Albemarle County Planning Commission
January 14, 2014

The Albemarle County Planning Commission held a regular meeting on Tuesday, January 14, 2014, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Cal Morris, Chair; Karen Firehock, Richard Randolph, Thomas Loach, Bruce Dotson, and Mac Lafferty, Vice Chair. The At-large Commissioner has not been appointed at this time. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Other officials present were Margaret Maliszewski, Design Planner; Claudette Grant, Senior Planner; Bill Fritz, Manager of Special Projects; Amelia McCulley, Director of Zoning/Zoning Administrator; Glenn Brooks, County Engineer; David Benish, Chief of Planning; Wayne Cilimberg, Director of Planning; Sharon Taylor, Clerk to Planning Commission; and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

Election of Officers: Chairman and Vice-Chairman:

Mr. Cilimberg opened nominations for the election of Chair of the Planning Commission for the upcoming year.

Mr. Lafferty nominated Cal Morris to be Chair for 2014 and Mr. Randolph seconded.

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

The nomination of Cal Morris as Chair of the Planning Commission for 2014 carried by a vote of (5:0:1). (Mr. Morris abstained)

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

Mr. Morris asked for nominations for Vice Chair of the Planning Commission for 2014.

Mr. Randolph nominated Mac Lafferty to be Vice Chair for 2014 and Mr. Dotson seconded.

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

The nomination of Mac Lafferty as Vice Chair of the Planning Commission for 2014 carried by a vote of (5:0:1). (Mr. Lafferty abstained.)

Set Meeting Time, Day, and Location for 2014

Mr. Morris asked for a motion to set the Commission's Meeting Time, Day, and Location for the upcoming year. The regular meeting time generally is 6:00 p.m. on Tuesdays in the Lane Auditorium. There are other times when they will meet with the City or in Room 241, but generally here. He asked if there were objections to the schedule as posted by staff.

Mr. Cilimberg noted that a 2014 schedule was provided. The information was in keeping with the past procedures for meeting that identifies specified public hearing dates as well as work sessions and then dates where there are no scheduled meetings, which could be used in the event a meeting is necessary.

Motion: Mr. Lafferty moved and Mr. Randolph seconded for acceptance of the 2014 Planning Commission meeting schedule that will be held in the Lane Auditorium beginning, unless otherwise noted, at 6:00 p.m. on Tuesday.

The motion passed by a vote of 6:0.

Mr. Dotson suggested staff email each Commissioner for dates they can't attend to make sure there is a quorum.

Mr. Cilimberg agreed to email each Commissioner. He noted they would follow the schedule distributed last month with the understanding that all of the no scheduled meeting dates are available in the event a meeting is necessary.

Adoption of Rules and Procedures:

Mr. Morris pointed out the Commission received copies of the rules and procedures. He asked if there are any concerns with the rules or procedures.

Motion: Mr. Loach moved and Mr. Randolph seconded for adoption of the Rules of Procedure for 2014 as distributed by staff.

The motion carried by a vote of 6:0.

In summary, the Commission approved the Rules of Procedure for 2014 as provided.

Committee Assignments & Reports:

Mr. Morris asked if any Commissioner desired to serve on one of the two vacant committees.

Ms. Firehock offered to serve on the UVA Master Planning Committee. However, she did not know what their meeting time is.

Ms. Monteith noted that committee meets three times a year the second month of the quarter being fall, winter and spring on a Wednesday at 3:35 p.m.

Ms. Firehock pointed out she would potentially have a conflict on one of those Wednesdays.

Mr. Morris asked if there was anyone else that would like to go off of a committee or work at this. There being no one, he said that Ms. Firehock would be great on the UVA Master Planning Committee. He asked about the Fiscal Impact Committee.

Mr. Loach volunteered to serve on the Fiscal Impact Committee.

Mr. Morris thanked Mr. Loach for agreeing to serve on the Fiscal Impact Committee. He was sure they will find something for the At Large Commissioner. He pointed out that Karen Firehock would serve on the University of Virginia Master Planning Council and Tom Loach would serve on the Fiscal Impact Committee. He noted that everyone else would continue serving on their committee. He asked if Places29 had two Commissioners on the advisory council.

Mr. Lafferty replied it had two initially and then he was the only one going for a while.

Mr. Morris asked if Mr. Dotson was interested.

Mr. Dotson replied he can attend anyway since it was a public meeting.

Mr. Randolph offered to give his seat on the Historic Preservation Committee to the new At-Large member should they so desire.

Mr. Morris replied with his permission when that individual was identified he will contact them and make that offer.

The meeting moved to the next agenda item.

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 including consent agenda items.

David van Roijen presented concerns regarding timeframes for review, public notification and public hearings not included in the recent zoning text amendments of April 1, 2013 under Section 33.3, Chapter 18 of the Albemarle County Code. (Letter addressed to Planning Commission dated January 14, 2014 from David van Roijen - on file with the printed minutes in the office of the clerk) He disclosed that he was the Chair of the Agricultural Forestal Committee and had been a member for 12 years. At issue is the timing of hearings by the Commission followed by requests for deferral by applicants. He believed that in order to have a fully transparent procedure for the applicant, the staff, and the public the regulations should provide a defined time table once additional information has been submitted. Specifically, he believes that following a deferral by the applicant and once the staff has received the additional information a time frame of 45 days should be incorporated prior to a decision by the Commission to allow staff and the public to fully review and comment on the implications of the new information. With this timeframe public notice for the required two successive weeks could very easily be adhered to as staff will surely attest the timing of meetings and public notice is sometimes an issue. At present the Commission is provided a 90 day timeframe following the completion of an application for a decision. As such this amount of time is deemed adequate. However, an example, if an applicant asks for a deferral 74 days following the initial completion it appears there only remain 16 days for staff to review and incorporate the additional data in their report as well as provide public notice. Of paramount importance to the public is the transparency of the factors on which a government's decisions are made. The 16 days is hardly adequate for the public to be notified, review and comment much less sufficient time for staff to review and provide their views should any significant new data be provided. The existing regulations do not provide a defined built in time period for restart following a deferral. There

are various scenarios that could transpire none of which clearly provide a step by step guide of process including a public hearing not being properly noticed such that then the application would be deemed approved without being heard. He asked the Commission to further consider defining these guidelines in the Code and consider his suggested solution.

Antoinette Brewster, President of The League of Virginia Conservation Easements, distributed the PEC book entitled, "For the Love of the Land". It is something for the Commissioners to take a look at and be proud to see how important conservation is.

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

Review of Board of Supervisors Meeting – December 4 & 11, 2013; and January 8, 2014

Mr. Cilimberg noted that as relates to any resubmittal that occurs in our process for review of special use permits and rezoning that they have built in an actual period in our process. The clock is stopping once someone defers. So a deferral stops that 90 day clock. Once a resubmittal is made then they have a period of time within which they do allow for staff's review and ultimately the scheduling of that matter with the Planning Commission. So there is a schedule that is not defined in the ordinance, but is in fact defined in our processes. It is not a matter of someone resubmitting and staff only having 16 days, as an example, to get it to the Commission.

Mr. Morris asked if that information about the process was available to the public.

Mr. Cilimberg replied yes that it was on line. However, he could provide it directly or contact someone.

Mr. Lafferty asked when a deferral occurs do they automatically start the 90 days.

Mr. Cilimberg replied that it does not necessarily since they have a period of review internally and then comment back to the applicant. At that time the applicant can chose to either resubmit again, which has a fee involved, or ask that it be scheduled for public hearing. That is when staff needs the time to get it advertised and when the clock for advertising begins. However, that is not until the staff's internal review occurs. He has that schedule and can provide it to the public.

Mr. Cilimberg reviewed the actions taken on December 4 & 11, 2013; and January 8, 2014 by the Board of Supervisors.

Consent Agenda:

a. **Approval of Minutes: September 10, 2013 and November 12, 2013**

b. **STA-2014-00002 Subdivision Ordinance Amendments**
Resolution of Intent to amend the Subdivision Ordinance to comply with state requirements & maintain eligibility for the National Flood Insurance Program (Amelia McCulley)
"PLEASE NOTE THE APPLICATION NUMBER HAS CHANGED FROM STA-2014-00001 TO STA-2014-00002"

b. **STA-2014-00002 Subdivision Ordinance Amendments** – Resolution of Intent

Amend the Subdivision Ordinance to comply with state requirements & maintain eligibility for the National Flood Insurance Program (Amelia McCulley)
PLEASE NOTE THE APPLICATION NUMBER HAS CHANGED FROM STA-2014-00001 TO STA-2014-00002

c. **STA-2014-00001 Steep Slopes** – Resolution of Intent (Bill Fritz)

d. **ZMA-2014-00001 Steep Slopes** – Resolution of Intent (Bill Fritz)

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

Mr. Cilimberg noted there were some additions made to the consent agenda today. Therefore, the consent agenda is not only inclusive of what they received originally, but also resolutions of intent for the steep slope ordinance provisions both for subdivision text and zoning map amendments.

Mr. Morris asked that the last two items c. and d. be deferred because the Commission has not received or seen them.

Mr. Cilimberg pointed out there was a time factor here in that the resolutions are actually for the ordinance that has been advertised and coming to the Commission in two weeks.

Mr. Kamptner suggested the Commission take items c. and d. up at the end of the meeting after they have had a chance to review them.

Mr. Morris agreed since he would like everybody to have a chance to read these.

Mr. Cilimberg suggested the action would be to approve the consent agenda on items a. and b. and defer items c. and d. until the end of the meeting.

Motion: Mr. Randolph moved and Mr. Loach seconded for approval of the consent agenda items a. and b. and to defer items c. and d. until the end of the meeting.

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

Mr. Morris said the consent agenda items a. and b. were approved and at the end of the meeting the Commission will take up items c. and d.

Public Hearing Items

SP-2013-00020 Chick-Fil-A (Pantops)
PROPOSED: Drive thru lane for proposed retail building
ZONING CATEGORY/GENERAL USAGE: Highway Commercial (HC); EC Entrance Corridor Overlay
SECTION: 24.2.2(12) Special Use Permit, which allows for drive-in windows serving or associated with permitted uses.
COMPREHENSIVE PLAN LAND USE: Urban Mixed Use – retail, commercial services, office, and a mix of residential types (6.01 – 34 units/acre)
LOCATION: Tax Map Parcel 78-55A2, located on northeast side of Route 250 East, across from the intersection with State Farm Boulevard.

MAGISTERIAL DISTRICT: Rivanna
(Margaret Maliszewski)

Margaret Maliszewski presented a PowerPoint presentation to summarize the staff report for SP-2013-20 Chick-Fil-A Drive-thru Window.

The request is for a special use permit to establish a drive-thru window associated with a Chick-Fil-A fast food restaurant and an associated waiver of the bypass lane requirement Zoning Section 4.12.2.c.

The site in question is located on Pantops at 1626 Richmond Road, on the north side of Route 250, across from State Farm Boulevard. The site was previously occupied by Aunt Sarah's Pancake House.

In the proposed Layout Plan this particular type of drive-thru layout is called an "Isolated drive-thru" because it is separated from the parking lot and from pedestrian traffic. The drive-thru wraps around the west, south and east side of the building. The parking lot is maintained on the north side of the building separate from the drive-thru. In this proposal maintaining that separation is considered a positive factor. In the plan there are two order lanes that end at the two order stations, which then merge to a single lane that continues around to the east side of the building to the pick-up window and then exit out of the drive-thru lane back to the parking lot. In the proposed layout there is no bypass lane.

Generally, drive-thru windows require a special use permit due to concerns regarding access, circulation, and traffic volumes. The zoning ordinance allows the County Engineer to require a by-pass lane based on travel way length, the nature of the land use, and internal traffic circulation. In this case engineering staff has determined that a by-pass lane is required for safety and for better on site maneuverability. That lack of a by-pass lane is considered an unfavorable factor for this proposal.

The Commission will hear more about this from the applicant. Just to summarize briefly, the applicant does not believe a by-pass lane is needed due to the isolated drive-thru layout and because of the speed with which vehicles move through the drive-thru lanes.

To achieve this overall site layout there is grading and retaining walls proposed. To mitigate the impact of the retaining walls and the impact of the location of the drive-thru lanes, which are on the Entrance Corridor side of the building, the applicant has proposed a considerable amount of landscaping. The ARB has reviewed this plan and had no objection to the proposed drive-thru use based on this plan as presented. The ARB's favorable recommendation is considered a favorable factor for the proposal.

Staff believes it is possible to provide a by-pass lane while maintaining the general configuration of the site and the landscaping.

Factors for Consideration

Factors Favorable:

- The ARB had no objection to the proposed use.
- No conflict is anticipated between vehicles stacked in the drive-thru lanes and vehicles in the parking lot or off-site traffic.

Factors Unfavorable:

- Engineering staff has determined that a bypass lane is needed, but one has not been provided.

Recommendation:
Based on the findings contained in this staff report, staff recommends approval of SP-2013-20 Chick-Fil-A (Pantops) Drive-thru with the conditions listed in the staff report one of which is the addition of a by-pass lane. Another of those conditions limits the drive-thru windows to one. Staff wanted to clarify that window refers to the pick-up window and not the order stations. Two actions are being requested for the special drive-thru use and the waiver request.

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

Bryan Lilly, Real Estate Manager for Chick-Fil-A, said they have one Chick-Fil-A today in Charlottesville at Woodbrook Drive and would love to build a second location at Pantops. They were very appreciative for the opportunity to talk with the Commission tonight. Typically the way their company operator model works in the community is they have one operator for one restaurant. They will see heavy interaction involving their operator for this particular location. That usually drives a much better operation. Hopefully that will help them be better participants in the community to help them fit in better within the community itself. His collegiate, Greg Dodd, is going to speak to the drive-thru request. They have a compromise to talk. They are happy to answer any questions they have about the layout or about the application in general.

Gregory Dodd, Civil Engineer with Horton & Dodd, PC, said they are the consulting civil engineers for Chick-Fil-A at this particular site. They have been working on this site for approximately a year doing layouts, planning, reading the ordinances, interacting with staff, and incorporating the ordinances such as the Entrance Corridor Overlay District, to arrive at the layout before the Commission today.

- One of the main things in the Entrance Corridor is to get the building forward with the parking relegated behind the building. The County's Comprehensive Plan calls for a connection of the fourth leg of the signalized intersection at State Farm Boulevard. Chick-Fil-A is willing to construct this as they have the connection that makes the internal connection that supposedly keeps people traveling in the nearby community from using the main road. They have accomplished that with this plan. However, they will lose a good bit of the frontage on Richmond Road when doing this that squeezes the site down.
- In laying out this site they found there are considerable widths of utility easements across the front of the site beyond the right-of-way. That squeezes the site down a little bit more because they can't utilize that for the landscaping or anything else because it would encumber the existing utilities. What they have done is balance the parking with this building. This building is somewhat of a custom building for Albemarle County as a result of meeting with the Architectural Review Board, which was a very fruitful experience. They had retaining walls that were mentioned which were very tall. The retaining walls were 8' or 9' tall. At that meeting it was determined they could just slope the land up and have only a 2' or 3' tall retaining wall with the landscaping. That was a good experience.
- They have put a lot of thought into this particular plan. Chick-Fil-A has done lots of research on how to make their operation more efficient. One of the things that resulted from their exercises was the isolated drive-thru. The multi-lane order point isolated drive-thru was an idea that really seems to work and make things efficient. A lot of

people are having trouble grasping how well it works. So to that end he actually went out and videoed a recent open restaurant in Chesapeake, Virginia that shows how it works, which is available for the Commission to glance at. They might not want to see the whole six minutes. However, if they wanted to see how it worked and were curious as how it all meshes they think that is a very important part of this particular project. The typical Chick-Fil-A or fast food restaurant will have a drive isle that also serves as the drive-thru queuing lane. When that happens it causes congestion for pedestrians. They have to get the eye contact of the car in the queue and then they walk past it from their parking space. A lot of these have the parking spaces up against the building or are blocked by the queue for the order stations. So this isolation does exactly what Ms. Maliszewski was talking about. It separates the pedestrian and it also clears up any congestion in the general circulation on site by having the queuing isolated.

- They submitted to the County a study that indicates that in the peak hours at the Chick-Fil-A during breakfast, lunch, or dinner there are an average of 21 cars in queue at any one time. They can also observe with a Chick-Fil-A that if they have a single order point they will still have 21 cars in queue. He did not know why, but people will sit in that line to order Chick-Fil-A even if they are the 21st car. This speeds up the order operation. Instead of being 21 cars deep they would have only 10 cars deep waiting for the queue to get orders. They feel that would be much safer and less confusing on site than a single order point. If they can achieve the by-pass lane Chick-Fil-A would love to do it if they had the room. However, this site is challenged as he has mentioned. They could achieve the by-pass lane by eliminating one of the order points where they could come into this and drive all the way around the building and not order anything if they wanted. But, this isolation is also well marked as the only reason one would go in here is to order food.
- They have talked to the County Engineer, Mr. Brooks, about a compromise. After the order station they actually could put in a slip lane on the outside that after one makes their order if they decided they did not want to pay they could slip out and just head on down to the road. That is similar to a compromise, which they don't feel is necessary. To have room to do that, they would just move the retaining wall closer to the new road and widen out that one lane where you are picking up the order and paying.
- Another point for the multi order point is if they get somebody in line that can't make up their mind and they are standing there ordering it could take them 2 or 3 minutes to order. The line continues to get longer and they have the 21 cars on average that are way behind that point and nobody is between the order point and the pick-up point. The beauty of this is somebody that can't make up their mind can sit there for 3 to 4 minutes as long as they want and the service window is still taking 3 or 4 orders in the other lane. So it remains efficient and the lanes do not go out and interfere with the circulation on site. He belabored the multi-lane order point, but the point is they are here tonight to get this drive-thru approved by the Commission and hopefully the waiver of the by-pass lane. However, if they do need to have one then it would be a single order point with a by-pass lane or a compromise of a half-way by-pass lane. He would be glad to answer any questions they might have and would hope the Commission can support their request.

Mr. Morris said he mentioned that this video would be available to the Commissioners or any member of the public. He asked how they would obtain that.

Mr. Dodd replied the video can be viewed tonight since staff has it on the computer. Alternatively, he would be glad to set up a public folder on drop box and give the link to Ms. Maliszewski to share with anyone that wants to see it.

Mr. Morris asked Ms. Maliszewski if anyone could get the video from her, and Ms. Maliszewski replied absolutely.

Mr. Dodd noted that it was not an exciting video since he did not make it short because he was timing the operation to make sure how it operated. They could probably cut it into eight pieces and only see an eighth of it.

Mr. Morris noted the video could be made available. He invited questions for the applicant.

Mr. Loach asked if the video actually shows what this document represents for the same type of flow through.

Mr. Dodd replied that it was virtually the same setup. They can see the people pulling in and deciding on which line to get in. They will see 6, 7 or 8 cars behind the order stations with one solid line going through the pick-up window and paying. They stay there at the pick-up window an average of about 30 seconds in this video. That is why he left it long so he could time it.

Mr. Loach asked how many Chick-Fil-A places have the same model.

Mr. Dodd replied that it has become Chick-Fil-A's standard. They are actually retrofitted.

Mr. Bryan Lilly pointed out that he did not have a number, but he can tell them that this is their current prototype for two reasons. One, they like to isolate the building for efficiency for the drive-thru building. It is also for the safety of customers so they don't have to park and then walk across the drive-thru. They are spending a considerable amount of money on some of their older restaurants adding this, which they call multi-lane order. So they are going back and retrofitting a lot of their existing restaurants.

Mr. Loach asked if they have seen any problems where they are merged.

Mr. Lilly replied they have not. He noted they have two restaurants under construction right now in Richmond and both will have the multi-lane order point.

Mr. Lafferty said when they have the queue with two cars in it and then they queue with one car in it how do they merge if they are not friendly.

Mr. Dodd replied that he did not know that has been a problem because everybody that eats at Chick-Fil-A is always friendly to everybody else.

Mr. Loach asked if they stagger their way into the single lane, and Mr. Lilly agreed.

Ms. Firehock pointed out she did not need to see the video because she has actually tried that lane and understands it. She had one question about his previous comment when he was joking that somebody might need an extra lane to sneak out. She thinks a common reason people want that extra lane is because they are stuck in some terrible line that now they are late for work and they have been sitting there for 15 minutes and they have to get out of the lane. She asked if it was his contention that this design solves that problem so they don't need that. It sounds like their design is a bit safer than the traditional fast food queuing lanes.

Mr. Dodd said that is another reason for the studies he presented from Quick Services Restaurant Magazine to the County staff. It showed the average wait at a Chick-Fil-A was like 208 seconds from the time one ordered, which is a little over 3 minutes. In the timing he followed a red car that pulls up, queues, places his order and then picks up and pays for his food. It is about 5 minutes at that time. However, there was somebody in front of them that took a minute and a half to order. So it is not an inordinate amount of time. Twenty-one cars look like a lot of cars and it sounds like you would be there forever. However, you really are not. That is how efficient these are. The operator at the store where he did the video said their goal is to have 30 seconds or less at the window. When they do that it equates to 109 vehicles per hour picking up sandwiches in a steady stream, which is not uncommon for breakfast or lunch.

Mr. Randolph asked if what they are proposing is based on behavioral psychology research done at Chick-Fil-A where they have come to a conclusion that there is a lot more cooperation that occurs than conflict. He asked if what is being proposed based on hard science. Ultimately, the issue before them is the County Engineer's recommendation regarding the by-pass expectation with a service window. He asked what the state of research is that is behind the advocacy for waiving the by-pass requirement. Secondly, in the last three years how many of the Chick-Fil-A new sites constructed have had a by-pass lane built in or is what is happening now that increasingly throughout the nation they are building facilities where the by-pass is no longer a necessity because the way they are operating the window makes it a moot point. He asked the applicant to address both questions.

Mr. Bryan Lilly replied in terms of the study he would quote that in the study Mr. Dodd talked about it said 21 cars at peak. They looked at five restaurants in five different states last year and sampled them over a number of different parts of the day and different days of the week to look at the drive-thru efficiency. What they are doing here in the drive-thru they are doing inside in the kitchen. They build it for the absolute peak hour through pure necessity. There are parts of the time of the day where they don't need the by-pass, the second order point or that capacity. What they find at peak lunch at this location if there are 20 to 22 cars trying to get into the drive-thru if there is only a single order point then 12 to 14 of those are going to fit in and the rest are going to start choking around in the drive isles. It is going to create issues from an emotional standpoint where people are frustrated because they can't get in or out of their parking space because the drive-thru is backed up into the parking area. So that is why the capacity helps that situation. It is not absolutely critical during some parts of the day when it is slower. They spent a lot of time and effort designing our buildings and the design around in how do they make customers as happy as possible at the most stressful times of the day when there are the most people that are coming onto the site. The question is how they move them off the property safely, quickly, efficiently, and happily.

Mr. Dodd added to his point of whether it is a nation-wide change that each municipality or county has their own ordinances. Some of those ordinances they don't know where they came from or what they were trying to accomplish. However, as far as a by-pass lane to an isolated drive-thru if they just think about it functionally they have two lanes that are queuing and an inside lane close to the building that does not have a by-pass. He asked do they add a by-pass to every lane that comes through there. He knows that is absurd to think about that. A by-pass lane, in his opinion, was very valid when they had a drive-thru queue that was also sharing the drive-island. They try to make the drive isle wider so the cars can continue to circulate. This is isolated and a different animal or different situation. An example, the City of Chesapeake, which is where he did the video, they had an ordinance that said at every order point with a menu board there had to be a pick-up window. So what had evolved over the years in Chesapeake was fast food restaurants were complying with that ordinance by having two order

points with two windows. One window was where you picked up and paid. The second window one would drive by and see bread racks being stored there. The project they did on the Chick-Fil-A was finally the straw that broke the camels back with the zoning administrator and city council. They decided the ordinance had to be changed because it was outdated by the time Chick-Fil-A opened. So they were able to break in that extra window that really was not going to be used.

Mr. Randolph said he was interested just to know is this now also being utilized by other restaurants. He asked if they are doing something that increasingly is the cutting edge of drive-through. He asked with the psychology behind it are they are going to see more applications down the line where they are expecting a by-pass and by the kind of methodology he is presenting that is not as relevant.

Mr. Dodd replied yes, that he cannot speak fully to our competitors, but he can tell them that they are seeing it more and more from McDonald's in their new construction and also in their retrofits. They have done a great job remodeling a lot of their older restaurants and have put this in some of those places as well. For us, it comes down to a matter of capacity at those peak hours in trying to make sure they can serve the customers the best possible way. In a drive-thru it is a challenge anyway just because people are in a hurry and there is very limited face to face contact anyway. They really want to do everything they can to try to speed that process up. He does not have numbers as far as how many of these they have built. However, he can say this is their preferred prototype. So anywhere they can get this or where the building can be isolated like this, this is absolutely our preferred method and what they would do. They would definitely pause in terms of approving new restaurants internally if it is different than this. The traditional center restaurant layout that they see at many of their restaurants and competitors unfortunately is very inefficient in terms of the drive-thru. It is 7, 8 or maybe 10 cars that can wrap around the building. Then the parking spaces that are up against the front door can't back up because they are blocked in. It is just not a good customer experience or safe for those folks. That is what they are trying to do.

Mr. Lafferty asked if it was presented to the Pantops Neighborhood Association and what was their reaction.

Mr. Morris replied yes, that their reaction was much what he hears from the Commission. By and large it was very favorable. There was one individual who is a very super intelligent person who had a lot of concerns about how the drive-thru was facing 250, which is the Entrance Corridor. However, to get relegated parking you have to do it that way. Another one was if the county engineer says that they have to have a by-pass lane, and then they ought to have a by-pass lane. The other members present just simply said based upon the constraints of the location it is not practical, and is there anything in the code that says that you can go around that. The answer was yes. Therefore, they looked at it. By the end he thinks there was a general consensus all the way around.

Mr. Randolph said just an observation in answer to that point raised by the member of the Pantops Advisory Council, the original proposal as he understands it would have had a higher wall so that in terms of the Entrance Corridor there would have been no visibility of the cars in the drive-thru as a result of that higher wall. The ARB indicated they wanted the wall lower. He asked if he was correct about that. Therefore, the wall has dropped in its height, which means the cars will be somewhat obscured and not totally unidentifiable from 250.

Mr. Morris said he was absolutely correct in what he was saying. He noted Ms. Maliszewski as well as Mr. Dodd had showed them how with the topography of that and the new planting of the trees and so on that eventually it will be better than the 10' wall.

Mr. Dodd agreed.

Mr. Morris invited further questions for the applicant. There being none, he invited the county engineer to address the Commission's questions.

Ms. Monteith asked what the basis of the by-pass lane is. She felt it would be useful to hear it from the County Engineer. In addition, she asked whether he thinks what was offered in terms of a partial lane tonight would be helpful.

Glenn Brooks, County Engineer, noted that the first question was difficult and he would start with the second question. Regarding the second question he replied yes, that any compromise is helpful. The first question is where this comes from. They are all guessing, but as far as he can tell this was part of the ordinance back in 1980. He suggested that Ms. McCulley, the Zoning Administrator, would be able to tell us for sure. However, she had left the meeting. When he looks at the Code it looks like that was an original part of our ordinance. So that was long before he came to work at the County. Therefore, they don't really know why that is in the ordinance and can all guess at the pros and cons. He has approached it as a default. If this is an application that goes before the Planning Commission and the Board regardless of what he decides, then he chooses to give them the decision. He tells applicants by default they should provide a by-pass lane for convenience and safety. If they don't wish to, then they will have the Commission and the Board decide and they can all list their pros and cons. So when they attempt to look at a particular site and list the pros and cons he thinks they are on the one side with the pros to say why the ordinance is there. They are saying it does provide extra convenience for that person who wants to get out of line. It does provide extra safety for access to a person who is in line and may have had an incident in the car or something like that. It does other things for a site for convenience and circulation if it is part of the circulation pattern of the site. He can say in this instance that is less of a concern. They don't have parking in the way. They don't have to access other parts of sites or adjacent sites in the drive-thru area. If they look at it and say what is the consequence of not having the by-pass lane other than those convenience and safety issues there is not really a queuing consequence like one would see in a lot of scenarios. For instance, the scenario at the McDonald's at the Shopper's World they had the queuing concern that goes out into the entrance if it queues too long and caused big traffic jams. They don't have that here. If it queues, then it goes into their parking lot. It is their concern and not ours typically.

Ms. Monteith asked if they have a precedent. One could say that in some circumstances at a low flow rate that the second lane could be a by-pass lane. Therefore, do they have a precedent for a two lane configuration like this where they don't have a by-pass lane.

Mr. Brooks replied they do have some precedent not specifically in fast food. One of the changes that have occurred in the last five or six years, probably certainly since the ordinance was adopted in 1980, is that both banks and fast food restaurants are starting to go to these multiple arrangements. Banks were first as seen in the credit union on Berkmar where there must be five or six different drive-thru lanes. The by-pass lane becomes less effective for the inside lanes that can't get there, which depends a lot on how the entrances set up to the drive-in facility. If they think of the credit union on Berkmar it has a wide open entrance configuration so one would have to be well in the queue not to be able to maneuver out. This proposal has a

very narrow entrance throat. So once you are in you are in and you are not getting out. So there are some disadvantages and advantages from a circulation standpoint.

Mr. Lafferty noted that was also the case for the credit union on Arlington Boulevard where they have several different windows. If you make your transaction and are behind that line, then you wait and are stuck.

Mr. Brooks noted that was a convenience issue, which does differ by site. One of the constraints of any site development is going to be this trade-off between parking and providing extra space for something like a by-pass lane. If you squeeze this site further back, then parking is lost. If parking is lost, then perhaps you might need to have less square footage. Square footage drives the parking requirement. So there is always that trade-off. It makes him less inclined to try to make the decision on his own if it is going to the public bodies. Anyway, he will have the Commission and Board make the decision because he cannot really put a value on that. Does he make them have a slightly smaller building and a few less parking spaces if he can have a by-pass lane, or, does he say that their reasoning is good and they need to have this size building and parking so they can't provide a by-pass lane.

Mr. Loach asked what is either his comfort or discomfort level of safety looking at this model. Is this model one that might be better with a by-pass lane, but in fact in looking at it as something safe to do?

Mr. Brooks said he thinks this has fewer drawbacks than a lot of others he has seen. He would hate to get caught in there, but it does operate more efficiently than perhaps the standard drive-thru. He has not seen that personally, but antidotal they are being shown that way.

Mr. Loach noted the study they did was 208 seconds.

Mr. Brooks said at a discreet point in time on a discreet day of the year, yes that is the result. However, they don't know that is all the time or at the average peak.

Mr. Morris invited public comment. There being no public comment, the public hearing was closed and the matter before the Planning Commission.

Mr. Loach asked what the letter in the packet said concerning the ARB had not problem with this.

Ms. Maliszewski replied the ARB did not have any problem with the proposed use based on what they typically review, which is the appearance from the Entrance Corridor. She pointed out the ARB might have mentioned or asked about safety, but it is not part of their review and not pertinent.

Mr. Randolph asked staff if the Planning Commission insisted the by-pass be part of the site design if this has to go back to the ARB to look at again based on the fact the setbacks, the foliage, and the grass will have changed.

Ms. Maliszewski replied that a site plan still needs to be submitted, which would go to the ARB regardless. So the Planning Commission's action does not necessarily make it go back to the ARB again or in addition to that. They had anticipated that a by-pass lane could be added and still meet the ARB's expectations for the landscaping.

Mr. Loach said he had not heard anything tonight that makes him think that a by-pass lane is a necessity versus an extra convenience. Mr. Brooks is usually very up forward and straight and he takes his recommendation seriously. As far as he is concerned he could live with it.

Mr. Lafferty agreed particularly because the Commission is just recommending it to the Board.

Mr. Morris said that is correct. However, he thinks they need to take two actions on the special use permit and the waiver request.

Mr. Randolph asked to make an observation. He finds it ironic that the Planning Commission spent a lot of time in the Comp Plan review talking about multi-model transportation and yet what is at issue here is a by-pass to accommodate our auto-centric culture. He finds it ironic in the amount of time that they are trying to look to the future and here we are preoccupied with the here and now and the number of cars. He is balancing between Mr. Brooks' statutory expectation that there will be a by–pass and with the Entrance Corridor with the aesthetic that is being proposed here for this Chick-Fil-A with a setback that is there. He is looking at the fact that he thinks they would be getting an improvement on the Entrance Corridor. As he balances the two he has heard nothing today that dissuades him that the benefit provided to the Entrance Corridor exceeds any need or necessity that they put in the by-pass.

Mr. Morris added with the addition of the road and the fourth element on the stop light and so on that they go right back to where the Master Plan for Pantops was when it was created. It is a tremendous benefit as he sees it.

Motion On Special Use Permit:

Motion: Mr. Loach moved and Mr. Randolph seconded to recommend approval of SP-2013-0020 Chick-fil-A (Pantops) Drive-thru with the conditions outlined in the staff report, as amended, with the removal of item 3 regarding the bypass lane.

Based on the findings contained in this staff report, the Planning Commission recommends approval of SP 2013-20 Chick-fil-A (Pantops) Drive-thru with the following conditions:

1. Development and use shall be in general accord with the following plans prepared by Horton & Dodd, PC: Sheet C-2.0 "Layout Plan Option 1 6-25-13" dated 6/6/13 (hereafter "Layout Plan"), Sheet L-1.0 "Landscape Plan" dated 10/14/13 (hereafter "Landscape Plan"), and Sheet C-3.0 "Grading and Drainage Plan" dated 7/5/13, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the specified plans, development and use shall reflect the following major elements as shown on the plans:
    - Building location, orientation and mass
    - Relationship of drive-thru lanes to the building and the parking lot
    - Location and general character of landscaping
    - Relationship of retaining walls to the building and landscaping

    Minor modifications to the plan to accommodate condition #3, and that do not otherwise conflict with the elements listed above, may be made to ensure compliance with the Zoning Ordinance.
2. Drive-thru windows shall be limited to one (1).
3. ~~A bypass lane shall be provided for the drive-thru window, the full length of the drive-thru lane and the bypass lane, subject to county engineer approval.~~
4. The applicant is responsible for installation and maintenance of control devices including but not limited to signage and pavement markings at the entrance and exit points of the

drive-thru lanes, subject to county engineer approval to ensure appropriate and safe travel patterns.
5. The use shall not commence prior to the issuance of a Certificate of Appropriateness by the Architectural Review Board.
6. The use shall commence on or before [date two years from Board approval] or the permit shall expire and be of no effect.

Mr. Kamptner asked if the layout plan changed or is the Planning Commission recommending the compromise plan. He asked if that was already incorporated here.

Mr. Loach noted the motion was for the plan as presented.

The motion passed by a vote of 6:0.

Motion on Waiver:

Motion: Mr. Loach moved and Mr. Randolph seconded to recommend approval of the waiver of the bypass lane requirement associated with SP-2013-0020 Chick-fil-A (Pantops) Drive-thru.

The motion passed by a vote of 6:0.

Mr. Morris noted SP-2013-00020 Chick Fil A (Pantops) and the associated waiver request for the bypass lane requirement would be forwarded to the Board of Supervisors with a recommendation for approval to a date to be determined.

ZMA-2013-000014 North Pointe Neighborhood Investments
PROPOSAL: Request to amend approved proffers from ZMA200000009 on property zoned Planned Development – Mixed Commercial (PD-MC) zoning district which allows large-scale commercial uses; residential by special use permit (15 units/acre) uses. A maximum of 893 units on approximately 269 acres is approved by special use permit at a gross density of 3.31 units/acre. No new dwellings proposed.
ENTRANCE CORRIDOR: Yes
AIRPORT IMPACT AREA: Yes
FLOOD HAZARD OVERLAY: Yes
PROFFERS: Yes
COMPREHENSIVE PLAN: Urban Mixed Use (in Destination and Community Centers) – retail, residential, commercial, employment, office, institutional, and open space; Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses; Neighborhood Density Residential – residential (3 – 6 units/acre) supporting uses such as religious institutions, schools and other small-scale non-residential uses; Privately Owned Open Space; Environmental Features – privately owned recreational amenities and open space; floodplains, steep slopes, wetlands, and other environmental features; and Institutional – civic uses, parks, recreational facilities, and similar uses on County-owned property.
LOCATION: North of Proffit Road, east of Route 29 North, west of Pritchett Lane and south of the Rivanna River.
TAX MAP/PARCEL: 03200000002000; 032000000020A0; 032000000020A1; 032000000020A2; 032000000020A3; 032000000029I0; 03200000002300; 032000000023A0; 032000000023B0; 032000000023C0; 032000000023D0; 032000000023E0; 032000000023F0; 032000000023G0; 032000000023H0; 032000000023J0; and 032000000022K0
MAGISTERIAL DISTRICT: Rivanna (Claudette Grant)

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

The applicant requests to amend approved proffers for ZMA-2000-00009 describing the construction and completion of the Phase III Road Improvements. No additional dwellings are proposed.

Staff reviewed the approved North Pointe Plan. She pointed out the rezoning request recently approved regarding the CWH Property and the subject area owned by Neighborhood Investments, the applicant. The roadway as noted would at some point at a later time be developed. The applicant is requesting to build the portion of the road adjacent to the property that he owns. The way the proffers are worded at this time the other section, as shown in pink in the presentation, will occur also. What the applicant is proposing really has not changed from the original approval. What has changed is the timing and the applicant is much more distinct in how and when the Phase III road will occur.

Factors Favorable
- The rezoning request remains consistent with the Comprehensive Plan and no changes to uses are proposed.
- The original intent of the phasing of the road improvements is maintained with this proffer amendment for the subject property and other remaining properties in the North Pointe development. The same road network will be constructed when the school lot is dedicated/developed.

Factors Unfavorable
- None, given the Board of Supervisors' approval of the original zoning and proffers, including the phasing of road improvements.

Staff Recommendation
Staff recommends approval of this rezoning ZMA-2013-000014, North Pointe Neighborhood Investments, with the attached revised proffers, dated July 20, 2006.

Mr. Morris invited questions for staff.

Mr. Dotson asked if it is this applicant's obligation eventually to provide the improvements for both of those.

Ms. Grant replied no, that was the original proffer. The original proffer did say that at whatever point this would get developed there are a variety of triggers in that proffer that this entire road system would have to be built. What the applicant is requesting because he is pretty much ready to develop his portion of property is the area shown in yellow. The applicant is asking to develop the road way adjacent to his property with the development of his site. The pink area will also be developed but not necessarily at the same that the applicant develops his property. The road is going to be completed, but may be not necessarily all at one time as the original proffer stated.

Mr. Dotson asked does this applicant have any financial obligation to the pink portion.

Ms. Grant replied that he is not an owner of the pink portion. So at this point the original proffer says he has to do the entire road. But, at this point what he is asking is just to do what is adjacent to his property. He does not have any obligation necessarily from a legality standpoint.

Mr. Dotson said what he was trying to understand is somebody needs to be on the hook for the pink portion and he asked who that is.

Mr. Benish replied it was the prior property owner, CWH Properties. They reviewed the prior changes to the proffers and they are still required to construct that section of the road. So there is a responsibility for it to be constructed utilizing the two sets of proffers that they have previously reviewed and the ones reviewed now. The net effect is that one property owner is responsible for less of the roadway, but the other property owners through other triggers in remaining proffers are still responsible for constructing that roadway.

Mr. Dotson asked if he was confident they have it covered.

Mr. Benish replied that they have it covered. He noted they are not getting as much road built with this particular trigger. When the applicant's development is constructed one of the triggers was with that first site plan or subdivision plat approval was the pink and the yellow areas would have to be constructed. This allows them to move forward building less roadway and makes it more feasible for them to build their section of development. Other proffers are in place that will allow for the other sections to be constructed. Just to finish up, those two sections together do not create any other second access or any more interconnectivity. It is just a longer length of roadway was getting built that at this point of time there is no development that it would serve.

Mr. Randolph said it took a while due to the density to finally figure out that they were moving from a one phase proposal to a two step proposal. In the one step proposal Party A paid for all of the road and in the two step proposal Party A only pays for his or her section.

Ms. Firehock said they have the first part built by Party A. It becomes a dead end road for a while until the next phase is built. Her question is more of a design question. She asked if the applicant was going to build a way for the people to turn around at the end and come back. It is not a through road now and she thinks there needs to be some extra allowance for turning around at that terminus and coming back out.

Mr. Benish said typically there is. However, he does not recall the site plans or plats they have reviewed. However, there usually is a turnaround or what they call a hammer head that allows vehicles to turn around. If it is a divided section they will create the crossover so they can go from one side to the other.

Ms. Firehook asked if staff would handle that during the site plan process, and Mr. Benish replied that was correct.

Mr. Morris opened the public hearing and invited the applicant to address the Planning Commission.

William Shewmake, attorney with with LeClair Ryan, represented the owner and the applicant, Neighborhood Investments MP. He referred to the application plan. First, he thanked the County Attorney's Office for working with them to make sure it fits neatly with the master zoning case in the tweaks in the amendments that occurred on the CWH Property last year. Essentially, under the previous zoning it was not that the Neighborhood Investments had a legal duty to build that pink section, but just the way it was technically worded. They were not going to be doing any building on Neighborhood Investments until basically CWH built its portion. If they look at this project the strategic importance of the Neighborhood Investments piece really

was not necessarily to have that pink road. It does not serve any purpose for the Neighborhood Investments Townhomes unless and until the CWH Property actually gets built. The strategic importance of this property, his client's property, in that master case was to ultimately provide an additional access to the CWH, the greater North Pointe Development. So that was its strategic importance in that zoning case. What they are coming forward and asking is the right to go ahead and build it. He thinks this zoning amendment actually gives them something sooner because they don't control the CWH Property. The way it is technically worded they can't build on these townhomes, which are needed, until CWH basically gets going. What they will do is come in and his client will build everything that was required and anticipated, which would be its section under the original zoning from 29 all the way to its property line. As was mentioned CWH is still responsible for all the triggers and all the improvements that were required under the original zoning. So nothing is being left out in this case. They think it is actually better for the County because he thinks the County and applicant agreed that the school lot/site should be delayed for a while. They had no problem with that as long as it did not hold them up. However, what they guaranteed by going forward is they are going to have that whole section of road in place when that school site is needed. So they know they will have that out of the way because his client wants to proceed. He will stop now and answer any questions. It is a very small zoning amendment designed to fix a very small glitch, but it can be complicated to explain. Technically on this section they are having now two zoning cases that match.

Mr. Morris invited questions for the applicant.

Mr. Dotson commented by proceeding with this as the first phase people will be moving into the area. He hoped he had some strategy for letting them know that this will not be at the road that terminates at that point, but will continue and will eventually lead to a school. That should please them.

Mr. Shewmake agreed absolutely.

Mr. Morris invited public comment. There being no public comment, the public hearing was closed and the matter before the Planning Commission.

Motion: Mr. Randolph moved and Mr. Lafferty seconded to recommend approval of ZMA-2013-00014 with amended proffers dated July 20, 2006 as recommended by staff.

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

Mr. Morris noted ZMA-2013-00014 North Pointe Neighborhood Investments would be forwarded to the Board of Supervisors with a recommendation for approval to a date to be determined.

Mr. Kamptner clarified the set of proffers the Commission is recommending today will have a new date with a new signature before it goes to the Board of Supervisors. The 2006 date was the date of the original set of proffers. In order to distinguish these proffers from those proffers that date will be clarified.

Mr. Morris called a five minute recess to allow time for the Commissioners to read the two items just given to them.

Mr. Cilimberg apologized in that normally when they get these last minute resolutions that are necessary to take care of a need to have that done before a zoning text amendment precedes forward they do that under new business and not on the consent agenda.

Mr. Morris agreed that the Commission would take the two items under new business.

The Planning Commission took a break at 7:22 p.m. The meeting reconvened at 7:26 p.m.

Old Business

Mr. Morris asked if there was any old business. There being none, the meeting proceeded.

New Business

Mr. Morris asked if there was any new business. The Commission would take up STA-2014-00001 Steep Slopes and ZMA-2014-00001 Steep Slopes.

Mr. Kamptner noted the typo and that it should actually be a ZMA, zoning map amendment.

Mr. Loach asked if the Commission can take one action for both items.

Mr. Kamptner replied yes that one action can be taken for the two items.

Mr. Morris invited questions. There being none, he asked for a motion.

Motion: Mr. Loach moved and Mr. Lafferty seconded for approval of the resolution of intent for STA-2014-00001 Steep Slopes and ZMA-2014-00001 Steep Slopes.

The motion passed by a vote of 6:0.

Mr. Morris noted that both items STA-2014-00001 Steep Slopes and ZMA-2014-00001 Steep Slopes were passed.

- There will be no Planning Commission meeting on January 21, 2014.
- The next meeting is on Tuesday, January 28, 2014 at 6:00 p.m., in the auditorium.

There being no further new business, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 7:31 p.m. to the Tuesday, January 28, 2014 Albemarle County Planning Commission meeting at 6:00 p.m., Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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