

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on November 14, 2007, beginning at 3:30 p.m. in the Lane Auditorium of the County Office Building on McIntire Road, Charlottesville, Virginia; the regular meeting beginning at 6:00 p.m. in the same room. The afternoon meeting was adjourned from November 7, 2007.

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

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., Assistant County Executive, Tom Foley, Assistant County Attorney, Bryan Elliott, County Attorney, Larry W. Davis, Clerk, Ella W. Jordan, Deputy Clerk, Meagan Hoy, and, Director of Planning, V. Wayne Cilimberg.

Agenda Item No. 1. The meeting was called to order at 3:32 p.m., by the Chairman, Mr. Boyd.

Agenda Item No. 2. Work Session: Five Year Financial Plan.

Mr. Tucker reported that this is the first comprehensive look at projected revenues and expenditures for the next five-years, and it is based on a set of assumptions which anticipate change over time. He said the plan would be updated on an annual basis and is not intended to be a proposed budget for any year of the plan but simply projections based on those assumptions. Mr. Tucker said that there is a work session scheduled next month on this for continued discussions and staff would make adjustments based on Board input.

Mr. Foley said that this is a financial forecast and planning exercise. Staff does not have a budget request for the next fiscal year nor do they know what actual commitments are in the coming fiscal year so they are trying to start out with a set of assumptions. Today, he will review the process for analyzing the plan, overview how staff got to a balanced five-year plan and present it as a starting point for Board review. He emphasized that this is the Board's plan with staff just providing a starting point. The Office of Management and Budget will provide a full review of the plan assumptions and results, and wrap-up with a time for Board discussion.

Mr. Foley said the following are questions the Board will want to keep in mind as they are going through this presentation:

- 1) Given the current financial forecast, does the Five Year Financial Plan adequately address community needs and the Board's desired direction?
- 2) Does the Board agree with the goals established in the development of the Plan?
- 3) Does the Board agree with the revenue and expenditure assumptions and the adjustments proposed to balance the Five Year Plan?

Mr. Foley explained that the first draft resulted from several strategic planning sessions and meetings with the School Board, and a look at several revenue alternatives. Staff developed the plan by looking at projections for revenue and expenditures, and a preliminary review of current programs and services. This is a process that staff intended to be multi-year and not a single next-year budget review of programs and services. Staff has worked to balance the plan to the greatest extent possible within obligations, Board policy and established goals set forth by the Board. Mr. Foley said, from this point forward, it is the Board's review and approval of a balanced Five Year Financial Plan based on its review and approval of assumptions, consideration of program and service levels, direction on Board priorities and an additional session planned for completion in December. Staff would like to move forward soon after that December meeting.

Mr. Foley said this Plan assures focus on policy and long-term thinking, creates alignment with the strategic plan and annual budget. In the past there has not been a comprehensive look at revenues and expenditures so there has not been that middle piece and this is designed as a bridge between those two. This process identifies budget impact of strategic priorities and challenges on the horizon, increases Board success in achieving its priorities, and provides broad direction for the annual budget process. Mr. Foley emphasized that this is a financial planning process, not next year's budget or an adopted five year budget; it is based on the best available information as of today, and staff believes it is a good estimate. This is a critical process to provide clear direction to staff. Not putting Board priorities into financial terms sometimes cannot be achieved so this process helps the Board to look at what it wants to accomplish in financial terms and linking it to the strategic plan, and giving staff the direction on how it should move forward. Mr. Foley said that balancing the plan is essential to establish clear Board priorities, and this provides that opportunity.

Mr. Foley said there were several goals established in the development of this plan. The first was meeting obligations and commitments which includes Jail cost estimates and future increases (which have averaged about 12 percent annually over the last five years), revenue sharing projections, and reassessment figures that are essentially down in terms of growth from previous years. The revenues are up very modestly, but they are restricted to a great degree by the reassessment that the County is experiencing.

Mr. Foley said that staff had the goal in mind of maintaining core services, maintaining competitive compensation, and continuing a commitment to core public safety improvements – such as fire and rescue services – as discussed during strategic planning. He pointed out that staff was not able to

achieve everything the Board said it supported at the last meeting as it relates to fire and rescue services. The Plan maintains a commitment to the capital program, maintains the County's strong financial standing as reflected in our AAA Bond Rating, and maintains the 60 percent in local tax revenue with the School system, which will reflect less of an increase than in past years because of reduced assessments.

Mr. Foley said that overall they are expecting a 2.2 percent increase in revenues for the first of the five years, and five percent on average over the five years, reflecting a downturn in the housing market in the first two years of the plan with a slow recovery in years three through five. He stated that staff is projecting a -1 percent reassessment in the first year, and modest increases over time.

Mr. Rooker asked how quickly a rezoning is factored into the assessed value of a property, even if the project is not built out yet.

Mr. Foley replied that Mr. Woodzell and Mr. Wiggins would be able to answer that question later in the meeting.

Mr. Foley said this Plan reflects reduced new construction increases in the first two years, includes the new emergency medical services fee revenue (starting at about \$1.0 million and going to \$1.6 million), modest personal property and sales tax revenue increases in year one, and gradually increasing thereafter, and reflects flat federal and state revenues over the five years. He noted that the Plan reflects a 1.8 percent increase in expenditures in the first year, and five percent on average over the five years, reflects maintenance of core services, and scales back some enhanced levels of service. Mr. Foley said the Plan fully meets the five-year obligations for the Comprehensive Services Act, Jail, maintains funding of School allocation formula, maintains commitment to competitive salaries, etc., and meets core public safety priorities and improvements, and funds operating costs of committed capital projects.

Ms. Thomas asked if the Plan assumes a bond referendum. Mr. Foley said the CIP is funded with borrowed and cash monies; not how the Board chooses to borrow the money, whether through bond referendum or some other method.

Mr. Foley explained that adjustments have been made to make the Plan balance, including 16 positions that are frozen for the five-year period, with one position eliminated, and Pantops plan staffing moved out of the plan, and there is no funding of new initiatives except the four police officers and the Pantops and Ivy stations, with minimum staff and one engine, to replace the City contract. He also said that the market compensation increases are reduced by one percent for the first two years of the Plan, then anticipates going back up to the averages in the last three years, with at 3.3 percent in the first two years. Mr. Foley said that department operations increases are kept at two percent, with a \$350,000 adjustment from the reform and efficiency efforts and program/service review. He noted that additional review is planned in the year ahead, as more needs to be done related to changes in services and programs.

Mr. Rooker asked if the \$350,000 is per year. Mr. Foley responded that the \$350,000 would be captured in the first year and then reflected in each year.

Mr. Slutzky asked if the School Division was consulted in arriving at these assumptions. Mr. Foley explained that the Schools have been made aware of the lesser amount for transfer, but it is up to them how they will deal with it. He noted that all of these items pertain to the General Fund, not School items. Ms. Thomas commented that we do not know if it is equitable in terms of commonality. Mr. Tucker said staff talked to the Superintendent a couple of weeks ago and she was not sure how the School Board would react. She believes that the School Board will want to stay with the 4.35 percent increase recommended by Human Resources for compensation. Mr. Tucker said it was difficult for staff to balance the Plan with the 4.35 percent. He has talked to other administrators in comparable localities, and it does not look like they will be looking at that amount of an increase, so it may come down.

Mr. Foley also noted that there was a reduction in the capital transfer by one cent in years two through five, but not in year one, adding that it was necessary to do that to balance the Plan. Most of these changes are significant, but even with all the changes staff was unable to not include a tax increase in year three of the Plan, assuming their projections are accurate. In terms of program and service review, Mr. Foley said this was an evaluation of current expenditures, not looking at future plans. It focused on program and service delivery and the value of the dollars invested in programs to determine the payback. Staff asked County departments to evaluate core services versus enhanced level of services. A police officer in the streets is an example of a core service. Educating the community about police services and associated expenditures is an enhanced level of service. Staff looked at basic operational efficiencies as part of the review. Staff also gave departments a benchmark of reducing expenses by 10 percent over the five years. He explained that an internal team has also done an initial review, and those recommendations are included in the Plan. The next step is to partner with the business community to review the budget process and program and service review. In addition, each year departments will be asked to look for operational efficiencies as part of program and service review.

(Note: At 3:50 p.m., Mr. Boyd called for a ten-minute recess. He said Mr. Slutzky had given the Board members a copy of a resolution regarding a YMCA facility he would like for them to consider. This will give everybody a chance to read it before discussion takes place. The Board reconvened at 4:03 p.m.)

Ms. Laura Vinzant, Senior Budget Analyst, Office of Management and Budget, addressed the Board, stating that the Plan assumes that the tax rate would be maintained at 68 cents in the first two years of the Plan, and increasing that rate to 69 cents in FY 2011 and out. Staff is projecting a -1 percent reassessment increase in 2008, with a slow recovery between 2009 and 2013, based on an analysis of previous years. She said that over the last 20 years, the County has experienced a three percent increase on average with slight dips in years with lower reassessments, as reflected in new construction assumptions, starting with 2.4 percent in 2008, 2.5 percent in 2009 and the historical level of 3.0 percent from 2010 through 2013.

Mr. Slutzky asked if it would be reasonable to factor in more new construction because of NGIC. Mr. Tucker replied that there is a survey of employees being done by NGIC, and that could be plugged into the formula. Staff does not know how many new employees will actually be moving here.

Mr. Boyd added that those employees may stay in Culpeper, Greene, etc. instead of moving to Albemarle.

Mr. Rooker noted that there is a huge volume of unoccupied real estate right now in Albemarle, and there might not be a great increase in residential construction from people moving to the area.

Mr. Foley mentioned that this is planned to be an annual process of looking at these assumptions, so more information would be available in future years.

Mr. Rooker asked if there was a breakdown available of residential versus commercial for new construction.

Mr. Bruce Woodzell, Real Estate Assessor, said that the residential market is pretty flat right now, but there is much more residential than commercial available in terms of total market ratio. He does not think a huge year of commercial would significantly impact the percentages. Mr. Boyd said it would provide some valuable data to track the increases in commercial relative to residential.

In response to Mr. Dorrier regarding accuracy of assessments, Mr. Woodzell added that the County is annually audited for its assessments, but the State has been two years behind. In 2005, his ratio was at 83 percent. He believes the ratio percentage is currently in the high 90s.

Mr. Rooker commented that the assessments never caught up to the top level of market values.

In response to Mr. Rooker's earlier question about rezonings, Mr. Woodzell noted that property is assessed beginning each year, but would not go on the tax rolls until the following year. At this time he does not have any information on how much has been rezoned or any assessed amounts.

Mr. Tucker asked how land use values affect the -1 percent. Mr. Woodzell said of total acreage, agriculture is about one-third of the acreage and forestry is about two-thirds. Agricultural land-use values took a huge drop regardless of change in assessment – as it is based on assigned State value, just as easements are.

Mr. Rooker said it would be helpful for the Board to get some of these statistics on an annual basis. The total assessed value of real estate is broken down in the budget, but it would be helpful to have that differentiated between residential and commercial, and information that shows historical increases from year to year in the categories. There are some people who believe that the economic health of a community is reflected by a ratable increase on both sides of the equation.

Mr. Dorrier said it would be helpful to have information on the number of assessments that are appealed and the outcome.

Ms. Vinzant reported that the EMS revenue recovery is projected at \$1 million in FY09, with \$1.6 million in each of the out years. There is a flat sales tax projected in FY09 over the FY08 adopted budget, with four to five percent in the out years. She said State and Federal revenues remain flat throughout the five years of the Plan. Ms. Vinzant said that the major expenditure assumptions are categorized as obligations and commitments, general policy and practices, previous goals and directions, new initiatives, and expenditure reductions. She elaborated that Revenue Sharing falls under obligations and commitments, with the FY09 increase being fairly small but more substantial in FY10 because the \$3.4 million revenue-sharing payment is based on the FY07 reassessments. Mr. Foley noted that the FY10 Revenue Sharing payment is approximately a 25 percent increase.

Ms. Vinzant said post retirement benefits (GASB 45) is a new requirement. Mr. Foley explained that this mandated requirement to fund liability will cost the County \$87,500 in each of the last three years.

Mr. Richard Wiggins, Director of Finance, said that this was a requirement put out by the Governmental Accounting Standards Board. The County must begin complying by FY08, and must show on its books the liability for retiree health insurance. Retiree health insurance is funded for retirees for a five year period, after their retirement or until age 65, whichever occurs first. This requires all jurisdictions to account for that liability on their books, either as a liability on their balance sheet or to set up a separate fund in which dollars are moved into a pool or irrevocable trust, to fund those expenses. There is still a lot of debate and discussion because there are numerous jurisdictions throughout the country that have a significant liability facing them. There are also other jurisdictions that have a more robust post-retirement health insurance coverage. There is sufficient fund balance within the County's health fund in the first and second year to fund this liability. Beginning in FY10 staff will be using a combination of funds from the health reserve and ongoing revenues.

Mr. Slutzky asked if there is a GASB order pursuant to revealing contingent liabilities for the County landfills. Mr. Wiggins said, as he understands, there is additional reporting responsibilities for other County liabilities. Mr. Davis said the County disclosed that potential liability, but it is actually a liability of Rivanna Solid Waste Authority, not a reportable liability of the County. It was disclosed to the County's auditor.

Mr. Rooker said this is a balance sheet liability; he asked at what point it becomes an operational expense. Mr. Wiggins said the legislation gives you the option of reporting it as a liability or set it up as an expense. Mr. Wiggins reiterated that for the first two years this is being funded from the Health Fund, not from the General Fund.

Mr. Foley added that the Schools will eventually be responsible for some of this obligation in the out-years, as they have a much larger percentage of retirees. Staff will have to come back to the Board with additional information on the total liability and how staff plans to fund it over the five years and beyond.

Mr. Tucker said that he would also like for the Audit Committee to look at it. He added that staff just found out about this requirement and are trying to determine how to deal with it.

Mr. Boyd said he agrees with how this liability is being accounted for and believes that it does need to be shown on our financial statements.

Ms. Vinzant said that the transfer to the Comprehensive Services Act Fund is at a nine to ten percent increase annually in the model, based on what has historically been seen for local dollar increases, and there is also a new mental health mandate for CSA. The increase equates to approximately \$250,000. She said that the Regional Jail has a 12 percent annual increase based on what has happened historically, with preliminary estimates showing that as fairly close, adding that that would mean \$338,000 in FY09 and up to \$530,000 by FY13. The increase is based on Albemarle County inmates as opposed to increased costs. Ms. Vinzant said that the ECC reflects a 45 percent annual increase, based on average increase departments will receive over the five-year period, from approximately \$81,000 in the first year and up to \$120,000 in the fifth year of the plan. Mr. Tucker indicated that the ECC amount is based on calls for service.

Ms. Vinzant then went to the General Policy section. She stated that the transfer to Schools continues to be 60 percent of new local tax revenues. She said that the FY09 transfer is a \$2.2 million increase over their FY08 budgeted transfer, or a 2.3 percent increase. Ms. Vinzant reported that the transfer to capital and debt service funds have an increase of \$1 million in the first year, but actually decreases in the second year because of the shift from one cent to two cents in FY10. She said that local government compensation market recommendation was 4.35 percent, but the Plan shows a 3.35 percent increase in FY09 and FY10, then moving back to the 3.75 percent levels in FY11 through FY13. Ms. Vinzant noted that they have assumed a .7 percent increase to allow continuing with a merit program in each of the five years of the plan, and have also incorporated a .3 percent increase in reclassifications and other adjustments that occur as positions are filled by different people. She added that all of these assumptions lead to an increase of \$1.8 million in FY09, and up to \$2.9 million in FY13, which includes benefits and retirement.

Mr. Rooker asked if VRS increases have been reflected in here.

Mr. Melvin Breeden, Director of the Office of Management and Budget, said that it is an increase in percentage. Mr. Tucker said that he is not sure if the County's increase is in line with what VRS recommended.

Ms. Vinzant said that departmental increases have been included as a two percent annual increase which is slightly lower than CPI, and because of fuel increases this will still mean that departments will have to reduce their overall expenses.

Mr. Rooker and Mr. Slutzky commented that it would be helpful to have governmental CPI figures so that what the County does is in line with that. Mr. Slutzky said just saying it is two percent and it is not as much as CPI misses the point that it is way off what the operating increases will actually be. Mr. Foley said even if the CPI is higher the departments will have to look at cutting expenses given the economic times. Mr. Rooker said it would be helpful to break out the components of the governmental CPI that is applicable to the County to see what a reasonable projection of increased expenses is. Mr. Foley commented that the point of this exercise is to get to a place where the Board is comfortable with the assumptions that are being made.

Ms. Vinzant said the Plan assumes no new capital outlay (ex. Furniture and chairs) which results in a slight decrease between FY08 and FY09 because of the elimination of the one time items.

Ms. Thomas asked if that includes technology and computers. Ms. Vinzant said it would include a new computer, but computer replacements are funded through operating and are included as part of the two percent. In the Plan, agencies would receive a four percent annual increase over the five-year period, or \$530,000 in FY09 up to \$630,000 in FY13. The Board's reserve has been preserved at the \$300,000 level. Regarding previous goals and directions, she said that these are items from the capital budget that was adopted last year and also reflect Board directives such as four new police officers - \$482,000 for those positions, benefits, vehicles, etc. – and \$290,000 is ongoing.

In response to Mr. Slutzky's question about police based on population, Mr. Elliott said that the additional officers would meet the 1.5 ratio for current population, with no growth.

Mr. Rooker emphasized that population grows at more than 1,000 people per year, and it would take more officers to meet the 1.5 per thousand goal.

Ms. Vinzant reported that the Plan shows 12 firefighters starting in April 2009 for Pantops, and 12 starting in March/April 2010 for East Ivy; she said that the total expense for the 12 is \$1.2 million and \$860,000 in ongoing cost. She added that there is no ambulance staffing included in the Plan, although it was included in the original proposal. The public safety training facility has operating impacts that begin in FY10.

Mr. Foley said that the original plan was to hire some full-time ambulance staff, but that is not included in the plan now.

Ms. Thomas asked if the public safety training facility is the new firing range. Mr. Foley said that is one component of the facility; there is also a burn building. Mr. Tucker said it is included in the CIP. Mr. Rooker asked about the operational expense of the facility. Ms. Vinzant responded that the cost is approximately \$96,000.

Mr. Slutzky said he thinks it would be useful to recognize that these assumptions and outcomes will result in changed outcomes in terms of response times to citizens in the growth areas. If these cuts are going to be made, we need to recognize their impacts.

Mr. Elliott said the four police officers per year would get the Board to the level of response times or the goals set out in the Comprehensive Plan. The 12 firefighters for Pantops and East Ivy will essentially replace the fire contract with the City, and will put those assets closer to those areas than what is provided today – so response and level of service should improve.

Mr. Foley said that the contract costs about \$600,000 now, but this will improve the level of service. Also, in September staff had talked to the Board about ambulance service. He added that the major difference is that the five year plan does not include the ambulance piece.

Mr. Wyant said he is not seeing the efforts going into recruitment. We need to look more at trying to get volunteers.

Mr. Elliott indicated that the Fire and Rescue Board has plans for advanced recruitment initiatives of volunteers as part of their FY09 budget, but the weekday daytime hours are hard to fill.

Ms. Vinzant said that in FY11 of the Plan the Crozet Library has operating impacts of \$150,000, with Northern Library operating costs moved out of the five-year plan into future years. She confirmed that the Crozet Library would be increasing from 1,600 square feet to 10,000 square feet with one additional full-time employee.

Mr. Elliott stated that the facility would be 15,000 square feet with a possible addition of 5,000 square feet for community/public use.

Ms. Vinzant said that also included in the Plan are \$100,000 for ongoing maintenance of Access Albemarle, \$100,000 for recycling centers, \$154,000 for the Crozet area growth park beginning in FY11, and other small amounts in the \$2,000 - \$4,000 related to sidewalk construction, roadway landscaping, etc. She said that major expenditure reductions include the 16 frozen positions, which are frozen throughout the five-year plan. She has provided Board members with a list of the 16 positions.

Ms. Thomas noted the agricultural support position, which is a part of the frozen positions, and said at some point she would like to discuss how some of the functions of this person could be performed in partnership with some other organization or position.

Mr. Boyd concurred that we should determine how the functions of the various positions can be accomplished through some other means.

Ms. Thomas commented that there would likely be new mandates from the state that are going to be imposed on localities.

Mr. Slutzky said the Board has imposed some of its own unfunded mandates by proffers it has approved and increasing staff time. He suggested that staff come back with several different scenarios as they relate to tax rate, so the Board can make informed decisions.

Ms. Vinzant mentioned that the frozen positions had been vacant, and as other vacancies arise staff will evaluate which positions move around and which get filled. She noted that the housing coordinator position had been vacant for quite some time and, as a result, the position was eliminated. Some of those responsibilities will be shifted to the OMB. Ms. Vinzant said that the city-county fire contract ends in FY11, which is a reduction of approximately \$600,000 in that year. She added that Total Rewards has been cut in half to \$25,000, and \$65,000 has been removed from Master Planning as those plans have not been done as quickly as originally thought.

Mr. Foley said that it is possible for one-time monies to be used to complete all of the plans.

Ms. Vinzant reported that vehicle replacement has been scaled back by about a one-third, but there is a little bit of flexibility there because of the fund balance. She noted that the grants locator program has been eliminated, saving \$17,000, as departments felt those grants could be found through free sources. Ms. Vinzant said that there is another \$350,000 that could be reduced as part of the program/service review, and staff feels this is reasonable to accomplish. She emphasized that there is no funding for new initiatives, and if there are any, they would have to be funded through decreases elsewhere or new revenues.

Given current revenue and expenditure assumptions, Ms. Vinzant noted that the fund balance would go to \$1 million in FY09, \$300,000 increase in FY10, \$200,000 in FY11, and .5 million in FY12, with \$300,000 in FY13. She explained that projecting all revenues minus expenditures yields this balance. Ms. Vinzant confirmed that the rainy day fund would stay at \$300,000.

Mr. Slutzky asked what would be an approximate borrowing amount if some of the capital projects are funded through those means. Mr. Foley said staff does not know; they would only be looking at projects such as the Crozet library, finishing of courts, etc.

Mr. Slutzky asked if the debt service has been assumed to "feed those borrowings in this budget." Mr. Foley responded that that is funded from the transfer of general fund to capital. Mr. Tucker noted that the CIP Oversight Committee would be bringing forth recommendations on this. Mr. Rooker added that there are CIP projects that are moved around based on when it is realistic to bring them on line.

Mr. Foley said that if there were no additional revenues from proffers, some earnings from interest, or moving out some projects, changes would need to be made, but staff feels comfortable that this is a realistic picture for five years. In the longer term beyond the five years, staff anticipates seeing an impact from infrastructure needs.

Mr. Wyant said this Plan is built on a lot of assumptions. He asked what happens if those assumptions do not occur.

Mr. Slutzky said it would be useful if the staff brought back to the Board what different tax scenarios would do to the assumptions. Mr. Foley commented that the assumptions this is built upon are driven by goals and policies of the Board. It would not be difficult to build in various tax revenues.

Mr. Slutzky said he does not think it is prudent to say there will be no funding of new initiatives for five years. Based on historic expenditures, he proposes that there be two scenarios to address the assumptions. He does not like reducing the capital transfer by two cents for several years. He would like to see a second option such as reducing it by only one cent.

Ms. Thomas commented that it takes forever to get the capital budget back up when it is cut down. She thinks that having the two cents going into capital was a major part of getting the AAA Bond rating. She would like to have some more discussion about reducing the capital transfer by only one cent. She added that there is going to be a major impact in water and sewer costs because infrastructure hasn't been cared for.

Mr. Boyd noted that the more detailed work should come during the budget part of the process, not now.

Mr. Slutzky disagreed, stating that revisiting the tax rate is going to be inevitable in the spring, and he does not want to see the only target being related to the one-time cut.

Mr. Rooker said that there are a number of ways the pieces could be moved around.

Mr. Boyd suggested that the budget should be built first, and then have the tax rate decided.

Mr. Foley stated that he wanted this step to get the Board focused on goals, and to take a look at the assumptions.

Mr. Slutzky said last year these things were proposed and were cut because of the tax rate reduction. Personally, he does not want to freeze the 16 positions.

Ms. Thomas emphasized that "core services" deemed to be essential may also include preventative measures. She may think that core services are larger than what is identified by staff.

Mr. Foley responded that his example of a police officer versus a community officer wasn't a good one, and departments have been able to weigh in on what gets funded or not. Department heads are able to weigh in to insure that core services are being funded.

Mr. Rooker said he thinks there is a consensus that these goals should be pursued. Board members concurred.

Mr. Rooker stated that he doesn't think that the provision of governmental service should depend on the vagaries of real estate assessments, but instead there should be a logical approach to look at revenue. He suggested forming a committee comprised of Board members, School Board members and people from various facets of the community to make recommendations about needs.

Mr. Boyd agreed. He asked if staff could bring this back to continue the discussion. Mr. Foley replied, "yes", an additional session is already planned for December 12th.

Mr. Dorrier asked when the Board would be discussing infrastructure. Mr. Tucker responded that the CIP will be coming forward to the Board and School Board in early December. The Oversight Committee will begin meeting next week.

Mr. Rooker asked if anyone does not support continuing the current contribution to the CIP. He does not support reducing the amount in years two to five. The cost for infrastructure is not going down. There are a couple of large projects starting up soon. He does not think it is wise to plan a CIP based upon taking on more debt and making less of an annual contribution to the projects.

Ms. Thomas and Mr. Slutzky agreed.

Mr. Dorrier said one way to address infrastructure needs is to look at a bond issue.

Mr. Breeden said the two cents transfer to capital is only one part of the transfer. A larger amount is also being transferred. Mr. Rooker said that is correct, but the other segment of the transfer is also being reduced because there is less surplus.

Mr. Boyd said he would like to see the reduction.

Mr. Wyant said he does not just want to set the money aside; he would like to see it being used.

Mr. Dorrier said he would like to see a broader discussion.

Mr. Foley said that staff would bring back information on CIP revenues for the Board to further consider. Mr. Tucker stated that it would be helpful to show the Board the impact with and without that level of contribution.

Agenda Item No. 3. ~~Discussion: Jefferson Institute for Lifelong Learning (JILL) at Albemarle High School, facility construction.~~ **(Remove from agenda)**

Agenda Item No. 4. Recess.

At 5:38 p.m., **motion** was offered by Mr. Slutzky, **seconded** by Mr. Rooker, that the Board go into closed session pursuant to Section 2.2-3711(A) of the Code of Virginia, under Subsection (7) to consult with legal counsel and staff regarding specific matters requiring legal advice relating to an interjurisdictional agreement. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

Agenda Item No. 5. Call to Order. The regular meeting was called to order at 6:08 p.m. by the Chairman, Mr. Boyd.

Motion was then offered by Mr. Slutzky that the Board certify by a recorded vote that to the best of each Board member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed session were heard, discussed or considered in the closed session. Mr. Rooker **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

Agenda Item No. 6. Pledge of Allegiance.

Agenda Item No. 7. Moment of Silence.

Non-Agenda. Mr. Slutzky said there has been discussion in the community with regard to the County collaborating with the YMCA to build a facility at PVCC. In addition, the City has been exploring the idea of building a facility in partnership with the YMCA and the County at McIntire Park. Mr. Slutzky then offered **motion** to adopt the following resolution supporting the YMCA facility. Mr. Rooker **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

**RESOLUTION ENDORSING
YMCA FACILITY**

BE IT RESOLVED that the Albemarle County Board of Supervisors hereby supports a YMCA facility at either the Piedmont Virginia Community College or McIntire Park site subject to an acceptable agreement; and

BE IT FURTHER RESOLVED, that the Board of Supervisors intends to allocate funds from its Capital Improvements Program (CIP) that could be spent on a facility at either location; and

BE IT FURTHER RESOLVED, that the Board of Supervisors looks forward to working collaboratively and cooperatively with the City of Charlottesville and the YMCA in pursuant of this worthy undertaking.

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

Mr. Rooker and Ms. Thomas mentioned that they had attended the VaCo meeting, and would share some information during committee reports.

Mr. Boyd said that he has heard from several constituents with concern about payday loans, and he suggested drafting a letter from the County encouraging them to limit interest rates, which are now as high as 36 percent APR. He noted that it likely has an effect on social services in the community as it keeps people in a perpetual state of poverty.

Other Board members agreed, with Mr. Rooker noting that some short-term loans have a high APR but result in low actual interest paid – such as a two-week loan for \$200 with \$10 in interest.

Agenda Item No. 9. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Ms. Rosia Parker, a member of Transformation Ministries at First Baptist Church and who participates in IMPACT, addressed the Board. Ms. Parker told the story of a homeless family in Northern Virginia who moved to Charlottesville, which has a lower cost of living, but ended up homeless here as well. She said the mother had to put her children in foster care but was able to move into Westhaven Housing Complex and has lived there for several years. She has heard that the University of Virginia is planning to take over that neighborhood. Ms. Parker stated that the person in the story is actually her, and encouraged the Board to address the need for affordable housing. She asked that the Board put monetary contributions in its budget for next year to address the housing needs in this community.

Mr. John Giuliano addressed the Board, expressing his concern and outrage at another cellular tower being put up on John Adams' property in the County, noting that it subjects people to higher radiation levels. He said that people are being exposed to microwave radiation, and the Telecommunication Act of 1996 was written to help protect people.

Mr. John Martin addressed the Board, noting that the public hearing to be held next Monday on the water supply plan would include a discussion on cost-sharing. He suggested that Counsel (Mr. Davis) should be present at that meeting. He also encouraged the County to be more involved with negotiations, and have an increased representation and influence on the RWSA Board of Directors, and replace Gary Fern with the County's Director of Community Development.

Ms. Thomas reported that there has been an organization formed specifically to address homelessness, and it can be reached through the Thomas Jefferson Planning District Commission. She also referred to comments made by Mr. Giuliano, and said that the second tower mentioned does seem to violate "visual standards," if not radiation standards.

Mr. Rooker explained that the Telecommunications Act of 1996 prohibits localities from denying a cell tower based upon health considerations. In fact, federal law preempted state and local law. The County does have one of the most restrictive cell tower ordinances in the country. He also said that aesthetics can be considered and staff could take a look at that.

With regard to Mr. Martin's comments, Mr. Rooker commented that there is a cost-sharing agreement in place between the City and the County regarding the expansion of water treatment plants in the community. That agreement also contemplated an increase in water supply by increasing capacity in the South Fork Reservoir – and there was a specific cost-sharing agreement for that. Because the ultimate plan adopted was not the expansion of South Fork, the County would have to negotiate an agreement to cover expenditure for the running of the pipeline between Ragged Mountain and South Fork. Mr. Rooker said there is a lot of misinformation about who is bearing the cost of the increase. The increase will be subject to a negotiated agreement. Mr. Rooker said that those agreements in the past have reflected an agreement by the communities as to what percentage of the increased capacity they want to be able to use in the future, and that has been the basis for allocation of expense for building that capacity. He also added that capacity must be made up due to loss of capacity related to sedimentation.

There is a method in place for arriving at that agreement. Mr. Rooker emphasized that he is confident there would be an agreement reached that would be fair and supported by the public.

Agenda Item No. 10. Consent Agenda. Mr. Rooker noted that the items are all for information and do not require a motion by the Board.

Item No. 10.1. Alternative Engineering Review Pilot Program Report, **was received for information.**

The executive summary states that on September 13, 2006, the Board, at the recommendation of the Development Review Process Task Force, approved a two year pilot program designed to simplify staff review and approval of final engineering plans. To address concerns that the pilot programs have well-defined criteria, the review checklist was made very detailed, with a strict format of plan content and certification. Additionally, it was agreed that six month updates would be provided to the Board throughout the pilot program to verify it was working as planned. The pilot program was initiated on the County website on October 3, 2006. The first six month update was provided on April 4, 2007. This is the second update, one year since the program's inception.

This pilot program was originally proposed by staff as a way to improve consistency and reduce staff workload by reducing the need for numerous resubmissions as applicants sought to meet requirements. For the development community, the benefit of this program was seen as a way to reduce costs by reducing the time required to gain plan approval. As with the previous review period, the development community has shown very little interest in this program. Below is a summary of submissions for review;

	1 st Six Month Period 10/3/2006–3/8/2007	2 nd Six Mont Period 3/9/2007–9/5/2007
Submissions for expedited review	3	3
Submissions for regular review	241	220

In each case, County engineering review was completed within a week of submittal. Of the three plans reviewed in this period, one was approved, an erosion control plan in which County engineering was the only approval authority. In the other two cases, though County engineering review is complete, final approval waits on other agencies. Even for the previous six month period, one of the 3 plans has yet to be approved for the same reason.

There have been no comments on the program this period. Previous comments can be seen on the website forum (<http://exprevprocess.blogspot.com/>).

The Board raised concerns in its previous discussions about compliance with regulations during inspection and construction in addition to design. One plan has reached the construction stage. That is the first approved plan; Birchwood Place in Crozet. There has been no measurable difference in the construction process, nor any plan related issues.

There is no estimated budget impact. While this process reduces review times, it is noted that the County has not charged separate fees for engineering reviews. Thus, while it may cost the County more to have a plan receive three or four reviews, no additional fee is paid by the applicant for those reviews. Whether additional fees should be charged will be discussed as part of a comprehensive study of development fees anticipated to come before the Board soon.

This is an informational update and no action is needed. The next update will be provided in March 2008.

Item No. 10.2. Copy of letter dated October 30, 2007, from Ronald L. Higgins, Manager of Zoning Administration, to Stephen T. McLean, McLean- Faulconer, Inc., **re: OFFICIAL DETERMINATION OF PARCELS AND DEVELOPMENT RIGHTS -- Tax Map 90B, Parcel A-11 (Property of the University of Virginia Foundation) Section 10.3.1. – Scottsville Magisterial District, was received for information.**

Agenda Item No. 11. **Public Hearing: PROJECT: SP-2006-0031. Glen Oaks Stream Crossing.**

PROPOSED: Fill in the floodplain of Limestone Creek for a road crossing over the creek to provide access for residential development.

ZONING CATEGORY/ GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/ acre); FH Flood Hazard - Overlay to provide safety and protection from flooding.

SECTION: 30.3.05.2.1(2), which permits water related uses such as boat docks, canoe liveries, bridges, ferries, culverts and river crossings of transmission lines of all types.

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre).

ENTRANCE CORRIDOR: No.

LOCATION: Running Deer Drive (Rt 808), approximately 1.1 miles from its intersection with Richmond Road (Rt 250).

TAX MAP/PARCEL: Tax Map 94, Parcels 15, 16, 16A.

MAGISTERIAL DISTRICT: Scottsville.

(Advertised in the *Daily Progress* on October 29 and November 5, 2007.)

Mr. Cilimberg reported that this request is for the replacement of an existing dam with a new dam and box culvert to provide a road that would access residential development east of Limestone Creek. He presented a map of affected properties. He indicated that there was originally a rural preservation development that the Board reviewed that would have put a number of lots near the Running Deer subdivision. The applicant was asked to reconsider the proposal and alternatives for providing the lots they could do by-right. Mr. Cilimberg said that this particular plan was to avoid impacting areas on the east side of the stream valley running through the parcels and would have created a number of lots in an area where there was some question as to groundwater availability. The applicant provided a schematic of how they could develop by-right, which would have spread lots over a larger area of the properties and would have involved several locations where access would have occurred across stream. The driveways would not have been subject to a special use permit.

Mr. Cilimberg explained that the actual proposal before the County would be for a combination of conventional and rural preservation development, with one access across the stream to an area of clustered lots, and lots in another location as well. He noted that this special use permit is for activity in the floodplain, and this gives an opportunity to use an existing area with a better dam as a result. Mr. Cilimberg said that this would also allow for a mitigation area to deal with some areas with erosion. He indicated that staff and the Planning Commission have come up with recommended conditions, and they are standard for stream crossing.

Ms. Thomas asked if there was any way to have an engineering estimate on the life of the dam, and/or some kind of arrangement so the residents have an escrow fund for eventual repair.

Mr. Cilimberg said that the question of maintenance did come up, and the applicant perhaps should address that. He cannot speak to the life of the dam.

Mr. Rooker suggested including a condition addressing the maintenance and eventual replacement of the dam.

Mr. Davis responded that the Planning Commission will approve a maintenance agreement for the private road before the subdivision is platted. He said that the developer will construct the road, but the maintenance is typically the responsibility of the landowners. The question will be what neighborhood will pay the costs.

Mr. Rooker emphasized that there needs to be something in the official record to ensure the dam has a maintenance plan for the future. It is a private road in a gated community.

Mr. Davis said that VDOT will usually take the road, but not the dam. He stated that that is a very large obligation.

Mr. Slutzky said that the people on Running Deer would essentially be in competition for the water on this site, and suggested that perhaps they have access to this public water supply.

Ms. Thomas noted that she has read the studies of water for this location, and the hydro-geologists who have researched this indicate there is not a carry-over effect from one property to the other.

The Chairman asked the applicant for comments.

Mr. Don Franco addressed the Board on behalf of Glenmore Associates, noting that a dam would have to go through the normal state approval and permitting process and would require annual inspections by a qualified engineer. He anticipates that the dam should be at least a Class 2, and thus would require inspections by a licensed professional engineer. Mr. Franco said that the Planning Commission did make a requirement of the road maintenance agreement, although the Homeowners Association has not determined how that responsibility will be split. The preservation tract would also need to be dealt with by Glenmore. He added that the 15 lots served by that could be responsible for the maintenance of the dam, but that would be decided at the subdivision level. Mr. Franco said that there could be something put on the deeds that reference the dam and its condition.

Mr. Rooker said that would be very helpful. Mr. Franco said he would have no problem accepting that as a condition.

Mr. Franco said that the geo-tech reported that the water formations do not necessarily interconnect. He does not have a problem with a condition for future water supply that the lots not be moved into the growth area, and that the lots are prohibited from further subdivision in the future. He also said that the preservation tract extends the public greenway past Glenmore to Limestone Farm, and meets the Planning Commission's requirement that there is not access to Running Deer Road except for emergency access. Mr. Franco explained that Glenmore is going to fund a traffic mitigation plan, as the entry to this subdivision would be through Glenmore.

Mr. Slutzky asked if the County could limit use on that access road.

Mr. Rooker said that the road is chained now, and there could be a condition put in relating to limiting access on that road to emergency vehicles only.

Mr. Davis noted that it would be a zoning violation to use the road otherwise.

Mr. Franco stated that the chain is often chosen by emergency services because it can be cut if necessary, and they tend to prefer that over a heavy farm-type gate.

Ms. Thomas commented that it is difficult to convince landowners not to cut down to the water's edge and asked how they were planning to enforce the buffer.

Mr. Franco responded that the buffers are in the preservation tract and are thus protected under a conservation easement. He added that the Public Recreational Facilities Authority would hold that easement. He said that paths and walking trails would be allowed in that area.

Ms. Thomas said that she would feel better if there was a stipulation in the deeds included to preserve the vegetative buffer.

Mr. Rooker agreed, but stated that it would be hard to enforce something that is on someone else's land.

Mr. Franco said that the preservation tract above the lake is reserved exclusively for trails and open space.

Mr. Rooker suggested having signs that mark the boundary between regular lots and the conservation area.

Mr. Franco said that the boundaries of greatest concern are lots 11-18 and 9-6, and those would be marked clearly.

At this time the Chairman opened the public hearing.

Ms. Betsy Baten addressed the Board, stating that she is in favor of the Glen Oaks stream crossing and development. She is the Glenmore Community Association board member who has been most involved with the conceptual plans for the development. She has worked closely with the developer and the Glenmore community regarding the preservation tract. She believes the conceptual plans addresses the County's intent for development of the rural areas.

There being no further public comment, the matter was placed before the Board.

Mr. Davis indicated that he has sketched out a condition on the private road, and suggested an added condition #4 that would state "Prior to final plat approval of the private road across the creek, there shall be a private road maintenance agreement that includes provisions for maintenance, repair, and future replacement of the dam when necessary in a form acceptable to the County as approved by the County Attorney. All costs of this maintenance and repair agreement shall be privately funded. The landowners private responsibility for dam maintenance or repair shall be stated in every deed, transferring ownership of the lots served by this crossing in a statement approved in form and content by the County Attorney. The County shall not be responsible for any costs of the maintenance, repair, or future replacement of the private road or dam."

Motion was offered by Mr. Dorrier, to approve SP-2006-0031 subject to the four conditions recommended by the Planning Commission and staff, and a 5th condition added at the Board meeting. Ms. Thomas **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

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

- 1) The stream crossing shall be built in general accord with the plan titled "SP 06-031 Application Plan," revised "Aug. 01, 2007," and prepared by Roudabush, Gale, & Associates, Inc.;
- 2) Any subdivision on the portion of the property designated as Rural Areas in the Comprehensive Plan shall be designed in general accord with the plan titled Glen Oaks, dated "8/1/07", and prepared by "kg Associates." The development lots east of Limestone Creek and Lot 26 shall be developed as a Rural Preservation Development in accord with Section 10.3.3.3 of the Zoning Ordinance, with Lot 26 as the preservation tract. As part of the same subdivision, the applicant shall convey to the County a portion of Lot 10 (whose boundaries are approved by the Parks and Recreation department) for use as a greenway;
- 3) The dam shall allow for a continuation of the base flow in the stream; and
- 4) The following conditions shall be met prior to issuance of a grading permit to allow installation of the stream crossing or submittal of the final subdivision plat, whichever comes first:
 - a) The applicant must obtain a map revision, letter of revision, or letter of amendment as required from the Federal Emergency Management Agency (FEMA) and copy the County Engineer on all correspondence between the applicant and FEMA;

- b) County approval of an erosion and sediment control plan for the stream crossing;
 - c) County approval of the final lane configuration over the stream crossing with the final road plans;
 - d) Natural Resources Manager approval of a stream buffer mitigation plan in general accord with the conceptual plan shown on the plan titled "SP 06-031 Application Plan," revised "Aug. 01, 2007," and prepared by Roudabush, Gale, & Associates, Inc;
 - e) County approval of final design plans and hydrologic/hydraulic computations for the stream crossing;
 - f) Army Corp of Engineers, Virginia Department of Environmental Quality, and other necessary state and federal agency approvals must be obtained prior to issuance of grading permits; and
 - g) Approval of the final design of the dam by the Department of Conservation and Recreation, as necessary.
- 5) Prior to final plat approval of the private road across the creek, there shall be a private road maintenance agreement that includes provisions for maintenance, repair and future replacement of the dam, when necessary, in a form acceptable to the County as approved by the County Attorney. All costs of this maintenance or repair agreement shall be privately funded. The landowner's private responsibility for dam maintenance or repair shall be stated in every deed transferring ownership of the lots served by this crossing in a statement approved in form and content by the County Attorney. The County shall not be responsible for any costs of the maintenance, repair or future replacement of the private road or dam.

Agenda Item No. 12. **Public Hearing: PROJECT: ZMA-2006- 016. Glenmore Section K2, Leake Property.**

PROPOSED: Rezone 110.94 acres from RA - Rural Area zoning district which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre) to PRD - Planned Residential District - residential (3 - 34 units/acre) with limited commercial uses to allow for 110 dwelling units. This proposal is an expansion of the Glenmore PRD and does not include commercial uses. Proposed density is approx. 1 unit/acre.

PROFFERS: Yes.

EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential - residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses.

ENTRANCE CORRIDOR: No.

LOCATION: 1.25 miles south of the intersection of Route 250 East and Hacktown Road, North of the Rivanna River, west of Carroll Creek, and east of the Development Area boundary.

TAX MAP/ PARCEL: Tax Map 94, Parcel 16, 74 and 16A (portion thereof) and Tax Map 93A1, Parcel 1.

MAGISTERIAL DISTRICT: Scottsville.

(Advertised in the *Daily Progress* on October 29 and November 5, 2007.)

Mr. Cilimberg reported that this is adjacent to the area the Board was just considering, an area where 110 lots would be developed. He clarified that the Running Deer access is emergency only and is identified as part of this rezoning. Mr. Cilimberg indicated that the Planning Commission did not recommend approval of the rezoning because of outstanding issues – cash proffers and cash for affordable units for all new lots involved in the rezoning, not just those outside of the Glenmore PRD; pedestrian connection should be shown and provided to complete a path system along several streets in Glenmore, and paths should be provided along the side of the street where most lots are located within the Leake development.

Mr. Cilimberg said that staff has received a revised application plan showing paths recommended for Glenmore and the Leake development and pavement standards for paths have been provided. There is also a note on the application plan that construction traffic should not take access through Running Deer Drive. He also stated that there are cash proffers of \$16,590 per lot to mitigate impacts from the development for the entire 110 lots, based on crediting the additional 15 acres of greenway land as proffered to the County as requested by Parks and Recreation. Mr. Cilimberg said that there is also cash in lieu of providing affordable units, which the Commission accepted - \$2,952 for the affordable housing fund instead of providing units. He added that erosion and sediment control measures with greater restrictions than what the County has typically required have been proffered.

Mr. Cilimberg reported that there was originally a 100-foot area from the river in which the greenway would be established and a path put in place, adding that there is an existing path outside of the area and the additional 15 acres that have been proffered by the applicant contain that existing path and will enable a better overall greenway path system. He explained that the 15 acres is valued at approximately \$100,000, using that as a credit for the 110 lots, the per-lot amount would be \$16,590 instead of the \$17,500 and the \$19,100 is provided per each lot. Mr. Cilimberg said that the applicant has made all changes requested by the staff and the Planning Commission. The proffers and plan are acceptable for Board action, even though they were just finalized today. Theoretically, under the Board's policy, the Board would not be acting on the proffers because they were not submitted in advance. Mr. Cilimberg said should the Board decide to act on the request, staff recommends approval of the rezoning with the proffers dated November 14, 2007, signed November 13, 2007 and the application plan dated November 14, 2007.

Mr. Dorrier asked who would be responsible for maintaining the greenway. Mr. Cilimberg responded that it would be the County's responsibility.

Mr. Rooker asked if the only changes in the proffers are those recommended by the Planning Commission. Mr. Cilimberg responded, "yes". He added that initially this request went to the Commission and they recommended approval with the expectation that certain things would be addressed. The request had to go back to the Commission because of a technicality in the legal advertisement that was used for the first public hearing. At the second public hearing, the Commission reiterated its expectation for those items and did not recommend approval because the items had not been addressed.

Mr. Rooker asked if a delay would be needed, under State law. Mr. Davis responded that as long as the proffers have been tendered in writing prior to opening the public hearing they can be legally accepted.

Mr. Dorrier asked if the proffers have been examined by the Glenmore Homeowners Association. Mr. Cilimberg responded that that is not the normal course. Mr. Dorrier said the proffers should be examined by the homeowners. Mr. Cilimberg responded that the proffers are available to the public. He added that the major item of interest to them would be the pedestrian paths.

Mr. Davis noted that all of the issues were raised at the Planning Commission hearing, but the proffers were not in their final form until today.

Mr. Rooker commented that some of the issues were not addressed in the proffers presented to the Planning Commission, and he wondered if the homeowners have an interest in the newer items such as the paths.

Mr. Cilimberg said that the proffers are essentially the same, with the exception of the affordable housing amounts. He said that the other matters were included in the application plan.

The Chairman asked the applicant for comments.

Mr. Don Franco addressed the Board representing the applicant. In late August they were before the Commission with the original plan and there were a number of outstanding issues. At this time, this plan does meet the Commission's expectations and it does have staff support. He said that they have worked with the homeowners association to fund the traffic mitigation plan and to prevent having to use Running Deer as primary access. Mr. Franco said that the homeowners' association wanted to choose the path placement, and the Planning Commission wanted more assurance that the path would be built. He stated that they have worked to protect property during the disturbance needed for development. Mr. Franco said that the cash proffers were in the application before, but the issue was whether or not to deal with the by-right lots.

Mr. Slutzky and Mr. Rooker commented that they would likely have not supported the application without the affordable housing proffers for the entire development.

Mr. Boyd commented that he received some very nice emails related to this application.

At this time the Chairman opened the public hearing.

Ms. Poppy Lesti of Running Deer addressed the Board on behalf of a small group in attendance, stating that they do not want this to come through Running Deer as the road through it is a small, windy road, but otherwise they are fine with the application.

Ms. Tracy Walker addressed the Board, stating that she lives in Running Deer with her family. She said that her husband grew up in Running Deer, and putting up a back gate for Glenmore would cause more traffic that would make the roads more dangerous, especially for children getting on and off of the school bus. Ms. Walker said that another safety concern is the inability to add sidewalks to a lengthy portion of the roads due to the fact that easements are not wide enough to allow for this. She said that yards for children would be affected by decreasing the size and eliminating natural buffers, and the additional traffic would place a major strain on natural resources such as groundwater as increased pavement causes more runoff and less absorption. Ms. Walker noted that the residents there do not have access to public water, just individual wells.

Ms. Tammy Hall of Running Deer Drive addressed the Board, noting that her husband's parents built the house in 1979 and they bought it from them. She said that they are not objecting to the new homes, but asked that the quality of "life, health and safety" on Running Deer is not changed to pacify a select gated community. Ms. Hall emphasized that the developers should be required to work within Glenmore to solve their issues.

Ms. Betsey Baten addressed the Board, stating that the Planning Commission has recommended a proposal to have a sidewalk extend from the Leake subdivision along the length of an established Glenmore neighborhood on Carroll Creek Road to join with Piper Way. She said that the proposal was made by someone who does not live on the affected street, and while the recommendation was well-intended, the route for the walkway was unspecified at the time and homeowners on the street had not been consulted. Ms. Batten also said that the Glenmore Community Association subsequently polled the seven residents on the street – five residents were against any sidewalk at all; one resident was in favor if the walkway were on the golf course side of the road; and one has not yet responded. She stated that she has their written comments for review, and they feel a sidewalk would be "unnecessary and invasive to the appearance of their property."

Ms. Baten added that they would also feel that a sidewalk on the golf course side of their road would be a safety issue for pedestrians using the walkway because it would closely parallel the fairway of the third hole of the golf course. She said that one resident living on the east side of the street was not in favor of the walkway, and all the respondents were very upset that this request and decision was made without consulting them and their prior knowledge. Ms. Batten said that the GCA raised these concerns at a recent Planning Commission hearing and suggested that whether a sidewalk was needed and where it should be located would best be decided by the affected residents and the homeowners association. They maintain this position and would respectfully request that the Board allow the Glenmore Community Association to work with the residents and make the decisions about this matter.

Mr. Mike McCorry addressed the Board, stating that he and his wife have lived in Glenmore for just over 10 years. He expressed his support of the development in the Leake section. They like the community. Mr. McCorry said that he and his wife have begun to look for a home that better meets their needs, essentially a smaller home such as the new cottages being built.

Mr. Paul Accad addressed the Board, stating that he has lived in Glenmore for 12 years, and he did not make a recommendation to the County as previously reported. He supports the application plan and the staff's recommendations for the area along Carroll Creek Road. He does not feel the homeowners association should make decisions about its placement. Mr. Acad said that the 110 people that the rezoning is for are going to need a way to get around, and they should be able to get to the country club safely by walking, biking, or jogging. He stated that the pedestrian loop is just as important as the vehicular loop.

Mr. Neil Means addressed the Board, stating that he lives in the village of Rivanna. Mr. Means said that there were two concepts originally proposed for the Leake property, and asked about the additional units recommended since that first plan. He asked if it was the County's policy that in a growth area, there were no limits on what that growth could be.

Ms. Cindy Burton addressed the Board, stating that she lives in Running Deer. Ms. Burton said that they oppose any initiative to shift Glenmore's construction and/or vehicular traffic onto Running Deer. Ms. Burton said that this suggestion is sensitive and short-sighted. The preservation of Running Deer is vital to protecting the rural boundary and containing growth. She stated that a connection could open a Pandora's box that could be detrimental to both Glenmore and Running Deer and the rest of the rural areas. She emphasized that the growth periphery could become vulnerable, and everyone's investment, security, and quality of life could be threatened. Ms. Burton said that promises of no connections to Running Deer were made by the County and the developer in the early days in the village creation, and these assurances were repeated in recent years.

Mr. Boyd responded that the Board is committed to making sure that connection does not happen.

Mr. Rooker said that normally, connectivity makes sense but in this case it would be into a gated community and the roads in Glenmore are not public roads.

Mr. Sterling Proffitt addressed the Board, stating that he and his wife have lived in Running Deer for 24 years. He commended staff for their work, and asked if it would be possible to have in writing that there would be no vehicular traffic as well as no construction traffic.

There being no one else from the public to speak, the public hearing was closed.

Mr. Rooker said that the proffers provide that the connection is for emergency purposes only and no construction traffic.

Mr. Cilimberg stated that this connection would continue to be emergency access only, and there could not be any other connection for residential traffic in general. There was a note added that construction traffic shall not take access through Running Deer Drive. He added that there have been discussions in public about this being open to through traffic, but that has not been recommended.

Mr. Dorrier asked how many people have objected to having the path. Mr. Rooker replied that five homeowners have objected and one has not yet replied.

Mr. Slutzky added that the County has consistently supported pedestrian links.

Mr. Rooker said that the design would be consistent with what exists in Glenmore, as it has an asphalt path that provides pedestrian access in the community.

Ms. Thomas commented that the more walking can be made safe, the better, and the path accomplishes that.

Mr. Franco said that the majority of the path is along the golf course side in a tract still owned by the developer, on the opposite side of the seven houses that were polled.

Mr. Wyant stated that his main concern is the residents of Running Deer, and the emergency gate is probably the best system to ensure the road is only used for safety. He commented that he would like the gate to be in place before any work starts. Mr. Wyant also said that they are only disturbing 30 acres and that is about one-fourth of this disturbance at one time.

Motion was then offered by Mr. Dorrier, to approve ZMA-2006-016 as proffered dated November 14, 2007, signed November 13, 2007, and the Application Plan dated November 14, 2007. Mr. Slutzky **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

Original Proffer X
Amended Proffer
(Amendment #)

PROFFER FORM

Date: November 14, 2007

ZMA # 2006-016

Tax Map and Parcel Number(s)

 Tax Map 93 Parcels A1-1, A5-1 and Tax Map Parcel 94-74
and portions of Tax Map 94 Parcels 15, 16, 16A.

 111.73 Acres to be rezoned from PRD/RA to PRD

The Owner hereby voluntarily proffers that if the Albemarle County Board of Supervisors acts to rezone the Property from the RA to the PRD zoning district as requested, the Owner shall develop the Property in accord with the following proffered development conditions (each, a "Proffer," and collectively, the "Proffers"), which the Owner acknowledges are reasonable, pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended, and pursuant to Section 33.3 of the Albemarle County Zoning Ordinance. If rezoning application ZMA 2006-015 is denied, these proffers shall immediately be null and void and of no force and effect.

This Proffer Statement shall relate to the Application Plan entitled "Master Plan, Glenmore", dated November 2, 1990, and prepared by Clower Associates, Inc., the Application Plan entitled "Glenmore Planned Residential Development Application Plan for ZMA 99-016, dated April 12, 2000 and more specifically the plan entitled, "Glenmore Section K-2", dated June 15, 2007, last revised November 14, 2007, and prepared by Roudabush, Gale, and Associates, Inc.

1. The development of the Property shall be limited to those uses allowed by right under Section 19.3.1 (1), (5), (6), (7), (8), (9), (10) and (11) and those uses allowed by special use permit under Section 19.3.2(2), (4), (8), (9), (10) and (11) of the Zoning Ordinance of Albemarle County, Virginia (hereinafter referred to as the "Zoning Ordinance" and the "County") as those Sections are in effect on November 14, 2007, copies of which are attached hereto. The residential development on the Property shall not exceed one-hundred ten (110) single family units. Of the one-hundred ten (110) single family dwelling units, seventy-six (76) single family dwelling units are in addition to, and not counted as part of, the eight hundred thirteen (813) units authorized in Glenmore PRD by ZMA 99-016; thirty-four (34) single family dwelling units are counted as part of the the eight hundred thirteen (813) units authorized in Glenmore PRD by ZMA 99-016.
2. In order to establish a future public greenway trail for the County along the Rivanna River, within one (1) year after the date of approval of ZMA 2006-1016, the Owner shall dedicate in fee simple to the County for public use no less than 43.45 acres in greenway area, as shown on Attachment A, entitled "Glenmore Greenway Trail, Final Exhibit," prepared by Roudabush, Gale, and Associates, Inc. and dated June 18, 2007 (the "Greenway Trail Area"). Such Greenway Trail Area may be increased as mutually agreed by the Owner and the County and includes the greenway area originally intended to be included in the greenway pursuant to proffer no. 6 of "ZMA 79-16" (such proffer correctly identified as proffer no. 6 of "ZMA 97-16) and the additional area comprising a minimum of 14.98 acres proffered pursuant to this ZMA 2006-016.
 - a. Prior to dedication of the Greenway Trail Area to the County, no buildings shall be constructed, or erected within the Greenway Trail Area without the consent of the County and it shall be otherwise preserved in its natural state except for establishing pedestrian and riding trails and general beautification including, but not limited to, the clearing of underbrush, removal of dead trees and shrubs, and cleanup of the river.
 - b. Prior to dedication of the Greenway Trail Area to the County, the Owner may grant across the Greenway Trail Area utility easements, access easements to the Rivanna River for residents of Glenmore and members and guests of the Glenmore Country Club and may build riding trails or make similar uses of the area, provided that such utility and access easements allow the County's use of the surface of the easement area to be used as a greenway, including the establishment of signs, benches and other accessory improvements, and do not otherwise interfere with the County's future use of the Greenway Trail Area as a greenway.
 - c. The Owner shall convey the Greenway Trail Area by Deed of Gift and Easement Agreement. The Deed shall be accompanied by a subdivision plat depicting the Greenway Trail Area and bearing a notation that the Greenway Trail Area is dedicated for public use, subject to provisions and reservations contained within the Deed. If, at the time of dedication, the Greenway Trail Area is not dedicated by an accompanying subdivision plat, the Owner shall pay the costs of surveying the Greenway Trail Area, preparing the subdivision plat or other depiction thereof acceptable to the Director of Community Development and the County Attorney, and preparing and recording the Deed, and further provided that the Deed is in a form approved by the County Attorney.

- d. After dedication, the Greenway Trail Area shall continue to be counted as open space for the purposes of the Glenmore Master Plan and required density.
3. To offset public expenditure on Capital Improvement Projects, the Owner shall contribute sixteen-thousand five-hundred ninety dollars (\$16,590) in cash for the purposes of funding transportation, public safety, school, parks and library improvements to offset public expenditure on Capital Improvement Projects. The per lot cash contribution shall be paid to Albemarle County prior to the issuance of a building permit for each lot.
4. To provide capital for Albemarle County's Affordable Housing Program, the Owner shall contribute two-thousand nine-hundred fifty-two dollars (\$2,952) in cash for each dwelling lot on the Property to provide capital for Albemarle County's Affordable Housing Program. The per lot cash contribution shall be paid to Albemarle County prior to the issuance of a building permit for each lot.
5. Beginning January 1, 2008, the amount of cash contribution required by Proffer number 3 shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Comparative Cost Multiplier, Regional City Average, Southeast Average, Category C: Masonry Bearing Walls issued by Marshall Valuation Service (a/k/a Marshall & Swift) (the "Index") or the most applicable Marshall & Swift index determined by the County if Marshall & Swift ceases publication of the Index identified herein. In no event shall any cash contribution amount be adjusted to a sum less than the amount initially established by these proffers. The annual adjustment shall be made by multiplying the proffered cash contribution amount for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the year preceding the calendar year most recently ended, and the denominator of which shall be the Index as of December 1 in the preceding calendar year. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.
6. In order to provide a higher level of Erosion and Sediment Control than is required by current State and Local regulation, the Owner shall adopt construction procedures and practices that limit the amount of disturbed area and provide enhanced protection for areas historically prone to erosion. These procedures and practices shall include:
 - a. Limit construction activity such that not more than 30 acres of the project is disturbed at any point in time. For the purposes of this proffer, disturbed areas will be determined by the Program Authority based on the active E&S plan with adjustments to include additional areas of disturbance and exclude areas where permanent stabilization has been installed.
 - b. Utilize wire reinforced silt fence to control runoff from building construction.
 - c. Utilize permanent seed and matting to stabilize all slopes steeper than 3H:1V.
 - d. Modifications to the above may be granted by the Program Authority due to special circumstances during review of the E&S plan.

-Signature Page Follows-

**GLENMORE ASSOCIATES LIMITED
PARTNERSHIP**, a Virginia limited partnership

BY: The Frank A. Kessler Declaration of Trust dated
November 18, 1996, as amended, General Partner

BY: _____ (SEAL)
Michael D. Comer, Successor Trustee
Date: _____

BY: _____ (SEAL)
Peggy B. Kessler, Successor Trustee
Date: _____

Agenda Item No. 13. **Public Hearing: PROJECT: SP-2007-0026. Crozet Station.**

PROPOSED: 30 residential units to be located above the existing Crozet Shopping Center buildings and a parking structure addition to the northeast corner of the site.

ZONING CATEGORY/GENERAL USAGE: C-1 Commercial - retail sales and service uses; and residential use by special use permit (15 units/ acre).

SECTION: 18.22.2.2.6 uses permitted the R15 Zoning District (15 units/acre) and 18.22.2.2.9 Parking Structure.

COMPREHENSIVE PLAN LAND USE/DENSITY: Community of Crozet; designated CT 6 Urban Core, which allows for a mix of commercial, office, retail, and other uses along with residential uses up to 18 units an acre and up to 36 units an acre in a mixed used setting, according to the Crozet Master Plan.

ENTRANCE CORRIDOR: Yes.

LOCATION: Crozet Shopping Center, north of Three Notch'd Road (Rt 240); approx. ¼ mile east of its intersection with Rt. 810.

TAX MAP/PARCEL: 56A2-01-29.

MAGISTERIAL DISTRICT: White Hall.

(Advertised in the *Daily Progress* on October 29 and November 5, 2007.)

Mr. Cilimberg reported that this is for a component of the redevelopment of the shopping center. The zoning is in place for the commercial aspects to continue, and there would be 30 residential units above the existing shopping center buildings and a parking structure addition to the northeast corner of the site. He presented a basic plan with the parking area continuing with additional landscaping and units above the existing commercial space. Mr. Cilimberg said that the issues resolved since the Planning Commission meeting include an access easement recorded to provide interconnection to the east; the plan shows the impact to the stream buffer to the rear; and internal amenities are shown on the plan. He added that stormwater management provisions are acceptable to the County Engineer, and there is a condition that addresses utilities and landscaping across the frontage of Route 240.

Mr. Cilimberg said that other issues noted in the report were potential improvements to Route 240, and VDOT feels they may be needed in the future if not with this development. He reported that the County Engineer would like a left-turn lane to be provided with this development because of safety concerns; the provision of that lane would be consistent with the master plan and staff supports it. Mr. Cilimberg noted that the applicant has included a note on the plan providing for improvements as would be requested by VDOT, and he mentioned that the applicant has made one small change – including this wording at the suggestion of Mr. Graham: to allow the opportunity in the site plan process for the County to get VDOT to revisit the issue and request the turn lane with county input as well as VDOT consideration. He noted that any improvement undertaken would have to be approved by VDOT since it is in their right of way.

Mr. Cilimberg stated that the Commission recommended a condition to ensure that affordable housing is provided, in keeping with the County's policy, and all the additional housing be workforce housing. He said that condition #4 is the standard language for affordable housing and also includes conditions for moderately priced housing – about \$235,000 – and the applicant's intent is to provide workforce housing priced at around \$300,000. Mr. Cilimberg said that the applicant would also not want a condition that purchasers be qualified by the Housing Office, which is acceptable to the Housing Director because there is not a policy on workforce housing.

He reported that there is a change in condition one that references the November 14th revision to the plan that is part of the condition #1 reference, and the other would be language that removes any reference to moderately priced housing and any qualifications that come through the Housing Office and instead establishes workforce housing units at the \$300,000 benchmark. Mr. Cilimberg confirmed that 4-C and 4-D would change.

Mr. Rooker said that paragraph 4 is essentially the implementation of the County's affordable housing policy.

Mr. Cilimberg concluded that staff recommends approval with conditions as presented.

The Chairman asked the applicant for comments.

Mr. Bill Atwood addressed the Board, stating that he is an architect and has quite a bit of experience with Crozet – including the Dairy Queen building. Mr. Atwood said that the concept of this plan is housing over existing businesses, and the first scheme did not have the housing over the businesses. He indicated that this plan allows for business tenants to stay where they are while the residences are constructed, noting that the project is multi-phased. Mr. Atwood said that they worked with a group of local residents who took pictures of what they find iconic in the Crozet area. He stated that a woman who photographed Crozet Pizza described it as the "postcard" of the town. Mr. Atwood presented other photographs that were taken.

Mr. Atwood said that they presented design schemes to the ARB, and their input helped generate a new plan with the buildings down a level off of Main Street. He reported said that residents emphasized that they did not want a "theme park" and were color-specific on the buildings and roofs. Mr. Atwood stated that they have landscaping over the utility area in the front, and there is a large pedestrian walkway.

Mr. Slutzky asked if they had talked about the retaining wall and the way it was presented. Mr. Atwood replied that there is a wonderful mural on that wall and they will try to keep it and build overtop of it.

Ms. Thomas commented that Crozet has a flair for color, and that is one of the iconic aspects of the town.

Public comment was invited.

Ms. Jean Wagner, one of the owners of Crozet Great Value, addressed the Board. She stated that she has concerns about doing business while the construction is going on. Ms. Wagner said that she has not been in contact with anyone yet about the process but she is also concerned about parking and the safety of customers coming in and out of the store during construction. She reported that the building has been there since 1967, and she has concerns about altering an older structure and its affect on equipment.

Mr. Atwood explained that the process would be to do a basic post and beam construction, then creating a platform over the pedestrian right-of-way. He does not feel that the businesses would be disrupted for more than a few days at a time. He emphasized that they have been committed to saving these businesses and minimizing construction impact on them.

Ms. Thomas asked if they had a plan to deal with large trucks.

Mr. Atwood responded that they do have a plan for truck access, and that will always be reserved. He noted that they have parking for users in the back, and that was part of the negotiation with the Planning Commission – there are 194 parking spaces total with those in front intended for the public.

At this time the Chairman closed the public hearing.

Mr. Rooker indicated that disruption experienced by tenants is a private matter related to their lease.

Mr. Wyant commented that moving of tenants has always been a major concern, and Mr. Atwood has addressed the challenge well.

Motion was then offered by Mr. Wyant, to approve SP-2007-0026 subject to the eight conditions recommended by the Planning Commission and modified at the Board meeting. Mr. Rooker **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

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

1. Development shall be in general accord with the concept plan entitled, "Crozet Station, prepared by Atwood Architects, Inc. dated May 23, 2007 and last revised November 14, 2007", Sheet A/O and Sheets SP1-SP5;
2. The final site plan shall not be approved until the applicant has provided evidence that an easement has been executed to provide inter-parcel access to the property to the east;
3. There shall be no disturbance of the stream buffer;
4. Affordable and moderately-priced housing shall be provided as follows:
 - A. Affordable housing units. The Owner shall provide five (5) residential dwelling units as affordable housing for sale. The five (5) units shall be comprised of one (1) or more of the following unit types: single-family attached housing or multi-family condominiums. The Owner or his successor in interest reserves the right to achieve the five (5) affordable units in a variety of ways, utilizing the above mentioned unit types alone or in combination as outlined below. The first subdivision plat or site plan for the Property shall designate the five (5) lots or units, as applicable, subject to the terms and conditions of this condition, that will be the affordable units as described herein. The Owner shall convey the responsibility of constructing the affordable units to any subsequent purchaser of the subject property. The current Owner or subsequent Owner shall create units affordable to households with incomes less than eighty percent (80%) of the area median income, such that housing costs consisting of principal, interest, real estate taxes and homeowner's insurance (PITI) do not exceed thirty percent (30%) of the gross household income, provided, however, that in no event shall the selling price of such affordable units be more than sixty-five percent (65%) of the applicable Virginia Housing Development Authority (VHDA) sales price/loan limits for VHDA's first-time homebuyer programs, provided that the selling price shall not be required to be less than One Hundred Ninety Thousand Four Hundred Dollars (\$190,400) at the beginning of the ninety (90) day identification and qualification period referenced below. The Owner or his successor in interest may provide down payment assistance in the form of secondary financing to reduce the costs to the homebuyer, so that the resultant first mortgage and housing costs remain at, or below, the parameters described above. All financial programs or instruments described above must be acceptable to the primary mortgage lender;
 - B. County Option for Cash In Lieu of Affordable Units. If at any time prior to the County's approval of any preliminary site plan or subdivision plat for the subject property which includes one (1) or more for-sale affordable units, the Housing Office informs the then-current Owner/builder in writing that it may not have a qualified purchaser for one or more of the for-sale affordable dwelling units at the time that the then-current Owner/builder expects the units to be completed, and that the County will instead accept a cash contribution to the County to support affordable housing programs in the amount of Nineteen Thousand One Hundred Dollars (\$19,100) in lieu of each affordable unit, then the then-current Owner/builder shall pay such cash contribution to the County prior to obtaining a certificate of occupancy for the units that were originally planned to be affordable units, and the then-current Owner/builder shall have the right to sell the units without any restriction on sales price or income of the purchasers.
 - C. Work force housing units. The Owner shall provide twenty-five (25) residential dwelling units for a sales price not to exceed three hundred thousand dollars (\$300,000) for the first sale of each unit. The first subdivision plat or site plan for the Property shall designate the twenty-five (25) lots or units, as applicable, subject to this condition; and
 - D. Qualification period. All purchasers of for-sale affordable units shall be approved by the Albemarle County Office of Housing or its designee. The Owner shall provide the County

or its designee a period of ninety (90) days to identify and pre-qualify an eligible purchaser for the units. The ninety (90) day period shall commence upon written notice from the Owner that the units will be available for sale. This notice shall not be given more than one hundred twenty (120) days prior to the anticipated receipt of the certificate of occupancy. If the County or its designee does not provide a qualified purchaser during this ninety (90) day period, the Owner shall have the right to sell the units without any restriction on sales price or income of purchaser(s); provided, however, that any units sold or leased without such restriction shall nevertheless be counted toward the number of affordable units required to be provided pursuant to the terms of this condition. If these units are sold, this condition shall apply only to the first sale of each unit. Nothing herein shall preclude the then-current Owner/builder from working with the County Housing Department prior to the start of the notification periods described herein in an effort to identify qualifying purchasers for affordable units.

- E. Inspection of records. The County shall have the right, upon reasonable notice and subject to all applicable privacy laws, to periodically inspect the records of the Owner or any successors in interest for the purposes of assuring compliance with this condition.
5. Residential amenities such as an outdoor plaza, paved path to the greenway, or civic green area shall be provided, to the satisfaction of the Planning Director as shown on the concept plan entitled, "Crozet Station, prepared by Atwood Architects, Inc. dated May 23, 2007 and revised October 29, 2007", Sheets SP2 and SP3;
 6. Street trees shall be provided along the Route 240 frontage. The street trees shall meet the minimum size, types of species, and spaced as determined by the County's Architectural Review Board;
 7. The final site plan shall not be approved until the applicant has provided an access area to the greenway dedication in the north-west section of the property as shown on Sheet SP 2 of the Concept Plan entitled, "Crozet Station, prepared by Atwood Architects, Inc. dated May 23, 2007 and revised October 29, 2007"; and
 8. Water quality and water quantity treatment shall be based on an assumed pre-existing cover of twenty percent (20%) for the site.

Agenda Item No. 14. Public Hearing: PROJECT: ZMA-2007-005. Avon Park II.

PROPOSED: Rezone 5.17 acres from R-1 Residential (1 unit/acre) to R-6 Residential (6 units/acre) The proposal is to allow development of 31 townhouse and single family units.

PROFFERS: Yes.

EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential - residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses.

ENTRANCE CORRIDOR: Yes.

LOCATION: Avon Street Extended, approx. 1,000 feet north of the intersection of Avon Street Ext and Rt 20, south of existing Avon Court.

TAX MAP/PARCEL: Tax Map 90, Parcel 31.

MAGISTERIAL DISTRICT: Scottsville.

(Advertised in the *Daily Progress* on October 29 and November 5, 2007.)

Mr. Cilimberg reported that this is a second section for Avon Park, which would be rezoned to R-6 with a proffered application plan to provide 31 single-family and townhouse dwelling units. He said that it is located in the southern part of the urban area off of Avon Street and is in the area of Mill Creek South and Biscuit Run. Mr. Cilimberg noted that existing site conditions include a house on the property along with other structures, and the house will remain. He said that alternate street section would be shown on the plan that meets the ordinance requirements, and additional affordable housing proffer language would be provided and additional proffer language to address stormwater management impacts would be provided.

Mr. Cilimberg stated that the development plan, which includes items addressing the Planning Commission's concerns, includes a street section with street trees and sidewalks, and addresses the 3:1 slopes in Lot 28. He said that the November 2nd proffers also address cash, impact, affordable housing, and stormwater management. Mr. Cilimberg stated that they are doing four affordable units and staff recommends approval of the rezoning with the proffers dated November 2nd and the application plan last revised October 19th as the Commission's expectations have been addressed.

In response to Mr. Slutzky's question about cash for affordable housing units, Mr. Davis indicated that that option could be made at preliminary site plan approval and the Housing Director makes that call based on whether there will be tenants for those units.

The Chairman asked the applicant for comments.

Ms. Valerie Long addressed the Board on behalf of the applicant, Weatherhill Homes. She said that Mr. Cilimberg accurately reflected the issues and plan, specifically the street section design along Stratford Way. Ms. Long said that the plan does provide 15 percent affordable housing, and the language included is the standard wording used by the Board with a 90-day window for the County to find qualified buyers. She added that there would be plenty of advanced notice given about when those units are going to come online.

Mr. Rooker asked if it is the intent to provide "for sale" the affordable housing or "for lease". Ms. Long said the current plan is to provide "for sale" but they have reserved the right to do either.

Mr. Wyant asked about access to the existing house through Avon Park I. Ms. Long explained that it would be through Avon Park I, not directly off of Avon Street.

Public comment was invited. There being none, the matter was placed before the Board.

Motion was offered by Mr. Dorrier, to approve ZMA-2007-005 as proffered dated November 2, 2007 and application plan last revised October 19, 2007. Mr. Rooker **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

Original Proffer X

PROFFER FORM

Date of Proffer Signature: November 2, 2007

ZMA # 2007-00005 Avon Park II

Tax Map 90 Parcel Number 31

5.17 Acres to be rezoned from R-1 to R-6
in accordance with the Application Plan of Terra Concepts, P.C.
dated April 30, 2007, last revised October 19, 2007)

Weather Hill Development, L.L.C., a Virginia limited liability company, is the owner (the "Owner") of Tax Map 90, Parcel 31 (the "Property") which is the subject of rezoning application ZMA 2007-00005 known as "Avon Park II" (the "Project").

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property, if rezoned with the offered plans approved for development. These conditions are proffered as a part of the requested rezoning and it is agreed that the conditions are reasonable.

1. AFFORDABLE HOUSING

The Owner shall provide affordable housing equal to fifteen percent (15%) of the total residential dwelling units within the Project in the form of for lease or for sale affordable dwelling units (the "Affordable Dwelling Units" or "Affordable Units"). Each subdivision plat and site plan for land within the Property shall designate the lots or units, as applicable, that will, subject to the terms and conditions of this proffer, incorporate Affordable Units as described herein, and the aggregate number of such lots or units designated for Affordable Units within each subdivision plat and site plan shall constitute a minimum of fifteen percent (15%) of the lots in such subdivision plat or site plan.

In the event that the number of Affordable Dwelling Units to achieve 15% results in a fractional unit, the Owner shall contribute cash to the County in a proportionate amount based on the amount of \$19,100. For example, if 15% equates to 4.5 Affordable Units, the Owner shall provide 4 Affordable Units pursuant to the terms described herein, and shall contribute cash to the County in the amount of \$9,550 be paid prior to issuance of a building permit for the first Affordable Dwelling Unit.

A. The Affordable Dwelling Units shall be comprised of one or more of the following unit types: single-family attached housing (townhouses), condominiums or apartments/flats. The Owner or his successor in interest reserves the right to achieve the 15% Affordable Dwelling Units in a variety of ways, utilizing the above mentioned unit types alone or in combination as outlined below. The Owner shall convey the responsibility of constructing the affordable units to any subsequent purchaser of the Property. The current Owner or subsequent Owner shall create units affordable to households with incomes less than 80% of the area median family income (the "Affordable Unit Qualifying Income"), such that housing costs consisting of principal, interest, real estate taxes and homeowner's insurance (PITI) do not exceed 30% of the Affordable Unit Qualifying Income; provided, however, that in no event shall the selling price of such Affordable Units be more than sixty-five percent (65%) of the applicable Virginia Housing Development Authority (VHDA) sales price/loan limits for VHDA's first-time homebuyer programs provided that the selling price shall not be required to be less than One Hundred Ninety Thousand Four Hundred Dollars (\$190,400) at the beginning of the 90-day identification and qualification period referenced below. The Owner or his successor in interest may at its option facilitate the provision of down payment assistance loans to reduce the out-of-pocket cash requirement costs to the homebuyer, such as, but not limited to a "silent" second lien Deed of Trust, so that the resultant first mortgage and housing costs remain at or below the parameters described herein. All financial programs or instruments described herein must be acceptable to the primary mortgage lender. Any "silent" second lien Deed of Trust executed as part of this paragraph shall be donated to the County of Albemarle or its designee to be used to address affordable housing. For purposes of calculating the price of the Affordable Dwelling Units, the value of Seller-paid closing costs shall be excluded from the selling price of such Affordable Dwelling Units.

i. For-Sale Affordable Units - All purchasers of for-sale Affordable Units shall be approved by the Albemarle County Office of Housing or its designee. The Owner shall provide the County or its designee a period of ninety (90) days to identify and pre-qualify an eligible purchaser for the Affordable Units. The 90-day period shall commence upon written notice from the Owner that the units will be available for sale. This notice shall not be given more than 120 days prior to the anticipated receipt of the certificate of occupancy. If the County or its designee does not provide a qualified purchaser during this ninety (90) day period, the Owner shall have the right to sell the Unit(s) without any restriction on sales price or income of purchaser(s); provided, however, that any Units(s) sold or leased without such restriction shall nevertheless be counted toward the number of Affordable Units required to be provided pursuant to the terms of this proffer. If these Units are sold, this proffer shall apply only to the first sale of each unit. Nothing herein shall preclude the then-current Owner/builder from working with the County Housing Department prior to the start of the notification periods described herein in an effort to identify qualifying purchasers for Affordable Units.

ii. For-Rent Affordable Units

1. Rental Rates For-Lease Affordable Units The initial net rent for each for-rent Affordable Unit when the Unit(s) is available for occupancy shall not exceed the then-current and applicable maximum net rent as published by the County Housing Office. In each subsequent calendar year, the monthly net rent for each for-rent affordable unit may be increased up to three percent (3%). For purposes of this proffer statement, the term "net rent" means that the rent does not include tenant-paid utilities. The requirement that the rents for such for-rent Affordable Units may not exceed the maximum rents established in this paragraph 1A(ii)(1) shall apply for a period of ten (10) years following the date the certificate of occupancy is issued by the County for each for-rent Affordable Unit, or until the units are sold as affordable units as defined by the County's Affordable Housing Policy, whichever comes first (the "Affordable Term").

2. Conveyance of Interest – All instruments conveying any interest in the for-rent affordable units during the Affordable Term shall contain language reciting that such unit is subject to the terms of this paragraph 1A. In addition, all contracts pertaining to a conveyance of any for-rent affordable unit, or any part thereof, during the Affordable Term shall contain a complete and full disclosure of the restrictions and controls established by this paragraph 1A(ii). At least thirty (30) days prior to the conveyance of any interest in any for-rent affordable unit during the Affordable Term, the then-current owner shall notify the County in writing of the conveyance and provide the name, address and telephone number of the potential grantee, and state that the requirements of this paragraph 1A(ii) have been satisfied.

3. Reporting of Rental Rates – During the Affordable Term, within thirty (30) days of each rental or lease term for each for-rent affordable unit, the then-current owner shall provide to the Albemarle County Housing Office a copy of the rental or lease agreement for each such unit rented that shows the rental rate for such unit and the term of the rental or lease agreement. In addition, during the Affordable Term, the then-current owner shall provide to the County, if requested, any reports, copies of rental or lease agreements, or other data pertaining to rental rates as the County may reasonably require.

B. County Option for Cash In Lieu of Affordable Units. If at any time prior to the County's approval of any preliminary site plan or subdivision plat for the subject property which includes one or more for-sale Affordable Dwelling Units, the County's Housing Office informs the then-current owner/builder in writing that it may not have a qualified purchaser for one or more of the for-sale Affordable Dwelling Units at the time that the then-current owner/builder expects the units to be completed, and that the County will instead accept a cash contribution to the County to support affordable housing programs in the amount of Nineteen Thousand One Hundred Dollars (\$19,100) in lieu of each Affordable Unit(s), then the then-current owner/builder shall pay such cash contribution to the County prior to obtaining a certificate of occupancy for the Unit(s) that were originally planned to be Affordable Dwelling Units, and the then-current owner/builder shall have the right to sell the Unit(s) without any restriction on sales price or income of the purchaser(s). For the purposes of this proffer, such Affordable Dwelling Units shall be deemed to have been provided when the subsequent owner/builder provides written notice to the Albemarle County Office of Housing or its designee that the Affordable Units(s) will be available for sale.

2. **CASH PROFFER**

A. The Owner shall contribute cash to the County in the following amounts for each dwelling unit constructed within the Property that is not an Affordable Dwelling Unit. The cash contribution shall be used to address the fiscal impacts of development on the County's public facilities and infrastructure (i.e., schools, public safety, libraries, parks and transportation) identified in the County's Capital Improvements Program. The cash contributions shall be paid prior to issuance of a building permit for the category of units described in this paragraph 2 in the following amounts:

- i. Eleven Thousand Nine Hundred Dollars (\$11,900) for each attached town home/condominium unit that is not an Affordable Dwelling Unit
- ii. Seventeen Thousand Five Hundred Dollars (\$17,500) for each single family detached dwelling unit.

iii. Zero Dollars (\$0.00) for each Affordable Dwelling Unit

B. Annual Adjustment of Cash Proffers. Beginning January 1, 2008, the amount of each cash contribution required herein shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Marshall and Swift Building Cost Index (the "MSI"). In no event shall any cash contribution be adjusted to a sum less than the amount initially established by these proffers. The annual adjustment shall be made by multiplying the proffered cash contribution amount for the preceding year by a fraction, the numerator of which shall be the MSI as of December 1 in the year preceding the calendar year most recently ended, and the denominator of which shall be the MSI as of December 1 in the preceding calendar year. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.

3. **EROSION AND SEDIMENT CONTROL**

A. The Owner shall, to the maximum extent practicable as determined by the County's Program Authority, provide additional erosion and sediment controls to achieve a sediment removal rate of eighty percent (80%) for the Property. (As a reference, current regulatory structural measures achieve a 60% optimal removal rate).

Weather Hill Development, L.L.C.

By: _____

Marc C. Powell, Manager

Agenda Item No. 15. **Public Hearing: PROJECT: ZMA-2007- 0012, Blue Ridge Cohousing, PROPOSED:** Rezone 7.3 acres from RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre) to PRD Planned Residential District - residential (3 - 34 units/acre) with limited commercial uses to include a maximum of 26 dwelling units, a community center, and no commercial uses.

PROFFERS: Yes.

EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Community of Crozet; CT-3 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.

ENTRANCE CORRIDOR: No.

LOCATION: Approximately 300 yards from Three Notched Road along Parkview Drive near the crossing of Parrot Branch Creek.

TAX MAP/PARCEL: Tax Map 57, Parcel 67A and a portion of Tax Map 56, Parcel 67B.

MAGISTERIAL DISTRICT: White Hall.

(Advertised in the *Daily Progress* on October 29 and November 5, 2007.)

Mr. Cilimberg reported that this is a rezoning request with a private street waiver. A public hearing would need to be set to amend the jurisdictional area if that is the desire. . He explained that it is a rezoning plan for residential development with a mix of housing types – 26 single-family detached, attached, and multi-family. Mr. Cilimberg said that it is located in the urban edge of the Crozet master plan area, and Parkview Drive would be the access road. He stated that there is an illustrative plan that would be part of the rezoning, and the Crozet master plan shows an urban edge subject property. Mr. Cilimberg said that there would need to be road upgrades to serve the site, and there is a trail planned that leads to Route 240.

Mr. Cilimberg reported that there were outstanding issues when the Planning Commission recommended denial: stream buffers that would be impacted by grading, lack of demonstration of legal right to upgrade Parkview, proffers did not address project impacts, emergency access was not verified on plans, workable concepts on stormwater management have not been demonstrated, site distance has not been confirmed with necessary easements as required by VDOT. He indicated that the updated application plan and proffers have addressed these issues except for the stormwater management issue which has now been addressed by biofilters in yards, but there is some concern about having those in yards occupied by residents.

Mr. Slutzky asked what the nature of the concern is. Mr. Cilimberg replied that, in part, it is a maintenance issue.

Mr. Cilimberg also stated that since the Commission meeting there has been a provision made for 19 percent of the units to be affordable – a minimum of five – with \$286,000 in proffers based on the per-unit policy. He said that they have proposed improvements for Parkview Drive, and at its intersection with Route 240 per VDOT requirements. Mr. Cilimberg said that if the Board were to recommend approval with the attached application plan dated October 19th, it would also reflect approval of a waiver of building separation requirements of Section 19 of the Zoning Ordinance, reducing separation from 30 feet to 10 feet. He said that the approval would also include the proffers of October 19th and the approval of the private street request for Parkview Drive which they would be improving up to their entrance and waiver of the Subdivision Ordinance regarding curb and gutter requirements for Parkview Drive as shown in rural cross-section. Mr. Cilimberg said that the Planning Commission did not recommend approval of the rezoning request.

Mr. Glen Brooks, County Engineer, commented that the Planning Commission saw a concept of a perimeter swale that went around the entire site. He said that the County has a standard maintenance

agreement that would go with the land, and during a final plan review Engineering felt it was too close to residences. Mr. Brooks said that there were other issues with standing water – such as West Nile virus – so there is concern about the proximity of stormwater facilities to residences.

Ms. Thomas said that putting fish in would help eliminate the bug problem. Mr. Brooks explained that the ponds would be too small to support that environment, and said that they would dry out over a day or two.

Mr. Boyd asked about liability. Mr. Davis replied that these would be privately owned and maintained.

Mr. Brooks explained that this property is surrounded by stream buffers, and the roadway and ditch are a standard VDOT design.

Mr. Cilimberg said that there are a couple of directions where the water could flow in the ditch.

Mr. Brooks said that the idea is to get some drainage through swales into the stormwater facilities.

Mr. Slutzky asked if they had considered using permeable surfaces for the parking areas. Mr. Brooks responded that there had been, noting that it is typically expensive.

Mr. Wyant asked about easements. Mr. Davis said that the applicant has the legal right to make improvements under the existing agreement.

Mr. Brooks commented that the stormwater facility next to the parking lot would work, but the ones behind the houses would probably not and the residents will not like having them in their backyards. He explained that there is difficulty getting the runoff into the drainage ponds.

Mr. Rooker and Mr. Boyd commented that the density may just be too great to squeeze in detention facilities.

Mr. Brooks said that Mr. Slutzky's idea of permeable surface is a good one. Ms. Thomas noted that the clay soil in the area does not lend itself well to permeable surface and it all ends up relatively non-absorbent.

Mr. Slutzky asked what would happen if the stormwater facilities failed. Mr. Brooks replied that it would be the responsibility of County staff and engineers to contact the homeowners and try to get it corrected through the maintenance agreement.

Mr. Rooker noted that if you start out with a substandard situation, you end up with a continuous enforcement issue that consumes a lot of staff time.

Mr. Brooks said that the standards would be met in the design phase, but that looks difficult at this point.

Mr. Rooker commented that they need to make certain there is a condition or proffer that addresses the stormwater issue.

Mr. Davis replied that the plan shows it with public water and sewer. Mr. Cilimberg added that in the development area, that is required unless the applicant tries to opt out of it.

The Chairman asked the applicant for comments.

Mr. Collin Arnold, on behalf of the applicant, addressed the Board. He explained that co-housing is an intentional community where strength of community is emphasized – a walkable, workable community with cars parked on the perimeter – and connection to a greater area, in this case Crozet. Mr. Arnold confirmed that the land would be held in common, but the units would be individually owned by residents; a larger structure would be communally owned. He presented images of a similar development in Blacksburg, noting the stormwater management and drainage of rainwater into gardens. They are natural landscape features. They are not a detention pond, per se. Mr. Arnold said that rain gardens support low-impact development requirements and they have been in operation in the Blacksburg neighborhood for over 18 months with no major problems. He said that there is piping underground with collection from rooftops taken underground to the garden areas.

Mr. Wyant asked about walking paths. Mr. Cilimberg said that there are paths associated with Parkview Drive improvements that will lead down to Route 240.

Mr. Arnold explained that there is a bike path that goes alongside Parkview that goes down to Three Notch, and there are walkable paths in the community that ultimately connect back to Three Notch in Crozet. He confirmed that there is a pump station on site, outside of the buffer area; it is intended that everything is public water and sewer.

Mr. Kevin O'Connor of Gaye & Neal said that they would have to pump from there and have an independent storage facility. He said that the four areas shown on there are grossly exaggerated because they used worst-case scenarios in their modeling. Mr. Connor said that the roofs from one of the houses could be diverted into a small island but the drainage could be handled with the existing design. He stated

that breaking up the areas would provide a better system, and having a smaller unit might allow a shorter distance for drainage.

Mr. Slutzky asked if there could be a condition imposed to specify a different drainage plan that reflects these concepts.

Mr. Davis responded that it cannot be done at the rezoning level, but the County Engineer would have to be satisfied at the site plan stage that the stormwater facility will work.

Mr. Brooks said that there are additional measures that help out, and pointed out that the rain gardens also provide retention.

Mr. Rooker stated that everything about this plan is well-done, and he is inclined to approve it but wants to understand from staff whether there is a proffer that makes it subject to staff's approval of the stormwater treatment systems.

Mr. Davis emphasized that they could not make a significant change in the major facilities, but the drainage basins could be deviated to meet code requirements.

Mr. Cilimberg said that a plan cannot be engineered to that kind of detail at the rezoning level, so staff tries to take the approach that there is a plan that has a technical solution, although it might not be the only solution.

Mr. Brooks stated that if the solution may involve a change in the layout, he has to go back to the Community Development Office and get a determination as to whether the plan is in general accord, which is a procedural headache for the applicant. He said the Water Protection Ordinance allows a waiver of the detention requirement if it can be proven through a study or some other means that it does not provide the flood benefit, and this is done next to major water courses such as the Rivanna River and Moore's Creek.

Ms. Thomas noted that this is very close to the Beaver Creek Reservoir.

Mr. Arnold said that he understands the concerns, and will continue to work with the County to ensure that the stormwater management system is more than adequate. He emphasized that his team is familiar with similar situations and feels confident that these are not a nuisance in other developments.

The public hearing was opened.

Dr. Martin Schulman addressed the Board, and found the insight in deliberations for this proposal to be thoughtful, and he is the only neighbor who will have this neighborhood in his backyard. He said he appreciates the reworking of the parking plan and the type and number of homes which will now offer nominal impact to Route 240, and little to no impact on Parkview Drive. Dr. Schulman said that the property has had public water for over the last 20 years, and public sewer was added after this time – about 500 to 1,000 miles away. He stated that he has been the chair of the Route 250 Task Force, and has also been an active member of the greenway and entry corridor subcommittees, and subsequently the committee helping to rework the master plan for Crozet. Dr. Schulman commented that this is a great location for this type of development, and added that this will help create community threads. He said that this site is directly adjacent to the primary employment center in the area – Music Today and Starr Hill Brewery. Dr. Schulman said that this will create a "genuine asset" to the community.

Mr. Steve Melton of Halcyon Drive in Crozet addressed the Board, stating that he stands by his comments from the Planning Commission meeting that he and other neighbors do have concerns about soil erosion and runoff. They think this project is too large for this site. He also asked if the co-housing development is responsible for road maintenance.

Mr. Davis replied that they would be responsible for submitting an approved road maintenance agreement as part of the site plan. He noted that the road would have to be built to private road standards, from the entrance out to the public road would be the equivalent of VDOT standards.

Mr. Melton asked what would happen if the concept fails, and whether this would turn into rental property or business property.

Ms. Susan Perry addressed the Board, stating that she is very proud of the environmental soundness of this project. She explained that co-housing began in Denmark in the 1970's and was introduced to the U.S. in the late 80's. Ms. Perry said that this is a type of lifestyle that is taking hold here as it has in Europe, and there is no evidence that it would fail.

Mr. Peter La Zore of Blue Ridge Co-Housing addressed the Board, stating that he did not perceive the rainwater issue to be a big point of concern. That seems like a silly reason to reject this request. He noted that the contract for this property expires December 6th, and if there is mandate to meet 130 percent of the requirements for stormwater management, they will do it.

Mr. Ameus Player of Halcyon Drive addressed the Board, stating that this affects property value, quality of life, etc., emphasizing that there is a huge difference between where you live and where you work. He said that perhaps a smaller number of units on this parcel are more appropriate.

Ms. Beverly Hereford of Halcyon Drive addressed the Board, stating that Dr. Schulman plans to develop his land where the clinic is, so “you’re just piling a lot of little tiny houses on top of us and yes you are impacting our property values.” She asked the Board to say no to this proposal.

Mr. Jay Perry of Mill Creek South addressed the Board, stating that there is no evidence that co-housing would negatively impact property values. All the fear that surrounds it is unfounded. He emphasized that this proposal is one solution for the provision of affordable housing.

Ms. Annie Hill addressed the Board, noting that there are only 13 structures being built here – some of which would contain two units, some of which would contain four. She said that they are nice homes and would not be 26 tiny houses.

There being no further public comment, the matter was placed before the Board.

Mr. Slutzky asked how many units could be built on this site, at most.

Mr. Cilimberg replied that the range of units suggested by the master plan are 20 to 26, with 38 if there were provisions made for affordable units.

Mr. Dorrier commented that the stormwater issues could be dealt with at the site plan level, and this seems to be a good form of housing that may catch on in the County.

Mr. Rooker said that he thinks it is a good plan that provides an alternative form of housing that has worked elsewhere. He added that the stormwater issues could be worked out at the site plan level, and encouraged staff to work with the applicant on some of the alternative means that have been worked on elsewhere even though the proffers can’t be changed at this point. Mr. Rooker encouraged the applicant to continue working with staff to do more than the minimum.

Ms. Thomas stated that in her district she had something not exactly called co-housing, that fell apart, and she is leery of what is being set up, especially so close to Beaver Creek. She emphasized that while the applicant has agreed to work out the stormwater measures, there is no guarantee of that.

Mr. Rooker responded that stormwater is usually worked out at the site plan level.

Ms. Thomas stated it is in a delicate location for this density.

Mr. Boyd commented that he is on the fence about this, citing his concerns about the stormwater management and stating that the Board would direct staff to work with the applicant on it.

Mr. Wyant said that he is not against co-housing, as it provides variety, but he believes the difficulty will be coming up with a road maintenance agreement, given the need for easements. He emphasized that the applicant has some major hurdles to overcome in the site plan approval.

Motion was then offered by Mr. Wyant, to approve ZMA-2007-012, as proffered dated November 14, 2007 and application plan dated October 19, 2007 which reflects waiver of building separation requirements of Section 19.8. Mr. Slutzky **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: Ms. Thomas.

Original Proffer X

PROFFER FORM

“Blue Ridge Cohousing”

Date of Proffer Signature: November 14, 2007

ZMA # 2007-00012

Tax Map Parcel- 56-67A and 56-67B (Portion)

**6.15 Acres to be rezoned from RA to PRD
in accordance with the Application Plan of Blue Ridge Cohousing dated
June 25, 2007 and resubmitted and revised September 11, 2007 and October 19, 2007**

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the property, if rezoned with the offered plans approved for development. These conditions are proffered as a part of the requested rezoning and the Owner acknowledges that the conditions are reasonable.

1. AFFORDABLE HOUSING

The Owner shall provide four (4) residential dwelling units as affordable housing for sale. The four (4) units shall be comprised of one or more of the following unit types: single-family attached housing, single-family detached or multi-family condominiums. The Owner or his successor in interest reserves the right to achieve the four (4) affordable units in a variety of ways, utilizing the

above mentioned unit types alone or in combination as outlined below. The first subdivision plat or site plan for the Property shall designate the four (4) lots or units, as applicable, that will, subject to the terms and conditions of this proffer, that will be the affordable units as described herein. The Owner shall convey the responsibility of constructing the affordable units to any subsequent purchaser of the subject property. The current Owner or subsequent Owner shall create units affordable to households with incomes less than eighty percent (80%) of the area median income, such that housing costs consisting of principal, interest, real estate taxes and homeowner's insurance (PITI) do not exceed thirty percent (30%) of the gross household income, provided, however, that in no event shall the selling price of such affordable units be more than sixty-five percent (65%) of the applicable Virginia Housing Development Authority (VHDA) sales price/loan limits for VHDA's first-time homebuyer programs provided that the selling price shall not be required to be less than One Hundred Ninety Thousand Four Hundred Dollars (\$190,400) at the beginning of the 90-day identification and qualification period referenced below. The Owner or his successor in interest may provide down payment assistance in the form of secondary financing to reduce the costs to the homebuyer, so that the resultant first mortgage and housing costs remain at, or below, the parameters described above. All financial programs or instruments described above must be acceptable to the primary mortgage lender.

- A. For Sale Affordable Units. All purchasers of for-sale affordable units shall be approved by the Albemarle County Office of Housing or its designee. The Owner shall provide the County or its designee a period of ninety (90) days to identify and pre-qualify an eligible purchaser for the affordable units. The 90-day period shall commence upon written notice from the Owner that the units will be available for sale. This notice shall not be given more than one hundred twenty (120) days prior to the anticipated receipt of the certificate of occupancy. If the County or its designee does not provide a qualified purchaser during this ninety (90) day period, the Owner shall have the right to sell the units without any restriction on sales price or income of purchaser(s); provided, however, that any units sold or leased without such restriction shall nevertheless be counted toward the number of affordable units required to be provided pursuant to the terms of this proffer. If these units are sold, this proffer shall apply only to the first sale of each unit. Nothing herein shall preclude the then-current Owner/builder from working with the County Housing Department prior to the start of the notification periods described herein in an effort to identify qualifying purchasers for affordable units.

The County shall have the right, upon reasonable notice and subject to all applicable privacy laws, to periodically inspect the records of the Owner or any successors in interest for the purposes of assuring compliance with this proffer.

- B. County Option for Cash In Lieu of Affordable Units. If at any time prior to the County's approval of any preliminary site plan or subdivision plat for the subject property which includes one or more for-sale affordable units, the Housing Office informs the then-current owner/builder in writing that it may not have a qualified purchaser for one or more of the for-sale affordable dwelling units at the time that the then-current owner/builder expects the units to be completed, and that the County will instead accept a cash contribution to the County to support affordable housing programs in the amount of Nineteen Thousand One Hundred Dollars (\$19,100) in lieu of each affordable unit, then the then-current owner/builder shall pay such cash contribution to the County prior to obtaining a certificate of occupancy for the unit that were originally planned to be affordable units, and the then-current owner/builder shall have the right to sell the units without any restriction on sales price or income of the purchasers.

2. CASH PROFFER

The Owner or his successor in interest shall contribute a total of **\$286,200** cash to the County for the purpose of mitigating impacts from this development. The cash contribution shall be used for transportation improvements, schools, libraries, fire and rescue, parks or any other public use serving Neighborhoods 4 & 5 as identified in the County's adopted capital improvements program.

- A. Contributions shall be payable as follows:
- i. For new market rate attached townhome/condominium units: **\$11,900** each for **14** units payable prior to or at the time of issuance of the building permit for each unit.
 - ii. For new market rate attached multifamily units: **\$12,400** each for **4** units payable prior to or at the time of issuance of the building permit for each unit.
 - iii. For new market rate detached single family units: **\$17,500** each for **4** units payable prior to or at the time of issuance of the building permit for each unit.
- B. Annual Adjustment of Cash Proffers. Beginning January 1, 2008, the amount of each cash contribution required herein shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Comparative Cost Multiplier, Regional City Average, Southeast Average, Category C: Masonry Bearing Walls issued by Marshall Valuation Service (a/k/a Marshall & Swift) (the "Index") or the most applicable Marshall & Swift index determined by the County if Marshall & Swift ceases publication of

the Index identified herein. In no event shall any cash contribution be adjusted to a sum less than the amount initially established by these proffers. The annual adjustment shall be made by multiplying the proffered cash contribution amount for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the year preceding the calendar year most recently ended, and the denominator of which shall be the Index as of December 1 in the preceding calendar year. For each cash contribution that is being paid in increments, the unpaid incremental payments shall be correspondingly adjusted each year.

3. TRANSPORTATION IMPROVEMENTS

- A. Park View Drive Improvements. In order to mitigate traffic impacts resulting from the Project, the Owner shall design and construct to standards established by the County Engineer, in the location shown on the Application Plan of Blue Ridge Cohousing, Sheet 6 of 7, dated June 25, 2007, last revised October 19, 2007, (hereinafter, the "Application Plan") a private road upgrade of Parkview Drive. The improvements as shown on Sheet 4 of 7 includes an eighteen (18) foot wide paved road and an eight (8) foot wide bike trail adjacent to the road. Construction of all improvements required by this Proffer shall be completed and accepted by the County Engineer prior to the issuance of the first Certificate of Occupancy for new dwellings.

- B. Intersection Improvements to Park View Drive/Route 240. The Owner shall design and construct to Virginia Department of Transportation road standards, an intersection that meets the requirements for road intersections as stated in VDOT's Road Design Manual - Subdivision Street Guide, in the location shown on the Application Plan, Sheet 6 of 7. Construction or installation of all improvements required by this Proffer shall be completed and accepted by VDOT prior to the issuance of the first Certificate of Occupancy for new dwellings.

Signatures of All Owners	Printed Names of All Owners	Date
<u>(Signed) Martin Schulman</u>	<u>Martin Schulman</u>	<u>11/05/2007</u>
<u>(Signed) Barbara S. Schulman</u>	<u>Barbara S. Schulman</u>	<u>05/11/2007</u>

Motion was offered by Mr. Wyant, to approve the private street request for Park View Drive, waivers of Sections 14-410 H regarding curb/gutter requirements for Park View Drive and waivers of Sections 14-422 A & D regarding the planting strip and sidewalk requirements for Park View Drive. Mr. Slutzky **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

Motion was offered by Mr. Wyant, to set the public hearing on a request to amend the jurisdictional areas of the Albemarle County Service Authority to allow water and sewer service on this property for January 9, 2008. Mr. Slutzky **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

Agenda Item No. 16. From the Board: Committee Reports.

Mr. Boyd suggested that information from the VaCo conference be tabled for another meeting when there is more time.

Mr. Rooker distributed some handouts that he received at the conference, including those on urban development areas, impact fees, transportation changes, etc.

Mr. Boyd said that he received a lot of materials about Cool Counties, and handed out some information.

Ms. Thomas commented that the recent VaCo conference was more relevant to Albemarle this year than it has been in previous years.

Mr. Tucker noted that he needed a head count for Charles Martin's Pubic Education Fund event on November 19th.

Mr. Rooker and Mr. Boyd stated that they plan to attend.

Ms. Thomas suggested that someone attend the City Council meeting on November 19th, as the water supply issue would be on the agenda; she noted that flyers about the meeting have included a fair amount of "county-bashing."

Mr. Rooker noted that Tom Frederick would be there, and he is a "voice of reason," as well as Ridge Schuyler. He also said that he would call several Council people beforehand to discuss some of the issues prior to the meeting. He stated that he thinks there will be some calm reasoning coming out of the meeting.

Mr. Tucker said that City Council has requested information from Tom Frederick.

Mr. Rooker stated that he is going to make a motion that the County adopt the Cool Counties resolution at the next meeting. He said that it is not dependent on staff generating a resolution, and it should not take long. Mr. Rooker emphasized that the point of it is essentially to reduce carbon emissions over time.

Ms. Thomas asked about flu shot availability. Mr. Tucker said that there was an email sent, and they have been available at schools and other locations.

Agenda Item No. 17. Adjourn to Tuesday, November 27, 2007, 12:00 noon, Room 235, Joint Meeting with Legislators.

At 10:17 p.m., with no further business to come before the Board at this meeting, **motion** was offered by Mr. Rooker, **seconded** by Mr. Slutzky, to adjourn this meeting until November 27, 2007, 12:00 noon, Room 235, for a joint meeting with Legislators.

Roll was called, and the motion carried by the following recorded vote:

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

Chairman

Approved by the Board of County Supervisors
Date: 07/09/2008
Initials: EWJ