Albemarle County Planning Commission
December 21, 2010

The Albemarle County Planning Commission held a meeting, work session, and public hearing on Tuesday, December 21, 2010, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Other officials present were Joan McDowell, Principal Planner; Gerald Gatobu, Principal Planner; Ron Higgins, Chief of Zoning; J.T. Newberry, Code Enforcement Officer; Amelia McCulley, Director of Zoning/Zoning Administrator; Wayne Cilimberg, Director of Planning; Elaine Echols, Senior Planner; Susan Stimart, Business Development Facilitator; 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.

Committee Reports

Mr. Loach invited committee reports.

- Mr. Morris reported the Pantops Advisory Council met last week and elected new officers and decided to meet on a monthly basis.

There being no further Committee Reports, the meeting moved to the next item.

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 including items on the consent agenda.

Neil Williamson, Free Enterprise Forum, thanked the Planning Commission for their work over the past year.

There being no further comments, the meeting moved to the next item.

Consent Agenda:

a. **Approval of minutes:**
February 16, 2010
November 9, 2010

b. **Resolution of Intent – Redfields CPA-2010-01**
(Elaine Echols)

c. **Planning Commission Annual Reports – 2003 - 2009**
(Wayne Cilimberg)

Mr. Loach asked if any Commissioner would like to pull an item from the consent agenda for further review.

Mr. Zobrist disqualified himself from participation in the Redfields discussion under item b.

Mr. Loach noted that items a. and c. would be a separate motion.

Motion: Mr. Franco moved and Mr. Morris seconded for approval of items a. and c. on the consent agenda.

The motion passed by a vote of 6:0.

Motion: Mr. Franco moved and Mr. Morris seconded for approval of item b. on the consent agenda.

The motion carried by a vote of 5:0. (Mr. Zobrist disqualified himself due to a conflict.)

Mr. Loach noted the consent agenda items were approved.

The following resolutions of intent were approved for item b) Redfields CPA-2010-01.

RESOLUTION OF INTENT

WHEREAS, Tax Map and Parcel Numbers 076R0-00-00-00100 and 076R0-00-00-000E4 (the "Property") are composed 58 acres and are part of the Redfields Planned Residential Development ("PRD") and are designated as open space on the PRD Application Plan; and

WHEREAS, although most of the Redfields PRD is designated Development Areas under the Land Use Plan, which is part of the Albemarle County Comprehensive Plan, the Property is designated as Rural Areas under the Land Use Plan; and

WHEREAS, the owners of the Property applied for a resolution of intent to amend the Comprehensive Plan to change the designation of the Property under the Land Use Plan from Rural Areas to Development Areas ("CPA-2010-00001"); and

WHEREAS, the County will begin a County-wide review and update of its Comprehensive Plan beginning in 2011, and the review and update will include studying the boundaries of the Rural Areas and the Development Areas; and

WHEREAS, in general, amendments to the Comprehensive Plan should be evaluated in the larger context of the entire Development Areas and the Rural Areas, rather than on a piecemeal basis.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good planning and land use practices, the Albemarle County Planning Commission hereby adopts this resolution of intent that CPA-2010-00001 be studied in conjunction with the Comprehensive Plan review and update beginning in 2011; and

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the Comprehensive Plan amendment proposed by this resolution of intent, and make its recommendations to the Board of Supervisors, in conjunction with its recommendations on the Comprehensive Plan review and update.

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RESOLUTION OF INTENT

WHEREAS, Albemarle County is one of a limited number of localities in Virginia that allows landowners to submit applications requesting that the Comprehensive Plan be amended; and

WHEREAS, these applications request that a resolution of intent be adopted to amend the Comprehensive Plan; and

WHEREAS, the County has several policies and criteria for considering landowner-initiated applications requesting that a resolution of intent be adopted to amend the Comprehensive Plan; and

WHEREAS, the policies and criteria have not been comprehensively reviewed in many years.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good planning and land use practices, the Albemarle County Planning Commission hereby adopts this resolution of intent to review the policies and criteria for the review of a landowner-initiated applications requesting that a resolution of intent be adopted to amend the Comprehensive Plan.

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Review of Board of Supervisors meeting – December 1, 2010.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on December 1, 2010.

Items to Defer

ZMA-2010-00014 Hollymead Town Center (Area A-1)
PROJECT: ZMA 2010-00014 Hollymead Town Center (A-1)
PROPOSAL: Rezone 59.162 (portions) acres from Planned Development-Shopping Center (PD-SC) zoning district which allows shopping centers, retail sales and service uses; and residential by special use permit (15 units/ acre) to Planned Development-Shopping Center (PD-SC) zoning district which allows shopping centers, retail sales and service uses; and residential by special use permit (15 units/ acre), in order to amend the existing proffers.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Town/Village Center-compact, higher density area containing a mixture of businesses, services, public facilities, residential areas and public spaces, attracting activities of all kinds. (6.01-34 dwelling units per acre) in Hollymead Development Area.
ENTRANCE CORRIDOR: Yes
LOCATION: Hollymead Town Center Area A-1, the southwest quadrant of Seminole Trail (US 29) and Towncenter Drive in the Hollymead Development Area
TAX MAP/PARCEL: 032000000042A0, 04600000000500, 03200000004400 (portion), 03200000004500 (portion)
MAGISTERIAL DISTRICT: Rio
(Judith Wiegand)
DEFER TO JANUARY 11, 2011 DUE TO LEGAL ADVERTISING ERROR.

Mr. Loach noted staff was requesting deferral of ZMA-2010-00014, Hollymead Town Center to January 11, 2011.

Motion: Mr. Franco moved and Ms. Porterfield seconded for deferral of ZMA-2010-00014, Hollymead Town Center to January 11, 2011.

The motion passed by a vote of 6:0.

Mr. Loach said that the request would be heard by the Planning Commission on January 11, 2011.

SP-2010-00020 CenturyLink Tower
PROJECT: SP 2010-00020 Century Link Verizon Wireless Tier III PWSF
PROPOSED: Special Use Permit amendment to replace three (3) existing Alltel microwave dishes and six (6) existing Alltel antennas with new antennas and dishes at various heights on an existing 250 foot tower. The applicant is also requesting use of existing mounting brackets to allow the mounting of up to twelve (12) antennas within a sectored array(which requires a waiver/modification of section 5.1.40.C.3)
ZONING CATEGORY/GENERAL USAGE: [CO], Commercial Office-; [EC] Entrance Corridor overlay, [AIA] Airport Impact Area.
SECTION: 23.2.2 (15) Special Use Permit, which allows for Tier III personal wireless facilities in the Commercial Office Zoning District
COMPREHENSIVE PLAN LAND USE/DENSITY: Office Service in Urban Area 2
LOCATION: Tax Map 61, Parcel 129C: south side of Rio Road East [State Route 631], approximately 1/8 mile east of the intersection with Route 29 North, and near Fashion Square Mall.
MAGISTERIAL DISTRICT: Rio
RELATED APPLICATION: SP2008-00012
(Gerald Gatobu)

Mr. Loach noted that this item was noted as an item requesting deferral.

Mr. Loach opened the public hearing and invited public comment. There being no public comment, the public hearing was closed and the matter before the Planning Commission for action.

Ms. Porterfield noted she was surprised that staff recommended denial of the tower since it existed and the need for this appears to help provide better service out into many of the outlying areas. She felt that involved health, safety and that type of thing. She had walked into this meeting with the applicant and understood it was their wish to defer.

Mr. Loach noted that he had one question since he knew technology changes. When they start adding equipment is there a definition of when that tower is saturated and staff tells an applicant there is no further room. He questioned if they approve this, what happens when the next applicant comes in with a similar request to increase the overall number of antennas, etc. That question needs to be looked at before the discussion.

Mr. Cilimberg noted that he would pass that question along.

Motion: Mr. Morris moved and Mr. Lafferty seconded to accept the applicant's request for deferral of SP-2010-000020, CenturyLink Tower to February 8, 2011.

The motion passed by a vote of 6:0.

Mr. Loach said that the request would be heard by the Planning Commission on February 8, 2011.

Mr. Cilimberg noted that new staff reports would be distributed.

Public Hearing Items:

ZTA-2009-00012 Home Occupations

Amend Secs. 3.1, Definitions, 4.15.2, Definitions, 4.15.6, Signs exempt from the sign permit requirement, 5.1, Supplementary regulations, 5.1.34, Accessory apartment, 10.2.1, By right, 10.2.2, By special use permit, 31.5, Zoning clearance, 35.1, Fees; amend, reorganize and rename Sec. 5.2, Home occupations, 5.2.1, Clearance of zoning administrator required, 5.2.2, Regulations governing home occupations, 5.2.3, Certain permits required; repeal Sec. 5.2.4, Revocation; and add Sec. 5.2.A, Home occupations in the rural areas zoning district, to Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Sec. 3.1 to make minor amendments to the definitions of Class A and Class B home occupations (home occs) and the definition of nonconforming use to include certain home occs and to add definitions of major and minor home occs; amend Sec. 4.15.2 to change the definition of home occupation Class B sign to home occupation sign which includes signs for major home occs and adds a 4 square feet size limitation; amend Sec. 4.15.6 to change the reference from home occupation Class B sign to home occupation sign and delete the 4 square feet size limitation; amend Sec. 5.1 to not allow waivers or modifications when expressly prohibited; amend Sec. 5.1.34 to add references to major and minor home occs; amend, reorganize and rename the current regulations for home occs in Sec. 5.2, 5.2.1, 5.2.2 and 5.2.3 and place them in a single section and provide that Sec. 5.2's requirements apply only to home occs in zoning districts other than the rural areas (RA) zoning district; repeal Sec. 5.2.4 pertaining to revoking approved home occs; add Sec. 5.2A to establish regulations for home occs in the RA zoning district pertaining to the location and area occupied, exterior appearance, sales, traffic generated, parking, outdoor storage, days and hours of operation, open houses, number of vehicles, number of home occs, prohibited home occs, matters that may be waived or modified, obtaining a zoning clearance and notice; amend Sec. 10.2.1 to add major and minor home occs and delete Class A home occs in the RA zoning district allowed by right; amend Sec. 10.2.2 to delete Class B home occs in the RA zoning district as a special use; amend Sec. 31.5 to add major and minor home occs as commercial uses for the purposes of requiring a zoning clearance; and amend Sec. 35.1 to impose a $25 fee for zoning clearances for major or minor home occs, which is authorized by Virginia Code § 15.2-2286(A)(6).

The full text of the ordinance is available for examination by the public in the offices of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Joan McDowell)

Ms. McDowell presented a PowerPoint presentation and summarized the staff report for ZTA-2009-00012,

Home Occupations.

Work Sessions were held on June 15, 2010 and August 17, 2010 by the Planning Commission on home occupations.

Key Points

- Rural Areas Zoning District - only
- Existing Class A and Class B remain in non-RA zones where Home Occupation uses are currently allowed
- Existing lawful Home Occupation uses in RA would become nonconforming uses
- Minor and Major Home Occupations – Administrative Approvals
- Waivers - Planning Commission decision (This is a major change from the work session.)
- The waivers would be for Size and Traffic only
- Artisan Trail -- identification / directional signs and business signs would be permitted

There was a lot of concern about the potential of the size of home occupations with the traffic and vehicles. The waivers have been narrowed down to size and traffic only. How this progressed was that staff looked throughout the history of home occupations in Albemarle and there were only three denials in all these years. Consequently, staff developed some condition of approval. Staff placed those conditions of approval on all of them. There were some conditions just for a particular project, but mostly the standard conditions applied. Staff has developed an ordinance really around those standard conditions. Staff has developed an artisan trail, which was on-going, that allow for a little directional identification sign. The Zoning Administrator indicated that would be permitted as an incidental business sign. They would also be allowed a sign that identifies the business and who runs it.

Staff reviewed the chart in the staff report regarding "Albemarle Home Occupation Permits Comparison of Existing Home Occupation Regulations and By-right Use." There was some discussion at the previous work session where Mr. Franco had some issues with what is allowed for personal use. They are all allowed for personal use. Therefore, personal use does not go away. The business is in addition to what is allowed by personal use. The Chart includes the regulation, personal use, Class A (business), Class B (business), Proposed Minor (business), and Proposed Major (business).

Application Process

Administrative except for Class B (business).

Business in residence (25% 1,500 SF max)- Waivable and applies throughout.

Business in accessory structure – allowed as part of the major and Class B. She noted that there would be more than one accessory structure allowed for the Major.

Employees (not living at residence)- Allowed with the Major.

Employees (living at residence) – Includes family members and owner living in the residence for all of them.

Customers (at residence) – Only allowed as part of the Major HO business.

Outside storage – allowed for personal use, but it is not allowed as part of Class A or Class B unless it is permitted by a condition. It is not permitted for Proposed Minor or Proposed Major.

Commercial Vehicles – There are restrictions being two vehicles and two trailers for Proposed Major and Proposed Minor. The Class A business allowed one vehicle and one trailer. For personal use, a commercial vehicle is allowed if it is not related to the Home Occupation business.

Sales of goods produced on premises and sold to customers at site – Allowed with the Proposed Major business.

Zoning clearance is required throughout.

Open Houses Added – Because customers are allowed at the house where the business is running only with a Major. Customers are not allowed with the Minor.

There is a difference in fees as shown in the Chart beginning 2011.

Class A (business) - $25
Class B (business) - $2,000 + notice
Proposed Minor (business) - $25
Proposed Major (business) - $25 + notice (min. $200) Waiver - $425

Albemarle Home Occupation Permits Comparison of Existing Home Occupation Regulations and By-right Uses

REGULATION	Personal use	Class A (business)	Class B (business)	Proposed Minor (business)	Proposed Major (business)
Application Process					
• Administrative	n/a	✓		✓	✓
• Special Use Permit	n/a		✓		
Business in residence (25% 1,500 SF max)	none	✓	✓	✓	✓
Business in accessory structure	none		✓		✓
Employees (not living at residence)	none		✓		✓
Employees (living at residence)	none	✓	✓	✓	✓
Customers (at residence)	none	(≤ 7 / week)	✓		✓
Outside storage	✓				
Commercial Vehicles	✓	✓ 1 vehicle & 1 trailer	✓	✓ 2 vehicles & 2 trailers	✓ 2 vehicles & 2 trailers
Sales of goods produced on premises and sold to customers at site	none	✓	✓		✓
Zoning Clearance Required	n/a	✓	✓	✓	✓
Open Houses	none				✓
Fees (beginning 2011)	n/a	$ 25.00	$2,000+ notice	$25.00	$ 25 + notice (min. $200) waiver $425

Waivers

- Planning Commission decision
  - Public Hearing
    - Notices
    - Opportunity for citizen participation
- Waivers Available for
  - Size (b - page 7)
    - 1,500 sf
    - Up to 49% of residence
  - Traffic (e - page 7)
    - 10 vehicle round trips/day
    - 30 vehicle round trips/week

Staff recommends approval of ZTA-2009-12 Home Occupations.

Mr. Loach invited questions for staff

Mr. Morris asked what he would have to do to get a major license for a catering business in Key West, which is in the rural area with not more than two employees, but with a couple of trucks and trailers. He would meet all of the requirements here. What does he need to do to get a major license and what are the steps he would go through.

Ms. McDowell replied that he would come into the front counter at the Community Development Department and apply for a zoning clearance.

Mr. Morris asked how he would know that he needs to do this and if that information is on the web site. He was getting very basic, but many people don't understand the rules and then get into trouble.

Ms. McDowell agreed that was a great idea and that staff can put the information on the web site. After the Board hears the request and if adopted the new ordinance can be put on the web site. The Board hears the request on January 12th. The information could also be included in an A-Mail. She noted there is an artisan trail manager who is aware of all of this. There have been meetings and she will let the participants know this has gone through.

Mr. Morris asked if he met all of the proposed requirements if there would be public notice saying he is trying to get one of these licenses so that his neighbors have a chance to weigh in on it.

Ms. McDowell replied yes, if he applied for a waiver.

Mr. Morris noted that if there is no waiver there is no notice to neighbors, and Ms. McDowell replied that was correct.

Mr. Loach asked when would he cross the threshold from personal use to either a Class A in the growth area or a Minor. For example, if an attorney is working from home and he is billing for the hour is he a Home Occupation Class A or is that personal use.

Ms. McDowell replied that a Class A Home Occupation or a Minor would be a for profit business operated in the home. The business jumps to a Major when there are customers.

Mr. Kamptner suggested that the Zoning Administrator, Ms. McCulley, answer that question because that is an issue that they routinely encounter under the current Home Occupation regulations.

Mr. Loach said it seems if his home was part of his tax deduction as a business that would be applicable. However, if all he does were sit at home typing on his computer doing programming that would be personal. He asked if there is a threshold there.

Ms. McCulley said that there are a couple of indicators that would lead someone to need a home occupation for business approval at your home. One would be if the business license, IRS papers and all of that lists your home as your base of business. If an attorney has a law office off site, but has a lot of work and takes work home to do, then he does not need a home occupation approval at his home for that occasional work that he does. However, if an attorney has a business license and IRS papers that lists his home as his place of business, then he would need a home occupation approval.

Mr. Kamptner asked to answer another question raised by Mr. Morris about how would the neighbors find out. Applications for both Minor and Major Home Occupations require a zoning clearance. It is the request for the zoning clearance that will trigger the need for some notice to abutting parcel owners.

Mr. Cilimberg noted that was associated with the Major Home Occupation only.

Ms. McDowell pointed out that on the page 8 in Section 5.2.A(m) it says for each zoning clearance requested for a Major Home Occupation the Zoning Administrator shall provide written notice. It goes on to

tell who gets the notice.

Mr. Kamptner noted as the staff report indicated staff is recommending a five (5) day written notice period as the minimum, which is the standard that applies to all of the other County land use applications for which individual notices are required. Staff also indicated in the report that can be revisited, but they would recommend that would be a County wide consideration rather than piece mill. The best practices are that they have as many common procedures and standards as possible so that everyone can easily understand what the individual notice is going to be. In this case, it is going to be five days.

Mr. Morris asked if he were going after the Major Home Occupation for catering, then his neighbors would get a letter.

Mr. Kamptner replied yes, the owner of each abutting property of different ownership than the applicant would get notice.

Mr. Cilimberg pointed out the reason that is being done is that there are some additional activities in a Major over a Minor, which is why they are notifying abutting owners under the Major Home Occupation. As an example, business in an accessory structure is allowed under a Major but not under a Minor. Employees are allowed under a Major, but not under a Minor. There are several others areas only allowed under a Major and the neighbors are notified because of the higher level of activity.

Mr. Morris agreed that the neighbors should be identified.

Mr. Lafferty assumed that it was for five business days.

Ms. McDowell noted that was the standard in other notices.

Mr. Lafferty noted it does not say that in this language.

Mr. Kamptner replied that staff could clarify that and look at the other regulations.

Ms. Porterfield asked if the parcels that abut are owned by the same person if the notification was going to the next parcel, and Mr. Kamptner replied yes.

Mr. Franco noted that he would like to make sure he understands the vehicle proposal. If he had a business license and operation somewhere else, he could have many trucks in his yard now because his business was off-site. As an example for a personal use, he could have ten trucks in his yard at any point in time.

Ms. McCulley replied that staff would look into it because they would want to understand why he had all of the trucks parked there yet he did not have business activity from the home. Many times in that circumstance where many business vehicles are parked at the home they are having employees come to the home. It would then be a business from the home. Staff would have to look into that particular case.

Mr. Franco asked when he applies for the home occupation is he going to be limited to the number of one vehicle and one trailer.

Ms. McCulley replied that it was two vehicles and two trailers that staff is proposing.

Mr. Kamptner noted that would be for those pertaining to the home occupation.

Ms. McCulley noted as an example it would be two trash trucks.

Mr. Franco noted that a better example would be the lawn maintenance people that would have a small pull behind van, trailer, some equipment, and possibly two trucks all staged to be used on certain days and rotated. He asked if they could have all of that in the yard. However, if they move their address to home, then they would be limited in the number of things that they could have in their yards. He wanted to make sure that by getting the license they are not making it stricter on the number of things that someone could have in their yards because it was not going to help with compliance.

Mr. McCulley pointed out in terms of numbers that two could be a hardship to someone. However, because this was in Section 5 the person can come to the Planning Commission and request a waiver of the number of vehicles.

Ms. McDowell noted that the waivers were limited by size and traffic. If they want to add the number of vehicles as something that can be waived, they could add that. This is a good time to do that. However, so far in just looking back they have not had a real issue with folks wanting to have many vehicles as part of a home occupation.

Ms. McCulley said that staff has not had many complaints where somebody other than the business owner has all of the vehicles in his yard. Usually he has an investment in that equipment and he wants it on his property. There is usually some type of activity occurring on his property. Many times, it happens with contractors because that is how they get started from their home. Staff would have to investigate and find out what is happening at the home and if there is another base for the business. Potentially, that person would have to go through the home occupation approval from the home location. She apologized for the correction, but staff had gone back and forth on what could and could not be waived. They did make some changes. In Section 5, anything that is in there can be waived unless it says it cannot be waived. Ms. McDowell is correct that the number of vehicles cannot be waived. That is an increase from the number that they currently allow and staff thought that was reasonable.

Mr. Franco said he was trying to make sure they are not creating a disincentive to apply and get a home occupation and the proper licenses. He was looking at the outdoor storage. If he had woodworking out of his house, he could have all kind of things in his yard because it was allowed. However, the second he starts doing it for a business he had to hide all of that stuff. Therefore, it was a disincentive to actually go and get the legal permit.

Mr. Loach noted that was going back to when someone crosses that threshold if he was actually running a woodworking business and saying it is okay because he had not applied for a license, but had all of his wood in the back. If he was actually making profit out of the product, then essentially wasn't it a business.

Mr. Franco noted that he could see a clear threshold there. As a neighbor and this happened next to him, he questioned how it would affect him. He did not think it was an incentive for someone to get the permit.

Ms. McCulley thought what he was getting to was that there is a clear advantage of any activity that is accessory to a residence and related to residence. For example, it is someone's hobby to do that woodworking. There is no tidiness ordinance. Once it is a business, they regulate that commercial use because just by its nature they have to make sure it is subordinate to the residential use and does not impact the neighbors. She agreed he was correct.

Mr. Zobrist agreed that is a disincentive to apply for the home occupation since the ones that apply are caught.

Mr. Franco noted that he did not want to make it any harder.

Ms. McDowell pointed out that administrative approval was not only easier and quicker, but is going to be a lot less expensive as well.

Mr. Franco said he was happy to make sure it is not going to be a problem and move forward with it.

Ms. Porterfield asked if there is a size limit on the vehicle and if someone could have two 53' tractor trailers including the trailer portions and the cabs.

Ms. McDowell replied that staff discussed a size limit on the vehicles, which is one of the reasons staff decided that it would be more appropriate just to limit the Major and Minor to the rural areas only. Therefore, they would be looking at larger lots with no vehicle size limitation.

Ms. McCulley noted there would be no vehicle size limitation except to what the lot can accommodate for on-site off-street parking.

Ms. McDowell noted that the parking has to be off the street.

Ms. Porterfield asked if there is a location specified for the allowed signs.

Ms. McDowell replied that the little Artisan directional signs are 7.5 inches tall.

Ms. Porterfield asked if the home occupation signs are going to have to meet the sign ordinance for the rural areas, and if the signs allowed would be put in the yard or on the house.

Ms. McCulley replied that there is a sign ordinance in the rural area. More often, there are signs in the yard at the road so people will know where to turn. The lots are larger and the buildings setback farther from the road. They can't obstruct sight distance. There are setback and height requirements as for any sign in the rural areas. Staff is looking at the sign regulations. The current standards are a ten (10) foot setback and ten (10) foot height maximum. However, these are pretty small signs.

Ms. Porterfield asked if that needs to be specified somewhere in here that they have to meet the current sign ordinance of the County.

Mr. Kamptner noted that they were just using a small part of the sign regulations and there are numerous pages.

Ms. Porterfield noted that staff thought that someone reading this could figure that out. On page 4g, third line in the middle, they need "located" not "locate." Under outdoor storage on page 8 staff refers to mulch. She wondered are they going to have some limitations on this or could they have what was being suggested on the east end of the county and have that become a home occupation with large piles of mulch over X number of acres.

Ms. McDowell said that staff did not limit the size or number of mulch piles.

Ms. McCulley noted that the processing of the stumps, woods, and so forth that creates the mulch is in and of itself, self regulated and may not ever qualify as a home occupation.

Mr. Cilimberg noted that activity would fall under k, prohibited home occupation that lists a number of uses and other not expressly listed that the zoning administrator would consider to be contrary.

Ms. Porterfield said it could literally be part of a landscaping business, not be part of creating mulch, and have large piles which inherently in and of itself do things like smell, burn, etc. She wondered if there are ways to keep things from getting too broad.

Mr. Kamptner said that g. only allows the storage. The creation of mulch would be a processing.

Ms. McCulley pointed out that home occupations are subject to the same performance standards that industrial uses are subject to, which may be something the County Engineer might want the applicant to address at the time of the proposal.

Ms. Porterfield asked if there was a nonconforming lot in the rural areas that is smaller than the two acres if there is anything special that the applicant would have to do because they have less land area.

Ms. McDowell replied that staff did not specifically address if there was less than two acres. Staff felt comfortable with the proposal.

Ms. McCulley noted that some of the nonconforming lots are in subdivisions. Those subdivisions have covenants that regulate to some extent.

Mr. Kamptner noted that he had sent out an email late in the day pertaining to the recognition that they do have rural area subdivisions and how these uses may impact the line between the rural suburban style subdivision in the rural area and the more traditional nature. He asked if there were any comments on that.

Ms. McCulley replied that she had not seen the email.

Mr. Cilimberg replied that he thought staff had viewed these amendments as trying to promote rural enterprise associated with the purpose and intent of the rural area, which they feel is trying to accomplish in the rural areas the opportunity for people to use their land and their property for purposes that prevent further rural subdivisions. So rural subdivision next to home occupations he did not think that they have considered to be a special case to be addressed. If they look at the purpose and intent of the rural areas, it says that subdivision and residential developments are supposed to be in the development areas. It does not include for residential addressing residential impact welfare. It has public, health, and safety, but not welfare included. To combine that with the Comprehensive Plan that talks about the rural areas being for the purposes of agricultural, forestal, and rural enterprise activities he thought that there was a little bit of priority given to that aspect over rural subdivision. Therefore, there was no special language that was intended to try to treat this use next to a rural subdivision differently. It was just as they don't have special language that treats an agricultural enterprise such as farm activity in a special way.

Mr. Loach complimented staff on the forms, which would make it simple to get through the process.

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

Morgan Butler, with Southern Environmental Law Center, said making home occupations viable in the rural areas is a very important goal and serves a number of important purposes. The trick is to make legitimate home occupations more viable without creating a loophole that basically turns the rural areas into de facto commercial zoning districts. He commended staff and the Planning Commission for the good balance in this draft. He offered some comments and questions based on what he had heard tonight.

- The first area relates to sales. The provisions limiting on-site sales are one of the most important provisions in the draft. It will ensure that these home occupations don't become end to run around rezoning. There is the provision relating to sales for major home occupations that says the goods that may be sold have to be directly related to a major home occupation. He suggested that language be changed to goods that are directly related to the major home occupation to which they would be sold. The clarification would help avoid the argument that however unlikely it is to come up that any home occupation may sell goods that are related to any home occupation.
- The provision for providing written notice to abutting landowners applies to only major home occupations. Minor home occupations are excluded. That makes sense because of the very limited impacts they are foreseeing for minor home occupations. However, when a minor home occupation is requesting a waiver of the area requirement, then that should be something that abutting landowners receive notice of as well. In addition to major home occupation abutting landowners receiving notice of those he would suggest minor home occupations requesting waivers also require notice.
- The draft proposes deleting the section that is in the current ordinance about revocation. Justification for this in the staff report was that the normal enforcement mechanism would be pursued. He thought that revocation exceeds the enforcement authority of the County and it was actually useful to keep that provision in this section of the ordinance so that the limitations of the ordinance are taken seriously.
- The next question was about minor home occupations. There are no specific provisions that deal with the traffic generated by minor home occupations and the hours of operation. He understood that was because minor home occupations were not allowed to have customers visit the site. He did not see where that was specifically spelled out in the ordinance. He saw where they could not sell goods to customers that visit the site, but not where it spelled out that no clients were to visit the site. He questioned if a service provider, such as a piano teacher, was not supposed to be a minor home occupation. He questioned if it was in the definition of home occupation. It was not clear.
- They repeatedly have raised the concern that the five day minimum notice period that is in several different provisions of the Zoning Ordinance is too short. As Mr. Kamptner pointed out tonight it probably makes more sense to address that looking at the entire Zoning Ordinance at one time as opposed to doing it piecemeal. However, five days is clearly too short for the average member of the public to be able to come up with a informed response. He realized that the County practice is normally to give much more notice than five days, but still what is in the ordinance is all that is

technically required. They would encourage the Commission to go ahead and do just that, which is to take a look at the Zoning Ordinance and the notice periods and think about extending them.

Mr. Loach asked what section he suggested changing the "a" to "the."

Mr. Butler replied that it was on attachment 2, page 7 in d1. One last thing he noticed was the performance standards provisions. All home occupations are supposed to be subject to the performance standards. However, where those are located in the draft ordinance he thought it was arguable that performance standards would only apply to the home occupation class A and class B. It was worth repeating the performance standards in the section that deals with home occupations in the rural areas.

Neil Williamson, with Free Enterprise Forum, agreed with Mr. Butler with regard to the importance of home occupations to the rural areas. He disagreed with Mr. Butler's suggested change on page 7. He could certainly see a home occupation having a multitude or two or three home occupations in one structure whereby that consulting service may be doing one, two or three things. Relating it to "a" home occupation rather that "the" home occupation eliminates that. He made the following comments.

- With regard to the waiver process, he was always concerned when waivers are placed into an ordinance when he could see clearly the need for those waivers on a regular basis. He was fearful of future commissioner visions on these waivers. He has heard commissioners in this locality and others say waivers should be rare. These waivers whereby they are utilizing perhaps more than 49 percent of the home he could envision a rural couple having a home, raising children, and then moving into a home occupation that is successful and they utilize the children's bedrooms thereby using more than 49 percent of the area. They would then have to apply for a waiver at a higher classification. He was not suggesting that was going to be the rule, but would be the exception. He thought that it should be an exception that should be granted and not one that would bring out the neighbors to suggest they don't want any home occupations in the area.
- He recalled the question that came up with regard to the Hungarian Bakery. The concerns raised was the use looks good, but what does it open the door to. He was concerned that if they do the notification under a Class 2 they were not deciding this should be a by right administrative approval, but simply asking for more home occupations to come forward for appeal on the basis of the neighbors whether it was traffic or they were suggesting that the size may exceed the limitation. He did not have a solution for that, but it would be helpful to have it in the record that they see this as a potential and that in proper circumstances, which are actually laid out well in the ordinance, that these waivers should be granted provided they meet the terms of the ordinance.
- All in all this is a good effort, especially in the reduction in fee, because the reduction in work on the County staff is beneficial and certainly will help rural enterprises. Lastly, he was not sure that it was in the ordinance because it was a zoning administrator determination, but he wanted to make sure the idea of the Artesian trail signage would also ring true for perhaps the Monticello Wine Trail or other trails that are supportive of rural enterprise.

There being no further public comment, Mr. Loach closed the public hearing to bring the matter back before the Commission for further discussion. He asked for Mr. Kamptner's comments.

Mr. Kamptner made the following comments addressing Mr. "Butler's suggestions first.

- Regarding the suggestion on page 7, that subsection d1 refer to the sale of goods by "the" major home occupation that right now it is by "a" home occupation. The context there of changing the "a" to "the" would be fine because it was prefaced by the introduction clause of a home occupation. The regulations allow multiple home occupations to exist on a site provided that they can stay within the limits that are set forth.
- He asked staff regarding the traffic generated by minor home occupations and the example that Mr. Butler gave regarding the piano teachers in how traffic would be regulated. It might have been discussed and they decided that it simply would not be regulated.

Ms. McDowell noted that because it was virtually the same process and fee for the zoning clearance that if there are customers coming to the site, then that is the dividing line he spoke of earlier. Staff had discussed this and checked with the County Engineer and he agreed that if they have customers that these traffic regulations would work in a residential area. The piano teacher has customers. If the customers are

coming to and from the site, they must park off the street and it was counted in that. If the children are walking, then that is an entirely different matter and it becomes a major home occupation.

Mr. Kamptner said that a piano teacher would be a major home occupation.

Ms. McDowell agreed and that the customers would have to park off the street. There was a recent situation in Key West regarding a piano teacher where they park off the street. Regulating customers if someone is giving instructions is hard, but there is no difference in impact since they would be regulating the cars coming to and from the business for whatever business.

Mr. Kamptner said either the definition or standards would need to be changed if they want to regulate traffic from that type of home occupation. By definition of a minor home occupation, a piano teacher who is teaching within the house with no employees would meet the definition of a minor home occupation and would not be subject to any traffic standard. The difference between minor and major is not determined by who might be coming to the house. If that is a concern it might need to be adjusted or traffic standards be imposed for minor home occupations.

Ms. McDowell noted it was difficult working the traffic standard out with the County Engineer and VDOT to get everybody in agreement to something they felt was reasonable.

Ms. Porterfield suggested taking out "more than" in d. on page 4 regarding traffic generated in the second line. They are saying that the traffic generated by a major home occupation shall not exceed ten vehicle round trips per day.

Mr. Kamptner agreed that would be correct.

Mr. Loach noted that Mr. Williamson made a good point about the waiver. He asked if the waiver request could be an administrative decision or does it always mean that a waiver has to go up to the higher authority. The waivers as Mr. Williamson noted may be "far between and few" at the Planning Commission level. He asked if the waivers could be given at staff level

Ms. McDowell replied that at the last work session staff presented waivers as administrative, but there seemed to be some concern about potential impact among the Commissioners. Staff has essentially did two things. One was it would be for rural areas only. The other was if they want the neighbors to have an opportunity to know about it and participate in a public forum, then they could come to the Planning Commission. In the past ten years, she has found that there have not been many persons that really need more space or they have a lot of traffic coming and going. She thought the wood workers are the ones who always need more space due to wood storage and the large equipment and always seem to put the storage in a barn for protection of the wood and equipment. Therefore, they may see some of those. It certainly is easier than going for a special use permit.

Mr. Loach suggested since it was so rare that they leave it administrative with the option to bring it to the Planning Commission.

Mr. Kamptner noted the other issue Mr. Butler brought up was preserving the revocation as a remedy. Staff thought about that and discussed it. There is some limited statutory authority for specific types of zoning problems. The ordinance for many years has had the revocation provision for home occupations. However, with revocation the ordinance needs to lay out some due process standards because there are property rights involved. Laying all of those out and the rights of appeal they thought the system was already in place for enforcement. It is sufficient in most cases. The County has the ability to impose and seek civil penalties or an injunction ultimately if the violator does not come into compliance. He thought in general that works well. There are procedural protections built in to the existing system already.

Mr. Loach noted the following concerns had been expressed:
1. On page 7, Section 5.2A.d.1 change "a" to "the" in ". . . and goods that are directly related to ~~a~~ the major home occupation . . ."
2. No change to the waiver Section 5.2.A.l regarding administrative review. Staff suggested that in future to consider waivers as a later phase so to obtain additional information in order to establish good criteria for an administrative review.

3. In Section 5.2.4, Revocation make no changes since the enforcement in place is adequate, and
4. Staff will adjust the language regarding the traffic (Section 5.2.A.e) before it goes to the Board of Supervisors for final approval.

Mr. Kamptner said there is one other correction to be made on page 6 in I-2 regarding the zoning clearance process under Section 5.2 for the Class A and Class B. The first is that the applicant shall obtain a special use permit for a Class B Home Occupation, which needs to be clarified where there is merely a change in ownership the new owner is not going to have to go through a new special use permit process but through the zoning clearance process.

Ms. McDowell noted that had been discussed at the last work session. Therefore, staff added it in the draft language.

Mr. Lafferty noted that there was also the concern with the five day notice, which sounds like it is universal.

Mr. Loach said that it would be a generic discussion rather than a specific discussion for this zoning text amendment.

Mr. Kamptner said just to follow up on Mr. Lafferty's original question whether it was five business days or five calendar days that by statute it was only five calendar days. By practice, staff can tell the Commission that notice typically goes out well in advance of that five day deadline.

Mr. Cilimberg pointed out the notice was more than five business days in fact.

Ms. Porterfield asked after the Commission takes care of the zoning text amendment if they can go ahead and ask for a resolution of intent to go back and study the overall five-day deadline provision.

Mr. Cilimberg pointed out on staff's list is a zoning text amendment to clean up the zoning ordinance for more housekeeping items, which has already gotten a resolution. He asked if staff could address that concern through the prior resolution.

Mr. Kamptner replied that staff could take a look at it to see if it covers this area. There also has been a resolution adopted regarding processes.

Mr. Cilimberg said that there were a couple of places they could deal with that issue. Right now, they were trying to keep up with their staffing levels.

Ms. Porterfield said it would be nice if they can do this because they have been talking about it for three years. It is great that they don't do it in practice, but there are no guarantees that will continue since it depends on whatever is coming down from the top. The current regulations are not practical. If notices were truly being done this way, then nobody in the public would have the ability to comment about anything since they would not know about it in time. She would like to see them get that done.

Ms. McCulley mentioned in regards to the discussion on waivers and whether they should be doing them administratively, staff would like in the future to consider that as a later phase. Staff felt they did not have enough information to establish really good criteria for an administrative review. For example, the traffic waiver may have different requirements. In the construction standard, depending on the road and maintenance type, staff could tie it down so the request does not have to come to the Commission. It would then not take up their time and concern the neighbors. The same would be with the size. There may be a certain size of the property and it is proportionally increased or something like that. However, staff did not have that information in hand to go forward now with administrative waivers. Staff should study it and see what they happens in the next year or so as waivers and what makes sense as criteria.

Mr. Loach asked if staff wants to leave the language as it is and then bring it back to their group for further study.

Mr. Cilimberg said that the Commission could see how many waivers they end up reviewing.

Motion:

Ms. Porterfield moved and Mr. Morris seconded to recommend approval of ZTA-2009-00012 Home Occupations as recommended by staff with the recommended changes.

Mr. Loach added that the other thing the Commission would also be voting on is the ability of staff to change language before it goes to the Board of Supervisors without the Planning Commission seeing it.

The motion passed by a vote of 6:0.

Motion:
Ms. Porterfield moved to approve a resolution of intent, if it was appropriate and not already covered under a previous resolution of intent, to do a comprehensive review of the notification requirements only.

Mr. Loach asked if staff thinks it is needed.

Mr. Cilimberg replied that staff has a number of items in the Zoning Ordinance that they need to address. Therefore, it is something that will come in that packet to the Commission. Now whether it gets here quickly enough that the Commission wants to accomplish he can't guarantee because of the workload. As an individual resolution, staff can certainly look at where they can put that in the order of priority and bring it as a single matter. It is ultimately up to what they can get in the pipe line. There are some other things ahead of it right now.

Mr. Loach opened the motion up to see if there was a second. The motion died due to the lack of a second.

Mr. Cilimberg noted that staff would definitely be addressing the issue as part of that package. It is among a number of things the Commission brought up that they need to make sure is brought to them.

Mr. Loach noted that he thought it was in the works.

Work Sessions:

ZTA-2010-00004 Phase III Industrial Uses
Expansion of Allowed Uses in the Industrial Districts. (Wayne Cilimberg)

STAFF: Amelia McCulley, Wayne Cilimberg, Susan Stimart, Sarah Baldwin, J.T. Newberry

Mr. Cilimberg presented a PowerPoint presentation and summarized the staff report for ZTA-2010-0004, Phase III Industrial Uses to review the changes to the zoning ordinance being considered for expansion of uses in the Industrial Districts.

- Economic Development Policy - "Initiate zoning text amendments that further enable business and industrial uses of the appropriate zoning districts"
- Economic Vitality Action Plan - remove obstacles and expand options and flexibility for industrial land users
- Identified opportunities to make our industrial districts more viable for modern industrial operations
- Referenced Comprehensive Plan (Economic Development, Land Use, and Neighborhood Model) and the Economic Vitality Action Plan
- Recommendations to increase flexibility within industrial districts while preserving their integrity for true industrial uses

Focus

- Noxious and hazardous uses
- Office, supporting commercial uses and subordinate retail sales
- Agricultural support uses
- Residential uses

Noxious and Hazardous Uses

Potentially noxious and/or hazardous uses:

1. Dry Cleaning Plants (by-right in HI)
2. Abattoirs (by SP in HI)
3. Petroleum, gasoline, natural gas and manufactured gas bulk storage (by-right in HI)
4. Petroleum refining, including by-products (by SP in HI)

Recommendation:

- Update the term "Abattoir" to "Slaughterhouse"
- Permit Slaughterhouses with no rendering by-right in HI
- Permit Slaughterhouses with rendering and stand-alone rendering plants only by SP in HI

Office Uses, Secondary Uses and Subordinate Retail Sales

- By-right: stand-alone "data-mining" offices and offices accessory to an on-site industrial use
- By SP: stand-alone "commercial-office uses" (rather than by-right)
- Increase the size limitation for supporting commercial uses from 5% to 25% (can be modified by Planning Commission)
- Increase the retail sales area for sales of products of the on-site industrial use to 25% (can be modified by Planning Commission)

Agricultural Support Uses

- Continued by-right: all aspects of food and beverage production under manufacturing, processing, fabrication, assembly and distribution
- Clarify also by-right: agricultural/farm implements (heavy equipment) manufacture and repair and wholesale greenhouse and/or commercial wholesale nurseries

Residential Uses In Light Industrial

- Clarify by-right residential in association with industrial should be subordinate to primary industrial use
- Clarify appropriate location of subordinate residential - above or behind the primary industrial use
- Explicitly allow families to reside in subordinate residential
- General residential in LI by SP

Next Steps

- Planning Commission questions/comments
- Draft ordinance amendment and proceed to Commission public hearing
- Phase IV to come – Consolidating Industrial Use Categories

RECOMMENDATION: Incorporate staff's recommended changes into an ordinance amendment and proceed to public hearing.

The Planning Commission held a discussion with staff, asked questions, took public comment, and provided suggestions:

- Mr. Zobrist suggested that churches in LI would be good as off-peak uses. Mr. Cilimberg said this had not been discussed by staff, but the PC can consider whether it's appropriate as a supporting use when they get into phase IV work.
- Clarification was requested on the term "data mining." Ms. Stimart said that data mines are basically "server farms" and "data centers."
- Mr. Kamptner noted that with the text amendment as proposed, existing commercial offices would become nonconforming. He said that expressly grandfathering them would be better than just making them nonconforming uses. Creating a new Light Industry district that did not allow office uses was mentioned as an additional alternative approach to "grandfathering." (Ms. McCulley talked about limitations to building permits for any type of expansion with nonconforming uses.)
- There was significant discussion about the staff recommendation to make slaughter houses a use by-right in HI. Commission members specifically asked for
    - further information about state and federal regulations on these uses
    - where slaughter houses exist in other localities and how they are treated
    - what kind of regulations/performance standards exist outside of County regulations on the slaughterhouse use including setbacks.

Commissioners also talked about limiting the scale of facilities – allowing for a local or regional but not multi-state facility. Some members indicated they wanted to tour a facility The Commission was comfortable with staff developing proposed supplemental regulations, but were split on whether the use should be allowed by right or require a special use permit.

Public Comment was taken from the following persons

- Morgan Butler, Southern Environmental Law Center, suggested that the County reconsider the supporting commercial uses in terms of the intent of the industrial districts. Otherwise, it's an increasing encroachment of commercial into industrial. He also said we'd need a very narrow definition of what is allowed – offices and supporting commercial.
- Neil Williamson, Free Enterprise Forum, talked about how it is incongruent not to allow slaughter houses when we are supporting agricultural production. He also talked about how difficult it is to transport livestock over the mountain to slaughterhouses in the valley.

Staff to draft ordinance amendment for public hearing, addressing points raised as summarized**.** No formal action was taken.

The Planning Commission took a break at 8:00 p.m. and the meeting reconvened at 8:11 p.m.

ZTA-2005-00001 Commercial and Industrial Setbacks and Buffers
Work Session – Review of Goals and Strategies for reducing yards, setbacks, and changes to buffer requirements in the Development Areas. (Elaine Echols)

Ms. Echols presented a PowerPoint presentation and summarized the staff report regarding goals and strategies for reducing setbacks and yards and improving screening and buffers in the Development Area.

Ms Echols noted that the proposed changes to standards are intended to achieve a urban form of development and help retain a high quality of life in the development areas. She reviewed the following categories for change in Industrial and Commercial Districts:

- Yards
- Building Heights
- (Undisturbed) Buffer Area
- Screening

YARDS AND SETBACKS

The Planning Commission held a discussion with staff, asked questions, and provided individual comments and suggestions:

- There are fire standards that need to be considered. They can build a wall to a higher standard, but a standard building would really need 30'. The Fire Chief and Building Official need to come to the next meeting to discuss this issue.
- A lot of discussion was held about some of the height impacts and other issues as opposed to whether it is appropriate. There was some support of the reduced setback to allow the use of the building as a buffer by moving it as close to the property lines as parking was already allowed to be or service areas were already allowed to be on the back side as well as front side and promote relegated parking.
- One Commissioner felt that it was appropriate to reduce the setback because it helps them mitigate some of the impacts by enabling them to use that area for something other than parking and travel way.
- The variables in the building would seem to determine what that setback should be. (i.e. what the building is used for, its height in relation to the yard, light, and noise generation, etc.)
- Staff should highlight the scenario that started some of this discussion, which was being able to create more of a stockade situation where the building provides the buffer to some of the outside uses.
- The following suggestions were made on the illustrations:
    a. The illustration does not show the benefit of being able to relocate the parking. One of the bigger issues is that parking is something that has more of an impact to adjacent

neighbors. The shifts at night, headlights, and things like that are now going to be mitigated better because the building will be the barrier. That can probably only be shown in plan view versus this view.

b. Regarding other pictures showing the greenery and landscape buffer, as the building is moved closer it looked like the trees may not have to be as tall as they are now at 35'. It gives them the opportunity to create better development.

- The approach is good, very strong, and pulls from the perspective of land use. It is a more effective use of land and the buildings have more presence in general. It provides for relegated parking, which is a real issue in this community. It may be useful to have some examples and plans to see how things would shift around in a more conventional sense and what they have been doing versus what they would be doing.
- The question was asked under the current scenario, could a business come in and ask for a waiver or anything from the current standards. (**Staff noted the only way to get a reduction in yard requirement is to go to the Board of Zoning Appeals. The only thing they could get is permission to disturb the buffer area. They cannot get a reduction of setback under the existing regulations at all.)** It was noted that the setback could be reduced by rezoning to a PD zoning.
- Concerns were raised that this would affect the quality of life on the other side of the lot line by reducing the setback. It was questioned whether this could be done across the board due to the variation of land uses. They need to keep the land uses that are not industry from going downhill by virtue of bringing in their ability at least to have some space.
- One Commission said it should not be a blanket statement. Right now, they force service things like dumpsters to those property line edges, which had more of an impact to the neighbor than the building would have. However, again it has to deal with height. It should not be a 50' building 30' away. However, it is unknown what the right number is. In general for the concept for being able to put the building closer, recognizing that the service areas, the road, the parking and everything that is allowed at 30', it was a fair trade. The building was not any worse than those uses that are allowed there now.
- There was support in allowing the buildings closer to the lot line, but the critical part is the buffer. What they do in the buffer needs to be adequate for bringing the two communities together.
- One Commissioner suggested allowing for waivers where they can make a judgment and not mess with the current setbacks. They should not sacrifice efficiency to what they want their community to look like. The right way to go is to try to figure out how do they want to see these develop and what kind of uses. They can't foresee them all. The more creative they get the more ability they have to develop the kinds of efficiencies in the economy that still give them the lifestyle that they want to go with it.
- One Commissioner discouraged the waiver process because it was a hurdle and expense for developers to go through.
- If the urban form of development is what they are encouraging, such as relegated parking and other things, it can't be done without some of these changes.
- One of the ways this is being done in other communities is through an approach called form based zoning. Instead of it being driven by land use specifically, it is driven by form. There are so many varying conditions. It was questioned to what extent staff has considered that and whether there are models to use some approach and if staff has used that approach in what they have done.

COMMERCIAL AND INDUSTRIAL HEIGHT REQUIREMENTS

The Commission made the following comments and suggestions:

- One of the problems with the illustrations is that the buffer is lovely and beautifully drawn, but it only has non-deciduous trees at the bottom. The rest are very big deciduous trees. Number one, how big are they putting the trees in to start out with so that they get to be this size pretty fast. Number two, they have to remember that the leaves are going to be gone by the end of October and may not be back until May or June. Therefore, it is a false look for the people on the other side. If they are going to make all the trees evergreen with some understory stuff, then they need to see it as such and say that is what they are going to force the public to put in. Otherwise, what they have is a huge wall.

- How many LI properties are left in situations like this. What percentage are they talking about that they have to be careful about in these type of situations with adjacent residential.
- A suggestion was made to have two-part deal. If they abut certain districts, they have these regulations. However, if they abut residential then they keep the current ones.
- If this is going to affect the people who live here because they happen to be the ones for whatever reason they bought in there, then they have to be very careful. They are essentially expanding the developable Heavy Industry and Light Industry land because they are going to be able to go much closer to the lot lines. A Commissioner felt it was wrong to make these changes for the people who have come to Albemarle County to live and made a conscious choice why they want to be here. They probably don't want a 65' building 35' from their lot line. The solution was not clear unless it was to go back to the idea of the waivers so there are ways to get waivers that are not terribly time consuming or expensive. At least that way the community can talk about what is happening and can see a design to understand the logic that they are trying to say if they can move certain elements in different positions on the land and then let the building move over. The waivers make sense if all they are talking about is the impacted residences that are five percent of the area.
- A suggestion was there ought to be two rules with one where housing exists and they have a more strict set of rules on the invasiveness of the development versus where there is no development. A suggestion was made the Commission might want to consider a third tier, which would be where the residential development is built next to already zoned industrial land. Some kind of an industrial use will be located there and they are really only talking about what the form of that development will be and not the industrial nature of the use.
- The Planning Commission disagreed with allowing the reduced 30' setback with the 65' height since it would create a huge visual impact. The Commission would like to see illustrations with the sight line to further study the proposal before making comment. It may be more appropriate to have a step back so that visual impact is not there.

Mr. Franco noted as Mr. Kamptner said earlier, this is a form of development that has been in the works for a while. What they are doing is enabling the form that has been encouraged for a long time. He did not know that they were intensifying the ability to develop so much as improving the form. Right now if they take the approach to fully develop the 5 acre industrial site, they are going to have parking all along the perimeter and the building in the middle. That is what they are allowed to do and would fully utilize it. Now they have the ability to create the form that they have been asking people for by removing barriers to enable them to get the form that they have asked for during the past 15 years.

Ms. Porterfield asked whether that would be some type of a waiver proposal that did not totally throw out everything they currently have. Would it protect sites that don't have the ability to totally develop that are trapped somewhat. Due to the residential on the other side, they don't have that much room to be able to move into a big plan. They could have a smaller plan for a couple acres and then have other things in there. She gets nervous about creating some places where they have two different uses abutting which are going to rub together since something is going to happen. There are some uses more attractive.

Mr. Cilimberg noted that staff is currently trying to get a set of proposals to go out and talk to the public about. The next step is a Round Table to get input from the development community and from the citizens as to what they think about the changes that have been proposed. Staff did not want to take anything to them if the Commission was not going to be willing to consider. He suggested what they should focus on is what if anything here in concept is a non-starter and let staff then go and talk to the people who have a vested interest whether they be residents in subdivisions or the industrial interests/developers to see what they think about the ideas that have been put out here.

Ms. Monteith suggested that this be broken down into a couple of conversations due to the number of variables. The process Mr. Cilimberg described about holding Round Tables sounded terrific. However, she still thought it was too much information for them to try to comment on in one meeting where they have had several other topics already discussed.

Mr. Cilimberg agreed that they could set up a separate meeting for this if the Commission so desired. They could not necessarily take one piece of it. They need to understand the full picture. They need to know the height of the building, the building separation, and the screening that would be incorporated. That is what staff was trying to accomplish tonight. Maybe by breaking it down into pieces they might have lost

something. What they have talked about to this point is the opportunity or potential of reducing the yards and setbacks, and changing the building height to setback ratio. Staff was going to talk about the landscaping that would go into the buffer area. Then hopefully they could have some kind of a full picture and then move forward.

Buffer Areas Requirements and Standards

Ms. Porterfield asked that this issue be rescheduled to another meeting for a follow-up discussion.

Mr. Morris said that he would love to hear from the public.

Mr. Zobrist said they should not take such a giant step in the beginning. Currently, there are no waivers of these setback revisions. Instead of taking a big jump, he proposed that they make it very clear to people that they can ask for waivers and make it available to them. Then they can see how it works out. He noted that he was big on screening and liked berms.

Mr. Loach invited public comment.

Public comment was taken from the following persons:

Pam H. Atwater, resident of Heather Court in the Briarwood Subdivision, said that residents are very concerned about the buffer footage issue. She said that in Briarwood, the commercial area is dangerously close to their children's park and they are concerned about the loss of buffer footage. They are concerned about the loss of their trees since it is forested area, which they love. They don't want to lose any more forest. They thought they had a 50' buffer . She was beginning to wonder now if they only have a 20' or 30' buffer. What they really want is a 100' buffer between their residences and Route 29. She did not know why that was ever zoned commercial. They don't want this area zoned commercial at all. However, they need that buffer of the forest for wind, sound, and privacy protection.

Eve Adams, member of the Board of Directors for the Briarwood Homeowner's Association, agreed with everything Ms. Atwater said. She said that she lives in the purple area that juts into the pink area (shown on the map that was included in the staff report). Her backyard could potentially have 10' between it and the buildings that might go there. That is a very narrow strip and she hoped that no waivers would be considered because of the erosion from the grading. She was concerned about what is going to happen with the noise and air pollution because they live so close to Route 29. She was also concerned about the wildlife in that area. On behalf of the Briarwood Homeowner's Association and those whose properties join that pink area she was asking please don't reduce the buffer area to 10' or 20'. They need all the buffer area there that they can get. To reduce the buffer would not improve her quality of life and reduce her property value.

Neil Williamson, with the Free Enterprise Forum, noted that many present served on the DISC Committee and got to see charts like this when they talked about conflicts of an intensely formed development area. This is the very thing that they talked about and how they mitigate it. On the other side, they have the desire for the Board of Supervisors for increased economic vitality and increased use of Light Industrial land. The questions he has really focused on was what does this do in an economic performer to a project. When they talk about increasing the caliper, increasing the height of the trees, etc. what does that do to the viability of that species over all. Do bigger trees live longer or survive longer than the younger trees. Do the younger trees have the opportunity to develop their own roots and have a better opportunity to grow faster. He did not know the answers to these questions. However, he was very concerned that they are really pushing two different competing philosophies and he had thought some time ago that the philosophy of a highly dense mixed use community had been determined by this Commission and the Board. Now really what they are focusing on is how do they make that happen in the best case possible. He thought that some of the concerns that have been raised here are absolutely valid, but they have to remember that is the balance they are trying to strike. Utilizing a cost benefit analysis of what actually can be done on a project, including the parcel that was mentioned here, which looks to be quite challenging, would be helpful to the discussion.

Mr. Cilimberg suggested the Commission let staff take this concept to the Roundtables to discuss with the people who have an interest. They will invite those back who came tonight as well. They will get the

feedback from them as to whether they think it is going too far and whether there should be in fact instead of just allowing this, maybe having it allow the waiver provision. He was not sure he heard anything tonight that was an absolute non-starter. He knew some might not be supportive of some aspects of what is being mentioned here. However, this is not set in stone. Just because they heard this tonight does not mean this is exactly what they are going to get in an ordinance. Staff can try to lay this out in that Roundtable for people to understand the basic change, the changes, and results they would see from that in the areas where it would apply, and get feedback on whether or not this is gone too far and something less dramatic should be done in lieu of this. The whole idea of trying to kind of pick-up on something Mr. Williamson said was in trying to maximize the opportunity to use industrial land, but also make sure that they are respecting the adjacent areas that are residential/rural area. This was a starting point, but it does not mean that this is what they will end up adopting. They will get some feedback on the concepts.

Ms. Porterfield said she would rather see the proposals (again) before staff takes it to a roundtable to see if the Commission could get a little closer to the page before the community talks about it.

Mr. Cilimberg noted that the community might bring us back to there.

Ms. Porterfield noted her guess is that they probably will. Maybe it would be better for them rather than feel like they are in a big fight over this to see that there is a moderation from here, which already brings it back a little better.

Ms. Monteith said it might be a little bit about how they have the conversation. She thought that the fact that they did these maps is really useful, but maybe to have the conversations they could take some specific locations on these map and show them in a plan in terms of how the examples would play out. Some examples could be very helpful in letting people know staff is exploring the conversation with them rather than them thinking this is a fate complete.

Mr. Cilimberg said what they would also want to share with the people they talk to is some of what we have heard tonight. Staff suggested that the reduction of buildings to parking setback was a way to create more flexibility on the site. There was some concerns expressed here that bringing the buildings as close as the parking may be too much adjacent to residential areas. Therefore, staff can share that with people as they are talking about some of those examples.

Mr. Franco said that, for the lay person, this information is very difficult to understand this without some of the plan view and some specific examples. He thought they could take existing site plans and maybe show how the building might have moved and how the site might have been approved by right if this had been in place. Then possibly take some of the undeveloped examples and show people what can be done now and maybe what could be done differently or better with the ordinance.

Mr. Loach agreed with Mr. Franco that this should not come off that they are trying to put more on less, but make it better. He did not think that doing more is mutually exclusive from doing it better and doing it with better form, as Ms. Monteith pointed out.

Due to the significant changes proposed, the Planning Commission asked staff to take the Commission's guidance and direction into consideration in order to take more specific concepts out to the public through roundtables with the development community, citizen groups and bring it back to the Planning Commission before starting into the ordinance language. 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.

- The Commission agreed to the 2011 Commission Meeting Schedule as presented with the following modifications. Staff to bring the 2011 Meeting Schedule with modifications to Planning Commission for adoption on January 11th.

- Change for Election Day – November 1 meeting change to November 8.
- Not meet the week of Thanksgiving – Flip November 22 with November 9.
- No meeting on November 22.
- November 1 meeting scheduled for November 15
- Schedule two meeting in December with no meeting the week of Christmas

- NO MEETING ON DECEMBER 28 OR JANUARY 4, 2011
- NEXT MEETING ON JANUARY 11, 2011

Adjournment

With no further items, the meeting adjourned at 10:01 p.m. to the Tuesday, January 11, 2011 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)