Albemarle County Planning Commission
May 15, 2012

The Albemarle County Planning Commission held a regular meeting on Tuesday, May 15, 2012, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Other officials present were Susan Stimart, Economic Development Facilitator; Lee Catlin, Assistant to the County Executive for Community and Business Partnerships; J.T. Newberry, Planner; Mark Graham, Director of Community Development; Sarah Baldwin, Senior Planner; Francis MacCall, Counter/Customer Service Senior Planner; Bill Fritz, Chief of Current Development; Wayne Cilimberg, Director of Planning and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish

Mr. Morris, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

Other Matters Not Listed on the Agenda from the Public:

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

Review of Board of Supervisors Meeting – May 9, 2012

Mr. Cilimberg summarized the actions taken by the Board of Supervisors at its meeting on May 9, 2012.

Consent Agenda

Approval of Minutes: April 3, 2012 and August 3, 2011

There being no requests to pull any item on the consent agenda, Mr. Morris asked for a motion.

Motion: Mr. Smith moved and Mr. Lafferty seconded for approval of the consent agenda.

The motion passed by a vote of 7:0.

Mr. Morris said the consent agenda had been approved unanimously.

Mr. Lafferty asked the Commissioners to fill out the questionnaire from Community One and return it at the end of the meeting. He noted some people felt that the questionnaire was not reaching the community in depth enough.

Work Session:

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

STAFF: Cilimberg, McCulley, Stimart, Baldwin, Newberry

Mr. Cilimberg and Mr. Newberry presented a PowerPoint presentation to review and set general direction on the re-codification of use allowances in the Industrial Districts in response to the Commission's direction at its January 31, 2012 work session to staff's proposal, most particularly regarding office uses in industrial districts.

Mr. Cilimberg presented the first portion of the presentation.

Re-codification of Use Allowances in the Industrial Districts - May 15, 2012 Power Point Presentation

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
- ☐ January 31, 2012 PC Work session on Phase III

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

January Staff Proposals
- ☐ 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 and 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 and 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)
- ☐ 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
    - ◘ 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

January PC Direction
- ☐ Office uses by-right - Supplementary regulations to assure convertibility for industrial uses
- ☐ C-1, CO and HC uses by special use permit with no restriction as to area - Supplementary regulations to assure convertibility for industrial uses and to address specific uses where necessary; includes kennels and indoor athletic facilities
- ☐ Analyze existing industrial locations to determine appropriateness of potential by-right industrial uses (ex. slaughterhouse)
- ☐ Agree with:
    - ◘ Multi-family by a special use permit
    - ◘ Generalized categories for by-right industrial uses and special use permits for specific uses
    - ◘ List of prohibited uses

Staff Information
- ☐ Regarding office uses:

- Structures not required to be nor typically built to industrial building standards; ordinance cannot require buildings to be built to an industrial standard
- Economic Vitality Action Plan: "**Continue pursuing strategies to stop the conversion of properties zoned light industry (LI) to commercial, office and other uses that are not "core" industrial uses."**

- Regarding C-1, HC and CO uses:
  - In addition to convertibility, include compatibility and potential to support industrial uses in SP criteria
  - Industrial uses in commercial districts may be warranted
- Regarding appropriateness of industrial locations:
  - Conflicts appear limited; some locations limited by use/buffer proffers – particular uses best addressed through supplementary regs.

Staff Proposal

- Office use directly associated with any industrial use located in the City of Charlottesville and Albemarle County by-right with no restriction [CURRENTLY ALLOWED BY-RIGHT]
- Accessory office use supporting an industrial use by-right at the same site - not to exceed 25% of the floor area of the industrial use; increase to 49% based on modification criteria [CURRENTLY ALLOWED BY-RIGHT]
- Stand-alone office uses by special use permit; grandfather existing offices with provision for expansion up to 25% of existing area [CURRENTLY ALLOWED BY-RIGHT]
- C-1, CO and HC uses by special use permit with criteria for convertibility, compatibility and potential to support industrial uses; includes indoor athletic facilities, kennels, veterinary hospitals and motorcycle and off-road vehicle sales [MOST NOT CURRENTLY ALLOWED]
- Supporting commercial uses by-right, not to exceed 25% of the floor area of the industrial use(s); increase to 49% based on modification criteria [CURRENTLY ALLOWED AT LOWER %]
- Area devoted to subordinate retail sales of an industrial product at the place where it is manufactured - 25% by-right; increase to 49% based on modification criteria [CURRENTLY ALLOWED AT LOWER %]
- By-right Light Industrial uses by special use permit in the C-1, CO and HC zoning districts [MOST NOT CURRENTLY ALLOWED]
- Multi-family residential by special use permit in the LI zoning district [NOT CURRENTLY ALLOWED]
- Generalized categories for by-right industrial uses – Manufacturing/Processing/Assembly/Fabrication/Recyclying, Laboratories/Technology/R&D/Experimental Testing, Storage/Warehousing/Distribution/Transportation
- Specify industrial uses subject to special use permit or prohibited
- Supplementary regulations tied to certain industrial uses – impact to surrounding areas

Mr. Newberry presented the next section regarding mitigating impacts from industrial uses.

Mitigating Impacts

- Staff's proposal permits greater flexibility, but also attempts to mitigate impacts where possible.
- Figure 1 of Attachment D in the staff report illustrates how the Zoning Ordinance regulates impacts from industrial uses:
  - Section 4 - - General Regulations
  - Section 26 - - General District Regulations
  - Section 27 and 28 - - Specific LI and HI District Regulations
  - Section 5 - - Supplemental Regulations

Section 4: General Regulations

- Applies to ALL uses
- Includes regulations for lighting, signs, parking, critical slopes
- Performance Standards

Section 26: General Industrial District Regulations

- Includes buffers, building height, setbacks for structures and parking
- Proposal would add provisions for outdoor activity and outdoor storage

Section 27: LI District Regulations

- Specifies uses permitted by-right and uses permitted by SP

Section 28: HI District Regulations

- Specifies uses permitted by-right and uses permitted by SP

Section 27: LI District Regulations
Section 5: Supplemental Regulations

Section 28: HI District Regulations
Section 5: Supplemental Regulations

Supplemental Regs – Slaughterhouse

- ☐ Maximum building size: 4,000 sq. ft.
- ☐ Minimum acreage: 3 acres.
- ☐ Minimum building and parking setbacks from residential or agricultural lots: 200 feet in the LI district, 150 feet in the HI district.
- ☐ Minimum building setback from a school: 1,000 feet
- ☐ An outdoor holding pen for animals is prohibited.
- ☐ The CER (Certified Engineer's Report) must include a detailed waste management plan that demonstrates waste shall only be disposed of in strict compliance with state and federal regulations.

Mr. Newberry noted the zoning ordinance has a lot of different ways it approaches mitigating industrial uses, particularly nuisance prone uses. Staff wants to quickly review with the Planning Commission all the different ways that they have right now. Once staff drafts specific ordinance language they would definitely be interested in the Commission's input on the supplemental regulations they draft for other uses that are going from either not being permitted at all or only being permitted by special use permit. Staff will be drafting supplemental regulations for uses permitted by right they feel need some additional provisions for regulation.

Mr. Cilimberg summarized in the following table what he already discussed to show how current and proposed allowances for office, commercial, residential, and industrial districts would be treated as well as the idea of allowing industrial uses in commercial districts.

Proposal Summary Table

	Current		Proposed	
	By-Right	Special Use	By-Right	Special Use
Office in Industrial Districts				
Associated with Industrial Use	✓		✓	
Supporting an Industrial Use	✓		✓ (≤ 25%, ≤ 49% with modification)	
Stand-alone Office Use	✓			✓
Commercial in Industrial Districts				
Subordinate Retail Sales	✓ (≤ 15%)		✓ (≤ 25%, ≤ 49% with modification)	
Supporting an Industrial Use	✓ (≤ 5%)		✓ (≤ 25%, ≤ 49% with modification)	
General Commercial Uses	Most Not Permitted			✓
Residential in Industrial Districts				
R-15	Not Permitted			✓
Industrial in Commercial Districts				
Light Industry Uses	Most Not Permitted			✓

Recommendation

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

Mr. Cilimberg noted there will be a fair amount of ordinance language to be developed along the lines of what the Commission is seeing tonight a little bit later for the process changes. Certainly there would not be any action on actually approving anything until they have seen the ordinance language. That would be inclusive of the type of provisions that Mr. Newberry was speaking to in terms of supplementary regulations to address how uses relate to areas around them. If there were any questions, staff would be happy to answer them.

Mr. Morris invited questions for staff.

Mr. Dotson said he was curious why slaughterhouse? He knew it came up in a previous meeting. He was not familiar with slaughterhouses having high paying skilled jobs. He asked if someone has approached the county and they did not have appropriate zoning to accommodate them.

Mr. Cilimberg replied that he thought it was just an example to provide for the Commission because that particular use has been pointed out on a couple of occasions. In a work session with the prior Planning Commission that was a use of concern because they were proposing that it be by right in industrial districts. Slaughterhouse was used as an example only. This is not the only one. There are other uses that should be potentially addressed with some supplementary regulations beyond what regular regulations allow.

Mr. Dotson asked if they were seeking slaughterhouses.

Mr. Cilimberg replied that it could be considered as one of the agri businesses. It certainly falls within one of the target industries identified when the Board received that report. It was not presented tonight for that purpose. It was presented as an example of how they might approach that.

Mr. Franco recalled that part of the conversation the Commission had dealt with the agricultural businesses having to take their livestock either across the mountain or up to Fauquier to find a slaughter house, which was contrary. Right now it was by right to do 20,000 chickens on the farm in open space. The thought was that if there was a slaughter house that might be a more appropriate location to do that than in the middle of a field. So trying to get that use closer would help to stir the agricultural industry.

Mr. Lafferty asked for specific examples of why they are really addressing this or where the problems have come up in the past.

Mr. Cilimberg replied this has been identified as a needed amendment on several fronts, as follows:

- One is the general understanding they can put as many use types in our ordinance as they might be able to imagine, but there is going to be somebody with an industrial type use who is going to walk in the door that may not fit into that particular defined or identified use category. That was the reason they were moving towards generalized by right use categories. They know that has been a matter of some challenge for the zoning department.
- They also know that the nature of industrial uses today are different and the likelihood of them potentially even being associated with other types of uses that are part of the business but are not industrial – say commercial sales or the cottage industry type of business – is more likely the start ups that have a very small area that they are devoting to industrial operations, but have a much larger area that are sales and office related. That is another example.
- They mentioned there has been an identified concern at least –in which Susan Stimart provided an attachment in the report - with the competition of office uses with industrial use for space because of the higher lease rate you can get for office use. That was something else staff had been trying to address with these amendments.

Mr. Lafferty recalled they were trying to discourage the use of light industrial for office space.

Mr. Cilimberg replied that was where they started with this. In the last work session the Commission suggested if that space could be convertible that they did not necessarily have the concern that it needs to go to special use permit versus by right. That is something staff is not able to assure through the ordinance if it is by right.

Mr. Lafferty asked if that implies that they have enough LI or if this is a way to increase the LI area.

Mr. Cilimberg replied the amendments were not intended to increase the light industrial area. There is no zoning map amendment associated with this. The amendments are intended to be as accommodating as possible for industrial type uses in an appropriate manner. By introducing the chance through special use permit that some industrial components might be located in a commercial area they probably open a bit of a door for that possibility. However, again it is a special use permit and not by right.

Mr. Lafferty asked referring to Mr. Hurt's letter how they came up with the percentages.

Mr. Cilimberg replied the percentages were brought to the Commission last time. The percentages were an attempt to try to identify a percentage of use that would not be more than one-half of what the activity was at that location. He clarified that a letter was received today dated May 15th from Mr. Blake Hurt via email. Each Commissioner was given a copy of the letter. (See Attachment) For offices that are associated with the industrial use there would be no restriction as to space. They could use 95% of their space as an industrial company for office uses. That is one of the changes staff made this time around to try to be more open to the office support kind of uses for a company being able to locate either at the location where they produce, assemble or manufacture even if they were in a different location in the area

Mr. Loach noted as he reread the background and the slides it seemed like they were discovering a new type of zoning that they could almost do anything, anywhere as long as the right percentages were there. It is flexibility. However, he was more interested in where the targets are since they have not come out with a series of targeted industries. He wanted to know where those target industries were going to be placed within the growth area communities; the nature of the changes; and the impacts to the community. He thought Mr. Hurt's letter was excellent and wonders as he said about the percentages and the flexibility. He asked if they would have to modify these percentages to meet those needs that they have defined in the target industry they were interested in.

Mr. Cilimberg replied the percentage is really for affiliated kinds of uses. In other words, maybe there is a financial company that is working with a particular industry, it is not the same company, but it wants to work with an industry located in a particular location. That is where the percentage would apply. The offices that are part of the industrial operation of any of the target industries operations would not have any percentage limitations.

Mr. Loach asked how they would handle the situation where there are several stories with multiple businesses with differing needs for commercial.

Mr. Cilimberg replied it would depend on the user of the space as to whether or not they were considered to be an office use associated with the industry there or whether they were a freestanding office use. That would be the distinction.

Mr. Loach asked how they would then gauge the 25 to 49 percent.

Mr. Cilimberg replied it would be based on the total area of the industrial use as compared with the office use.

Mr. Loach asked if it would be for the entire building and not for each industry per say.

Mr. Cilimberg said it would be based ultimately on the total building.

Mr. Loach noted that he got the impression from Mr. Hurt's letter that it might be better to have more flexibility in that with multiple businesses rather than use 49 percent as the total since they were all individual businesses with different need A business might be 10 percent and the other 80 percent.

Mr. Cilimberg said in those cases if it were getting the percentages that were greater than they had indicated in staff's proposal they would still be allowable but go through special use permit process.

Mr. Loach said if they were going to identify target industries and they have those uses, then they should be identifying where those targeted industries will be located within the available areas in the growth area so that neighborhoods know the impacts.

Mr. Cilimberg said in the Comp Plan work they are actually going to be bringing to the Commission the relationship of the target industries to our industrial lands to verify that they have lands within which these industries can appropriately locate. In terms of what those industries are one of our Economic Office staff could speak regarding the industries themselves.

Mr. Loach asked if they have gone to the advisory committees from all of the master plan areas so they can address the issue.

Mr. Cilimberg said that they were on somewhat of a timeline that the Board is very interested in having this come to them very soon. Staff felt based on where they were seeing the zoning and the industrial land use with the surrounding area that they noticed in some cases there are buffer and proffer provisions already. Staff wanted to address this through the supplementary regulations because that is where they really need to point out those potential impacting uses. They want to find those kinds of provisions that are going to allow you to feel comfortable with the location of something that might be impactful in any condition. The supplemental regulations are really intended to do that.

Lee Catlin, Assistant to the County Executive for Community and Business Partnerships, noted the Board at their May 3rd meeting gave a final endorsement to the Target Industries. The preliminary information was shared with the Commission. She commented as follows:

- There are four target industries that the Board has endorsed based on the study that was done at the regional level. There are two targets that have been adopted at a regional level. The four that have been identified for Albemarle County are: bio medical, business and financial services, agri business, and defense and IT.
- If they look at how they have broken those down further into the kinds of sub-categories they think are most specifically appropriate for our area – these are all small footprint R & D and small scale

manufacturing that really fits in with the nature of our community, the University of Virginia, R & D spin off, and things like that. There are not any recommended targets that are large footprint, large scale, and heavy industry impactful kinds of industries. However, it is still very important that they know what those are.

- She thought Mr. Loach made an excellent point. Now that they have the Board's endorsement the very next step is looking at what kind of requirements those industries have to be successful, looking at our existing business base, and making sure they are able to understand and match up where they would most likely be able to be successful in our community. This includes the needs of existing businesses.

Mr. Loach asked if there is a definition of small footprint.

Ms. Catlin replied that there is not a specific number. If they look at the recommended codes the emphasis is on R & D start up of small type manufacturing so that the products are not large scale things that need to be shipped in huge trucks or require manufacturing plants that spread over many acres. That is just not the kind of industry that is going to be successful here or that really matches the preferences of our community. Staff would certainly like to come back and engage with the Commission in the discussion about what do these look like on the ground, what do they really need, what do they need to be near, and what kind of infrastructure requirements do they have.

Mr. Morris invited further questions.

Mr. Randolph commended staff for really biting in at looking at ways to try to ensure that there is increased flexibility and adaptability. There has been a significant effort here to meet those objectives. He made the following comments:

- He agreed with Mr. Loach's point that there is a danger in adaptability and flexibility in terms of a slippery slope in the definitions. It is really important as per Mr. Butler's remarks on January 31 that they carefully seek a definition of what they mean by supporting commercial entity and subordinate office. They need to come up with some language. As they go forward now that they are increasing flexibility and adaptability these definitions are really going to be important for us in terms of making decisions as a collective body based on the more flexible criteria if they approve this that they are buying into. If it is too flexible they can drive the titanic sideways through these regulations, which may not be something that they want to see in terms of success for the county.
- One point he hoped they could have a discussion about was in Mr. Hurt's letter, which makes a really important distinction between target imported LI firms and what he calls homegrown LI firms. The primary way that the county is going to expand is not somebody relocating but through spin offs through new programs, new ideas, new businesses, etc. Mr. Hurt was concerned that there is a distinction here within the framework that they are developing that tends to be bias towards the targeted imported LI firms and not as supportive of a home grown firm. He could not answer his point to say affirmatively one or other. If they are going to get buy in for flexibility and adaptability they have to address that point so it does not look like the regulations are prejudicial against who is already here. They are looking for the people that are already with us in the community as their good ideas lead to small businesses that they can grown and have flexibility within the zoning regulations to stay in a building and expand it up to 49 percent office space. Then they could go into manufacturing with changes in the building that could allow them to go down ten percent office space and 90 percent manufacturing.

Mr. Cilimberg said that is a very good point. He thought the distinctions though definite are equally important for the zoning administrator. Under what is proposed potentially they won't see a part of what comes because it is by right. The zoning administrator is going to need to be able to determine how that particular use qualifies. It is an excellent point. They know that is a major goal for our work when they bring the zoning amendments to the Commission. The zoning office is already working on how to define those things.

Mr. Lafferty noted under the recommendations it says to allow multi-family residential by special use permit in LI zoning. He asked if that further dilutes LI zoning.

Mr. Cilimberg replied that was actually intended to provide the opportunity with higher density housing that may be compatible in terms of scale to locate close to where jobs would be. An example was some

of the larger industrial activities may want to have a component of their development to allow residential apartments or that type of use close to where the people are working.

Mr. Loach asked if that is inconsistent with what they just heard as far as the size and scale of the targeted industries.

Mr. Cilimberg replied they are going to have a variety of sizes that may locate. He would yield to Ms. Stimart on some of the particular examples. At the UVA Research Park there are some businesses that have started and grown in that location. The possibility of having residential close could be positive for them. They have two buildings occupied by offices and industries in their center area. He did not know what the square footage of a particular use is. However, they have a number of employees there. Those are not uses that are creating impacts in the area where residential might be appropriate close by.

Mr. Loach said if they look at the size or acreage the research park takes up to afford that it is significant. They would have to go back and look at the growth areas and again look at what are the opportunities to afford that. He was not sure that was there.

Mr. Cilimberg said it was going to be a case by case situation. They might not get any applications. There may be enough residential close to where industrial uses are located and there won't be an application for that kind of use. It was a provision to provide the opportunity that might fit for where they have several business activities associated with residential activities where people are in live/work situations in producing something.

Mr. Lafferty pointed out they keep hearing that there is not enough light industrial property and they want to keep office space out of LI. Here they are opening it up to multiple family housing. That just does not make a whole lot of sense.

Mr. Cilimberg replied that they could choose to certainly not include that. It was kept in because the Commission indicated last time it was acceptable. If they feel like that is jeopardizing that land area then certainly they can remove that. Again, it is by special use permit and not by right. So they are making decisions based on the particular circumstances. They wanted at least to keep the opportunity there in case someone in fact had a very good proposal for industrial activity where they wanted to have some residential close by.

Mr. Franco noted the key to the discussion last time was that it is by special use permit. Therefore, it is not opening it up for everywhere so to speak and is at their discretion. It was really similar to the Neighborhood Model in trying to provide an opportunity for where you work and live to be close to each other. If the right user came along and wanted to have residential on their same parcel or as part of that community they would have that option to allow it. One question he had was when he sat down with the building official and what it would take to provide the flexibility, what are the difference between office construction and industrial construction. He asked if they can specify maximum building height and a minimum building or first floor height.

Mr. Cilimberg replied the Building Official, Mr. Schlothauer, said that typically most non-residential buildings, including commercial or retail buildings, are built to an industrial standard. However, offices typically are not because they don't need to have all of the components that are necessary for commercial or industrial activity in their ceiling heights and how they provide walls for their use type. His simple read on it was offices are closer to residential in terms of their structural requirements than to industrial and commercial.

Mr. Kamptner pointed out the other thing Mr. Schlothauer said was the builders of the non-retail commercial buildings built to the industrial standard voluntarily because it gives them more flexibility in use of the building over time.

Mr. Franco said it seemed like what they were trying to do was encourage that flexibility. As he looks at it having a first floor with a minimum floor height, if that was something they could do, would lead towards more of a flexible standard. He did not know if they have the ability to say 15' ceilings.

Mr. Kamptner noted that part of their limitation was the State preemption under the Uniform Statewide

Building Code, which prohibits localities from adopting regulations that regulate the manner of the materials of construction. The manner of construction probably means the standard to which they would require the buildings to be constructed. There are exceptions. They can accept proffers that delineate the manner or the materials of construction and they can impose conditions in conjunction with special use permits that address that. There are a couple of narrow exceptions now carved out that allow us to move into that area.

Mr. Franco asked if they could require a 15' first floor.

Mr. Kamptner replied probably not as a blanket regulation because that would fall under the manner of construction. However, as he said, if they have to go through the zoning process there are proffers offered or a special use permit.

Mr. Franco said one of the people who spoke last time was in one of the buildings near the airport and talked about some of the complications that he had in the space. There was as much as 80 percent office. If he was coming in with a use and fit under industrial use because he assembles something, then he was an industrial user and could have 100 percent office space in his portion of the building. If he then becomes successful and starts manufacturing more and more on site, then he could slowly convert over some of that other space to more industrial manufacturing and still work within that same building. He asked if some of these start up businesses that Mr. Hurt described if they are industrial in nature would still fit.

Mr. Cilimberg replied that is correct.

Mr. Morris invited public comment.

Morgan Butler, representative for the Southern Environmental Law Center, made the following points:

- Stand alone office space he defined as office uses that are not affiliated with an industrial company that is located on that same parcel. A few different approaches are now on the table, including a new one tonight from staff. As they think about the best approach they have to keep in mind that one of the main purposes of this zoning text amendment is to stop the conversion of industrial properties to commercial and office uses that are not clear industrial uses and drive up the price of industrial zoned land. If they allow office uses by right in LI zoning, it will continue to reflect the higher values associated with office uses making it less affordable to clear industrial uses and leading to its conversion to offices. For this reason the original proposal staff brought to the Commission in January was to allow stand alone office uses in industrial districts only by special use permit. That approach makes sense because it would require an intentional decision by the county and allow for conditions to be imposed before industrial land could be converted to stand alone office uses.
- In response to feedback the Commission offered at the January meeting, staff is now suggesting a new approach in which stand alone office uses would be by right if they are directly associated with any industrial use located anywhere in the city or the county. Any stand alone office use which would not be able to find a way to fit into that broad category would require a special use permit. This new idea is creative, but it does not seem like it would amount to much of a limit on office uses. For one thing putting any new parameters around it that it needs to be directly associated with any other industrial use located anywhere in the city or county would be extremely difficult. Regardless of how that phrase is defined the result would still be that all industrial land would potentially be available for office buildings by right. This would not reduce the cost pressure on industrial land. It would continue to affect office prices. The best and simplest approach is staff's original idea allowing stand alone office space in industrial zoned districts only by special use permit by allowing a small but reasonable amount of subordinate office space by right, such as 25%.
- Turning to commercial uses, the proposal is to allow some stand alone uses from the Commercial C-1, CO, and Highway Commercial uses in industrial zoned districts. They don't think that is going to help with the conversion problem either. If it is going to be pursued, they agree with staff that it should only be allowed by a special use permit. However, for supporting and subordinate commercial, which would not require a special use permit in this proposal, staff has proposed allowing up to 49%. That is a huge jump from the current limit of 5%. They urge them to consider a lower and more reasonable percentage for supporting and subordinate commercial.

- Finally, they would support staff's new suggestion that commercial districts be opened up to some light industrial uses. However, requiring a special use permit may prove too much to make that idea workable. Therefore, they think it is worth considering whether there is some level of industrial use that could be allowed by right in those commercial zoning districts.

Valerie Long, attorney, echoed the last point Mr. Butler made about the flexibility to permit some types of industrial uses in commercially zoned districts. She suggested considering them by right if there are criteria they can establish and be comfortable with. She asked staff not to underestimate the costs in terms of application costs, staff time, delay, and the need for consultants. Representatives for special use permits, such as engineers, architects, and attorneys really takes a proposed project or a new business to an entirely new level in terms of costs, uncertainty, and challenges. It would be wonderful if they can find a way to marry those goals. Overall, she commended staff and the Commission for the level of thought that has gone into this to work towards solutions that achieve the goals to preserve the integrity of the industrial districts, provide flexibility, and to streamline things.

There being no further public comment, Mr. Morris closed the public comment to bring ZTA-2010-00004 back before the Commission. He asked staff what was the next step.

Mr. Cilimberg said what he had heard tonight is there is an interest in presenting to the Commission the Target Industries and some ideas or examples of them. Those would be the potential occupants of industrial land. That is something staff had planned to do as part of the Comp Plan work. Certainly staff can bring that back in association with draft language for zoning text changes. Staff would like to get any guidance the Commission can provide tonight. Ideally if the Commission agrees with all that is before them they can just indicate that and staff will move on to work on zoning text language to bring back at a public hearing. They would be able to see what the uses and definitions look like and how they clarify some of these points. Also, they would be able to talk to the Commission about our targets and what they are looking for in the future in terms of the nature of the targets and how they fit in industrial lands they have. The one point of contention probably is still the office use. Staff needs guidance in that area. They need to make sure to bring the necessary grandfathering provisions for the existing uses and buildings that currently exist on those properties that may be changing based on the zoning changes they would be making.

Mr. Morris invited input.

Mr. Dotson made the following comments.

- They have been handed quite a task. On the one hand a direction is that Albemarle is open for business. On the other hand they are saying they want to conserve LI so they can accommodate those kinds of industries. At the same time there is another direction, which is they favor mixed use. How they fold those in together is no small task. So he thought with those conflicted purposes it is not surprising that they have what he would call some contorted mechanisms because they are trying to address those purposes. He thinks back to the Development Review Task Force that Ms. Long and he were both on. They have almost used all the things that are normally what you try to avoid. They try to make things by right instead of by special use permit. They are adding a bunch of special use permits. They try to avoid kind of judgmental things like the 25%, but it could be 49%. They try to avoid supplemental regulations to mitigate. They try to avoid situations where they have to grandfather, which creates an odd status. They are also trying to move away from specific lists and that is usually something that is advocated because it is more explicit and less judgmental. It seems with the conflicting purposes they end up with those kinds of contorted mechanisms. He did not have a great way to suggest modifying that. His thoughts are maybe they need another zoning district; should tweak LI slightly; should tweak HI slightly, or possibly create a new district called flex. They have in the Comprehensive Plan Land Use the five or six word land use category that has flex in it someplace. They might need a flex zoning district that really is flexible and has a lot of things by right and very explicit in trying to be user friendly and so forth.
- It would be helpful to hear from people involved in managing property, developing property and industrial people to hear what they think. They have heard from Ms. Long who favors it. They have heard from Mr. Hurt who does not favor it although he is sympathetic in general. He asked if they could get some reactions from other people to see how it would work and if they have created something workable from their point of view. Staff has done as good as they could do

with the direction given.

Mr. Franco noted on what is proposed there really are not that many special use permits. It is really narrowed down to stand alone office, commercial uses in the industrial, R-15 for the higher density residential, and then the LI and commercial. It is really only four opportunities. He would echo what he heard from the last two speakers about trying to put more by right industrial in the commercial. There may be some uses that don't belong in there. However, they do have a lot of protections including the certified engineer report. He would be open to allowing a lot of uses by right because it was not just the expense but the time line. Many users don't want to go through a three to six month process, maybe, to get started. Being able to sit there and say a particular use fits in this and it is by right is a lot more appealing.

Mr. Loach pointed out there have been enough cautions raised from several persons that he would like to see some methodology of measuring the failure or success of what they are doing so they can change it if they need to, especially if they need additional land.

Mr. Cilimberg thought it was a good point that they always have to really assess the changes they made.

Mr. Loach noted if they look back and look at Conagra and what has happened to it. What was needed to allow that to successfully come about so that they have Music City Today, Curtis Heating, and Star Hill Brewer in the building? What did they need to change in the regulations to make that happen? Also, what about the Downtown flex space? Do they have regulations now so that could happen?

Mr. Cilimberg replied that thankfully for the Conagra facility they were able to accommodate as industrial use changes occurred there. But, they are also aware of some things people talked to them about being able to do at Conagra that they can't do in association with some of the business activities that maybe in the future through these amendments would be allowed. They were speaking to what are we able to accomplish with these amendments that were not otherwise accomplishable under the ordinance they have.

Mr. Franco noted along those lines one of the visions painted early on was Allied Street in the city and felt that was rather successful the way it has converted from a lot of different industrial spaces to some shops and back and forth having that flexibility. Are they able to mimic that kind of development in the future?

Mr. Randolph said per Mr. Loach's point it would be a good idea in moving forth to do an annual work shop assessment of LI and per Mr. Butler's point also in that assessment take a look at what is happening to Light Industrial land values in the county. If we find that flexibility and affordability here is producing exactly the kind of scenario that he has spoken to then they are working against their best interest here. He agreed with the idea that we look at the movement from commercial into LI, but at the same time they have to look at that other slope of LI into commercial and its impact on LI values. Having an annual assessment would be a valuable thing to do to check in to see how they are doing.

Mr. Morris commended staff for the wonderful job they have done on this. Based on the comments they are still trying to get their arms around this bear.

Mr. Cilimberg said staff could move from where they are now to actual ordinance language that reflects what they have seen. What he has heard is the possibility of light industrial uses in commercial districts by right. Beyond that he has not heard any specific recommendations that change what they received tonight. Staff can pursue the amendment language that is necessary to implement this and bring it back to the Commission in a public hearing or work session.

Mr. Morris suggested that it be at a public hearing.

Mr. Cilimberg said the public hearing could be set, but they need to make sure they get the folks here they need and make them aware. The Commission can review the proposal at that time.

Mr. Franco asked for clarification on the proposal for stand alone office. If he had a site such as Mr. Hurt's on 29 north that has a lot of square footage for light industrial and if his first building is a stand alone office use is it going to be measured based on the allowable square footage of the total area? If it

stays less than 5% is it considered stand alone at that point.

Mr. Cilimberg replied that stand alone was really considered to be those spaces that an owner would want to lease or sell without restriction. They would want to be able to utilize it without having to connect it to an industrial use already on the site or proposed for the site. In the case of an office building in the location that is industrial, unless that office building is occupied by the corporate headquarters of an industry in town, it more than likely is going to be stand alone and subject to a special use permit under what this proposes. Again, they have to address those grandfathering provisions as mentioned. That is one thing they need to make sure they tie down when they come back with proposals.

Mr. Randolph asked if there was any precedent per Mr. Dotson's suggestion in terms of expanding contact with businesses that would be affected by these changes. He asked if in the past they have briefed the Chamber of Commerce on proposed changes and try to see if they could poll their membership and elicit some responses.

Mr. Cilimberg replied that there has been some contact Ms. Stimart has had before tonight. What they would want to do is use her office to really have some outreach so the Commission has the benefit of their input as well.

Mr. Cilimberg summarized the Commission's direction:

- They would look at light industry and commercial by right.
- They will stay with the other proposals as they were presented tonight. Staff has not heard any suggested changes to those.
- They will put together zoning text changes to address the various proposals.
- They will also make sure they bring back some additional information on the target industries and their typologies.

Mr. Morris agreed that was correct. When this comes back to the Commission for public hearing he would really appreciate additional outreach through Ms. Stimart's office. They desperately need to spread the word to get public comment. .

Mr. Cilimberg asked Mr. Newberry if he had anything to add.

Mr. Newberry noted that staff will work hard to develop definitions.

In summary, the Planning Commission held a discussion with staff, asked questions, took public comment, and provided comments. The Commission authorized these proposals be incorporated into appropriate ordinance language and ZTA-2010-00004 be set for public hearing with the following requested follow up:

- Additional information on the target industries and their typologies.
- Additional feedback should be obtained with outreach through Ms. Stimart's office.
- Develop definitions that allow for clear understanding and administration of the ordinance provisions.

The Planning Commission took a break at 7:15 p.m. and the meeting reconvened at 7:22 p.m.

ZTA-2012-00006 Legislative Review Process Improvements (re-zonings and special use permits)
Changes to the legislative review process
(Wayne Cilimberg)

Mr. Cilimberg presented a PowerPoint presentation on ZTA-2012-00006 Legislative Review Process Improvements. Mr. Fritz will be covering ministerial improvements. Generally, for the proposals before the Commission tonight these quotations were the purpose that the proposals were based on and also were goals out of the Development Review Process Task Force that are at the base of what they are trying to promulgate and bring to the Commission and Board for approval.

"…reducing unnecessary and burdensome regulations and shortening approval times".

"…streamline the process…"

Clarifying the Goal
- Shorten Approval Times and Cost of Development Review
- Avoid Unnecessary and Burdensome Regulations
- Maintain Opportunities for Public Info / Input
- Maintain Community Quality

Staff Recommendations Concurred with by BOS – 9/1/10
- **Codify Expectations** - Application requirements should reflect the issues the Board wants routinely considered with each application.
- **Require Pre-application Conference** – Verify the application is complete and give early notice of potential issues / concerns
- **Provide a Community Meeting Process** – Get the neighbor's concerns on the table as early as possible
- **Maintain Dates for Public Hearings** – Avoid indefinite deferrals that confuse neighbors and used in complaints about the time to approval

Staff Follow-up After 9/1/10
- **Consulted with several of Albemarle's peer counties –**
  - Visited Fauquier and Hanover
- **Common Theme -**
  - Pre-application preparation with prospective applicants
  - QC for application acceptance
  - Community awareness regarding application proposals
- **Drafted Recommendations -**
  - Reviewed with BOS members June and July, 2011
  - Roundtable meeting 7/19/11
  - Joint BOS/PC/ARB Meeting 8/3/11
  - PC Resolution of Intent 11/29/11

BOS and Roundtable Feedback
- **No specific changes suggested by Board**
- **Roundtable Comments -**
  - Support mandatory pre-application conference – comments valid until application
  - Community meeting "one more hurdle" – flexibility for when and how; not mandatory
  - Standardize staff review time for all applications (re-zonings, special use permits, site plans, subdivision plats)

Goals
- Create a value-added process
- Provide clear expectations
- Reduce iterations of re-submittal
- Get decisions made

Proposed Process Changes
- Pre-app meeting required
- Pre-app form completed by applicant to schedule pre-app meeting
- Staff pre-app comment form to applicant within 10 days
- Application addresses staff pre-app comment form
- No fee at submittal – applications QC'ed for acceptance
- Applicant notified within 10 days
  - Accepted – fee paid to start review
  - Not accepted - checklist of missing information provided
- **Community meetings**
  - Applicant sponsored after submittal
  - Staff attends - answer process and policy questions

Recommendations

- PC to identify any concerns and direct staff to bring the final text amendment forward for a Public Hearing as soon as possible.

Mr. Morris invited questions for staff.

Mr. Franco asked if they have a timeline that talks about whether this really shortens or lengthens the process.

Mr. Cilimberg replied that it was actually fitting within their current reviews. It is keeping the time line the same. The more important point is that staff feels this can cut down on the number of resubmittals that are necessary. Ultimately, the timeline is determined by how many times a project resubmittal has to take place. As mentions, a lot of times staff are finding that the first resubmittal is in response to things identified in that first review that they would like to make sure they are catching during the pre-application process in preparing the applicant to provide as part of the application.

Mr. Franco noted it has been his experience that the applicant is really confused as to what they are looking for. It is not necessarily for submittal, but what kind of project they are looking for so there is something submitted at least to get the conversation going. Once the conversation is going there is the big lag before it actually starts getting into the process. The process makes a lot of sense. However, there was not a lot of detail, especially on the community meeting component of that. He thought it could work if there was a lot of focus at the pre-app on the Comp Plan. What he sees is they are going to submit something, have a pre-app and some comments that come back, and then they are going to expect to have a community meeting before they really have site review comments. There needs to be some definition of what the purpose of the community meeting is. The ordinance regarding the community meeting should include – who is going to lead it, the format of it, and who it is with. Part of the comments he has heard in the past has really been let's take it to the Citizen Advisory Committees. Let's get it out there and have it known. It seems if they submit something that if the pre-app meeting is really focused on Comp Plan, then that can be the purpose of at least the initial meeting with the citizens to really talk about how this works or does not work with the Comp Plan. Then they could talk about the merits of the project. It seems like that meeting with the public really first and foremost is to educate them in a lot of the instances on what is allowed to be done on that property and what the Comp Plan calls for.

Mr. Cilimberg noted they tried not to be too specific in the ordinance because if they want to tweak something, then they have to amend the ordinance. However, what they really need to bring back to the Commission as a follow up to any ordinance adoption is actually the set up for those community meetings as well as pre-app, and to let them see the pre-app forms and what they are trying to cover there. He thought the points he made were very important.

Mr. Franco agreed with staff. He was happy to have it outside the regulations. However, it needs to be clear. Otherwise, it is just going to be a meeting at a church and not going to provide anything other than chaos.

Mr. Morris pointed out the value of having that type of meeting the Commission saw last week when looking at the church and soccer field. A lot could have been avoided if the developer had taken the time to meet with the neighbors.

Mr. Franco agreed that sounds great theoretically. However, a lot of that first meeting with the community is really going to be staff driven or lead so that they are the ones coming in explaining what the Comp Plan says.

Mr. Morris recalled one of the most valuable meetings he has been in was with the developer who really educated everyone about what Cascadia was all about.

Mr. Randolph said it would be valuable to have a check list indicating there has been contact with the contiguous neighbors and neighbors immediately affected by the project to ensure they have an opportunity to participate in the application process prior to the community meeting.

Mr. Cilimberg replied that they can do that with the pre-app form. He did not believe they could refuse to accept an application if there had not been. It certainly gives us something to talk about in the pre-app

meeting about what someone really needs to do.

Mr. Morris said he assumed the pre-app meeting concept was conceptual.

Mr. Cilimberg agreed. They were not asking for an application plan. In all fairness, they have pre-app meetings now for many projects. This is not a brand new thing. They are formalizing it more by having an application for the person requesting the meeting and then a follow-up in a form provided by staff.

Mr. Loach pointed out the benefits of using an advisory committee where applicable and available. Those people already know the Comp Plan, are familiar with the master plan, and have an understanding of the development process. They are dealing with a more diverse group who are looking at this from a broader perspective and not just the neighbors around it. He would like to see at the end of the community meeting a letter of understanding from staff that could go to the Board about what the issues are. It could also be sent back to both sides so that there is understanding where there may be differences and what things can change. Another venue it could be used for was the site plan by-right development. In one situation during the site plan review for by-right development a developer said he would go back and look at some changes as a result of the comments made.

Mr. Lafferty noted one concern was they always seem to be cutting back on staff and now it looks like they are going to require more time of staff. Staff has a lot of things on their plate right now and he questions adding something else. He agreed with the process, but had a question about the fees. He asked if someone does not pay the fee if they get into an infinite loop. If they don't pay the fee within five days does it start all over again and take up more staff time.

Mr. Cilimberg replied the process does not start all over again if it gets delayed for some months. It was built in for six months to get an application in just to make sure ordinances don't change and that type of thing. Ideally people are going to be ready to pay the fee so they can be reviewed in that cycle. However, if by chance they can't, it would hit the next cycle. That won't be a staff issue.

Mr. Lafferty asked before they commit staff to this process would it make sense to require a partial fee since it will involve staff's time.

Mr. Cilimberg replied that is not the proposal as they developed it. They found from talking to another locality that it experienced the fee as a result of clearance of the application being an incentive. To make sure they were getting things initially in as they needed, the applicant submitted the fee to get the process underway under the cycle they had made their application in. They are borrowing from Hanover County's process in that regard. They are essentially letting the applicant know that this upfront pre-app process is serious.

Mr. Lafferty said that he could not image that an applicant would not take it seriously if they really want their application to go through. He just worries about staff time and some commitment on the applicant's part other than just a preliminary pass.

Mr. Cilimberg said staff time can be reduced by the reduction of resubmittals by having a first review that is based on all of the information they need to have in hand. The one element they still need to talk about is how the community meeting process works, which could end up being an additional obligation on staff. They need to be careful to not over obligate staff in how that is set up and the responsibilities staff are identifying.

Mr. Morris commended staff. Based upon what he has read in this they are really going to stick to the guns on this. There are not going to be any exceptions in the applicant completing all of the requirements prior to moving forward. From talking to staff, especially in Inspections, they get in a constant loop because they did not make someone follow all of the rules.

Mr. Cilimberg said it is a shared responsibility to make this work. It is not only on the applicant. It is also on staff. He thought giving a little up front that is not necessarily covered by a fee in turn getting from the applicant the substance that is needed, ultimately makes the process more efficient.

Mr. Franco said also to keep in mind that it has been a number of years since they have talked about the

number of things that are required for a rezoning or asked for two different numbers. There have been a lot of additional wants added by this entity in the past. It is a constantly moving target. So it is not just the applicant putting the right information on there. A lot of times the required information is there, but this body asks for additional information that is not required. That is what forces them back in the loop. He also had two other comments to follow up on. On page 27, item 3 it talks about the delinquent taxes and it has to be resolved before the application is accepted.

Mr. Kamptner noted that is in the current ordinance and authorized under State law. It is just moved here. Currently it is in Section 1.0 of the zoning ordinance.

Mr. Franco said that is the current way of doing business. The other thing that would be helpful, which might add a step, is when the initial comments come from staff after the pre-app and it has been vetted and reviewed in full, having a sit down one on one meeting as part of that to deliver the comments. Or, they could have the comments delivered and then have a follow up meeting. A lot of what he hears both on rezoning and site plans are the comments are not always specific enough to hand to the consultant to resolve the issue. So they spend a lot of time that is in the loop here trying to get meetings with staff. Therefore, if it was something that was regularly scheduled as part of the delivery of the information it would make things simpler.

Mr. Cilimberg agreed noting they have actually included that in the flow chart that after that pre-app meeting comment there would be a follow up meeting with staff that is optional for the applicant. They wanted to make sure of that. They can even bring a pre-application proposal to a work session of the Planning Commission. They have done that occasionally. It has always been a choice.

Mr. Franco noted he was actually talking further down in that process when it has been accepted and reviewed in the first comments at 46 days. He thinks that is the delivery where they have some very specific information like the storm water does not work for me. It would be nice if there was a little bit more detail in that. It might save time if they knew there was a one-on-one that is allowed between the engineers.

Mr. Cilimberg noted actually that is something that can happen today. However, it was something they can define.

Mr. Franco said having the meeting prescheduled would be helpful. Knowing that the comments are coming on Friday and they are scheduled for a meeting on Monday would give an opportunity for the applicant to come in and ask any questions they have to get clarification.

Mr. Randolph noted one of the advantages of having that discussion within those 46 days is to find out if the community meeting process has resulted in any changes or additional concerns.

Mr. Loach pointed out that was why he had suggested staff provide a letter of understanding after these meetings.

Mr. Franco agreed with wanting to get that clarification. It enables everybody to focus in on what the issues are. For instance, buffers are often one of those kinds of issue and having some guidance on what is going to be required or not would be nice. This body in the past has required buffers between PUD's and at other times has said it was all residential so they don't need buffers. That is a good example of something that is constantly moving. When changing an application from no buffers to 50' buffers all of sudden would really have a big impact on the plan.

Mr. Lafferty said he really appreciates the flow charts and Mr. Kamptner's comments.

Mr. Dotson agreed that staff has done a great job and he supports the proposal. He was curious about the limbo period. They have had the pre-app and report back to the applicant on the form and now they have up to six months to perfect and get in an application. He asked how they keep track. Do they give it a pre-app number and do the comments go into County View? How do they handle the limbo period?

Mr. Cilimberg replied that part of what they need to do administratively is set up the pre-app process so that it is trackable. County View is where they can do that.

Mr. Morris invited public comment.

Valerie Long, attorney, said being very familiar with the process and the trials and tribulations of it she would offer the following comments and suggestions.

- She was disappointed with her colleagues from the development and application community for not being here tonight because she felt it was very important. She could tell that everybody is trying really hard collectively to improve the process. However, she was not sure that people were really aware this was coming tonight. She was not aware until receiving the Planning Commission agenda less than a week ago. It might make sense to further flush out some of these ideas to do what Mr. Randolph suggested to outreach to the development community with even just a simple roundtable. The roundtable could be scheduled to make sure people understand what is being proposed and get a little bit more feedback on this. She did not want to slow the process down any more, but just to make sure everybody understands.
- There are a couple of things she felt were significant changes that she was not sure others in the development community are aware of. Whatever steps can be built into this so things don't get too caught up in the process would be helpful. Process is good for the applicant, community, public, and county staff. However, sometimes the process can be followed too rigidly in her experience. One of the changes in the process is a technical look for opportunities where they can move faster in the process for small special use permit applications that were not controversial. She has had very small, simple special use permit applications that were not controversial, but she still did not get comments for 46 days even though there were no comments. She did not get to the Planning Commission public hearing for three to four months because the schedule said they did not have to bring them to the Planning Commission meeting until that date. She asked that staff look for opportunities where flexibility might work for everybody to move it off the plate. She recognized that was easier said than done. Sometimes she has staff say they have the comments ready and they are due to her on this date. She asked if they could send them now. However, she now knows how to go on County View and pull the comments off herself. Most people don't know how to do that. She has always thought when the comments are ready they need to send them on so the applicant can work on them. A lot of times the comments are not as proactively helpful as they could be. However, it has gotten a lot better. It would be helpful for staff to concentrate on really proactive responses to the applicants and then set a meeting with the applicant to make sure everybody understands. The goal is to move the request forward or to get it in shape so that everybody can support it and not just slow it down.
- Another big issue was changes could be made to the County website where all of these processes could be in one place for the applicant and community. She knows the process now, but spends an awful lot of time explaining to clients how it works because they cannot find anything on the website. The forms are in one place. The review schedule is in another place. The zoning ordinance was in another place. There is no place that is like a one-stop shop with a flow chart like this that says here is how our process works with the pre-app form. Right now they have pre-app meetings, but there is nowhere on the web site that actually says that. It does not say who to call to schedule a pre-app meeting or when they are held. She happens to know, but it would be helpful for everyone. It would cut down on a tremendous amount of staff calls and inquiries if people could go to the website and find all of that information in one place.
- Getting the comments to the proffers timely would be helpful. A lot of times it is very close before the Board meeting and they don't have the comments. It would be helpful to make sure it was a joint effort with the applicant.
- This zoning text amendment now requires a plan of development or an application plan for every special use permit and every rezoning, which is not currently the case. That is her read of this. If that is the case that is a very significant change to the application community. Right now some people provide it if a special use permit warrants some sort of an application plan or some sort of a proffered plan. It is not a requirement and certainly depending on the scale of a project they might not need one or might need just a simple one. This amendment essentially takes the standards and submittal requirements for an application plan for a massive rezoning and says that those things have to be in a plan of development for every single application. If that is the case, they would want to take a second look at that and make sure the development community is aware of that. That changes a lot of things.

Mr. Kamptner noted that those documents would be required only for a plan development. For all others, it was at the discretion of the Director of Planning who can decide whether or not it is one that warrants the need for submitting that.

Ms. Long noted that was not the way she read it. It looked like it was under the section for application requirements for all owners initiated rezoning and special use permits.

Mr. Morris said they would take another look at that.

Ms. Long agreed because that was a big change. At a minimum there should be flexibility built in so they could say they might require all of those things, but they also have the discretion not to require all of them.

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

Mr. Cilimberg said staff's recommendation was that once they had reviewed everything that the Commission would instruct staff to bring the final text amendment forward for public hearing as soon as possible. Ms. Long did mention talking to the development community. He wanted to talk with Mr. Graham and Mr. Fritz about how they might effectively do that and still not slow down getting it to them. That is something staff can work on. Staff was anticipating this to come back to the Commission in July and to the Board in August.

Mr. Morris said that was an excellent suggestion.

Motion: Mr. Franco moved and Mr. Dotson seconded that ZTA-2012-00006 be scheduled for public hearing as soon as possible with staff obtaining input from the development community without slowing down the process.

Mr. Cilimberg noted he would talk with staff about how to take this out to the development community for comment without slowing the process down.

The motion passed by a vote of 7:0.

Mr. Morris noted that ZTA-2012-00006 would be scheduled for public hearing as soon as possible with staff obtaining input from the development community beforehand without slowing down process.

ZTA-2012-00009 Ministerial Review Process Improvements (site plans)
Changes to the ministerial review process (Bill Fritz)

Mr. Fritz summarized the executive summary for ZTA-2012-00009 Ministerial Review Process Improvements (site plans). The Planning Commission comments and concerns are shown in bold.

Staff considered all of the comments received and how potential changes would advance the goals set out by the Board of Supervisors. Staff has prepared new ordinance language that is intended to address the comments of the Board of Supervisors, Planning Commission, Architectural Review Board and the public. Staff has come up with some new concepts. The most significant changes are:

1. Preapplication submittal with review in 10 days to determine main issues and required waivers
This will allow applicants to quickly and easily identify major issues with a development proposal. This action should streamline the review process somewhat because formal applications, when made, will be more complete. This eliminates delays in the review process brought on by confusion over the request or lack of necessary information to review a proposal. Needed waivers will be identified along with the information that needs to be submitted and what the process will be. Most of those waivers now go to the Board of Supervisors. However, staff still needs to identify the sections.

2. Allow the issuance of grading permits with the approval of the initial (preliminary) site plan
Staff uses the term "initial" as opposed to "preliminary" because they are trying to emphasis that this is a different kind of plan. Allowing grading earlier is consistent with the current practice for subdivisions and

planned developments. With the approval of the preliminary plat or with the approval of the application plan in a Planned Development by the Board of Supervisors the applicant can actually start grading. Construction of streets within a subdivision may occur currently after the approval of the preliminary plat and the road plans. Grading within planned developments may occur after the approval of an erosion and sediment control plan that is consistent with the application plan. Implementing this change will shorten the total time required to build out a development. This would allow some grading activity to occur before the final site plan was reviewed, but the initial plan would have to be approved.

3. Establish clearer submittal requirements for the final site plan
The current ordinance and review process does not provide clear guidance for the final site plan approval process. Implementing this change will reduce the burden on the applicant and shorten the time required for final site plan approval. The ordinance changes provide this new process in a very clear concise way.

4. Allows for significant reduction in level of detail required for minor site plan amendments.
This statement should not be taken to mean that they are lessening the standards. Minor changes to a site plan occur frequently. The proposed language allows the agent to reduce the level of detail required for a site plan amendment. Currently, a small change to a site plan affecting only a portion of the site still requires all the information for a full site plan showing the entire project. The proposed change will allow the revised site plan to focus only on the area of change and allow the agent to require sufficient information to review the change without requiring the submittal of information that is irrelevant to the proposal.

5. Provides for a purely administrative review process.
Items would no longer come to the Planning Commission. Site plan approvals would be done purely administratively. This was discussed with the Board of Supervisors and the Architectural Review Board on a couple of different occasions. The concept of administrative approval is incorporated into this text amendment. The only way a project would go beyond the administrative process is if it was denied or if it were approved with conditions objectionable to the applicant. The applicant could then appeal those decisions and the appeal process is spelled out in the ordinance.

With the exception of projects where waivers are requested the process will be administrative. This should allow for a reduction in the overall time required to process an application and reduces the Planning Commission workload. This will allow the Planning Commission to focus more on other issues such as additional text amendments, Comprehensive Plan, rezoning and special use permits. In particular staff believes that the additional time available to work on text amendments can be a great asset to the community as it will allow ordinances to be developed that reflect the level and quality of planning that the County desires.

By providing for a purely administrative process it will reduce the total number of submittals that need to be made by an applicant by one. The process staff envisions would be that the application is submitted and it goes to the site review meeting. At the site review committee it would be approved or denied.

***6. Incorporates the Architectural Review Board review earlier in the process*.**
The Architectural Review Board is made a member of the site review committee. Comments from the Architectural Review Board is received early in the review process. By engaging the Architectural Review Board early in the process it is anticipated that this will reduce the number of site plan submissions that will have to be made and reduce re-engineering and redesign costs for applicants.

The Planning Commission provided the following concerns with the proposed amendment language:

- **At site review it is conceptual and the big picture in many cases. Concern with ARB review at this early stage and if they are going to start looking at building materials such as the color of bricks, etc.**
- **What kind of discretion does the ARB component of this now have at site plan level? Do they have the ability to say they don't like parking in this location or they want to see green spaces rearranged to be in these other places? Or, is it really just orientation of the building?**
- **Do they have the ability to say they don't like this site design or layout? It may meet all the other minimum standards of the ordinance, but the ARB does not like the way the spaces are arranged.**

- **Are they elevating ARB comments as a requirement now?**
- **If they allow early grading they need to have the availability of good quality control.**
- **Concerned by having the ARB so early in the process. If the criteria regarding the kinds of comments that are permissible are not particularly strict a Commissioner sees a situation where in their effort to try to reduce the Planning Commission work load they may in fact from the applicant's standpoint be moving the work load that used to be with the Planning Commission now over to the ARB. From the applicant's standpoint they still have to run the gauntlet through another body that is asking detailed pointed questions. It was going to be very important to look at the kind of criteria in terms of their responsibility and the kinds of questions and issues they can address.**
- **One Commissioner commented the proposal can improve the final product. However, there has to be some restraint in there to keep them in that box. Again, it has to be clear what a comment is and what is going to be a requirement.**

7. Establish that any comment not responded to within 6 months deems the project withdrawn
When revisions are received long after comments have been made considerable staff time is spent on refamiliarizing with the project. In addition, the project may need to essentially be re-reviewed in order to insure that no ordinance changes have occurred. In addition, only a minimal fee is required for re-activating a project. A process for applicants to request an extension to the 6 month time limit is established. Implementing this change will allow staff to be more efficient in reviewing projects.

- **The Commission asked if at the end of six months after the clock starts ticking if staff sends a registered letter saying the project has been withdrawn. Staff responded that no notice is sent informing the applicant that an application is about to expire. Staff will be working to include some type of notice in correspondence sent to the applicant with the comments. Currently, no notice is sent when projects are about to expire.**

8. Improves organization which makes interpretation and administration easier for both applicants and staff.
No significant effort has been made to reorganize the site plan ordinance since its original adoption in 1980. With changes in state law and piecemeal text amendments the organizational structure has become awkward and disjointed. The proposed changes to the ordinance provide for a more logical and easier to understand flow.

9. Uses language similar to that contained in the Subdivision Ordinance.
The language for: definitions, rules of construction, notice provisions, final submittal criteria, reservation and dedication of land, access for multiple units and access in event of storm, coordination of access, easements for storm water facilities, dedication of water and sewer facilities and other utilities, completion and bonding of improvements are made similar to that contained in the Subdivision Ordinance. Commonality in the two ordinances makes understanding the ordinances easier for applicants, public and staff and reduces inconsistencies in processes and administration and design.

10. Updates language to match current state code language and court decisions.
Variations and exceptions, period of validity, reservation of land are just some of the changes made. These changes are technical in nature and have no effect on how applications have or will be processed.

11. Minor changes to fees.
The fee provisions are modified only to reflect the new process. Two new terms are added to the fee schedule, preapplication plan and initial plan. References to preliminary plans are removed from the fee schedule. No change in the total fees for applicants. Only the titles change.

In preparing this text amendment staff attempted to *reduce plan content to the minimum necessary for review.* Limited reduction in plan content is possible for initial or final site plans. Significant reduction in plan content could, in staff opinion, result in a reduction in the quality of the resulting developments. However, staff has included for minor site plan amendments the ability to significantly reduce the plan content. This will make the preparation and review of minor site plans much easier for applicants, staff and interested public as the plans will now focus on the changes and additional information which sometimes has a cluttering effect can be removed. Staff wants to clearly note that the changes maintain *public notification of the Site Review Meeting and maintains the public's ability to provide comment on site*

plans. Notification to adjacent owners currently occurs. Re-evaluating when these meetings occur (day or evening) and stressing that these meetings are an opportunity to talk to the applicant and County staff may serve to improve public input and allow developers to respond to public comments.

- **The Commission asked about notification for public of site review comments. Mr. Loach and Mr. Franco asked that advisory councils be in the loop to be notified.**

Mr. Fritz replied the public currently is notified of the site review meeting and that will stay the same. Abutting land owners will be notified. They will still be notified of the site review meeting and encouraged to share their concerns so staff can share the concerns with the applicant. Staff does that now and will continue to do that. There is no change in notification. Staff will administratively have to adjust when they do the site review committee meeting Right now the site review meeting is 24 days after submittal and they won't be able to keep that. They will have to adjust when they send the notices out. However, there is no change in doing it.

- **On page 55 it talks about streets and travel ways within the development. Mr. Lafferty suggested that it talk about bike lanes and interconnectivity.**
- **A desirable asset of any community is their bike facilities. Mr. Lafferty suggested incorporating something about roadways or bike paths in our plans.**

Mr. Morris invited public comment. There being no public comment, the public comment was closed to bring the matter back to the Commission. He asked what action was being requested.

Mr. Fritz asked the Commission to identify any concerns and tell staff to bring it back as soon as possible.

Mr. Franco said he thought staff had received their concerns.

Motion: Mr. Franco moved and Mr. Dotson seconded that ZTA-2012-00009 Ministerial Review Process Improvements (site plans) be brought forward for a public hearing as soon as possible with consideration of the Planning Commission's concerns in the proposed amendment text.

The motion passed by a vote of 7:0.

The Planning Commission identified the following concerns with the proposed ministerial amendments and asked staff to take it in consideration for possible text changes to bring back for review at the public hearing:

- Staff needs to take a good hard look at how they are going to control how deep the ARB goes into the initial look at this. The ARB does an excellent job of getting into detail, but they don't necessarily want it at this particular spot.

Old Business

Mr. Morris asked if there was any old business.

- Due to summer schedules, the June 12th meeting changed to June 26th & August 14th meeting changed to August 28th

There being no further old business, the meeting proceeded.

New Business

Mr. Morris asked if there was any new business.

- Next regularly scheduled meeting Tuesday, May 23, 2012

There being no further business, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 8:26 p.m. to Tuesday, May 23, 2012 at 6:00 p.m. at the County Office Building, Auditorium, Second Floor, 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)

Capital Real Estate
PO Box 7885
Charlottesville, VA 22906

May 15, 2012

Wayne Cilimberg
Director, Planning and Community Development
County of Albemarle
Department of Planning and Community Development
401 McIntire Road
Charlottesville, VA 22902-4596

Proposed Light Industrial Zoning Changes of May 15, 2012

Dear Wayne,

I have recently received a copy of some suggestions for changes in the Light Industrial Zoning that would affect our property located on Northside Drive on Route 29 North. We are opposed to these specific changes for a variety of reasons, some of which I describe below. Although I applaud the effort to expand the industrial economic base of the community, the proposed changes are misshapen in their method of accomplishing this goal.

Starting with a broad brush, the County should recognize that there are at least two categories of companies that are in the industrial market: one is the traditional large company looking for a new manufacturing home, whether relocating from smaller space elsewhere, or wishing to come to the area. They need a lot of space, are well financed, and have a good description of their needs. The County Staff's recommendations for new land use appears to be focused on these users: they need readily available industrial land that is relatively large, currently available and a developer focused on accommodating their needs. It is this elephant of a client that appears to get all the attention and press, and possibly is the subject of Ms. Stimart's letter on "Office Encroachment in LI-zoned parcels" of May 4, 2012. I am all for encouraging these groups, but in my experience as a developer in the County of Albemarle, such elephants are rare. To the extent they arrive, like a GE Fanuc, the Ground Information Center or someone at the UVa Research Park, they come with a special attachment to the area and are not likely to be here because industrial property is cheap.

The other group of companies are those that are start-ups, and they are, almost by their nature, locally grown and developed. They start out in small spaces, are concerned about price, and have a wide variety of needs which require flexibility. They are the rabbits of the wood, and are frequently seen, but hard to catch if you are not adaptable. The new recommendations appear inadvertently formulated to discourage these animals.

In specific, the proposed restriction of floor area for office space on industrial land seems misguided. In general, light construction of space suitable for offices is relatively cheap to build in comparison to an industrial building, the buildings are more attractive and, depending on the interior finish, perfectly adequate for start-up enterprises. On our property on Northside drive, we have proposed to build a variety of two story buildings, like those we have built on Harris St. where both floors have walk-in access. At Harris St., the lower floor has high ceilings and the spaces have been used for photo-lab processing, office-supply storage, a karate studio, a medical gas supplier, and geological testing office.