**Albemarle County Planning Commission**
**January 31, 2012**

The Albemarle County Planning Commission held a regular meeting on Tuesday, January 31, 2012, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Ed Smith, Thomas Loach, Richard Randolph, Don Franco, Calvin Morris and Russell (Mac) Lafferty. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Other officials present were Lori Allshouse, Director of Budget and Performance Management of Office of Facilities Management; Lindsay Harris, Budget Analyst; Monte Breeden, Senior Project Manager; Amelia McCulley, Director of Zoning/Zoning Administrator; Sarah Baldwin, Senior Planner, J.T. Newberry, Planner; Wayne Cilimberg, Director of Planning and Andy Herrick, Senior Assistant County Attorney.

**Call to Order and Establish**

Mr. Cilimberg, serving as temporary chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

**Election of Chairman for this meeting:**

Mr. Cilimberg opened nominations for the election of Chair for tonight's meeting.

Mr. Franco suggested the Commission elect the officers for 2012 if no one had any objections.

Mr. Cilimberg replied that the Commission could elect officers tonight.

Mr. Franco nominated and moved to elect Calvin Morris to be Chair for 2012.

Mr. Lafferty seconded the nomination.

Mr. Cilimberg asked if there were any other nominations. There being none, he closed the nominations and called for the vote.

The motion passed by a vote of 5:0:1. (Mr. Morris abstained)

Mr. Cilimberg turned the meeting over to Mr. Morris.

**Election of Vice Chair for 2012:**

Mr. Morris opened nominations for the election of Vice Chair for 2012.

Mr. Smith nominated and moved to elect Mr. Lafferty to be Vice Chair for 2012.

Mr. Franco seconded the nomination.

Mr. Morris asked if there were any other nominations. There being none, he closed the nominations and called for the vote.

The motion passed by a vote of 5:0:1. (Mr. Lafferty abstained)

Mr. Morris requested the list of committees be provided to the Commissioners including the at-large Commissioner if selected at the next meeting.

**Other Matters Not Listed on the Agenda from the Public**:

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

**Work Sessions**:

**Capital Improvements Program Update:** (Lori Allshouse)

Lori Allshouse, Director of Budget and Performance Management for the County, presented a Power-Point presentation dated January 31, 2012 to explain the CIP Oversight's Committee recommendations for the Capital Improvement Update for FY 13 – 22 Capital Improvement Program: FY 13 – 17 CIP and FY18 - FY 22 CNA. Others present to answer questions about specific projects from the Office of Facilities Development were Monte Breeden, Senior Project Manager and Lindsay Harris, Budget Analyst.

Ms. Allshouse explained that the Capital Improvements Program has two parts. The CIP is the first five years and the CNA, Capital Needs Assessment, is the second five years. This is looking at a ten year program. They have not done a CNA for over five years because during the recession they did not go out more than five years in how they looked at capital programs. This is the first year they have brought the CNA back into the process. She explained the process in the PowerPoint presentation, as summarized below.

Purpose:

- Provide a Summary of the Oversight Committee's Recommended CIP
- Review
    - Assumptions
    - The Committee's CIP funding Recommendations
    - "Watch-List" Items
    - Other Recommendations
- Review Capital Needs Assessment "CNA"
- Planning Commission provide feedback to County Executive's Office prior to submittal of the Recommended CIP to Board of Supervisors

The Planning Commission held a discussion with staff, asked questions, and provided the following suggestions:

- Explore opportunity for firing range to be regional.
- Questioned if $199,000 is a realistic figure for Crozet Library's second year operation.
- Discussed priority for future library needs. Staff indicated the list was in alphabetical order, not priority order.
- Regarding the projects in the CIP, Mr. Franco suggested the Planning Commission and other groups should see the record of the Oversight Committee discussions regarding the evaluation of projects. The cost of the Crozet Library was considered excessive by most of the group. Some health and safety projects did not move forward. The program for sidewalks did not get funded. He wanted to make it clear that he would like to see the Oversight Committee discussions more publicly vetted. By the time the CIP gets to the public work session it has been fairly vetted and the details the Oversight Committee discussed are missing.

The Commissioners were encouraged to provide any further comments to Mr. Cilimberg who would forward them.

Mr. Morris thanked staff for the presentation.

**Work Session**:

**ZTA-2010-00004 Industrial Uses Phase III**
Re-Codification of use Allowances in the Industrial Districts

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

Mr. Cilimberg presented a PowerPoint presentation and summarized the executive summary 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. Staff recommends the changes as recommended in this report be incorporated into appropriate ordinance language and ZTA-2010-00004 be set for public hearing. He noted receipt of a letter from Blake Hurt dated January 30, 2012 regarding concepts before the Planning Commission tonight. There is also an updated version of attachment D, which was intended to show how uses are currently provided for and would be provided for under the concepts being discussed tonight.

**Timeline for Industrial ZTA**

- June 2, 2010 BOS passed Phase I
- August 3, 2011 BOS passed Phase II
- December 21, 2010 PC Work session on Phase III
- November 28, 2011 Roundtable to discuss Industrial Districts within the Comprehensive Plan Update
- November 29, 2011 Phase III Resolution of Intent

Staff's Focus

- Meet the Zoning Ordinance's intent for industrial districts
- Provide greater flexibility in meeting the nature and characteristics of today's industrial activity

Photos of Traditional Industry

New Industrial Buildings

Old vs. New Industry Photos

Local Industrial Areas

Preserve Integrity and Meet Intent

- Broad categories of industrial uses by-right; only specify industrial uses subject to SUP or prohibited
- Allow stand-alone office use by SUP in LI and HI (now by-right in LI); grandfather existing stand-alone office uses (with provision for future expansion of up to 25%)
- Allow C-1, CO and HC uses up to 25% of LI floor area by SUP (not now allowed)
- Allow supporting commercial up to 25% of floor area (up to 49% with modification) by-right in LI an HI (now up to 5% by SUP in LI and HI); allow subordinate office and retail up to 25% of floor area (up to 49% with modification) by-right in LI an HI (retail now up to15% by SUP in LI)
- Allow slaughterhouses by-right in the LI and HI zoning districts (now by SUP in HI); allow Rendering Plants by SUP in the LI and by-right in the HI (now by SUP in HI)

Uses to Prohibit

- Prohibit especially hazardous and noxious uses
  - Manufacture of: acetylene gas, acid, ammonia, bleaching powder, chlorine, detergent and cleaning preparations made from animal fats, *fireworks or explosives, fish meal, nitrogenous tankage, paints, varnish, or shellac that requires distillation or heating of ingredients, phosphates, turpentine
  - Sludge storage
  - Disposal/storage of toxic wastes as defined by the Toxic Substance Control Act (EPA website)
  - Incinerator

Other Changes of Note

- Allow multi-family by SUP in LI (not now allowed)

- ☐ Indoor athletic facilities not expressly allowed (now by SUP in LI); possible up to 25% of floor area in LI by SUP as C-1, CO and HC use
- ☐ Kennels and veterinary hospitals not expressly allowed (now by SUP in LI); possible up to 25% of floor area in LI by SUP as C-1, CO and HC use
- ☐ Motorcycle and off-road vehicle sales not expressly allowed (now by SP in HI); possible up to 25% of floor area in LI by SUP as C-1, CO and HC use

Recommendation

- ☐ Staff recommends these changes be incorporated into appropriate ordinance language and set for public hearing

Mr. Morris invited questions or comments from Commissioners.

Mr. Smith questioned if they were going to stick to the 25% even if they had a pristine commercial business.

Mr. Cilimberg replied that the Commission and ultimately the Board would decide if that is the appropriate level or whether there should be an allowance for modification. A modification could occur through supplemental regulations although that has been thrown for a bit of a loop by the Supreme Court decision.

Mr. Randolph commended staff for the attempt to maximize the area that would be set aside and restricted for the use of Light Industrial and Heavy Industrial. He thought it was a goal they all applaud and support. To strengthen the document there is a need to recognize a grandfathered use where in fact somebody through time and therefore customary usage for 10 or 15 years be allowed to continue. He was not sure what the exact trigger would be. It certainly seems reasonable that if someone has had a customary usage of incorporating non industrial businesses in a Light Industrial area that they should be allowed to continue that pattern.

Mr. Randolph noted that one of the things they have to understand is the cycle of change with time that takes place. They are betting on the long term that businesses are going to want to come here and move into a designated Light Industrial or Heavy Industrial area. However, the reality is they don't know what the future is going to hold in terms of the kinds of businesses that will self create or locate within the county. The more flexibility and adaptability they have the better. He would hate to see anything that creates a situation where they potentially put at risk any customary businesses that are operating in facilities where they are today and that they would therefore be at risk and not allowed to continue that usage.

Mr. Cilimberg said staff had recognized that particularly for office usage because that is the one place where they would be more restrictive than today and what might be considered a fairly customary use. It is a good point.

Mr. Loach asked if staff can provide the number of sites and number of acres for LI and HI within the current zoning area.

Mr. Cilimberg replied that staff does not have that information tonight. However, that information will be provided at the joint meeting with the Board, which will focus on the discussion of the industrial use at the policy level.

Mr. Franco said as a follow up, the Commission has seen that before when the inventory was done. It would be helpful to be able to break that out into different size parcels. As part of the inventory it indicated they need five acres for an industrial site. However, they have a lot of parcels smaller than five acres. It certainly seems that if they have a site that does not have the acreage for a typical LI site, that allowing these other uses like office to consume 100 percent of it would be a bad thing.

Mr. Loach suggested it would be helpful to know the average number of acres needed per use so they could match what uses they think would fit in an area.

Mr. Morris recalled when that information was provided there was an overall abundance of land. However, when they looked at the land there were small bits and pieces scattered all over the place.

Mr. Lafferty suggested likewise if they could find out what was on that land and if it is going through environment remediation, such as the Acme Visible, what the status of that is. That is a big chunk of land and has an existing building on it. He asked on attachment D if staff meant to scratch out slaughterhouse.

Mr. Cilimberg replied that staff was striking all of those uses that would by right under the proposal in that category. A slaughterhouse would be proposed as by right in the HI and LI. Therefore, it was struck and shown as an asterisk as falling under a by right use. It would not be individually listed as a use in the ordinance, but part of the general by right category of manufacturing, processing, assembly and fabrication on the site.

Mr. Lafferty noted that a rendering plant was listed separately.

Mr. Cilimberg replied that was proposed to be a special use permit and was not struck.

Mr. Randolph asked if there was any consideration by staff about the setback distance if someone in the Light Industrial area wants to put in an abattoir or a slaughter house.

Mr. Cilimberg replied they actually did not get into setbacks. There was some discussion in a prior Planning Commission work session and some roundtables on setbacks from uses next to residential and rural area. The current ordinance provision for industrial districts is 100'.

Ms. McCulley pointed out if the zoning text amendment is adopted as proposed, they may need regulations that apply to a particular use, such as a slaughterhouse, that address things such as setbacks. That would be one of the things they are going to do as part of a next step once they are a little clearer about the use categories and some of the movement they are making to liberalize some of these uses. A slaughterhouse is an example since that is going to be less restrictive in the future.

Mr. Franco asked if that was with the idea being that they will reduce setbacks in general, but increase setbacks for a use like that.

Ms. McCulley agreed that was correct.

Mr. Cilimberg suggested that might be a special supplementary regulation.

There being no further questions, Mr. Morris opened the hearing and invited public comment.

Neil Williamson, on behalf of Free Enterprise Forum, said this proposal oddly enough is reminiscent of a 46 year old spaghetti western, The Good, The Bad and The Ugly.

- First, the good – the Free Enterprise Forum brought forward two years ago the idea that slaughterhouses should be considered for inclusion as a by right use. They applaud staff and the Commissioners going forward to investigate and placing that in this proposal. Clearly they believe this is part of the good.
- The bad really talks about the office uses. A number of the slides that were shared this evening focused on the Harris Street Corridor of Charlottesville. He might hold that up against these particular regulations and see how it holds up. Half way up Harris Street is a wine distributor that has a rather large office space where it does all of its bookkeeping. It has a sales bull pen where every one of their distributor representatives has a desk. They have a modest warehouse with adjusted time inventory that is needed to make it survive in the distribution business. He was not sure they would meet the floor area this regulation calls for. He would think a distribution house would be something the economic development actions in the county would be looking for.
- In addition, he heard again and again the idea of flexibility and the future is not set in stone. In the roundtables they heard the idea that some office use in Light Industrial often requires office

space that could be larger for start ups. He recalled that Carolyn Spears mentioned one client that required a small back room where the heaviest tool used was a screwdriver. Because they were assembling a product they had to be in a Light Industrial or Heavy Industrial use. To do that they also needed to have that office space to make it work. Again, he asked the Commission to take a look at these ratios and see if that really works with this. He thinks this one portion being the removal of office is part of the bad.

- The ugly – as he reads these regulations was they are placing a whole lot of restrictions and there is liberation all the way through. But, when they put in a special use permit it is being put in there for a reason for the impacts that are being placed upon the neighborhood. The government is not required to have a special use permit. They are allowed uses and able to put up things without having to go through the same process that private industry has to go through. If the equality of the impacts is there why isn't the equality of the regulation.

Morgan Butler, Senior Attorney with the Southern Environmental Law Center, said he directs their Charlottesville/Albemarle project which promotes land use and transportation decisions that protect our natural resources and our quality of life. He made the following comments.

- There are two goals of these changes as set forth by staff. The first is to modernize our industrial districts by increasing the flexibility within those districts. The second goal is to make sure that industrially zoned lands actually get used for industrial purposes. The county has really struggled with this second goal over the past several years. One problem has been that land designated for industrial purposes has been rezoned to things like commercial and retail. Another problem is the current industrial zoning categories are too permissive in allowing nonindustrial uses such as commercial office space. This drives up the price of industrial land making it unaffordable for true industrial users in limiting where they can locate. That in turn increases pressure to rezone parcels within the rural areas.
- One of the challenges with these changes is to make sure the changes in the design to increase the flexibility, the first goal, don't undermine our efforts to preserve the integrity of industrially zoned land for true industrial purposes, the second goal. With that in mind, they support staff's proposal to acquire a special use permit for general commercial uses on industrial property. This is a fair approach because although it would allow commercial uses, it does not just allow those uses by right. That ensures that at least some level of case by case individualized review and deliberation will take place so that appropriate conditions can be put in place if necessary before they allow more industrial land to be converted to commercial uses.
- One big concern they have with staff's approach, however, is that it may inadvertently create an end run around the special use permit requirement because it allows supporting commercial by right. No clear definition of supporting commercial has been developed that distinguishes it from more general commercial uses that would require a special use permit. If these two, general commercial and supporting commercial, are to be treated separately they should at least come up with a clear definition that distinguishes them and eliminates this potential for an end run.
- Regarding office uses, they support staff's proposal that a special use permit should be required for freestanding commercial office uses that are not associated with the industrial uses on site. As mentioned, this change is needed to stop the problem the county has had with leakage of industrial land going to unrelated commercial offices. But again, staff proposes to allow a large amount of office space by right as long as it is considered subordinate office. It makes sense to allow some level of subordinate office and they need a clear definition of subordinate office so that they don't open up that potential for an end run.

Marcia Joseph, on behalf of Blake Hurt, summarized his comments from a letter he sent to Mr. Cilimberg, as follows.

- Mr. Hurt's biggest concern is removing the office space from a LI zoning district. In the letter he cites the financial obstacles in not being able to obtain financing from a lender because the building is restricted to 25 percent office space. He says it reduces the value of land and can negatively impact the aesthetics of the site. Those are the three reasons to continue using office space in LI. The examples of some of the tenants Mr. Hurt has had over the years are medical oxygen supply, karate studio, photographer needing a dark room, copy maintenance supplier, parole board, and civil engineers doing soil testing. This was all on LI zoned property in the city. LI property allows for some unusual uses that don't fit well. As Mr. Hurt states, absence of new

large industrial users in the county have little interest in the HI portion of his property. The property has been on the market for 20 years. Photos of the industrial property illustrates how the LI property that he owns on Route 29 could be used because of the topographic changes with warehouse space on the bottom and office space on the top. Sometimes that is 50/50.

- On the next page after the letter is information from the Economic Development Policy completed in 2009. It indicates the manufacturing losses. If these properties are all zoned LI or HI what happens with those buildings if somebody can get an office for a tenant, do we say forget it, which results in a vacate property. On the next page, the economic vitality plan calls for flexibility and also reducing usage, which she felt did not make sense. The next page has quotes from the public at the roundtable. There are a lot of quotes in there that say keep the office. The next page shows that one person says take the office out. She just wanted the Commission to know there was more than one. The next page from the 2009 economic development policy shows the loss of manufacturing jobs and the growth of technical and other jobs. She asked that they look at some of the other by right uses that were eliminated from LI - warehousing, indoor athletic facilities, kennels, vets, and the offices. The uses are allowed in other zoning districts. Light warehousing is allowed in HC. A kennel is allowed by right in HC and in RA it is a special use permit. They are really paring down some of these uses and the flexibility that they have right now. She asked that the flexibility of uses be maintained in this current economic climate if our real concern is about making it a little easier to provide employment opportunities.

Todd Tignor said his family owns property in Albemarle County in the light industrial area. They have been operating a business, Isotemp Research, for the past five years. He has been in manufacturing for the past 25 years. He made the following comments.

- Some of what he sees the county doing tonight is good. He likes the idea of being able to have a special use permit for LI. One thing he wanted to emphasize is that Mr. Cilimberg in his presentation said 25 percent of floor space. In the executive summary it said 25 percent of floor space or the industrial park. For the building they own there have been three different people who have been looking at putting in a dog day care center and they can't put it in because of the zoning restrictions. If it was 25 percent of the floor space they could not have that facility zoned correctly by special use permit. If it was 25 percent of the area on Broadway Street, he thought by special use permit they could have that facility in the building. The building has been empty for two years and they have been paying taxes. As a side note, they have to get the water meter checked every year.
- The other comment is on the office floor space in the Light Industrial area. The vacant building was built in 1984. When they started it was 50 percent office and 50 percent manufacturing. In 1996 they built a new facility across the street and they needed the rest of the building up to 80 percent for office space. If the floor space for office is going to be restricted he did not think that was going to help the manufacturers in this area. With changes in business people are now doing more research possibly with small manufacturing and then outsourcing the manufacturing elsewhere.

Barry Dofflemeyer, life-long Albemarle County resident, said he has been in the commercial kennel business for years and would like to make some comments.

- He was concerned with the absence of affordable land for commercial kennels in the area. They met with the county and tried to uncover something of that nature that would be a good neighbor to the adjacent property owners. They found the only place they were allowed is in Highway Commercial and Rural Agriculture. The rural agriculture is a large area, but it is relatively not a good neighbor. So they started looking for areas that were suitable for their type of industry.
- They thought for sure that Heavy Industrial or Light Industrial would allow the use at least by special use permit. However, they are not allowed in either. Doggie daycare is now considered to be a commercial kennel. It is a growing business. If they are allowed in Light Industrial and are limited to 25 percent of floor space, then the business could not exist in that because commercial kennels require more floor space than office space or retail. There are many small parcels of Light Industrial located throughout the county that their business could afford to buy and support. However, if they say they build a building there and only 25 percent of that building can be commercial kennel then it is really non useful for them. They need to be thinking about the percentage, but they need to think what the usage of that business is in the special use permit

process. He asked not to limit it to 25 percent, but make it reflective of the special use permit process and allow that to determine what amount of acceptable floor space is useful.

Mr. Loach asked for what reason they had a problem in the rural areas.

Mr. Dofflemeyer replied that in the RA they have a problem with the 500' setback requirement from an adjacent RA property line for commercial kennels. They can't afford to pay the high cost of the property due to the acreage requirements to meet the 500' setbacks.

Mr. Loach asked why they needed a 500' setback.

Mr. Dofflemeyer replied that the 500' setback came from a kennel on Berkmar Drive in the 80's that had problems with noise. They set a 500' setback to try to control noise. It is a 500' setback or a decibel limit in that. The objective is correct, but it is the steadfast implementation that creates a problem. He suggested they should be using the special use permit as a method to control these square footages and setbacks. The special use permit allows them to look at the general neighborhood and then apply the setbacks and restrictions that they need.

There being no further public comment, Mr. Morris closed the public hearing to bring the matter back to the Planning Commission and staff.

Mr. Cilimberg made the following comments.

- The Commission has had a few kennels come before them where they have actually ended up in the old process of being able to modify and waive things. The Commission recommended the waiver of those distances for the new facilities and the Board ended up approving it with those waivers. That mechanism is not available if they are seeking to develop a new facility.
- He noted that warehousing in and of itself is a use allowed by right as proposed except as it is regulated under a particular section of the ordinance. He would let Ms. McCulley speak to that in terms of how that particular section might affect warehousing. However, basically as he understands it if they are not involving the storage of gasoline, kerosene, volatile materials, dynamite and those kinds of things, it is a by right allowance that they are proposing, which is what it is today.
- There have been some very good comments on how the percentages might work. What they had brought forward would distinguish between using the whole building for an office use and those offices that might be associated with an industrial activity or research and development activity. The categories not only are manufacturing oriented but they also have lab, tech, R & D and experimental testing as a category of by right use. The rub probably is more than anything in the percentage of space that they could end up using for the office, which might over time vary between 80 percent of that business activity or maybe 10 percent at some point. However, they had to start somewhere. So they started with a percentage they felt was not the majority of the space within the industrial buildings and areas that did give some flexibility that they don't have now for allowing a number of uses that are commercial in nature as well as how they would allow for supporting uses at a higher level than they currently allow them. If they are retailing something they manufacture right now they have 15 percent maximum whereas they are proposing 25 percent. Staff wants the Commission's input tonight as to whether the percentages seem right or whether there needs to be a different kind of approach to that. Certainly that was the intention as they developed this.
- It was mentioned that when the county or the government is doing a project the special use permit criteria are not playing in. Some public projects actually are subject to special use permits. He recalled there was a special use permit for the dam at Ragged Mountain. There have been other airport projects subject to special use permits. There is also a compliance with the Comprehensive Plan review the Commission undertakes. To be clear when public projects are proposed, unless the Comprehensive Plan already calls for a specific project in a specific location, there is a Comprehensive Plan compliance review that the Commission undertakes, which actually they have conditioned before like they would a special use permit. So there are those opportunities certainly not under the same level or type of regulation that private projects are.

- What they hoped tonight was the Commission can tell staff where they see something that is being proposed that should be changed in trying to come up with ordinance language. Then staff can go from there in what they can try to do for them.

Mr. Franco said as he went through the list of uses he keeps remembering they have performance standards that have to be met for these uses. The picture shown tonight of the concrete was one of the ones he remembered. They had a recent thing that came to the Planning Commission for a project pretty close to the one Ms. Joseph was referencing. The technology has changed over time so much that if the use meets the performance standards do they really care what the use is that is going in the building. They are making sure that noise, odor and a bunch of the other performance standards are met. They should not really be impacted by whatever is on the inside of the building. They should keep that in mind as they go through these uses that if it is going to be inside they ought to be fairly liberal in what occurs because they already protect the public.

Mr. Cilimberg noted that was one of the reasons why they ended up striking a lot of the particular uses and making them by right. Staff felt they were addressed by the performance standards. He was noting concrete mixing plant was one of those.

Mr. Franco said the other point he made earlier was dealing with the size and the inventory. He thinks that is important. The modification is something that needs to be worked out because of St. Clair. The other reaction Mr. Randolph mentioned earlier was the cycle of change. That is an important aspect that maybe the way to tackle this. When they talked about Isotemp and the building they have which went from 50/50 to 80/20, maybe instead of having the square footage it is the flexibility of the building that needs to be looked at so the building by design has to be designed to maybe accommodate manufacturing in it. Commercial sites that are warehouses and other places he has been would convert over to office pretty easily if they have tall ceilings and are created in a way that they will meet performance standards if machinery goes into them. That way they could build a building and make it 100 percent office or something else for the time being, but enable a business in the future that wants to come in for LI to have a building on the site that could be renovated or changed for their use. He thinks that will make it quicker and faster for some of these uses coming in as well industrial because the buildings would start popping up and they would start seeing that more often. They would not put the developer at risk for having empty space or not being able to finance it by allowing some of these other uses to come in as long as the building could be used to accommodate these other more industrial uses.

Mr. Randolph said he had nothing further to add since he raised his points earlier.

Mr. Loach asked in the recommendation now under slaughter houses if Barnes Lumber, which is HI and available for sale, would be allowed the slaughter house use by right on that property.

Ms. McCulley replied yes, however, she thinks they need to develop some specific regulations that apply to certain uses they are liberalizing. For example, slaughter house may call for a larger setback from adjacent residential property than just the basic general setback.

Mr. Loach noted that they would still be hauling and transporting cattle downtown past the pharmacy and new restaurants on a daily basis by right.

Ms. McCulley agreed that was unusual.

Ms. Loach noted they need to take the uses and map them to what is available. He suggested staff send it back at least to the advisory committees for all of the master planned areas. They need to get the advisory committee input back so they can look to see within their master planned area what those uses are allowed by right and what is going to change. That way feedback can be gotten for their communities.

Mr. Cilimberg noted one thing to keep in mind was that for a number of the industrial uses they have zoned now that these changes won't necessarily introduce more liberal opportunities because of proffers that restrict what they can do at this point and they would be subject to rezoning. The Barnes Lumber

property is very restrictive by proffers in terms of its uses. There would be that potential at least that they would have existing zoned property with proffered limitations that would not allow all of these by right circumstances to kick in.

Mr. Loach said he had just made his point. Unless the communities know what those opportunities and availabilities are going to be and what those restrictions would be, then it is going to be almost impossible for them to give their feedback unless they can match the use to the property that is in their neighborhood.

Mr. Lafferty said staff has made a good step to a project that is almost impossible to define because they are trying to look at the future and anticipate everything in the future. He thought Mr. Loach's suggestion, although it seems like it is a lot of trouble, would probably be worth it if they go back to the different neighborhood associations and show what the impact would be there. He applauds the work staff has done so far. It is a tough one.

Mr. Morris said he was very impressed with all of the work done in the past years. They are moving in the right direction. He has a concern with the percentage of floor space allocated for office. He agrees with other Commissioners that the percentage needs to be flexible. He noted his good friend started out with two partners on Harris Street and worked for about two to three years. Now they have about 45 employees in the Comdial building because they ran out of space. To start with 75 percent of his floor square footage was in office. That was what they had to have. Once they start to expand, then they can tear down the walls.

Mr. Franco noted that is the flexibility.

Mr. Morris agreed and that Harris Street allowed for that to a degree. Then they had to find additional space. He did not have any suggestions except please keep working on it because it is tough.

Mr. Cilimberg noted he had one question since it was a good point he raised. That office described associated with an industrial kind of operation would be allowed up to 25% without any kind of approvals and up to 49% if it went through a modification process. They are saying that for those restrictions to exist for it to be allowed by right versus having to go through a special use permit process that is too restrictive. He asked if that was his thought.

Mr. Morris replied yes, it was too restrictive to his way of thinking.

Mr. Cilimberg said it was either about what percentages they are talking about that can be by right or it is about keeping the office use as an allowance by right generally to address what he has mentioned.

Mr. Morris agreed.

Mr. Cilimberg said there were not a whole lot of possibilities because it was one or the other. He was hearing tonight they wanted to make sure there is flexibility from an office standpoint. They will talk about it some and think about what might help in addressing that.

Mr. Loach said it could be more liberal if the office space is supporting the industry that is there versus having multiple uses. That office space then should be more flexible because they may have to add on more floor space for one thing or add on more sales offices for their staff. Within the industry itself they should be more flexible.

Mr. Cilimberg said it was the 25% that is up to 49%.

Mr. Loach noted that it was for multiple uses. However, Mr. Franco made a good point, too, if they can be used to fill the void. It also has to be weighed with what Mr. Butler said. He did not want to see in the future that they don't have enough LI land again. They don't want to get there because of the same thing that they did before.

Mr. Franco agreed that they ought to protect the LI land. However, if they can create the buildings that are flexible that will actually be helping the LI land. A new business start up, as Mr. Morris said, it may walk in as a use and need 75% office space to start and it will turn over at some point. If they want to get that business in there and get that building built they have to by right allow that much office space so that the use can get up and try to get started.

Mr. Cilimberg said it should be in association with their overall business model versus cut up space for offices. Staff would be interested in how the Commission feels about that.

Mr. Franco replied if he builds a 60,000 square foot building for cut up space that could all be consolidated into an LI or HI use but is chopped at the start, he thinks they end up with a building built that makes it easier for a user to come in and start filling it up. He did not think that was a bad thing. Anything that helps get the building built that can accommodate the business he thought was a benefit for the community and makes it easier and shorter for a new business to come in and invest in Albemarle County.

Mr. Randolph added that he thought they had used the word liberal quite frequency this evening in terms of this policy. He proposed that the terminology be flexible and adaptable. Liberal gets into an interpretation of statute and regulation. What they are saying is the overall thrust of the policy is that they are looking for it to be flexible and adaptable within the structure that Mr. Butler correctly identified that they do not want to sacrifice land that is available out there for other uses that could have been utilized for Light Industrial. That is the needle that needs to be threaded here. They need to make those kinds of distinctions and decisions.

Ms. McCulley asked for clarification under the third bullet, which is really not talking about office use that is subordinate to an industrial use. It is kind of setting aside the office use aspect in thinking about other commercial uses, such as they heard about dog kennels. She asked what the Commission thinks about that 25 percent cap for that special use permit category to allow general commercial uses.

Mr. Franco replied that he was okay. If he looks across from Walmart at the Floors R Us Building that building had a warehousing or a LI kind of feel to it. It has had a number of different businesses in it some of which would be defined as commercial and some defined as LI. He thought that was what he is seeing as building a flexible space like that so that they are able to accommodate a number of different businesses. If it happens to be temporarily while it cycles towards a commercial building, he was okay with that.

Mr. Cilimberg said he feels that commercial outside of office for those buildings should require a special use permit. He would ask that question of all the Commissioners because that helps staff in figuring out what direction to head here.

Mr. Franco replied that he guessed that should be looked at. However, he has a problem when he makes a special use permit request and he really does not know what he would be judging it against. If he was in favor of building this building and they think it is a good process to get a user and get a building built, then why make it a special use permit process.

Mr. Cilimberg said they have not had this use allowed at all prior in our ordinance. So if it was allowed without say a space cap and not required a special use permit, they essentially have made the industrial districts open to any commercial use. It can be Walmarts. Maybe they are okay with that, but staff felt that would be opening a door that probably is not good for our industrial areas to provide their purpose. That is why they felt to a degree that some of this needed to be judged through a special use permit and restricted somewhat in size where they can at least get a handle on what is being proposed when it is being established.

Mr. Loach said they need to define what the special use permit is in his terms of why there is a need for the special use permit. He likes the idea of having the special use permit because it gives some degree and offers protection on both sides. But again, if they are going to have the special use permit they need to define the reasoning for it.

Mr. Franco said one of the other tools they might be able to use to keep Walmart so to speak from moving into LI or HI land would be the parking regulations as part of this they maintain the maximum parking. He assumed that a LI use was going to use a lot less parking per square foot than a Walmart. So they could by design, again, make sure the uses that they are trying to get in there end up in there.

Mr. Cilimberg said he would love to hear where they need to go with that particular item.

Mr. Morris requested suggestions.

Mr. Franco questioned what the question was.

Mr. Cilimberg replied that he had basically identified the idea of doing commercial by right in LI, but with a higher parking requirement than the LI otherwise carries.

Mr. Franco said no, he was actually saying the lower. He thought LI requires 1 parking space per 500. He suggested making that the maximum that can be accommodated. He has seen a lot of this warehousing kind of spaces convert over the last few years. It is interesting that some of the uses that are coming in that would be typical of C-1, CO, and HC are still very low parking generators. They seem to be appropriately located in warehousing kind of space. He thinks a higher user that would want a shopping center kind of location would not get that in LI because if they maintain the parking at the lower level they are not going to have the parking they want.

Mr. Morris said that was a good point.

Ms. McCulley said that may be hard to pull off because the current parking regulations are based on the use and not the zoning. Walmart would still get the retail parking regulations. However, they could say not exceeding the maximum, which they always want to do anyway.

Mr. Franco said as part of the supplemental regulations they could make the commercial categories limited in parking to the LI or warehouse parking requirement.

Ms. McCulley said Mr. Loach has made a good point that they need to think about the criteria that should be used to evaluate a special use permit for a commercial request and also considering they have heard a lot of requests for doggie daycare and commercial kennels. A lot of times industrial buildings sort of lend themselves to that kind of use. Maybe they could allow the flexibility to go beyond the 25 percent. That is something they will have to talk further about.

Mr. Cilimberg asked generally does the Commission feel that a special use permit is not something they should be considering for industrial areas that have commercial development.

Mr. Morris replied that he did not hear that.

Mr. Cilimberg noted he heard that from Mr. Franco and just wanted to hear from others.

Mr. Loach said Mr. Franco came at it from a position design that from itself sounds reasonable. On the other side he would much rather see the special use permit defined, but within a new process. It is one of the ways to monitor what is happening to the land use as they are going along. It may in fact in the future be amendable to doing it within the design parameters. But until that time he would rather have the comfort level of having the special use permit and the parameters that it uses to judge the project.

Mr. Smith agreed.

Mr. Franco said he was comfortable with that approach, but thinks it ought to be documented. A lot of times they get up here and establish standards, such as for cell towers, and when they are coming before them they are looking back and saying they have these standards and they should not change them and

not allow for special use permits. If it is going to be there to gain a better understanding they need to acknowledge that from the beginning.

Mr. Morris asked what criteria it will be judged against. That is what he heard him say.

Mr. Cilimberg said what he was taking from this is they believe they should remain fairly open to office use as a use in the industrial districts, which would not mean a special use permit with the idea that the buildings would be built in a way that they would ultimately have the convertibility to industrial activity. He did not know if they could write that into the ordinance. However, staff will certainly think that through. In terms of the C-1, CO and HC uses that are otherwise not office that the Commission's feeling is that they should be required by special use permit, but 25 percent may not be the level of restriction that they would want to see. They could judge it more based on the special use permit itself. He asked if that was a fair summary.

It was the consensus of the Commission that was a fair summary.

Mr. Lodge said having the base line is fine because they need starting criteria to start judging the applications from.

Mr. Cilimberg said he also was hearing that supporting commercial as well as retail at 25 percent and even up to 49 percent may again be something where they would want more flexibility. He asked if there were any concerns about the prohibited uses. Staff would want to identify those, too. He did not hear any comments regarding those.

Mr. Loach noted he would have added methane, but it would have done something for the slaughter houses.

Mr. Cilimberg said in terms of how they would deal with kennels and other activities that actually could fall under C-1, CO or HC he thought they have already answered the question of how that would be dealt with.

Mr. Loach noted it was interesting if it was 500' in the rural area.

Ms. McCulley replied it is for where the animals are not confined.

Mr. Loach questioned if they were going to make it 100' from residential.

Mr. Smith asked staff to define not confined.

Ms. McCulley replied they have outdoor runs as opposed to being inside a building. It is different standards. It would have to be in a building or enclosed.

Mr. Cilimberg said he did not hear anyone with a concern if they introduced multi-family residential by a special use permit.

Mr. Morris replied the special use permit the Commission definitely needs to talk about it

Mr. Franco asked if they like the idea of allowing indoor athletic facilities in there more by right than by special use permit.

Mr. Cilimberg replied they were currently by special use permit. They would treat them like all the other C-1, CO and HC uses they have been talking about tonight. He heard generally they would not want to put the 25 percent restriction on them necessarily, but they would want them by special use permit.

Mr. Morris thanked staff for their comments and assistance in this discussion.

**<u>In summary</u>, the Planning Commission held a discussion with staff, asked questions, took public**

**comment, and provided the following direction:**

- Office uses should be allowed by-right rather than by special use permit. Supplementary regulations should assure that structures accommodating office uses be "convertible" for industrial uses.
- Allow C-1, CO and HC uses that are otherwise not office by special use permit, but do not restrict them to 25 percent of floor area. Supplementary regulations should assure that structures accommodating uses be "convertible" for industrial uses. Consideration of supplemental regulations, such as setbacks and parking regulations, to address concerns about particular uses.
- Kennels and indoor athletic facilities fall within C-1, CO or HC and should be considered based on the particular aspects of their location.
- Agree with multi-family residential allowance by a special use permit. Agree with generalized categories for by-right industrial uses and special use permits for specific uses needing such. Should analyze the industrially zoned locations within the context of the areas surrounding them to determine appropriateness of potential by-right uses. Slaughterhouses were noted in particular.
- Agree with list of prohibited uses.

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

**Old Business**

Mr. Morris asked if there was any old business.

Mr. Franco said they had the resolution of intent for streamlining the system or development process that came through a couple of weeks ago. He thought it passed with all parts except for the approach to ARB.

Mr. Cilimberg pointed out what the Commission agreed to that night was with the resolution for the legislative process. However, the Commission did not agree to the resolution of intent for the ministerial process. That went to the Board and they approved the resolution as it was presented to the Commission. He pointed out the ministerial process now needs to be further evaluated against what the Supreme Court ruling means in terms of how they are able to review projects and potentially expedite or streamline their reviews.

There being no further old business, the meeting proceeded.

**New Business**

Mr. Morris asked if there was any new business.

- No meeting on February 7, 2012
- Next meeting is joint Board of Supervisors meeting on Wednesday, February 8, 2012 at 3:00 p.m. in Room 241
- Next regularly scheduled meeting Tuesday, February 14, 2012

There being no further business, the meeting proceeded.

**Adjournment**

With no further items, the meeting adjourned at 7:54 p.m. to Wednesday, February 8, 2012 at 3:00 p.m. for joint meeting with the Board of Supervisors, at the County Office Building, Conference Room 241, 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)