get modified.

Mr. Kamptner asked as they move forward are they going to have farmer's markets in the new Neighborhood Model districts that are established. When being rezoned to Neighborhood Model they are precluded from ever having a farmer's market because they don't have an existing structure. He was assuming that they were developing raw land.

Ms. McCulley noted that he was referring to a new structure for a farmer's market as opposed to the parking lot. That is a good point. She suggested that it may be more important in the rural areas to limit the new structure than it would be on a property that is zoned commercially or planned development. She asked if the Planning Commission has thoughts about that.

Mr. Franco agreed with what Mr. Kamptner was saying that it makes more sense in the rural area in adding a structure and adding one in the development areas did not bother him.

Ms. McCulley noted that staff could make that change. In terms of next steps, staff's goal is to get this to the Board of Supervisors for adoption on April 7. Staff is working on a Planning Commission date with farm wineries, which would be sometime in March. Staff has a mailing list and will keep the Roundtable participants informed so staff can continue hearing from them. Staff has not drafted the ordinance level and has tried to keep this on a conceptual level before getting into ordinance language. She felt that it has been helpful.

Ms. Porterfield noted that it was not because she agrees with all of the Entrance Corridor regulations, etc, but she would be interested to know what the Architectural Review Board thinks of opening the Entrance Corridor to this. She had gone back and read the resolution of intent and would suppose if they narrow it down and read this as being all agriculture related products she wondered as suggested by a participant about if an item was produced on the farm like quilts and potentially furniture. If a product was produced on the farm it would seem if it could be put in that it would be useful. It would help them in their off seasons.

Ms. McCulley asked if she was talking about farmer's market.

Ms. Porterfield replied it was about all of them if the item was produced on a farm whether it was made from wood brought in or from farm items. As long as the item was produced on the farm she felt it is a farm product. A lot of farm related activities are not just agriculture.

Mr. Smith asked what the time frame is ideally or the soonest this can go into effect since the crops are growing.

Ms. McCulley replied that would be on April 7. Staff is waiting for confirmation from the Clerk to the Board for that date. But staff can certainly work with several different dates for the Planning Commission that would enable them to get to the Board by that date.

The Planning Commission took a five minute break at 7:35 p.m.

The meeting reconvened at 7:42 p.m.

Monticello Historic District Work Session
Proposed amendments to the Section 11 Monticello Historic District of the Albemarle Zoning Ordinance

- A work session was held on ZTA-2009-16 Montalto regarding the proposed addition to the Monticello Historic District, which relates to ZMA-2007-23 Montalto and ZTA-2007-06 Monticello Historic District (MHD) Text Amendment.

Ms. McDowell presented a PowerPoint Presentation and explained the proposed amendments to Section 11 Monticello Historic District.

Staff Recommendation:
- Concerned with the large scale and frequent events and that there should be an in depth review and a special use permit for events over a certain number of attendees.
- Traffic studies recommended by VDOT

Mr. Loach invited the applicant to address the Commission.

Valerie Long, representative for the applicant, presented the background of the site for those who were not on the Planning Commission during the previous review in a PowerPoint presentation. She noted that in 2000 the Foundation commissioned a study to look at the future of Monticello in a master planning initiative. She explained the purpose and intent of the MHD and what was currently permitted.

Mike Mathews, consultant for the Foundation on this project, was present to answer questions.

The Planning Commission held a discussion with staff and the applicant.

The Planning Commission provided guidance for the applicant's next submittal and responded to the questions posed in the staff report, as follows:

1. **Issue / Question:** Conformity with the Comprehensive Plan.
   Are the proposed amendments to allow the facilities to be used for public and private events and the removal of restrictions regarding the number of units to be occupied by people that are not Jefferson scholars in the lodging consistent with the Comprehensive Plan?

   Discussion: The establishment of the MHD and subsequent addition of Montalto to the District was determined to be consistent with the Guiding Principles of the Comprehensive Plan. Additionally, the preservation of the historically significant structures met the Historic Preservation Plan's objective to pursue additional protective measures and incentives to preserve Albemarle's historic and archaeological resources or to foster pride in the County and maintain the County's character. The Natural Resources and Cultural Assets Component of the Comprehensive Plan identified both Monticello and Montalto as mountain resources in the Mountain Protection Plan. With the approval of a proffer to arrange or shield lighting away from abutting properties, the MHD became consistent with the goal of the Dark Sky component to protect the dark sky of Albemarle County.

   The proposed application, ZTA 2009-00016, has been reviewed to determine its consistency with the Comprehensive Plan:

   Rural Areas Section –

   The Guiding Principles for the Rural Areas includes a goal to preserve and manage the County's rural scenic resources as being essential to the County's character, economic vitality and quality of life. Further the Guiding Principles include a goal to protect the Rural Areas' historic archaeological and cultural resources.

   Staff's concern is that there would be no limit on the number of events or the number of attendees and repeated, large-scale events could negatively impact the historic property – both the buildings and the grounds. Accommodations for events could include large tents or multiple tents that would be visible to surrounding areas.

   Natural Resources and Cultural Assets Section –

   The Open Space Plan and the Mountain Protection Plan have identified both Monticello and Montalto as mountain resources. In addition, the Historic Resources section identifies Monticello as a resource from the Early National Period (1789-1830). Provisions to protect Monticello's viewshed are goals of the Historic Resources section.

   Staff's concern is that parking for events exceeding the paved spaces provided would be accommodated on grassy areas. Access over unpaved areas to Carter's Mountain in order to create one-way egress for large events, as was the case for the Heritage Harvest Festival's estimated 1,100 vehicles at Montalto in September 2009, could also cause land disturbances.

   The Scenic Resources section has designated Route 53 as an Entrance Corridor. The proposed uses should not require additional permanent structures to accommodate attendees.

   Staff's concern is that temporary structures and additional parking areas, as well as additional lighting for parking and events, may be visible from the Entrance Corridor.

   The Land Use Plan –

   The Transportation component Land Use Plan designates Route 53 as a primary road, designed for the purpose of moving traffic and not necessarily designed to provide access to properties.

   Staff's concern is that an unlimited number of events and the unlimited number of attendees have the

potential of adding an undetermined amount of traffic to rural roads.

Economic Development Policy –

Objective 1, Strategy 3 of the policy says, "Increase the promotion of tourism focused on the rural, agrarian and historical resources of the County, and which does not threaten or compromise those resources and to be consistent with the goals of the Comprehensive Plan."

Staff believes that the proposed broadening of allowed activities in the MHD can be supportive of this strategy if other Comprehensive Plan concerns are properly addressed.

Staff Recommendation: The potential for impacts from large-scale and frequent events and the number of events should have in-depth review. A requirement for a special use permit for events over a certain number of attendees and more than what is allowed for other uses in the Rural Areas, such as wineries, may be appropriate.

Staff recommends that a more in-depth review of potential traffic issues is necessary and that it be examined through a traffic study as recommended by VDOT.

The Planning Commission agreed with staff that the proposal does not meet the Comprehensive Plan or the Intent and Purpose of the Monticello Historic District and these need to be changed. VDOT's request for the traffic study is appropriate to help determine thresholds. At the very least, a special use permit should be required for events over a certain amount of attendees in a season or per year. The Planning Commission asked staff to go back and evaluate the thresholds from all aspects, due their concern with the overall cumulative impact to public roads.

The Commission would like for staff, along with the applicant, to evaluate some thresholds by which there could be an acceptance of by-right activity and when there is a threshold of discretion, be it through supplementary regulations or standards or a special use permit. There are some thresholds that they would like a little bit more discretion of evaluating whether the threshold is appropriate or not. They need to continue to work with that and evaluate the implications of the traffic study as it relates to determining those thresholds.

2. **Issue / Question:** Usual and customary
   Are the proposed uses typical for this type of unique property? This approach has been used in Virginia with farm wineries. An appropriate test would be whether or not the uses they propose are **usual and customary** for such unique properties either as **primary** uses or **subordinate and incidental** uses. Reasoning for this might be based on those uses that have been typical to other like and unique properties in other places.

   Discussion: The applicant has provided examples of other properties that permit both private and public events that supplement the primary purpose of the property (Staff Report Attachment A). Some of the examples, such as Mount Vernon and Montpelier, provide more equal comparisons than others, such as the Library of Congress. In reviewing these examples as well as other examples found through additional research, many sites have supplemented their income by renting the facilities for events not related to the primary purpose of the site.

   As Monticello has been designated a World Heritage site, staff reviewed other World Heritage sites in the United States (Staff Report Attachment D). Many of the World Heritage sites are open for visitors and have accommodations for special events, such as weddings, meetings and parties.

   Staff Recommendation: Staff believes that many other sites similar to Monticello and Montalto have events that supplement their primary purpose. However, since Monticello and Montalto are located in the Rural Areas, size and number of events should remain important considerations as to their impacts.

The Planning Commission agreed with staff that the proposal does not meet the Comprehensive Plan or the Intent and Purpose of the Monticello Historic District and needs to be changed. The Planning Commission agreed with staff's concerns about the number and size of events. The list of uses needs to be flushed out. A suggestion was made to review the uses requested with those uses allowed for a farm winery.

3. **Issue / Questions:** Impacts on the area
   VDOT indicates that a 529 study is needed for this amendment (Staff Report Attachment C). Should part of the determination of what uses should be added to the district and their size, number and/or frequency be based on the results of such a study? Are there other analyses that are needed?

   Discussion: As discussed above, staff is concerned that the frequency and number of attendees at the events warrants further consideration. Impacts based on the results of the traffic study would aid in determining the type of review that should be required.

   Staff Recommendation: Staff recommends that a 529 study be required, in order to determine the appropriate size, number and frequency of events. Other impacts may be determined as a result of the traffic study.

The Planning Commission asked staff to go back and evaluate the threshold from all aspects due to their concern with the overall cumulative impact to public roads. At the very least, a special use permit should be required for events over a certain amount of attendees in a season or per year.

4. **Issue / Questions:** Consistency with the Intent and Purpose of the Monticello Historic District
   As was the case with the ZTA-2007-00006, the zoning text amendment that allowed Montalto to be added into the MHD, is this proposal consistent with the adopted intent and purpose of the District? If the additional uses are appropriate to add to the District, should the purpose and intent be expanded to address the proposal?

   Discussion. The intent of the District (copied in the staff report) linked all uses allowed in the District to the preservation of the historic house, preservation of Jefferson's lands, and furthering the education of Jefferson and Jefferson era history.

The Planning Commission agreed with staff that the proposal does not meet the Comprehensive Plan or the Intent and Purpose of the Monticello Historic District and needs to be changed.

Public comment was received from the following person:

Neil Williamson, of Free Enterprise Forum, suggested that they come up with a nexus regarding the frequency of events.

No formal action was taken. Staff to work with the applicant to address the concerns and questions

Ms. McDowell asked the Commissioners to keep all of the distributed information for future meetings.

The Planning Commission took a five minute break at 9:03 p.m.

The meeting reconvened at 9:09 p.m.

<u>Light Industrial Land Assessment (Informational)</u>
Staff presented the survey research of the County's current and future inventory of industrial land inventory for informational purposes. The presentation will be presented to the Board of Supervisors on February 3, 2010. (Susan Stimart)

Ms. Stimart, Business Development Facilitator, made a presentation on the Industrial Land Survey. (See Power-Point Presentation)

The Economic Development Policy was updated in March, 2009. Some of that data indicated a shortage of land that was zoned and designated for future use for industrial uses. To meet the policy's goal of providing a sustainable economy, diversified economic opportunities and meeting the intent of the Growth Management Goal to encourage non-rural related activities to locate in designated growth areas the Board directed staff to inventory industrial zoned lands in the County and assess the extent of the shortage. The purpose of the report is to review those findings and gain some direction from the Planning Commission for the Board's February 3 work session.

The research methods used for this study were GIS Analysis of the Real Estate Records of what was occupied versus vacant, Analysis of the VEDP (Virginia Economic Development Partnership Data Base of Vacant Sites and Buildings) as well as an employment forecast based on Bureau of Labor Statistics, employment activity by industry, and interviews with the commercial Real Estate professionals in our community and commercial and industrial building users.

Staff discussed the results, staff's recommendations, and supporting examples.

Results:

- PDIP Inventory is adequate (335 acres)
- Land Use Plan (future inventory) is more than adequate (900 acres)
- All measures (GIS, qualitative, user interviews, employment forecast) indicate a shortage in "ready-to-go" product -- HI (44 acres), LI (bet. 100 & 85 acres), ave. LI size = 3.5 ac.
- Qualitative analysis shows poor disbursement
- Limited inventory near road networks, primarily interchanges
- User interviews indicate zoning code issues, Zoning Code leaves out some uses typical of industrial zoning; Code allows office, forcing competition
- History to convert Industrial Service In the Land Use Plan to other non-industrial use

Staff reviewed maps that showed the four quadrants that had vacant resources and the industrial service map that shows land designated for future use.

Recommendations:

- Increase the Zoned Land Inventory
  - With property owner support, convert IS to LI
  - Update the Comp Plan to better distribute near existing road networks (This primarily affects the Southern Urban Area)

- Maintain and Allow easier use of existing Zoned Property
  - Designation to match current industrial zoning
  - Amend the zoning code for improved utility
    - Allow HI uses by SP in LI districts
    - Allow more industrial services (landscaping & cleaning)
    - Allow agriculture-related industry (farmers' markets)
    - Expand the thresholds for home-occupations in the rural areas, esp for small contractors
    - Eliminate stand-alone office uses
  - To maintain Growth Management Policy's protection of Water Supply/Natural Resources, discourage expansion of industry outside Growth Areas, except
    - At key highway interchanges, consider allowing low-impact industrial uses (low-employment, no water or sewer) such as small-scale contractor storage yards, agriculture-forestry resources businesses. (Candidate interchange areas for this concept would be at Shadwell and Yancey Mills.)

After the conclusion of the presentation Ms. Stimart invited questions and comments.

The Planning Commission held the following discussion prior to taking public comment.

Mr. Loach pointed out that it is important to notice what can happen under a good Master Plan. Two out of four of the adapted uses are Crozet, Music City Today and Star Hill in Crozet. For as small as they are it represents 13 percent of the occupied industrial space in the County. Under the Master Plan they are actually looking at expanding their LI space with the lumber yard being up for sale and considering some additional LI uses in the area by Con Agra. There was an article in Sunday's paper from Mr. Scott Watkins who was having a problem finding LI land. It was the community of Crozet that supported him. Mr. Watkins has his LI land which was rezoned from residential. As far as what a good master plan can do as far as development done he thought that they have done very well with the Crozet Master Plan. He invited other comments.

Ms. Porterfield pointed out that with regard to the article about Watkins, she did not think it cost him half a million dollars to get through the County rezoning hoops. She felt that amount has to include some other things such as buying the land and doing other things. She did not want anyone to think it cost half a million dollars to get the land rezoned.

Mr. Lafferty noted that in the last six years there has been 219 acres rezoned from LI to something else while only 46 acres have been rezoned to LI. He questioned if that indicated that they need to look at the zoning itself. One of the comments was that people find it much more lucrative to build office space on Light Industrial than to use it for what they normally think of as Light Industrial being.

Mr. Benish replied that staff is suggesting several approaches to address that issue in the Zoning Ordinance in terms of looking at the location of the zoning or the district itself.

Mr. Morris asked what an acre of land currently zoned LI goes for. He recalled that the Commission was told at one time when they shifted some land to residential that it was almost $500,000 for an acre.

Ms. Stimart replied that she was not sure.

Mr. Benish suggested that someone in the audience could probably address that question. It usually ends up being a square footage cost.

Ms. Porterfield noted under #2 on page 9; it talks about the Southern Urban Area Master Plan. With the loss of Biscuit Run, is that Master Plan going to be anywhere high on the County's "to do" hit list.

Mr. Benish replied that the Board will be looking at the work program in February. In terms of this recommendation staff would approach looking at land uses in one or two ways. They are not sure if they have the staffing to do the next master plan. But that will be a discussion that Mr. Graham will have with the Board. They will be under taking a comprehensive update of the Comprehensive Plan. They would go back under the Land Use Section and look at it there. This particular issue, if that is something that the Commission and Board agree is worth further pursuing, would be taken up under those two venues. Either they will do it under the Master Plan or they will just take it up under the general update of the Comp Plan.

Ms. Porterfield suggested uncoupling it from specifically the Southern Urban Area Master Plan so they could look at the whole interchange section of the Comprehensive Plan and consider all interchanges.

Mr. Benish replied that the three interchanges that are in the urban area are in that area. By looking at that area either way they would be looking at those interchanges. That is why the Southern Urban Area is kind of the focus.

Ms. Porterfield noted she would prefer all the County's interchanges be included.

Ms. Monteith asked when the Comp Plan Update would occur.

Mr. Benish replied that Mr. Graham is working on our ability to take that on under the current work plan. It

is scheduled to begin in the spring. It is a two-year process.

Mr. Graham agreed that is correct. Staff will propose to the Board in a couple of weeks to start the review of the entire Comp Plan by staff working in cooperation with the Planning Commission. It will be a two year effort. It will start sometime in the middle of this year. It will be about a two-year effort to have a draft ready for consideration.

Ms. Porterfield noted that was for the entire Comp Plan. She asked if they could just take a section of it.

Mr. Graham replied absolutely, which is part of what they are going to be looking to the Board for direction to see if they are interested. Recognizing that the Board passed the action plan to take a look at the Industrial Service land staff will ask if they are interested in breaking it out and accelerating that.

Ms. Porterfield noted that she had been a big proponent of looking at the interchange section of the Comp Plan. She felt that this study has gotten even more important because of the current transportation problems. Since the interchanges to I-64 are paid for by somebody other than Albemarle County, they should look at the interchanges for all different possibilities including the Light and Heavy Industrial.

Mr. Loach noted that the Yancey interchange already has Heavy Industrial. There is a 30 acre lumber yard already there.

Ms. Porterfield pointed out that the water line already runs by The Shadwell interchange. The Hunter's Mill area is old zoning, and there is some other old zoning in the area. Although the water line is present, only a few entities are on it.

Public comment was taken from the following persons:

Morgan Butler, with the Southern Environmental Law Center, made the following comments:

There are three key findings:

1. There is more than enough land set aside for Industrial Service in the County's Comprehensive Plan;
2. Too little of that 900 acres is getting rezoned to Light Industrial;
3. A variety of factors are preventing the land zoned for LI from being used for small scale industrial businesses.

The focus needs to be on getting some portion of the 900 acres already set aside for Industrial Service zoned for LI and then making sure that the LI land stays available and affordable for the right type of use. Some of staff's recommendations are very sensitive approaches for doing this. They recommend focusing on a few of them to get to the heart of the problem, as follows:

The County must address the forces that are preventing the land that is already zoned LI from being used for Light Industrial businesses. It does not make sense to increase the supply of LI land if they have not yet addressed what is driving up its cost and causing it to leak to other uses.

1. Staff has pointed out that it is the ability to build office buildings by-right on LI land that is at the root of these problems. The very first step has to be fixing the Zoning Ordinance by limiting office buildings as a by-right use under LI zoning.
2. Once they have plugged the leak they can turn their attention to getting some of the 900 acres zoned to LI. Staff's survey suggests that the carrying cost of a rezoning is a real deterrent for small industrial businesses. A sensitive approach is that the County plays a proactive role in rezoning some portion of those 900 acres to LI.
3. They need to look at ways to distribute those 900 acres more evenly among our various growth areas. The Master Plan process and the Comprehensive Plan update provide the perfect tools to do that.
4. Staff's suggestion to look outside the boundaries of the growth area is premature. This approach undermines the County's long standing efforts to focus its growth in core areas. It would increase the cost of County taxpayers in providing services; create new traffic hotspots; damage valuable

natural resources; and impair our local water supply among a host of other problems. He suggested that this only be considered as a last resort.

Gardy Bloemers, on behalf of the Scenic 250 Steering Committee, made the following comments in regards to how staff's recommendations affects the Route 250/I-64 Interchange. The Scenic 250 Steering Committee strongly opposes any expansion or additional development of the Crozet growth area in and around 250 for the following reasons:

1. The proposal undermines the designation of 250 West and I-64 as County Entrance Corridors and Route 250 as a Virginia Byway. To date both the County and the citizens of Crozet have stated a policy of restricting development along the Scenic 250 West Corridor as much as possible preserving its character as a Scenic Roadway. This interchange was specifically identified in the County's development policy for no development.
2. This area was identified by both the State and Federal government as an area of great historical and cultural significant and will by the end of 2010 comprise part of the Greenwood Historic District. Due to this they feel that the suggested location of Yancey Mills is unacceptable.

- The Scenic 250 Steering Committee supports the efforts of the CCAC and Crozet citizens to identify suitable parcels for Light Industrial development within the confines of the ongoing Crozet Master Plan review process.

Mike Marshall, Chairman of the Crozet Advisory Council, noted that his opinion is personal since the Council will take up the issue next week. He made the following comments:

- He agreed with Morgan Butler's points particularly that the expansion of LI outside of the growth areas should not be encouraged. The report shows there is plenty of LI land. There are other factors involved in why it is not being turned out the way it is supposed to. He commended the report for acknowledging the last four years of conversion of LI into non-industrial uses. He wondered what it would be if they went back 10 or 15 years to see longer trends.
- Crozet citizens have been very alarmed about the existence of this report because Mr. Yancey made a report to the CCAC. CCAC was opposed to the concept and did not want to entertain the idea that that the growth area boundary could be enlarged or that water shed issues could be raised by the proposal. The proposal went to the Planning Commission who voted 7:0 against it. The proposal went to the Board where it seemed to have met its end. One Supervisor resurrected it and put it into the Crozet Master Plan review process. Shortly thereafter they learned that the County was going to do a report on whether Light Industrial land was available, which lead them to believe that staff was directed to produce a report to provide justification for Yancey to be passed. He questioned where the numbers come from. There are labor trend forecasting formulas which if applied show that in the year 2018 they will be 184 acres short of LI land. The Yancey proposal is proposing to put in 184 acres. It proves that they don't need it, but yet the insertion that they need it. Consideration should be given to locate additional industrial land in other areas of the County other than Crozet if the interchange concept goes forward. He suggested that the report is not particularly helpful and asked that they not take it seriously.

Sue Albrecht, owner of land already zoned LI at 340 Greenbrier Drive, noted that it was the former ice skating ring skating ring and later brought by Sperry. She acquired the property in 2000 and it became a multi- tenant building. She asked to support the recommendation to broaden some of the language. She had a tenant that was very interested in coming in, but because it had a retail component it does not fit because of the way the zoning language reads for Light Industrial. There were other folks that had feed products and so forth that could be good tenants, but they were predominantly retail in the way their business is defined. These folks are somewhat specialty retail, but there is not a specialty retail category and are thrown into strictly retail which does not fit Light Industrial. Her two acre site's land is very expensive and somewhere between one-half a million per acre up to $750,000 per acre. The land is very close to 29. The value of the site and trying to match uses is very complex. She suggested that the County continue to look at expanding that.

Mary Rice, a member of the Crozet Advisory Committee, made the following comments personally as a citizen of Crozet.

- She did not support staff's recommendation to expand the growth area outside of Crozet for industrial use. The increase in traffic created by the industrial use was a concern.
- The Board of Supervisors has instructed staff and the Crozet community to study the issue of Light Industrial in the context of the master plan update process, which they are right in the middle of. They are actively working on identifying more industrial areas within the development area. They have between 9 and 12 acres that they will be recommending for possible industrial uses along the Route 240 Corridor. Currently there are about 20 acres of land currently being used as Heavy Industrial in the center of town. If that land owner should sell that property, which has been brought up as possible in the next several years, the community has indicated a strong preference that land be rezoned as commercial, but primarily Light Industrial.
- The proposal to look outside the growth area in the fringe areas for additional industrial land undermines the very premise of the Crozet Downtown Plan and negates the planning done during the last ten years.
- The community has been told that the remediation period for Acme is much less than six years. She suggested that the County look into this issue.

Will Yancey, said that 16 months ago they submitted a CPA amendment to create a Light Industrial Business Park in Yancey Mills. They thought was that the location was ideal due to the road infrastructure available. In addition, it is located behind the largest Heavy Industrially zoned property in the County. It is R A Yancey Lumber Company comprised of 36 acres that has been in business for 60 years. The result of the ownership of contiguous property behind it and the long frontage on I-64 would be that very few neighbors would be affected. In his discussions with other businesses, he acknowledged that there is a need for industrial land in the County. It has been displayed in the past by the Watkins request in Crozet and on Morgantown Road where the zoning was correct but the road insufficient. He suggested that the problem could be solved by locating a Heavy Industrial Park in an area where the roads are already there. It might generate significant revenues for the County in the near future. He agreed with the staff's findings in the report.

Neil Williamson, with the Free Enterprise Forum, noted that it is not often that this body gets to consider something that is so closely tied to jobs as this designation. Light Industrial land is very valuable. He made the following comments:

- There was a shrinking of Albemarle County's development area at the first of the year with Biscuit Run. Many have said that they have been robbed of 3.5 percent of the development area. He wondered what the ramifications would have been if they had been robbed of 3.5 percent of rural area.
- The Free Enterprise Forum takes issue with the concept that Albemarle County has moved forward with reviewing Light Industrial land. They raised the issue previously without endorsing any project. They believe that the Light Industrial inventory is a county-wide issue. As such bodies that are set up to review county-wide issues and correctly position Light Industrial in the County are better situated than master planning groups. By settling this through master planning groups they build the opportunity for nimbyism dealing with the concepts of "don't build in my back yard" or "not to build anything near me."
- Tonight they call for the Commission to move forward towards a restoration of the development areas and bring back the 5 percent of the land mass of Albemarle County as the area designated for development all these years since 1980. This is about jobs and creating jobs that cover the quilt of Albemarle County's economic condition.

Jeff Werner, with Piedmont Environmental Council, noted the following:

- There are 3,100 homes that were proposed in Biscuit Run that have been taken out of the inventory in the County. They are now down to 14,000 units in the growth area, which was not a reason to increase the growth area as suggested by Mr. Williamson.
- The three issues are: growth area expansion, policy change that ultimately leads to Comp Plan changes and subsequent rezoning and regulatory changes. He felt that Morgan Butler addressed it well. They all agree that something needs to change so the Light Industrial land can be used for Light Industrial purposes.

- Before the County revises policy based on antidotal information they need to go back and look through previous projects to see what works or does not work. He asked the GIS person to do some mapping in what is vacant in the growth area. In taking out the open space they came up with 8,800 vacant acres in the growth area with about one-half in residential and one-half in commercial with some in the rural area. He suggested that they look at it in whole to see if any of the vacant space in other uses can be used for Light Industrial before they start destroying Route 250 East and the view shed of Monticello. He was not opposed in supporting Light Industrial, but encouraged good planning.

There being no further public comment, Mr. Loach closed the public comment to bring the matter before the Commission.

Mr. Loach asked to respond to Mr. Williamson as far as master planning and Light Industrial with regards to his comment about nimbyism. It is very hard to take it with a grain of salt in the Crozet growth area since two of the four adapted reuses of industrial land were in Crozet. Mr. Watkins found his industrial land in Crozet with the support of the community As Ms. Rice said, Crozet is looking into expanding its industrial land in the designated growth area. It is not a case of nimbyism. In the last three years Crozet has had three new commercial centers built. An adult care facility has been approved in Old Trail. Therefore, he thought that the opposite is true in that master planning can bring about the things that this community needs with the population. With the master planning and Comp Plan they should have the ability to plan for their communities.

Ms. Porterfield clarified that when the proposal was before the Commission for Yancey it did not fail by a vote of 7:0 since she voted for it. In Ms. Stimart's report about a year ago, Ms. Stimart was very clear that she felt that at least the interchanges that are in Albemarle County should be studied because they provided transportation access. It was hard to get easy access in some areas like Places29 that was already overcrowded. She agreed that the interchange situation should be looked at; and if they want to add to the growth area, it should be attached due to the existing infrastructure. She felt strongly that Mr. Yancey's proposal should have been studied further than the work session. She agreed with staff's report that all interchanges should be studied in the County due to the current transportation issues and the economic downturn including loss of jobs.

No formal action was taken.

Old Business

Mr. Loach asked if there was any old business. There being none, the meeting proceeded.

New Business

Mr. Loach asked if there was any new business. There being none, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 10:03 p.m. to the Tuesday, February 2, 2010 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 C. Taylor, Clerk to Planning Commission & Planning Boards)