**Albemarle County Planning Commission**
**September 27, 2011**

The Albemarle County Planning Commission held regular meeting on Tuesday, September 27, 2011, 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, Linda Porterfield, Don Franco and Calvin Morris, Vice Chair. Duane Zobrist, Chair, was absent. Julia Monteith, AICP, Senior Land Use Planner (UVA Architect – Ex-officio) for the University of Virginia, was present.

Staff members present were Claudette Grant, Senior Planner; David Benish, Chief of Planning; and Greg Kamptner, Deputy County Attorney.

**Call to Order and Establish Quorum:**

Mr. Morris, Vice Chairman, called the regular meeting to order at 6:00 p.m. and established a quorum. He noted that Duane Zobrist was absent and had recused himself.

**Matters from the Public not Listed on the Agenda**

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

**Consent Agenda**

a. **Approval of Minutes**: February 8, 2011 July 12, 2011 & July 26, 2011.

Mr. Morris asked if any Commissioner wanted to pull an item from the consent agenda.

Ms. Porterfield asked to pull the July 26, 2011 minutes and put them on the consent agenda at the next meeting.

**MOTION**: Ms. Porterfield moved and Mr. Loach seconded for approval of the consent agenda for the minutes of July 12, 2011 and February 8, 2011.

The motion passed unanimously by a vote of (6:0).

Mr. Morris noted the minutes of July 12, 2011 and February 8, 2011 had been approved. He asked for a motion to pull the July 26, 2011 minutes.

**MOTION**: Mr. Franco moved and Mr. Lafferty seconded to pull the minutes of July 26, 2011 and place them on the next Commission agenda for approval.

The motion passed unanimously by a vote of (6:0).

**Item Requesting Deferral.**

**ZMA-2010-00011, Estes Park**

PROPOSAL: Rezone 12.75 acres on Tax Map/Parcel 03200000003300 and TMP 03200000003400 from R-1, Residential zoning district which allows 1 unit/acre to PRD, Planned Residential Development zoning district which allows residential (3 – 34 units/acre) with limited commercial uses and to rezone 0.56 acres on Tax Map/Parcel 046B4000000500 from R-1 Residential zoning district to R-1 Residential zoning district with proffers. Proposed number of units is 68 for a density of 5.33 units/acre.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses.
ENTRANCE CORRIDOR: No
LOCATION: in the southeast quadrant of the intersection of Proffit Road (Rt 649) and Worth Crossing, approximately 800 feet south of Proffit Road in the Community of Hollymead.
TAX MAP/PARCEL: TMP 03200000003300, TMP 03200000003400, and TMP 046B4000000500
MAGISTERIAL DISTRICT: Rivanna
***DEFERRED FROM THE AUGUST 23, 2011 PLANNING COMMISSION MEETING. APPLICANT REQUESTING DEFERRAL TO THE OCTOBER 18, 2011 PLANNING COMMISSION MEETING.***
(David Benish)

Mr. Morris noted that the applicant was requesting deferral to the October 18, 2011 Planning Commission meeting.

Mr. Kamptner said since the applicant is requesting deferral to a specific date the Commission should open the matter for public hearing and provide any public comment.

Mr. Morris opened the public hearing and invited public comment. There being none, the public hearing was closed and the matter before the Board.

**MOTION**: Mr. Loach moved and Mr. Lafferty seconded for approval of the applicant's request for deferral of ZMA-2010-00011, Estes Park to October 18, 2011.

Mr. Morris invited discussion.

Ms. Porterfield noted that the Historic Preservation Committee met yesterday and there was some discussion that maybe this applicant might want to consider moving the tot lot over to the cemetery area in order that all lots to be sold would not be abutting the cemetery. There was some discussion that might be easier marketing and might be better off for the maintenance of the cemetery, access, and other kinds of things.

There being no further discussion, Mr. Morris asked for a roll call.

The motion passed unanimously by a vote of (6:0).

Mr. Kamptner noted just for the record that the public hearing was opened and closed on that matter.

Mr. Morris noted ZMA-2010-00011, Estes Park was deferred to October 18, 2011.

**Public Hearing Item**:

**ZMA-2010-00017/Redfields PRD**
PROPOSAL: Rezone 58.47 acres from PRD (Open Space) - Planned Residential District zoning district which allows residential (3 - 34 units/acre) with limited commercial uses to PRD (Residential) - Planned Residential District zoning district which allows residential (3 - 34 units/acre) with limited commercial uses. Proposed number of units is 126 for a density of 2.15 units/acre.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas- preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/acre in development lots)
ENTRANCE CORRIDOR: No
LOCATION: Located on west side of Old Lynchburg Road and accessed by Sunset Avenue and Redfields Road.
TAX MAP/PARCEL: 076R00000000E4 and 076R0000000100
MAGISTERIAL DISTRICT: Samuel Miller
(Claudette Grant)

Ms. Grant presented a PowerPoint presentation and summarized the staff report.

The applicant proposes to amend the application plan adopted with the original rezoning and add proffers on property zoned Planned Residential Development (PRD). The current zoning allows open space on the property. The proposed amendment would allow development such as residential uses with limited commercial uses on the property.

Staff reviewed the application plan. The applicant proposes 126 residential units consisting of single-family houses and townhouses. Staff pointed out the critical slopes and existing trails on the property. The entrance to this property will be off of Fieldstone Road. This particular portion of the development is shown as rural area on the comprehensive plan land use map. The rural area is adjacent to area that is designated Neighborhood Density Residential. While this property is zoned PRD the comp plan designates the area as rural area, which calls for less dense and intensive uses than that allowed in the development areas. This particular open space does not allow for any potential development at this time.

Almost a year ago a work session was held with the Commission regarding a comprehensive plan amendment for this area. The applicant wanted the subject area to be amended from rural area to the development area. The Commission recommended that this potential expansion area

be reviewed comprehensively with other possible expansion areas in the entire county when the comprehensive plan is updated. Staff is currently working on this review and plans to begin these discussions with the Commission in a couple of weeks. In the interest in time, the staff report does note other areas of concern regarding this rezoning request that staff will not repeat.

Factors Favorable

- In developing this site, the applicant is proposing to minimize disturbance to the critical slopes area.
- The proposal involves a site that includes the existing PRD Zoning, which is adjacent to the Development Area and to PRD zoning.
- The site is near major highway access and is accessible to utilities.
- The proposal could potentially add some residential uses that were lost in the Biscuit Run property becoming a state park, and replaces it within the same general southern urban area location.

Factors Unfavorable

- The proposed residential development is inconsistent with the Growth Management Policy and Rural Areas policies.
- The Land Use Plan Map in the Comprehensive Plan designates this site as Rural Area, which is not recommended for this proposed scale of development.
- This rezoning request does not follow the process and direction the Planning Commission provided at last year's work session. The Commission recommended future expansion areas be studied in a comprehensive manner and that the Comprehensive Plan Amendment (CPA2010- 001) currently underway be studied with the comprehensive plan. These initial discussions are scheduled to begin October 11, 2011 with the Planning Commission.
- Some proffers need to be rewritten to address staff's concerns, as noted in the proffer section of the staff report.
- The loss of open space/trails that the community has been using.
- An increase in traffic to the area.
- No commitment has been made to provide affordable housing.

**Staff Recommendation**:
Staff recommends denial of ZMA2010-00017, Redfields PRD because the residential use proposed is not in compliance with the Comprehensive Plan land use designation.

**WAIVER**
Staff recommends approval of the modification to Section 4.2.5 (a) of Zoning Ordinance for critical slopes waiver.

Mr. Morris invited questions for staff. There being no one, he opened the public hearing and invited the applicant to address the Commission.

Steve Blaine, representative for the applicant Redfields Development Corporation, said he had been working for the last couple of months with Marcia Joseph and Scott Collins, with Collins

Engineering. There are also principals here from the applicant. He would like to briefly go through in depth an overview of the plan and the reasons why they think it is appropriate to approve this plan at this time. He would leave time to answer questions. He made the following comments.

- The Redfields PRD was approved in 1990 for 266 acres as shown on the plan for 656 dwelling units. There are currently 441 approved developed and platted lots. The approved density was about 2.6 dwelling units per acre. What they proposed with the last phase of this development is to plat and develop phase 5 of the PRD, which involves 126 dwelling units that would bring the density to about 2.1. It is a 13 percent reduction in the density that was approved with this zoning in 1990, which was 20 years ago.
- This is a PRD and the reason they are before the Commission is because they are amending the application plan. In the PRD zone the application plan dictates how the development will proceed through the life of the project. This area known as phase 5 was not depicted with residential lots. It has shown up in plans and master plans as open space. They are not here for a rezoning. They are not changing the zoning map designation, but are here because there is a process in section 8.6 of the zoning ordinance that contemplates changes to application plans. That is why they are here tonight.
- The more detailed features of the plan involve townhouse units some of which they call larger attached, which are townhouses but are more villa style and 39 single-family dwelling units. This is the current end of Fieldstone Drive and the cul-de-sac will be abandoned and the road will be extended to provide access to the units. The area shown in green when subdivided will become common open space. They will resolve the use of future use of this area by dedicating open space, which will be controlled, owned and maintained by the homeowner's association.
- They will replace any trail system that is in conflict with the development with a new trail system. In the open space they will proffer a 100' buffer area, which lays over an additional restriction on the open space that vegetation trees cannot be cut except for utilities and for the installation of the trail system in which case the trees have to be replaced. He outlined the trail system. Contrary to the staff report there will actually be a lengthier trail system when they complete the development. The current trails are about 1.4 acres. When they finish the development they will have 1.7 acres of trails. The trail system will involve a class b primitive trail that will allow a more natural much like the current trail today as opposed to an ADA accessible trail. The idea is to give trail users options to do various loops. If they want to take the largest loop it will involve using the sidewalks. There will be sidewalks on both sides in this development as opposed to the existing rural cross section they have in the old part of Redfields. This will be an urban section with sidewalks on both sides with curb and gutter.
- They have met with the board of the homeowner's association. They also met with a group after that who was invited to hear about the plan. After those meetings they have offered to extend a trail from the end of Fieldstone all the way to the main club house where the pool is. That will be an asphalt trail much like the existing trails in the other part of Redfields. As mentioned, some of the amenities they will add are a playground area and a basketball court to provide additional amenities for this area.
- He pointed out the line boundary for the comp plan that designates the rural areas and growth area. It crosses through the development. He pointed out the Whittington property that went through an amendment to its PRD that was not required to go through

a comprehensive plan amendment for that. Similar to their request they were not changing the rezoning and were not increasing the density.

- There are 58 residential units in Redfields that are in the rural areas just like the area in phase 5. They cannot deny this request based on the comprehensive plan map designation without treating these owners who are similarly situated differently from these owners. He would repeat they cannot deny this request based on the staff's recommendation because they were treating these owners differently from the other situated owners.
- The Albemarle County Service Authority jurisdictional area is shown for water and sewer. This area is within the jurisdictional area. For 40 years they have had a policy that directs growth in the areas that have been designated for water and sewer. Before 1990 this property was zoned R-1 and designated for utilities. They don't feel there is any need to go through a comprehensive plan amendment to recognize that the Board's actions over the years have been consistent with the future development of this area.
- When he got involved in this he heard about claims that there were representations to existing homeowners that this area was to remain permanently open space. Frankly, that concerned him. Before he got involved he researched the public records and the county records and determined that consistently throughout starting with the approval of the rezoning in 1990 it has been his client's intent to develop this phase 5 area in the future. They have repeatedly stated that intent. An example are the notes on the plats that have been acknowledged by the county, which staff is aware of, that indicated in this area there will be future development. The notes on the plats starting in 1995 contemplated open space, single-family dwelling that was done on a later plat, and future development. The plat in 1995 was recorded. The recording statutes place owners of property on notice because these have been recorded in the Clerk's Office. Again, it shows future development on the 1995 recorded plats. There was a single-family lot platted in 1997and it continued to show in the plats that there would be future development. Again, in 2001 after the platting of the single-family development a recorded plat indicating this would be future development.
- The declaration of covenants and restrictions, which are also part of the public disclosure documents to residents, are very clear that to become dedicated land the developer must grant by deed or declaration a commitment or a dedication of open space. That has not happened. That is consistent with what the zoning administrator said when certain owners within Redfields asked the county to force the developer to grant them this area as common open space. The zoning administrator was upheld by the BZA. She said that open space is not permanent unless it is dedicated or deeded, which is has not occurred.
- They understand there has been an expectation that this remain open space. They have seen the correspondence and heard the people. They may be mistaken expectations. They maintain that the county cannot be bound by mistaken expectations. They propose a plan that preserves in perpetuity for as long as the homeowners wish it to be so for permanent open space. It will be 41 acres of permanent open space. This will then be dedicated with the subdivision. They propose replacing those trails that will be interrupted by the development so that the homeowners may enjoy the same or actually a lengthier trail system than exists today. To mitigate the impact on adjoining lots they propose the buffer area as shown before. He offered to answer questions.

Mr. Morris invited questions for the applicant. There being no questions Mr. Morris opened the public hearing and invited public comment.

Ms. Monteith asked staff for clarification on page 4 of the staff report. In the planning and zoning history in the actions taken over time for the rezoning in her view they were in direct conflict with each other. In a number of them it was stated that the open space was to remain open. She was hearing something different in what was presented by the applicant. This has been consistent since it was the same when the Commission heard it last time. She would like to understand that better before hearing the comments.

Ms. Grant replied as she understands it the open space originally was dedicated as open space on the approved plan.

Mr. Kamptner noted that it would not have been dedicated because dedicated means it would have been conveyed to the county for public use.

Ms. Grant noted that the application plan labeled it as open space. Over the years there was some change she believed from the applicant that started to show the open space as future development. It would say open space and then future development. However, when they go through the minutes it is pretty clear that staff, the Board and Planning Commission have always said that if there was ever a time for future development of this area that it would need to go through a comprehensive plan amendment and a rezoning before any changes could occur to the open space area, which is where they are.

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

Ms. Monteith replied somewhat. However she finds it very confusing. She found it confusing last year and continues to be confused. Obviously, a lot of the residents continue to be confused.

Mr. Morris invited public comment.

Rex Linville, resident of Redfields and staff member at the Piedmont Environmental Council made the following remarks.

- On January 17, 1990 Albemarle County approved ZMA-89-18 thereby creating the Redfields neighborhood. Condition 8.3.d was to revise the land use notes to include phase 6, which they all refer to as phase 5, as open space. Nothing has changed since that approval by the Board of Supervisors to modify or release the applicant from that condition. In fact, in a letter dated June 4, 2008 from David Benish to the applicant Mr. Benish stated that this area was determined to be within the designated rural area and was approved as open space by the Board of Supervisors." In the same determination letter Mr. Benish goes on to say there has been no intent or action since that time to change the land use designation of this parcel. The applicant will tell you that they have always wanted to develop this land. He agreed.
- Percy Montague is on record saying during the 1990 Planning Commission hearing that they want to reserve the right to come back to you later and talk about future development on that spot. They don't want to indicate that land specifically as open

space. He believed they hoped that one day that land would be added to the growth area along with Mountain Valley to the south. That has never happened. The land is still in the rural area.

- Despite the applicant's asserted desire to not specifically indicate that land as open space this Planning Commission and the Board of Supervisors approved the project under the project under the condition that the land be designated as open space. During the same 1990 meeting Mr. Cilimberg summed up the county's position pretty clearly when he said if they want to market it as potential for future development that is fine, they can't control their marketing. What they are saying for the approved plan to be acted on tonight and the Board will act on it is open space in phase 6 and that is it. Instead of following Mr. Cilimberg's recommendation to market the land for future development the applicant chose to market the land as open space. They did this knowing full well that land in proximity to open space commands a premium in value. The Redfield Sales Office literature that they see before them presented the land as a pretty wooded area with trails, trees, no lot lines and no roads. He referred to an overlay of the GIS from Albemarle County that also shows where the lot lines exist today.
- To further bolster the assertion that this land was portrayed to the public as open space with no future development during the public hearing for zma-2001-01 the developer's own agent is on the public record stating that they had gotten to the 440 lots that will finish the development. Finally in zma-2006-20, which was ultimately withdrawn before going to public hearing, Justin and Gayland Beights state in writing on the rezoning application that the reason for the zoning request was because this portion of originally approved PRD was designated as open space.
- If the above type of statements can't be used as evidence upon which members of the public can base and make informed decisions about the future of a neighborhood and how to invest their dollars he was not sure what can. Please recommend denial of this request.

Ms. Cathy Cassidy noted that Charles Friel is doing surgery right and asked to reserves the right for him to speak when he arrives.

Cathy Cassidy, resident of Redfields for ten years and on the Board of Directors for the past six years, said she had been involved in protesting this development since it first came on the scene. When they bought their house ten years ago she did her due diligence. She is a registered architect and has a master in architecture from Harvard. She understands planning and building. She asked that her realtors prove that the land behind her house, lot 4 on Laurel Glen, was in open space before she bought it. She is adjacent to the upper parcel that is planned to have a loop nature trail in this proposal. She obtained the plats and she read them. She refutes the attorney's interpretation of those plats. They all show parcel E that includes all the green area they are proposing development. It includes two tax maps, being the upper one and the phase 5 one. Parcel E says open space and one single-family dwelling: future development. This single-family home is a home built for the Millers. She understands they are family members of the former owners and potential developers of the community. It was an easement within the community. That is the interpretation of that quote. It does not mean future development of the 55 acres. She refutes that. All four of her plats show that they are recorded and signed by the Board of Supervisors and the Planning Commission. Furthermore, her realtor called the agents at the Redfield's Development Corporation Sales Center of Redfield. They were also told that

land was open space. This is by employees of Redfield's Development Corporation. As homeowners they have a right to expect that publicly filed documents that are in the courts and public statements in PRD documents that all say that the space is open space that they should be able to rely on these public documents as a homeowner and consumer. If they destroy this nature trail by allowing this they not only destroy the nature trail, they destroy our trust in our public institutions. She thought that would be a tragedy.

Mr. Freeman said he was a resident of 999 Kelsey Drive that abuts this area that is proposed for development. While the house was built he had a discussion with Gayland Beights and he asked about that area specifically. The reason they moved to Redfield was because it had high density living, but it had the open space. The open space was critical. What Mr. Beights told him was probably there would be no development. If there would be development it at most would be something like one-half dozen houses on very large lots, they would never see them and would have no impact. They relied on that information. The road going down to the proposed development will destroy their quality of life on that road. He asked that the request not be approved. He noted that his wife had written a letter of opposition.

Barry Condon, resident of Kelsey Drive, agreed with the previous speakers in that he brought his property because of the open space next to his house. He asked that in order to protect his investment that the Commission votes against this proposal. He trusted and relied on the information he received from his realtor.

Mary Kay Brents, resident of 998 Kelsey Drive, said her resident was right next to the proposed road. She had asked her realtor about the open space note on the plat and closed the deal because she was told the open space would not be developed. She asked the Commission to do the right thing for the taxpayers of Albemarle County and deny the request for development of phase 5 to prevent this area from being overbuilt.

Scott Bender, teacher who lived in Redfield, spoke against the proposal. The aims of the development seem to be deceptive. The result of the development would be an unsafe poorly funded poorly planned neighborhood that is inconsistent with the comprehensive plan for residential development. His family was told that the land behind their home was open space and that it would not be developed. His realtor said that it was the open space itself that brought the people to Redfields. He asked that the proposal be denied due to the density proposed. Most of the land in the area is unusable because of the critical slopes in the area. The increased traffic on the roads would create safety issues in Redfields because there are no sidewalks. The roads in the area, Sunset and Country Green, are already too congested. He is one of nearly 600 residents in the Samuel Miller District who have signed a petition requesting that the application for development of phase 5 in Redfields be denied. To approve it is contrary both to what they were assured as county residents and to the economic realities in the county. Please recommend that the Board of Supervisors deny the request for development.

Tom Campbell asked to make three points based on what the attorney mentioned. One, he referred to this new development as urban. This is completely different than anything else in Redfields. This is completely out of character. It affects the value of the adjacent homes. It affects the infrastructure of Redfields. In the snow storm in 2009 his wife had a life threatening

illness and had to be taken to the hospital. When they called 911 they were told that no ambulance could get up into that area. The entrance at Sunset and Country Green was blocked. They had to walk out to meet the rescue vehicle. The point is that there is only one way in and out of Redfields through the awful intersection of Country Green/Sunset intersection. The road is inadequate and the infrastructure should be taken into consideration before allowing additional development.

Kristina Parker, resident of Redfields, said she had moved out but still owns a home in Redfields. She noted safety issues if this development were to happen with the many young children that ride school buses that walk to the bus stops. There are no sidewalks on Fieldstone. The trails proposed are on critical slopes, which is a concern that it will be too steep to walk. She asked that the request be denied and the open space reserved.

Carlos Armentrout, pediatrician and resident of Redfields, asked that the Planning Commission deny the request. He was concerned with the nature trails. He has helped maintain the trails in the entire neighborhood. The development of the land is not consistent with the comprehensive planning of Albemarle County and he respectfully asks that the Commission deny the request.

Steve Wasserman asked the Commission to deny the request. He asked that they not connect the proposed Mosby Mountain to their community. It is a bad plan because there are so many critical slopes and the increased traffic that would be created through their neighborhood.

Jack Stoner, resident of 230 Chestnut Oak Lane in the Sherwood Farm Subdivision, spoke against the request on behalf of himself and those in the neighborhood who signed the petition. He supported the green buffer and the preservation of the open space that was outside the growth area. His neighborhood supported the Redfields development due to the green buffer and asked that it remain.

Charles Friel, resident of area, asked that the plane be denied to preserve the open space in phase 5. The residents have relied on the covenants of the subdivision and ask that the open space be preserved.

Charles Loesser, physician at UVA, spoke against the request since it will have a detrimental effect to their quality of life. The people bought into Redfield relying on the message that the open spaces are not intended to be developed. He had signed petitions from 600 residents against the proposal and brochures promoting the development. He asked that the request be denied because it was an ill conceived plan. The county does not have the funds to provide for the infrastructure.

Bill Jones, resident, spoke against the proposal. He referred to pictures at the intersection of Sunset Avenue and Country Green and the safety issues with the traffic access. It is impossible for a school bus or truck to make that turn without going into the opposite lane.

Greg Meyer asked that the request be denied. When he bought his house he was told that the open space would be preserved. He enjoys the use of the beautiful trails.

Adam King, resident of Redfield, echoed what has already been said and asked for denial of the request. There needs to be some assurance that the sidewalk issue is addressed if anything is given.

Bobby Albro, a Redfield resident, asked that the Commission follow the comp plan recommendation, the open space condition, and determination of the assessment office to recommend denial.

Joe Coughlin, a resident on Kelsey Drive, asked the Commission to vote no for the children's lifestyle

Jeff Werner, with Piedmont Environment Council, said the staff report spells it out very well. Therefore, he recommends denial because the residential use is not in compliance with the land use designation.

Robert Feranglen, a resident who lives off of Fieldstone, expressed concerns about where the residents are going to walk to. Everyone needs a car and asked where the residents of that area are going to park.

Stephanie Belock, resident of Redfield, asked that the applicant stick to the comprehensive plan that the citizens and residents of Albemarle County have relied on. He hoped the Commission would deny this development request.

Carlo Malando, resident of area, spoke in opposition to the request and asked that the open space be preserved. This is an issue that affects all neighborhoods in Albemarle County because their open space could be taken away. When something is dedicated as open space it should stay that way. It is a trust issue. Please deny the request.

The Planning Commission took a five minute break at 7:29 p.m. The meeting reconvened at 7:38 p.m.

Mr. Morris invited the applicant to come forward for rebuttal comments.

Steve Blaine said he always likes to start with the things that they agree upon from with what they have heard.

- In terms of the safety concerns about Fieldstone Drive they heard that when they met with the neighbors. There should be a written proffer to extend the trail system and that would be to extend the trail from Fieldstone to the swimming pool. That is their intent and will be finalized before there is action on the plan.
- Certainly there is some confusion over what open space means. The developer 20 years ago understood what it was and how the county used it and understood that was a designation and not it will never ever be developed forever or ever. They don't have a zoning designation or a use that says it will be this and will never change. That is why they are here tonight and they have an application plan amendment because they are amending the description of that on the plan from open space to what they see here tonight. Has there been a misunderstanding? There is no question about it.

- Does there need to be a major reeducation of their real estate agency about what that means? He thinks they heard that tonight. He thinks though they had the developer who proceeded in good faith on what that meant and made the announcements of their intention that they may want to develop this and they wanted the flexibility. The developers did what they could. The developers through the series of plat approvals reserves for future development. The developer has brought various actions before panels that have been rejected understandably, but has repeatedly said to get the investment to yield anywhere near the 656 units this area has to be developed. They have already met their open space requirement in the ordinance for PRD before this plan has been submitted and they will continue to meet that open space requirement if it is approved.
- Just for clarification, when he refers to an urban section that is the design now that the county prefers. They have the Neighborhood Model and the county directs them to curb and gutter and sidewalks. He thought they have other legal documents that have been misinterpreted by lay people that confused the matter such as referring to open space as being restricted from no development. That is not what the covenants say. The covenants talk about what exempt property is from assessments. Naturally open space would be exempt from assessment. Throughout tonight it just breaks his heart that there are some pieces of information that either innocently or with an agenda have been misinterpreted and twisted to really rewrite history. He thought the record is clear. He was happy to answer questions.

Mr. Morris invited questions for the applicant.

Ms. Porterfield clarified that she did not think open space is exempt from assessment. Open space owned by a homeowner's association is exempt from assessment.

Mr. Blaine agreed that is exactly right. He was assuming there was a misunderstanding of the terms the developer has to follow as defined in the ordinance. The developer cannot have a misunderstanding of those terms. He thinks that is the root of our problem. What they offer is a compromise that every lot adjacent to phase 5 will be adjacent to open space as they are today and it will be dedicated open space.

Mr. Lafferty said he was not quite sure who produced the brochure that says one third of the land will be dedicated to the community. He asked exactly what that means.

Mr. Blaine replied that it is the open space requirement under the ordinance that this development means. All of the green areas adds up to over a third of the development, which this development meets and will continue to meet if this is approved.

Mr. Morris noted there was a lot of information that had come before the Commission tonight. He asked the county attorney to give some words of wisdom for guidance.

Mr. Kamptner said based on the staff report and what he heard tonight he could provide some guidance.

- Some of the things will be of concern to the applicant and to members of the public. The first thing to bear in mind is the decision should be based upon sound zoning principles.

Private matters are not directly or properly considered by the Planning Commission, which includes such items as the promotional brochures.

- To get to the sound zoning principles that he referred to these should guide their decision tonight. The first will be whether or not the application is consistent with the Comprehensive Plan. The Commission is well aware that is one of the fundamental considerations with any application that is considered. Bear in mind that the recommendations of the Comprehensive Plan are not binding on the Commission. The Commission may find that there are factors that warrant varying or not adhering to the policies and the goals of the Comprehensive Plan.
- The Commission can also consider the character of the neighborhood. They have a neighborhood that has been around for 20 years. It has developed in a particular pattern. There is developed land and there is open land.
- The Commission can also consider the impacts or any detriments to abutting properties, the suitability of the property for various purposes, and the character of the district overall. This had already been covered for the existing use and character of the property. Hopefully that puts the Commission on the course for their decision making process. He would be happy to answer questions.

Mr. Morris invited questions. There being none, he asked for further Commission discussion.

Ms. Porterfield said personally she could not support this application. She told the applicant on Friday she did not understand why they were back because they were very directly sent on a path by this Commission about a year ago when they said this application should be coming in with all of the other applications that are sitting out there to expand the development area. She also cannot support it because it is not currently consistent with the Comp Plan. She did not think it is in keeping with the character of the neighborhood as it has developed over 20 years. As she drove through the property this afternoon and looked at it, she found it was an old neighborhood. It has a certain look. People are living there with what has been there 20 years. She believed if this was to be built as presented she would have thought that the density that is being presented would have been at the outset of the neighborhood as opposed to being way back. It is very difficult to get to. She drove it a number of times. The road that would have to be used to get back there is not very wide. It is obviously where the people go to get to their amenity, which is the pool and the small clubhouse; there are only about 16 parking spaces. That would lead her to believe that lots of people walk. However, there is no place on the road to park. If they had that there would be total gridlock. She was not as aware of the rest of that neighborhood leading in because it was not in her district. It is not easy to get to. She sees that there could be real problems with the roads that are leading into the site. It is not the way she feels that they should go about adding density to our areas.

In addition, Ms. Porterfield said she is very concerned that the county needs to figure out how many residential lots they have in the development areas that have not been built on. Secondly, they need to decide how much more amenities and infrastructure the County should provide. They have heard from other residents they need a library, more police protection, and a fire station. They simply don't have any of those in the plan to be built in the near future or to be added to. She felt they need to make sure before they start bringing more residential into the

development areas that they can handle what they already have. That includes our water situation. Based on those reasons she would definitely not be able to support this request.

**Motion**:

Mr. Smith moved and Mr. Lafferty seconded to recommended denial of ZMA-2010-00017 Redfield PRD based on the recommendation of staff.

Mr. Smith said he had great concern about its noncompliance with the Comprehensive Plan, the terrible traffic problems going through a residential area, and the homeowner's grave misunderstanding about what they were told.

Mr. Morris invited discussion.

Mr. Loach asked to clarify one important point this evening. Somebody came up to the microphone and said they were the stewards for the land in the county. He noted that the people were the stewards of the land for the county because they are the ones who vote for the Board of Supervisors, appoint the Planning Commissioners, and give direction to the land use decisions. They heard the county attorney say the Board of Supervisors can and very well may change land use designations. That said, he agreed fully with Ms. Porterfield about the situation with infrastructure. Coming from Crozet he can sympathize with them having been in this situation when they had a master plan that they told them the population was 12,000 and then said they changed their mind to 24,000. To some extent he could sympathize with the way they feel when there is a change in the planning. He would hope that they would see in the future a master plan for the southern part that they could all be involved as they were in Crozet. He would also say there were some good points in this plan. As Mrs. Stoner said it may be the right development in the wrong place because there are some good things about it. There is a place for density in the growth area as long as it is in the right place. They have development in Crozet like that, which has worked out very well. It has been a plus to the community. With that said, he would also not support this request.

Mr. Franco said it was clear where they were going tonight. There were a couple of things he wanted to put on the table. One, he felt disadvantaged of not having heard from staff the report they are expecting next month regarding an evaluation of this with the Comp Plan. He also feels that they have to get to a point in time where the residents and the developers (the owner) have clear understanding of what the expectations are going to be. Everybody is getting tired of coming here every couple of years and readdressing this situation. As long as the developer owns the property he has got the right to request a rezoning. Again, he is a little disappointed they could not wait until next month to hear what staff's evaluation of the property was before they were required to take a vote. So separate from this motion he thought they should consider what conditions, if any, they would recommend for approval of this property when it goes forward so that the Board has a basis for making a decision the other way.

Mr. Morris said that was an entirely different question.

Mr. Lafferty said they talked about that last time. Sort of an overview of where the county is going was in Jeff Werner's comments the last time. It gives a synopsis of the build out and what is available. He thought they gave clear direction last time that this should wait until the Comprehensive Plan takes a look at this.

Mr. Franco agreed. All he was saying is they don't have that study or evaluation in front of them. So they are being required to make a decision. Recognizing that it is only a recommendation to the Board he would at least have a second recommendation that it is clear that they are going to deny it as proposed. If the Board would consider rezoning it, he would like to place some conditions on which they would want them to consider if they were going that route. It is like some of the other things they have done in the past where the Commission's recommendation has not been followed by the Board. He would not want the Commission to be silent on this point. He would want them to speak as to some of the other concerns that they have.

Mr. Lafferty pointed out his second was based on it not being in the Comprehensive Plan. They need to take a look at that section of the Comprehensive Plan so not to piece-meal things together. His second was also based on safety issues and that this plan did not seem consistent or in keeping with the character of the district. It was totally out of character with the rest of the neighborhood.

Mr. Franco said that it was inconsistent with the density of the adjacent neighborhood, and some safety issues need to be a concern. One of the other things they have not had a discussion on at all has been the proffers. He cannot support it because of the proffers, especially on the affordable housing side. He felt it was the Comp Plan, the density with being inconsistent with the adjacent properties, and the proffers being inadequate or inconsistent with our policy.

Ms. Monteith said the one thing she would add to the safety issue is just the impacts that they have heard about in terms of where the location of this density is in this already existing neighborhood. It is not only the fact that there are safety issues, but there are also impacts.

Mr. Franco asked everybody to iterate if there are any other concerns besides those so the Board can try to address those if they consider it otherwise.

Mr. Loach said that it goes back to the larger question that Ms. Porterfield brought up, too, about where are we, what is the inventory, and how great an impact should that be in making the decision on these comprehensive plan amendments versus just looking at a V spot therein and does it work. He felt there was a broader context that has to be taken into consideration. As Ms. Porterfield mentioned they have infrastructure projects that are not even on the long term planning and have to be paid for based on development that has already been approved. He thought they have to get to the point where that infrastructure catches up to our Comprehensive Plan. He thought they were a long way from there. One of the reasons they wanted to do master planning in the beginning was to ensure that there was concurrency of infrastructure for the growth area residents so that there was no degradation in the quality of life in our growth areas because development got too far ahead of the infrastructure. He thought that was where they are today.

Mr. Lafferty asked if it would be amendable to list his reasons that his motion for denial was made are the ones they just talked about. It was safety issues.

Mr. Smith did not accept it as a part of the motion. He said it could be added as a side note.

Mr. Lafferty asked if his motion could be amended to add those reasons.

Mr. Smith said those are not his reasons.

Mr. Franco said at this point he thought they had probably had enough of the discussion. The Board can read the minutes. He was just trying to get it on the record what their full concerns were.

Ms. Porterfield said the only thing they need to make sure of when this goes to the Board is that the minutes have to go with the staff report to the Board.

Mr. Franco agreed the staff report needs to identify this discussion.

The motion was approved unanimously by a vote of 6:0.

Mr. Morris noted that ZMA-2010-00017 Redfields PRD would go to the Board of Supervisors on a date to be determined with a recommendation for denial. He asked if the critical slopes waiver needs to be addressed.

Mr. Kamptner said the Commission could make a recommendation on the critical slopes waiver since it automatically goes to the Board of Supervisors because it is a Planned Development.

**Motion for Critical Slopes**:

Ms. Porterfield moved and Mr. Lafferty seconded to deny the critical slopes waiver based on the fact that they recommended denial of ZMA-2010-00017 Redfields PRD and therefore the Commission has nothing on which to base it.

The motion was approved unanimously by a vote of 6:0.

Mr. Morris noted that the critical slopes waiver request was denied. There was no date set for the Board of Supervisors hearing at this time.

Mr. Benish pointed out on October 11th the Commission will begin the Comprehensive Plan update. There will be inventory information provided at that time.

**Old Business**

Ms. Porterfield asked that all of the reasons that the various Commissioners indicated for their denial be listed in the draft memo. That would keep staff from having to get an entire set of minutes done prior to the Board hearing. It could be direct and to the point.

Mr. Morris agreed that was needed because it was denied.

Mr. Franco said his main concern was the Commission has made recommendations to the Board, such as the winery noise ordinance, that they took a different route, and the Commission really did not discuss different alternatives. He just really wants to put out their reasons or if there are compatible parts of it what they are or could live with so that they have a sound basis for their decision.

Mr. Morris agreed it was a good point.

Mr. Lafferty noted if they are denying a motion they should always give reasons. He thought it was correct to bring out more about what people are thinking.

The Planning Commission agreed to the following. Separate from the motions, if the Board would consider rezoning the property the Planning Commission asked to place some conditions on which they would want them to consider if they were going that route. The Planning Commission expressed the desire to provide the following guidance to the Board of Supervisors in the event they approve the request. So separate from this motion they should consider what conditions, if any, they would recommend for approval of this property when it goes forward so that the Board has a basis for making a decision the other way.

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

**New Business**

Ms. Monteith said she remembered when they moved into this room the speaker system was so sensitive that she always pushed the mike forward. There is something she feels has gone wrong in the last year with the way that these are working. They have also had a lot of problems with the visuals on the screen. She thought that it is time for a checkup.

Mr. Morris said he would strongly recommend it. This evening was really bad because many people were really straining to hear even though there were a lot of young people.

Mr. Benish said that it was a constant complaint and a regular issue that is being addressed. He could not figure out why it can't be addressed. However, General Services is aware of it.

Ms. Monteith noted that it seems to be very recent that it has been so poor.

Mr. Benish noted that sometimes the kicking of feet under the monitors could lose the connection. Tonight it was the connection behind the laptop.

Mr. Loach suggested that the large crowd created a lot of background noise.

Ms. Monteith said that it was difficult for her to hear what others were saying.

Mr. Lafferty questioned if the microphones could be turned up.

Mr. Benish noted that staff would make General Services aware of the problem and request that the auditorium have a check-up due to recent sound and visual problems.

- Request made to pick up staff report on Wednesday.

- Mr. Franco pointed out that when he read the staff report for ZMA-2010-00011 Estes Park one of his questions was regarding the off-site access. He was concerned that they could build it, but without the dedication there would not be a public road. He asked staff to check that.

Mr. Benish pointed out that was the reason for the deferral. The adjacent property owner had expressed some concern in granting that permission. Staff felt it was best that gets worked out.

- **There is no meeting on Tuesday, October 4, 2011.**

- **The next Planning Commission meeting will be Tuesday, October 11, 2011.**

**Adjournment**:

With no further items, the meeting adjourned at 8:16 p.m. to the October 11, 2011 meeting at 6:00 p.m. at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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David Benish for V. Wayne Cilimberg, Secretary

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