Albemarle County Planning Commission
February 4, 2014

The Albemarle County Planning Commission held a regular meeting on Tuesday, February 4, 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, Mark Keller, and Mac Lafferty, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Other officials present were Amelia McCulley, Director of Zoning/Zoning Administrator; Glenn Brooks, County Engineer; Wayne Cilimberg, Director of Planning; Sharon Taylor, Clerk to Planning Commission; and Greg Kamptner, Deputy County Attorney.

Mr. Morris, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum. He welcomed their newest member Timothy Keller who is the representative At-large Commissioner.

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. There being none, the meeting moved to the next item.

Committee Reports:

Mr. Morris invited committee reports.

Mr. Lafferty reported the following:

- The MPO Policy Board held its first meeting with newly appointed members.
- PACC Tech met and received a presentation on VDOT's Rt. 29 N signal synchronization project scheduled for completion this summer. He reported he has also been asked to attend the next PACC meeting.
- The Citizen's Transportation Advisory Committee meets tomorrow (2/5/14) to look at the Long Range Transportation Plan (LRPT) fiscal constraints. A public information meeting on the LRPT will also be held from 5 to 7 p.m. at the TJPDC Water Street Meeting space.

Mr. Loach noted that the Crozet streetscape project has started and there have been some concerns with potholes which Mr. Cilimberg said he would pass along to the Office of Facilities Development (OFD). He also noted the new library is having significant usage.

Mr. Dotson reported the ACE Committee recently issued a RFP for appraisal experts and are reviewing the qualifications of submittals. He also noted there is one opening on the ACE Committee and asked if Commissioners knew of anyone interested to have them contact Ches Goodall or Board of Supervisors' office.

Mr. Randolph reported the following:

- Acknowledged his appointment to the Rivanna Solid Waste Authority.

- The Village of Rivanna Regional Advisory Council will review current information on the Rivanna Village at Glenmore re-zoning at its next meeting.

- The Historic Preservation Committee has sent a letter of concern to the Board of Supervisors regarding Albemarle County's policy on historical records and preservation of documents that are related to historical structures and properties. The Committee reviewed and discussed the proposed Western Bypass and its potential impact on cemeteries at its last meeting.

- Mr. Randolph also noted he has been involved in meetings with Supervisor Dittmar regarding issues with Arden Drive and Avinity.

Ms. Firehock noted the UVa Master Planning Council has not yet met, but she has contacted the University to get a schedule, which Mr. Cilimberg said he would follow up on as a meeting is scheduled tomorrow (2/5/14).

Mr. Morris reported the following:

- In preparation for the upcoming master plan update, the Pantops Advisory Council is trying to get some data about the historical significance of some of the properties along Route 20 and other areas within Pantops.

- The Free Bridge Congestion Relief Study (renamed the Ecological Pilot Project Free Bridge Area Congestion Relief) met and are planning for the creation of an ecological overlay.

Ms. Firehock pointed out she was familiar with the ecological term, which was created by the US Highway Department with other federal agencies to look at green highway design options. If anyone was interested, she offered her assistance to send a link to the ecological handbook or attend a committee meeting. It is really about trying to be more sensitive in minimizing the amount of impact while still meeting engineering safety standards for highway and road design.

Mr. Morris requested that Commissioners serving on the Historic Preservation Committee and/or the Fiscal Impact Committee get with Mr. Keller to determine if he wants to serve on one or both committees.

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

Consent Agenda:

a. Approval of Minutes: December 3, 2013

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

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

The motion carried by a vote of (7:0).

Mr. Morris said the consent agenda was approved.

Public Hearing Items

a. **ZTA-2013-00007 Flood Hazard Overlay District (FHOD)** – The Planning Commission will hold a public hearing to receive comments on its intent to recommend adoption of an ordinance to amend Secs. 18-30.3, Flood Hazard Overlay District – FH, and its subordinate sections, 18-32.5.2, Contents of an initial site plan, 18-35.1, Fees, 18-36.1, Violations, and add Sec. 18-32.5.7, Flood hazard overlay district, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Sec 18-30.3 by amending and reorganizing current Secs. 18-30.3.01 through 18-30.3.10 and adding new sections to establish procedures, standards and restrictions to develop in the FHOD, as follows: Secs.18-30.3.1, Purpose and intent, 18-30.3.2, Flood Insurance Rate Map and Flood Insurance Study, 18-30.3.3, Applicability (added), 18-30.3.4, Disclaimer, 18-30.3.5, Definitions, 18-30.3.6, Designation of floodplain administrator; powers and duties (added), 18-30.3.7, Administration; interpretation of Flood Insurance Rate Map, 18-30.3.8, Administration; interpretation of district boundaries (added), 18-30.3.9, Administration; amendment to district boundaries, 18-30.3.10, Administration; Letters of Map Change; 18-30.3.11, Permitted and prohibited uses and structures, 18-30.3.12, Prerequisites to development; required permits and certifications, 18-30.3.13, Encroachment standards; determining impact on base flood elevation, 18-30.3.14, Encroachment standards; fill in the floodway fringe, 18-30.3.15, Construction standards, 18-30.3.16, Nonconforming uses and structures, and 18-30.3.17, Variances. This ordinance also would amend Sec. 18-32.5.2 by requiring that an initial site plan include USGS vertical datum, the boundaries of the flood hazard overlay district (FHOD), the base flood elevation, and other related information; and add Sec. 18-32.5.7 by requiring that the developer submit topographic information showing that the design is reasonably safe from flooding and that the design will minimize flood damage and reduce exposure to flood hazards; the additional information required by Secs. 18-32.5.2 and 18-32.5.7 would apply to any site plan having any portion within the FHOD. This ordinance also would amend Sec. 35.1 to add a $150 fee to review a Letter of Map Change (LOMC) (topographic plan only), a $300 fee to review an LOMC (topographic plan with floodplain model), and a $300 fee to review a Floodplain Impact Plan. The proposed fees are authorized by Virginia Code §§ 15.2-2241(9) and 15.2-2286(A)(6). This ordinance also would amend Sec. 36.1 to expressly provide that a use, structure or improvement established, conducted, operated or maintained without a required permit or certification is a violation of Chapter 18. A copy of the full text of the ordinance, and the documentation for the proposed fees, are on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

AND

b. **STA 2014-00002 Flood Hazard** – The Planning Commission will hold a public hearing to receive comments on its intent to recommend adoption of an ordinance to amend Chapter 14, Subdivision of Land, of the Albemarle County Code by amending Sec. 14-302, Contents of preliminary plat, and 14-308, Flood plain and topographic information. This ordinance would amend Sec. 14-302 by requiring that a preliminary plat include USGS vertical datum, the boundaries of the flood hazard overlay district (FHOD), the base flood elevation, and other related information; and Sec. 14-308 by requiring that the subdivider submit topographic information showing that the design is reasonably safe from flooding and that the design will minimize flood damage and reduce exposure to flood hazards; the additional information required by these amendments would apply to any subdivision having any portion within the FHOD. A copy of the full text of the ordinance is on file in the office of the

Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Amelia McCulley)

Mr. Brooks presented a PowerPoint presentation on STA-2014-2 Flood Hazard and ZTA-2013-7 Flood Hazard Overlay District (FHOD).

- The note added to the map for provisional acceptance of the Scottsville levee triggered a review of our ordinances. The state wanted our ordinances to comply with all federal regulations. There is a full text amendment of our Zoning Flood Hazard Overlay District and some small incorporation into the subdivision ordinance, which will come later. A resolution of intent was adopted on November 12, 2013. The subdivision text amendment resolution was added at the January 14, 2014 meeting. Since our work session and resolution adoptions they have had a Roundtable meeting with the public with 30 to 40 people in attendance. He offered to go over details if requested. However, since no one is present from the public he would go over those things that matter and answer questions.

Mr. Morris noted there were three members of the public present, and Mr. Brooks replied that they were from the Thomas Jefferson Soil and Water Conservation District and Farm Bureau, which he would talk about later.

Mr. Brooks continued the presentation.

- Staff went over the mandatory changes at the work session, which were mostly administrative. There was a series of recommended changes two of which ended up being hot topics at the Roundtable.

- The first issue was fencing, which is a FEMA requirement, that any fence crossing a floodplain stream would be required to get a permit. Thus, Thomas Jefferson Soil and Water Conservation District personnel are here because of the new regulation that affects agriculture use. It would be quite a task to try and get everyone who crosses a creek with a floodplain to fill out a permit at the county. Staff's response was to try to have the Soil and Water Conservation District do that through their existing programs for agricultural fencing, and they are amendable to that. Staff met with them this morning and Amanda Burbage from the Zoning Division has been corresponding with them regularly.

- There are a lot of fencing requirements being done at DCR's request for what they call break away fencing in floodplain areas. The plan of action is to have a memorandum of understanding with the Soil and Water Conservation District to add this to their permitting process. They would try to get any new fence installers to be cognitive of permit requirements. The permit would essentially be a piece of paper that tells a farmer or the fence installer the requirements for break away fencing in the floodplain crossing. They would sign that they are aware of and would meet those requirements, which would be the extent of the permit. They call it a permit, but it is just a signature on a form and an agreement, and so far FEMA and DCR have been accepting of that. They are hoping to do the minimum possible. The personnel present can answer any questions at their end.

- The other hot topic at the meeting was this concept of freeboard. As you may recall from previous discussions, the freeboard is an additional foot added to any base flood

elevation as a factor of safety or to accommodate future growth. They know if one builds right to a floodway line the floodway line does not stay there over time and grows. This is a provision that if someone builds within the Flood Hazard Overlay District they want the finished floor of the habitable space, which FEMA calls the lowest floor, to be one (1) foot above that flood mark. The reason this was so strongly recommended was because it has a great impact on flood insurance premiums. Someone can save 20 to 40 percent on their flood insurance premiums based on the freeboard on how far the finished floor is above the flood elevation mark.

- There was some confusion in the Roundtable meetings that they were actually expanding the district by adding that foot of freeboard. A foot vertically translates in some areas to quite a few feet horizontally. However the way the Code is written, that is not the case because the freeboard requirement only applies to new construction or changes to a structure that is already in the district. The property has to be in the Flood Hazard Overlay Zone within the floodplain for that to apply. Therefore, if you are outside the floodplain it does not apply and you can build a structure right at the line. However, you may be inundated in the future and then be in the district and have to meet the regulation if you do an addition. It is a bit tricky. However, the only things they allow within the district now are selected agricultural and recreational uses. It is very limited in not allowing any other kind of structure in the floodplain. Those few agricultural uses must have, if they have a habitable space, the finished floor out of the floodplain.

- Those were the big topics at the Roundtable meeting. He would be glad to answer any other questions about the text itself.

Mr. Morris invited questions for staff. He asked if an existing fence going over a creek is damaged in any way does the owner of the fence need to contact the county before they repair it?

Mr. Brooks asked Mr. Kamptner if they have specified that in the Code.

Mr. Kamptner replied that will be dealt with administratively. He noted part of the work they are doing with DCR is to get them to allow these fence repairs to take place before the farmers have to go through the permitting process. The repairs may be an emergency situation where they need to get the fences up to keep the animals penned. That is something staff is still working with DCR on. He did not know what the latest verdict from DCR is on that issue. However, staff is aware of that problem.

Mr. Brooks pointed out they have talked about having a pre-prepared permit so at some point in their interactions either with the county through an agricultural building permit or through Thomas Jefferson Soil and Water District's program they would sign a form basically that they are aware if they need to replace a fence it needs to be of this break away type in the floodplain. Staff would submit that to FEMA as a pre-prepared permit, if you will, for those replacement situations. DCR has not replied to the county specifically about that yet. Staff is awaiting DCR to make a ruling on that and hopes to make the process as painless as possible.

Mr. Kamptner pointed out DCR has to consult with FEMA about this issue.

Mr. Morris invited other questions.

Mr. Randolph noted he had a question on page 1 in the last section #1, continuing to require a special use permit for significant fill. He read through the text and could not find a definition of what constitutes significant fill. He asked if it was by quantity a percentage of the site or a percentage of the floodplain. He asked for an explanation of what they mean by significant fill and if there was quantification or qualification.

Mr. Brooks replied that falls back on our permitted and prohibited use table, which is on pages 22 and 23. If that had not been identified enough, they could certainly add that. What it is meant to be is where it would have an impact either on the floodplain limit horizontally or on the floodplain level, the base place flood elevation vertically. So if it has any impact on either of those it will be considered significant fill.

Mr. Kamptner noted that would be a case by case determination made by Mr. Brooks, as the floodplain administrator, based upon engineering data submitted by the applicant.

Mr. Randolph thanked staff for explaining that. He asked if they should be looking at additional staffing given his other responsibilities in the county.

Mr. Brooks replied that a lot of this work is already being done on a policy level. The county staff reviews a lot of the FEMA permits because they require a community acknowledgment signature. However, it just has not had a formal process. Likewise, they do a lot of assessments for people who wish to develop property through our pre-application process or through outside meetings when people want to consider putting in crossings or floodplain fill. Therefore, a lot of that is going on informally now. He thinks they would probably assess that at some future time because with the permitting process they will have data and will be able to see the trends. There are more requests and changes than there have been in the past. This is a step forward in that direction. However, he would not say they need additional staff at this point.

Mr. Randolph said he had a question on page 22 under agricultural and natural resources, recreational uses and structures. He thinks having established the grid to help explain what the status would be whether it is by right, etc. was very useful and easier to understand. This came up with an application for a campground in a floodplain that was fairly controversial. There is no mention under recreational uses about a camp ground. Would a campground be a recreational use that would be by right?

Mr. Brooks referred the question to Ms. McCulley.

Ms. McCulley replied it would be allowed as long as it does not involve structures for human habitation. If they wanted to do camping cabins or something like that, no, that cannot occur in the floodplain. If there was a structure that is accessory to a recreational use, such as a canoe livery with a rack that holds the kayaks and canoes, then that is permitted. However, under any circumstance they don't allow any structures involving human habitation. That is a strict limitation because most everything but parking and storage is human habitation or animal space.

Mr. Randolph noted that was in Howardsville and involved a canoeing service and he wanted to get a clarification in case it surfaces again. On page 25 under a.1, he asked if the fencing in this case was by right. Earlier in the topology on page 23 under miscellaneous structures fences were referred to as by right in both the regulatory floodway and the floodway fringe and yet here it looks like the fencing is not by right. He asked is that consistent with what was stated earlier on page 23 in fencing crossing a stream channel under 30.3.13.a.1.

Mr. Kamptner replied that the permitted and prohibited uses in 30.3.11 work in conjunction with the construction standards and also the base flood elevation standards. So even if the use is allowed by right under 30.3.11 it is only allowed if they can satisfy the base flood elevation requirements in 30.3.13 and 30.3.14 and also the construction standards in 30.3.15. Therefore, you would have to comply with all the requirements of the zoning ordinance in order to be by right.

Mr. Randolph noted he was thinking about most farmers, especially people in the rural area, are not always going to have the opportunity to look at all of those qualifications in terms of the standards. Therefore, will there be some kind of a handy form that they will be able to have that ensures they can be clear as to what the requirements are for this?

Mr. Brooks said he envisions having a standard form with a couple examples of break away fences for agricultural uses to be included in the package handed out by the Thomas Jefferson Water Conservation District. It would be pre-approved by the county as an acceptable fence that would not impact the Flood Hazard District. Other fences are allowed only if the owner demonstrates there is no increase in water surface elevation of the base flood. Therefore, they would pre-approve these fences as not affecting the base flood elevation. They are either wire fences or some sort of open board fence that will not affect any flood levels or break and wash away. However, if they want to use something different that is not a typical agricultural fence, they would have to rely on the staff of the Soil and Water Conservation District or the county to catch it through possibly an agriculture building permit. The applicant would be told it was not a standard agricultural fence and would need approval for that kind of fence by the administrator. If somebody, for instance, proposed putting in a nonagricultural fence, such as some sort of chain link monstrosity, they would say wait a minute that could catch a lot of debris and hold onto it and maybe they don't want that.

Mr. Kamptner pointed out that in one of the FEMA Training Manuals it speaks to fences that are of that type that may obstruct debris flow and FEMA even expects the applicant to submit an engineering study to demonstrate that they can comply with the requirements in that kind of case. So they are trying to preemptively provide information with the types of fences and designs that could be preapproved and not require the agricultural community to submit studies on an individual basis.

Mr. Randolph said he had difficulty in that he just used the same verb again on 31.f. The section reads that any fence crossing a stream channel that is determined by the floodplain administrator may block the passage of flood waters or may catch debris. He was having difficulty with "may" because if there is a 1 percent probability is that "may". If it is a 25 or 50 percent probability is that "may". He was a little troubled by the word "may" here that is used in both cases because it seems to create a lot of leeway. It is not language that is particularly precise and yet it sounded like FEMA uses "may" as well.

Mr. Kamptner replied that he thinks it does.

Mr. Randolph said he was not going to argue with a fence.

Mr. Kamptner pointed out this and other parts of the ordinance put a lot of burden on Mr. Brooks because he is going to be making a lot of case by case determinations. At the Roundtable a representative from DCR, who is well versed in the FEMA requirements, conceded that she was from the city and noted there were a lot of things that on paper may work but in the practical out

in the field don't work. He thinks Mr. Brooks has the practical experience where he will be able to administer these regulations in a reasonable way that will satisfy not only FEMA and DCR, but also be practical for the customers of the county.

Mr. Randolph said when they see a word like "may" it allows tremendous variation in decision making. Of course, Mr. Brooks is going to do a case by case assessment of what is appropriate. However, it just struck him that it was very vague and invited potential problems down the line. Now that he has referenced to the FEMA document he understands where it comes from.

Ms. Firehock said she had a very minor point. On page 22 under the chart in section 30.3.11 prohibited uses in structures under the second section flood and water related uses and structures, in the middle of page it talks about "Engineered structures including, but not limited to, retaining walls and revetments made of non-natural materials such as concrete, and gabion baskets, . . ." She has some heartburn with the term "gabion baskets". One of her areas of expertise is in stream bank restoration and stabilization. Gabion baskets are no longer favored by many municipalities because the wire is subject to corrode over time, baskets collapse, and fish gills get impaled on the loose wire. Therefore, a lot of localities are taking gabion baskets out where they have put them in for stabilization. She suggested striking that such as since it is a technology that is not in favor amongst people doing this work.

Mr. Lafferty said on pages 22 and 23 when he first was going through that he was guessing that BR was by right and was not sure what N was. However, they define that at the end, which is good. On page 26 part B there are several abbreviations there that he did not see defined.

Mr. Brooks replied those were abbreviations or acronyms from the FEMA maps. He agreed that they can add those to the definition section, and Mr. Kamptner agreed.

Mr. Brooks pointed out that almost every federal insurance rate map has a key on it that defines the terms used on that map. That is where those abbreviations come from, the ae zone and ah zone. Some of them don't even apply to us, such as wave action zones and things like that. The ae zone is an area of engineered study, for example, that does apply to us. So they will clarify all of those acronyms. In the past those were not included in the ordinance because some of them don't apply. FEMA has asked them to include most everything.

Mr. Dotson noted he was thinking back when they dealt with the steep slopes they had both a zoning text amendment, subdivision text amendment, and a zoning map amendment. Here they don't have a zoning map amendment, but there is a zoning map. He asked if they were okay there.

Mr. Kamptner replied they are still figuring that out. The overlay district is based on the FEMA maps and it delineates the outer limits of the floodplain, the area that they know as the floodway fringe and also the floodway. The amendment that FEMA was adopting to one of the panels, which Mr. Brooks showed in his first slide, is merely the addition of a note to that one particular panel. It does not change any of the boundaries of the zones. Therefore, it is not affecting the extent of the overlay district. The ordinance itself does refer to the maps affected through April 2. At this point they are still deciding whether or not they actually need to do a zoning map amendment because the limits of the zone are not being changed. Today he was leaning towards not thinking they need to amend the zoning map at least immediately because the only change is the note.

Mr. Dotson noted his second point that sort of relates to what Mr. Randolph was saying about the multiple decisions that Mr. Brooks, as administrator, will make. He did not see some appeal mechanism, and asked is that handled elsewhere outside the provisions of this specific ordinance or are these not appealable.

Mr. Brooks replied that there was the Board of Zoning Appeals, because this is part of the zoning ordinance. There is also the FEMA waiver process that he did not know if that operates as an appeal. However, he would doubt it. He thinks it would just be through the zoning ordinance.

Mr. Dotson said someone could appeal to the Board of Zoning Appeals (BZA) if they felt his determination was off the mark?

Mr. Brooks replied that was correct if he overstepped on the "may" verb as Mr. Randolph was saying.

Mr. Dotson noted he just wanted to make sure they had a provision for appeal. On the email sent out today by Ms. McCulley it refers to page 23 that continuing to allow pedestrian stream crossing for pedestrian multi-use paths with county-owned and operated parks. He asked is that saying that only on county owned and operated parks are these things allowed. It is a revision on page 23 after the public meetings. He questioned if it included trails of the Rivanna Trails Foundation or homeowner associations if they are limiting this to county owned?

Mr. Brooks replied that he did not think it was limited to that. This is another case where they have added some examples and perhaps limited ourselves similar to the gabion baskets.

Mr. Kamptner noted the clause begins pedestrian trails including, but not limited to these examples. It is expansive as long as it falls within the parameters of being a pedestrian trail, then it should be okay.

Mr. Dotson said on page 30 it talks about recreational vehicles and on page 31 it talks about inoperable vehicles. He questioned if they have addressed it.

Ms. McCulley replied she would have to look to see if there is language specific to that. In the rural area, which has a lot of the floodplain, it allows two inoperable vehicles. There are prohibited uses.

Ms. Firehock asked to jump in since she recalled reading that they can't have things that could float away and become dangerous. Potentially, a car could float away and become dangerous. She wondered if it was covered.

Mr. Kamptner noted on page 23 it states the storage of motor vehicles except as accessory to a use allowed by right or by special use permit is prohibited. He thinks that inoperable vehicles would fall within that prohibited class.

Mr. Randolph asked if they get down to a definition of what constitutes storage if somebody just leaves it out in the backyard and it is in the floodplain.

Mr. Kamptner pointed out that it depends upon the circumstances, but that zoning looks at storage as anything beyond 30 days, particularly with vehicles.

Ms. McCulley noted there was a distinction between parking and storage. A truck could be parked in the floodplain, but it should not remain there not being used for transportation purposes and just become storage or an inoperable vehicle.

Mr. Dotson noted it sounds like it is covered. The last point on page 33 they were talking about variances. He asked do they need to state in there a finding that the property's situation is unique or that it is unlike other properties so that they don't have the variance process essentially modifying the ordinance, but only in a very site-specific case. He asked if that is implied or addressed elsewhere?

Ms. McCulley replied this is directly from the federal regulations. She appreciates what he is saying because that is one of the three criteria in the State Code for variances. She asked Mr. Kamptner if he had thoughts about that.

Mr. Kamptner replied that the second finding under subsection f requires that the failure to issue the variance would result in undue hardship. That term is consistent with the terminology under the state law for variances generally. That is a very high standard or high bar to satisfy.

Ms. Firehock noted it was for meeting undue hardship.

Mr. Kamptner agreed since every variance application will fail on that particular finding because it is very rare that there is actually an undue hardship.

Ms. McCulley asked also that they recognize that because we have so many prohibited uses and we voluntarily are more restrictive than the minimum federal regulations that there are very few things they can even do by variance. She can't even think of examples of things that they can do by variance because so many things are prohibited like habitable space and substantial improvements of existing houses and things like that.

Mr. Kamptner agreed and noted that variances under the FHOD regulations are limited to the two circumstances in **a.** in that if they were just going for the general variance for uses it is not allowed for structures. It is primarily just going to be a setback issue. Once again, they would have to show undue hardship in addition to a couple of other findings that the Board of Zoning Appeals (BZA) has to make in order to grant the variance.

Mr. Dotson said personally he would feel more comfortable if there was some statement someplace that related to the uniqueness factor of the State Code. However, if staff is satisfied that undue hardship covers it and given Ms. McCulley's comments he would live with it.

Mr. Keller noted one thing that just came up today since he had quite a thorough briefing from staff. He questioned the matrix on page 22 in the second point that structures accessory to a permitted agricultural use provided that no accessory structures having habitable space are permitted and then in the floodway fringe by right. As they move into talking about water quality in the next stage of discussions beyond this that there are issues that are associated with a small animal confinement and yard associated with that. So the question again in trying to be supportive of the agricultural community is how these different points are going to show up in a way that is parallel that triggers there is not a concern in one area like here there is a concern in the other. The short answer was it will show up in the building permit process and that will kick over once the Chesapeake Bay water issues are introduced later and dealt with. So it is just trying to keep thinking about where all of these dots will need to be connected later.

Mr. Morris asked if staff had received the information they were looking for, and Mr. Brooks replied yes.

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

Mr. Kamptner asked for two separate actions with one for the STA and another for the ZTA.

Motion on ZTA-2013-7 Flood Hazard Overlay District (FHOD)

Motion: Mr. Randolph moved and Mr. Loach seconded to recommend approval of ZTA-2013-7 Flood Hazard Overlay District (FHOD) with the ordinance language recommended by staff in the February 3, 2014 draft with the changes on page 22 to eliminate gabion baskets and addition of definitions of the various special flood hazard area zones.

The motion passed by a vote of 7:0.

Motion on STA-2014-2 Flood Hazard

Motion: Mr. Randolph moved and Mr. Loach seconded to recommend approval of STA-2014-2 Flood Hazard with the ordinance language recommended by staff in the February 3, 2014 draft.

The motion passed by a vote of 7:0.

Mr. Morris noted that ZTA-2013-7 Flood Hazard Overlay District (FHOD) and STA-2014-2 Flood Hazard would be forwarded to the Board of Supervisors with a recommendation for approval on a date to be determined.

Ms. McCulley noted the requests would be heard by the Board on March 5, 2014 since they have a deadline under the federal flood insurance program of April 2, 2014.

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.

- Planning Commissioners Certification Program – Commissioners interested should contact Mr. Cilimberg.
- NO MEETINGS ON FEBRUARY 11, 2014; FEBRUARY 18, 2014; AND FEBRUARY 25, 2014.
- THE NEXT MEETING IS TENTATIVLY SCHEDULED ON TUESDAY, **MARCH 4, 2014.**

There being no further new business, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 7:02 p.m. to the Tuesday, March 4, 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)