

Albemarle County Planning Commission
July 14, 2015

The Albemarle County Planning Commission held a public hearing on Tuesday, July 14, 2015, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Karen Firehock, Tim Keller, Thomas Loach, Cal Morris, Chair; Richard Randolph, and Mac Lafferty, Vice Chair. Bruce Dotson was absent. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Staff present was Rachel Falkenstein, Senior Planner; Megan Yaniglos, Principal Planner; Claudette Grant, Senior Planner; J.T. Newberry, Planner; David Benish, Chief of Planning; Sharon Taylor, Clerk to Planning Commission, Wayne Cilimberg, Director of Planning and Andy Herrick, Senior Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Morris, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

Deferred item

ZMA-2015-00002 Franklin Street Steep Slopes

MAGISTERIAL DISTRICT: Scottsville

TAX MAP/PARCEL: 077000000040B0

LOCATION: Property is located in the southeast corner of the intersection of Franklin Street and Broadway Street

PROPOSAL: Request to change the zoning designation of 37, 918 square feet from preserved slopes to managed slopes which would allow the slopes to be disturbed

PETITION: Rezone 0.87 acres from Steep Slopes Overlay District (preserved) which allows uses under Section 30.7.4(b) to Steep Slopes Overlay District (managed) which allows uses under Section 30.7.4(a). No dwellings proposed.

OVERLAY DISTRICT: Steep Slopes (SS); Flood Hazard (FH)

PROFFERS: No

COMPREHENSIVE PLAN: Industrial Service – warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in Neighborhood 4

(JT Newberry)

DEFERRED FROM MAY 19, 2015 PLANNING COMMISSION MEETING.

J.T. Newberry presented a PowerPoint presentation regarding ZMA-2015-00002 Franklin Street Steep Slopes. (Maps referred to in summary in PowerPoint presentation)

Overview of Application Process

- December 15, 2014 – Pre-application meeting
- February 17, 2015 – Submitted ZMA
- April 3 and April 27, 2015 – Community meeting
- May 19, 2015 – PC public hearing (Deferred)
- June 23, 2015 – Joint City/County work session

Changes since May 19th Public Hearing

- County adopted update to the Comprehensive Plan, including Southern and Western Neighborhoods Master Plan (6-10-15), which this site is included in.
- Additional information provided at joint work session related to visibility from Monticello and percentages of steep slopes (6-23-15) that was requested at the May 19th public hearing.
- Just last week the applicant contacted staff and revised their application to match the staff recommendation. (7-10-15)

New Comp Plan Designation

- Green areas are designated for Parks and Green Systems. Since Green Systems may not readily be clear on what that is defined as staff included the following statement: “Green systems are the interconnected features of vegetated critical slopes, streams and stream buffers, wetlands, floodplains, parks, trails, and recreational amenities that provide a variety of benefits to residents and preserve the natural environment.” (11.3, Introduction to Parks and Recreation, Greenways, Blueways, Green Systems)

Applicable Statements from Southern and Western Neighborhoods Master Plan that speak directly to steep slopes:

- Environmental features include streams, stream buffers, floodplains, wetlands and systems of steep slopes. Preservation of these features is expected. (A.8.50, Existing Parks and Green Systems)
- The stream buffers, systems of steep slopes, floodplain, and wetlands adjacent to the Rivanna River, Moore’s Creek, and Biscuit Run should be preserved. (A.8.72, Natural Resource Protection Recommendation)

These are statements that are readily applicable to this application.

Questions from Public Hearing on May 19th

Precedence?

Monticello Viewshed?

Percentage of area?

One of the questions from the May 19th public hearing was visibility from Monticello. When staff contacted the Foundation they acknowledged that this site was potentially visible and just asked that the developer when they develop the site adhere to the voluntary design guidelines that they provide for people for developments within the potentially visible area. This would relate to things like the color of the roof and things like that.

Staff Analysis

Staff narrowly focused on the criteria found in “Characteristics of Steep Slopes” (Section 30.7.3). This is just a quick reminder of the areas that staff analyzed as a part of this proposal. Because the applicant has revised their application to just include Area “A” that is what staff will focus on.

One of the other things that came up at the May 19th public hearing was what the exact area is within Area “A” and within the other areas as well that were not technically steep slopes where their grade was actually less than 25 percent. So for Area “A” that area is about 4,200 square feet or 15 percent of that area is actually not technically a steep slope.

Next he reviewed the tables that may remind the Commission of a staff report. The tables address each of the criteria for the characteristics of managed slopes and preserved slopes. For Area "A" nothing has changed for the number of characteristics that staff or the applicant feels meet those of managed slopes. Under the preserved category with the adoption of the new comp plan they have changed criteria in 4 and 5. The slopes are now identified as a resource designated for preservation and they are broadly identified as a resource in the adopted comp plan. This was not true when staff originally did the staff report under the old comp plan.

Recommendation:

Staff recommends approval of ZMA-2015-00002 with the application plan most recently provided by the applicant, which is the same application plan included in the original staff report but it lets Areas "B" and "C" remain preserved as they are currently and focuses only on Area "A" and asks that area be converted to managed slopes.

Since it was difficult to reach a recommendation on this application staff would ask as the recommendation moves forward to the Board that the Commission be very specific about the reasoning for making their recommendation. He has example slides that may help prompt some of the discussion for approval or denial. However, it would be helpful for the Board if the Planning Commission was very specific in its recommendation.

Mr. Morris reminded the Commission, again, that tonight they are looking at the question of the steep slopes in Section "A". He asked staff if that was correct.

Mr. Newberry agreed that was correct.

Mr. Morris invited questions for staff.

Mr. Lafferty asked if he read it correctly that to be a preserved slope it has to be greater than 10,000 square feet.

Mr. Newberry replied it does not necessarily have to be greater than 10,000 square feet. One of the characteristics of preserved slopes is that it be a contiguous area of 10,000 square feet or a close grouping greater than 10,000 square feet. So that is just one of the characteristics of preserved slopes.

Mr. Lafferty questioned if section "A" meets that.

Mr. Newberry replied that section "A" is approximately 28,000 square feet in total. Referring to the map he pointed out there is a portion at the top of the site that is designated to remain preserved. When they subtract the areas that are not steep slopes you are looking at about 20,000 square feet. Just to note the largest contiguous area above the yellow areas that show areas less than 25 percent is about 7,500 square feet.

Ms. Firehock said just going back to the list prepared on the characteristics of managed sloped on page 6 staff had the applicant's analysis compared with staff's analysis. At the last meeting she complimented staff on it since it was very useful to have the comparison in a chart. She was wondering if staff could tell us more about how you determined the contiguous area of steep slopes is limited or fragmented. It is a somewhat qualitative statement and she would like to know if he was using an actual equation to calculate that; and if so, what is that equation.

Mr. Newberry explained there is no scientific equation that we used. However, he thinks you can contrast the fragmentation of what staff originally believed based on the aerial topography to be completely comprehensive on a slope area of greater than 25 percent as shown on our GIS maps and shown in some of the figures in the staff report. The field run topography reveals there are integral areas that go the full length of the slope system that are actually less than 25 percent. He thinks the areas that sort of split the entire system indicated to us that it was more fragmented than staff originally believed.

Mr. Newberry pointed out the aerial would have you believe that this was all greater than 25 percent. However, the field run topography showed that actually was not true. Whereas, if you look at Areas "B" and "C" there are only some areas on the edges that fill run topography showed that was not greater than 25 percent. So for that characteristic it is a qualitative statement and staff feels like not only the amount of slope that was less than 25 percent, but its location throughout the system lead us to feel confident that it was fragmented and more limited than we originally believed.

Ms. Firehock said they are always thinking about precedence in decision making. She asked are you saying that if you find a sliver, whatever the width is, that runs the length through the middle of the slope which the slope rise over run is less than 25 percent that then negates the entire slope as being considered steep or that is now enough to be considered fragmented in which they get rid of the entire steep slope. She was trying to understand whatever the logic statement is that you would make.

Mr. Newberry said he did not think it could be considered as any kind of litmus test in and of itself.

Ms. Firehock pointed out she was not really asking for an equation. She was just wondering whether $A + B = D$ or whatever.

Mr. Newberry explained it was just one fact among the list of characteristics of managed slopes. When it was looked at by staff it was a surprise to us based on what they thought the system to be. It was a factor in deciding whether or not it had more characteristics of managed or preserved, but just one out of the list available in the Code. So for the future that would not be a slam dunk or anything like that. That was just one factor.

Ms. Firehock noted she had one more question on another factor. On that same list he had under the slopes significantly disturbed prior to June 1, 2012 that the applicant had no comment and you said no they were not. How did you gather the historical data on that site? There are topos he can look back at over time. Just tell us a little bit more about how you came up with that historical analysis.

Mr. Newberry replied staff looked at aerial photos over the past 30 or 40 years. The members of the public have informed us extremely well as to the history of the property and some of the historical uses of the property. The USGS maps dating back to the 30's give us some indication of what the slope may have been like. Staff did not feel like they found any evidence of significantly disturbed slopes. There were certainly times where it looked like there were different paths and different areas that were being used on the slopes, but nothing like previously there was a commercial building there or something like that.

Ms. Firehock noted she had one more question, which she could save if other Commissioners would like to ask questions.

Mr. Loach commented that the field run technology is a more accurate methodology than what staff used. In just dealing with Area "A" if in fact he had used that methodology in the beginning your analysis would have been consistent in what was proposed by the applicant as far as preserved and managed.

Mr. Newberry pointed out he was not the staff person that went through each system like that. He thinks with this information it definitely would have gotten a much harder look as opposed to just making it all preserved. He can't answer that question right out, but thinks we would have had pause and it would have made us look at this much closer.

Ms. Firehock said the Commission received an email today from a resident in Woolen Mills, Jon Fink, and he showed two pictures of soil removal, grading or something that she could not really tell. She saw a lot of bare earth that was not there before. She asked if there was site disturbance going on that should not occur and asked staff to comment on that.

Mr. Newberry said he could put the picture on the slide for everyone to see in case they have not seen it. He suggested they could ask the applicant. However, his understanding was no one is really sure what this is related to. He called Mr. Fink after receipt of the forward of the email because he wanted to find out if there was any indication of who was there. Mr. Fink said he never saw any machinery or any people out there. He asked Mr. Fink if there was a bobcat or something on that portion of the property. Mr. Fink said he thought the tracks were much wider than that.

Mr. Morris pointed out they would get those comments later on from others.

Ms. Firehock said she would wait because it sounds like the citizens have some information for us.

Mr. Morris invited further questions for staff. There being none, the public hearing was opened for applicant and public comment. He invited the applicant to address the Commission.

Mark Mascotte, with McLean Faulconer, represented the applicant in the rezoning application. First, he would address the photographs, which were new to him. However, he thinks he knows what it is. My client recently gave the Rivanna Water and Sewer Authority easement access for some stuff that they are doing. It happens to be in that corner. Also, in that corner is the entrance into Moore's Creek. He cannot verify that because this was the first time he had seen the photos and he has not been to the site in a while. However, he certainly wants to know who if it is not them because it is trespassers and certainly we are not aware of it. He believes it would be related to Rivanna Water and Sewer Authority and some easements that they are doing on the site.

Ms. Firehock pointed out they drove over your signs.

Mr. Mascotte replied that he saw that, but he did not put the sign there and did not run over it either. He can look into that and let Mr. Newberry know. But, that is my opinion on that. He thanked Mr. Newberry and Mr. Fritz because they have been absolutely outstanding in terms of providing their access throughout this process with the combined public hearings, the Planning Commission hearing that was originally held, and then the joint session that was held between the county and the city. They certainly have exercised very good zoning practice. That is a part

of the Code as they start to look at whether or not they move forward on this. So he certainly wanted to thank staff for their assistance.

Mr. Mascotte said at this stage, however, it is very imperative to stay focused on a specific rezoning that is being submitted before you. The subject property is zoned light industrial permitting a variety of by-right uses specified in the County Code. This position has nothing to do with the Light Industrial zoning and is not seeking any change or special use. The rezoning petition is not at all related to any development proposal for the site. In fact, the issue of whether the rezoning might ultimately increase or decrease the size of the developed portion of the site has no bearing and is not a factor to be used in qualifying the rezoning designation. The site is part of the steep slope's overlay district, which was created to delineate lands which have steep slopes and for which additional development design, care and consideration must be given prior to any permitted development.

Mr. Mascotte explained as noted the applicant is not presenting any site plans for development. The request is to change the zoning designation of approximately 24,000 square feet as Mr. Newberry shared on the map in section "A" only. They have amended their application just to that location because that is what staff has agreed and has recommended as well. The steep slopes district is not a growth management tool. Its purpose is to address environmental concerns in development areas of the county as delineated in the comprehensive plan. He thinks they have done that and certainly appreciates the opportunity again to be here this evening. If anyone has any questions about the pictures that were shared or the application, he certainly welcomes the opportunity to answer them.

Mr. Morris invited questions for the applicant. There being none, he invited public comment.

Bill Emory, resident of 1604 East Market Street, made the following comments:

He noted an engineer has performed a ground survey of the parcel before you tonight and has found that 85 percent of the slopes in section "A" because of the characteristics meet the parameters laid out in Code section 30.7.7 the steep slopes overlay district ordinance. To best conform with the purpose and intent delineated in the Code for the steep slopes overlay district the ground survey indicates that 85 percent of these slopes because of the characteristics should be preserved to the maximum extent practical. This goal of steep slopes preservation can be most closely obtained by entering the site at a point with less grade. Should the ultimate owner of this property wish to bisect the steep slopes in Area "A" they can minimize the damage done by pursuing a carefully crafted engineered solution. That would be an entrance required by special use permit designed to do as little damage to the hillside paralleling Franklin Street as possible. Additional design development, design care and consideration must be given prior to permitted development occurring.

This area has been called in the current master plan as being of particular value. The slopes are one of the pieces of this parcel's parks and green system designation. This parcel while zoned for industry because of its location and characteristics is an important resource. Area "A" of this parcel is perfectly described by 30.7.3.b of the steep slopes overlay district ordinance. Area "A" has the contiguous area required; it is part of a system of slopes; it is part of a hillside system; and the slopes are identified as a resource in the comprehensive plan and is something to preserve. He respectfully suggests the Planning Commission recommend denial of this applicant's rezoning application and direct them to pursue access by means of a special use permit or via an entry plan over slopes that are not designated as preserved. He wanted to point out that the little yellow strip seems to be very

close to the power line right-of-way, which he believes is the reason why people were in there clearing as shown in the pictures they saw today. It was something that Mr. Lahendro pointed out at the joint session.

Morgan Butler, with the Southern Environmental Law Center, thanked the Commission for the chance to comment tonight. He made the following comments.

As they have stated before they are not opposed to the development of this parcel, but just feel it needs to be done in a way that respects the environmental sensitivity of this area. Rather than remove the protection for a large portion of the slopes on this site and set a precedent that encourages similar requests they would prefer an option be pursued that involved serving only the minimum amount of slopes needed to provide access to the site. That approach is exclusively allowed to preserve slopes by special use permit. It is the one they recommend be pursued here.

Looking at the characteristics of preserved that are listed in the ordinance we think the second is the key one here. It says slopes may be designated preserved if they are, "part of a system of slopes associated with or abutting a water feature". As they commented at the main work session when they step back from the circles labelled areas "A", "B", and "C" on the May staff report and look at the slopes on this parcel as a whole they emerge as part of one larger system that borders on and drains into Moore's Creek into the floodplain then Moore's Creek itself. Considering the badly impaired state of Moore's Creek in our view this characteristic alone justifies a preserved slopes designation made on this parcel including the Area "A" slopes. They also want to flag some new information that is relevant to characteristics 4 and 5 of preserved slopes since both relate to how the comprehensive plan identifies the slopes. But, staff did a great job in explaining those issues tonight and pointing to specific protective language in the new comprehensive plan. They think it is important to note that both of these points, the connection above the slopes to Moore's Creek and the comprehensive plan changes were also raised by members of the City's Planning Commission during last month's joint work session. Having attended that meeting he thinks it is safe to say that your counterparts in the City were less than enthusiastic about changing the designations here. They commend you for reaching out to them on this and their input, while only advisory of course, is worth keeping in mind.

Finally, they wanted to offer a recommendation tonight regarding the executive summary. Under the section labelled strategic plan the summary lists goal 3, which is labelled development areas and relates to attract new development to the growth areas while protecting the quality of neighborhoods. That goal is certainly relevant tonight. However, goal 6 of the strategic plan seems every bit as relevant and they would recommend that it be added to the summary that goes to the Board. Goal 6 of the strategic plan is labelled natural resources and it says, "Thoughtfully protect and manage Albemarle County's ecosystems and natural resources in both the rural and development areas to safeguard the quality of life for current and future generations. They think that is also relevant here. Thank you again for the chance to comment.

Julia Skare, with Draper Aden and Associates, said she also represents the applicant and has a couple of points to address. One, as Mr. Newberry had mentioned there is a large portion of this property that is in the floodplain. So a portion of the property or over 50 percent of the property actually will be preserved. It will be part of the green space. It will be part of maintaining the natural resources of the site. So the remaining part, again, less than 50 percent is the area that they are looking to change a portion of the preserved slopes to the managed slopes. The

applicant is definitely taking into consideration the overall portion of the property and understands the value of preserving water features, preserving the floodplain and other features of the site. They just wanted to make sure that everyone understood that there is almost two sites with it being divided by the driveway to the treatment plant. The applicant absolutely is going to take into consideration the preservation of that area per the county ordinances and future developers will need to do the same.

Susan Ray Johnson said she lived on East Market Street and can report as she was driving to work she noticed the bobcat. She intermediately did a U-turn and talked to the person driving the bobcat. He told me he was instructed to clear a 15' corridor along that edge and Virginia Dominion has hired Asplundh tree service because some of the trees were growing up into the power lines. Then she spoke to the people that were driving the actual truck with the bucket and asked them if they would please be careful because after all one of the important elements, which they don't seem to focus on, is history. She feels they need to recognize there is a wall there that people labored to build, which is common at Riverview Cemetery. It is common at the corner of Franklin and Market and she thinks they need to have some respect for that. Furthermore, as she said at the joint meeting, she thinks it is important to respect the people that live in that neighborhood and not destroy that property for the applicant who does not know what they are going to do there. My guess is that they are going to make money. Everyone is entitled to do that. However, she thinks it is important to consider beyond the fact of managed or preserved. That is a very steep slope there and it borders on the city's development of an ecosystem along Moore's Creek. You can't say that it does not include that hillside; its relationship to the river; its relationship to the people and its relationship to the neighborhood.

There being no further public comment, Mr. Morris closed the public hearing to bring the matter before the Commission for discussion and action.

Mr. Morris invited further discussion and comments.

Ms. Firehock said since she was not able to attend the work session due to her travel session she was not able to make comments. So she has a quick list of comments she would run through. My opinions is that staff have not made a convincing argument that the areas are significantly limited or fragmented with respect to the steep slope. The purpose of having steep slope ordinances is to prevent excessive runoff and protect natural topography. It is very close to Moore's Creek and the Rivanna River both of which are impaired. Showing one small sliver that is less than 25 percent is not an adequate rationale for overturning that whole area as a steep slope complex. She is not willing to consider a change to slopes based on the evidence presented. The comprehensive plan also addresses this area as parks and green spaces. She would like the applicant to come back at a later time with a site plan with a detailed plan for how they need to develop this site and ask for a special exception for what is actually needed rather than asking for a blanket exemption.

Mr. Morris asked if staff can have a copy, and Ms. Firehock replied yes that she would email it.

Mr. Loach supported staff's recommendation based on the methodology used as being a more accurate methodology. Staff said if they looked at it at the beginning using that method they would have taken a closer look and absolutely in the report staff did take a closer look and made a decision that they believe it can be managed. It was an excellent report. He does not think it sets any precedence because you were using the same criteria that you would have used regardless. Staff was just using a different methodology they thought was more accurate. For that he was going to go along with staff's recommendation.

Mr. Morris commended staff personally since he thought the report and methodology was excellent. He just has a very hard time of back pedaling and start looking at steep slopes the way they have looked at them for years and years and just almost automatically give a variance on these. So he was still undecided, but leaning towards disapproval.

Mr. Randolph made the following comments:

At our joint meeting Commissioner Lahendro, reading from the minutes, said he is having a hard time understanding how Area "A" could not be labelled a hillside from top to bottom. It looks to him that the portion that is not in 25 percent slopes is less than 10 percent and happens to be where the power lines have been put through so it looks like an incidental man-made occurrence. Looking at the 1930 topography this is a natural hill that has been here for quite some time. He agreed with Commissioner Lahendro that it is a hillside.

The fact of the matter having looked at the interceptor where the new access will be for the sewage treatment plant there is definitely stone all through that area. The possibility remains strong as they discussed at our meeting that there could well be stone in that hillside because they still do not have a soil analysis that tells us whether it is or isn't. He agrees with Mr. Butler in how can you separate "A" out from what clearly is a system of slopes in the entire region. So if they take "A" out they are isolating part of the slopes. But, it all is in a system so they are interrelated or intertwined.

Thirdly, in Attachment C, which they received when they first met on critical slopes, the statement was made in there as bullet 5, adapt development to the topography and natural setting of the county rather than modifying the topography and natural setting to accommodate development. Mr. Butler at our first meeting pointed out that development should be adapted to the landscape rather than the landscape adapting to the development. He reiterated the point that is in the critical slopes standards of the county so they should be looking at minimal disturbance of slopes here rather than their wholesale slaughter and removal.

Fourthly, he thought Ms. Johnson's comments were really instrumental. It was one of the things that he was looking for when we met with our counter parts in the city. One of the things that Ms. Johnson brought out I had been looking to try to get a clear indication as to what the city intended to do with the adjoining neighborhood across from Franklin Street in this location. Ms. Johnson pointed out that at the current time there is an actual natural symbiosis between these slopes, the trailer park there and the street that constitutes a habitat. It is a habitat of our fellow residents in the city who thrive on the fact that they are able to use that street for play for their children and to do so in a safe way which would be jeopardized if there was a truck exit and tractor trailers were coming and going in that location.

Finally, when Dave Benish asked for some suggested thoughts prior to our joint city and county meeting he wrote to him and asked how this Franklin Street edge could be best harmonized between the city and the county so as to avoid a jarring contrast in land uses. He has come to see that my question wasn't the best question because it does not need to be harmonized because it is already in harmony. It does not need to be changed because the slopes need to be there. The slopes deserve to be there and that is why I feel the same way as he did before that they should remain where they are.

Mr. Keeler agreed with his two colleagues and so does not think they need to be terribly redundant on this. He has been really pleased with the effort that staff put into this previously in their work and discussions at the joint Planning Commission meeting. He is a bit perplexed that with all the input that came from Commissioners and from the community that they did not see more response to that with a modified staff report. The staff report concentrated on trying to respond to a change that came from the applicant where there were so many interesting and thoughtful ideas put forward about how we might look at managed and preserved slopes a bit more critically. He thinks staff has done an outstanding job in getting us to the first point, but they have not convinced me that this is really the thorough job that it needs to be for us to make a decision that warrants changing the status quo.

Mr. Morris asked if there were any other comments.

Mr. Lafferty said he would like to compliment staff, too, it is an excellent report. It concerns me quick a bit that we come up with a steep slope ordinance and then the first time it comes before us we change it. Therefore, he is inclined to deny it.

Mr. Morris asked if anyone would like to make a motion on this.

Motion: Mr. Randolph made a motion for non-approval of ZMA-2015-2 Franklin Street Steep Slopes, which was seconded by Mr. Keller.

Mr. Morris invited further discussion.

Mr. Benish suggested in the motion the Commission would want to identify the reasons for your denial. He pointed out Mr. Newberry has provided some language that might be helpful for that motion.

Restated Motion: Mr. Randolph moved and Mr. Keller seconded to recommend denial of ZMA-2015-00002 Franklin Street Steep Slopes based on the following factors as outlined:

- The slopes are a contiguous area of more than 10,000 square feet.
- The slopes are identified as a resource in the Comprehensive Plan and are designated for preservation.
- Slopes in Area "A" have characteristics of both managed slopes and preserved slopes, but on the whole, contain more characteristics of preserved slopes.

Mr. Morris invited further discussion.

Mr. Lafferty noted in the report there was something about us taking over land and it could make us have a law suit.

Mr. Newberry explained there was a reference to future access and whether or not keeping Area "A" in particular as preserved whether that would constitute a taking of the property by preventing an entrance.

Mr. Herrick pointed out that was on page 6.

Mr. Benish explained there were other options available to the applicant to provide that access.

Mr. Morris noted there were many options.

Mr. Lafferty said they could come in the back way.

Mr. Benish noted it was just an early observation about that potential issue.

Ms. Firehock said there is no site plan before us with a request for an entrance, which they are in fact denying because they don't have a site plan.

Mr. Morris asked for a roll call. He pointed out the wording of the motion was to deny the request.

The motion for denial passed by a vote of (5:1). (Mr. Loach nay) (Mr. Dotson absent)

Mr. Morris noted that ZMA-2015-00002 Franklin Street Steep Slopes would be forwarded to the Board of Supervisors with a recommendation for denial at a time to be determined.

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning)