An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on January 12, 2005 at 4:00 p.m., Room 235, County Office Building, McIntire Road, Charlottesville, Virginia. The meeting was adjourned from January 5, 2005.

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

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Director of Community Development, Mark Graham and Clerk, Ella W. Carey.

Agenda Item No. 1. The meeting was called to order at 4:00 p.m., by the Chairman, Mr. Rooker.

_____

Agenda Item No. 2. Work Session: Comprehensive Revision of Subdivision Ordinance (STA-2001-08).

As indicated in the executive summary, Mr. Graham said the purpose of this work session is to provide the Board an opportunity to advise staff of any changes to the proposed Subdivision Text Amendment (STA) considered appropriate. In that regard, there are two items presented for the Board's consideration. First, the Blue Ridge Home Builders Association (BRHBA) provided a letter dated November 24, 2004 which outlined ten concerns and provided recommended changes for each concern. Board members have been provided a copy of the letter. Second, staff notes the issue of a planting strip for street trees was not resolved at the December 8th work session.

With regard to the BRHBA letter, staff is providing a response to each concern and a comparison of the BRHBA recommendation to the staff recommendation. With regard to the planting strip for street trees, staff noted at the December 8th work session there appeared to be general agreement that street trees should be provided. The outstanding concern was whether street trees should be in the public right of way or on private property adjoining the right of way. With direction on these concerns, staff believes the outstanding issues related to the STA have been addressed and the STA can be finalized for Board consideration.

BRHBA Concerns:

Staff greatly appreciates the BRHBA meeting with staff in an attempt to find solutions to their concerns. While some concerns were resolved, a few remain outstanding. The letter of November 24th represents the remaining concerns.

Before offering specific concerns and recommendations, the BRHBA raised a general concern that the STA reflects the Neighborhood Model as "the" allowed form of development rather than "a" form of development. Staff has previously addressed this concern, the last time being at the December 8th work session. In the staff evaluation of the DISC II recommendations at the December 8th work session, the following was noted: "In evaluating the STA recommendations, it is important to make a distinction between proposed new requirements necessitated by better utilization of the developable land and those driven by establishing the form of development promoted through the Neighborhood Model.

- Infrastructure considered necessary for higher density includes curb and gutter streets, street interconnections, and overlot grading plans. Regardless of whether the form of development is consistent with the Neighborhood Model, this infrastructure is appropriate to assure sustainable development where higher densities are promoted.

- Other infrastructure is necessitated by the form of development promoted with the Neighborhood Model, but can only be successfully implemented on an area-wide basis. Sidewalks are an example of this infrastructure. If sidewalks are not required of all development, a pedestrian orientation, which is a key element of the Neighborhood Model, will not be achieved to the level called for in the Neighborhood Model".

Mr. Graham said staff would note the one outstanding issue that does seem strictly related to the form of development proposed with the Neighborhood Model is street trees. No specific concern with street trees was raised by the BRHBA. With regard to the specific recommendations of the BRHBA, staff has provided a discussion of each point with Attachment B. The following table summarizes that discussion.

BRHBA Recommendation	Staff Response
1. Obtain a legal opinion from the Virginia Attorney General on the County's authority to require reservation and construction of streets to property lines.	Staff believes there is no need to solicit this opinion. The County Attorney has advised the Board and staff on the legality of this requirement, which is clearly within the authority granted to localities by state law to regulate the extent to which and the manner in which subdivision streets shall be graded, graveled or otherwise improved. This requirement also is consistent with the subdivision requirements of other localities.
2. Create a bailout clause so that areas with average slopes below 10% grade do not require a grading plan.	A bailout clause already exists in the STA in the form of an administrative waiver.
3. The grade over yards should be expressed as a maximum rise/fall of 3' over 10'.	This can be accommodated through the Design Standards Manual. Staff recommends loosening this to

	a rise/fall of 4' over 10'.
4. Eliminate the requirements that limit the amount of drainage that may be carried across a yard in an open ditch or swale.	Staff does not support this recommendation and notes these are the most common drainage complaint.
5. a. Allow driveway slopes to exceed 25% when certified by a licensed design professional b. Reduce the landing area to 15' in length. c. Average the driveway grade over 10'.	a. Staff supports allowing driveway grades steeper than 20% where a licensed design professional has certified the driveway as safe and convenient for vehicles that will use the driveway, including emergency vehicles. b. Staff supports reducing the landing area to 15' provided the 8% grade is maintained. c. Staff supports measuring the driveway grade as an average over 10' and believes this can be accommodated in the Design Standards Manual.
6. Eliminate any requirement for providing a graded area from building entrances to the driveway or street. Failing this, specifically exclude stairs, shorter distances to property lines and accessible routes from backdoors on basements.	Staff supports specifically excluding stairs and shorter distances to property lines. Staff does not support eliminating this requirement for basement accessible routes as those may be used as accessory apartments.
7. Switch Sections A and B of 14-234 and eliminate the requirement for earthmoving computations and natural survey.	Staff does not agree with switching sections A and B. Staff notes the earthwork computations are a requirement for private roads in the Rural Area and should be considered under Rural Area policy.
8. County must affirm its intent to use construction condemnation powers to allow for the construction of roads on property lines or the prohibition of spite strips should be removed.	Staff does not support eliminating the spite strip provisions. Spite strips also are prohibited by VDOT subdivision street regulations. Staff notes the use of condemnation powers can be considered on a case by case basis. Furthermore, this Board cannot obligate future Boards to condemn property.
9. Eliminate the drainage provisions or revise the flood standard to a 25 year standard similar to VDOT.	Staff supports revising the road drainage / flood standard to a 25 year storm.
10. Recommends the Board of Supervisors formally instruct the county engineer that a county mandated requirement for piping is an option of last resort.	Staff recommends keeping the current STA language to assure property owners are not adversely impacted by runoff.

Street Trees:

Staff notes the previous discussion of street trees has not resolved where the trees should be located. There are two alternatives that have been considered, both of which have advantages and disadvantages. Those alternatives are placing the street trees in a planting strip within the street right of way or placing the street trees in the yard or common space outside of the right of way. The County Attorney has advised staff it is questionable that a property owners association can be required to maintain street trees in the public right of way; the law is clear that an owner seeking a rezoning cannot proffer such an obligation. Thus, it is assumed that street trees in the public right of way will be maintained by the County. Street trees along private streets would be the responsibility of the property owners, as the trees are not a public improvement. Finally, as previously noted, the City of Charlottesville requires street trees to be located on the private property rather than within the right of way. The following summarized the pros and cons of each alternative.

	Pros	Cons
Street Trees in Right of Way	- Consistent with DISC II recommendations and Neighborhood Model desired street section - County maintenance assures more consistent appearance - Trees do not conflict with underground utilities (underground wire utilities are usually placed just outside the right of way)	- Requires more right of way, increasing developer's costs (additional 6' width for right of way) - County maintenance requires additional funding (est. FY 2030 would require $100K to $250K) - Increased risk of damage to public infrastructure due to proximity of sidewalk and curb
Street Trees on Private Property	- Private maintenance minimizes County expense - Reduced risk of damage to public infrastructure with greater separation from curb and sidewalk - Requires less right of way, reducing developer's costs	- Private maintenance will likely result in less consistent appearance - Increased enforcement difficulty and expense - Not consistent with DISC II recommendation or Neighborhood Model desired street section - Tree location may conflict with underground utilities, requiring larger front yards

From the above, staff notes the decision appears to balance between an ideal of the envisioned Neighborhood Model street sections and a significant new expense to both the County and development community for street trees in the right of way. To help the Board put this into perspective, an example is provided using a local urban street that has 28' between curbs and sidewalks in the right of way. In this

example, the distance between street trees on opposite sides of the street is 35' with the trees in the right of way and 57' apart with the trees outside the right of way. Staff will provide an illustration of this example at the work session that might help the Board in this decision.

Next Steps:

With resolution of the above issues, staff believes all the controversial provisions of the STA have been addressed. At this point, staff proposes to incorporate any changes into the STA and schedule a final work session to review the STA in whole. While the work sessions have focused on the controversial parts of the STA, there are other changes which staff would like to review with the Board before a public hearing. Assuming no other changes are required, a public hearing for the STA can then be scheduled.

Mr. Graham said staff recommends the Board concur with staff's response to the BRHBA recommendations or note where a different response is considered appropriate. Staff requests the Board inform staff whether they prefer street trees in the right of way or on the adjoining private property.

Regarding certification of the driveways, Ms. Thomas asked if developers could simply find someone who would make that guarantee. Mr. Graham responded that he hoped any engineer would be ethical in making that statement. He said that staff has acknowledged that there are unusual circumstances with driveways.

_____

Mr. Bowerman asked about the slopes at Mill Creek South. Mr. Graham responded that there are definitely some slopes over 25 percent. He explained that there have been negative situations there and in other subdivisions. He indicated that the standard for fire and rescue vehicles is 20 percent, but they say that they need to get the ambulance within 50 feet of a house, and need to get a fire truck within 200 feet of a house.

Referring to the landing of 15 feet, Ms. Thomas mentioned that she measured her car as 15 feet long, so she would not be able to stand on level land and unload her car in that situation. Mr. Graham agreed that she would only be able to get in and out of the car, adding that the grade shift would not go straight from 15 to 20 feet; it would probably be gradual. Mr. Bowerman commented that that was pretty steep. Ms. Thomas said the County should be fairly protective of the homeowner, and then the impossible situations can be where they have to get a waiver.

Mr. Bowerman stated that if there could be ten homes with an overlot grading plan with a driveway slope of 15 percent, but in order to get an extra one you have to make them all 20 percent to 25 percent, just does not seem to be in the best interest of the public. Mr. Graham said that staff struggled with trying to allow the development to fit the terrain as much as possible and giving some flexibility with the driveway grades versus the safety and convenience of the person using that driveway. He noted that the Comprehensive Plan calls for 18 percent for the typical parking space. He thinks staff is trying to balance the interests here.

Mr. Rooker asked where the eight percent grade is maintained, based on staff's recommendations. Mr. Graham replied that the eight percent would be at the end of the driveway if there is a garage or landing area/parking space. Mr. Rooker commented that Ms. Thomas' point is well taken. It seems to him that the landing area should be at least 18 feet, not 15 feet. Ms. Thomas mentioned that if you are on solid ice, a car or truck will move on its own at 10 percent or more. Mr. Rooker stated his support to keep the limit at 18 feet.

Mr. Wyant noted that the issues also concern the depth of the setback and depth of the lot. Mr. Graham agreed, noting that if the driveway were only 20-feet long, the garage would be pushed up, and there would only be a three-foot fall from the street to the garage. He noted that County engineering would still have the ability to make recommendations, because in some cases strict interpretation is not practical.

Mr. Wyant commented that he would like to see variation in setbacks to get away from the linear design of neighborhoods.

Mr. Graham added that the methodology for measuring the driveway grade would be something put in the design standards handbook rather than the ordinance.

Mr. Graham then addressed the issue regarding eliminating the requirement for providing a grading area from building entrances to the street or driveway. Failing that, exclude stairs, shorter distances to property lines and access from back doors on basements – staff does support modifying this so that stairs and short distances to property lines are taken into account, but does not support eliminating this requirement for basement back doors, especially with regard to alternatives being discussed for affordable housing.

Mr. Rooker asked if it would be feasible to remove the restriction only where there would be an accessory apartment. Mr. Graham responded that staff might not know because they are applied for later. Mr. Boyd asked if staff is saying the County should require all homes to have the capability of having an accessory apartment. Mr. Rooker said that he would support it the way staff has it if it can only be applied where there is an accessory apartment.

Mr. Graham stated that it might have to be dealt with in the Zoning Ordinance, and agreed that staff would go back and look at that issue. He said that if people can get outside the unit, they can get far

enough away from a fire, and that is the primary concern in that situation. Mr. Boyd said he does not see the need to deal with it in the ordinance, just for that purpose. Mr. Rooker stated that it is important to have reasonable access if you have a basement apartment, but the question is does this rule have to be applied to all basements. He suggested that the rule be applied on the zoning side for an accessory apartment.

Mr. Bowerman commented that if this is not done when the house is built, it will be tough getting it done later.

Regarding use of condemnation powers, Mr. Graham described this as a "difficult situation" whereby, for example, you have a planned street and the developer does not control all of the area necessary to construct that street, and a "spite strip" could be constructed on a boundary line. He emphasized that staff feels that every one of those might have to be dealt with as a unique situation.

Mr. Rooker commented that the Board always has to make a determination on a case-by-case basis as to whether or not to exercise condemnation. Mr. Graham said that staff did not see anything to suggest the Board should expand its condemnation powers.

Mr. Boyd commented that the Board forces itself into a condemnation decision, unless the adjacent property is owned by the same developers. Mr. Rooker stated that there is no way around it, because providing for it in the ordinance would not allow the property to be acquired. You legally cannot commit future Boards to take by condemnation.

Mr. Boyd said that perhaps the Board should require absolute connectivity between neighborhoods. Mr. Graham reported that staff has struggled with the issue, noting that in the Crozet situation, the road shows a general intent, and staff decided that each situation would need to be considered case by case.

Ms. Thomas said that it seems the County agrees with developers that spite strips should be avoided, and there needs to be something formal to support that.

Mr. Rooker said that he believes you go about it on a case by case basis.

Mr. Boyd suggested making it a principle of the Neighborhood Model.

Mr. Dorrier asked how often spite strips come up as an issue. Mr. Bowerman said not often, but noted that there is one currently in Dunlora.

Mr. Boyd asked what defines "spite strips." Mr. Graham replied that VDOT has prohibited them in their regulations, but there is no definition.

Mr. Rooker described a spite strip as "a piece of land between two roads that prevents them from being connected." Mr. Graham said it is a piece of property that denies an adjoining property owner the use of that road.

Mr. Boyd commented that the issue at hand is whether the County can make it a requirement that the developer resolve the spite strip situation. Mr. Bowerman suggested not accepting site plan or subdivision plats that have it.

Mr. Graham said that the issue with this is that the County is now saying it wants inter-parcel connections and roads in the locations shown on master plans; before, the developer had the flexibility to put the roads where they wanted, where it best served their property. By trying to tighten this requirement to make sure we have a street network that is functional in the future, we are creating the possibility for more spite strips, or for it to become more difficult for that developer. He added that the right-of-way directly on a property line would precipitate a developer needing construction easements on the adjoining property owner.

Mr. Rooker commented that it is a case where the developer does not own the spite strip property.

Mr. Davis stated that the ordinance requires now if someone wants to build a cul-de-sac and the County feels the road should be extended, is to build the cul-de-sac and to dedicate the right-of-way that goes to the property line so that when the adjacent property is developed, a road can be put in. He noted that the only difference in the proposed ordinance is staff is suggesting that the road be constructed as close to the property line as is feasible and to provide easements so that the remainder of the road can be built.

Mr. Boyd asked if that would include extending the road to the end of that development's property. Mr. Davis replied that if it is possible, staff would like that to happen; if it is impossible, extend it as far as possible.

Mr. Bowerman noted that VDOT might require a temporary cul-de-sac.

Ms. Echols mentioned that the other issue is who has to pay for the ability for the adjoining parcel to have public road frontage and access. She added that the development community has been resistant to extend roads because the new parcel is not paying for it. With the amendment, everybody would get the benefit because the road would be extended for one and for all.

Mr. Bowerman said that he is satisfied with staff's position.

Mr. Davis noted that the right-of-way is dedicated to the County for an access to a subdivision.

Ms. Thomas said that if there is some way for the County to extend its condemnation powers, they should, even though it has been pointed out that that is difficult to achieve.

Mr. Davis replied that in most cases, there is not going to be a need for condemnation because the County is going to make the developer dedicate the right-of-way and reserve the easements necessary for connection; the right-of-way will already be there. In the case of old neighborhoods and a new subdivision needing connection, the condemnation powers might be needed.

Mr. Rooker stated that a developer cannot be required to acquire property he does not own; if the County wants connection, they will have to acquire the property by negotiation or condemnation. Mr. Davis said that it is unclear where those situations will arise.

Mr. Boyd commented that he is still struggling with the concept that all neighborhoods must be connected, adding that many of his constituents do not necessarily want connection. Mr. Bowerman agreed that his constituents also feel that way.

Mr. Rooker emphasized that there is a reason most urban areas are designed on a grid – to provide those connections easily in areas of dense population. As new things are designed, can we design them in a way that we have more of a spread of traffic over a grid, rather than force it out onto major roads. He added that the idea is to influence future design, not past projects.

Mr. Boyd responded that what happens is not a grid, but ends up creating a thoroughfare through neighborhoods.

Ms. Thomas commented we are taking steps in that direction. If we do not do it each time we have an opportunity, we will never get to that grid.

Mr. Rooker cited the example of Carrsbrook and Woodbrook, where children have to go out on Route 29 because there is no interconnectivity. He emphasized that connection does not increase traffic; it puts the traffic in a different place.

Mr. Boyd said that he is concerned that people use neighborhoods to cut through and avoid traffic on major roads. Mr. Bowerman stated that there should be standards put in place to limit speed, etc. in those neighborhoods.

Mr. Dorrier asked if condemnation powers have been used for construction in the past. Mr. Bowerman replied that that has not happened since he joined the Board. Mr. Rooker emphasized that there is nothing here that says that would happen. Ms. Thomas said she interpreted the development community's desire for the County to "do their part" in the event condemnation is necessary. Mr. Bowerman noted that he is not aware of a situation where that has been done.

Mr. Davis clarified that the issue is based on a misperception that the County was going to make developers build roads all the way to the property line, and they would have to obtain easements from adjacent property owners to accomplish that.

Mr. Graham added that for item #9, staff has found that the requirement for a second connection that would pass the 100-year storm mark has not really worked because the second connection would lead to a VDOT arterial road that only meets the 10 or 25-year mark. He said there are two recommendations he wanted to add: the County has already included recommendations for low-volume roads; planting strips have not been addressed yet but would be discussed today.

Ms. Thomas commented that the BRHA was very helpful in making such thorough suggestions.

Mr. Rooker said that it seemed the Board's consensus was to state a general policy that the Board would exercise condemnation where it makes sense for connectivity.

Mr. Bowerman noted that the Board was faced with that possibility on Rio Road where a left turn lane was needed for Pen Park Lane.

Mr. Graham said that he offered the BRHA the opportunity to speak.

Mr. Don Franco said that when the interconnection issue went through the DISC II Committee, they supported the interconnections, as did BRHA. He stated that the concern both have is placing an undue burden on one property owner versus another. Mr. Franco said that issues are occurring with Hollymead Town Centre and Wendell Wood's adjacent property. The issue is not that they are trying to create a spite strip, but that they are left with a remnant at that point. He said that it puts him in a difficult situation with several developments.

Ms. Thomas asked him to clarify whether he wants the County to come in and do a condemnation for construction of a road.

Mr. Franco replied that they are looking for a commitment from the County to make it conditional.

Mr. Rooker said that the situation brought up here is different from connectivity – this is a master plan road that happens to lie on two separate private properties. He thinks when a plan like that is approved, the developers basically came in with a unified plan in this phase, and the Board expects that the right-of-way is going to be contributed by both property owners. He does not think the Board envisions the County coming in and buying the right of way for the road that is going to serve the property.

Mr. Franco stated that in the case of Hollymead, since the adjacent parcel has not been rezoned yet, it was felt that even if the County had to go in and pay for that additional land, they could extract it later during the rezoning process. He asked if a grid system would dictate where the roads are, and the implementation of that concept does bring problems to the surface.

Mr. Rooker said that everyone ends up building a road through their property, and he does not understand why Mr. Franco objects to building a road through his property, even if it happens to serve an adjacent property.

Mr. Franco cited an example of Belvedere, where an existing parcel outside of Belvedere has access through the development on a limited basis – 20-foot access easement. By requiring the developer to build a road through Belvedere, you potentially increase the costs to the developer by requiring a wider road to accommodate that traffic. Mr. Bowerman commented that you must have an entrance to the parcel.

Mr. Franco commented that to have to widen the road to accommodate additional traffic adds an expense. He added that what happens is the second piece has to deal with the first property owners, and the first developer has the opportunity to recover some of the costs for upsizing his infrastructure. Mr. Franco noted that in the case of the service authority, a developer who builds a water main to a lot of properties, he gets offsite credits so when those properties develop, fees are recovered.

Mr. Bowerman asked if the developers' position in road building is the exception, rather than the rule. Mr. Franco replied that he believes it is more the rule, emphasizing that if provisions had been made to make a connection, he would build the connection. He noted that he is concerned with situations where he is the "first one in" and is providing all of the infrastructure for everyone else.

Mr. Dorrier asked if he felt the up front costs were too prohibitive. Mr. Franco said he is just saying it is unfair for the first development. On Pantops, he could be building 28-foot wide roads; instead he is going to be building 32-foot wide roads and an extra couple hundred feet of road to meet this provision. The residents of that are going to bear that additional cost, and there is no opportunity to recover that cost from the adjacent developments. He added that if he connects to Fontana, he is willing to bear that cost because there is a net benefit for everybody; but if he is connecting to an undeveloped parcel, costs should be able to be recovered also.

Mr. Rooker said he does not know if there is a legal way to do that. He does not support leaving spite strips. He noted that the pipestem type development problem did not seem too prevalent.

Mr. Franco responded that it is not just the pipestem situation; it is the second point of access rules, etc. If the provision has been made in the first development that it could make the connection, so all you're doing is forcing them to the table to work out the details of that connection, what happens in the real world, is that it affects the price of that parcel.

Mr. Rooker replied that if a public road goes in at public expense, whoever has property along it benefits. The state or the County does not go out and seek to recover the increased value that results from the road going in. You're in the right place at the right time; perhaps you realize some value from it. He added that you may have property that is behind someone else's property, and that person may build a road that you may derive some benefits from. Mr. Rooker emphasized that you could negotiate with that property owner to share some costs.

Mr. Franco noted that in the Hollymead example, the property owners would not come to the table, because they have no reason to negotiate, knowing that a road would benefit them.

Mr. Bowerman stated that he just does not understand how that can be, as adjacent property owners have to build roads for access.

Mr. Graham pointed out that this is a good example of why each situation is unique.

Mr. Franco said that what the BRHA came up with is that the interconnections might be conditioned upon where necessary condemnation. It does not obligate you to it, but what it does is not obligate the developer to build something that he really cannot build, or obligate him to create a situation where he had to create a remnant and have to give land away. In reference to the Con-Agra situation and the main street being built parallel to Route 240, he does not know that the County is going to allow him to get the road to the center of his property because he has the ability to build it there. He does not know that the County is not going to require him to keep it where it is shown on the Master Plan so it is very linear and straight through the project, and force him into the position of having to acquire adjacent properties or adjacent easements. That is the area in which they are looking for some help.

Ms. Thomas said she is not sure the subdivision ordinance is the place to get that help. Mr. Rooker agreed. It seems to him that these things are so case-specific, that it is difficult to draft an ordinance that picks up every imaginable unfairness that might result from building roads in particular places that might benefit another property.

Mr. Franco added that there are a lot of circumstances where developers have dealt with ARB aspects as well, when interconnections are provided to adjacent parcels. He mentioned that there is some vagueness as to where the interconnections are intended to be.

Mr. Rooker asked if that would not be determined at the time the development was approved, typically. He explained that usually developers present options. Mr. Franco responded that it is subjective as to who makes the determination as to where the connections go. It is the balancing of that system that makes it very gray as to when it is going to be required and when it won't be required. It is not as clear as a road or a line on a plan like the Meadow Creek Parkway.

Mr. Rooker said that when Hollymead Town Center was considered, it was planned with a certain number of connections and roads – a whole scheme for the road system that was ultimately agreed upon when that development was approved. There is always some judgment exercised about the number and advisability of connections versus whatever the tradeoff may be if you did not have it. He does not understand how that is any different under this ordinance than it is under the existing ordinance.

Mr. Franco commented that the difference is because you are now going to have to require the ability for interconnections, and it is not clear whether it is one, two, three, or four. He emphasized that it is part of the cost, and making those provisions and making it equitable is all they are trying to do.

Ms. Thomas responded that making it more prescriptive and precise is probably not what developers want.

Mr. Franco mentioned that Waynesboro stipulates that all roads built in the city are 40-feet wide, and all have eight inches of stone and two inches of asphalt. That is a standard out there, having that addressed so that the cost is established right away and not variable would be a step towards that. Ms. Thomas said that the Design Standards manual addresses that.

Mr. Graham commented that part of that is out of our control because they are still public roads that have to be approved by VDOT.

Mr. Rooker added that there are private road standards that are based upon VDOT standards, and he does not understand how that operates next to connectivity.

Mr. Franco explained that it may not address the loss of lots, but it at least starts to address the cost issue of upsizing the infrastructure aspect. Mr. Bowerman said the developers want a credit.

Mr. Rooker noted that Waynesboro is a city, and it controls its streets and roads, and can set its standards accordingly. He said that the County roads have to meet VDOT standards instead.

Mr. Bowerman said that short of the County building its own roads, he does not know how to deal with the specifications.

Mr. Franco continued, stating that the BRHA would also like some clarification on waivers; with the bailout clause, they would like to know who is going to grant it, what it is going to take to get there, etc.

Mr. Graham explained that there is a "pre-application" conference, and the concept could be brought up there to be considered. Staff deliberately left it totally administrative, so it could be done very quickly, rather than having to schedule a Planning Commission hearing and things like that.

Mr. Franco responded that from the meetings they have had, if a standard is in the ordinance and a waiver is requested, it is difficult to get staff administratively to buy into a waiver [such as driveway grades] because there is a perception that they are now accepting responsibility for going above and beyond [the ordinance].

Mr. Rooker asked Mr. Franco to wrap it up, noting that staff agreed on almost 90 percent of the BRHA suggestions.

Mr. Franco concluded that with the drainage and three-lot rule, they see it as not just as a cost issue, but feel it is in conflict with low-impact design and other aspects such as landscaping and privacy between units that back up to one another. He said that staff has associated costs with street trees, and the BRHA would also like to see them address costs for housing. For accessible routes for basements, he indicated that if stairs are exempted, then ensuring that accessible routes exist should happen prior to issuing a building permit for the auxiliary unit.

He added that regarding street trees, staff is looking for trees 57 feet apart, and builders need at least 10 feet outside the right-of-way for utilities. Mr. Franco said that traditionally, if the road were widened, the utility company has to pay for the movement of the utilities; if it is outside the right-of-way, then VDOT or the public pays. He said that accommodating utilities plus street trees makes for a large distance to the house setback, and the cost to maintain sidewalks is expensive. Mr. Franco said he is arguing for the street trees in the right-of-way. He noted that if he could eliminate the frontage requirement utilities might be able to put in with the street trees behind them.

Mr. Graham said that he has provided a grid in the Executive Summary to go over what staff saw as the pros and cons of each street tree option:

Publicly maintained street – street trees would be in the right-of-way; the dimensions are what would typically be required for this public street, with driving lanes, bike lanes, and parking spaces. VDOT would require a minimum of a six-foot strip there for the street trees, and would require a five-foot sidewalk, and three feet outside of the sidewalk for maintenance. The utilities would go outside of the right-of-way, as power companies have to obtain a land use permit from VDOT to have them in the right-of-way.

Privately maintained street – the street trees would be at the right-of-way line; the sidewalk is in the public right-of-way, and VDOT will still require the three-foot area outside of the sidewalk. VDOT also requires the sidewalk to be at least three feet back from a curve.

Mr. Graham noted that the public option requires a minimum of a 65-foot right-of-way; the private would require a minimum of a 59-foot right-of-way.

Ms. Thomas asked if the trees would actually be street trees, or if they would be in yards. Mr. Graham responded that the real character of the street is what is considered, and he only had a cross-section, rather than a picture, to illustrate the difference in the two options. He noted that there is a six-foot difference in the two examples.

Ms. Thomas said that the street in the new Garrett Street redevelopment, with public street trees, looks very nice, but the private yard trees on the other side of the street are not attractive.

Mr. Tucker commented that staff would be recommending street trees, whether they were on public or private property, such as a screening requirement would be.

Mr. Rooker noted that there is not much difference in how much land is used in each example.

Mr. Tucker said that the County is trying to avoid paying the maintenance costs of the trees.

Mr. Wyant asked what the minimum caliper of the trees is. Mr. Graham replied that the zoning text stipulates specific tree use.

Mr. Wyant said that he likes the look of the public street trees, noting that there is 24 feet from the centerline to the tree with the public model, and 32 feet from the centerline to the tree with the private model.

Mr. Dorrier asked for an example of a subdivision with street trees. Ms. Echols replied that at Parkside Village, Wayland's Grant, and Spring Ridge all have street trees in the public right-of-way.

Ms. Thomas said that in 35 years, the population will double and the County will have a bigger budget to respond to more urban needs. She thinks that $100,000 in 30 years [for maintenance] versus whether they are going to have the kind of neighborhoods that are a great deal more attractive or less so is exactly the sort of public policy questions the Board ought to be discussing around this table. She added that she believes the attractiveness to the neighborhoods is important enough to involve some public investment or public commitment. Ms. Thomas emphasized that public street trees would pull the streets together and make pedestrians feel safer having the trees between the walkway and cars. It seems to her the better way to go.

Mr. Rooker noted that DISC felt leaving street trees in the strip between the sidewalk and street was a very important aesthetic concept in achieving the neighborhood model. He was somewhat taken by how low the cost was; he thought the County might be getting into something that was a whole lot greater than that. He thinks it is worth it to achieve that development goal.

Mr. Dorrier wondered if staff would be able to prevent the mistakes such as use of Bradford pears. He agrees with uniformity of trees, and nice looking trees, but wondered if it would be a better system to provide incentives for the developers put them in and pass them onto the consumer.

Mr. Rooker replied that the developers would still pay for the trees, but the question is where the trees would be put and future maintenance costs. The County would not be planting the initial trees, but if they are in the public strip, then the County would be maintaining them.

Mr. Tucker added that maintenance costs also include repair of any damage the trees cause to the sidewalks. Mr. Graham said that if the street is private, the trees are owned and maintained by the property owners association. Mr. Tucker stated that you would get the same appearance within 50 years in either instance.

Mr. Dorrier commented that it would be worth it if the maintenance costs were only $100,000 a year.

Mr. Graham mentioned that he put in a very low number for replacement sidewalks and curbs, with the assumption that the right trees would be put in.

Mr. Bowerman said that the County put utilities down the centerline of Route 29 because there was a fabric there used to separate trees from the utilities.

Mr. Wyant stated that you could use a product to keep tree roots from spreading out too far.

Mr. Dorrier asked if there were any conflicts between the public and private regarding what type of

trees are put in. Mr. Franco said that in Spring Ridge, they established a selection of seven trees, and the BRHA does not really object to any species.

Mr. Rooker noted that Mr. Franco had indicated that their preference was for having the trees in the strip between the sidewalk and the road, and asked the Board if that was also their consensus.

Board members agreed.

Mr. Rooker asked if Board members felt they reached consensus on the other items as well.

Mr. Bowerman pointed out that they could change what they decide at this point.

Mr. Dorrier said that his concern is that the first developer "out of the box" assumes most of the costs, and each subsequent developer absorbs less of the cost. Mr. Graham responded that unfortunately, staff has not been able to devise a solution for that.

Mr. Rooker said that every case is a little bit different, noting that in one example given, the actual length of road paid for by each party is the same. He added that the width may or may not be different, depending on the amount of traffic. He does not know that the Board can come up with a formula to create fairness for every property owner every time somebody is building a road. Mr. Rooker stated that it is also hard to define monetary benefit. He does not know that any ordinance can cure unique circumstances that may arise. Perhaps the best time to do that is when the rezonings occur. He added that Mr. Wood's parcel has not yet been rezoned, although it has been redesignated in the Comprehensive Plan.

Mr. Graham stated that staff would return in February with a "wrap-up," noting that DISC II is recommending a separate ZTA to address front yard setbacks.

Ms. Echols commented that staff wants to facilitate what is seen and make it easier for the buildings to come closer to the street. She added that the current 25-foot front setbacks are "just too much."

Agenda Item No. 3. Adjourn.

At 5:42 p.m., **motion** was offered by Mr. Dorrier, that the Board recess into closed session pursuant to Section 2.2-344(A) of the Code of Virginia under Subsection (7) to discuss with legal counsel and staff specific legal issues regarding an interjurisdictional agreement.

The motion was **seconded** by Ms. Thomas. Roll was called, and the motion carried by the following recorded vote:

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

_____
Chairman

Approved by Board
Date: 06/01/2005
Initials: DJM