

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on March 15, 2006, at 6:00 p.m., County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Ken C. Boyd, Mr. Lindsay G. Dorrier, Jr., Mr. Dennis S. Rooker, Mr. David C. Slutzky, Ms. Sally H. Thomas and Mr. David C. Wyant.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Clerk, Ella W. Carey, and Director of Planning, V. Wayne Cilimberg.

Agenda Item No. 1. The meeting was called to order at 6:00 p.m., by the Chairman, Mr. Rooker.

Agenda Item No. 2. Pledge of Allegiance.
Agenda Item No. 3. Moment of Silence.

Agenda Item No. 4. From the Public: Matters Not Listed on the Agenda.

Ms. Joyce Martin Diaz addressed the Board stating that the road she lives on in Keswick – Maxfield Road (Route 647) – has been deteriorating. Heavy equipment, along with additional traffic, has made the road substandard. She reported that the road receives a sparse sprinkling of gravel once every three months, but at the first drop of wet weather it disappears into cement sludge that dries into dust that causes health problems. The residents have called VDOT and complained about the road's condition, including lack of drainage that leads to erosion of property and potholes that are costly to repair and cause damage to vehicles. She handed to the Board petitions containing 33 signatures of Maxwell Road residents who request that the road be paved as soon as possible.

Mr. David Wayland addressed the Board and thanked the members for appointing the County's Crozet Advisory Committee. He said he is president of the Crozet Community Association and they are in favor of a new Crozet library, but have an issue with its location. They met last night and elected two people from the community to serve on the Architect Selection Committee. They hope the committee will be allowed to work with the architect to make the site selection. He knows there are two sites which are being considered seriously, the old elementary school site and a location in "downtown." They hope no site will be purchased in the downtown area until the committee has had a chance to look at both sites. The Crozet Community Association did a survey of as many merchants as they could in and around the Crozet area. Of the 13 owners or merchants they were able to speak to only one of those would say outright that they thought they would directly benefit from the location of a library directly in downtown. Two were unsure, and the others said it would not make a difference to their business. He urged the Board to make sure the committee functions with the architect in the site selection process. The Board already owns the land in and around the old school and land is expensive. There has been mention of the school being used as a community center and, perhaps, with a one-story library in the old school that could provide a good working relationship.

Mr. Eugene Carr addressed the Board, stating his concerns over the condition of Route 647 – Maxfield Road. He said the road has been graded, but the drainage problems are significant, and the dust is so bad he has to paint his house every year.

Ms. Maxine Holland addressed the Board, thanking Mr. Boyd for discussing the road situation with her prior to this meeting. He has confirmed that the road is slated to be paved in 2008. She presented a petition signed by residents along Maxfield Road, and many of those citizens stood in support of improving the road's condition.

Mr. Tom Loach addressed the Board, saying he appeared before the Board several weeks ago to ask why it was considering another committee to study development. He understands that committee has now been appointed. He does not think it was necessary, but a series of well-coordinated master plans is. He said there was nothing wrong with the Crozet Master plan, or the planning process, but implementation has been problematic. He knows the residents of Glenmore have asked for a master plan. In a County that can give \$13.0 million in tax subsidizes in one year to individuals for land use, he sees no reason why it cannot find the same amount of money to provide guidance in the growth and development of communities that house over 51 percent of the County's residents. After looking at the composition of the Development Committee, he sees no reason why anybody in Crozet would listen to a committee that has three representatives who may or may not represent the welfare of the residents of Crozet. He does not think another committee is needed. Well-coordinated master plans, done contiguous, which look at the dynamic of growth across the spectrum of growth areas, are needed.

Mr. Steve Blaine addressed the Board on behalf of the Central Virginia Land Conservation Coalition asking the Board's support for the current program that sponsors tax credits for conservation easements. He said they have been working behind-the-scenes the last two years to try and preserve the program that has helped Albemarle County preserve over 60,000 acres in permanent conservation

easements. At a strategic plan session, he knows the Board has set a goal of continuing to promote conservation through easements and set a goal to increase that by 50 percent. Unfortunately, due to the State budget impasse the program is in jeopardy. They have worked with folks at the General Assembly, mostly on the House side, to try and preserve the program as is. There has been an effort to cut back the tax credit benefit which they believe would severely impact conservation in the state. It provides a major incentive for landowners to place their land in conservation. He handed to the Board a proposed resolution which they ask be considered. They have worked with the Piedmont Environmental Council (PEC) and members of the local delegation to provide them with a greater awareness of the status of the program to get word to the General Assembly that the Coalition supports the program and it doesn't need to be tampered with.

Ms. Thomas asked what happened to the bill at the end of the Session. Mr. Blaine responded that there were bills on both the House and Senate sides which failed in conference committees, but the Senate bill (SB-93) is now part of the budget bill. Originally it started out by lowering the total credit to \$600,000 per easement. Through negotiations they were able to get that provision eliminated. He emphasized that there are severe problems with that bill as it relates to incentives for landowners. There is now talk of putting an aggregate cap on the program on an annual basis. He said the Senate side is a long way from where they think the program needs to be.

Mr. Rooker noted that Mr. Blaine has given the Board a copy of a proposed resolution, and suggested that the Board consider it at the end of the meeting.

Ms. Anne Gatewood addressed the Board. She said they have asked for repairs to Maxfield Road in the past. When Mr. Martin was their representative they presented petitions asking that repairs be made, and were told something would be done, but it was not. One time she called an office in Philadelphia to ask why gravel was not kept on roads where there are school buses. She also suggested that speed limit signs be posted on the road. That was in the 1990s and now it is 2006. She thinks something should be done because they all pay taxes. She said all the roads around them have been paved. She said the dust on Maxfield is very bad.

Mr. Boyd commented that he appreciates people from Maxfield Road coming forward tonight. The road is currently number 13 on the Secondary Road improvement list, but if there are drainage issues, etc., he thinks they need to be corrected now. He will call VDOT to see if he can get those safety issues corrected. He does not think it will be possible to get the project moved up, but he will do his best to keep it scheduled for 2008.

Mr. Rooker mentioned that the total allocation for all secondary roads in the County is \$3.8 million; three years ago that amount was \$4.8 million. During that time period, construction costs have almost doubled, so there is less and less money to deal with more and more expensive problems. He emphasized that the road work is done by the State, with localities providing guidance, and several projects have been on hold for years.

Mr. Wyant suggested that more roads be considered for the Rural Rustic Road Program.

Consent Agenda Item 5.5. Certificate recognizing March, 2006 as Governmental Purchasing Month in the Commonwealth of Virginia.

Mr. Rooker said he would like to take up this matter before voting on the consent agenda. He said this is a certificate of recognition signed by the Governor, and he would like to read it into the record. "By virtue of the authority vested by the Constitution in the Governor of the Commonwealth of Virginia, there is hereby officially recognized Governmental Purchasing Month.

Whereas the Virginia Association of Governmental Purchasing (VAGP) is the largest chapter of the National Institute of Governmental Purchasing, and

Whereas VAGP was established in 1958 and currently has over 1,000 professional members employed by nearly 300 public entities comprised of cities, counties, towns, state agencies, colleges, universities, public schools, hospitals, law enforcement authorities and community service boards throughout Virginia, and

Whereas purchasing and materiel's management professionals work diligently to establish and maintain ethical standards in buying and selling, to increase their knowledge of efficient procurement methods, to disseminate useful information to its members, and to promote professionalism in public purchasing, and

Whereas, governmental purchasing professionals contribute positively to our Commonwealth's public agencies by improving purchasing methods and practices and by utilizing new technologies to increase efficiency and improve work performance,

Now, Therefore, Timothy Kaine, hereby recognizes March, 2006 as Governmental Purchasing Month in the Commonwealth of Virginia, and calls upon its citizens to observe this."

Mr. Rooker then asked members of the County's Purchasing Department to stand and receive some recognition.

Mr. Ed Koonce, Chief of Financial Management, addressed the Board. He thanked the Board for recognizing one of the smallest departments in County government; Mr. Hugh Gravitt, Purchasing Agent, Ms. Brenda Dickerson and Ms. Donna Hickson, employees of that department were recognized.

Mr. Tucker pointed out that these three individuals are responsible for purchasing for all of the Schools and for Local Government.

Mr. Rooker said he appreciates their professionalism and what they do for the County.

Agenda Item No. 5. Consent Agenda. **Motion** was offered by Ms. Thomas, **seconded** by Mr. Boyd, to approve Items 5.1, 5.2 and 5.3 on the consent agenda and to accept Item 5.4 as information. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Mr. Slutzky, Ms. Thomas, Mr. Wyant, Mr. Boyd and Mr. Dorrier.
NAYS: None.

Item 5.1. Approval of Minutes: September 7, October 5, October 19 and November 9, 2005.

Mr. Wyant had read the minutes of September 7, 2005, beginning at Item No. 16 on Page 31 to the end and found them to be in order as presented.

Mr. Dorrier had read the minutes of October 5, 2005, and found them to be in order as presented.

Mr. Boyd had read the minutes of November 9, 2005, and found them to be in order as presented.

By the above recorded vote, the minutes which had been read were approved.

Item 5.2. Thomas Jefferson HOME Consortium, allocation of HOME Fund.

It was noted in the Executive Summary that the U.S. Department of Housing and Urban Development (HUD) annually provides funding under the HOME Investment Partnership Program to units of state and local government through formula allocations. While larger jurisdictions individually receive funding under established formulas, those that do not may form a consortium in order to receive an allocation of HOME funds.

Albemarle County has participated as a member of the Thomas Jefferson HOME Consortium (six jurisdictions of the Planning District) since 1992 sharing in over \$10.0 million in HOME funds to support affordable housing initiatives in the region. HUD requires that an Action Plan be developed annually prior to receipt of HOME funds to provide a summary of current year activities and a proposal on how funds will be used for the coming year. A detailed annual performance plan is prepared for HUD after the end of the fiscal year.

Each locality receives an equal annual allocation estimated next year at \$117,007 for project funding and \$5,315 in administrative funds. This year's allocation represents a 15 percent reduction from last year. In prior years funding has primarily been used to support housing rehabilitation projects through AHIP. In the past two years, we reserved a total of \$80,000 to use for down payment assistance and earmarked the balance of approximately \$100,000 annually for rehabilitations. Only \$32,000 of the reserved \$80,000 has been used to date. AHIP has reserved or expended all funds set aside for rehabs. This year AHIP projects use approximately \$98,000 to support the rehabilitation of six houses as the designated subrecipient for the County.

There is no direct budget impact on the County. The County provides support for staffing and operations of AHIP. HOME funds will flow directly to AHIP to support project activity. Staff recommends that the Board of Supervisors (1) allocate the full amount of HOME funds (\$122,322) for the rehabilitation of substandard houses and associated administrative costs; and, (2) designate AHIP as the recipient of the HOME funds.

(Discussion: Ms. Thomas said it is mentioned that in the last two years \$80,000 was reserved to use for down payment assistance and only \$32,000 of that amount has been used to date. She said there has been a lot of talk about helping people get affordable housing. Since Mr. Ron White is present, she asked for a short explanation of why the money is not going out faster.

Mr. White responded that the HOME money was set up to target populations at 60 percent of the area median income and less. The homebuyers' assistance program allows the Housing Office to provide down payment assistance to families up to 80 percent of the area median income. He said with the cost of housing in the County, few people are qualifying for mortgages that are under 60 percent of the area median income that can take advantage of the HOME money. He said there is a five-year window from the Federal Government to use that money. With the increase in affordable low market rate interest mortgages that PHA recently got, and the County's down payment assistance money, the money will probably be used over the next nine to 12 months.)

By the recorded vote set out above, the Board approved allocating the full amount of HOME funds (\$122,322) for the rehabilitation of substandard houses and associated administrative costs, and designated AHIP as the recipient of the HOME funds

Item 5.3. Housing Choice Voucher Program Annual Plan, set public hearing for April 12, 2006.

It was noted in the Executive Summary that the U.S. Department of Housing and Urban Development requires each public housing agency to prepare a five-year plan and subsequent Annual Plans for administering public housing assistance programs pursuant to Section 511 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA). Administration of the Housing Choice Vouchers makes Albemarle County subject to this requirement. The Plan must be made available for a 45-day public comment period, and a Public Hearing is also required prior to plan submissions.

The County's Office of Housing developed a new five-year plan last year with input from a Resident Advisory Board consisting of current recipients of rental assistance under the Housing Choice Voucher Program. The plan was presented to members of the Albemarle Housing Committee for review and recommendation. An Annual Plan is required by HUD each year to support the goals and objectives of the Five-Year Plan. Prior to submission, the proposed Annual Plan is made available for public review and comment including a review by the Housing Committee. The public comment period began March 6, 2006, and the Housing Committee will review the proposed submission on March 15, 2006. Staff and the Resident Advisory Board are not proposing any revisions in this year's plan. There is no impact on the County budget.

Staff recommends that the Board of Supervisors set a public hearing on April 12, 2006, to receive comments on the 2006 Annual Plan for the Housing Choice Voucher Program.

By the recorded vote set out above, the Board set a public hearing for April 12, 2006, to receive comments on the 2006 Annual Plan for the Housing Choice Voucher Program.

Item 5.4. Memorandum dated March 3, 2006, from Ron White, re: Community Development Block Grants.

It was noted in the Executive Summary that at the January 11, 2006, Board meeting staff presented information on the availability of Community Development Block Grant funds (CDBG) and types of uses for which the funds could be utilized. The funding must be directed to benefit low- and moderate-income households. At the time of the presentation staff anticipated submitting an application for a community improvement project for residents of Hacktown Road. Funding would primarily be used for rehabilitation of owner-occupied housing. Board members inquired about other possible uses including creating a facility at Southwood Mobile Home Park for children's programs and doing housing rehabilitation in Newtown. The Board approved setting a public hearing for March 15 to review and receive comment on any proposed application(s) to be submitted for CDBG's competitive funding. At this time staff does not plan to bring any applications forward based on the status of proposed projects and requirements of CDBG for certain activities as explained below:

- Hacktown Road – This community consisting of approximately 25 homes was targeted based on housing condition information from the County Assessor's Office and inquiries made to AHIP by residents seeking assistance. AHIP conducted a survey of interest and found there was the potential for 17 homeowners to participate. A community leader was identified to help facilitate meetings and act as a liaison with the residents. As plans progressed, attempts by AHIP to hold informational meetings was less than successful. It became apparent that the proposed project would not likely be competitive at this time. This determination was based on: 1) limited documentation of needs particularly regarding well and septic system problems; 2) a schedule for AHIP to complete work necessary for an application submittal was not adhered to. In fact, the work schedule was over four months behind; 3) the community leader was not interested in participating; and 4) only eight of the original 17 potential beneficiaries wished to continue participating. The Department of Housing and Community Development (DHCD) indicated that a successful community improvement activity should have at least 65 percent participation from the community.

This was discussed with staff at DHCD and they suggested that an application be submitted even though it did not seem to be at the level of readiness that they suggest, or a request for a Planning Grant could be submitted to do some community organizing, assess needs and then identify options for addressing those needs, particularly those that may need some level of engineering to address (wells and septic systems).

- Southwood Mobile Home Park – There was a suggestion for the County to consider using CDBG to develop a community center as a site for children's programs in Southwood. While DHCD staff indicated they would like to work with innovative activities such as this, there are a number of issues related to requirements for such a facility. The major issue in the case of Southwood is that the County would also be expected to address substandard housing conditions. Since these are privately-owned rental units, CDBG funds could not be used for rehabs. There are also additional limitations for using CDBG funds on manufactured housing units. The second issue is the requirement that such a facility be owned by the County or, if privately-owned it would require a 20-year use agreement with all funding repaid if the

approved use was discontinued prior to the end of the 20-year term. This would require the owner to consent to such an agreement and provide security in the form of a deed-of-trust or bond.

- Newtown – Like Hacktown, AHIP has received requests for assistance in this area although assessment information does not indicate the level of poor housing conditions that exists in Hacktown. CDBG projects are currently limited to target communities that can be easily defined and which are reasonably compact. As an example, the Porter's Road project was fairly large but was also fairly dense, at least for the rural area. The needs in Newtown appear to be more scattered. AHIP has done work in Newtown and will likely continue to do so as funding allows. This type of scattered site need is better addressed through funding other than CDBG. AHIP has access to various resources that may be more appropriate for this area.
- Planning Grants - Although staff does not have a viable application to submit under the competitive application, there are several potential uses for submission of one or more planning grants. Planning Grant applications can be submitted through August, 2006 provided funding remains available.

As suggested by DHCD, a planning grant could be requested for Hacktown Road to do community organizing, complete more detailed needs assessments, and conduct any feasibility analysis necessary to address the needs. Such analysis could include engineering studies and environmental reviews. AHIP has indicated an interest in applying for a planning grant for Treesdale located on Rio Road. The proposed project would consist of townhouses and multifamily rental units for families. Activities to be conducted using planning grant funds have not been identified.

JABA is interested in pursuing a planning grant to determine the market for and feasibility of developing apartments for the elderly in Crozet. The grant would most likely be used to determine the feasibility of adaptive reuse of the Crozet Elementary School.

The County can submit up to two applications for Planning Grants. With the potential of having more than two requests, staff recommends advertising the availability of the grants and establishing a method of reviewing and recommending any requests. Prior to the County's submission to DHCD, a public hearing would be conducted on the proposed applications. It is hoped that this status report is useful in understanding some of the requirements and limitations that faced with CDBG funding.

(Discussion: Mr. Wyant asked about the Planning Grant for the Crozet School.

Mr. White said the planning grant is only conceptual at this point. It was brought to the Housing Office by JABA to consider using the old Crozet School for a multi-use facility that would include some elderly residential housing. If that is what the Board is interested in doing, a planning grant could be used to do some feasibility analyses (primarily a structural feasibility for some type of conversion of the building) for a project similar to the Ryan School apartments JABA converted in Nelson County. He said JABA thinks this could be a model, and they are also looking at other abandoned schools in the other jurisdictions to use this same model.

Mr. Wyant said since this was low on the list of possibilities and asked if a grant has been written. Mr. White said it does not require that a grant be written; it only requires a letter of request. A public hearing would be required if that were done.

Mr. Wyant asked if this would not commit the Board to doing something because the site has been talked about as a library site for Crozet. People have voiced objections already and there has not even been a study yet. Mr. White said the idea is conceptual. He mentioned it as one of the things which has been talked about. Since the January meeting, he, Mark Graham and Susan Stimart all met with JABA and talked about the possibility.

Mr. Wyant suggested talking with the Crozet Advisory Committee. Mr. Tucker said this is just another use for the old Crozet School if it is not selected as a library site.)

This report was received for informational purposes only.

Agenda Item No. 6. SP-2005-00031. Edward P. Allen - Home Occupation-Class B (Sign #33). Proposed: Multiple businesses in S/F residential dwelling; four employees. Zoning Category/General Usage: RA - Rural Areas: agricultural, forestal and fishery uses; residential density (0.5 unit/acre). Section: 10.2.2.31, Home Occupation Class B; 5.2, Home Occupation. Comprehensive Plan Land Use/Density: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/density (.5 unit/acre). Location: TM 41, Parcel 1B, 4746 Sugar Hollow Road (SR 614); approx 600 feet west of intersection of SR 810 and SR 614. Magisterial District: White Hall. (Notice of this public hearing was published in the Daily Progress on February 27 and March 6, 2006.)

Mr. Cilimberg reported that the applicant is currently operating two businesses at the location which is subject to the request. A total of four people are employed making it a violation of the Zoning Ordinance. He said the applicant proposes to continue the home occupation as a Class B if this request is approved. The request by the applicant is to have no more than two employees on site at any one

time. The business now in operation includes the administrative and managerial aspects of an asphalt/driveway coating service, with the equipment located elsewhere for that business, and the design and production of real estate periodicals. The driveway and parking areas near the house would be reconfigured to allow for parking of employee vehicles at the rear of the house.

Mr. Cilimberg said staff noted a couple of favorable factors: support of small business activity in the County; continuing support by the applicant of maintaining 8.723 acres of the property in the production of livestock feed. There were also factors which were unfavorable: inconsistency with the definition of the Home Occupation-Class B; inconsistency with the purpose and intent of the Rural Areas ordinance; inconsistency with the Rural Areas section of the Comprehensive Plan in terms of scale and intensity; the impact of increased local traffic to and from the residential location on Rural Area roads; the impact of increased local traffic to and from the residential location on Rural Area roads; increased presence of parked cars above the quantity expected in a residential context; clearly visible from nearby Route 810; and, the inability of the County to confirm and enforce the number of employees on site at one time.

Mr. Cilimberg reported that staff recommended denial of the application. However, the Planning Commission at its meeting on February 14, 2006, unanimously recommended approval of a Home Occupation-Class B permit as defined in the Zoning Ordinance, subject to one condition. This means the home occupation is limited to two employees total; technically that does not meet the request of the applicant, but is all that is allowed by the ordinance. He said Ms. Jan Sprinkle from the Zoning Ordinance is present to speak further about this matter.

Ms. Sprinkle said she had written the Board a memorandum earlier today. She wanted the Board to realize that the permit as requested for four employees cannot be approved. If the Board chooses to approve it with two employees, the following conditions are recommended: "A total of two employees are permitted in addition to members of the family residing on the premises. The term 'employee' shall include full-time, part-time, independent contractors (or subcontractors) and any other person who is working for or in support of the two businesses mentioned in this application." "Any new businesses or additional employees will require amendment of this permit."

Mr. Rooker said the Board had been in meetings all afternoon so he did not think anyone had read the memorandum so he stopped the meeting while the Board members read the memorandum dated March 15, 2006, from Jan Sprinkle, Chief of Zoning (copy on file in the Clerk's Office). He then asked if Board members had questions.

Mr. Wyant asked which two businesses were cited. Ms. Sprinkle said that on the application Mr. Allen mentioned Jett Black, which is an asphalt business, and the other business publishes real estate sales flyers.

Mr. Wyant said he lives close to this site, and did not know any of these activities were going on except for the real estate business. He asked how long that had been in operation. Ms. Sprinkle said a Home Occupation-Class A permit was issued in 2003.

Mr. Dorrier asked that Ms. Sprinkle explain the difference between a Class A and a Class B permit. Ms. Sprinkle said a Class A permit does not allow any employees at all and the business must be conducted within the dwelling. No accessory structure may be used. In this case, the applicant applied for a Class A permit which was granted administratively, but then he proceeded to have employees. Once the violation was discovered, he applied for a Class B permit, with everything taking place in this dwelling.

Mr. Wyant asked if the driveway that goes to the back of the house has been there all the time. Ms. Sprinkle said she does not know when that was constructed, but the employees use that driveway to go to the back of the dwelling and enter through the rear door.

Mr. Wyant asked if the parked cars can be seen from Route 810. Ms. Sprinkle said she thinks they can be seen.

Mr. Wyant asked if the residents in close proximity to this site have any objections to the use. Ms. Sprinkle said someone must because they called in a complaint.

Mr. Dorrier asked how long the business has been operating. Ms. Sprinkle said at least since 2003 when the applicant received the Home Occupation-Class A permit.

Mr. Slutzky asked if a business were to grow out of its house, and it was in a transitional phase, and there were more than two employees, is there any circumstance where the Zoning Ordinance would permit that business to stay in that house. Ms. Sprinkle replied, "no." She confirmed that a Class B permit is the highest permit granted, and it is limited to two employees. Mr. Tucker said the Zoning Ordinance would have to be amended to allow more employees.

Mr. Slutzky said the Board has recently discussed how to accommodate home businesses in the rural area. He said this situation may give rise to the need to consider amending the Zoning Ordinance, or do the Board members not wish to look at the idea of allowing for more than two employees in a rural area residential setting. Mr. Cilimberg said that question is on the Board's docket for discussion of Rural Areas implementation but it is not scheduled in the next year.

Mr. Dorrier said he thinks the Board needs to look at the question. He has a person complaining in the Scottsville District about the operation of a nursery; this person has been operating for about ten years and has an appeal before the Board of Zoning Appeals on April 11. He said there are a number of local businesses with a lower profile where nobody knows they are there. He asked if Ms. Sprinkle had said there are 150 places in the County that have problems. Ms. Sprinkle said she does not think staff has ever quantified that there are others, other than the one case Mr. Dorrier mentioned.

Mr. Dorrier asked if the Board had ever reviewed the home occupation category. Ms. Sprinkle said it was done in 1980 when the Zoning Ordinance was adopted, but not since.

Ms. Thomas said it was discussed quite a bit when discussing the Rural Area plan. One thing talked about was the value of having the old crossroad village situations have stores where other activities could take place in them. There would then be an alternative to having every business inside Charlottesville. Maybe the Zoning Ordinance could be amended so that old country stores might be the places where people could do more business in the rural areas. That would be a means for preserving old structures, and they would not be right in a residential area. Ms. Sprinkle said that is currently under review.

Ms. Thomas said she thinks this is one of the items that had to be delayed when the Board picked up the Development Review Committee.

Mr. Slutzky said he thinks the Board should discuss what might be done to amend the existing ordinance. It is clear to him that under the existing ordinance there cannot be more than two people under the existing permit, and this applicant apparently has more than two people in the facility on a regular basis. He asked if the Board can legally approve a permit it knows to be in violation of the ordinance. Mr. Davis said if the Board approves this permit, it would be limited to two employees.

Mr. Rooker said the Board should go ahead and open the public hearing on this, and let members of the public speak.

Mr. Dorrier said he had one more question before doing that. He asked why one applicant would go before the Board of Supervisors, and the other applicant would go before the Board of Zoning Appeals. There is the same situation for both. Ms. Sprinkle said it is not the same situation. The one who contacted Mr. Dorrier does not live at the property from which he is operating the business. He is strictly in violation of the Zoning Ordinance. There is no application for him to make to the County; he appealed the zoning decision that he was in violation to the Board of Zoning appeals. That has already been upheld.

At this time, the public hearing was opened, and Mr. Rooker asked the applicant to speak.

Mr. Edward Allen addressed the Board. As a preliminary to the discussion, he handed to the Board members photographs of his residence taken from Route 810. He said these photographs will show just how inconspicuous the vehicles are from the road. Also, these photographs were taken when the trees were devoid of leaves. He has included photographs of properties all within one mile of his property that have significantly more vehicles parked in plain sight of public highways. One of the arguments against him by staff was that the amount of cars and the traffic generated was out of character with the rural area. He said the photographs will show that he is in no way out of keeping with the rural area.

Mr. Allen said if the Board can only grant the Class B permit outlined in the guidelines of the ordinance and allow him to have only two employees, he will have to do that. He does want to voice an objection to that statement by Ms. Sprinkle. He consulted an attorney and was told the Board has the power, it is within its sole discretion to grant him any number of employees by a simple vote. He would be glad to have this request deferred so there can be a legal discussion between his attorney and the County Attorney. He does not want the statement that the Board does not have the right to grant this as an exception, to go unchallenged.

Mr. Allen said if the Board does not feel it can take that step now, he would ask that this be continued until such time as the Board can be made aware of other people's opinion other than Ms. Sprinkle's. He said the Planning Commission voted unanimously in his favor. He thinks they were looking for ways to grant him four employees. Because he has two businesses, one Commissioner asked if they could grant him two plus two. They were constrained from recommending four, having to recommend according to the regulation. According to his attorney, the Board has at its sole discretion the ability to grant him just that. He thinks the Commission intended to pass that choice on to the Board. He said staff is the only one who has been pushing against the request from the beginning. He offered to answer questions.

Mr. Wyant asked if Mr. Allen operates two businesses. Mr. Allen said he has a bookkeeper/office manager who works part-time. She answers that phone and there is a second line for the Jett Black asphalt business. She answers the phone and she does some accounting for his other company. There is no other business transacted for that business at this location. He has rented an office in Crozet so the actual foreman will have a place from which to run that business.

Mr. Rooker asked what The Allen Group does. Mr. Allen responded that it is the publisher of real estate magazines such as Home Search, Apartment Search, Rental Apartment Map Guide, and

magazines from other areas of the State, all of what are basically produced by graphic artists. Those are the other three employees who come in part-time and work varying hours.

Mr. Rooker asked about Home Search Corrections. Mr. Allen said there are advertisers in the Home Search Magazine who have the opportunity to see a proof of their ad, either online or faxed in, or they call in corrections, so there is no company by that name.

Mr. Dorrier asked how many customers visit the site. Mr. Allen said there might be one customer a month and an occasional UPS delivery because they now receive 90 percent of their ads online. He said that none of his employees are full-time. He has one part-time person plus independent contractors who do graphic design for the magazines.

Mr. Wyant asked if there are four full-time employees. Mr. Allen said none are full-time. He said one person is paid as a part-time employee, and the others are independent contractors that work as the hours demand. They basically work two shifts, some working from the morning until mid-afternoon, while others come in about mid-day with one person working until 6:00 p.m. There is a crossover time in the afternoon when more than two people would be on site.

Mr. Wyant asked about automobiles. Mr. Allen said each person drives his own car. He said when he first built this house three years ago he had three children living at home. The amount of daily trips by all the kids to school and to work was in excess by a factor of two the number of trips his employees make now. In fact, the usage of his property has actually decreased.

Mr. Wyant asked if the business was on the property the first day he moved into the house. Mr. Allen said "yes."

Mr. Dorrier said Section 5.2.1 of the ordinance says: "... shall refer the same to the [VDOT] for approval of entrance facilities and the zoning administrator shall determine the adequacy of existing parking for such use." He asked if that has been done. Mr. Allen said his parking has been in place since day 1. It is separate parking available in the back of the house. In fact, when the Planning Commission approved this they made one amendment to their recommendation saying all employees "shall" park behind the house. They always have, so he has no objection to that.

Mr. Dorrier asked about the entrance to the property. Mr. Allen said there is one driveway coming in, and it splits off and goes to the back of the house to a separate parking area where employees park. He has a three-car garage facing forward and a traffic circle in the front of the house.

Mr. Wyant asked if Mr. Allen farmed the other portion of the land. Mr. Allen said it is just under a ten-acre parcel, and they farm everything except for the one acre which contains the house. It is approximately 8.5 acres.

Mr. Wyant asked if Mr. Allen had received a letter from someone at Piedmont House next to the property. Mr. Allen said there are only two neighbors who have a physical view of his house. They are the Piedmont House directly in front, and one directly across the street. They are both on Sugar Hollow Road. Both of them wrote letters in support of the application. He said someone made an anonymous call to the County and complained. It is obviously none of his neighbors because they have all been supportive. Whoever it was has never come forward and they were not at the Commission meeting, and they are not present tonight. He does not understand the issue.

Mr. Wyant asked about what was mentioned as being a two-foot by three-foot sign. Mr. Allen said staff said a sign is not allowed under a Class A permit. The sign is a two-inch by three-inch piece of paper over his doorbell that says "UPS and Fed-Ex come around back." That is the silliness staff has put him through.

Mr. Rooker asked if there were any member of the public who wished to speak.

Ms. Mary Rice said she lives up the road from Mr. Allen, and she never knew he even had a business, it is that inconspicuous.

With no one else rising to speak, the public hearing was closed and the matter placed before the Board.

Mr. Rooker asked the County Attorney to speak to the legal issues raised. Mr. Davis said Mr. Allen's attorney's information is incorrect. This Board does not have unbridled discretion in how it can act on this permit. The Board has the ability to initiate an amendment of the Zoning Ordinance, but that would require a process where it would need to be initiated by resolution, acted on by the Planning Commission and then the Board; it would not affect this application. As Ms. Sprinkle indicated, the Zoning Ordinance limits this home occupation by definition to two employees in total, and not two at a time. If the Board approves this application, Mr. Allen would be restricted to having a total of two employees for the businesses included under this home occupation. If he had more than two, it would be a zoning violation which would have to be enforced by the Zoning Department.

Mr. Slutzky asked if the term "employee" includes Mr. Allen. Mr. Davis said "no." It is employees living outside of the home.

Mr. Wyant asked if there is a difference between having a contract person and a full-time employee. Mr. Davis said if employees don't come to the home occupation location, it is not a problem. But, they cannot come to that location and conduct business.

Mr. Wyant said this business has been there since they built the house. He knows most of the people in the neighborhood. He thinks the issue before the Board is the rural-like way the ordinance defines small businesses, and he thinks it is outdated. He supports this use, and would like to find a way to keep this business going while the Board looks at the ordinance. It is a business that hardly anyone in the community even knows is there. He said when there is a violation, time is needed in order to correct it. A person in business cannot just pickup and quit doing business especially if it involves something like a computer business. He said a lot of homes in the rural areas have computer businesses and have employees. He could name some, but he won't. He said the Board needs to get something that will work in the rural life, and instead of penalizing "our folks", when there is a nice little business like this that is helping the County, the Board needs to find a way to make these things work. That is his point. He wants to approve this thing, so he asked the other members to help him write this so Mr. Allen's business can survive in the big city of White Hall.

Mr. Dorrier said he agrees. Something like this seems to work and does not bother anybody. He said all seven of the Planning Commission, which is a tough group to please, agreed.

Ms. Thomas said the Planning Commission actually approved a permit which will only allow Mr. Allen to have two employees. It looks on the surface as if they are agreeing, but what they actually did was pass "this hot potato" to the Board. If the Board approved exactly what the Planning Commission recommended, it would be cutting his business in half in terms of the employees he presently has. He said the Board knew when it went to planning the rural areas that most farmers no longer have a full-family farm. Most farmers have at least one other occupation in the family in order to maintain the family farm. She said this is a situation which has gone further than that illustration or that the ordinance allows. The fact that they are able to maintain their land and live in the rural area and not bother anyone and yet have a business speaks well for the situation, but it is clearly against the Zoning Ordinance. She would be happy to do what the Planning Commission did and she thinks that is all the Board can do this evening.

Mr. Rooker said that unless the Board wants to turn the rural areas into business localities, a line has to be drawn somewhere. The Board can debate whether at some future point it should allow two or more employees, but when the ordinance was adopted it was decided that it was appropriate with a Class B permit to have up to two employees; the applicant got a Class A permit which said he could not have any employees, yet he went ahead and had four employees and continues to have four employees. It was said that someone complained. In reality the Zoning Department does not investigate on its own potential violations of the Zoning Ordinance. They rely on people to call in and they only investigate when they get a complaint. Obviously someone was bothered by the fact that there was a business going on at this location which was in violation of the ordinance and they called. Following that, after several notifications to the owner about the violation, he continued to violate the ordinance. At some point he thinks the Board can discuss what would be an appropriate level of commercial activities in the rural areas. If that is different than the present ordinance, the ordinance can be changed. If the ordinance is changed, he hopes the Board would at least follow through on enforcing that ordinance according to whatever is adopted. Today, under the existing ordinance, the Board is called upon to enforce it.

Mr. Boyd said apparently these types of businesses were debated in 1980. Mr. Tucker said that is correct.

Mr. Boyd asked if there is a restriction as to the type of business one can operate under a Class B permit. Mr. Davis said the ordinance addresses planning impacts and not the type of business. It deals with the number of cars on site, whether or not materials are to be stored inside or outside the building, whether they can be kept in an accessory building, etc. Over the years there have been a number of these applications before the Board that have been very controversial. This Board has denied home occupations in the past because of impacts neighbors objected to – size of business, manufacturing on site, etc. He said people push the limits on these types of permits. This one may not have those impacts, but it clearly is in violation of the ordinance.

Mr. Boyd asked if the employees did something that could be considered as agri-business if that would be acceptable on site. Ms. Sprinkle responded that farmers (agriculture) do not come under the Home Occupation category.

Mr. Slutzky said he is sympathetic to having rural businesses, and he thinks this situation should be addressed. He was one of the Board members who said to slow down the process because of the Task Force convened last month so it will be a while before this is resolved. He said the Board can either approve a two person permit today, or deny the application. But when an applicant refers to "silliness by the staff" that applicant clearly does not appreciate the staff's obligation to enforce the ordinances as passed by the Board and made the law in Albemarle County. He does not think it would be prudent for the Board to approve a permit which only allows for two employees when it knows there are four employees on site at this time. He is sympathetic to having home businesses, but he is reluctant to give mixed signals to staff about enforcing County ordinances as they are currently written, when the Board knows there is an instance where there has been a violation and a certain amount of contempt shown for staff's enforcement prerogative. He is disinclined to support this request.

Mr. Wyant said this petition is for a full Class B permit, with parking in the rear of the home.

Mr. Slutzky said the Class B permit allows for two employees, and the Board has been told there are four employees. The Board has been told that staff's enforcement of the existing permit, which allows for no employees, is characterized as silliness in some respects. He is concerned.

Mr. Wyant said he would **move** that the Board approve SP-2005-003 for a Home Occupation-Class B permit subject to the one condition recommended by the Planning that "All employee vehicles shall be parked behind (to the north) of the residence."

Mr. Rooker said staff had recommended that if the petition were approved, there should be two other conditions attached. He asked if Mr. Wyant wanted to include both of those.

Mr. Wyant said he thought the two conditions recommended only clarified the situation.

Mr. Rooker said he thinks they were recommended from the zoning standpoint as a way to word the conditions. Mr. Davis said the purpose of those conditions was to make sure the requirements are absolutely clear.

Mr. Wyant said he did not mind adding those, so **amended his motion** to include those two conditions for clarification purposes.

Mr. Dorrier **seconded** the motion.

Ms. Thomas said before she votes she would like to say that although she is sympathetic in general with home occupations, she thinks voting for this might send mixed signals. She does not want to send mixed signals, but wants the County's ordinances to be obeyed once they are adopted. She said that sympathetic words on her part does not mean the Board is doing this with a "wink and a shove". If the Board says two employees, total, maximum, that is what she will mean with her vote.

Mr. Dorrier said he thinks the Board needs to look at the ordinance; it is not perfect.

Ms. Thomas said there have been several comments about that. But applicants in general might think the Board does not mean for it to be enforced. She would not want anyone to take this discussion today as being a permission not to follow the law.

Mr. Boyd said what the Board will be voting on will be to allow what is in the ordinance. Mr. Tucker said that is correct.

Mr. Rooker asked that the roll be called on the motion. The motion passed by the recorded vote which follows:

AYES: Ms. Thomas, Mr. Wyant, Mr. Boyd and Mr. Dorrier.

NAYS: Mr. Rooker and Mr. Slutzky.

(Note: The conditions of approval are set out in full below.)

1. All employee vehicles shall be parked behind (to the north) of the residence;
2. A total of two employees are permitted in addition to members of the family residing on the premises. The term "employee" shall include full-time, part-time, independent contractors (or subcontractors) and any other person who is working for or in support of the two businesses mentioned in this application; and
3. Any new businesses or additional employees will require amendment of this permit.

Mr. Boyd said the Board as an organization always seems to want to make a huge project out of things it could make a small project out of. He is willing to look at the number of people who are allowed under the Home Occupation-Class B permit as a single entity for amendment to the ordinance. He thinks the ordinance is outdated in today's time, without having to go through the process of everything that surrounds rural businesses because he thinks there are many people in the County running such businesses. He thinks the number needs to be considered as to whether it is appropriate in today's climate without getting into all the other things dealing with crossroads, growth, stores, etc.

Mr. Wyant said it is bigger than one might think. He thinks it needs to be discussed sooner than later.

Mr. Boyd said that is why he would like to narrow it down to just the number of people allowed under the Class B permit.

Mr. Rooker said there have been applications where the request was for only one employee (an example was the request in Key West where a lot of people showed up to oppose that request).

Mr. Boyd said he was in the audience opposing that request.

Mr. Rooker said he knows Mr. Boyd was a neighbor and opposed that request for just one employee. If four or five employees were allowed, at what point is that just a business being allowed to locate in the neighborhood where the people living around it may not appreciate that business. He would have supported this application except for the enforcement problems.

Mr. Slutzky said he also would have supported it except for that one thing.

Mr. Rooker said staff also said they had no confidence that the two-employee limit would be abided by in this case. He said the Board would not always be talking about a building on ten or more acres of land by itself, but talking about neighborhoods and people living in close proximity.

Mr. Boyd said that Key West situation involved deliveries to the home, with people coming and going, with people coming to a retail operation, and there were a lot of other things, but it fell into the category concerning the number of employees.

Mr. Slutzky said he is sympathetic to moving forward, but does not think the Board should just pick out one item to consider.

Mr. Rooker said in the Key West situation, they only had customers one or more times a month, so it was a limited situation, but all requests are fact specific. He said if the categories are broadened, there will be more applications received, and the Board might have to deal with a number of situations which may not be appropriate for that class of a permit.

Ms. Thomas said she actually voted in favor of the Key West request.

Mr. Dorrier said he thinks the Board members would be surprised to know how many home occupations there are in the County. He said these people are not independently wealthy, they need to live off of the land, farming.

Mr. Rooker said farmers are excluded from this regulation. But, when they start operating a business, how large can that operation get in a residence.

Mr. Slutzky said the farming issue relates to land, and this gentleman has land. He can't support his family on his farming activities and he has to have a secondary business. Maybe he needs to be at his farm, and that is the issue Mr. Dorrier is talking about.

Mr. Dorrier asked if Albemarle County is to be just a place for landed gentry. Does the Board want the working man and woman to be able to exist here?

Ms. Thomas said that is one of the questions, but it is not the only question.

Mr. Rooker said in this case he believes the house is worth over \$1.0 million. He said he applauds this gentleman for doing well, but this is not a case of somebody who is trying to live off of the land.

Mr. Wyant said he has cattle on only eight or nine acres and it is not a farm. It takes more land to qualify as a farm, so this stretches the definition.

Mr. Boyd said he thinks these issues could be addressed by narrowing the number of employees who should be allowed in a home type setting. If the neighborhood were a problem, the permit could be based on the size of the property.

Mr. Rooker asked if Mr. Boyd wanted to force businesses into the rural areas with large numbers of employees. Mr. Tucker said in order to move this forward, the Board would need to adopt a resolution of intent asking staff to draft an ordinance to start moving the process along more quickly than its current schedule.

Mr. Slutzky said he does not really agree with taking one discreet issue like this and acting on it, but he does think it should be addressed as quickly as possible. He would have been supportive of an ordinance change that would make this particular use in this particular case possible, but the ordinance does not read that way now and he did not want to take just one narrow element and pass a resolution that gets an ordinance to address it without discussing the broader issue of what to do with businesses in the rural area in all instances.

Mr. Rooker said the home occupation permit regulations apply in zones other than in the rural area.

Agenda Item No. 7. ZMA-2005-0005. Liberty Hall (Cross Property), Sign #69. **Public Hearing** on a Proposal to: Rezone 8.01 acres from R1 (1 unit/acre) Residential to NMD Neighborhood Model District - residential (3 - 34 units/acre) mixed with commercial, service and industrial uses to allow office uses up to approx 8,500 square feet in size and up to 53 residential units in single family, townhouses, and multifamily. Proffers: Yes. Existing Comprehensive Plan Land Use/Density: Crozet Master Plan designates the property CT3 Urban Edge: single-family residential (net 3.5-6.5 units/acre) supporting uses such as religious institutions and schools and other small-scale non-residential uses, and CT4 Urban General: residential (net 4.5 units/acre single family, net 12 units/acre townhouses/apartments, net 18 units/acre mixed use) with supporting uses such as religious institutions and schools and mixed uses including retail/office. Entrance Corridor: Yes. Location: TM 56, Parcels 97A, 97A1 & 97 (only a .833 acre southwest portion of the property as shown on the General Development Plan) along Radford Lane near its intersection with Rockfish Gap Turnpike (Rt 250 W). Magisterial District: White Hall. (Public Hearing advertised in the Daily Progress on February 27 and March 6, 2006.)

Mr. Cilimberg said before he begins the staff's report, he will say that the applicant has requested that the Board not take action on this request tonight, but would still like to receive comments from the Board and the public. He said the Board had been provided with a staff report and executive summary giving an update on the status of the project based on the Planning Commission's action (All reports are on file in the Clerk's Office with the permanent records of the Board of Supervisors). He said he can summarize that report or go straight to hearing from the applicant and the public. He then offered to answer questions.

Ms. Thomas asked what would be required on Route 250 in terms of stoplights. She said the Renaissance Planning Group (Page 58 of the staff report) talks about the detrimental impact on Route 250 of having traffic intersections with Road "A" and having a second signal at Cory Farm Road. She said that after the applicant has spoken she would like to have more discussion of that point.

Mr. Cilimberg said today the applicant has presented an updated proffer that addresses some technicalities. He said the applicant will speak tonight about a change in the Plan they want to have considered as a follow-up to tonight's meeting.

Mr. Rooker said if there were no further questions for staff, he would open the public hearing and invite the applicant to speak. The public will be invited to speak tonight, but this petition will be coming back to the Board at another time so the public hearing will be continued to the deferral date.

Mr. Vito Cetta of Weatherhill Homes addressed the Board. He said he will give the full presentation, and then when the request comes back to the Board, he will just address any changes. He said the growth areas of the County are focused into only small parts of the County, which he supports along with restricting development in the rural areas. This proposed development is a result of the Crozet Master Plan, is well done and accomplishes all the things expected to be accomplished. He showed on a map where the project will be located. It is near the Blue Ridge Building Supply and across the street from an approved commercial project where a Harris Teeter Store will be located along with other shops. It is also near Clover Lawn where there are commercial buildings going in the front of that property along with mixed-use commercial.

Mr. Cetta said the Crozet Master Plan suggests interconnectivity. There is a parcel behind his development and access is being given to that parcel. That is actually the reason for the deferral tonight. That neighbor did not like the relocation of a road so they will be accommodating him. The deferral is so the County can review that change and have this neighbor also approve of the change. Their property gives access to the land behind it and to the land to the right and ties the property over to the proposed Eastern Connector. He pointed out where improvements would be made to the road leading to Route 250. He said they have acquired easements for the road, and also offsite sewer easements. The road will be continued to the east, north and to the west.

Mr. Cetta said this project has 53 units, down from the 75 originally planned. The density of this project is at about 70 percent of what is recommended in the Master Plan. He said they are keeping the existing house on the property. The road is extended to the Cobels property. Rather than putting in a pond for stormwater detention, it will be buried and there will be a recreation area. He noted the location of Lickinghole Creek on a map and the location of a large portion of land in that area which is undevelopable. They have provided access to that area so that someday there might be walking and hiking trails.

Mr. Cetta said there are a variety of homes proposed in the project; single-family homes, larger townhouses, a stacked flat, a townhouse with affordable stacked flats on the end, and a small office building with apartments above. He said this project was turned down by the Planning Commission because they wanted two sidewalks in all areas, and there was one area where he did not think it was needed. Also, one area of the project was located on a critical slope and the Commission did not want that slope disturbed.

Mr. Cetta said there are a variety of houses proposed in this development. The larger houses will sell for about \$500,000 and the stacked flats (the affordable housing) will sell for about \$140,000. He said they had changed access to the Cobels property; they took the road off of the critical slope. He noted that the site is near Clover Lawn where there is a road which backs up to the Masonic Lodge and it will remain in place. He pointed out the location of the townhouses on the front of the property, the location of the stacked flats, with an alley behind these units and with the garages in the alley. He said they are proud of their Waylands Grant project (nearby) which is the first example in the County of the DISC principles in the Neighborhood Model. The features of the project that he likes are a green strip, street trees, picket fences, houses close to the road, porches, the house is raised, and they are simple houses with interesting colors and the cars will be parked in the back.

Mr. Dorrier asked the number of square feet in each house. Mr. Cetta said some of the houses are four stories, and since the house is raised there can be an English basement, so some of the houses are as large as 3,100 square feet. He said it was one of the first things they did using the Neighborhood Model. He said people appreciate not having a big yard, and there is a park across the street. The units are selling well so it shows these kinds of houses will do well. Originally, they were not able to sell these units because they are located next to Gray Rock which has the garages in the front and with no sidewalks. He showed renderings of Parkside because they propose having similar style homes.

Mr. Cetta said what they proposed in Parkside and what they are about to do in Liberty Hall is to have a garden club. He thinks people will appreciate that because there are a lot of small parks in their

project. They have met all 12 criteria of the Neighborhood Model – mixture of housing types, variety of prices, density, as well as 15 percent affordable units and cash proffers of \$3,200 per unit with the cash being made available sooner in the development process. He added that they have met with the neighbors and addressed their concerns. He said the traffic on Route 250 is less than 50 percent of capacity. They are also tying Clover Lawn's entrance into their entrance. Eventually, when all the units are built there probably will be a need for a traffic signal. He said their road also extends over to the proposed Eastern Avenue so the signal may be needed there instead. They are contributing to the cost of the traffic signal as well.

Mr. Rooker asked how that road lines up with the shopping center across the street. He asked if it will be a "T" intersection. Mr. Cetta said that is correct.

Mr. Wyant pointed out that the entrance to Cory Farms is 150 yards away. Mr. Cetta confirmed this, stating that it might be more like 200 or 300 yards away. He said all County departments have reviewed their plans. He does not think they have missed doing anything. The density is lower than what they are allowed to do. This is a project they're proud of.

Mr. Dorrier asked the size of the lots. Mr. Cetta said there are five different sizes according to the housing type on the site. He said if you're a builder in the Charlottesville area, you want to buy lots. The only player in town is really the Old Trail development; there are enough problems with the cost of lots and the cost of housing. They need competition. Also, they are not out-of-town builders; they are local builders using local suppliers. Places like Old Trail do have big outside builders and they don't use the local trades. He asked Mr. Scott Collins to address the issue of why the change was made in the plan.

Mr. Collins, civil engineer representing Weatherhill Homes, addressed the Board. He explained a few changes made to the plan since the Planning Commission's recommendation for denial last month, and staff's recommendation for denial, as opposed to the plan the Board has tonight in its packet. He pointed out a building in Block 1 which was a two-story commercial building of about 13,500 square feet. That building did not conform to the Master Plan. The CT4 zone does not allow a two-story office building so that was changed to a one-story live/work unit with residential units above. The square footage of the commercial aspect of the office building has been reduced to 8,500 square feet with five units above.

Mr. Collins said the old plan for Block 2 showed three residential units. The new plan has two residential units. He pointed to one unit that had bordered the critical slope area, actually having a couple of places in critical slopes in that lot, as well as the issue with the sidewalk that Mr. Cetta mentioned earlier. There was not enough room on that side of the road for a sidewalk and planting strip to create a Neighborhood Model street. One lot was eliminated, the lots moved over and none of the lots now encroach on that critical slope area so there is enough room for the sidewalk and that has been included on the new plan. The other change between Block 2 and Block 3 is a roadway connection. That connection was within 10 to 15 feet of the critical slopes area. There was not enough room to construct the road along with erosion control measures to allow the sediment to impact the critical slope areas, so the new plan eliminates that connection to the north.

Mr. Wyant asked how Mr. Collins had addressed the neighboring property owner's concern. Mr. Collins said the new plan pictured earlier on a slide shows a new road, eliminating one lot, and bringing that road through a different area. This new road is now in excess of 50 feet from the critical slope areas instead of 15 feet. That gives room for erosion and sediment control measures. All the drainage from the roadway, the houses, the lots, and any impervious area, will be directed to the underground detention system in the back of the property and will not be discharged into the critical slope area or cause further erosion.

Mr. Rooker asked what is proposed to provide for maintenance of that underground detention area. Will a homeowner's association do that? Mr. Collins confirmed that it will be part of the homeowner association's responsibility.

Mr. Dorrier asked the total number of acres in the project. Mr. Collins said the entire project contains eight acres.

Mr. Collins then showed a slide highlighting the changes he just mentioned.

Mr. Rooker asked that the applicant's presentation be concluded at this time.

Mr. Collins said there was a big change in Block 6. He pointed to the block and said it originally contained 14 town homes, but that has been changed to four single-family homes and seven town homes. That decreased the density in this area and put more density into the CT4 area. The major changes from the plan submitted to the Commission last month are: this plan conforms with the Master Plan in every aspect, it has the interconnectivity the Board wants, it has the live/work unit, it has the amenities which support the community, people can live, work and operate within this community, and although it is on a small scale, it is very similar to some of the bigger projects that have been approved under the Crozet Master Plan and it incorporates all the elements of the Crozet Master Plan.

Mr. Wyant asked that Mr. Collins point out the location of the connector road to Eastern Avenue. Mr. Collins confirmed that the connection would come through Cory Farms.

Mr. Rooker asked if that is over an existing road in Cory Farms. Mr. Wyant said there is a cul-de-sac in Cory Farms now.

Mr. Rooker asked if that is a public road in Cory Farms where that connection will be made. Mr. Collins said that is correct.

Mr. Rooker asked if that road is built to the property line. Mr. Wyant said he does not think it is, ending in a cul-de-sac soon after entering that development. Mr. Cilimberg said the cul-de-sac is not to the property line, there are lots at the end. He said Mr. Cetta's connection is further north; it is not into a cul-de-sac. Mr. Collins pointed out a cul-de-sac that has a public right-of-way that goes north and then there is a public right-of-way (the old Route 250 right-of-way) which is an extension of the road they show as going across the property. It then goes into another public right-of-way which is not paved at this time, but it can be driven across to the cul-de-sac.

Mr. Rooker asked the width of the right-of-way (old Route 250) Mr. Collins had pointed to. Mr. Collins said he did not recall that width at this time.

Mr. Slutzky asked the number of units in the CT3 area on the revised plan. Mr. Cetta replied that five units were taken out of that section to accommodate the critical slopes and they were put into the CT4 area. That is addressed in the staff's report.

Mr. Wyant asked the elevation of the unit which backs up to the Masonic Lodge. Mr. Cetta said it will be a two-story building. Mr. Wyant said with livable units on the top level, he is concerned about screening from the Lodge side. Mr. Cetta said there is also an original building on the site, and the trees will remain.

With no further questions for staff, Mr. Rooker invited the public to speak.

Mr. Scott Peyton said he is a lifelong resident of western Albemarle County. He is also President of Scenic 250 which is a citizen's organization committed to the protection and preservation of the scenic, rural and historic assets of the Route 250 West corridor. He acknowledged that the Crozet community, through the master planning process, embraced 250 as a scenic bypass to the community of Crozet, not as a corridor for expanded commercial development. He drew the Board's attention to the fact that Clover Lawn, Blue Ridge Building Supply, and the proposed Blue Ridge Shopping Center are all grandfathered highway commercial properties. They should not be taken as a precedent or a model for expanded commercial development along the 250 corridor. Consequently, Scenic 250 asks the Board to reject the commercial component of this development as being inappropriate and a negative to 250. Furthermore, they believe the overall density of this proposal would have a negative traffic impact on 250 overall.

Mr. Morgan Butler, on behalf of the Southern Environmental Law Center, addressed the Board. He sent a letter to the Board yesterday regarding specific concerns SELC has with the Liberty Hall proposal. He said staff and the applicant have repeatedly suggested that the density of the proposal falls below the maximum density allowed in this neighborhood by the Crozet Master Plan. That is incorrect. The staff's report (Page 2) contains a table setting forth the numbers dealing with net residential density. He said most of the land in the Liberty Hall plan falls into the CT3 Transect zone, with the rest in the CT4 Transect category. There are 4.77 net acres of developable land in the CT3 area, and the maximum number of residential units suggested by the Master Plan is shown as 31. In order to arrive at that number of 31, staff multiplied the 4.77 acre number by 6.5. Staff and the applicant claim the 6.5 multiplier is the maximum end of the Master Plan's density range. However, the language in the first column of the table gives the density figures set forth in the Crozet Master Plan so the true range for residential units in CT-3 areas is only 3.5 to 4.5 units per acre. The 6.5 figure is an exception that only applies for accessory apartments, apparently meaning affordable housing, and that constitutes 50 percent of the residential units in the area. He said Weatherhill has offered 15 percent affordable housing units, and has made no indication that it will add any other accessory apartments. As a result, the 6.5 units per acre multiplier does not apply and the 4.5 figure is the true maximum end of the residential range. When you multiply the 4.77 CT3 acres by 4.5, the maximum number of units allowed in the CT3 area falls from 31 to 21. That is the true maximum for residential units the Master Plan sets for this area. Nonetheless, in the column labeled "units proposed", 26 units are proposed for the CT3 area. Applying the correct numbers, it ends up that the Liberty Hall proposal exceeds the maximum number of units for the CT3 area by about five units. He said this change results in the maximum number of residential units allowed for the entire Liberty Hall neighborhood to decrease from 61 to 51. Looking at the bottom row of the table, it shows that 53 units have been proposed for Liberty Hall. Therefore, this project exceeds the maximum density the Master Plan suggests for this neighborhood.

Mr. Butler said if you look at the row for the CT4 area in the same table, it shows that staff multiplied the 1.64 net CT4 acreage by 18 to come up with 30 maximum units. (Time expired) He asked for an additional 30 seconds, to which Mr. Rooker agreed. Mr. Butler said staff has said that when a nonresidential building is proposed for a neighborhood, the acreage on which the nonresidential building would sit must be subtracted from the net acreage before the residential multipliers are applied. It appears that staff forgot to subtract the acreage which will be used for the Liberty Hall office building from the net CT4 acreage. When that acreage is subtracted from the 1.64 acre number it will push Liberty Hall even further over the maximum density threshold. SELC does not favor such a result. He said that while SELC strongly favors the mixed-use Neighborhood Model ideal, it does not feel any office space is necessary in Liberty Hall. There is already a large amount of office space slated for the Clover Lawn development next door, and staff has made clear that the commercial areas of Clover Lawn and the Blue Ridge Shopping Center across 250 will serve as the neighborhood focal points for Liberty Hall. The area does not need anymore office space.

Ms. Mary Rice addressed the Board. She thanked the Board members for their service as Supervisors. She said contrary to what one might think, she will not speak against every rezoning in the Crozet growth area if she feels the rezoning really follows the Master Plan, growth is keeping pace with the Master Plan, infrastructure is keeping pace with growth and the rezoning strengthens downtown Crozet. She thinks the Crosses have a right to develop their property. Growth has been thrown right up in front of their house (Clover Lawn town homes) and she appreciates the position they are in. The main problem she has with this development is its commercial aspect. She said if one had driven on Route 250 recently, they would see the Clover Lawn commercial space which is under construction. A site plan has been approved for two 16,000 square foot commercial buildings on the Clover Lawn side of the street. Across the street is to be a 34,000 square foot grocery store, another 11,000 square foot building and a 7,000 square foot building; that is a total of 84,000 square feet. She thinks these will be destination centers.

Ms. Rice said when this area on Route 250 was designed as a neighborhood in the Master Plan, both the planners and the community knew there were grandfathered areas there and some houses should be built there to turn it into a walkable neighborhood. To add anymore non-residential uses in that area is highly inappropriate. She asked that the Board encourage the applicant to change his development. Also, she urged the Board to drop the densities to a minimum until there is the infrastructure needed to keep up with growth. She said Route 250 is a mess right now. A traffic light is needed in front of the school, and across from Old Trail. They have been told that will not happen for a year. She added that there is no public hearing sign about this request on Route 250; the only public hearing sign is at the end of Radford Lane which is a private road. Before the next public hearing, she asked that there is a sign on Route 250.

Mr. Kelly Strickland said he is a member of the Claudius Crozet Park Board. He sent an e-mail with some supporting documents to the Board members this afternoon. Up until last year Weatherhill Homes had been a wonderful neighbor for the Park and helped support the Arts & Crafts Festivals held each spring and fall. Last fall when the Park Board attempted to have Weatherhill Homes honor a promise they made when the Parkside Village subdivision was approved in 1999, Weatherhill Homes denied their request. Basically they rescinded their offer to donate the radio station building along with almost a half acre of land to Claudius Crozet Park. He said this commitment was negotiated and worked on for six months. The subdivision was first denied, then deferred, and finally approved and this was a commitment they made to the community of Crozet and the late Walter Perkins who was an ardent member of the Park Board. He said the building is a 1,600 square foot building with almost one-half acre of land. The Park Board was committed to the building until last fall when it received a deed of gift which contained many restrictions (basically, the Park could only use the building a few days each year when it was scheduled with the homeowners' association at Parkside Village). Meanwhile, the Park Board owned the building and maintained it. It was obvious the Park Board could not keep the building with the restrictions applied. In addition, after waiting five years for Weatherhill Homes to honor their commitment, the Park Board was given one month to accept the deed of gift and when they asked for Weatherhill Homes to meet to discuss the restrictions being imposed, they would not reply. He said they filed a bill of complaint, but it was rejected by Judge Peatross because the gift did not have something in return for it. What was actually in return was the County's approval of the subdivision. (Time Expired)

Mr. Strickland asked for a few more minutes to which Mr. Rooker agreed. He is present tonight to ask that the Board, as part of this rezoning application, ask Weatherhill Homes to fulfill their previous commitments to the community of Crozet. If they cannot fulfill the promises they made in the past, they should work out some like offer working with the Park Board and the community, to honor the commitment. He said there is a public swimming pool in the Park. The park is a nonprofit 501(c)(3) and will be 50 years old next year. They have League play, Peachtree baseball, soccer, swimming, summer camp, etc. The Park Board does a lot for the community of Crozet, and they need the developers to honor their commitments. It is important that the people of Crozet do not pay for all of the costs of the new developments being built.

Ms. Barbara Westbrook addressed the Board. She said she does not have a specific problem with Liberty Hall itself, other than it is "one more straw on the camel's back." She asked the Board to consider the future before that camel's back is broken. She said the increase in traffic is one of her main concerns. She counted the traffic this morning between 7 a.m. and 9 a.m. right in front of the proposed Liberty Hall and it was just under 1,500 cars in those two hours. There will now be the traffic from Liberty Hall (maybe 600 vtpd) and traffic from Harris Teeter, more traffic from Clover Lawn, and much more traffic when that Eastern Connector is open. She said it seems construction of the Eastern Connector is held up by lack of funding and the need for a bridge. She said the retail space in Clover Lawn will have businesses such as Domino's, a drycleaner, and restaurants which will in effect hurt downtown Crozet. She wants to keep Route 250 from becoming another Route 29 North. She said the schools are already overcrowded; there are trailers at Western Albemarle. She has talked with several bus drivers who are concerned about the traffic. She said to get from the stoplight at the corner of Routes 240/250 only one-quarter mile to the schools in the morning, the bus drivers say it takes between eight and twelve minutes. The school bus drivers are afraid to complain to anyone fearing retribution. (Time expired) She asked for one more minute to speak, to which Mr. Rooker agreed. She said school teachers are scared to complain because of retribution. She knows the County does not want to put a library into the school because of asbestos and stuff, so she asks the person who spoke earlier about putting old people in the library if it is not a little unethical to put old people and children in there now. She said Western Avenue would bring a lot of traffic to the interstate and would help Route 250.

Mr. David Wayland said he would like to speak about the build-out in Crozet. He said Crozet is being flooded with people. He agrees with the changes made to the Liberty Hall request feeling they are

positive. Connecting with Eastern Avenue will have a positive effect on traffic, once the bridge is built. He said if there is the opportunity not to maximize zoning, a lesser density is better if possible. He does not think it should exceed the by-right levels in the Comprehensive Plan. He said if these units are built, people will pour in. The Crozet community is slowly disappearing and he feels sad about it. He said the changes in the community are drastic.

Mr. Tom Loach addressed the Board. He said other speakers have addressed the local issues of this development, but he would like to address the broader issues. He presented a recording of a telephone memorandum prepared by Gannett Fleming, the consultant to the Rivanna Water & Sewer Authority, regarding Crozet. It came from Ms. Susan Thomas who was the senior planner for the Crozet Master Plan. Of interest is that when she said the projected build-out is 20 years, it is 12,000. He remembers Ms. Thomas was asked for a 50-year build-out so conversely if the number for the Crozet Master Plan was 24,000 as has been suggested, why didn't Ms. Thomas reply as that? The answer is easy; there never was any 24,000 number and Ms. Thomas knew it was the senior planner. Also, further down in the memorandum, the number of homes that Ms. Thomas said would be built in Old Trail would be between 800 and 1,000, which was consistent with what the developer was telling the community and the 1,040 homes which was consistent with the Crozet Master Plan for that area and not the 2,600 homes the Board approved. Finally, what is also interesting is the response from Mr. Thomas Frederick (RWSA) when he said "Since the County had provided to Gannett Fleming that their 20 year projection would reach build-out" Gannett Fleming made a judgment that the 50-year population would be the same as the 20-year, in other words, when the build-out is reached, no more growth would occur in the build-out area, the same logic the community applied to the Master Plan and apparently Ms. Susan Thomas as well. He said he would like to follow-up on what the previous speaker said about the library. He finds it inconceivable to hear tonight that while the community has been talking about using the old school site for either the library or a cultural center (Mr. Wyant, when he was running for office, talked about using the old Crozet School for a community cultural center) and then "behind the community's back" the Housing Authority has been talking about using it for JABA. He said that 1) JABA has already utilized Mountainside, and 2) Mr. Wyant said if it was not used for a library it might eventually be a cultural center, and 3) as far as the feasibility study, in the 1993 Crozet Community Study, the community asked for a feasibility study to be done on that building and no one ever got around to it, and now, oddly enough behind everybody's back, the Daily Progress described the Board's ability to communicate with the community as somewhat dysfunctional, but tonight it has gone beyond that to pathological.

There being no one else from the public who wished to speak at this time, the public hearing was closed; Mr. Rooker said the public hearing would be reopened on the date that this request comes back from deferral. He asked to what date this petition is to be deferred. Mr. Tucker said he thinks the applicant can help with that. He is working with his neighbors so staff has no date in mind. It can be deferred until they suggest a date and then the request will need to be readvertised.

Mr. Wyant asked about the proffers. He understands the proffers forwarded to the Board are not the final proffers. Mr. Davis said there were some minor corrections necessary on the proffers. He has not seen those corrections yet. There are some minor word changes to Proffer No. 3 that are ongoing.

Mr. Wyant asked if the Board members wanted to respond to the proffers they have seen. He thinks that some of them need to be discussed. Mr. Cilimberg confirmed that there were no substantive changes to the proffers, just some technical corrections.

Mr. Rooker asked staff to respond to the SELC's analysis of the density recommended by the Master Plan for this area. Mr. Cilimberg replied that staff was calculating maximum and the accessory apartment 50 percent factor that leads to the 6.5 was a judgment call made with affordable housing being provided, that was a maximum for calculating in the CT3 area. He said that is a judgment call. He thinks their number of units ends up being about 5.5; it is not up to the 6.5. Obviously they are short of that. At 4.5, if there is no credit given in density for the provision of affordable housing, rather than accessory units or accessory apartments, it would be a lower number.

Mr. Rooker said the table on Page 2 of the report, says "CT3, 3.5, 4.5 acre." He asked if that means the range is 3.5 to 4.5 without consideration of the 6.5 for apartments. He asked if that means the maximum density would be 4.5 unless credit is given. Mr. Cilimberg said that is correct.

Ms. Thomas asked if the accessory apartments have to be 50 percent in order to get the 6.5. Mr. Cilimberg said that is right. If the type of unit called "accessory apartments" is provided, there would need to be 50 percent. There are affordable units instead.

Mr. Wyant said the way he reads the chart there is a maximum of 4.5 on this parcel.

Mr. Slutzky said with the five units which were moved from the CT3, they are at 26 now so they are complying with the maximum of 4.5 in the CT3 portion based on the new configuration. He asked if that is correct.

Mr. Rooker asked the result of 4.5 multiplied by 4.77.

Mr. Wyant said it is 4.77 and the Board was told that it is 21. He does not think that is the way to multiply. He said that is how the misunderstanding with the Crozet Community Association came about, these things need to be communicated much better to the community. He said it is really 4.5 times the net acreage of 4.77. Mr. Cilimberg said that is correct, the 4.77 times the 4.5 if there was no credit for the 6.5, which is the maximum allowed. That is 31.

Mr. Rooker asked about the point on the commercial footprint being eliminated from consideration for residential density.

Ms. Rebecca Ragsdale, Planner, said the 18 dwelling units per acre provision would only be applied if mixed use is provided. Staff has not been doing any reductions in acreage other than establishing the net acreage for calculation purposes. She is not sure what Mr. Butler was referring to as far as taking out additional acreage for calculating residential density when there is a mixed use. Mr. Cilimberg said mixed-use could be an over/under situation where there would be an office with a residence above so it would not be taking acreage out of CT4. He said staff would need to revisit that in the next version of the report on this application. He thinks the tables should show the Board the full ranges, not just maximums. The Board would then be able to see where it fits under the full ranges, not just shown against one maximum amount. In that way, the Board would be able to make a better judgment as to how a project like this one fits.

Mr. Wyant said in order to make it clear, it should show how the numbers were derived. He thinks the full thing is needed.

Mr. Rooker said if there were a mixed-use in the same building, the question is whether it is still at a maximum density of 18 residential units if there are commercial units in that same building. Mr. Cilimberg said he understands the question.

Mr. Slutzky said Mr. Butler questioned the appropriateness of the office space given what else is around it. He asked if the other Board members had any thoughts about the Neighborhood Model being the goal when it is being satisfied by the other commercial space. Does the Board want to suggest to the developer that that is fine or not fine since he is asking for feedback?

Ms. Thomas said she thinks that is a fair question. She had originally felt it would be good to have the over/under, work/live type of situation because there is not much of that in the County. The great thing about public hearings is that you get new ideas. She said someone mentioned earlier that it is 84,000 square feet of commercial and that is a lot of commercial. She does not know whether the County needs any more commercial especially if it going to be a regional attractor type of commercial. In the request just heard, the applicant wanted a live/office type of situation rather than a retail/live situation and the County does not have that use either.

Mr. Dorrier said he thought the commercial was being reduced from 13,500 square feet to 8,500 square feet. Several Board members agreed that was right. Mr. Dorrier noted that the Neighborhood Model calls for a mixture of residential and commercial so he is doing what the County wants.

Mr. Slutzky said he is just raising the question that the SELC raised when they said this is next to other developments where there are already significant provisions for commercial, an objective of the Neighborhood Model. He wondered if the design of this project within the Neighborhood Model might be unwittingly over-saturating the area. He said there might be a preference for the retail/residential mix that this project proposes. In the context of the marketplace it might make one of the other projects not be built.

Mr. Cilimberg said to clarify the situation, the commercial development in Liberty Hall will be office, not retail, with residences above or live/work units.

Mr. Rooker said he does not feel it is the time to approve developments at the upper range density called for in the Crozet Master Plan, as there is a substantial stock of approved residential in the Crozet area. The property might be right for development at some time, he said, but it is on the fringe of Crozet and does not connect to the downtown area. He said Mr. Cetta is a good developer and he's done some good projects. He said the Board sets the time for approval of rezonings, and that needs to be done in a thoughtful way with respect to the entire community, not just a piece at a time in isolation. He described this as a cul-de-sac development that would enter onto Route 250 and it would exceed the densities called for in the Master Plan. He will not support the petition as presented.

Mr. Wyant expressed concern about the maximum density overall for Crozet, as the community has been upset by it. He agreed that there needs to be a balance and a mix with each development regarding commercial properties, connectivity, trails, etc.

Mr. Tucker said staff has given some thought to this, and it is not just for Crozet, but in all of the development areas, particularly the ones where master plans are being drafted now. The Board may want to consider a policy that evaluates the infrastructure provided with the phasing and rate of development. He emphasized that developments don't always happen quickly, but for some reason the public assumed all will occur at one time. It would be helpful to provide something the community can see regarding how the developments will be phased. It also helps staff define the CIP for infrastructure needs over a period of time.

Mr. Slutzky said within the growth areas he is concerned about the rate of development relative to infrastructure. The Board cannot move forward with phasing and build-out strategies without taking an aggressive stance on constraining development in the rural areas. It is hard for him to vote against anything in the growth area because of what it means in terms of pushing that development out into the rural areas. He said the Board needs to have that discussion, and when it does he wants the Board to consider the relationship between the growth area and the rural area.

Mr. Tucker said the conceptual plans for the rural area (phasing, clustering and the MOD) will be on the Board's agenda in April.

Mr. Slutzky asked if those plans speak directly to his point.

Mr. Cilimberg said the plans will be concepts; they will not give numbers. In reality, there are only a certain number of dwelling units being built each year. Normally, it is within the 800 to 1,000 range each year spread over the County. To deal with the development areas staff evaluates them based on what the Comprehensive Plan says should happen (this includes the land use and density element, the design element, the Neighborhood Model element, and the master plans). Staff does not have a guideline stating how much development there should be, and where it should occur first. When building an inventory, the question is where that inventory should be built so the development areas capture what the County wants in those areas versus having that growth fall out into the rural areas. He said staff has nothing that says how the development that is occurring should be phased. He said the Board discussed this a little when first working on Hollymead Towncenter and North Pointe. He said Crozet was master planned around the concept that there would be a significant increase in employment there, so people were living, working and shopping in that downtown. The employment pace is not close to what the residential pace has been up until now. Does the Board want that to be a factor in consideration of what happens in Crozet? A lot of factors play into how the Board might want to guide developments in these areas and phase them over a period of time.

Mr. Rooker said he feels the Board and staff should have those discussions. There is a large inventory of approved lots in the development areas for residential. If there were no inventory there, it would force development out into the rural areas. He said there are about 2000 people moving into the County each year, and there is a demand for 900 homes each year. He said there is a significant inventory in the development areas of residential lots.

Mr. Slutzky said there are 1,000 new houses in the rural area in some years. Is that inventory enough to forestall it?

Mr. Rooker said he does not think it is 1,000. Looking back at the number of annual building permits they have been running about 800 per year.

Mr. Slutzky said the Comprehensive Plan contemplates none, so if there is that much activity is there too much supply in the growth areas?

Mr. Rooker said that is one argument. There is a need for a healthy supply of lots in the growth area or otherwise prices ratchet up quickly. Because there is an existing significant supply of lots in the growth areas today, there is not that problem. He thinks it is time to be thoughtful with additional rezoning approvals in an area like Crozet where there have been several rezonings already that have created a significant inventory. He said there needs to be a reasonable balance around the County so that everyone moving to the County is not forced to move to Crozet. He said that at this time there are Belvedere, Hollymead Towncenter, Albemarle Place, and other things going into other areas of the County. He thinks the Board needs to take its time on this petition. The Comprehensive Plan is a twenty-year plan and that does not mean that everything that matches the Comprehensive Plan needs to be approved today.

Mr. Dorrier said he may be missing something, but he thought the plan was going to be deferred while the applicant worked with the neighbors on a problem. He asked if that was correct. He was not sure the Board was going to debate whether or not the project should go forward and whether or not there should be phased development. He thinks the Board has put that front and center and is changing the direction of the whole operation. He is not sure that is fair to the developer and the public. He said there is a need to talk about phasing and there is a need to talk about whether this development fits in with the scope of building in Crozet. He said the developer developed a plan that is in compliance with the Comprehensive Plan so he is doing what the County asked him to do. He used all 12 parts of the Neighborhood Model plan. What is he supposed to do? Is he supposed to reduce automatically the density to satisfy the Board? First, he wonders whether it is appropriate to talk about this at this time, and second, whether phasing is the right thing to consider at this time.

Mr. Wyant agreed with Mr. Dorrier, but said if all the development occurring in Crozet is only on one side, it is not really a community. He wants to tie all areas together; there is a problem in Crozet with the railroad track dividing the area. He thinks the Board needs to work to build the community and bond all the community within the development area. He wants to keep Crozet as Crozet and fears that unless the Board is careful, it could end up being like the downtown Charlottesville mall. He wants the whole development of Crozet to be done in a systematic way that builds a community for the people. He has been concerned about the employment side and thinks that is something the Board needs to look at.

Mr. Rooker said if Mr. Wyant wants to build a community around Crozet, would it make more sense to have the projects being approved closer to downtown Crozet instead of being located on Route 250 West. There are only so many homes that will be bought next year. If that total for next year is 900 for the entire Albemarle County and 100 of those homes will be in the Crozet area, should the areas on Route 250 use up that demand as opposed to areas that are closer to downtown Crozet. He thinks that generally what is before the Board is a thoughtful plan. He thinks it has exceeded even the upper end of the densities recommended in the Master Plan. He thinks the Board should approve projects which contribute a significant amount to the infrastructure needed so everything else in the area can work. It might make sense to approve things that will help build a sense of community quicker that are closer to

downtown. On Route 250, there are a number of projects using old zoning going forward now. There will be a substantial amount of building over which the Board has no control. He thinks the Board should think long and hard about approving additional rezonings in that area.

Mr. Wyant said some developers had talked to him about doing by-right development, but giving the County something a little beyond what they are required to do. He thinks the Board needs to discuss whether this is something it would want to do, let them develop at a lower density in order to get something to help with infrastructure needs.

Mr. Slutzky said there is by-right development activity in the growth area, and there is by-right development in the rural area and that creates conflicting dynamics. He said the people living in Crozet and the Rivanna Village have expressed concern because the rate of development in their areas is getting ahead of infrastructure. He thinks there is a temptation to reel back the pace of approvals inside the growth areas out of deference to the practical reality of inadequate infrastructure. Unless the Board is able to downzone or constrict development opportunities in the rural area, there will be more and more pressure to develop in the rural areas. To him that is the worst disaster the County confronts. Until some meaningful constraints on the rate of development activity in the rural areas can be implemented, the Board will not have the luxury of rejecting anything in the growth areas for fear of continuing to push development into the rural areas. He said 800 is too many houses to be built in a year in the rural areas.

Mr. Rooker said it has actually been at the 200 or 300 level and that number is not changing. He said if there was not a reasonable inventory of lots in the growth area, the demand would push people out into the rural area. He is saying today that there is a reasonable supply of lots in the growth areas.

Ms. Thomas said there are many lots in the urban area that are "almost" approved. She believes that is why Crozet has seen so much growth in the last year. There are these others where houses cannot be built today: Belvedere, Albemarle Place and Hollymead Towncenter. She said these places are not quite approved, whereas Old Trail was approved. She said her constituents see that urban sprawl. There is another kind of sprawl she does not want to see and that is to have 11 units on the Liberty Hall property, because that's what the owner could do by-right. One thing that has gotten lost in the discussion is "why should we care?" Why is not low density inside a development area a great idea? She said the County's only way to keep down the traffic congestion and the amount of asphalt put down, and the destruction of many natural resources, water and air, is to have a compact development pattern. She said that sprawl is not just because people don't like the look of it. It will affect every single person in the County using Route 250 if the Board has allowed sprawl to be the pattern of development there. There is a lot she likes about the reworked plan – the form of the units, especially the units over the offices, the greenway connections, reuse of the old house, plans to protect the trees, the mix of housing types – but she also agrees with Mr. Rooker that this is the wrong approval to do at this time because of some of the things that were brought out in the public hearing.

Ms. Thomas said the traffic from this project is going onto Route 250 going east, it is not going out to I-64 because there is no stoplight to make passing the schools any easier. The Eastern Connector is not built yet. It is going to be more of the suburbs without there being a central downtown, particularly in the face of all that commercial development that may take place in this neighborhood. She thinks the County Executive's idea of talking more about phasing is a discussion the Board needs to have quickly. She said it is possible to have nice plans, which this one is, and to have it be the wrong time and the wrong place. If she had to vote tonight, she would probably vote against it. However, she would be sorry if there were only the 11 houses on that property; it would be a very bad idea to get low density suburbs before getting a viable downtown. She said she had spent a great deal of time thinking about what constitutes a small rezoning because it is so symbolic of a lot of the questions which are before the Board now.

Mr. Rooker commented that for this proposal the applicant will need to decide when he brings it back before the Board. He thinks a majority of the Board wants to have a discussion about the pace of residential approvals looking at the County as a whole in the individual development areas. He suggested that a work session be scheduled for that discussion in the next month or two.

Mr. Wyant asked if that discussion will include commercial zoning and employment centers, not just residential. He said those office spaces might be needed.

Mr. Slutzky said another aspect to consider is the impact approval of the commercial in this development (he does not know how he would vote if he had to vote tonight), would have on the commercial development near this project. He does not think the Board can look at just the residential, and not the whole proposal.

Mr. Tucker said his comments earlier were not related just to this development. He was talking about master planning in general.

Mr. Dorrier said he understands that. The Board has talked about phasing before and has always put off doing so. Now, the Board wants to bring it front and center. He would be interested in finding out how other counties are doing it.

Mr. Tucker said phasing is always an option for a developer. Many large developments will be phased anyway. What he is talking about is being proactive and discussing it with a developer during discussion of their proffers so it is given consideration. It is harder for small developers to phase. The

larger a development, the easier it is to phase that development. The developer has an idea of his market, and what his development activity should be over the next several years.

Mr. Cilimberg said there was no phasing proffer for Old Trail other than what was to be done commercially based on the amount of residential happening. Old Trail is the size of many, many of these small developments added together and they can propose to phase because they know they're only going to be developing so much each year.

Ms. Thomas said she heard the developer of Old Trail has talked about a 30-year build-out for that project. Mr. Cilimberg said that is a real possibility. For little developments like Liberty Hall phasing means the development will or will not happen now. The development will either make sense now whereas it might not make sense five years from now. There is a different dynamic when the developer owns the property.

Mr. Wyant said all of Old Trail developed so far has been by-right. Mr. Cilimberg said all they have done has been by-right through subdivision plats or site plans. Nothing has been submitted for the rezoned area.

Mr. Rooker said he thinks this is as far as the Board can get tonight. He said some action needs to be taken on a deferral.

At this time, Mr. Wyant **moved** for an indefinite deferral.

Mr. Davis said staff will have to readvertise this petition when it comes back to the Board, so another 21 to 28-day delay is needed for the advertising period. Mr. Cilimberg said when staff receives the information from the developer it will take four weeks to get the request to a meeting.

Mr. Wyant asked if staff can get information on this thing the Board has talked about today ready in a month. Mr. Cilimberg asked if Mr. Wyant was referring to phasing or the more general discussion. He does not think that could happen before May at the staff level.

Mr. Rooker commented that the applicant can bring the plan back at anytime; they do not have to wait for the Board to have the broader discussion. He thinks the Board needs some guidance from the applicant.

Mr. Collins said the applicant needs to discuss when this request should come back to the Board so they agree to an indefinite deferral.

Mr. Wyant **moved** again to defer ZMA-2005-05 indefinitely. Mr. Slutzky **seconded** the motion, which passed by the following recorded vote:

AYES: Mr. Rooker, Mr. Slutzky, Ms. Thomas, Mr. Wyant, Mr. Boyd and Mr. Dorrier.
NAYS: None.

Agenda Item No. 8. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Wyant asked if the Board thinks the petitions handed in at last week's meeting from Crozet residents have been adequately addressed.

Mr. Rooker said it is important public input that the Board has received from a lot of people in that area.

Mr. Wyant said at the recent Crozet Community Association meeting he was asked questions about that (infrastructure and population), along with questions about affordable housing units.

Mr. Cilimberg commented that staff is trying to interpret a very different kind of master plan and figure out densities, etc. In the case of the Liberty Hall request staff made a judgment call; while there are no accessory units by design in that plan, the developer made a commitment to providing an affordable unit which was considered a tradeoff. Maybe that is not right, and staff would welcome any guidance the Board can give. He said staff is learning how the master plan will apply as it goes along. Staff does not intend to mislead or misinterpret or miscalculate anything. He said numbers are not the only things to be considered.

Mr. Dorrier said he thought the idea was to have affordable units. Mr. Cilimberg said they did proffer those units.

Mr. Wyant said he met with Bob Tucker and Tom Foley about the Crozet Advisory Committee. They were trying to define the steps to go through the process. Where will this fit with the neighborhoods since there are many of them in Crozet. They want to build a foundation from the beginning, but not get involved in the 12,000 population discussion. They think it may take several meetings to get to that point.

Ms. Thomas said there is the Route 250 Advisory Committee which has been working for quite some time, and she does not know if a member of that committee was appointed to this new group in Crozet, but it probably could help.

Ms. Thomas said she attended her first ACE Committee meeting (Mr. Wyant had asked her to take his place on this committee). She explained that it is going to take more than the County's current budget commitment of \$1.0 a year if it is going to strive for getting 1,000 acres. The Committee thought that was the Board's goal for acquisition. She will bring this up again when the budget discussions of this program take place.

Mr. Cilimberg said staff has discussed with Ches Goodall how to close on all the properties that still need to be closed. There is money sitting in the bank that needs to be spent. After getting those easements finalized, staff will try to determine how to "ratchet up" the program.

Ms. Thomas said the Committee has some ideas on how to accentuate getting conservation easements and not just for the ACE program.

Mr. Slutzky asked if the Board members had had a chance to look at the proposed resolution Mr. Steve Blaine handed to the Board earlier tonight supporting continuation of the Virginia Land Conservation Incentives Act of 1999, as amended, in order to maintain the tax credits afforded to landowners under the Act.

Ms. Thomas said it goes along with the Board's desire to have more conservation easements.

Mr. Slutzky said he is sympathetic to it and is willing to go ahead and adopt the resolution.

Mr. Rooker said he can support the resolution. It is consistent with what the County has asked for in the past to preserve the tax benefits on the books now for conservation easements. He said if this is not done, it will make it difficult for the County to achieve its 50 percent goal.

Mr. Slutzky said if Albemarle County is the leader in the state doing this, the Board members should be calling the Legislators in addition to passing the resolution. He said the Board's voice is actually a meaningful one in this dialogue.

Mr. Boyd said he is comfortable with the resolution as it is written.

Mr. Slutzky then **moved** to adopt the following resolution supporting continuation of the Virginia Land Conservation Incentives Act of 1999, as amended, and to maintain the tax credits afforded to landowners under the Act. Mr. Wyant **seconded** the motion, which passed by the following recorded vote:

AYES: Mr. Rooker, Mr. Slutzky, Ms. Thomas, Mr. Wyant, Mr. Boyd and Mr. Dorrier.

NAYS: None.

RESOLUTION

WHEREAS, Albemarle County possesses beautiful natural resources, scenic vistas, farmlands and open space; and

WHEREAS, 60,000 acres of Albemarle County has been placed in perpetual conservation for future generations; and

WHEREAS, Albemarle County has articulated a strategic planning goal of securing the conservation of an additional 30,000 acres by the year 2010; and

WHEREAS, Albemarle County's ability to purchase land for the purpose of conservation is but one limited means to advance that goal; and

WHEREAS, in less than five years, the conservation of over 17,000 acres has been facilitated through the financial incentives created by the Virginia Land Conservation Incentives Act of 1999, as amended; and

WHEREAS, maintenance of tax incentives afforded to landowners under the Virginia Land Conservation Incentives Act of 1999 is critical to Albemarle County's stated goal to increase conservation throughout the County;

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors calls upon the General Assembly and Governor to support continuation of the Virginia Land Conservation Incentives Act of 1999, as amended, and to maintain the tax credits afforded to landowners under the Act.

Mr. Wyant said there are a couple of groups working on easements. When he was a member of the ACE Committee he worked with a lot of farmers. He said the Board needs to think of ways to inform people of the different avenues available to landowners depending on their situation. It is all for the purpose of conserving the rural area.

Mr. Slutzky asked if there are any landowners now in the program that would be eliminated because of the disappearance of the tax break. Might the County ask if they would also be willing to weigh in with the Legislators.

Ms. Thomas said a poster child for this would be Castle Hill. They put together properties and investors and got that significant piece of property conserved forever, but it would require a lot of creativity to get around even the highest cap being talked about now. It might have "botched that deal."

Mr. Slutzky asked if this is something both the House and the Senate ultimately have to decide. It might be productive for the Chairman and Vice-Chairman to contact Delegate Rob Bell. Mr. Davis said the people who will be important to contact are the budget conferees because he understands this has now been attached to the budget bill. After the handful of people working on the budget work it out, it probably will be adopted somewhat unanimously by the House and Senate.

Mr. Rooker said the resolution will be sent to the conferee members as well as the local representatives with a cover letter so that it gets into the right hands in a timely manner. He explained that the caps prevent successful conservation easement programs in areas where the prices of the land are high, and cut off easements being placed on large tracks of land.

Ms. Thomas commented that given development pressures and land prices, Albemarle has a "strong story to tell," and agreed to review the letter before it goes to the legislature.

Mr. Rooker reported that there was an MPO meeting today. They have been trying to further the concept of a regional transit authority which is a long-term project so nothing will be done anytime soon. It needs to be considered while looking at the iterations it might take and the financial aspects of such an authority. The MPO looked at ways of increasing overall funding for transit for this area from Federal and State sources if there were a regional transit that had increased ridership. If the University joined in that would substantially "bump up" ridership of the public system.

Mr. Rooker said they are concerned about what to do with City transit between now and July 1 when the new budget cycle begins. They discussed creating a four-person task force with two City Councilors and two members of the Board. They would talk about some semi-permanent commitment to how transit would be funded so the MPO is not in the mode of making decisions to increase transit with a provider that can at anytime significantly increase prices. In effect they would be committing to services with a "black hole of financial commitment."

Mr. Rooker said he thinks the City has gotten the message that the MPO is not comfortable increasing transit significantly when there is that looming problem. They discussed the idea of having the two MPO representatives from the City and the two from the County meet as many times as necessary between now and July 1 to see if some arrangement can be made with the City. He asked if any Board member had an objection to that going forward.

Mr. Dorrier asked if he are talking about bus service.

Mr. Rooker said at this time they are talking about the County's use of the City's bus system. They have talked about increasing routes and other things to help improve transit in the area.

Mr. Slutzky said a challenge to having a regional transit authority often is the collaborative dialogue between the players. He said there seems to be a near-term opportunity to flush out and create some harmony between the two big players. If it can be done on the budget issue of a bus system now, it bodes well for the opportunity for a regional transit authority to be effective.

Mr. Wyant said he knows Crozet is not in the MPO, but he thinks this Board needs to talk about how to provide transportation in all forms.

Mr. Slutzky said at the MPO meeting today, a member of the public spoke about using the CTS line between Crozet and the City. He said there is willingness to take on the Crozet issue, but the immediate issue of coordination between the City and the County on the budget is the near-term goal of this *ad hoc* committee.

Mr. Boyd asked if the idea is to figure out some sort of sharing procedure for this year's budget, or is it to look at the bigger picture of a regional transit authority.

Mr. Rooker said everyone recognizes that it would take a significant period of time to create a regional transit authority. But, they are trying "to get the wheels going" so they can look at the idea and determine if it makes sense for both bodies financially. Is there the possibility of getting additional funding from the Federal government? Is the University a willing participant? He said the Planning District Commission's staff will have to spend a lot of time looking at whether it is something that makes sense. In the last few years, the City has presented the County with a budget proposal that would double the cost of transit each year for serving the same routes as at present. The County has tried to make it clear to the City that it cannot operate in that type of circumstance. The County cannot agree to increasing transit when it is dealing with a monopoly provider that can increase the cost at any time for the same service. Some kind of accommodation with the City needs to be reached now or in the near future, as to what kind of formula will be applied on an annual basis for the Board's consideration of transit. In the past, the City did not want to give the County any credit for the Federal money it received.

Mr. Boyd said that answers his question. He is in favor of moving forward with it.

Mr. Rooker said this Board would have to agree.

Ms. Thomas said when the Board discussed the budget it did not decide if it wants to expand any of the CTS routes.

Mr. Rooker suggested the Board budget some additional money for transit, not make any decision about how it would be used and then discuss what kind of arrangement can be made. Mr. Tucker said that is money the Board could keep in its Reserve Fund.

Ms. Thomas asked when four MPO members get together if that is a public meeting. Mr. Davis said if there are three or more members of the MPO getting together to discuss MPO business, that is a public meeting which requires that three days of advance notice be posted announcing that meeting. If it is a two-member committee of the Board of Supervisors meeting on the issue, it is a committee of the Board and that is a public meeting and notice would have to be posted announcing that meeting. He did not know if Mr. Rooker was talking about a committee or just an informal assemblage of two members of the Board.

Mr. Slutzky said the idea was to have informal assemblage of two members of City Council and the Board to discuss the budget issue between the City and the County in the near-term, and it could leave off the broader issue of the MPO dialogue about regional transit.

Mr. Rooker said they talked about the MPO being the regional body that would discuss transit because it has everybody at the table that needs to participate in that discussion. By definition, those would have to be public meetings. Mr. Davis said if they were discussing it as MPO members it would have to be a public meeting.

Mr. Rooker said the short-term issue is not being viewed as an MPO matter, but as a City-County matter that can be worked out and recommended to the individual bodies. Mr. Davis said if that is being done, not as a committee of the Board, technically that would not constitute a public meeting.

Mr. Rooker asked that the Board allow him and Mr. Slutzky to participate as informal representatives of the Board. Mr. Davis suggested the Board not be asked that question.

Agenda Item No. 9. Adjourn to March 20, 2006, 1:00 p.m., Room 235.

At 9:25 p.m. with no further business to come before the Board, Mr. Wyant **moved** to adjourn this meeting to March 20, 2006, at 1:00 p.m. Mr. Boyd **seconded** the motion, which passed by the following recorded vote:

AYES: Mr. Rooker, Mr. Slutzky, Ms. Thomas, Mr. Wyant, Mr. Boyd and Mr. Dorrier.
NAYS: None.

Chairman

Approved by the Board of County Supervisors
Date: 09/13/2006
Initials: EWC