

A meeting of the Board of Supervisors of Albemarle County, Virginia, was held on December 12, 2007 at 2:00 p.m., Room 235, County Office Building, and McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Kenneth Boyd, Mr. Lindsay Dorrier, Mr. Dennis Rooker, Mr. David Slutzky, Ms. Sally Thomas and Mr. David Wyant.

ABSENT: None.

OFFICERS PRESENT: County Executive, Mr. Robert Tucker, County Attorney, Mr. Larry Davis, Mr. Mark Graham, Director of Community Development, Clerk, Ms. Ella Jordan and Senior Deputy Clerk, Ms. Megan Hoy.

OTHER STAFF: Assistant County Executive, Mr. Thomas Foley, Assistant County Executive, Mr. Bryan Elliott, Director of Community Relations, Lee Catlin, and Senior Budget Analyst, Laura Vinzant.

Agenda Item No. 1. Call to Order.

The meeting was called to order at 2:00 p.m. by Board Chairman, Mr. Boyd.

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

Mr. Foley stated that the purpose of this meeting is to get direction from the Board on priorities for the next five years based on a likely financial scenario. He said that this is based on a set of goals and assumptions from the starting point previously set, and today is an effort to make this become the Board's plan. Mr. Foley commented that this is a challenging process. Mr. Foley commented that Ms. Catlin would facilitate the discussion from this point forward.

Ms. Catlin said that the Board has a strategic objective about financing the future. Staff has prepared a balanced five-year financial plan to provide that long-term fiscal direction and to set the framework for the annual budgeting beginning in January. She said that staff has assessed revenues and expenditures and prepared a plan based on future economic realities, and this is the Board's chance to provide direction. Ms. Catlin emphasized that staff would like to review the goals of the plan; review the basic assumptions of the plan; review potential adjustments; and provide direction on strategies to achieve a balance. She noted that the Board has had time from previous sessions to consider these items and this is the opportunity for them to weigh in.

Ms. Catlin said staff wants to create a focused discussion that gets the Board's direction clearly articulated to staff. At the last meeting, the Board had some time for some free flowing discussion on many of these items. This is time for Board members to weigh in decide how it wants to proceed forward.

Ms. Catlin presented a review of goals, noting that staff used these in putting the plan together – funding obligations and commitments; maintaining core services; maintaining competitive compensation; maintaining commitment to core public safety improvements; maintaining commitment to capital programs; maintaining a strong financial standing; and maintaining allocation of 60 percent of the increase in local tax revenues going to the schools.

Ms. Catlin solicited input from Board members. She asked if there was something important to Board members that needed to be included in the Five Year Plan.

Mr. Rooker said that what is presented articulates "high-level goals" that should be followed in the financial plan, and it may be that the Board determines today what is most strongly emphasized over the next five years.

Ms. Thomas commented that the definition of "core" services may not always be agreed upon by Board members, and she would probably stretch that term a bit more.

Ms. Catlin responded that core may be defined as they go through the assumptions.

Mr. Boyd stated that he wants some attention to debt service, adding that the schools essentially have no consequences as to what they do because the County picks up the tab. He also added that population figures need to be considered as funding is increased in certain areas.

Mr. Dorrier emphasized that some prior commitments need to be reviewed, and it needs to be determined whether some of them are still relevant. He also said that if there isn't sufficient funding to maintain capital programs, it may affect the County's strong financial standing.

Mr. Slutzky said that it is "the take on the goals" that ultimately will determine where the budget grows and shrinks, and the issue of infrastructure is important as some constituents feel that the County is falling behind in keeping up with that. He added that he would like to see a strategy as to how to catch up with that, such as going into the capital debt market through referendum.

Mr. Wyant agreed with Ms. Thomas that agreement on what core services are is fundamental.

Mr. Rooker said that the capital improvements the County is committed to doing are embodied in the Capital Improvement Plan, and every time that is adopted there is an opportunity to make changes

related to omission and inclusion. He added that debt can be financed without referendum as there are other options.

Mr. Slutzky responded that this plan includes a reduction of the two cent commitment to capital and more attention should be paid to the capital program, agreeing that there are other options for financing the debt.

Ms. Catlin indicated that there seems to be general agreement that the goals listed are acceptable for the five-year financial plan, and the next step is to review the assumptions in the plan. She noted that many of the decisions in the plan are based on previous policy, direction, votes, etc. that the Board has already determined and they are incorporated into the plan. Ms. Catlin said that staff would like to review these assumptions prior to discussion adjustments. She stated that funding obligations and commitments include a two percent annual increase in department operating costs; four percent annual increase to agencies; funding for merit and reclassification; core public safety improvements which include four new police officers per year, 12 firefighters for both Pantops and East Ivy; funding operating impacts for capital projects; and allocating 60 percent of the increase in new local tax revenues to schools. Ms. Catlin noted that the Board has already supported these obligations, but now they need to be weighed against other demands.

Mr. Rooker mentioned that not every Board member supported all of those items.

Mr. Boyd asked why there was a two percent increase in salaries and four percent for agencies.

Ms. Catlin and Ms. Vinzant replied that the two percent is just the operational fees of the departments, not including salaries.

Ms. Catlin reported that because of the revenue realities, staff had to make some adjustments that are different from the Board's previous direction – which could impact strategic goals and priorities. She commented that there are 16 positions frozen for all five years of the plan, and staff feels they can do an acceptable job of delivering core services with those positions frozen, and over time that would be evaluated. Ms. Catlin confirmed that these were frozen randomly, and some became that way through attrition. She noted that if there is a position that the Board feels is critical, they should let staff know that.

Ms. Catlin said that there are no new initiatives beyond current assumptions except for the core public safety improvements.

Mr. Rooker noted that this model assumes adding 44 people in public safety are more important than adding people in other places. Ms. Catlin said Board members will have an opportunity to weigh in on that assumption.

Ms. Catlin reported that this model includes a 3.35 percent market increase for staff for the first two years of the plan, which is different from the 4.35 percent market strategy as other localities are also backing down from this commitment.

Mr. Boyd asked if the County would still go through the regular market process.

Mr. Tucker replied that Human Resources has contacted almost all comparable localities, and has determined that most are reducing their commitment.

Mr. Slutzky asked what the assumption was for years three through five.

Ms. Catlin responded that it would be back up to 4.35 percent. She explained that the Board had a discussion on the CIP last week, and that was balanced and met all financial policies within the reduced transfer amount. Ms. Catlin noted that the two-cent decrease comes off the top. She also noted that the plan includes a rate increase for the year three – up to 69 cents.

Mr. Slutzky commented that one of the problems with that assumption is that it is fairly “heavy-handed” for staff to include just that rate.

Mr. Tucker said that staff had to base this on a set of assumptions. Ms. Catlin added that this is the opportunity for the Board to weigh in on that.

Mr. Slutzky said that it would be helpful to have an indication of what one penny would purchase.

Mr. Rooker said that each penny is about \$1.8 million.

Ms. Catlin emphasized that the annual budget process allows for that level of detail, but today's exercise is about priority-setting for five years. She asked the Board to engage in an exercise to clarify what the Board views as items to include or not.

Ms. Thomas asked for clarification on the unfilled positions in Community Development, finding out that there are two positions.

Ms. Catlin pointed out that department managers are working closely with HR so that they have some ability to address those needs, but if the Board feels that positions are critical then they should weigh in on that.

Mr. Rooker commented that that seems like micro-managing, and he looks to staff to make those decisions.

Ms. Catlin mentioned that staff feels it is possible to maintain core services with the positions frozen, but not necessarily take on any new initiatives. She said that if these adjustments feel generally acceptable to the Board, then they should leave them as they are; however if they cannot support a five-year financial plan because of one or more assumptions then that should be noted.

Mr. Boyd said that the frozen positions would be "fairly fluid" and responsive to needs as they arise. He asked if staff looked back to see how attrition might affect these figures.

Mr. Tucker said that this is just over the first four months.

Mr. Foley emphasized that the focus here should be on core services.

Mr. Slutzky pointed out that the Board has made some commitment to increasing expenditures on transit, and asked if this would fall under new initiatives.

Ms. Catlin responded that staff would want clarification on what that would entail.

Using staff's visual/sticker method, Board members made their initial suggestions about what should stay and what should be removed or further discussed.

Ms. Thomas commented that staff effectiveness is being "damaged" by freezing positions, and it is affecting staff morale.

Mr. Slutzky said that he strongly objects to some positions being frozen for five years.

Ms. Catlin responded that for planning purposes, staff should not readjust that given current realities. She determined that four people on the Board do not feel that saying "no new initiatives will be funded for five years" is acceptable.

Mr. Slutzky emphasized that it does not have to be all or none, that some positions could be filled and some could be frozen.

Mr. Rooker added that this could be changed in any given year.

Mr. Slutzky noted that the underlying assumptions may change.

Mr. Boyd said that this is simply for planning purposes, and in the private sector you have to "face up to tough times" as you cannot just create money out of nowhere.

Ms. Catlin asked if there were other specifics the Board would want staff to look at in terms of new initiatives, other than transit.

Mr. Slutzky responded that affordable housing should be added to that.

Mr. Rooker replied that environmental initiatives should also be considered.

Mr. Dorrier said that sidewalks and walking trails in the CIP should also be considered.

Ms. Thomas commented that she does not think the public would want to freeze new initiatives for five years.

Mr. Boyd agreed, but added that something else would likely need to be given up then.

Ms. Catlin stated that there need to be ways to enhance revenue, and staff needs direction as to how to achieve that.

Mr. Rooker indicated that he would not be comfortable freezing all other positions yet adding 44 public safety positions, as that "ties management's hands." He added that he has never supported the Pantops fire station as he believes it can be adequately covered from other stations.

Ms. Catlin asked the Board for their opinion on the top three items that need to be revisited.

Ms. Thomas responded that revenue enhancement does not necessarily need to mean a tax increase.

Mr. Foley mentioned that it is important for the Board to determine their priorities to move this forward, noting that 12 people is the minimum number of firefighters needed for Pantops.

Mr. Slutzky commented that this is disproportionate, as it emphasizes cuts in expenditures over revenue enhancements.

Ms. Catlin noted that there are three Board members who want to consider revenue enhancements, four who want to look at core public safety improvements. She asked the Board for more specific direction, and said that those items have the most clustered support from the Board.

Mr. Boyd pointed out that there have been entirely volunteer fire stations, and he is hoping that only half of the firefighters would need to be paid and the rest would be volunteers.

Mr. Rooker added that he does not think the Pantops fire station is needed, but the East Ivy station is because there is inadequate coverage there now. He agreed that there should not be an assumption that all firefighters should be paid, adding that when the Board discussed the timing of arriving on the scene it was determined that the response time from the City station was actually longer than the response from East Rivanna.

Ms. Thomas commented that a station planned to be run by all paid staff may be designed differently than one intended to be run also by volunteers, so "it may not be quite the dollar savings that we would picture." She added that she would like to know the impact of the two police officers added.

Mr. Rooker noted that one of those is an administrative position.

Mr. Wyant said that he also questions the need for the Pantops station.

Ms. Catlin said that she is hearing that four Board members are supporting the station, but there are several who do not want it fully staffed by paid firefighters.

Mr. Foley noted that it seems this item should be considered and discussed more thoroughly based on this discussion.

Ms. Catlin reiterated that the Board does not want to see a freeze on all 16 positions for five years, and they also want to invest in initiatives that include transit, affordable housing, and environmental improvements. She said that they have directed the staff to get the plan back into balance by looking at revenue enhancements – not necessarily tax increases – and core public safety improvements.

Mr. Foley emphasized that there does need to be a balanced plan, and staff would come back with more information so the Board can move forward.

In response to Mr. Rooker's comment about three Board members not supporting the Pantops station, Mr. Foley indicated that the item is already in the adopted CIP. Mr. Rooker emphasized that the Board has not allocated any money for it yet. Mr. Foley said that the point is, the Board will have an opportunity for more in-depth discussion on these items.

Board members agreed that the fire stations need to be an agenda item.

Mr. Rooker stated that these items have a "million dollar a year or more impact," with additional operational impacts.

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**NonAgenda.** At 3:25 p.m., the Board took a recess. The Board reconvened at 3:30 p.m.

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Agenda Item No. 3. Code of Governance.

Mr. Mike Chandler, Director of Education, Citizen's Planning Education Association of Virginia, Professor Emeritus, Virginia Tech, addressed the Board, stating that communicating meeting information is an important component of effective governance. He reported that he would share the results of the survey that Board members completed. Mr. Chandler explained that between 2000 and 2006, there has been a 44 percent increase in the number of hours that the Board of Supervisors has engaged in meetings. He said that in the last year where there has been full-calendar information, there has been an 80-hour increase – from 117 hours to 195. That translates into two work weeks in a calendar year. Mr. Chandler commented that that is a 67 percent increase from 2003 to 2006.

He reported that there were 37 meeting days in 2000, lasting an average of 3.6 hours. In 2003, he said, there were 31 meeting days lasting an average of 3.8 hours. Mr. Chandler said that in 2006 the average length of meetings increased to six hours; he also noted a 100 percent increase in Board work sessions from 2003 to 2006 – from 10 sessions to 19 sessions.

Mr. Slutzky said that six hours does not seem as long as they are.

Mr. Chandler responded that this is an average and includes all meetings, but does not include 2007 figures.

Mr. Rooker noted that there were several meetings that had extensive public input.

Mr. Chandler reported that from a survey of other localities in Virginia, staff has been able to ascertain that nine of them prepare "action minutes," 41 prepare "summary minutes," 13 prepare "near verbatim," and 15 of the 63 have podcasts.

Mr. Boyd asked if the podcast could serve as the legal record of the meetings.

Mr. Davis replied that the minutes must capture who is there, what votes have been taken at the meeting, recordation of votes and the time of adjournment.

Mr. Boyd said that the podcast could satisfy the public's need.

Mr. Chandler explained that with the 13 jurisdictions that have near verbatim, it is a function of tradition and charter – such as Hampton, Roanoke, Falls Church, Loudon, etc.

Ms. Thomas commented that the Board's minutes would count as near verbatim.

Mr. Chandler said that the Board could consider going to summary minutes. He then presented the results of a survey distributed to the Board regarding the meeting reporting process. Mr. Chandler noted that the first aggregate assessment results scored "above average," but the responses to questions 8-13 scored "average," and 15-19 scored lower. He said that one Board member indicated they "always" had adequate time to prepare for meetings, two responded "usually," one responded "sometimes," and two responded "rarely."

Mr. Rooker said that he accidentally responded "rarely."

Regarding Board participation during meetings, Mr. Chandler stated that all six indicated that they felt their contributions were positive; several felt that the totality of contributions was usually positive with some saying it was positive sometimes. He said that openness to listening to all points of view was a strong attribute of this Board; three Board members indicated that they "always" explore and study issues before offering a solution; two said "usually" and one said "rarely." Mr. Chandler noted that four Board members said they "sometimes" feel a sense of accomplishment after meetings; two indicated they "always" feel that way. He also reported that three Board members feel the meetings stay on track, one said rarely and two said never.

Mr. Rooker commented that there is no Board member who would say that they do not deal with the action items placed before them. How the Board acted on an item is clear. He added that items that are discussed that staff seeks guidance on often end without resolution.

Mr. Dorrier noted that it is very helpful to have the summary of the issues presented prior to discussion.

Mr. Chandler said that there has been a movement toward more elaboration in the responsibilities of the Chair and Vice-Chair of the Board and other bodies such as the Planning Commission. It is an affirmation of what is already being practiced on the part of a responsible elected official. He added that there is nothing wrong with including position details in the rules and procedures though.

Mr. Chandler emphasized that if the Board is comfortable with the process that leads to the outcome, then they also need to be aware of the impact that process has on staff. He mentioned the time-lag on turnaround of minutes, adding that verbatim minutes take a long time to prepare.

Mr. Rooker commented that is true especially when the meetings are six hours.

Ms. Thomas stated that it is important to focus on how the Board appears to the public, and she said that after a recent long meeting she felt the public left with the impression that the Board had not listened to them at all. Staff and their own workloads are one thing, but how they (the Board) actually do interact is a different thing.

Mr. Rooker noted that public opinion often aligns with whether or not a decision went their way.

Regarding matters from the public not listed on the agenda, Mr. Rooker suggested including a "disclaimer" that says "due to agenda time constraints, the Board does not generally respond at the meeting to matters brought up from the public..." He also suggested adding language that some of the best ideas do come from the public and could effectively become agenda items.

Mr. Chandler said that if the Board is going to rely on podcasts, the listening public may not be aware of who is speaking unless the Chair says "Ms. Thomas, etc...." He commented that under that scenario you must practice greater discipline as the meeting proceeds, emphasizing the importance of conveying professionalism. Mr. Chandler noted that some governing bodies make sure to draw in each Board member into the conversation.

Mr. Slutzky responded that sometimes you do not want to interrupt the flow of discourse, and leaving that up to the Chair has worked well; he added that he would like to leave that the way it is.

Mr. Rooker added that he does not want to eliminate the give and take between Board members.

Mr. Slutzky said that the people listening to podcasts often know who the speakers are.

Mr. Rooker suggested that there be a survey online to ask people if they have difficulty identifying who they are.

Mr. Chandler reported that the Board survey shows that members feel there is difficulty staying on schedule, citing the workload and the length of the discussion as reasons. He said that several Board members suggested having an extra meeting per month, and a few said that having the packets arrive on a Friday for a Wednesday meeting was "a bit challenging." Mr. Chandler noted that Board members agreed that adding a third meeting or work session would help the process.

Ms. Thomas expressed concern that proffers cannot be changed once the public hearing starts, and the Planning Commission has added work sessions because of this.

Mr. Rooker said that increasing the number of meetings would create a situation of dealing with the problem by adding to the problem.

Mr. Chandler commented that they are quickly bumping up against certain realities as it relates to the amount of time Board and staff have.

Mr. Rooker responded that everything comes back to specifics, and oftentimes the matters from the public that are heard before the meeting involve several individuals making the same type of comments on a specific issue. He added that sometimes several significant items are crammed onto one agenda, even though each one is likely to be lengthy.

Mr. Chandler reviewed some suggestions for improvements offered by one or more Board members – elaborating on duties of Chair and Vice-Chair; recognizing speakers before they commence; listing duties of Board membership in rules; noting in rules that all speakers must be recognized by Chair; giving VLS numbers before speaking; modifying the agenda so that other matters are scheduled later than earlier, or splitting it between the beginning and end of meeting; limiting discussion to five minutes per topic unless a majority of the Board votes to increase discussion time; and maintain podcasts but consider summary minutes.

Ms. Jordan confirmed that she does summary minutes during the meeting, but the near-verbatim minutes are outsourced.

Ms. Thomas commented that the Board used to get a summary of actions/votes.

Mr. Rooker added that that summary also included who voted for what. He said that he would be in favor of going to summary minutes with the podcast.

Ms. Thomas noted that the podcast has room for improvement.

Mr. Slutzky said that he strongly disagreed with having summary minutes, as having the written minutes is helpful to him when he makes decisions.

Mr. Davis stated that the Board tends to follow Robert's Rules of Order for small boards, except that the Chair does not make motions and seconds are required.

Several Board members indicated that most of their time does not go to allowing public speakers, but more for discussion among themselves.

Mr. Slutzky mentioned that counties like Fairfax have staff to support the Board, and Albemarle is not at that level but could possibly tap into the University of Virginia's intern program.

Mr. Chandler noted that that was one of the written comments he received from the Board survey.

Mr. Dorrier asked what the most effective counties around the State have been doing.

Mr. Chandler replied that effectiveness can mean different things, but in terms of Boards that work well those tend to be ones that are organized, follow structure in conducting business, are rigorous about holding themselves accountable, and aligning their decisions with a strategic vision. He commented that Albemarle is one of the leading jurisdictions in terms of doing things well, addressing needs, pushing the envelope relative to service and commitment to delivery.

Mr. Rooker said that all of the solutions tend to end up with more meeting time. This is especially frustrating as it relates to proffers since changes cannot be made after the public hearing, even when those changes are in response to comments.

Ms. Thomas suggested that, for rezonings, the Chair hold a public comment time; let the applicant speak for ten minutes and members of the public speak for three minutes, and then hold the public hearing.

Mr. Davis replied that the proffer signators are often not present.

Mr. Chandler then reviewed the Board's suggestions. He suggested listing specific duties and responsibilities of Chair, Vice-Chair and Board membership for consideration and incorporation into Board by-laws.

Mr. Rooker mentioned having something written out that explains to the public that the Board does not generally respond to matters brought from the public that are not on the agenda, adding that

there should be assurance given that items may end up on a later agenda. He also said that he would be in favor of having a third meeting based upon the workload.

Mr. Boyd suggested defining Board rules as Small Board Rules.

Ms. Thomas said she does not want the Chairman to be able to make motions. If there is not another Board member supportive of the item to make the motion, she does not think the Chairman should be able to single-handedly bring something forward.

Mr. Slutzky commented that the item would not come forward if it did not have a second.

Board members indicated that they were in favor of keeping a second to the motion. They then indicated that they were supportive of the Chair making a motion so long as they continue to require the second.

With regard to having a third meeting, Ms. Thomas asked that that not be started for six months so that Board members schedules can be adjusted.

Mr. Chandler asked about moving away from doing verbatim minutes to summary minutes.

Mr. Slutzky said he strongly objects to doing summary minutes and before anything is changed, he would like to have public input.

Mr. Rooker said it would be helpful to know how often members of the public want to look at verbatim minutes.

Ms. Thomas said she would like to see some sample summary minutes. She added that, from her experience, it is harder to create summary minutes than verbatim minutes, requiring greater skill. Mr. Wyant agreed.

Mr. Slutzky added that it also opens the door to inherent bias. He also expressed concern about having the Board Chair interrupt the flow of conversation by identifying the speaker.

Mr. Boyd asked about the earlier suggestion of the Chairman recognizing individuals before they speak.

Mr. Slutzky said he likes the way it is done now.

Ms. Thomas said she likes the informal process, but encourage Board members to keep in mind that they are podcasting and the public does not always know who is speaking.

Mr. Slutzky said he does not understand the true benefit of having these "shackles"; it is an inherent constraint. They have effective dialogues. The question is whether the way the Board have dialogue is a problem. He is skeptical of any reason to make this change.

Mr. Chandler said that sometimes there is conversation between two Board members with little involvement from others. Mr. Slutzky said he still has no problem with that. Mr. Chandler said it would allow the Chairman to recognize other Board members who have not entered into the conversation.

Mr. Rooker said there is a difference in restraint and recognition for the purpose of the record. He supports the recognition, not the Chairman saying "we've heard from you, let someone else speak". That restrains debate.

There was no further discussion on this matter.

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Agenda Item No. 4. Closed Session. At 5:28 p.m., **motion** was offered by Mr. Rooker that the Board adjourn into closed session pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (8) to consult with legal counsel and staff regarding probable litigation and specific matters requiring legal advice relating to an easement; and under Subsection (7) to consult with legal counsel and staff regarding probable litigation relating to a public safety incident.

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

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

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Agenda Item No. 5. Call to Order. The meeting was called to order at 6:09 p.m. by the Chairman, Mr. Boyd.

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Agenda Item No. 6. Pledge of Allegiance.  
Agenda Item No. 7. Moment of Silence.

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Agenda Item No. 5a. Certify Closed Session.

At 6:10 p.m., **motion** was 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.

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

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

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**NonAgenda.**

**Motion** was offered by Ms. Thomas, to reappoint Alan Collier, Rivanna District representative; David Cooke, Jack Jouett District representative; Rosa Hudson, Scottsville District representative; C. Marshall Thompson, Rio District representative; and Alice Nye Fitch, Samuel Miller District representative, to the Equalization Board, with said terms to expire December 31, 2008.

Mr. Rooker **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

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

Ms. Thomas reported that the Governor had issued a letter asking localities to take various steps to address drought impact, such as encouraging all citizens, including those on private wells to practice water conservation and eliminating non-essential uses. She suggested communicating that to the public. She commented that it the well users who eventually restrict the amount of groundwater which is what replenishes streams in between rainfalls.

Mr. Rooker responded that the County can publicize those measures, but cannot make it binding unless the Governor declares a State of Emergency. He suggested the Board may want to adopt a resolution requesting voluntary compliance, by well users, with a similar set of guidelines established with public water users.

Ms. Thomas suggested staff bring back some wording for a resolution. Board members concurred.

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Mr. Dorrier **moved** to issue a resolution commending the Monticello High School football team for winning the State Championship. This is the first time a team from this region has won the State Championship. Mr. Dorrier suggesting that the Board congratulates the members of the football team, Coach, Brud Bicknell, Principal, Billy Haun, and staff.

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

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

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Mr. Boyd asked if there should be more follow-up on the payday loan situation, whereas the Board has already issued a letter to Legislators expressing concern about the practice and supporting legislation against it. He asked if there was Board consensus to adopt a resolution.

Mr. Slutzky agreed this is a bad practice and should be discouraged, and he noted that a resolution may motivate other individuals within the community to write their representatives in the General Assembly.

Ms. Thomas said the words in the resolution would be the same as those in the prior letter and would be redundant.

Mr. Rooker said that he has no objection to being redundant if it makes the point stronger.

Mr. Dorrier and Mr. Wyant said they would support a resolution.

**Motion** was then offered by Mr. Slutzky to adopt the following resolution in opposition to the practice of Payday Loan Lending. Mr. Rooker **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

**RESOLUTION  
OF THE BOARD OF SUPERVISORS, ALBEMARLE COUNTY, VIRGINIA  
TO REQUEST THAT THE GENERAL ASSEMBLY AND GOVERNOR OF VIRGINIA TAKE ACTION TO  
PREVENT EXPLOITATIVE PAYDAY LENDING PRACTICES IN THE COMMONWEALTH**

**WHEREAS,** the Board of Supervisors of Albemarle County, Virginia, represents the citizens of the County of Albemarle, Virginia; and

**WHEREAS,** the Board of Supervisors of Albemarle County, Virginia, senses from the citizens of the County of Albemarle significant concern over what are perceived to be some exploitative payday lending practices in the County of Albemarle and elsewhere in the Commonwealth, including practices which may exploit dedicated, brave women and men who are called for deployment as part of the armed forces of our Nation both in the United States and various parts of the world in the cause of freedom and security of our Nation; and

**WHEREAS,** the Board of Supervisors of Albemarle County, Virginia, shares these same significant concerns and wishes to express the collective sentiments of the people of the County of Albemarle, Virginia, that the General Assembly and Governor of Virginia, ought to take action to prevent further exploitative payday lending practices; and

**WHEREAS,** it is vital that the General Assembly and the Governor of Virginia give their earnest attention to these matters at the next regular session of the General Assembly and enact laws that will prevent further exploitative payday lending practices.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of Albemarle, Virginia, that the General Assembly and the Governor of the Commonwealth of Virginia are requested to take action in connection with the next regular session of the General Assembly of Virginia to enact laws that will prevent further exploitative payday lending practices, including but not limited to:

1. Enactment of an annual interest rate cap of 36% for any consumer loans made in the Commonwealth of Virginia;
2. Prohibition of the use of a personal check or other method by a creditor to gain access to a consumer's bank account or method to gain title to a consumer's motor vehicle as collateral for a payday loan; and
3. Enactment of supplementary and complementary provisions which mirror the provisions of what is commonly referred to as the Talent-Nelson Amendment (Senate Amendment 4331), entitled "Terms of Consumer Credit Extended To Service Member's Dependent" and referenced on page S6352 of the June 22, 2006 Congressional Record—Senate, a copy of which is annexed to and incorporated by reference in this Resolution.

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

Ms. Veronica Wilson, of IMPACT, addressed the Board, stating that there is a "serious problem" with inadequate housing availability for families in the County that make under 30 percent AMI in the County. She explained that she grew up in Ivy with a good family and moved away in 1984 after graduating from Western Albemarle High School, and moved back in 1990 to find that housing costs had climbed very high. Ms. Wilson said that she was a single parent and found it impossible to find affordable housing, and shared her story. On behalf of IMPACT, she asked that the Board include monies in next year's budget to begin to meet the housing need.

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Mr. Peter Perdue, a MACAA Board member, addressed the Board, commending them on passing the payday loan resolution. He stated that the six localities in the Thomas Jefferson Planning District are 100 percent unified in taking action against the loans. He relayed a story of the slush funds offered to Navy men when he was in the service, and noted the similarities and the difficulty paying those loans back.

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Mr. Harvey Wilcox addressed the Board, stating that he attended the November 7<sup>th</sup> meeting to encourage the Board to correct a serious lapse in enforcement of a conservation easement located on Turner Mountain in Ivy. He said that they took their concern to the Public Recreational Facilities Authority (PRFA), who unanimously agreed that the County's position permitting a pair of residences on this easement was grossly in error, but the PRFA had no legal staff or budget and the County did not provide enforcement services in their actions. He urged the Board to take up this action and provide the necessary funding to the PRFA. The Board's action on this matter will set a precedent for grantors of conservation easements throughout the County.

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Ms. Valerie Long addressed the Board, stating that her firm represents the landowners in that case (Turner Mountain) – Mr. and Mrs. John Harris. She understands that the Board may consider taking up this issue sometime in the future, and she asked that they be notified of that hearing so that they have an opportunity to participate in the discussions.

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Agenda Item No. 10. Consent Agenda. Mr. Rooker **moved** for approval of the Consent Agenda. Mr. Wyant **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

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Item No. 10.1 Approval of Minutes: March 12(A), March 14(A), March 19(A), June 6 and July 11, 2007.

Ms. Thomas had read the minutes of March 12(A) and March 14(A), 2007, and found them to be in order.

Mr. Dorrier had read the minutes of March 19(A), 2007 and June 6, 2007 (pages 1-31[ending at Item #8a]) and found them to be in order.

Mr. Boyd had read the minutes of June 6, 2007 (pages 31[beginning at Item #8a]) and found them to be in order.

Mr. Wyant had read the minutes of July 11, 2007 (pages 1-32[ending at Item #16]) and found them to be in order.

**By the above recorded vote, the Board approved the minutes as read.**

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Agenda Item No. 11. **Public Hearing: PROJECT: SP-2007-0034. First Church of the Nazarene – Church.**

PROPOSAL: Church with seating for 374 persons, on a 7.32-acre portion of a 865.167-acre parcel.

LOCATION: North side of intersection of Richmond Rd (US 250) and Louisa Rd (Rt 22), south of Interstate 64.

MAGISTERIAL DISTRICT: Rivanna.

**(Deferred from November 7, 2007)**

Mr. Cilimberg reported that this request was for a church to seat up to 374 people. The Board originally received the request on November 7<sup>th</sup>. The request for use of a portion of 860 acres on the south side of I-64; which divides the parcel and borders Route 250 and Route 22. He noted that about seven acres is on the south side of the interstate, and the area is adjacent to a number of existing uses that are non rural-area type uses – a GOCO oil facility, the Albemarle Bank building, the Shadwell Store, the Luck Stone quarry, and Stone Robinson School. Mr. Cilimberg mentioned that the Board's concerns were that the building size was out of scale for the rural areas and the project's relationship to the Southwest Mountains Rural Historic District.

He explained that since that hearing, the applicant has downsized the building from 18,800 square feet to a little under 14,500 square feet – which involved taking some of the building from the I-64 side. Mr. Cilimberg acknowledged that there is the Southern Albemarle Rural Historic District close to the west of this site, and there are conservation easements to the northeast and west of this site as well. In its location, he said, the uses were very different from that, and staff viewed the adjacent uses mentioned as defining the character of the area versus the historic district to the north side of I-64. He said that if the church had been proposed for further up Route 22, it would have been viewed as having more impact on the historic district.

Mr. Cilimberg stated that the applicant has revised the plan with a new date of November 20<sup>th</sup>, and has included a five-year timeframe in which the use is to be commenced. In addition, he said, there is a new lighting condition added to the recommended conditions – “a lighting plan reasonably limiting the amount of adverse outdoor light pollution shall be submitted to the Zoning Administrator for approval as a condition of preliminary site plan approval.”

Mr. Davis said that that condition would be in addition to the requirement of the Zoning Ordinance for full cutoff lighting.

Mr. Rooker and Ms. Thomas noted that that is the standard for churches in the rural area.

The Chairman asked the applicant for comments.

Mr. Bill Willis, Pastor of the Church of the Nazarene, addressed the Board and noted that Valerie Long is representing the church.

Ms. Long explained that the church needs this expansion to support the needs of their congregation, the needs of the community, and their outreach and ministry issues. She said that after searching for five years, they found this property and are confident that this location will serve their needs very well. Ms. Long stated that they need space for a sanctuary, Sunday school classrooms, a nursery for childcare, a small conference room, fellowship space and a kitchen. She noted that the church has been careful and cost-efficient in their planning for the new facility, and the size of the church footprint has been reduced to 14,800 square feet – about 4,000 less than what was originally proposed. Ms. Long reported that the church has about 200 congregation members, with 160 participating regularly, and anticipates modest growth. She noted that the sanctuary will seat 374 people, and the size will allow that space to double as a basketball court and a fellowship hall for meetings.

Ms. Long indicated that the parking will be relegated to the rear of the building, except for one row to provide access for handicapped and elderly members. She commented that VDOT has selected this particular location on the property to secure safe access. Ms. Long reported that the water has been tested and confirmed to have “no hazardous conditions.” She added that the ARB would have jurisdiction over this at the building permit stage, and conceptual designs are available. Ms. Long said that they have spent time on the site and determined that it would not be highly visible from the Southwest Mountains Historic District because of its modest height, design colors, and the surrounding vegetation. She emphasized that churches are an important part of the rural community.

The Chairman then opened the public hearing.

Ms. Brenda Hill addressed the Board, stating that she has had four generations in her family worshipping in the church, and she feels it would only be an asset to the area.

Ms. Jeri Lee Chafin addressed the Board, encouraging members to drive this road around the corner, as the entrance is tricky. She also expressed concern about water usage on this parcel.

Mr. Brian Young addressed the Board, stating that he has been involved with the process for seven years, and encouraged them to support the members of the church by granting the request.

Ms. Jamie Townsend addressed the Board, stating that she has been a member of the church since 1980, and serves as treasurer of the church. She, also, has served as pianist. She said that the previous church building was not adequate and they have been housed at Covenant School. They are currently renting space and need a new home,

Mr. Jeff Werner addressed the Board on behalf of the Piedmont Environmental Council, noting that the site is beside the Southern Albemarle Historic District as well as the Southwest Mountains Historic District. He stated that the PEC has not and will not oppose a church at this site, but has concerns about the scale of the proposed structure and the traffic impact if the church is granted approval for a daycare facility. They are also concerned that the architectural elements are not consistent with the character of other older churches and structures within the district. They understand that the applicant has withdrawn the request for a daycare facility, however, it has to be expected that with approval of this special permit, the next step will be to resubmit the daycare proposal. If that is an accurate assessment of the situation, it should be discussed at this meeting. He urged the Board to adequately address the concerns that have been expressed prior to any approval. He added that it might be within the County's interest to seek solutions which keep churches within the growth area and near the residents that benefit from their work and missions.

Mr. Jim Balheim addressed the Board, stating that he lives in Keswick down the road from this site. He said that in this situation, the County seems to be searching for a compelling reason not to do this project. He emphasized that there will always be different uses on this site than what is on the surrounding parcel. Mr. Balheim noted that the landowner was compensated generously when I-64 was put in. He asked that the project be scaled back. He is not against the church; it is simply too big. It changes this from what rural character it has to a suburban character. Mr. Balheim mentioned that no other churches in the area are this big, and it will take 20+ years for the landscaping to serve as screening. He also expressed concern about the twisting road and adding another entrance, suggesting that perhaps the Edgehill Farm entrance could be used.

Mr. Ed Bain spoke to the Board on behalf of property owners in the Southwest Mountains Historic District, emphasizing that they are not against the church, but are opposed to this type of land use on the site. He said that the County has spent lots of time working on appropriate uses in the rural areas, and this seems to defeat that. This issue is about protecting the rural areas. Mr. Bain encouraged a substantial reduction in the scope of the project.

Ms. Barbara Wells addressed the Board, stating that she wants to grow the children's ministry at the church, and hopes that the building will attract new families.

Mr. Scott Wiley addressed the Board, stating that the church is a “tool,” not just a building, and they have designed the building so that they can use the worship hall for a sports court. He noted that they are emphasizing youth activities, and many of these children do not have parents attending the church. Mr. Wiley encouraged them to take into account the footprint the church activities would have on the community.

Ms. Pat Napoleon addressed the Board, expressing her concern over the design and size of the building as well as the parking lot. She noted that this area is a direct link between Monticello and

Montpelier, adding that DEQ has flagged the surrounding area for many underground storage leaks. Ms. Napoleon suggested that this is primarily a Charlottesville congregation, and perhaps the City could do more to accommodate the church. She emphasized that Route 22 is very dangerous.

Mr. Pete Hallock addressed the Board, stating that he has grown up in this area and worked hard to put his land into easement. He asked the Board to be careful in what it does to the area. He encouraged the Board to step back and consider the definition of a rural church. He added that Grace Church has to have a policeman directing traffic when they have an Easter egg hunt.

Ms. Andrea Hallock addressed the Board, noting that her family's farm is just a few entrances down from Edgehill. She said that to preserve the rural character of the Southwest Mountain Historic District and designated scenic byway of Route 22 is "dear to all their hearts," but her primary concern is the safety factor affecting all motorists. Ms. Hallock said that when her eldest child went to the middle school, they were told that the road was unsafe for busses to stop, and that was before 18-wheelers were allowed on Route 22.

Mr. Greg Graham of Edgehill Farm addressed the Board, stating that a lot of this traffic will be early Sunday morning and VDOT has worked to accommodate ingress and egress of this traffic. People have suggested that this be put at the main entrance to Edgehill, but that entrance is dangerous. A neighbor mentioned that they were compensated by VDOT for entrance to Edgehill, but that was in the 1950s and the compensation was not realistic. They paid to put in the entrance. Mr. Graham mentioned that the traffic light being proposed by Luck Stone will change the traffic pattern and help slow down traffic in the area. They believe the church will be an asset to the community. Originally there was a church at the main entrance that was removed when I-64 was built. They see this church as going back to the original ideas of the community. He asked for the Board's approval.

Mr. Herb Mason, a member of the church congregation, addressed the Board. The church has heard the concerns raised by the neighbors and they do take those concerns seriously. They have worked hard to address all the concerns. He encouraged the Board members to take a step to add something positive to the community.

Ms. Long readdressed the Board, stating that there is a significant road improvement project planned for this area. Luck Stone is planning on relocating their entrance across from Shadwell Store. She said that the cost is being shared and will include a light in front of the store that will significantly change the traffic patterns. As a result of these improvements VDOT has said that a left-turn lane would not be advisable or necessary right in front of the church. Ms. Long acknowledged that the size of the church is a significant concern, but the Board has approved several large churches in the rural area – such as First Christian Church – just over a mile away from this site and nearly the same size. She emphasized that they have tried to keep the church as small as possible but still address the basic needs of their ministry. Ms. Long said that this property would not have an adverse impact on the other properties in the Southwest Mountains Historic District, adding that the ARB will address the appearance and design elements of the church in their review.

Mr. Cilimberg said that VDOT made a recommendation for a right-turn lane into the site based on use patterns, and they did not feel a left-turn lane was appropriate because of improvements being made along the road. He pointed out that VDOT did not see that there would be value in a left-turn lane into the church site but did recommend the right turn. Mr. Cilimberg added that the applicant would not pursue the daycare at this point.

Mr. Wyant asked about percentages of traffic generated onto Route 22. Mr. Cilimberg responded that he did not have that figure.

Mr. Dorrier asked about the location of the other church mentioned. Mr. Cilimberg indicated the church is located to the east on Route 250.

Ms. Thomas noted that that church is in a completely wooded area and has a much different visual impact, opposite the Glenmore entrance. She asked about water testing on the site. She asked if the Health Department requires a quantity of water as opposed to the quality of water when he approves a well permit. Mr. Cilimberg replied that the Health Department tests for flow over a particular time. He does not think they will require elaborate testing and information on well production, and any kind of relationship to wells in other parts of the area. Ms. Thomas asked if this proposed well is close enough to the contamination plume that it has to meet well requirements that are within a certain number of feet of the plume. Mr. Cilimberg said the contamination cases were closed.

Mr. Graham explained that it is within the perimeter of the GOCO site. He added that the test is done before a building permit is issued and is regulated by DEQ not the County. The test does not measure long term impacts. He said that the applicant would have to demonstrate an adequate capacity before a building permit is issued.

Mr. Rooker stated that the County must abide by the Religious Land Use Act, a federal act binding on localities, which stipulates that there must be "a compelling governmental interest" if action is taken to limit religious activity; and if you are taking action it must be the "least restrictive measure." He pointed out that in previous Board discussions, members had concerns about the scale of the building, and the applicant has reduced the size by approximately 25 percent and significantly changed the aesthetics of the building to make it blend in more with the surrounding property. Mr. Rooker also mentioned that the property is split off from the rest of Route 22 by I-64, and the nearby properties include

Luck Stone, the Shadwell Market, railroad tracks, the Interstate, etc. The property in that sense is not exactly adjoining the historic Route 22 properties. He added that there are other churches in the vicinity that have been approved of a comparable size, and there is insufficient evidence that this application is materially different. Mr. Rooker also said that there is no indication that this property would have a negative impact on surrounding properties. He believes the applicant dealt with the lighting issue through condition #4. There is an improvement plan to help address the traffic issues. He does not think the County's Land Use Plan indicates that churches are incompatible with the rural areas. He is prepared to support this application.

Mr. Slutzky acknowledged that churches provide a meaningful use in the rural and growth community, but he does not see that denial would present a substantial burden. He is not motivated to vote on it for that reason – but he is planning to support it. He emphasized that he would be less likely to support this if it were in a more pristine rural setting. He finds the nature of this location different than most locations in the rural areas.

Mr. Rooker added that he would probably not support a daycare addition to this facility.

Mr. Dorrier stated that he feels that this is an acceptable use on this site, noting that there are similar churches nearby. Although this is the rural areas, it is commercial in nature. He supports the application for many of the same reasons expressed by Mr. Rooker. He also believes that the peak hours of use for the church will be different from other peak traffic hours.

Ms. Thomas said that traffic is a major concern on this road, and water is also a potential problem – but VDOT does not support the County's position on the road, and the County is doing as much as possible regarding the water issue. She is not compelled to support this application because of its surroundings. As the Board's representative on the Historic Preservation Committee, she is interested in country stores. If every country store leads to a spiraling outwards of non-rural uses, then she believes the County is in trouble. She stated that she appreciates the efforts the applicant made to reduce the scale of the project and improve the design. She also believes that a daycare would be a bad idea in this location. She added that she feels constrained by the federal law.

Mr. Slutzky said the federal law states that no government shall propose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution. When the Board next has a large rural area church before it, it would be helpful for him if the staff report included some analysis of the applicability of that phrase.

Mr. Davis noted that even though a church is subject to a special use permit or zoning regulation does not necessarily impose a substantial burden on the religious exercise. All the facts would have to be taken into account to determine whether that circumstance exists. There have been cases where denial of church permits have been upheld because it does not impose a substantial burden, but that involves an evaluation of other options. He added that the federal law provides a great deal of scrutiny on the actions of this Board when it takes action with regards to a church.

Mr. Wyant said he appreciates the work the applicant has done including reducing the footprint size and appearance of the proposed facility. The primary concern with entrances is safety, and VDOT has indicated that they feel the site distance and proposed location are acceptable. He also expressed support for their new lighting plan.

Mr. Davis suggested an additional modification to the proposed conditions. He suggested adding language to condition #3 that "a daycare facility shall require approval of an additional special use permit for that use". Board members concurred.

Mr. Rooker said that condition #1 was changed to refer to the most recent plan. He asked if the renderings provided at this meeting by the applicant are part of this revised application. Mr. Cilimberg replied that they are not a part of these conditions, as the ARB likes to have more control over design specifics.

Mr. Rooker said that he would like to have those included in the conditions subject to ARB approval. He believes that the aesthetic changes are material and important.

Mr. Davis responded that he has not seen the renderings and is not sure if they are acceptable for inclusion in conditions.

Mr. Rooker suggested using language "substantially in accord with the renderings introduced into the record at the hearing subject to Architectural Review Board approval."

Ms. Long agreed that that condition would be fine. The applicant is also comfortable with the condition regarding a daycare facility.

Mr. Boyd said this proposal is located in his district. He supports the special use permit.

At this time, **motion** was offered by Mr. Wyant, **seconded** by Mr. Slutzky, to approve SP-2007-034, the six conditions recommended by the Planning Commission, with modification to condition #3 relative to a daycare center, and an additional condition stating "the plans shall be in general accord with the architectural renderings presented by the applicant at this meeting subject to modification by the ARB."

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

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

NAYS: None.

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

- 1) The church's improvements and the scale and location of the improvements shall be developed in general accord with the conceptual plan entitled "Charlottesville First Church of the Nazarene", prepared by The McKnight Group, and dated November 20, 2007, provided that:
  - a) Entrance improvements shall be approved by VDOT prior to final site plan approval, and shall include a right-turn lane at the entrance;
  - b) All parking setbacks and undisturbed buffers required by Zoning Ordinance § 21.7, Minimum Yard Requirements, shall apply; and
  - c) The number of parking spaces shall not exceed one hundred fifty (150) without amendment of this special use permit. Relegated parking should be used to the greatest extent possible.
- 2) The area of assembly shall be limited to a maximum three hundred seventy-four (374)-seat sanctuary;
- 3) Facilities on the site shall be used for church activities and shall not be rented or used for separate commercial uses available to the public. A daycare facility shall require approval of an additional special use permit for that use;
- 4) All outdoor lighting shall be arranged or shielded to reflect light away from the abutting properties. A lighting plan reasonably limiting the amount of adverse outdoor light pollution shall be submitted to the Zoning Administrator for approval as a condition of preliminary site plan approval;
- 5) Virginia Department of Health approval of well and septic systems before final site plan approval;
- 6) If the use, structure, or activity for which this special use permit is issued is not commenced within the meaning of Zoning Ordinance § 31.2.4.4 by December 12, 2012, the permit shall be deemed abandoned and the authority granted thereunder shall thereupon terminate; and
- 7) The plans shall be in general accord with the architectural renderings presented by the applicant at this meeting (December 12, 2007), subject to modification by the Architectural Review Board.

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**(NonAgenda.** The Chairman called a recess at 7:57 p.m. The Board reconvened at 8:04 p.m.)

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Agenda Item No. 16. **Public Hearing: ZMA-2007-011. Patterson Subdivision.**

**PROPOSAL:** Rezone 3.52 acres from R1 - Residential (1 unit/acre) to R6 - Residential (6 units/acre) to allow for up to 15 dwelling units.

**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:** Between Lanetown Road and Lanetown Way approximately 400 yards from the intersection of Mint Springs Road, Lanetown Road, and Railroad Avenue.

**TAX MAP/PARCEL:** Tax Map 55, Parcel 63.

**MAGISTERIAL DISTRICT:** White Hall.

(Notice of this public hearing was published in the Daily Progress on November 26 and December 3, 2007.)

Mr. Boyd said the applicant for ZMA-2007-11 has requested that the rezoning request be referred back to the Planning Commission.

Mr. Davis added that staff supports the request because the plan before the Board is substantially different than the one that went before the Commission.

Mr. Cilimberg commented that the Commission had unanimously recommended denial of the proposal.

**Motion** was then offered by Mr. Wyant that ZMA 2007-11 be referred back to the Planning Commission. Mr. Rooker **seconded** the motion.

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

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

NAYS: None.

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Agenda Item No. 12. **Public Hearing: ZMA-2004-022. Treesdale Park (Sign #33).**

**PROPOSAL:** Rezone 6.60 acres from R4 residential zoning district which allows residential uses (4 units per acre) to PRD (Planned Residential District) - which allows residential uses (3 - 34 units/acre) with limited commercial uses. This request proposes a total of 90 units at a density of 14 units per acres and no commercial uses.

PROFFERS: Yes.

EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential (6 - 34 units per acre).

ENTRANCE CORRIDOR: No.

LOCATION: The property is located at 640 E. Rio Road, south of Towne Lane on the west side of East Rio Road.

TAX MAP/PARCEL: Tax Map 61, Parcels 182, 183, and 183A.

MAGISTERIAL DISTRICT: Rio.

(Notice of this public hearing was published in the Daily Progress on November 26 and December 3, 2007.)

Mr. Cilimberg reported that this request is located on Rio Road to the south of Village Square and north of Stonehenge as well as north of a parcel being proposed for a development to be called Stonewater. He explained that the Albemarle Housing Improvement Program (AHIP) would develop a 90-unit complex on 6.5 acres – rezoned from R-4 to PRD – with a density of 14 dwelling units per acre. It is in an area recommended for urban density in the Comp Plan. Mr. Cilimberg noted that 100 percent of the units in this proposal would be offered for families at 60 percent of median household income. The Planning Commission heard this request on November 13, 2007. He said that the application plan proposes three buildings, parking, a stormwater facility in the rear, with access through the Stonewater project and only right turns in and out would be allowed along the frontage.

Mr. Cilimberg stated that there were issues of tree preservation, relationship to nearby properties, Rio Road traffic, potential blasting at the location because of the geology, architecture, access through adjoining property for greenway and the road, and how the project would fit the terrain. He reported that the Commission recommended approval with the expectation that items would be addressed – including additional landscaping at the property boundaries, terrace walls rather than high retaining walls, enhanced erosion and sediment control measures, and reduction of parking. He said that staff felt that current provisions related to blasting would be superior to what would be proffered. In addition the Commission expected critical slopes to be considered at the site plan stage, and there was a waiver of critical slopes associated with this project.

Mr. Cilimberg said a provision for an executed agreement with the adjoining property owner for access and grading has been appropriately addressed from the County's aspect. He noted that in looking at the agreement, one element the County does not have a direct interest in is a portion of the property that would potentially be provided to Stonewater as an additional area to their benefit. He said that staff wanted to ensure that the provisions of this rezoning would apply to the 20-foot strip running along the southside of Treesdale, and any lot development not shown on the application plan would not be allowable under the zoning being approved. That is really a matter between Treesdale and Stonewater; in terms of the provision of the agreement it meets what the County felt was important to make sure that access for both greenway and vehicular connection with Stonewater is being provided.

He stated that wording changes to the proffers were also an expectation, and the Commission will review and take action on the site plan. Mr. Cilimberg said staff noted factors unfavorable included the tall retaining walls, but modifications to the plan make it possible to change grading so that is not necessary. Mr. Cilimberg also said that the Meadow Creek Parkway construction cannot be guaranteed prior to occupancy of this project, although the project in the County is scheduled to go to bid in mid-2008. He stated that this project provides 100 percent affordable housing; the density is in keeping with the Land Use Plan; it meets applicable principles of the Neighborhood Model; and the proffers and plan address the expectations of the Planning Commission. Mr. Cilimberg said that staff's recommendation is approval of the amendment inclusive of the application plan dated November 20, 2007, and proffers dated December 12, 2007 and signed December 3, 2007.

Mr. Boyd asked how many sections of the Neighborhood Model were applicable. Mr. Cilimberg replied he was not sure, but they address the twelve principals. He noted the applicant is providing for interconnection, pedestrian access, pedestrian facilities along Rio Road, and relegated parking. He said that there are not mixed uses, but it is in an area of total residential uses along Rio Road. Penn Park is located just to the east but is several properties over and the Catholic School is almost directly across the street. The applicant is providing sidewalks along their frontage, but it is not a general feature along Rio now because there are a lot of older established properties.

Mr. Boyd asked about the status of the Stonewater project. Mr. Cilimberg indicated it can be processed as a site plan although there is interest in an application action that was made by that owner for the possibility of doing zero lot-line development. That Zoning Text Amendment received a Resolution of Intent from the Commission about a week ago.

Mr. Boyd asked about the type of development for Stonewater. Mr. Cilimberg said he believes the proposal is for single-family detached dwellings. He does not remember the number of dwelling units.

Mr. Slutzky asked if the intersection was being built with contributions from both developers. Mr. Cilimberg replied that the applicant could speak to the agreement, but both parties are contributing and it must be an element of the Treesdale project.

Mr. Slutzky asked why the proffer relating to blasting was removed.

Mr. James Barber, Assistant Chief of Prevention and Service (Fire Marshall) addressed the Board, stating that blasting has three layers of regulation – the federal level with the Bureau of Alcohol

Tobacco and Firearms (ATF), the state level through the State Fire Marshall's office, and locally through the Fire Marshall's office. Anyone who wants to blast must obtain a permit through the Fire Marshall's office. He said that the proffers made were redundant and not as restrictive as what is already in place with state regulations and national standards.

Mr. Slutzky said, when the Catholic School was built, it is his understanding there were measurements taken at the site by objective parties and then it was determined that blasting could not exceed a certain level of intensity. He asked if a similar exercise would be mandated for this application by State law. Mr. Barber replied "yes" and added that since the area is more built out than when the Catholic School was built, there will be more stringent standards for the blaster to meet.

Mr. Slutzky asked if it will be feasible to do any level of blasting and not impact the structures that are close to the rock to the area in question. Mr. Barber said it is possible, but they will have to look at the feasibility of doing the blasting and make that determination. He noted that when they apply for a permit, there are standards that will protect existing homes and utilities. He added that often blasters will do a pre-blast survey of occupied homes in the immediate area to ascertain if there is damage before the blast and then afterwards to see if anything has changed.

At this time the Chairman opened the public hearing, and asked the applicant to come forward.

The applicant, Mike Fenner, of Cox Company, addressed the Board on behalf of AHIP. Also present are Theresa Tapscott, Executive Director of AHIP, Joyce Dudek, Director for Development for the Project, and Bruce Woodell, of Woodell Architects, architect for the project. He explained that the goal of the project is to bring 90 affordable units to the community. They have added a proffer that all units will be affordable, with gross rent and associated utilities will not exceed 120 percent of fair market value as published by HUD. AHIP is in the process of applying for tax credits which are integral to make the project economically viable. That program is very competitive and the application is during the beginning of 2008. It is important for them to have the zoning in place to be competitive with other projects. He said that they have had two neighborhood meetings and two Planning Commission work sessions in advance of the public hearing. Mr. Fenner said that the initial concept had primary right-in right-out access directly adjacent to the adjoining Village Square community, and with one of the buildings lying parallel to the adjoining community, but changed that due to neighborhood response to decrease noise associated with vehicular traffic. He explained that they also decided to lay the buildings out perpendicularly to the property line and minimize the visibility, and move the access for Treesdale to the center of the property to try to respond to neighborhood concerns.

Mr. Fenner indicated that the stormwater management facility has been designed to serve Treesdale and the adjoining property. They have also included greenway path access to the proposed Meadow Creek Park greenway. They think they have done as good a job as possible to respond to the Neighborhood Model. Some of the key elements are their responsiveness to critical slopes and retaining walls. He said they hope to come back with a parking study, but essentially they are proposing three separate buildings – each three stories above grade – and one story below to be devoted to parking. There are 90 units planned, he said, and a community center, with right-in right-out access, and there is a reservation spot planned for future CTS service as well as Jaunt service.

Mr. Slutzky asked if CTS will be able to turn around in their property. Mr. Fenner said their challenge is in navigating the divider they have been asked by staff to incorporate to prevent left hand turn movement. Secondly, he indicated the area where Stonewater is proposing about 34 single-family detached units, and then they have a potential to come back with 14 townhouses along the frontage adjacent to Rio Road. Their concern would be having the buses come into the path where townhomes will be backing out directly from the connector road.

Ms. Thomas asked if they have checked with the School system about school bus stops. Mr. Fenner said they have not. He imagines that they would have the same design constraints and considerations as CTS. It is an important issue. Their intent is to incorporate access by having a dedicated pull off and stop area, and hopes that a turnaround could happen elsewhere in order to prevent the conflict with future adjacent property owners.

Mr. Boyd asked the projected number of children in the community. Mr. Fenner said he does not know if they have done a projection.

Mr. Boyd asked what school children from this district would attend. Mr. Cilimberg responded that the children would attend Agnor-Hurt, Jack Jouett and Albemarle High School. He added that there have been estimated 18 elementary school students, eight middle school students and nine high school students.

Mr. Fenner reported that the signalization would be funded by three parties – AHIP at Treesdale, Stonewater, and a parcel that has not been developed because of lack of signalization. In response to an earlier concern about what happens if one or more of the projects is delayed, Treesdale has proffered that all the shaded improvements must be in place before Treesdale can be constructed. That would include a slight modification to Rio Road to include a deflection in the curve to enable sight distances provided for the decel lane into the intersection. Ultimately the design would be a right turn in, then a left turn in, and same improvements for Penn Park Lane across the street which would allow them to have traffic out of both Stonewater and the adjacent Stonehenge, and for their project make left turns out and left turns in at a signalized intersection, once warranted. In response to Mr. Boyd, Mr. Fenner confirmed that if one party backs out, the other two will assume responsibility and that is stipulated in the

signalization agreement. Mr. Fenner said that there is not a specific playground planned yet, but there are two sites reserved and that would be determined at the site plan level. He noted that the community center would be approximately 2,500 square feet – similar in size to Park's Edge.

Mr. Dorrier asked if this is the second 100 percent affordable housing project in the County – Whitewood Village being the first. Mr. Ron White, Chief of Housing, explained that there are several projects that are financed through the low-income housing tax credit program – Mallside, Rio Hill, Woods Edge Senior Housing, Parkview on South Pantops, Whitewood, and Wilton Farms. He added that the State of Housing Report, presented to the Board earlier this year, showed a deficit for Planning District 10 of over 4,000 units by 2015 or 2020.

Mr. Fenner noted that AHIP has received a grant from the Kresge Foundation to ensure that the entire project is green. He said they have had a geotech study done – and only one area hit bedrock during boring. He said that their intent with the proffer is to contact those who have done the work with the Catholic School and proffer the same initiatives that were put in place to ensure nothing would impact what was going on inside those homes. Their goal will be to minimize blasting to the extent possible.

Mr. Fenner said subsequent to the Commission meeting, they were asked to put in place enhanced erosion and sediment control measures over and above the State regulatory controls. With assistance from County Engineering staff, they have included language in their proffers that exceeds those standards and will implement where feasible. They have also added on their plan, plantings for screenings of adjacent neighborhood buildings (one and two) and added some landscaping along Rio Road to offset the structural appearance of buildings one and three adjacent to the Entrance Corridor.

Mr. Boyd asked about the height of the buildings. Mr. Fenner said that the height of the building would be higher than anything on the road, and are limited to 35 feet in height if they want to build up to the setback line of 20 feet. He noted that the only thing below grade would be the parking. He added that their density is well within the range of the Comprehensive Plan.

Mr. Wyant asked about tree preservation. Mr. Fenner responded that they have included designated tree preservation areas in their plan, and the Commission wanted to see modified height of retaining walls.

Mr. Rooker asked if it is the intent to make this project solar ready. Mr. Fenner said that is incorporated into their design strategy.

At this time, the Chairman asked for comments from the public.

Ms. Susan Bremer addressed the Board, noting that she lives in River Run across from Penn Park. She said that she is with IMPACT and came to speak in favor of the project, noting that there is an extreme lack of affordable housing in the area, and without availability people in lower income brackets have longer commutes, etc. Ms. Bremer said that about 4,000 families make less than 30 percent of AMI. The Housing Task Force comprised of City, County, and University representatives believes this is a "strong step in the right direction." She added that IMPACT would like to see a dedicated revenue stream from the County to funnel funds directly to meet this critical need for those families. Ms. Bremer said that there need to be locations found near bus lines for "the working poor."

Ms. Mary Dickens, a resident of 605 East Rio Road, addressed the Board. She asked that a report should be provided regarding the drilling of rock, as damage to nearby homes could occur from blasting. Ms. Dickens asked who would be responsible for those damages. She also expressed concern about children running out into the road, emphasizing that the area should continue to be zoned R-4, adding that 28,000 vehicle trips per day already exist on this road. Ms. Dickens said that until the Meadow Creek Parkway is built, no rezonings to PRD should occur.

Ms. Pat Earle addressed the Board, stating that she realizes the need for affordable housing but does not feel this rezoning should be granted as it is not suitable for this project. She emphasized that the density is great, and the height of the buildings is totally out of character with the neighboring properties. Ms. Earle expressed concern about the rezoning process, noting that people take zoning designation into account when they buy their homes. She suggested that public officials should make their decisions based on a "do no harm" creed, and asked them not to approve this while encouraging developers to find a more suitable location for their project.

Mr. David Genest addressed the Board, indicating that he has been asked by Village Tree Homeowners Association – where he serves as president – to address the Board. He said that now that the "emotional dust" has settled, the plan has been greatly improved. Mr. Genest expressed concern about safety on Rio Road, but overall he supports the plan even if his entire neighborhood does not.

Mr. Damon Carothers addressed the Board, noting that he lives on Towne Lane in Village Square. He said that this development will be a significant detriment to the surrounding community, as it will put three-story buildings in an existing neighborhood, will add traffic to an already overloaded road, and there is no contingency plan if the Parkway is canceled or delayed. Mr. Carothers noted that there is no bus service planned at this time, and it is not possible for pedestrians to walk up and down Rio. He said that the construction will be difficult because of the steep nature of the lot and access to the property, and much of the existing trees will need to be cut down. Mr. Carothers said that it was unclear as to whether the construction company would be required to secure a bond to cover damages from the blasting. He noted that the Commission approved the plan in a 3-2 vote, but all members had concerns.

Mr. Carothers emphasized that this plan would never be approved if it were a purely commercial venture, and the question is whether or not the need for affordable housing is enough to justify this poorly conceived and poorly planned project. He stated that surrounding residents will have to deal with the consequences of this development, and the impact will be the same regardless of the ideals on which the new development was built upon.

Mr. Cilimberg agreed to clarify whether the Commission vote was 3-2 or 5-0.

Mr. Leon Blumreich addressed the Board, stating that he lives on Penn Park Lane, and opposes the project for several reasons – the height of the buildings, the traffic issue on Rio Road, and concerns about the blasting.

Mr. Cilimberg confirmed that the Commission vote was 3-2.

Ms. Crystal Coleman of 1140 Penn Park Lane addressed the Board, stating that her main concern is the increased traffic this development will bring to Rio Road.

Mr. Bruce Woodell, the project architect, addressed the Board. He explained that the current Park's Edge development has 145 parking spaces, and about 72 to 75 of those spaces are used. Mr. Woodell said that they set the development back so that the old homestead with the oak trees serves as the front yard of the Treesdale project. He reported that the homes will be designed for Earthcraft, and the community building will be designed to LEED standards. The cost for passive solar or energy collection is not affordable but when costs come down it can be retrofitted. Mr. Woodell noted that Jaunt will provide service to this site until there is a public bus system available. He pointed out that they have done a lot of research on affordable housing projects in other areas, and the format and configuration of Treesdale is comparable.

Mr. Dave Paulson addressed the Board, noting that he is an affordable housing advocate and is currently Chair of the Albemarle Housing Committee. Mr. Paulson commented that the community desperately needs housing, and the TJPDC's housing report confirmed this – especially as it relates to available rental units for families. He emphasized that trying to find another location for affordable housing is incredibly difficult. Mr. Paulson noted that AHIP has done extensive work to make this project green. He strongly encouraged the Board to support it.

Ms. Ellen Desper addressed the Board, stating that she has lived in Village Square for 22 years and is opposed of the rezoning from R-4 to PRD. She said that Treesdale should not be approved, and should be responsible for its "lack of judgment in selecting one of the worst and overcrowded roads in Albemarle County," and there are better sites available near Fashion Square or Target that have bus access and pedestrian amenities. This is definitely a need for affordable housing in the County, but not on Rio Road. She noted that several years ago, AHIP bulldozed all the area behind her home and created a large gully. Ms. Desper also expressed concern about traffic and said that there are too many unknowns at this point to approve a project of this nature.

Ms. Becky Reynolds addressed the Board, noting her opposition of the rezoning from R-4 to PRD, stating that the location is one of the worst possible sites. She said that AHIP purchased the site based on costs but not practicality, pointing out that there is no bus service and no possible pedestrian access for employment or shopping. Ms. Reynolds also said that Rio Road is narrow and difficult, providing little space to pull off the road. School busses require a safer off-road location. She also noted that recreational areas are in front of some of the buildings and are too close to Rio Road, and children could run out into the road and be struck by vehicles. Ms. Reynolds said that AHIP ignored Village Square's request to reduce the height of the buildings to two levels, and instead turned two of the buildings sideways. She mentioned that at the Planning Commission hearing, final designs were not available.

Mr. Robert Daniel addressed the Board, stating his opposition of the rezoning, citing "unbearable" traffic conditions and noting that the property was already rezoned R-2 to R-4 on that tract. He said that he called VDOT about the right-in right-out only lane at the north entrance, and that does not mitigate the high traffic flow at all. Mr. Daniel asked what would happen if there were an accident at the proposed traffic light at Penn Park Lane and that was blocked; if there was an emergency at Treesdale it would be nearly impossible to get there. He also expressed concern about water and sewer on the site to serve the 90 units, and also expressed concern that these units might be changed from affordable housing. This is the wrong location for this project.

Mr. Fenner came back before the Board. He said that they worked hard to address concerns raised at the Planning Commission hearing, and finding the right site has been an unbelievable challenge.

Mr. Boyd asked him to comment on the prior erosion control problems mentioned in the hearing. Mr. Fenner responded that he cannot speak to that directly, but they have written a proffer to address erosion and sediment control concerns. He noted that there are five conditions within that proffer that contain a higher standard than what is in the Code.

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

Ms. Thomas asked if this proposal was meeting the higher sediment control standards the Board has come to expect. Mr. Cilimberg replied that he is not as aware as the County Engineer would be regarding measures that have been identified in prior proffers. This proffer specifically talks about erosion

and sediment control measures during construction, and it states that there would be procedures and practices that provide additional soil stabilization measures to achieve permanent stabilization immediately upon reaching final grades, but no more than six months from the start of construction. He believes that is consistent with what the Board has gotten in prior proffers. This was reviewed by County Engineering staff to ensure that it addressed the issue of soil and erosion control. There are also provisions that practices shall include other measures deemed better or equivalent by the County Engineer. He said that he cannot speak to previous Village Square erosion issues.

Ms. Theresa Tapscott, AHIP's Executive Director, addressed the Board and explained that the erosion mentioned was quite a few years ago and was the result of some overzealous mowing in response to a tenant who complained about snakes. She said that she was unaware of the severity of it until just now, but AHIP did additional grading and planting. She thought they had the situation under control. They were actually doing landscaping, not construction work.

Mr. Boyd said that this just brings to light potential issues because of the slope on this site.

Ms. Thomas commented that if Engineering staff have gone over this and feels it meets more recent provisions, then she feels pretty comfortable with that.

Mr. Wyant responded that he does not see those measures in the construction phase, but only as a final goal.

Mr. Rooker noted that the Board has been requesting the highest standard being applied in the State for large projects, and the question is whether that standard is being applied here.

Mr. Boyd asked about whether there would be a bond in place for the blasting. Mr. Barber responded that there would need to be either insurance or a bond issued before a permit can be issued. The contractor would be responsible for any damage.

Mr. Rooker asked if a determination has been made on whether blasting will be required. Mr. Barber responded, "not that he is aware of". He is not aware of a contractor looking at that in detail. He added that there will be a table or seismograph used to measure air blast and ground disturbance. Any damage to structures, including wells and septic fields, are covered.

Mr. Cilimberg mentioned that erosion and sediment control is structured to deal with the result once they reach finish grade – but no more than six months from the start of construction they have to put these measures in place. He noted that this measure is intended to compensate for the kinds of problems that occurred at Hollymead Town Center where it sat in an unfinished state for a long time.

Mr. Mark Graham addressed the Board, stating that he was not familiar with the proffers, but one of the proffers is similar to the Leake property in Rivanna Village – instead of putting a broad general category of 80 percent removal, they have identified specific measures such as the wire-reinforced silt fence, permanent seed on slopes steeper than 3:1, etc. In addition they must have perimeter controls for the entire period of construction.

Mr. Rooker noted that the problem that occurred there previously seems to have occurred after construction; there was no control in place. It was not a permitted activity.

Mr. Wyant asked if the Comp Plan calls for this to occur on Rio Road. Mr. Cilimberg replied that the Plan does call for that density in this area. Mr. Rooker commented that the recommended density is 6-34, and this is 13.

Mr. Boyd asked that the traffic issues be addressed. Mr. Cilimberg said that it is obvious under current Rio Road conditions, this project would be adding to that circumstance, so a factor in this is the fact that there will be a Meadow Creek Parkway – and the Board has supported the road and the effort to keep it on time.

Mr. Slutzky emphasized the importance of getting transit to Treesdale, not just for this project but for the entire area. Recently he spoke with Bill Watterson, of CTS, about what it would take to get a bus route over to the Treesdale property. Mr. Watterson said, if the County wanted, they could immediately start planning to put a route from Fashion Square to Treesdale and then loop back. He also asked about getting one-half hour headways to make the route meaningful to help eliminate traffic Rio Road. Mr. Watterson responded that a meaningful number is approximately \$375,000 of County investment into the City transit system. There is always the chance the Meadow Creek Parkway will get slowed down. Assuming Meadow Creek will get built, he thinks the Board has an obligation to make a commitment to funding a bus route.

Mr. Cilimberg added that Treesdale is also discussing service with Jaunt.

Mr. Boyd stated that this parcel has lack of access to shopping, and having pedestrians on Rio Road is extremely dangerous.

Mr. Slutzky said that in talking to Bill Watterson there are options for vehicle turnaround. He added that the pullover issue relates more to large busses. Also, it is his understanding that there is a sidewalk that is part of the plan for the controlled intersection. Mr. Cilimberg concurred.

Mr. Dorrier asked how many extra parking spaces are planned for the units. Mr. Cilimberg explained that the number of spaces is based on County standards based on the number of units. They are also hopeful to be able to provide a study that will allow a reduction in the number of parking spaces.

Mr. Rooker commented that the car trips expected out of here would be substantially reduced from the number of car trips coming out of single family detached with a similar number of units already along Rio Road. That is true in Whitewood and in other places around the County.

Ms. Thomas noted that you want to have a pull-out place for a bus, but if you make it go into a development you have slowed down the bus route. She thinks the pull-out is appropriate in this instance.

Mr. Cilimberg said that CTS operators are going to look for a route that flows rather than turnaround.

Mr. Rooker stated that probably would not be the end of the route, and Jaunt can provide adequate service until the capacity and demand for a full CTS route is there.

Mr. Slutzky commented that this is a tough one, as he is a big champion of supporting affordable housing but there are concerns about potential impact on the existing neighborhood. He said that a lot of public comments revolved around the density, but this area calls for higher density. The project is not out of character with what the County has already determined to be appropriate for this location. The traffic issues concern everyone. Mr. Slutzky emphasized the importance of having adequate bus service. He hopes AHIP will work to address the issues raised by neighbors. He indicated that he would be supporting this project because of the need for affordable housing and that has to be a part of the decision-making equation. This is one of the few opportunities he has had while on the Board to address the housing issue.

**Motion** was then offered by Mr. Slutzky to approve ZMA-2004-0022 with the application plan dated November 20, 2007 and the proffers dated December 12, 2007 signed December 3, 2007. Mr. Dorrier **seconded** the motion.

Mr. Rooker said that this is one of the first projects that have come along in a long time that is 100 percent affordable. It is also in the midpoint of the Comp Plan density range recommended for the area. He also noted the energy-efficient amenities in the development, and the proposed environmental enhancements being offered which he cannot recall coming previously before the Board. If housing is going to remain affordable in the long term, energy efficiency is becoming more and more important. Mr. Rooker said that the project meets 11 out of 12 Neighborhood Model principles, and the one they did not meet was not applicable to the development. He also cited the community center as an enhancement to the project, noting its importance at Whitewood. Mr. Rooker said that the water and sewer issues are in the hands of the authorities, and they cannot hook up until they are certified to be adequate capacity. He thinks this is a project that should be approved.

Mr. Wyant commented that he appreciates the energy-efficient amenities here. He is supportive of affordable housing, but he does not like the closeness to Rio Road. He thinks that timing is an issue given the traffic situation. He also expressed concern about the retaining walls. This is a higher density than he would like to see. Mr. Wyant said that he would not support the project.

Ms. Thomas said that the Planning Commission said that they would only support this because it is low income housing, and "the actions this Board has taken out of sympathy have sometimes been very misguided." She stated that there are many aspects of the project she likes, and would support the development. She would also like for many high income housing to be as environmentally conscience.

Mr. Dorrier said that he is supporting the proposal because the owner is being required to have a bus pull-off and will likely have transit here. He thinks this is a step in the right direction.

Mr. Boyd commented that there are compelling reasons on both sides, but the need for affordable housing is going to trump some of the other issues. He believes that it is difficult to find a location for this type housing. He will support the project.

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

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

NAYS: Mr. Wyant.

**(The proffers are set out in full below:)**

Original Proffer: December 12, 2007

#### **PROFFER FORM**

Date: December 12, 2007

ZMA # 2004-022

Tax Map and Parcel Number(s): 61-182; 61-183; and 61-183A

6.646 Acres to be rezoned from R-4 to PRD (Planned Residential Development) in conjunction with the "Application Plan," sheet C-4.0 of the Treesdale Park ZMA Application Plan package prepared by the Cox

Company, last revised on November 20, 2007 and with Proffer Attachment 1 (see Sheet A-1.0 on page 7 of these proffers).

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. Maximum Residential Density. The number of residential dwelling units that may be developed in Treesdale Park shall not exceed 90 units.
2. Road Improvements. Applicant (also referred to herein as the "Owner") shall cause completion of the following road improvements:
  - A. Rio Road Improvements and Internal Connections. The Owner shall dedicate public right-of-way and construct all public road improvements and internal private connections to the signal at Pen Park Lane shown on Attachment 1 (Sheet A-1.0).

The Owner shall dedicate land fronting Rio Road from the northern property line to the Treesdale Park entrance for the construction of a deceleration/turn lane into the project. The Owner shall also dedicate land fronting Rio Road from the Treesdale Park entrance to the southern property line for the construction of a deceleration/turn lane which is shown on Attachment 1 (Sheet A-1.0).
  - B. Proposed Signal at the Stonewater Entrance and Rio Road/Pen Park Lane Intersection. Within 30 days after VDOT determines that a traffic signal is warranted at the intersection of the Stonewater Entrance and Rio Road/Pen Park Lane, the Owner shall make a cash contribution to the County equivalent to its one-third share of the total costs associated with the design, installation of all required signals at Rio Road and Pen Park Lane and all associated intersection improvements.
  - C. The Owner shall not request that a certificate of occupancy be issued for any building in Treesdale Park prior to the completion of the improvements and the dedication of land and public improvements delineated in Proffer 2(A) and shown on Attachment 1 (Sheet A-1.0).
3. Affordable Housing. The Owner shall provide affordable housing (as described herein) ("Affordable Units") equal to one hundred percent (100%) of the total residential units constructed on the Property, in the form of for-rent apartments. Each subdivision plat and site plan for the Property, other than those executed for purposes other than the creation of housing units, shall designate the units that will, subject to the terms and conditions of this proffer, incorporate Affordable Units as described herein.

Affordability; Rental Rates. For the purposes of this Proffer 3, "Affordable Units" shall mean rental units which have gross rents (rent plus tenant-paid utilities) that do not exceed 120% of Fair Market Rents published by the U.S. Department of Housing and Urban Development (HUD); provided that, 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 3, the term "net rent" means that the rent does not include tenant-paid utility costs.

Term. The requirement that the rents for such for-rent affordable units may not exceed the maximum rents established in this Proffer 3 shall apply for a period of fifteen (15) years following the date the certificate of occupancy is issued by Albemarle County for each for-rent affordable unit, or until the units are sold as low or moderate cost units qualifying as such under the County's Affordable Housing Policy.

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 Proffer 3. 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 disclosure of the restrictions and controls established by this Proffer 3. At least thirty (30) days prior to the conveyance of any interest (other than for the securing of a mortgage or deed of trust) in any for-rent affordable unit during the Affordable Term, the then-current owner shall notify the Albemarle County Chief of Housing in writing of the conveyance and provide the name, address and telephone number of the potential grantee, and state that the requirements of this Proffer 3 have been satisfied.

Reporting Rental Rates. During the Affordable Term, within thirty (30) days after the commencement of the lease term for each for-rent affordable unit, the Owner shall provide to the Albemarle County Housing Office a copy of the lease agreement for each such unit rented that shows the rental rate for such unit and the term of the lease. In addition, during the Affordable Term, the Owner shall provide to Albemarle County, if

requested, any reports, copies of lease agreements, or other data pertaining to rental rates as Albemarle County may reasonably require.

4. Meadow Creek Parkway Greenway Trail Easement Dedication. The Owner shall dedicate to public use land within a 30-foot wide access easement to Albemarle County for a "greenway trail". This greenway trail shall serve as a pedestrian path through the Property connecting to the section of the proposed Meadow Creek Parkway Greenway trail, and its alignment and layout shall be in general accord with the schematic design depicted on the Application Plan. The ultimate design and location of the trail shall be established by the Director of Planning in consultation with the Director of Parks and Recreation and shall provide access to the Meadow Creek Parkway Greenway. If the Greenway trail easement is not dedicated by the first final subdivision plat, the Owner shall be responsible for the cost of a survey and preparing the deed and plat to convey the Greenway trail easement to the County before the first final site plan approval. After it is dedicated to public use, the Greenway Trail and all land within the access easement shall continue to be included in the total area of open space and amenities within the Property.

If the owner of the adjacent property, Tax Map 61 Parcel 84, dedicates to public use a Greenway trail easement that would serve as a substitute for the Greenway trail easement described in this proffer to the satisfaction of the Director of Planning in consultation with the Director of Parks and Recreation prior to approval of the first final subdivision plat or site plan on the Property, then this proffer shall be deemed satisfied.

5. Transit Reservation Area. The Owner shall reserve an area for a bus pull-off from Rio Road within the northeast portion of the site, within the common open space area located directly to the east of Building 1 in general accord with the Application Plan. Should fixed-route bus service associated with the Charlottesville Transit Service (CTS) ever be extended to serve the section of Rio Road adjacent to the site, upon demand of the County, the Owner, at its own expense, shall construct the bus stop to accommodate a bus pulling off Rio Road and picking up riders in a dedicated lane located within the Property. In conjunction with the bus pull-off area, the Owner shall also construct a small transit shelter to complete the bus stop. The specific design standards of the bus pull-off and the shelter shall be determined by VDOT, CTS, and the Director of Community Development within sixty days of the County's formal request for the transit stop. In the absence of any fixed-route service, Treesdale Park shall be designed to accommodate the CTS On-demand Link or JAUNT service within the community as a means of providing public access to residents per the existing programs.
6. Off-Site Improvements. The Owner shall provide stormwater management within the area depicted on the Application Plan which may also be used as a shared stormwater management and Best Management Practices (BMP) facility to serve both Treesdale Park and the development of Tax Map 61-84. No final site plan shall be approved until all easements necessary for the off-site improvements shown on the Application Plan have been recorded. These off-site improvements include grading, stormwater management, construction of an accessway to the stormwater management facility and transportation improvements to the intersection of Rio Road and Pen Park Lane.
7. EarthCraft Standards for Multifamily Development. The Owner shall cause all multifamily buildings within the Project to be designed and constructed so as to be rated a minimum of "Certified" under the EarthCraft Green Building Rating System for multifamily development, as set forth in the EarthCraft House Technical Guidelines, version November, 2006. Prior to the issuance of a building permit, the Owner shall submit a certification from the EarthCraft certified project architect to the Director of Community Development that the building plan meets the EarthCraft standards. Before the Owner requests a certificate of occupancy for any building for which a licensed architect rendered such a certificate, the Owner shall submit to the County's Director of Community Development documentation that the building is EarthCraft certified.
8. Erosion and Sediment Control Measures. In order to provide a higher level of Erosion and Sediment Control than is required by current State and Local regulations, the Owner shall adopt construction procedures and practices that provide additional soil stabilization measures to achieve permanent stabilization immediately upon reaching final grades, but no more than six months from the start of construction. These procedures and practices shall include:
  - A. Utilize wire reinforced silt fence rather than standard silt fence.
  - B. Immediately upon reaching final grade, utilize permanent seed and matting to stabilize all slopes steeper than 3H:1V.
  - C. Stabilize with temporary seeding all disturbed areas that are not at final grade but will remain dormant longer than 14 days.
  - D. Place fencing prior to the start of construction around areas to be conserved.
  - E. Other measures deemed better or equivalent by the County Engineer.

Submitted as of the 12<sup>th</sup> day of December, 2007, by:

ALBEMARLE HOUSING IMPROVEMENT PROGRAM, INC.  
A Virginia nonstock, 501(c)3 non-profit corporation  
By:  
Its Executive Director  
By: (Signed) Theresa L. Tapscott  
Its: Executive Director  
Date: 12-03-2007

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Agenda Item No. 13. **Public Hearing: SP-2007-021. Beth Goldstein (Yoga Meditation Studio) – (Sign #46).**

PROPOSED: Private school for yoga instruction with classes up to eight days per month, up to 20 students per class.

ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre). SECTION: 10.2.2.5, Private Schools.

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: 6482 Dick Woods Road (Route 637), approximately one-half mile west of the intersection with Burch's Creek Road (Route 689).

TAX MAP/PARCEL: Tax Map 71 Parcel 21.

MAGISTERIAL DISTRICT: White Hall.

(Notice of this public hearing was published in the Daily Progress on November 26 and December 3, 2007.)

Mr. Cilimberg reported that the request is for a school of yoga instruction – with up to 20 classes per month of about 20 students. The location of the studio is on Dick Woods Road in an existing house and structure on the property. The project would involve creating a new parking area and some clearing needed for sight distance. He said that there would be no additional structures needed, but a gravel parking area would be added and trees would need to be cleared on adjacent property. Mr. Cilimberg said that the Planning Commission recommended approval with conditions – modified now to reflect their limitation to four days a week. The Commission also limited the school use to the identified application for yoga and meditation instruction.

Mr. Boyd asked if this is an existing use on the property. Mr. Cilimberg said this application is to create conformity.

The Chairman opened the public hearing, and asked the applicant to come forward.

The applicant, Beth Goldstein, addressed the Board. She said that her adjacent neighbors are here to support her project and have agreed to take down the trees as VDOT requires. Ms. Goldstein noted that in the six years she has lived there, there have been four accidents right in front of her house and taking down the trees will improve this situation. Ms. Goldstein said they will only be removing the trees that are necessary.

Ms. Thomas asked about the Planning Commission condition limiting activity to four days per week. Ms. Goldstein said she asked for five; she does not know why they limited it, but she is willing to agree to the four. Ms. Goldstein said she also has workshops on the weekends, which is included in the four days.

Mr. Cilimberg reported that the Planning Commission wanted four days to limit activity on the site.

Mr. Dorrier commented that he does not want to see limitation in the number of days, as yoga is a helpful way to prevent and eliminate disease.

Ms. Goldstein said there would only be 18 students per day using the facility and only ten cars as several of them carpool. She added that the project is supported by the neighborhood.

Ms. Thomas agreed that there is no reason to reduce the number of days classes are offered.

Ms. Goldstein said that the studio is separate from the house and is not visible from the road.

Mr. Wyant asked if it would be better to say so many days per month, rather than per week. Ms. Goldstein responded that that's what she had originally requested.

The Chairman asked if there was any other public comment.

Ms. Lorita Yancey addressed the Board, stating that she and her husband own property around Ms. Goldstein's yoga barn and supports the application.

Mr. Joe Lehmbeck addressed the Board, stating that he has lived on Dick Woods Road for five and one-half years, and finds no reason to deny the application. He supports the project.

Mr. Steven Daniels addressed the Board, stating that he walks to Ms. Goldstein's studio. He commented that having this offered here saves him long trips into ACAC. The yoga barn helps to gel the community. He hopes that the project is supported by the Board.

There being no further comments, the public hearing was closed.

Mr. Wyant said these small businesses are vital to the rural areas. He then offered **motion** to approve SP-2007-021 subject to the five conditions recommended by the Planning Commission, removing condition. Mr. Dorrier **seconded** the motion.

Mr. Rooker noted that all of the surrounding property owners are fully supportive of the application.

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

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

NAYS: None.

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

- 1) The school use shall be limited to a school of yoga and meditation instruction, and the location and scale of improvements for that use shall be developed in general accord with the conceptual plan titled "Ms. Beth Goldstein/Yoga-Meditation Studio," prepared by Studio Elle, LLC, dated 8-2-07, and revised 10/3/07, provided that:
  - a) Staff approval of a revised landscape plan shall be required. Plantings for screening of the parking lot, to consist of a naturalistic pattern of multi-species trees and shrubs, as listed in the brochure titled "Native Plants for Conservation, Restoration, and Landscaping: Piedmont Plateau," published by the Virginia Department of Conservation and Recreation, are to extend along the northwest edge of the parking area from the property line to the existing framed shed shown on the conceptual plan. These plantings to be arranged in a density that would mitigate views of the parking area, with a spacing allowing the natural form/habit of the plant material to be recognized.
- 2) Maximum attendance on any day shall be eighteen (18) students;
- 3) No outdoor amplified sound systems shall be operated for the school use;
- 4) Classes shall take place on no more than twenty (20) days per calendar month. Hours of operation shall be no earlier than 8 a.m. and no later than 8 p.m.;
- 5) The use shall not commence and the zoning clearance for the use shall not be issued until:
  - a) The Virginia Department of Transportation approves the sight-distance easements and the construction of the entrance improvements;
  - b) The Virginia Department of Health approves well and septic systems; and
  - c) Community Development staff approves a revised landscaping plan for SDP-2007-00095 that satisfies Condition 1(a).

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Agenda Item No. 14. **Public Hearing: ZMA-2007-004. Oakleigh Farm (Sign # 62).**

**PROPOSAL:** Rezone 8.82 acres from R-6 zoning district which allows residential uses and 6 units/acre to NMD - Neighborhood Model zoning district which allows residential mixed with commercial, service and industrial uses and 3 - 34 units/acre. Proposed number of units is 109 for a density of 12.3 units/acre.

**PROFFERS:** Yes.

**EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY:** Urban Density Residential - residential 6.01-34 units/acre) and supporting uses such as religious institutions, schools, commercial, office and service uses. Neighborhood 1.

**ENTRANCE CORRIDOR:** Yes.

**LOCATION:** 547 Rio Road West (Route 631) directly across the street from Woodburn Road (Route 659).

**TAX MAP/PARCEL:** TM: 45/P: 26A.

**MAGISTERIAL DISTRICT:** Rio.

(Notice of this public hearing was published in the Daily Progress on November 26 and December 3, 2007.)

Mr. Cilimberg reported that this property is located on the south side of Rio Road, to the west of Berkmar Crossing. The request would rezone 109 dwelling units and additional square footage of commercial space. He said it would be developed in a few blocks – commercial area along Rio and residential to the rear of the property – oriented around a green in the back. As part of the project there would also be some areas of tree preservation.

Mr. Cilimberg commented that the applicant has attempted to address the outstanding issues raised by the Planning Commission and staff. The applicant has attempted to address the issues but there is a significant timing problem. He explained that October 30 was the public hearing date of the Commission, and complete plans and proffers were required by November 19 for the Board's hearing. That is really not a lot of time when there are a lot of issues to work out. Mr. Cilimberg stated that what was received on the 19<sup>th</sup> had not really addressed those points, but the applicant has followed up since that time with new information. Staff has just not had the opportunity to do a complete review of the new information. He distributed a new set of proffers to the Board, noting that they technically should have

been submitted December 3<sup>rd</sup>. Mr. Cilimberg said that resolution probably can be reached on the issues raised, but the Planning Commission recommended denial and has not had time to review the new information. He also does not think that the proffers are in order to be actually accepted for Board action. Staff is recommending deferral of the request.

Mr. Rooker said that given the posture of this, he recommends that it go back to the Planning Commission. He would like the Commission's input on the project. He thinks there are a lot of things that are well done, but he does not want to see a project of this magnitude come forward without having the Commission's response to the actual plan.

Mr. Slutzky said he is fairly familiar with the project, but he has not had an opportunity to review the proffers. To be consistent with the Board's policy, he thinks it should be referred back to the Commission or thoroughly discussed after the proffers have been fully reviewed.

Mr. Rooker said his concern is that the plan before the Board tonight is different from the plan that the Commission reviewed. He thinks it would be helpful to have the Commission's input before the Board acts on the plan.

Mr. Boyd asked if the proffers were submitted in response to concerns by the Commission.

Mr. Cilimberg explained that the Planning Commission had concerns about impacts on public facilities and how they would be addressed, a buffer along the Heritage Hall common property line, and the lack of affordable units physically located in the project. He said that the easement to the adjoining property is not as crucial as the other proffered items, as there is an understanding that it can be executed. The Code of Development had some minor changes and fixes that were necessary. Mr. Cilimberg added that there were also concerns about design aspects raised by the ARB. In general, he thinks this plan is what the Commission saw; it is some of the particular details that were not addressed during the Commission meeting that raised their concern and led to their recommendation.

Mr. Slutzky said the Board has a process for a reason, and no one has had the opportunity to review the proffers.

Mr. Cilimberg again responded that staff has not had the opportunity to review the proffers.

Mr. Wyant commented that this should likely go back to the Planning Commission.

Mr. Dorrier said he thinks the application should also be deferred.

Mr. Boyd said he would not suggest sending the request back to the Planning Commission if the applicant's changes are in response to the Commission concerns.

Mr. Rooker asked if staff thinks that, given its review of the current plan status, the elements represent all of the issue raised by the Commission. Mr. Cilimberg replied that they do address those issues, specifically the buffer along the Heritage Hall common property line, but that was not really a staff issue. The Commission raised that issue in their review. He said that the Code of Development would be easily fixable; that is not a matter the Commission really needs to spend time on. The ARB comments would be a matter that the Commission would have to speak to.

Mr. Boyd asked the applicant if he wanted to comment on any of the Board's discussion.

Ms. Valerie Long, representing the applicant, stated that the changes made to the recent proffers resulted from comments and feedback from the Commission. The applicant submitted proffers on September 6<sup>th</sup>, and no comments were received before the Planning Commission hearing October 30<sup>th</sup>. She said that they still feel that this project qualifies for credits because of the proffer amounts, and the applicant has revised the proffers now without the credits and now offer the full amounts for the units. The Commission did not feel those credits were appropriate. Two of the questions have been addressed – one on payment for affordable units and the lack of affordable units within the project. Originally they had not proposed to build any units within the project, but instead provide the cash in lieu payment for each of the units that would otherwise be required to achieve the 15 percent requirement. Staff never expressed any concerns with that, but that became a strong issue of concern with the Commission. Based on that response, Ms. Long said that they offered to build one-half of the units to achieve the 15 percent requirement, and then pay cash for the remaining one-half, and she understands everyone was comfortable with that in concept. However, it proved to be very challenging to put concept into proffer format. She stated that she did submit it three days before the due date, and she did work with Greg Kamptner on crafting the language. The applicant received the proffer comments back the Friday afternoon before the revisions were due. She believes the formula in the proffers will work.

Mr. Boyd said there were two questions – the buffer and the easement for Berkmar Crossings. The question is whether this needs to go back to the Planning Commission or come back to the Board.

Ms. Long said the applicant has not made any changes to the actual plan. The reasons stated by the Commission for denial were the cash proffers not conforming to what they thought they should conform to, the lack of affordable housing units on site, and the buffer issue with Heritage Hall. The applicant – George Ray – has met with Heritage Hall, but there has not been a formal meeting about the buffer and it is been difficult to get them to the table. They have not been responsive one way or the other. She confirmed that the plan is to leave the trees on the applicant's side of the property. Ms. Long

said that they are hesitant to move the buildings because they are trying to stay far away from those trees. They are willing to continue to make efforts to get Heritage Hall put something in writing for the staff.

Mr. Cilimberg commented that there may not be a formal easement needed, but an agreement from Berkmar Crossing would be, based on staff concerns.

Ms. Thomas emphasized that the question is whether or not this item should be referred back to the Planning Commission.

Mr. Boyd said he is not sure it should be referred back to them if they are routine items that could be resolved without that.

Mr. Rooker responded that if the plan has not changed in any substance, then it would be appropriate for it to skip further Commission review.

Mr. Wyant asked why a buffer would be needed between Heritage Hall and this property. Mr. Cilimberg pointed out that the concern about the buffer was not staff's; it was a Commission issue.

Mr. George Ray addressed the Board, stating that there was one Commission member who expressed concern about the buffer, not the entire panel. He said that Heritage Hall was supportive of the project and they are willing to sit down and talk about it. Mr. Ray said he feels they would be able to work something out, and if necessary they could move the townhouses forward a couple of feet to create a wider planting strip on the west side of the driveways.

Mr. Slutzky said he is not sure three or four feet will make that much of a positive impact on the impact. He would rather leave it with the current lines and if there is a need for a buffer do it with Heritage Hall.

Mr. Slutzky then **moved** to defer ZMA-2007-004 to the next appropriate meeting for the Board to consider. Mr. Wyant **seconded** the motion.

Mr. Davis said that the request will probably need to be re-advertised, probably to the night meeting in January at the soonest.

Mr. Cilimberg cautioned that they may run into the same time issue again.

Mr. Tucker said that the 16<sup>th</sup> would work if the 9<sup>th</sup> does not work.

Mr. Davis reminded the Board of its policy of having final plans and proffers submitted at least 23 days in advance of the hearing so that the public hearing could be advertised.

Mr. Cilimberg said the proffers do not include anything that addresses erosion and sediment control. He asked if that is an expectation for this application.

Mr. Slutzky said, to be consistent with other applications, he would like to see that addressed.

Mr. Davis said another issue is that the applicant, in doing their proportional affordable housing, one of their examples used a fraction of a unit of affordable housing that they are not building, and they rounded the number down, which amounted to about \$900 per unit. He is assuming the Board wants full credit for any fraction of an affordable house that is not built.

Mr. Slutzky responded, "yes", which was addressed in the Affordable Housing Policy. Board members concurred.

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

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

NAYS: None.

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Agenda Item No. 15. **Public Hearing: ZMA-2007-006. Three Notch'd Center.**

**PROPOSAL:** Rezone 2.3 from LI Light Industrial, which allows industrial, office, and limited commercial uses (no residential use) to PD-SC Planned Development Shopping Center, which allows for shopping centers, retail sales and service uses; and residential by special use permit (15 units/ acre). The proposal is to redevelop the site with two office/commercial buildings with a total of 40,500 square feet.

**PROFFERS:** Yes.

**EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY:** CT5 Neighborhood Center in the Crozet Master Plan which allows for a mix of uses and residential types at net densities of up to 12 units per acre; up to 18 units per acre if in a mixed use setting.

**ENTRANCE CORRIDOR:** Yes. **LOCATION:** 5368, 5374, and 5382 Three Notch'd Road, located on the northside of Three Notch'd Road approx 500 feet west of its intersection with Parkview Drive.

**TAX MAP/PARCEL:** Tax Map 56A3, Parcels 9 and 11.

MAGISTERIAL DISTRICT: White Hall.

(Notice of this public hearing was published in the Daily Progress on November 26 and December 3, 2007.)

Mr. Cilimberg reported that this request would rezone existing development from LI to PDSC in Crozet and would permit the redevelopment for two new buildings totaling over 40,000 square feet. He said that there would be certain by-right commercial uses that proffer out as part of this proposal. The area is across the street from the old Con-Agra facility; there would be one two-story and one three-story building. Most of the parking would be relegated. Mr. Cilimberg reported that there would be certain uses permitted that would be by-right in C1, CO and HC as encompassed in the PDSC. There would also be certain special use permit allowances and certain uses accepted by the proffers. The Planning Commission recommended approval conditioned upon certain areas of the plan, and issues concerning the proffers addressed.

Mr. Cilimberg said that the signed proffers were received in accordance with the Board policy. He indicated that there was a minor technical correction to the proffers which the applicant made. The change in substance is no different than what was previously provided to the Board. It does include the various sections of the Zoning Ordinance that are referenced in the proffer for future uses that would either be included or not included. The recommendation is for Board approval inclusive of the application plan and proffers dated December 11, 2007, signed December 12, 2007.

The Chairman opened the public hearing and asked the applicant to come forward.

The applicant's representative, Ms. Jo Higgins, addressed the Board, noting that the only thing changed on the proffer form was the statement that the proffers are voluntary. Ms. Higgins explained that the Planning Commission voted unanimously to support this plan, and their concerns have all been addressed. She explained that this location is currently a retail office to serve Con-Agra's employment center and Crozet population. Ms. Higgins said that the positive aspects of the plan include closing of five entrances and a shared entrance on the east side, stormwater management facility sharing with the self-storage company, a reduction in parking, sidewalks, a streetscape, and a complete lane across the front. She reported that the ARB has weighed in positively on this plan. She asked for the Board's favorable consideration.

Mr. Rooker expressed confusion about what uses can be on the property, and what cannot.

Ms. Higgins replied that the paragraph was composed by the County Attorney's office to stipulate special uses.

Mr. Cilimberg explained said that the language says "shall include only those commercial and service establishments allowed in the Code sections listed except the following." The listed using following that language are not allowed.

Mr. Davis noted that the intent of the language is to make it clear to allow the permitted uses that were not part of the "excepted below list" plus all the special uses would continue to be allowed by special use permit. He thinks the language may be redundant but the intent is to clarify uses not permitted and it can be fairly interpreted.

Ms. Thomas asked if stormwater detention is included. Ms. Higgins explained that this will be an improvement as the facility will be shared and the site is flat. There is no one down site of this property. They did not include anything in the proffers to upgrade or exceed the requirements because if there is any failure, it would affect the property owner which they have already entered into agreement.

There being no other public comment, the public hearing was closed.

Mr. Wyant **moved** to approve ZMA-2007-006 inclusive of the application plan dated August 15, 2007 and the proffers dated December 11 and signed December 12, 2007. Mr. Rooker **seconded** the motion. Roll was called, and the motion carried by the following recorded vote:

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

NAYS: None.

**(The proffers are set out in full below:)**

Original Proffer   X    
Amended Proffer \_\_\_\_\_  
(Amendment # \_\_\_\_\_)

**PROFFER FORM**

Date: 12/11/2007 ZMA # 2007 - 006 Tax Map Parcel(s) # 56 A(3) - 9, 11

2.32 Acres to be rezoned from LI to PD-SC  
in accordance with the Application Plan prepared by NP Engineering dated 1/2/07 revised 8/15/07

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.

The development of the Property shall be limited to those uses allowed by right under Section 18-25.2.1 and those uses allowed by special use permit under Section 18-25.2.2 of the Albemarle County Code, excepting those by right uses delineated in Sections 18-22.2.1, 18-23.2.1 and 18-24.2.1 listed below, as all of those sections are in effect on December 12, 2007, copies of which are attached hereto. The following by right commercial and service establishments shall not be permitted on the Property:

- (1) The Permitted uses of the property, and/or uses authorized by special use permit, shall be only those uses allowed by Albemarle County Code Section 18-25.2 in effect on 12/12/2007. The by right uses permitted under Albemarle County Code Section 18-25.2.1.1, the C-1, CO, and HC uses cross-referenced therein shall include only those commercial and service establishments allowed in Albemarle County Code Sections 18-22, 18-23, and 18-24 in effect on 12/12/2007 except the following:
  - A. Cemeteries: 18-22.2.1.b3, 18-23.2.1.4, 18-24.2.1.5
  - B. Fire & rescue squad stations: 18-22.2.1.b6, 18-24.2.1.13
  - C. Indoor theaters: 18-22.2.1.b9, 18-24.2.1.38
  - D. Libraries, museums: 18-22.2.1.b12, 18-23.2.1.5
  - E. Automobile service stations 18-22.2.1.b16, 18-24.2.1.5
  - F. Automobile, truck repair shop, excluding body shop: 18-22.2.1.b22, 18-24.2.12
  - G. Hotels, motels and inns: 18-24.2.1.20
  - H. Mobile home and trailer sales: 18-24.2.1.23
  - I. Modular bldg sales: 18-24.2.1.24
  - J. Motor vehicle sales, service and rental: 18-24.2.1.25
  - K. Building material sales: 18-24.2.1.4
  - L. Light warehousing: 18-24.2.1.21
  - M. Machinery and equipment sales, service, and rental: 18-24.2.1.22
  - N. New automotive parts sales: 18-24.2.1.26
  - O. Sale of major recreational equipment and vehicles: 18-24.2.1.32
  - P. Wholesale distribution: 18-24.2.1.34
  - Q. Heating oil sales and distribution: 18-24.2.1.39
  - R. Indoor athletic facilities: 18-22.2.1.b24, 18-24.2.1.42

Copies of Albemarle County Code Sections 18-22.2.1, 18-23.2.1, 18-24.2.1, and 18-25.2 on 12/12/2007 are attached as Exhibit A.

<u>(Signed) Jeffrey S. Sprouse</u> Signatures of All Owners	<u>Jeffrey S. Sprouse (TMP 56A3-11)</u> Printed Names of All Owners	Date
<u>(Signed) Jeffrey Sprouse</u>	<u>Jeffrey Sprouse (TMP 56A3-9)</u>	<u>12/12/07</u>

Agenda Item No. 17. **Public Hearing: ZMA-2007-014. Liberty Hall Amendment (Signs #36&39).**

**PROPOSAL:** Rezone 8.01 acres from NMD Neighborhood Model District - residential (3 - 34 units/acre) mixed with commercial, service and industrial uses) to NMD Neighborhood Model District - residential (3 - 34 units/acre) mixed with commercial, service and industrial uses to amend the proffers to allow for for-lease affordable housing for approved units. No additional dwelling units are proposed.

**PROFFERS:** Yes.

**EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY:** Crozet Master Plan designates the property CT3 Urban Edge: single family residential (net 3.5-6.5 units/acre) supporting uses such as religious institutions and schools and other small-scale non-residential uses, and CT4 Urban General: residential (net 4.5 units/acre single family, net 12 units/acre townhouses/apartments, net 18 units/acre mixed use) with supporting uses such as religious institutions and schools and mixed uses including retail/office.

**ENTRANCE CORRIDOR:** Yes.

**LOCATION:** Tax Map 56, Parcels 97A, 97A1, and 97 (only a .833 acre southwest portion of the property as shown on the General Development Plan) along Radford Lane near its intersection with Rockfish Gap Turnpike (Rt. 250 W).

**MAGISTERIAL DISTRICT:** White Hall.

(Notice of this public hearing was published in the Daily Progress on November 26 and December 3, 2007.)

Mr. Cilimberg reported that this is an amendment to broaden the application of affordable housing opportunities in the project, rather than having it tied to specific units of a certain type. This would allow both for-lease and for-sale affordable units and could include single-family attached as well as condominiums, apartment, and flat type units. He said that Liberty Hall is located behind and adjacent to Clover Lawn. The plan approved specifies affordable units and under the amendment the units could be single or multi-family attached; they could be for sale or for lease, and the standard language for cash in lieu of units is included in the proffers. He said that the Commission has recommended approval subject

to the applicant revising the proffers to create the option for cash rather than providing the unit, which is standard language. Staff recommends approval of the amendment inclusive of the amended proffers dated and signed November 21, 2007.

Mr. Rooker asked if the Director of Housing has reviewed these proposed changes and support the changes.

Mr. Cilimberg stated that Ron White was accepting of the change, but he is not comfortable taking cash instead of a unit, but the Board and Commission said they wanted that language included.

Mr. Rooker commented that the Commission supported cash for a unit language, but in the Oakleigh Farm application, they were not supportive of that language. For Oakleigh Farm, the Commission wanted provision for affordable housing onsite. Mr. Cilimberg replied that the Commission wants the units committed to and then the Housing Director make the decision. They do not want the applicant to just give cash; they want that discretion in the hands of the County.

Mr. Cilimberg noted that the amendment would give the applicant flexibility in which eight units they provide onsite, and the change was initiated by the applicant.

The Chairman opened the public hearing and asked the applicant to come forward.

Ms. Valerie Long addressed the Board on behalf of Weatherhill Development, clarifying that this request is just to give the applicant flexibility for the proffered affordable units. They have already designated the units on an approved site plan. They are finding that with market there is a demand for affordable rental units; therefore, they are trying to meet that demand. The proffer added at the request of the Planning Commission is one that the applicant has no control over. She explained that the concern is if all of the units come online and at the end of the 90 day period, the County did not have enough qualifying families, then the unit could be sold at market rate. She said she has crafted language that says if, prior to site plan approval, the County comes to the determination that there is this risk of not having enough families for the units that are going to come on at one time, then the County can say they would rather have the cash amount paid.

Mr. Slutzky asked why we would have standard language that the Housing Director has to make up his mind prior to site plan approval as opposed to at a later point, for example, CO. Ms. Long commented that provides the developer time to potentially have the units retrofitted to sell at market rates.

Mr. Cilimberg indicated that changing the unit types would not change the locations, as he previously stated.

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

Mr. Wyant then **moved** to approve ZMA-2007-014 inclusive of the amended proffers dated and signed November 21, 2007. 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, Mr. Slutzky and Ms. Thomas.

NAYS: None.

**(The proffers are set out in full below:)**

Original Proffer \_\_\_\_\_  
Amended Proffer X

#### **AMENDED PROFFER FORM**

Date of Proffer Signature: 11/21/2007

ZMA #2007-00014

Tax Map Parcels: 56-97A; 56-97A1

8.01 Acres to be rezoned from NMD (Neighborhood Model District) with Proffers [ZMA 2005-00051 to NMD (Neighborhood Model District) with Amended Proffers

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. The Owner shall contribute \$137,600 (\$3,200 per unit for 43 units) cash to the County's capital improvement program for the purpose of mitigating impacts from this development. The cash contribution shall be used for transportation improvements (i.e. Eastern Avenue), schools, libraries, fire and rescue, parks or any other public use serving the Community of Crozet as identified in the Crozet Master Plan. Contributions shall be payable under one of the following methods, which shall be designated by the County: (1) ninety (90) days after receipt of written notice by the Owner from the County identifying a Capital Improvement Project within the Community of Crozet for which the cash would be applied, provided that contributions for a Capital Improvement Project shall not exceed

\$50,000 during any sixty (60) day period and said request is after the County's approval of the first final site plan or subdivision plat within the Project, or (2) in increments of \$3,200 cash per lot, for any market-rate townhouse or new detached single family dwelling unit prior to or at the time of issuance of a building permit for any improvement thereon. If the cash contribution has not been exhausted by the County for the stated purpose within (10) ten years from the date of the County's receipt of the final contribution, all unexpended funds shall be applied to a project(s) identified in the County's Capital Improvements Program for the Community of Crozet.

2.

- A. The Owner shall provide eight (8) units of affordable housing for lease or sale as identified on the General Development Plan produced by Timinons Group, dated August 15, 2005 and last revised April 6, 2006, entitled "Application Plan — Figure 2". The eight (8) units shall be comprised of one or more of the following unit types: single-family attached housing (townhouses), condominiums or apartments/flats for rental. The Owner or his successor in interest reserves the right to achieve the eight (8) equivalent affordable 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 subject property. The current Owner or subsequent Owner shall create units affordable to households with incomes less than 80% of the area median income, such that housing costs consisting of principal, interest, real estate taxes and homeowner's insurance (PITT) do not exceed 30% of the gross household income.
- 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/Builder shall provide the County or its designee a period of 180 days to identify and pre-qualify an eligible purchaser for the affordable units. The 180-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 period, the Owner shall have the right to sell the unit(s) without any restriction on sales price or income of purchaser(s). If these units are sold, this proffer shall apply only to the first sale of each of the eight (8) units.
- ii. For-Rent Affordable Units
1. Rental Rates For-Lease Affordable Units The gross lease amount, including tenant paid utilities, shall not exceed one-hundred twenty (120%) percent of the fair market value of rentals published by the Department of Housing and Urban Development that is in effect when the Unit(s) is available for occupancy. 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 1b(i) 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 low or moderate cost units qualifying as such under either the Virginia Housing Development Authority, Farmers Home Administration, or Housing and Urban Development, Section 8, whichever comes first (the "Affordable Term").
  2. Conveyance of Interest — All deeds 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 1. 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 SB. 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 1b(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.
3. Within 30 days after VDOT determines that a traffic signal is warranted at the intersection of Radford Lane and Route 250 or at the intersection of Eastern Avenue and Route 250, the Owner shall make a cash contribution to the County to pay for its share of the cost to install a traffic signal by others. The Owner's cash contribution shall be based upon the traffic volume generated by this site at the intersection, as compared to the total traffic volume at the intersection creating the need for the traffic signal, as determined by VDOT, Albemarle County, or the Owner's traffic consultant with the review and approval by VDOT and Albemarle County, and be determined by Albemarle County using an equitable method for determining the Owner's pro-rata share of the cost. This proffer shall be in effect until December 31, 2013.
4. The Owner shall dedicate and convey to Albemarle County, prior to the first final site plan approval, a 10-ft wide access easement to accommodate the construction, maintenance, and use of a Class B primitive trail connecting a sidewalk at the northern end of "Road D" to the property line adjacent the 20' sewer easement on TMP 56-97 as shown on the General Development Plan. The access easement shall be shown on the subdivision plat or site plan for the underlying or adjacent lands within the Project and constructed by Owner in conjunction with the improvements for that subdivision plat or site plan. The primitive trail shall be designed and constructed in accordance with the standards identified in the Albemarle County Comprehensive Plan, Appendix A — Greenway Plan. If the primitive trail access easement is not dedicated as part of a subdivision plat, the Owner shall pay all costs of surveying and preparing legal documents in a form acceptable to the County Attorney necessary to dedicate the easement.
5. Overlot grading Plan — Plats: The Owner shall submit an over-lot grading plan (hereinafter the "Plan") meeting the requirements of Proffer 5 with the application for each subdivision of the Property into single family detached lots and single family attached dwelling units shown on the General Development Plan. The Plan shall show existing and proposed topographic features to be considered in the development of the proposed subdivision. The Plan shall be approved by the County Engineer prior to final approval of the site plan or subdivision plat. The Property within the subdivision shall be graded as shown on the approved Plan. No certificate of occupancy shall be issued for any dwelling on a lot where the County Engineer has determined the lot grading is not consistent with the approved grading Plan. The Plan shall satisfy the following:
- A. The Plan shall show all proposed streets, building sites, setbacks, surface drainage, driveways, trails, and other features the County Engineer determines are needed to verify that the Plan satisfies the requirements of this proffer.
- B. The Plan shall be drawn to a scale not greater than one (1) inch equals fifty (50) feet.
- C. All proposed grading shall be shown with contour intervals not greater than two (2) feet. All concentrated surface drainage over lots shall be clearly shown with the proposed grading. All proposed grading shall be designed to assure that surface drainage can provide adequate relief from the flooding of dwellings in the event a storm sewer fails.
- D. Graded slopes on lots proposed to be planted with turf grasses (lawns) shall not exceed a gradient of three (3) feet of horizontal distance for each one (1) foot of

vertical rise or fall (3:1). Steeper slopes shall be vegetated with low maintenance vegetation as determined to be appropriate by the County's program authority in its approval of an erosion and sediment control plan for the land disturbing activity. These steeper slopes shall **not** exceed a gradient of two (2) feet of horizontal distance for each one (1) foot of vertical rise or fall (2:1), unless the County Engineer finds that the grading recommendations for steeper slopes have adequately addressed the impacts.

- E. Surface drainage may flow across up to three (3) lots before being collected in a storm sewer or directed to a drainage way outside of the lots.
- F. No surface drainage across a residential lot shall have more than one-half (1/2) acre of land draining to it.
- G. All drainage from streets shall be carried across lots in a storm sewer to a point beyond the rear of the building site.
- H. The Plan shall demonstrate that an area at least ten (10) feet in width, or to the lot line if it is less than (10) feet, from the portion of the structure facing the street, has grades no steeper than ten (10) percent adjacent to possible entrances to dwellings that will not be served by a stairway. This graded area also shall extend from the entrances to the driveways or walkways connecting the dwelling to the street.
- I. Any requirement of this proffer may be waived by the County Engineer by submitting a waiver request with the preliminary plat. If such a request is made, it shall include: (i) a justification for the request contained in a certified engineers report; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual Plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of one hundred (100) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; and (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable. In reviewing a waiver request, the County Engineer shall consider whether the alternative proposed by the Owner satisfies the purpose of the requirement to be waived to at least an equivalent degree. In approving a waiver, the County Engineer shall find that requiring compliance with the requirement of this condition would not forward the purposes of the County's Subdivision and Water Protection Ordinances or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the Project, and to the land adjacent thereto.
- J. The Owner may request that the Plan be amended at any time. All amendments shall be subject to the review and approval by the County Engineer.
- K. In the event that the County adopts overlot grading regulations after the date ZMA 2005-00005 is approved, any requirement of those regulations that is less restrictive than any requirement of Proffer 5 shall supersede the corresponding requirement of this paragraph, subject to the approval of the Director of the Department of Community Development.

Signature of Owner:  
(Signed) Marc C. Powell  
Marc C. Powell, Manager  
Weather Hill Development, LLC

Date: 11/21/2007

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Agenda Item No. 18. From the Board: Committee Reports.

Ms. Thomas reported that the Historic Preservation Committee notes that if any federal funds are being used in the library, the Crozet buildings will have to go through the Historic 106 process.

She said that the Southern Albemarle District has been officially put onto the National Register.

Ms. Thomas also stated that the Pembroke Petit Bridge in Palmyra is the model VDOT is using for the Advance Mills Bridge.

Ms. Thomas said the Historic Preservation will be coming to the Board with recommendations for reducing the number of members.

Ms. Thomas reported that she has received some reports on what Maryland is dealing with BRAC plans and there may be some things to be used as a model.

She said that Board members are invited to the TJPDC open house tomorrow. She commented that at their planning session they would like member jurisdictions to bring up local reports at their meetings – Albemarle will make a presentation on cash proffers.

Ms. Thomas encouraged Board members to sign up for VACo Committees.

Ms. Thomas reported that the Chesapeake Bay Stewardship Awards have gone to the City of Charlottesville for outstanding achievement for pollution prevention by a local government. Their employee Krystal Riddervold was named “Mentor of the Year” for the Chesapeake Bay Program, and the University of Virginia is the outstanding achievement for pollution prevention by a state government institution.

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Mr. Rooker reported that there was a meeting on charitable land trusts at City Hall with about 50 people attending. The consultant has been involved in these trusts throughout the country and they have developed measures to keep affordable units affordable. He suggested that Housing Committee members get a copy of those strategies for keeping houses affordable. He noted that Bill Edgerton has the PowerPoint that was used. The County does not have a process in place for keeping the units affordable or keeping part of the profit funds from the units in the affordable housing arena beyond one sale.

Mr. Tucker added that area housing directors have been meeting recently and are preparing to have a regional housing conference in this area, with a date selected of March 13, 2008. Albemarle will be one of the sponsors.

Mr. Rooker said there are about three strategies or options that are being explored around the country to accomplish this. It seems that we are taking too long to get those strategies in front of us to discuss and adopt. It is not necessary to reinvent the wheel here. People have done this, and have done it successfully.

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Mr. Slutzky commented that the Safer Chemicals Committee has been meeting and is close to presenting something to the Board soon.

He said that the Affordable Housing Task Force finally met and had a discussion about their charge. He will talk to every Board member individually to ensure there is consensus on the mission. Their focus is not going to be on the upper end of the affordable housing continuum. The AMI focus will likely be 60 percent and below, and he will explain that to Board members.

Mr. Slutzky said that there was a good presentation at the last MPO meeting, and that same presentation would come to the Board on January 9, 2008.

Mr. Rooker noted that the idea of the Safer Chemicals Committee was brought to the Board during a regular meeting as “Other Matters from the Public not Listed on the Agenda.”

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Mr. Davis noted that the Board’s first meeting in 2008 is January 9, 2008 which is the second Wednesday of the month.

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Agenda Item No. 19. Adjourn. At 11:27 p.m., there being no further business to come before the Board, Mr. Slutzky offered **motion, seconded** by Mr. Wyant, to adjourn to January 9, 2008, 9:00 a.m.

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Chairman

Approved by Board
Date: 10/01/2008
Initials: EWJ