Albemarle County Planning Commission
September 10, 2013

The Albemarle County Planning Commission held a regular meeting on Tuesday, September 10, 2013, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Other officials present were Claudette Grant, Senior Planner; Scott Clark, Senior Planner; Sharon Taylor, Clerk to Planning Commission; Wayne Cilimberg, Director of Planning and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

Other Matters Not Listed on the Agenda from the Public:

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

Committee Reports:

Mr. Morris invited committee reports.

The following committee reports were given:

- Mr. Dotson noted the meeting with the City Planning Commission and MPO staff on the Long Range Transportation Plan takes place at noon Wednesday, September 11th at the TJPDC Water Street location.
- Mr. Randolph reported a letter was sent to the Board of Supervisors from the Chair of the Historic Preservation Committee expressing some concern about proposals regarding the County Court House.
- Mr. Randolph reported the Village of Rivanna Regional Advisory Council wants to be included as a notified party for the required community meeting that will take place regarding the Keswick Lakes ZMA.
- Mr. Loach reported the Crozet Library is now open.
- Mr. Lafferty reported that members of the Places29 Community Advisory Committee attended the community meeting for the COSTCO proposal in the north section of Stonefield.
- Mr. Lafferty reported the Citizen Transportation Advisory Committee (formerly CHART) met and reviewed Phase 3 of the Long Range Transportation Plan.
- Mr. Morris noted the Pantops Community Advisory Council met on Monday, September 9th.

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

Review of Board of Supervisors Meeting – September 4, 2013.

Mr. Cilimberg reviewed the Board's September 4, 2013 meeting actions.

Consent Agenda

Approval of Minutes: April 23, 2013 & April 30, 2013

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

Mr. Lafferty moved and Mr. Randolph seconded to approve the consent agenda.

The motion carried unanimously by a vote of 7:0.

Deferred Item

ZMA-2013-00002 Pantops Corner
PROPOSAL: Rezone 2.246 acres from R-1 zoning district which allows residential uses at a density of 1 unit per acre to HC zoning district which allows commercial and service uses; residential by special use permit at a density of 15 units per acre. No dwellings proposed.
ENTRANCE CORRIDOR: Yes
PROFFERS: Yes
COMPREHENSIVE PLAN: Urban Density Residential residential (6.01-34 units/acre); supporting uses such as religious institutions, schools, commercial, office and service uses and Greenspace – undeveloped areas in Neighborhood 3 - Pantops.
LOCATION: Approximately 575 feet north from the intersection of Route 250 and Stony Point Road (Route 20) on the east side of Route 20. Back portion of 1248 Richmond Road, fronting Route 20.
TAX MAP/PARCEL: 078000000058G1
MAGISTERIAL DISTRICT: Rivanna
(Claudette Grant)
DEFERRED FROM JULY 16, 2013 PLANNING COMMISSION MEETING

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

The request was deferred at the July 16, 2013 public hearing. The applicant is requesting to rezone 2.246 acres from R-1, Residential District to HC, Highway Commercial District. The applicant requested a deferral in order to get some traffic impact information for the Commission. The applicant did complete a volume comparison study and revised proffers were submitted.

As described in the executive summary VDOT and the County Engineer request additional information before they feel comfortable with this rezoning request. The County Engineer does not feel the applicant has provided enough information to address possible impacts from this proposed rezoning. VDOT and the County Engineer are concerned because the Routes 250 and 20 intersections are very delicate and they are concerned about adding more traffic onto this intersection without mitigating possible impacts. Additional concerns include the possibility that more than one of the proposed uses described in the volume comparison study could be placed on the site at one time and what happens if a new owner comes in and decides to maximize the allowed use on the site. The County Engineer feels the applicant should look at the worst case scenario or possible use that could fit adequately on this site and provide traffic information for this use.

Another approach the County Engineer suggested is having the applicant proffer some possible mitigation factors, such as extending a median on Route 250 making it difficult to access the Route 250 access to the site with left turn movements. In a conversation this afternoon with the traffic engineer said he was not sure what could happen on Route 20. VDOT would have to be okay with his suggestion about increasing the median on Route 250.

The applicant has explained that this site is relatively small and can only develop within a certain parameter. The County Engineer and VDOT need to feel comfortable adding more uses in this corridor, and at this time they do not feel they have enough information to make such a decision. Road A has a potential to connect to Road B going over to Route 250.

Other Outstanding Issues - Proffers:
The applicant has submitted revised proffers; however, the proffers remain in need of substantive and technical revisions. The following additional clarification was provided. In addition to the information described in the executive summary, staff noted the following:

Proffer 1: This proffer is intended to establish the commitment for road interconnectivity to adjacent parcels and, as drafted, addresses interconnection to TMP 78-06, which is the Battlefield Ford property. The applicant is asking for an access easement to this parcel. This is not something that staff has purview over unless there is a subdivision request related to this interconnection or unless the adjacent parcel redevelops. A site plan does not necessarily require this easement that involves an interconnection. However, it is something that could be discussed at a site plan stage, but is not necessarily required.

Proffer 2: An ideal situation would be that Road B or an equivalent road, as shown on Exhibits C1 and C2, includes a continuous roadway or travel way from Road A. The proffer as written could provide a travel way from Road A to Route 250. However, they have some concerns regarding the possible efficiency of this travel way. Staff would prefer to see that there are very little interruptions on this roadway. Staff cannot necessarily guarantee that unless it is actually proffered as such with more detail

Proffer 5: This proffer needs to be revised per the County Attorney's suggestion to use the standard format for this type of proffer.

Staff has identified the following favorable factors:

1. The proposed HC zoning can provide a more cohesive development for this property and the adjacent existing HC zoning districts.
2. The proposed interconnections could be a benefit to the surrounding properties.

Staff has identified the following unfavorable factors:

1. The proffers need to be substantively and technically revised.
2. Traffic study information is incomplete and the adequate information as requested by VDOT and the County Engineer needs to be submitted to determine impacts of the rezoning and road interconnection to Routes 20, 250 and adjacent properties.

RECOMMENDATIONS:
While the concept proposed is acceptable to staff and staff believes that the outstanding issues with the proffers are items that can be resolved. The outstanding traffic issues described in the summary are the primary reasons that staff cannot recommend approval of ZMA-2013-00002, Pantops Corner because of the unfavorable factors listed in the executive summary.

Mr. Morris invited questions for staff.

Mr. Lafferty asked if the level of service at 250 was at level "F" right now, and Ms. Grant replied yes that was her understanding.

Mr. Lafferty said also in the Long Range Transportation Plan one of the scenarios is the widening of Route 250. He asked if staff knew how this would affect this.

Ms. Grant replied that she did not know how the proposal would affect it.

Mr. Randolph noted in the materials the Commission received for the July 16, 2013 public hearing on page 4 it said that staff opinion is that the proposed proffers do not adequately limit the uses permitted on the property to a scale consistent with the Master Plan Land Use recommendation. He asked to be updated on that statement and if that statement still applies at the present time.

Ms. Grant replied the applicant did make some revisions to the allowed uses, which staff is okay with.

Mr. Lafferty asked with staff's reservations on the proffers how much time the applicant has to respond to try to fix them.

Mr. Grant noted the request was deferred on July 16 and the information was submitted to staff on August 5.

Mr. Cilimberg noted the procedure was that once the information was submitted, reviewed and staff provides comments back to the applicant the applicant can chose to further address or ask that it come back for the Commission's hearing. Tonight was the deferral date and the applicant chose to keep the deferral date. With regards to Mr. Lafferty's question about the potential widening, staff would not be able to advise the applicant as to additional right-of-way that might be necessary for a widening because no plans have been developed. They have frontage, but it is somewhat difficult right now to be trying to do much with how they can provide for a road widening that has not been planned.

Mr. Lafferty said he expected it will be 20 years before they even get around to doing anything.

Mr. Randolph noted one of his expressed concerns on July 16, 2013 was significant inadequacy on a number of the principles of the Neighborhood Model for this application to meet them. He asked for an update on where things stand from July 16, 2013 for the record. One of the areas not addressed is pedestrian orientation. He asked is that now addressed.

Ms. Grant replied no, it was not addressed. The plan as they see it is the same plan that was submitted back on July 16, 2013. The applicant does not have any definitive information in terms of what will be proposed on the site. Therefore, it is difficult to know how this would meet many of the Neighborhood Model principles.

Mr. Randolph said for the record pedestrian orientation still is not met. Neighborhood friendly streets and paths are still not addressed. Relegated parking is still not addressed. Buildings and spaces of human scale is still not addressed. Also, site planning that respects terrain is still not addressed. He asked if that is correct.

Ms. Grant replied that is correct.

Mr. Franco said he would like to follow up on that. For clarity he asked what pedestrian orientation means. He pointed out sidewalks could be required as part of the site plan process. He asked if that is how they would judge pedestrian friendly streets or access.

Mr. Grant replied that was correct for pedestrian orientation.

Mr. Franco noted last time they had this discussion they talked about how it was maybe too early in the process and that many of those requirements were going to be required as part of the site plan process. He just wanted to be fair to the record to say yes a number of those things remain unanswered, but our ordinance requires a number of those things in the future.

Mr. Morris opened the public hearing for the applicant and public comment.

Justin Shimp, engineer representing the owner, noted the owner was present. He would start where they left off the conversation and go back to the things that he wanted to bring up.

- The Neighborhood Model principles that building orientation will be in for the site plan and the ARB issue. Sidewalks and street trees are part of the zoning ordinance. He thinks many of those are things that are required by the Code that evolved over these principles of the Neighborhood Model. He thinks they will address all those things, but not until they actually have a plan for a building, sidewalks, or anything like that.
- VDOT's comments about traffic are a little confusing. He has the original email from VDOT. What they said was show us a design for the Route 250 intersection and Route 20 intersection. They certainly do not have anything on Route 250 or know anything about Route 20. That really is a site plan issue.
- The other comment was that all our entrances have to meet Appendix F for the Road Design Standards, which they certainly do. So they have had discussions with VDOT about this project unaware that they may require things like a right turn lane dedication on Route 250 if that parcel is developed. They will note the Flow site that was done recently has a new right turn lane. They may require those things at site plan. It will depend on what the site plan is and what their engineering goals are at the time. They don't know that right now. So he thinks the VDOT issues are really items that are more applicable to a site plan as well.
- Some of the traffic issues he wanted to explain a little more in detail. He wanted to start with the buildable area, which is in front of the Commission. They had a discussion on this last time on what can they really do with this parcel. That is a good question as to what the impact could be. He wrote up a sketch showing the detail of the road, the grading has to go up the hill and sort of curves to get up to an elevation of 250 reasonably so they can connect to 250. So they are really constrained on that. They have a funny little triangular piece on one side that is a little over one-half acre and a couple of 4,000 or 5,000 square foot spots left on the other side. So that is their developable acreage. The area at the end is the critical slopes and floodplain area. As discussed by staff that proffer was really unnecessary because it is all protected anyway. Therefore, they will remove that proffer.
- They have another issue at this site regarding the conflict between the R-1, which really does not make sense, for the property and then the adjoining property. There is a little parcel with a little building on it that has been there since the 60's that can't actually redevelop now because it has a 50' building setback and it is vacant R-1 land. So they have to just keep that building there. If they tear the building down they have to build it 50' over, which really makes that parcel sort of not re-developable. So this would fix that issue if they change the zoning to HC, Highway Commercial upon allowing the connections in a reasonable manner.

- The traffic summary concern they heard last time was how much can they really build on the site, how many trips, what sort of use, and what is the real impact. What he tried to do was be pretty simple and factual and say okay here are a few uses they can envision on here. They used a base line for our comparison of how many trips are in the 250 intersection now. In the traffic report on page 3 it has diagrams, which came from the Riverside Village Study from several months ago. They did a full traffic study there with a projected build out of around 5.000 to 6,000 trips per hour in the a.m. So they knew what the deal is now, and then they compared and said they could put specialty retail. They thought they could put a drug store. However, the truth is they could not fit a drug store on this site due to the size. They were trying to pull things that they thought were high traffic generators. They proffered out the convenience store because that was also a high traffic generator. So they excluded that. The highest one they found left was the coffee shop, which they looked for a way to proffer out. However, because it is tied into restaurants it would prohibit any and all restaurants on the site. It is not very likely there, but is probably the worse case scenario. Most of the typical uses are office and retail and would amount to a trip generation of about one percent of what is in 250 and 20 right now. He thinks Mr. Brooks was wondering if that amounts to a 5 second delay or what was the change in the signal. It is kind of hard to say because they don't know how those trips break out going 20 and they go through the site. This is the raw trip number since they don't take into account the bypass trips because this is all commercial. For example, at Stonefield he thinks the County reduced it by 25 percent because not everybody is going there to go there but sometimes just driving past. These uses are much the same. It is probably more like a 40 percent of a 2 percent increase. Their goal is to simply take up an acre at the most of developable land and what could reasonably be placed on the site and show what that percentage was. Then County staff could weigh in as to how significant that is.
- They are largely in agreement with the staff on the proffer with one clarification. With the first proffer there is some doubt that they even need that because the site plan requirements require interparcel connectivity anyway. On the site plan they would have to stub out the road to the connection to the property line. So they will work with staff on that and if they need to get rid of the proffer or clarify it, that is fine. They are fine with providing an interparcel connection. He did not know that it actually needs to be proffered. If the proffer confuses things, then it may be best just to remove it.
- The second proffer relates to the connection to 250 and how that happens. The trouble they have with that is they don't know. The parcels on the corner could be redeveloped at some point, but they were just a little hesitant to put a language on of a straight through road or something that could be interpreted in five years to be a straight through road. They certainly know they have an ordinance to comply with as far as slopes, site distance with the travel way, and all these things including the parking ordinance. The wording of our proffer was just to reaffirm that is the way they want to get through here without proffering a specific location. They feel that is a reasonable way to approach this with so many unknowns. He knows the ordinance has many protections in it for how those things have to work. They give the county engineer some discretion as well as to safe access through a site. So they think that the site plan issue once they know what they are actually going to do. They just don't have that right now. He would be happy to answer questions.

Mr. Morris invited questions for the applicant. There being none, he invited public comment. There being none, he opened the public hearing to bring it back to the Commission for discussion and action.

Mr. Morris noted yesterday the Pantops Community Council looked over what was submitted and on the internet dealing with this proposal. Unfortunately, a lot of the concerns he was not able to answer them. There were more questions than answers. This was the case on July 16,

2013 and from what he sees it continues to be there. Therefore, he has a hard time at this particular point although he loves what he sees on the screen here, and he has to agree with staff. He was speaking for the Pantops Community Advisory Council.

Mr. Franco asked what questions were they not able to answer.

Mr. Morris replied the questions were such as where would the road go; need to know more about the traffic situation; will there be an actual connector out onto 250; more information on Road B; and just a lot of things like that primarily dealing with traffic. One questions was raised was what is going to go in there. He pointed out that is up to the applicant. No one was concerned that he could not answer that because it was too early in the game to say that.

Mr. Dotson asked to review the issues with staff. There are still some proffers that staff feels need to be perfected before this would go to the Board. However, staff feels that they could be perfected.

Ms. Grant replied that was correct.

Mr. Dotson said in terms of the proffers dealing with the intensity of use he thinks staff said they were satisfied with the current proffers that they would limit the limit the uses that would be of concern to staff.

Ms. Grant replied that was correct.

Mr. Dotson asked if it is true that the kinds of traffic mitigation, traffic design issues can be dealt with either now through proffers or at the site plan stage through site plan requirements. In other words, they will be addressed.

Ms. Grant replied she could not say they could be addressed at the site plan stage because now would be the ideal time to address the traffic concerns.

Mr. Kamptner pointed out once they are at the site plan stage the ability for the County to require any off-site improvements would be gone. It would need a proffer. VDOT may have the ability to require some off-site improvements independent of the County site plan process. He was not sure if they are often willing to do that.

Mr. Franco said the off-site improvements to the right-of-way that he has heard so far have been potentially some turn lanes into the site or off of 250 into Road B as well as potentially a median. Those are off-site now. However, if a connection is made over there it would require a site plan or some sort of process for that off-site parcel at some future point. He asked would that be considered frontage for them at that point or would they be able to do that without a site plan. He asked how Road B would get built in the future. He would assume it could be built by right, but it would have to come through a planning process. At that point in time that is now frontage for those parcels and not off-site to this piece. He thought at that point the site plan process would allow the County and VDOT to deal with that connection.

Ms. Grant agreed that is true.

Mr. Franco asked are there other improvements that have been discussed or thought about that can't be addressed the same way. That is what he understands the question is. He was not seeing improvement that can't be addressed during the site plan process. He asked if staff has an example of one.

Ms. Grant replied she was not sure that the median improvement could be addressed at the site plan stage.

Mr. Franco said not for Road A or for this parcel, but definitely for 76 or whatever that is when that connection to 250 is made that could be addressed at that point in time with the entrance permit design. Or, does that road already exist.

Ms. Grant replied that Road B does not exist.

Mr. Franco said at that point in time he believed if a road plan or site plan comes into VDOT then they would have the ability to say this intersection connection is conditioned upon a median being put in.

Mr. Cilimberg said they could be assured that the frontage improvements can be addressed as necessary. He thinks when they start getting into median improvements they may have to go down to 250 some length and that is a little more questionable. That is why that is one that staff cannot answer for sure in terms of the site plan measure.

Mr. Franco said it was a Catch-22 because as he understands it this road connection is something that they are encouraging to be in the Comp Plan. So he wants to see it happen. It is off-site to this development and there is no promise that Road B is going to be built via this rezoning. He thinks they have to find a different way of getting that improvement if it is required in the future. He has a hard time unless they are going to say right now say build the median as part of this whether Road B is built or not. He did not think that is what they are prepared to say.

Mr. Randolph noted that does not mean that VDOT will listen to whatever they say.

There being no further comments, Mr. Morris invited the applicant to make a rebuttal. .

Mr. Shimp said he would like to clarify a couple of things. One is our proffer says the subject property being rezoned cannot be developed. He would say the north side, which was 27,000 square, could not be developed until Road B is connected to 250 in some fashion. So they are saying that road or connection has to be made to 250 before they can get a building permit on the parcel being rezoned. There is an off-site improvement in a way proffered with this plan restricting the development of this plan until that connection is made. He wanted to make sure that is clear to folks. He thinks the difference they discussed with the County is not whether the road exists or not. It is very clear that the road must exist. It is what the alignment is, which is not pinned down exactly in our plan. The fact that it must connect is clear and that will be required. He has spoken to the Highway Department and one of the things they have mentioned is to get an entrance in they may require a median to be built up along 250. They can do that because 250 is a safety issue on that corridor. So they have given us a warning already that may be coming. He thinks the question becomes what they can do on this parcel and what off-site improvements other than the required connection of Road B to 250, the inter-parcel connection, are reasonable or could not be done. They think the by right development of those parcels in the front would create some kind of an impact, but they can be medians or turn lanes or whatever is appropriate from an engineering standpoint. But, they are just talking about the 2 acres and ¾ of an acre they might be able to build on and saying that is tied to an improvement which is an inner parcel connection. He just wanted to make sure it was clear that there is a requirement for some improvements as part of this rezoning and it is not just that they might do it because it is required.

Mr. Morris said the public hearing was closed to bring the matter before the Planning Commission. He said he heard what Mr. Dotson was mentioning. He would hate to not move this forward because he liked what he sees. However, there are too many questions that staff cannot answer at this particular time.

Mr. Franco said the last time they had a discussion about some of those questions and he thinks the scale of the development was the biggest concern. What he heard from staff tonight is the scale seems to be under control now. They have some trip generation numbers that show its relative impact to what load is on Routes 250 and 20. It is relatively small scaled compared to the build out traffic for 2018. He thinks getting the connection that they are looking for probably outweighs any of those unknowns as long as they are comfortable with that scale of development, which again he is hearing that they are. He thinks the rest of the details can be addressed at the site plan level for the location of the road, turn lanes for the road, and things like that. Therefore, he would be inclined to support the request.

Mr. Loach asked what mitigation Road B would have on the traffic at the intersection. He asked what the measureable benefit would be to the level "F" that would have.

Ms. Grant replied that staff does not have that information.

Mr. Cilimberg said he might mention that he did not know which way they might be going with any kind of recommendation. One thing that could be important to Roads A and B would be to understand that while the location is not pinned down the site plan process can deal with a lot of the aspects of how the road is provided. It would be good if this were to be approved to have a commitment, which would be through proffers, that Road A and B in whatever form they are provided can function as a true through road and not a parking lot aisle. That makes a big difference in terms of the functionality of Roads A and B and the ability for them to handle diverted traffic that might benefit the Routes 20 and 250 intersections. He thinks it is not so much about even pinning down design of Roads A and B as it is to know there could be some commitment to making sure Roads A and B could function in a way that serves through traffic movements as well as what is generated by the development on those sites. They don't have that kind of assurance right now through the proffers. There is a lot of that they can address through the design aspects of the site plan. However, if they start getting a bunch of parking isles that are accessing every 40 feet at Roads A and B, then they are losing functionality. That is creating a fair amount of friction.

Mr. Franco asked how the judgment would be made. In other words, if it were a private or public road what spacing would they allow.

Mr. Cilimberg replied that public roads have certain spacing requirements based on the classification of the road. He did not think they can necessarily pin that down now. He thinks it is more about making sure where there would be some assurances in the proffers that those roads would be built in order to provide that function and to not function essentially serving parking lot isles. That is something they could work with the applicant on if they were willing to do that between now and the Board meeting. However, he just mentioned that as one internal matter that would be good to have clarified if there were to be an approval.

Mr. Morris asked the applicant to please come forward. He asked if Mr. Shimp understands what Mr. Cilimberg was saying and if this is something that would be acceptable to the applicant.

Mr. Franco noted while they were talking he just wanted to clarify a concern. When they had this discussion in the past for Hollymead Town Center by the theater the design they came back with allowed parking lot bays to come off the road so it might be every 60' but did not have the perpendicular parking on that travel way itself. He asked if that is acceptable.

Mr. Cilimberg replied that it started out with that kind of arrangement. What staff had recommended was a reduction in the points of access. He did not remember how many, but it was a lesser number than every 60'. He thinks they also incorporated some parallel parking on that road, which was not necessarily a problem.

Mr. Franco asked if they were to craft a proffer at some point how they would describe it.

Mr. Cilimberg said that is part of what they would need to work with the applicant on between now and the Board meeting. He was thinking more about if the Commission was going to recommend approval, then that is something they might include. The applicant might want to speak to this.

Mr. Shimp said they understand the concern of staff. However, he thinks the primary issue is whether the travel way has parking stalls 90 degrees off it or not, which would be different sorts of roads to drive through. In the case of Road A they certainly would not have an issue with that being a travel way without parking on it directly. Road B is something they could work with staff to try to limit it as much as possible. He suggested that they work out a percentage where there would be no more than a certain percent or minimize the amount of parking on that road. He was certainly open to that. They know it needs to be a reasonable through road. He could just image some scenario where they need to have six parking spaces on the main road for handicap access or something like that on the site plan and then they have some proffer that makes it impossible to comply with. Certainly they would be in agreement with something that would restrict no parking on Road A and on Road B they could establish with staff perhaps some kind of percentage that the road should be clear all but some percent.

Michael McGowan, managing member of the ownership, said this is a relatively small site and because of the topography they know how that would work on Road A. However, on Road B he did not think they can build a highway through a very small site to solve all the problems on Pantops. The fact of the matter is that they have made a commitment that they are not going to get a building permit for anything on this parcel being rezoned unless that roadway is built connecting this parcel this to 250. So the questions people have is there going to be an interconnection. He noted they are not guaranteed. However, they will not be able to build anything on this site until it is. He thinks there is a very practical solution to that. In terms of doing anything further on Road B he pointed out that people want traffic to come in. They will want to come from 250 and 20 and have a system that works. He has been involved in owning Shopper's World and other places where they had terrible shopping with traffic coming through and everything else. They certainly don't want that here. However, they cannot agree to say that they are going to put a high speed travel way through the middle of a small parcel. The language of the current proffer is that they will build it safe and efficient in compliance with the County's guidelines. He asked if that is what they have in there now.

Ms. Grant replied yes that is basically what they have.

Mr. McGowan said they can do that and they can do the through way language for Road A.

Mr. Cilimberg noted Road B would be less certain.

Mr. Randolph said the only point he would bring up is that they are now focusing on Roads A and B and not talking about what happens at either end in terms of entrance analysis, levels of service, and those issues that are clearly spelled out on page 1. The traffic information they still don't have. They are looking at trying to get a clarification of the status of Road B versus Road A. However, at the end of the day it still does not address those significant concerns.

Mr. Franco said if it was a significant concern that it should not be there, then they should have addressed it before adding it to the Comp Plan.

Mr. Randolph said he was not saying it should or should not be there. He thinks what is spelled out in the staff report is very clear that both VDOT as well as the county engineer feel that additional information should have been provided. However, it is not provided. He did not have a bias against the road one way or the other or whether it is in the Comp Plan or new today. However, at the end of the day roads begin and end at a terminus. What is lacking here is information about the impacts as a result of those termini. That was a concern that two members of this Commission expressed when they looked up through 20 at additional traffic and what the traffic impact was going to be. At the end of the day he has not heard those two issues addressed either from a VDOT or county engineer perspective. He thinks that is the applicant's responsibility.

Mr. Franco said he sees the solution is to give the design of those intersections since the impact is not the debate. The design is the debate. If the impact comes through and says there is no problem, then there is no problem. If it comes back and says yes the connection is a problem, then there is either a design solution or the road should not have been built. They have the ability as the County because of the proffers to come back and say okay the road won't be built at which point the largest of the three tracts that are created on this plan or the majority of this acreage would not be buildable because Road B, the connection of the road, would never be built. He thinks the applicant has at least addressed that aspect of it. It is really not the impacts but the design and that can be dealt with at the site plan level.

Mr. Randolph pointed out perhaps they will find instead of Road B terminating to 250 that it would be a cul-de-sac and not come into 250.

Mr. Franco agreed and noted if that were to be the case then roughly one-half of this development could not be built upon. Therefore, the problem is solved.

Mr. Cilimberg said for clarification he pointed out the Commission did address this during their review of the Comp Plan. There were a couple of changes in Pantops that were requested during the Comp Plan review. At one time there was a more general through road angling from 250 to 20 in the Pantops plan for this area. It did follow this alignment as more of a general line. However, that road was requested to be removed. In the recommended plan it would no longer be a road in our Comprehensive Plan. This has been viewed more as a local connection rather than a major through connection that would be taking significant amounts of traffic off 250 and 20 to avoid the intersection. As this proposal has come forward it has been viewed more as a local connection that could serve primarily the localized trips of the uses being developed and some level of through movement for people who knew it was there and decided to use it. That is where the functionality becomes important as to the ability for that to happen. Road B was being viewed as a local public road serving not only development traffic but some amount of through traffic.

Mr. Morris invited further discussion.

Mr. Dotson asked if the Commission recommends denial does the request go to the Board of Supervisors.

Mr. Cilimberg replied yes, the request would go to the Board of Supervisors unless the applicant decides not to have it go.

Mr. Morris said that it would gain time either way.

Mr. Cilimberg pointed out they would have the time between now and the Board meeting to determine what they wanted to address or not address, provide it to staff, and then ask to be scheduled for public hearing.

Mr. Morris noted since this was in his area he would make a motion.

Motion: Mr. Morris moved and Mr. Loach seconded to recommend denial of ZMA-2013-00002, Pantops Corner with proffers based on the unfavorable factors listed by staff in the Executive Summary.

Mr. Morris invited further discussion.

Mr. Dotson said he was not sure that the factors listed by the staff are as explicit as the concerns that Mr. Cilimberg just raised essentially concerning Road B as a local public road serving not only development traffic but some amount of through traffic. He asked if that is a reservation that is stated in the report or do they need to add that.

Ms. Grant reiterated what she thought he was asking is what specific traffic study issues would they like to see addressed.

Mr. Dotson said his sense is the concern Mr. Cilimberg expressed a few minutes ago, which is a more concrete and specific statement than the second bullet. Since it is a specific concern he was wondering if the motion should add that to the unfavorable factors listed in the executive summary.

Amended Motion: Mr. Morris agreed to add that as an amendment to the motion since it would give clear guidance to the staff and the applicant if the applicant chooses to follow through and take it to the Board.

Mr. Loach said he had no objection to the amendment to the motion.

Mr. Cilimberg asked the Commission to be mindful that the issues raised in the second bullet are more general to what the potential impacts would be at the access points as mentioned by the applicant actually at both Routes 20 and Route 250. It would potentially be any effects on the intersection of Routes 20 and 250, which have not been easy to determine based on the traffic information. That is a more general concern that was raised by VDOT and the County Engineer. He was speaking more specifically to if the Commission felt they wanted to recommend approval, then that would be one thing to make sure that was addressed, which they might not be able to fully address at the site plan level like they could at the intersections at 20 and 250.

Mr. Franco said for clarification at this point he thinks what they were just talking about is about the design of the road itself. The traffic study is still something that is being requested to look at the contact points with the public streets. He thinks the applicant has shown what could be

done with Road B. If they were to take Road B off of their map and just show an interconnection to the adjacent parcels what would their traffic study need to focus on? Would it be just their entrance on Route 20 or would they still want something that looks at the greater system like the potential connection in the future through some off site parcel onto 250.

Mr. Loach said it seems they would just be looking at the one road and then it would be the intersection where it connects to Route 20 and the intersection of Routes 250 and 20.

Mr. Franco noted it would just be those two intersections.

Mr. Loach pointed out that it was already a level "F" and would be a level "F" minus.

Mr. Franco agreed and that it goes back to the scale of the thing.

Mr. Randolph asked if the motion was now clarified.

Mr. Morris agreed that the motion was clarified and asked for a roll call.

Mr. Franco voted no because he thinks the impacts can be addressed at the site plan level.

Mr. Dotson voted yes with the addition of Road B made.

Mr. Smith voted no.

The motion for denial was approved by a vote of 5:2. (Franco and Smith voted nay)

Mr. Morris noted that the following recommendation for denial for ZMA-2013-00002, Pantops Center, would be forwarded to the Board of Supervisors.

RECOMMEND DENIAL OF ZMA-2013-00002, by a vote of 5:2, (Franco, Smith voted nay) with proffers based upon the unfavorable factors listed in the executive summary, as amended below in the factors unfavorable to include clarifying that Road B is to serve local through traffic as well as vehicles associated with the development. Mr. Franco voted no because he thinks the impacts can be addressed at the site plan level.

Factors Unfavorable

1. The proffers need to be substantively and technically revised.
2. Traffic study information is incomplete and the adequate information as requested by VDOT and the County Engineer needs to be submitted to determine impacts of the rezoning and road interconnection to Routes 20, 250 and adjacent properties.
3. To clarify, Road B needs to be a local public road serving not only development traffic but some amount of through traffic.

Public Hearing Item

ZMA-2013-00005 Piedmont Environmental Council

PROPOSAL: Rezone 159.682 acres from PUD zoning district which allows residential development (3 – 34 units per acre), mixed with commercial, service and industrial uses, to RA zoning district which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)

ENTRANCE CORRIDOR: No

PROFFERS: No
COMPREHENSIVE PLAN: Rural Areas – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots)
LOCATION: Pelham Road, approximately 1,800 feet from the intersection with Buck Mountain Road (Route 665).
TAX MAP/PARCEL: 03000-00-00-03800
MAGISTERIAL DISTRICT: White Hall
(Scott Clark)

Scott Clark presented a PowerPoint presentation and summarized the staff report.

This is a zoning map amendment request, ZMA-2013-00005, for Piedmont Environmental Council to rezone 159.682 acres, a portion of the original Hickory Ridge PUD, from the Planned Unit Development zoning district to the Rural Areas zoning district. The other remaining undeveloped large piece of Hickory Ridge is owned by the Rivanna Water and Sewer Authority and was obtained for the construction of the Buck Mountain Creek Reservoir. The site is located between Free Union and Earlysville.

In 1973 when this property was zoned A-1, which was the agricultural zoning district at the time that permitted 2 acre lots, Hickory Ridge was given a special use permit to develop a clustered fashion of Planned Unit Development. He pointed out the current boundaries of the subject property as an overlay on the original special use permit plan for Hickory Ridge. There are about 53 house sites shown within that boundary.

As a comparison, if the property were changed to Rural Areas zoning, it would have a potential of about 12 theoretical development rights between 5 small lots and 7 larger lots. However, it is yet to be determined whether or not that total of 12 lots could actually be developed since the applicants are not proposing any particular form of development. All the applicants are requesting is to change the zoning category.

The main issue is the conformity to the Comprehensive Plan. Under the Rural Area Chapter of the Comprehensive Plan reducing development potential and supporting private conservation are two key goals. This project would reduce development potential from the PUD level to the standard RA level. Therefore, it is in conformity with the Comprehensive Plan.

Summary:
Staff has identified the following factors that are favorable to this rezoning request:

1. The proposal is consistent with the land use recommendations in the Comprehensive Plan.
2. The proposal would significantly reduce the potential for residential development in the Rural Areas, and therefore would reduce the potential impacts of that development on drink-water quality, aquatic habitat (including habitat for a federally endangered species).
3. The proposal would reduce the potential demand for public infrastructure and services in this portion of the Rural Areas.

Staff has found no factors unfavorable to this rezoning.

Staff recommends approval of ZMA-2013-00005 Piedmont Environmental Council.

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

Rex Linville, with the Piedmont Environmental Council, said he had nothing further to add other than to say Piedmont Environmental Council was really happy to work with the Bowers family who donated this property to us. They plan now to bring it into conformance with the Comprehensive Plan to basically vacate this Planned Unit Development zoning classification on the property, which is a goal that is consistent with their land conservation mission in Albemarle County. He hoped the Commission would help them with that. He would be happy to answer questions.

Mr. Morris invited questions for the applicant.

Mr. Smith asked about the private conservation options after the rezoning.

Mr. Linville replied PEC is a conservation organization by definition and their ownership of the property in and of itself is a conservation action. They accepted the property from the family as a conservation donation, which means their deed limited what they could do with the land. They either have to hold the property or if they subsequently sell the property they are bound by the deed to subject the property to a conservation easement before they sell it. Therefore, they are legally bound by the deed of gift from the Bowers family.

Mr. Smith asked why they have to go through this process.

Mr. Linville replied again they are trying to bring the property into conformance with the Comprehensive Plan. They are trying to do everything that they can to make it clear the property won't have any development potential like the 53 lots that could potentially be exercised on the property into the future. Conservation easements need to be consistent with the Comprehensive Plan. While the Comprehensive Plan calls this rural area it seems incongruous to have this nonconforming zoning on the property.

There being no further questions, Mr. Morris invited public comment.

Maria Miller, abutting property owner, said her home is situated next to the easement, which is the only access to that land. The property is landlocked, as she understands it, except for this one wooded strip that lies between her home and neighbor's home. They are concerned about the option of how many homes could be built on that land. It would be a big difference between 1 and 12 homes. There is a strip of woodland that is allocated as the road easement. There is no other way to get into that property that she knows of. Since this is the first time she is addressing this kind of issue she asked if there is any kind of assurance that they as abutters could get as to the number of homes that would be built. Or, is this an issue that would come up at a later stage. They understand the PEC is the owner that the land was donated to. However, is there any indication as yet of what the PEC has in mind as to actually selling or building on that land?

Mr. Morris replied that he did not have that answer. However, they will try to get that question answered this evening.

Ms. Miller asked when this kind of rezoning takes place is it irreversible or could the zoning reverse to a development zoning such as existed prior to this.

Mr. Morris replied that they would also address that question.

Jeff Werner, with Piedmont Environmental Council, said this is a down zoning from a development that was approved sometime ago to rural area zoning in the rural area, which is what the County would like to see. He suggested that Mr. Kamptner explain the concerns that were expressed. However, he thinks it is really a very simple equation here since it is in the rural area and they would like the land to be rural. Getting the property zoned consistent with what is in the Comprehensive Plan he thinks is the first step towards that. He hoped the discussion does not take the direction of what is PEC going to do with this land. They are clearly eliminating development potential from the property and getting back to what it should be. Then Mr. Linville can discuss what the next steps are with them. However, it is a very simple question. It is bringing this land down to the rural area and rural area zoning and not really what might they do. This is not a development proposal for 29 North. He hoped the conversation stays within what they are asking from the County.

There being no further public comment, Mr. Morris closed the public hearing and asked Mr. Kamptner to address some of the questions.

Mr. Kamptner said to answer the second question first, zoning is always reversible. It is at the pleasure of the Board of Supervisors who takes the legislative action. It is one reason why the Comp Plan serves such a great value in that it is the guiding document for zoning map amendments. So in this case a goal is achieved in that the rural area zoning designation will be placed on land that is planned for rural areas. In respect to the other question as to development potential staff would need to do an analysis. The number that Mr. Clark gave at 12 potential lots is theoretical. There are factors such as steep slopes, access, floodplain and other factors that come into play that can affect the development potential of the lot. There can also be private restrictions that are put on the development that acts independently from the zoning that might allow a certain level of development.

Mr. Loach noted he heard Mr. Linville say that once they had the deed if at any time they were to transfer the deed it would have to be into an easement. He asked if he was mistaken.

Mr. Kamptner replied that he did not know the particulars of the donations.

Mr. Loach asked Mr. Linville to repeat what he said about transferring the easement.

Rex Linville said he would use the Biscuit Run transaction as an example. Biscuit Run was a fee simple donation to the State of Virginia for conservation purposes. It was not a conservation easement since they donated their entire interest in the property. It is exactly what the Bowers family did when they donated their entire interest in the property to us. Instead of giving the conservation easement it was a discussion that actually started as a discussion about a conservation easement. However, they decided to give PEC the entire interest. One of the requirements of State law in order for a landowner to get Virginia land preservation tax credits for a donation of their entire interest is the deed requirement that if they subsequently sell the property it would first be subject to a conservation easement. That is a restriction recorded in the land records as part of the deed in which they accepted the property. The State had to agree to this, too, when they accepted Biscuit Run.

Mr. Loach noted that also answers the question about their development in what their potential for development would be or what they plan to do.

Mr. Morris reiterated what he heard was their plan is to get it in conservation.

Mr. Linville replied yes, that was correct.

Motion: Mr. Loach moved and Mr. Lafferty seconded to recommend approval of ZMA-2013-00005, Piedmont Environmental Council.

The motion passed by a vote of 7:0.

Mr. Morris noted that ZMA-2013-00005, Piedmont Environmental Council would go to the Board of Supervisors on a date to be determined with a recommendation for approval.

Old Business

Mr. Morris invited old business.

- Training of Commissioners – Interest in Planning Commission Certification Program - There was no interest expressed.

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

New Business

Mr. Morris invited new business.

- THE NEXT REGULAR PLANNING COMMISSION MEETING WILL BE HELD ON TUESDAY, SEPTEMBER 17, 2013 AT 6:00 p.m.
- Noted upcoming Certified Planning Commissioners Program and upcoming Plan Virginia Conference in Roanoke. Commissioners Morris, Randolph and Lafferty expressed interest in attending.
- Discussed Neighborhood Model principles and what can and cannot be addressed in site plan process
- ADJOURN TO SEPTEMBER 11, 2013 LONG RANGE TRANSPORTATION MEETING AT 12:00 NOON, 401 EAST WATER STREET, CHARLOTTESVILLE, VIRGINIA.

Adjournment

With no further items, the meeting adjourned at 7:49 p.m. to September 11, 2013 at noon at the Long Range Transportation Meeting at Water Street, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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