Albemarle County Planning Commission
February 6, 2001

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, February 6, 2001 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were: Dennis Rooker, Chairman, William Rieley, Vice-Chairman; Rodney Thomas; William Finley, Tracey Hopper, Jared Loewenstein; and Pete Craddock. Other officials present were: Amelia McCulley, Zoning Administrator, Wayne Cilimberg, Director of Planning and Community Development, and Greg Kamptner, Assistant County Attorney.

Other Matters Not Listed on the Agenda from the Public – Bob Watson stated that he has a booklet that has been recently been published by the National Association of Realtors entitled On Common Ground. He noted that this outlines their growth management strategy. He also noted that a number of DISC principles are incorporated in this study.

Consent Agenda:

SUB 00-278 Stratford Glen at Forest Lakes South Lots 7A & 8A Final Plat -- Critical slopes Waiver Request - The proposal is for final plat approval to allow grading on two lots in the Forest Lakes South subdivision on .795 acres, PUD (Planned Unit Development).

SUB 00-163 Highlands at Mechums River Section 2B Preliminary Plat Critical Slope Waiver - Request for a waiver of Section 4.2.3.2 of the Zoning Ordinance which prohibits earth disturbing activity on slopes equal to or greater than 25%. This waiver would allow for preliminary plat approval to create fifty (50) lots on internal roads, which will be dedicated to public use.

Mr. Thomas moved for approval of the Consent Agenda as presented.

Mr. Loewenstein seconded the motion, which carried unanimously.

SDP-00-158 Home Depot at Northtown Center Preliminary Site Plan – The Board of Supervisors has requested that the Planning Commission review and provide comment on new and revised conditions for this site plan that has been developed in response to issues raised by the Board of Supervisors.

Mr. Rooker noted that this is not a public hearing, pointing out that the Commission held a public hearing on November 28, 2000. At that time the Commission voted 6-1 to not grant the critical slope waiver that had been requested by the applicant. The matter went to the Board of Supervisors and contrary to what was in the media, the Board of Supervisors did not vote. It was not approved, they did not vote at all. They asked staff to develop a set of conditions, which might achieve some of the goals that they were interested in achieving with respect to the property if the project were to be approved. The staff has developed these conditions and consulted with the applicant. There is at least one letter from the applicant concerning the conditions. At this meeting, the Commission is having a worksesion on the conditions that staff has prepared with respect to this project. This will go back to the Board of Supervisors for their approval.

Mr. Cilimberg noted for the Commission that Mr. Kamptner has worked with staff to put all of the conditions for the critical slope waiver and for the site plan into one set. There were some modifications included to more clearly reflect what was being recommended in terms of the conditions and what was understood as being reflective of prior discussions and commitments from the applicant.

Mr. Rooker pointed out that most of these conditions were contained within the staff report. Subsequent to this the applicant sent a letter which is dated February 2nd. As of today staff had not received this letter. Staff has endeavored to incorporate the commitments that were made prior to the February 2nd letter and any oral commitments that may have been made by the applicant that were not previously covered in the conditions.

Mr. Waller presented the staff report, noting the following:

- The applicant seeks preliminary approval to allow the construction of a 130,184 square foot retail sales store on approximately 15.9 acres that is zoned Highway Commercial and Entrance Corridor. The property is bounded between the Carrsbrook and Woodbrook residential subdivisions.
- As a result of the Planning Commission's denial on November 28th the applicant had appealed to the Board of Supervisors.

Mr. Cilimberg noted that there were five directives noted from the Board of Supervisors, which were discussed with the applicant and staff. These were:
(1) provide meaningful enhancements to the buffers that surround the site:
(2) reduce the sight and sound of rooftop mechanical equipment;
(3) provide a bus stop and better pedestrian access into and throughout the site;
(4) reduce or eliminate the sight of retaining walls from neighboring properties; and
(5) improve the quality and quantity of runoff during and after construction.

Mr. Rieley noted that one of the issues that the Board of Supervisors asked staff to address is the quantity and the quality of stormwater runoff. One of the issues at the previous hearing was the total quantity of runoff from the site. He asked if the revised conditions address this concern.

Mr. Jeff Thomas stated that there is nothing in the conditions that address the total volume of runoff. It is strictly attenuating the peak rate of runoff.

Mr. Rieley noted that retaining walls are referred to as earth filled gabion walls. Normally gabions are filled with rock and there is an earth gravity retaining wall. He asked Mr. Thomas to clarify this.

Mr. Rooker asked if there was any condition that Mr. Thomas could recommend that would help with respect to the volume of runoff leaving the site.

Mr. Jeff Thomas stated that the only thing that we have so far in our conditions that may address volume would be the bio-filters because of the infiltration aspect. He noted that this is generally only for the first half inch of runoff. Anything to break up the impervious cover on the site would help.

Mr. Bill Mawyer stated that they have spoken to the applicant regarding adding some pervious measures such as pervious pavers, additional bio-filters that may help reduce some of the volume. These are primarily quality improvements, but there may be some water volume reduction also.

Mr. Rieley asked if these measures were reflected in the revised conditions.

Mr. Mawyer replied that this is not specifically stated, but they have talked about if there was trouble with volume in the basin they would look at other measures to improve the water detention. They have spoken specifically with the applicant about such measures such as pervious pavers. He pointed out that they would not expect these for a large portion of the parking lot, but in selected areas on the perimeter. He also pointed out that the downside to pervious pavers is that it could make it difficult for snow removal, but noted that they did not see this as a major problem.

Mr. Rooker stated that it would be helpful if Mr. Mawyer could provide appropriate language for a condition that would achieve this goal.

Mr. Mawyer stated that in condition #2c, it states "shall be addressed by an underground detention pipe and/or a pervious pavement system".

Mr. Finley asked if this addresses runoff beyond the 10-year frequency, noting that by ordinance they are required to hold up to a 10-year frequency storm.

Mr. Jeff Thomas stated that the requirements in the Stormwater Protection Ordinance are the 10-year storm.

Mr. Finley stated that the runoff would go to the underground if the pond can't be modified to do this.

Mr. Jeff Thomas stated that there is not enough space to put this in the pond.

Mr. Rooker pointed out that the Commission was asked by the Board of Supervisors to provide conditions that are in the public interest with respect to the project, but may not be dictated by other sections of the ordinance.

Mr. Rieley questioned the language in condition #2c, noting that it is phrased in such a way that it only responds to the applicant not being able to generate enough volume for what is implied as coming out of detention, which is a different issue of counteracting the impervious surface and the total amount of volume runoff. He felt this was an issue that is directly tied to the critical slopes disturbance. If the Board of Supervisors wants to impose a condition relative to infiltration as a compensation for critical slopes disturbance, this would be reasonable. This same issue may apply to the green roofing system which may have the same effect, pointing out consideration was given to a green roofing system.

Mr. Thomas asked what type of protection is being given to well contamination.

Mr. Mawyer stated that the Engineering Department has required the normal systems for stormwater and erosion control management, which will protect the wells in the sense that they will reduce runoff from the site at levels in compliance with the ordinance. There are no special systems to protect wells.

Mr. Thomas stated that on the silt screens it was mentioned that there will be extra care taken in retaining the silt. He asked if double or triple silt screens could be installed to keep the silt in place.

Mr. Mark Graham stated that with regard to erosion and sediment control, they are proposing the use of high efficiency sediment basins designed to include the use of flocculants. Rather than relying on silt fences, this would require all of the stormwater runoff in the construction area to be directed to a basin where there will be flocculants that allows the sediment to settle out very efficiently. He noted that flocculants have not been used in Albemarle County, but have been used in Staunton and Culpeper. He felt that these would work in this circumstance.

Mr. Thomas noted his concern with protecting the area and keeping the silt in place. He noted that during construction damage may be caused downstream and pointed out that the Engineering Department can require corrective action.

Mr. Graham stated that this falls under the Water Protection Ordinance, which empowers the Engineering Department to enforce the State Erosion and Sediment Control Regulations. Under these standards, minimum standard #19 deals with downstream damage to streams, channels and properties. If the damage is directly related to this, the Engineering Department can require the applicant to address this.

Mr. Mawyer stated that regarding downstream property, it is under the Engineering Department's purview to require corrective action, however, if the applicant can't get permission to go downstream then the County would have to obtain a directive from the courts to make the necessary improvements.

Ms. Hopper stated if the applicant could be required to post a bond that would cover the expense of dredging and damage that may occur downstream.

Mr. Mawyer stated that they are providing measures to protect downstream properties. They do not anticipate that downstream properties will be damaged. He stated that if it rains hard enough, regardless of the measures taken, silt will wash off the site. Even though the opportunity for downstream damage is there, they do not typically bond anticipating that there will be downstream damage. He stated that they could look at this project to determine if it would be a reasonable expectation. Because the conditions require that they go downstream and make repairs if they could get permission, this would be appropriate to be included in the bond amount.

Mr. Graham noted that there is an Erosion Sediment Control bond for measures shown on the approved plan. This could be extended to repairing damage downstream. He also noted that if the project were to get so bad that a Stop Work Order was issued, there is a legal process whereby they can petition the court that the applicant would be responsible for the additional costs.

Mr. Craddock asked if this basin would be adequate to address runoff concerns. He asked if the applicant owned downstream property could he put a basin in there to address runoff from this site.

Mr. Graham stated that this process is encouraged where the applicant owns property downstream. This is a more effective way of controlling runoff from the construction site.

Ms. Hopper asked if there was a limitation as to how close this could be to a residence on the adjacent property.

Mr. Graham stated that to the best of his knowledge the ordinance does not address this.

Ms. Hopper stated that the Engineering Department, based on the Water Protection Ordinance, could look at the downstream effects. She suggested adding a condition that any contamination to downstream wells also be addressed.

Mr. Graham questioned how the existing condition of the wells could be ascertained prior to construction.

Mr. Mawyer ascertained that Ms. Hopper is suggesting checking the wells and monitoring these throughout the process to determine if they have been damaged. He noted that do not normally consider wells when dealing with surface water and erosion control.

Mr. Loewenstein noted that condition #11 under critical slopes is not included in the revised set of conditions.

Mr. Kamptner stated that this was included in the conditions to serve the purpose of providing additional notice. It is in the record and the applicant has the executive summary that has the condition. This is purely a statement of the County's existing authority. He noted that some of the conditions were shortened to delete references to authority that the County has.

Mr. Loewenstein stated regarding condition #11, despite the fact that it may be redundant he felt it might be a good idea to reword this and include in the conditions of approval.

Mr. Rooker noted that condition #11 reads as follows "if during construction damage is caused to downstream properties, the Engineering Department can require corrective action under E&SC law. This is independent of other E&SC conditions presented here".

Mr. Loewenstein stated that this condition should be reworded as follows "if during construction damage is caused to downstream properties, the Engineering Department shall require corrective action under E&SC law."

Ms. Hopper stated that a clause could also be added addressing concerns related to wells. She suggested the following wording "if during construction damage is caused to downstream properties,

including but not limited to any damage caused to wells, the Engineering Department shall require corrective action under E&SC law."

Mr. Finley asked if all the wells would be checked prior to construction and questioned who would pay for this.

Ms. Hopper stated that the owners of the property could get the wells checked prior to construction. If they were altered or damaged, she was unsure who would pay for this.

Mr. Thomas noted the number of adjacent owners in the area who are on wells.

Mr. Finley asked if the Commission was concerned that runoff from the site would cause pollution to the wells.

Ms. Hopper stated that this is a concern of the neighbors. She stated that she did not know enough about this field to know how realistic a concern this was. Because it is a concern of the neighbors she felt it was worth specifically stating it. She reiterated that the property owners could hire someone to evaluate the wells before and after construction.

Mr. Finley noted that the upstream flow may also contribute to this. He noted that there is other runoff in the watershed that could contribute to this. It would be difficult to define where the damage came from.

Mr. Craddock stated that a baseline could be established.

Mr. Rooker asked if the Engineering Department could look into this and prepare a recommendation for the Board of Supervisors letting them know that this issue was raised by the Planning Commission. If there is some measure that could be taken to provide protection to wells, the Commission would like this considered.

Ms. Hopper stated that condition #11 may already speak to this. She was suggesting that it be made clearer that it speaks to this, however, it may be broad enough already.

Mr. Kamptner stated that condition #11 is a condition on the Engineering Department, not the applicant. As far as the critical slope waiver conditions or the site plan conditions, it has nothing to do with the applicant. It has to do with the County, and would give the Engineering Department direction. The Board of Supervisors can give the Engineering Department direction that they are to enforce this particular requirement of the Water Protection Ordinance and the Erosion and Sediment Control Handbook.

Mr. Kamptner noted that condition #11 was the only condition from the original set of conditions that was not included in the updated conditions.

Mr. Mawyer stated that the objective of environment protection was discussed and how this could be done from an erosion control and stormwater management perspective. This is what the two programs are essentially about-flooding and environmental protection. When you have a large site or any site there must be good design, conditions, construction and enforcement. Without both parts there is no effective program. The Engineering Department spends a lot of time with the design and creating conditions, but they also focus on the inspection—the quality control aspect. The contractor's quality control program and making them take the plan quite seriously, as well as our inspection to make sure the contractor is following the plan. The inspection part outweighs the design and the conditions, if you will, as they may be. This has to happen in the field. This is where you get the best environmental protection. This is where we intend to focus our efforts on this project as well as all the other projects that we manage. This is a significant project with neighbors nearby and the stream. We intend to give it the appropriate amount of attention.

Mr. Rooker asked Mr. Mawyer if there were any other conditions that he would recommend for minimizing the quantity or improving the quality of runoff of waters in this site.

Mr. Mawyer stated that practice and enforcement in the field in important. Their inspectors are required to be certified by the State in Erosion Control Management. Perhaps it would be possible to have the contractors representative on site to also be certified by the State and to be required to be on the site at all times when they are having construction, to make sure that the system is constructed in an orderly and timely way and maintained in an appropriate way.

Mr. Rooker asked Mr. Kamptner if this would be an appropriate condition.

Mr. Kamptner replied that this is addressed in condition 5.d..

Mr. Rooker asked Mr. Mawyer if there was anything that was not in the conditions of approval that in dealing with quality/quantity runoff issues from the site that he felt should be added.

Mr. Mawyer stated that they have addressed most of the items without a total scope change to the project within the confines that they have with bio-filters, detention, pervious paving, special construction measures for erosion control, specialized personnel for erosion control management. Going downstream to do corrective repair is a good plan and will be pursued, however, it does have its downside if the cooperation of the neighbors is not there and they won't allow it to happen.

Mr. Rieley noted that one of the things that came up the first time this was before the Commission is that in a highly developed area, particularly with all the impervious material upstream, quite often the application of that standard formula for detention can actually end up doing more harm than good because you are releasing the water at a time when other peak flow is reaching the critical point. This is critical in this particular instance because there is a road downstream that already floods. The amount of the runoff from the site is doubled. It seems that the drainage area is approximately 100 acres. He suggested that it may be reasonable to do a unit hydrogap graph that plots the current peak flow; the extent of the new runoff, and the way in which it can be detained to get the maximum amount of effectiveness. This is not a short-term construction problem. If the runoff can be tailored in such a way that it is let out at the time when there is the lowest amount from the other impervious surfaces, this would minimize it to the greatest extent possible. He asked Mr. Mawyer if the flexibility exists in the ordinance to tailor something like this.

Mr. Mawyer stated that the Engineering Department has discussed this. Understanding that the engineering systems for stormwater management and erosion control at this point in the process is preliminary. They have not been designed to any degree of accuracy and, therefore, our department can not comment on any of the details. If this project moves into the final submittal process and engineering drawings are submitted relating to stormwater management and erosion control, then the details of balancing the peak flows can be addressed so that they do not occur at the same time.

Mr. Rooker ascertained that the flexibility exists in the ordinance to do this even though it speaks to the 2-10 year storm.

Mr. Finley asked if this would involve more volume as it would have to be held longer before it is released.

Mr. Rooker asked Mr. Kamptner if it would be appropriate to have a condition that speaks directly to the study referred to by Mr. Rieley.

Mr. Kamptner suggested that the Commission develop a condition that speaks to this.

Mr. Mawyer stated that they would require the applicant to develop all the data for his site. The County would prepare the data for the Kegler basin and provide this to the applicant, if necessary.

Mr. Rooker ascertained that this could then be designed into the applicant's system. The issue raised by Mr. Rieley regarding infiltration, is something that needs to be further addressed?

Mr. Rieley stated that he felt there were two areas where it would be practical to insist on infiltration systems. One is the area of pervious pavement. Some type of statistical information that would be helpful to the Board of Supervisors is the percentage of the parking lot that is used on a routine basis and what percentage of it is essentially for peak use. If this information can be generated, it gives a beginning point for determining where it is practical to use pervious pavement systems. The other area is that of a "green roofing" system. This is a site that the proposal will create an extraordinary amount of additional impervious surface, which is directly related to all of the downstream problems—the quantity and quality of runoff. Since this is an inextricable link with the disturbance of the critical slopes, this should be considered. He would like to see a condition that would insist upon a green roofing system.

Mr. Rooker noted that condition #16.d. under the new site plan conditions states that "…the applicant may install a "green roof" technology approved by the Planning Department…" He asked if it would be appropriate to make the "green roof" requirement part of the critical slope waiver conditions as opposed to the site plan conditions.

Mr. Loewenstein stated that he also felt this condition should be part of the critical slope waiver conditions.

Mr. Rooker asked if the Engineering Department has any specific requirements on a "green roof" system.

Mr. Mawyer stated that in general this would reduce the impervious surface, the vegetation is absorbing the water rather than running off so the volume of water running off is reduced and the quality is also improved. From a structural standpoint, it would have to be a different building because the weight on the roof would require redesign of the structural frame. Maintenance of the roof, keeping the grass alive, etc. also needs to be addressed.

Ms. Hopper suggested adding a condition that requires a pervious surface be used in non-peak parking areas to avoid the volume problems.

Mr. Rooker asked if the proposed parking is in excess of what is required.

Mr. Mawyer replied that the parking meets the minimum standard of the Zoning Ordinance.

Ms. Hopper noted that on other applications the loading site requirement has been reduced, she asked if this would have an effect on the amount of impervious surface.

Mr. Waller stated that this waiver was approved by the Planning Commission in November, it was reduced from 17 to 6 spaces.

Ms. Hopper stated that regarding condition #11 where the Engineering Department can require corrective action if there is downstream damage, the concern is how the neighbors could prove that their wells were damaged, it is the same problem that the Engineering Department has—if you don't have a snapshot then it's hard to prove damage.

Mr. Mawyer pointed out that they plan to evaluate the existing downstream conditions if the project goes forward. Through video and other recording measures the Engineering Department has an indication of what the existing conditions are so they will have a baseline to access changes.

Mr. Rieley commented that he thought the work done by the Engineering staff on the erosion and sediment control was outstanding.

Mr. Thomas noted originial condition #26 under site plan conditions "a public bus stop shall be located either internal to the site, subject to the approval…" Is this supposed to be internally?

Mr. Waller stated that this allows an internal stop to the site. The applicant indicated that they did not want to provide an internal stop. Discussions with the applicant indicated that there might be some liabilities that may be involved with a bus stop on the site.

Mr. Rooker asked if there were additional questions for staff, there being none, he asked the applicant to address the commission.

Ms. Valerie Long, representing the applicant, requested a short recess to discuss the changes.

Mr. Rooker recessed the commission until 7:15 p.m.

Mr. Rooker called the meeting to order at 7:30 p.m.

Mr. Rooker asked staff to clarify a couple of matters concerning water retention and erosion control. He asked Mr. Kamptner whether there was authority to apply a different condition than Condition #2b.

Mr. Kamptner stated that one of the provisions in the water protection ordinance allows the program authority to require that the stormwater plan include additional measures to address damaging conditions to downstream properties and receiving waterways caused by land development. These requirements are in addition to the requirements for the 2- and 10- year storm events.

Mr. Rooker asked if the commission could add a condition stating that water would be retained on site before and after construction to the maximum extent practical to minimize peak flow.

Mr. Kamptner said there is federal authority that allows facilities to achieve that result.

Mr. Rooker asked if there was general consensus to make that addition.

Mr. Rieley said he thought #2b could be amended with additional language.

Mr. Rooker stated that he thought the idea would be to give the Engineering Department the authority to ensure that the best measures are being applied.

Ms. Hopper voiced concerns about Condition #4, which addresses “the first downstream pond”. She stated that she would like to see the language changed to “the downstream ponds” to reflect that fact that there are several ponds nearby in the Carrsbrook neighborhood that would be affected.

Mr. Jeff Thomas pointed out that repairing the first downstream pond would be the most critical action, as it would affect the remaining ponds. Trapping sediment in the first pond would prevent it from moving downstream.

Mr. Thomas asked which pond was the first pond.

Mr. Waller pointed out the correct location of the pond.

Mr. Thomas said he thought that the sediment would drain into the second pond.

Mr. Jeff Thomas stated that the first would receive the runoff from the site.

Mr. Rooker pointed out that the question was whether or not the condition should apply to more than just the first pond.

Mr. Jeff Thomas said that staff thought dredging the first pond was the most reasonable and effective option.

Mr. Rooker clarified that the engineering department was certain that the upper pond was the one receiving the runoff from this site.

Mr. Craddock asked if the County had any corrective action if the wells and septic systems were contaminated.

Mr. Jeff Thomas said he did not know. He said that it was in the jurisdictional area of the County and could be a protected public system.

Mr. Craddock asked if a private landowner's well were contaminated by this project would the applicant be liable?

Mr. Jeff Thomas said that would be between the owner and the applicant.

Ms. Hopper asked if there would be incremental benefit to including the second lake in the condition.

Mr. Jeff Thomas stated that the larger benefit would be obtained with the first pond.

Ms. Valerie Long, representing the applicant, commented on the changes. She asked the commission to delete the clause from Condition #1 "remove the slip-ramp from the site plan" because the applicant believes they can provide sufficient water quality treatment without that requirement.

Mr. Rooker asked if they wanted to delete the 3500 square foot requirement.

Ms. Long pointed out that the engineer has said he is not sure where that figure came from. She believes that the standard of "sufficient water quality treatment" would achieve the County's goals.

Ms. Long asked that Condition #2d be made more general by changing the language to "satisfy the requirements of the water protection ordinance". She proposed the addition of "if visible from the entrance corridor" to the end of Condition #2e as the ARB has already approved the site plan with a request to review any visible changes. She proposed changing the language to "unless otherwise approved by the engineering department" at the end of the Condition #3. She requested deleting reference to "or a qualified engineer" in Condition #5d. The applicant would be willing to have a certified erosion and sediment control inspector on site. She would add a clause to site plan Condition #2 to provide flexibility in the event that the final landscape plan is otherwise approved by the ARB. This item appears to be inconsistent with what the ARB has already approved.

Mr. Rooker suggested changing the language to "consistent with the plan approved by the ARB".

Ms. Long stated that the applicant agreed that Conditions #3 - #14 were fine as written. She proposed adding "as reasonably necessary to provide screening" to the end of Condition #15. She proposed deleting the clause "and landscaped planters" from Condition #16b. She said that the applicant could provide screening walls that would hide the rooftop facilities from the surrounding neighbors. That, combined with the monochromatic color scheme, would provide adequate screening without the maintenance required by landscaped planters. She proposed to delete the clause "grouped in clusters and" from Condition #6c. She proposed that Condition #6d be revised to the original language.

Mr. Randy Royal, civil engineer on the project, requested that the language in Condition #17 be changed to "a qualified sound engineer".

Ms. Long requested changing the language in Condition #18 to state that "the public bus stop may be located adjacent to the right-of-way, subject to the approval of the engineering department and the Charlottesville Transit Service". The applicant would like the condition to be revised to reflect the bus stop currently shown on the site plan.

Mr. Waller stated that representatives of VDOT have not approved the site that was shown. Any other public site would be subject to that approval.

Mr. Rooker suggested adding VDOT's approval to the language.

Mr. Kamptner said that the alternative would be an internal site if VDOT does not give their approval. Ms. Long stated that the applicant would be willing to work with VDOT to obtain approval for the site.

Ms. Hopper asked if the applicant would agree to locate the bus stop in an internal location if VDOT did not give approval.

Ms. Long said they would not. Their concern would be safety.

Mr. Rooker asked if there were any questions for staff regarding these changes.

Mr. Rieley asked staff to comment.

Mr. Glenn Brooks said that Condition #1 was what was worrisome to staff. The figure of 3500 square feet comes from a 2.5% figure as guidance from the state manuals for this size and type. He was not sure where additional area on the site would come from if there was not enough provided with the existing slip ramp.

Mr. Rooker asked if there was reason to move the slip ramp other than the bio-filter concern.

Mr. Brooks stated that enhanced safety and entrance measures would be a reason.

Mr. Rooker asked if the consensus of the commission would be for the condition to remain as is.

The commissioners agreed.

Mr. Brooks stated that the other comments did make significant changes to the intent of the conditions.

Mr. Finley asked about the siting of the bus stop.

Mr. Cilimberg said that VDOT looked at the proposed location in the acceleration lane and did not support it. CTS did not support it, either. He is not aware of any other conversations with VDOT.

Mr. Finley asked if adding VDOT to the conditions would cover everything.

Mr. Cilimberg said yes, for locations on Route 29.

Mr. Rooker brought up proposed changes to Condition #15e.

Mr. Kamptner said he did not think that would be a problem.

Mr. Rooker asked who would make the "reasonable" determination.

Mr. Waller said the Planning Department would make that determination.

Mr. Kamptner suggested adding language to the condition to reflect that.

Mr. Waller stated that in #15b the buffer of 20 feet is required by the zoning ordinance.

Mr. Kamptner said that the language was added simply to reflect the requirements.

Mr. Waller said that the area of the 40-foot buffer was on the Woodbrook side, where the houses are closer.

Mr. Rooker brought up the proposed changes to Condition #16b.

Mr. Rieley suggested changing the wording to “and/or” and leaving the landscaped planters in the condition.

Mr. Rooker raised the proposed changes to #16c.

Mr. Rieley said that his concern is that the judgment call was based on the efficiency of the operating units rather than the impact on the neighbors. He would like to retain the condition as stated, adding “as approved by the Planning Department”.

Mr. Rooker brought up the proposed changes to #16d.

Ms. Hopper said that she was happy with the commission’s suggestion. She believes it is important because of the impervious coverage of the site as planned.

Mr. Rooker stated that the commission would like to see the requirement for a green roof.

Mr. Cilimberg asked if the commission’s recommendation was to substitute the condition with a condition under the critical slopes waiver, requiring a green roof.

Mr. Rooker clarified that with the recommendation that the condition remain as is if the Board of Supervisors does not believe that it is appropriate.

Mr. Rooker stated that he thought the changes to Condition #17 were agreeable.

Mr. Rooker raised the issue of the bus stop. Mr. Rooker suggested including the word “shall” rather than “may”.

Mr. Rieley said that he would like to put CTS and the Planning Department in charge of choosing the ideal location, but conceded that if they had ultimate approval, there would be the same affect.

Mr. Loewenstein said he would agree with Mr. Rooker’s language.

Mr. Rooker brought up the previous additions by the commission to the conditions. He asked if the commission would like to address any other matters in the conditions.

Mr. Loewenstein brought up the changes to Condition #11 that were made to the previous staff report.

Mr. Rieley pointed out that item was giving direction to staff rather than the applicant.

Mr. Kamptner said he would attempt to make changes to that condition.

Ms. Hopper asked if that condition addressed the issue of whether any lakes downstream were affected.

Mr. Kamptner said that he would need to review that issue.

Mr. Rooker said that he thought the commission’s intent was to make the condition as broad as possible in terms of protecting off-site properties.

Mr. Rieley suggested requiring a 12-foot landscape trees rather than the current 5-foot requirement. He would like to add a provision to protect the trees in the buffer area, which would require that dying trees be replaced.

Mr. Kamptner said that he could develop a condition to reflect that.

Mr. Thomas asked if Mr. Rieley was referring to the trees given to nearby residents.

Mr. Rieley stated that he would make that change to each instance of the 5-foot requirement.

Mr. Kamptner suggested changing the wording to “up to 12-feet, as requested by the homeowner”.

Mr. Rieley raised the issue of outdoor display, storage and sales on the property.

Mr. Cilimberg said that use requires a special use permit.

Ms. Hopper suggested requiring that all non-peak parking be paved with pervious pavement.

Mr. Rieley agreed.

Mr. Rooker asked for clarification of the word “non-peak”, stating that he thought that language would need to be included in the condition. He suggested requiring a percentage of the parking be paved with pervious pavement.

Mr. Cilimberg said that a percentage requirement would be more enforceable than the non-peak.

Mr. Rooker suggested that the Commission may want to consider requiring using 20% of the non-peak parking be paved with pervious pavement.

Mr. Thomas stated that this would be approximately 102 parking spaces.

Ms. Hopper suggested requiring at least 33% of the non-peak parking be paved with pervious pavement.

Mr. Rieley pointed out that the parking lot is usually not more than two-thirds full.

Mr. Finley noted the number of conditions already proposed for this site. There are already a number of conditions noted that speak to runoff. He felt the applicant and the engineers will work together to address this issue.

Mr. Rooker stated that they are not imposing conditions, but making suggestions to the Board. The Board will determine whether or not this will be included as a condition. He asked if it was the consensus of the Commission that some percentage of the parking be pervious surface.

Mr. Thomas stated that he agrees that some percentage of the parking should be pervious surface. He also suggested that the Engineering Department approve this.

Mr. Rieley stated that he felt some latitude should be given to Planning staff as to the actual percentage required for pervious surface.

Mr. Cilimberg noted that this is being tied to the critical slopes waiver, which has a lot to do with water quantity/quality. He felt it was related to the benefit achieved by whatever amount of pervious parking is provided for water quality and quantity. He suggested the Engineering Department and not the Planning Department make the determination as to the percentage required for pervious surface.

Mr. Rieley stated that the reason that he suggested the Planning staff make this determination is that he felt the greatest percentage of impervious surface that is practical is warranted. The question is what is practical and this is not an engineering decision but is a decision based upon how much of the parking is used on a routine basis as opposed to periodically. The reason for this is that the pervious paving systems do not work if someone parks on them daily.

Mr. Cilimberg pointed out that it is really a decision to be made by both the Engineering Department and the Planning Department, based on the use and the benefit to water quality and quantity.

Mr. Rooker ascertained that the Commission is recommending that this condition be included and that the ultimate determination of the percentage be made jointly by the Planning Department and the Engineering Department. This would be a condition to the critical slopes waiver.

Mr. Rooker pointed out that the comments made by the Commissioners are not an indication on whether or not they feel the critical slopes waiver should be granted for this project. The Commission took action on the critical slopes waiver request on November 28th; this was denied by a 6-1 vote. This was appealed to the Board of Supervisors. The Board did not take action on this appeal but requested that Planning staff and the Commission to review potential conditions that might deal with some of the problems of the site. He reiterated that the Commission's action tonight was not to be taken as comment on whether or not they approve of the critical slopes waiver.

Mr. Finely asked if this has to come back to the Planning Commission for review.

Mr. Kamptner stated that it did not have to come back to the Commission.

Mr. Rieley stated that the Commission could request that the final site plan be brought back to the Commission for review.

Mr. Loewenstein stated that this was part of the original conditions of approval.

Mr. Cilimberg stated that the Commission should include this as a condition so the Board of Supervisors would be aware of this request.

Ms. Hopper asked if the final site plan could be appealed by the adjacent owners.

Mr. Cilimberg stated that the final site plan would be approved by staff and would not be appealed by adjacent owners.

Following are the conditions that the Planning Commission sent on to the Board of Supervisors:

Critical Slopes Waiver Conditions:

1. Remove the "slip ramp" from the site plan to provide space to accommodate a biofilter or series of biofilters approved by the Engineering Department in the front (west) parking lot with a total bottom area of no less than 3500 square feet for adequate water quality treatment. [CSW 1]

2. Provide a dry detention basin on the Home Depot site, subject to the following:
   a. The basin shall include a large biofilter along the bottom. [CSW 2]
   b. The basin shall be designed to store runoff from the 1-year 24-hour storm event (or equivalent), as well as runoff from the 2- and 10-year storm events. [Albemarle County Code § 17-314(D)]. [CSW 4]
   c. If adequate volume cannot be reasonably achieved in the basin, the adequate channel and water detention requirements of the Water Protection Ordinance shall be addressed by an underground detention pipe and/or a pervious pavement system (including stone reservoir and underdrain system) for parking bays most remote from the building approved by the Engineering Department. [CSW 3]
   d. The applicant shall demonstrate to the satisfaction of the Engineering Department that the detention system or systems required by this condition will satisfy the requirements of the Water Protection Ordinance. [CSW 4]

e. The basin shall be landscaped, and the landscaping shall be subject to review and approval by the Architectural Review Board if the basin is visible from the Entrance Corridor.

3. All biofilters required by Conditions 1 and 2 shall be designed to standards in the County's Interim Design Manual and Virginia Stormwater Management Handbook unless otherwise approved by the Engineering Department, with final design to be approved by the Engineering Department. [CSW 2]

4. The applicant shall dredge and repair the stream below the site and the first downstream pond, subject to the following:
   a. All dredging and repair work shall be shown on the applicant's erosion and sediment control plan.
   b. The applicant shall submit a letter of permission to the Engineering Department before the start of any dredging or repair work.
   c. If the applicant demonstrates to the satisfaction of the Engineering Department that it does not have permission to access the property necessary to perform Conditions 4(a) and (b) prior to engaging in land disturbing activity on the site, it shall submit for review and approval by the Engineering Department plans to address erosion and stormwater impacts that would have been mitigated by Conditions 4(a) and (b).
   d. The applicant shall not engage in any land disturbing activity on the site unless it first demonstrates to the Engineering Department that it has obtained the permission required by Condition 4(b), or has obtained approval of the plan submitted under Condition 4(c). [CSW 9]

5. In addition to all other erosion and sediment control measures that may be required by the Water Protection Ordinance, the applicant shall provide erosion and sediment control measures to assure, to the satisfaction of the Engineering Department, that it is providing high levels of effectiveness in controlling sediment during construction. These measures shall include, but not be limited to:
   a. A construction schedule that minimizes the duration of disturbance (*e.g.*, phasing of the erosion and sediment control plan).
   b. Using high efficiency sediment basins designed to include the use of flocculants.
   c. Matting exposed slopes as determined appropriate by the Engineering Department.
   d. The contractor shall have a certified Virginia Erosion and Sediment Control Inspector on the site throughout the period during which the site is under construction. The Inspector shall maintain a daily erosion and sediment control inspection log demonstrating that erosion and sediment control measures are being closely monitored and deficiencies are being quickly repaired. The Inspector shall assure that all control measures are being maintained in optimal condition. The log shall be made available for inspection by the Engineering Department at any time during regular business hours.
   e. If determined to be necessary by the Engineering Department, the surety required by Albemarle County Code § 17-207 shall include an amount determined by the Engineering Department to be reasonably necessary to take corrective action to repair or restore downstream properties damaged during construction by runoff or sediment. [CSW 10]

6. The parking areas shall be paved with pervious areas to the maximum extent practical as determined by the Planning Department and the Engineering Department.

7. In order to reduce the impervious surface on the property, the building shall have a "green roof" technology approved by the Engineering Department providing for the installation and maintenance of a substantially landscaped rooftop. If the Engineering Department determines that a "green roof" technology is not practical, then this condition shall have no force or effect.

8. In addition to the design requirements for the dry detention basin set forth in Condition 2(b):

a. The stormwater management plan shall include additional measures determined by the Engineering Department to be necessary in order to capture, to the maximum extent practical, the runoff from the site, both during and after construction.
b. The stormwater management plan shall include measures to prevent, to the fullest extent possible, damaging conditions to downstream properties and receiving waterways from occurring as a result of the development of the site, both during and after construction.
c. In order to allow the Engineering Department to develop appropriate measures to satisfy Conditions 8(a) and (b), the applicant shall submit data demonstrating the peak flow of runoff from the site and the peak flow of runoff coming onto the site. [Albemarle County Code §§ 17-312, 17-314(D)]

Site Plan Conditions:

The Planning Department shall not accept submittal of the final site plan for signature until a tentative final approval for the following conditions have been obtained. The final site plan shall not be signed until the following conditions have been met:

1. Architectural Review Board issuance of a Certificate of Appropriateness for the project shown on the final site plan. [SP 1]

2. Planning Department approval of the final landscape plan, consistent with final approval by the Architectural Review Board. In addition to any other landscape plan requirements set forth in Conditions 15 and 19 or otherwise required to satisfy Albemarle County Code § 18-32.7.9, the final landscape plan shall show the following:
   a. The installation of landscaping along the borders of the outparcel.
   b. The installation of staggered rows of Red Oak trees between the Entrance Corridor and the southern retaining wall.
   c. The installation of oak trees along the entrance drive on the north side of the outparcel. [SP 2]

3. Planning Department approval of a plat combining all of the parcels included in the Home Depot site. [SP 3]

4. Planning Department approval of an easement providing the Albemarle County Service Authority with unobstructed access to the existing Woodbrook pump station. [SP 4]

5. Virginia Department of Transportation approval of all construction activity within the public right-of-way. [SP 5]

6. Virginia Department of Transportation approval of the proposed relocation or disturbance of the existing state-maintained permanent drainage easement and stormwater management facilities located on-site. [SP 6]

7. The following items must be submitted with the final site plan for review and, in the case of required plans, approval, by the Engineering Department. [SP 7]
   a. An erosion and sediment control plan, narrative and computations. [Albemarle County Code §§ 17-203, 18-32.7.4.3]
   b. A completed application and fee for erosion control and stormwater management. [Albemarle County Code §§ 17-203, 17-303]
   c. A stormwater management/BMP plan and computations. Computations must include water quality, and detention routings for the 1-year (24-hour), 2-year and 10-year storms. [Albemarle County Code §§ 17-304, 17-314D]
   d. Copies of all state and federal permits required for impacts to waters of the U.S. completed stormwater management facilities maintenance agreement and fee. [Albemarle County Code § 17-323]

e. Drainage computations. [Albemarle County Code § 18-32.7.4, Policy]
f. Retaining wall plans and computations certified by a professional engineer for walls over 5 feet in height. [Policy]

8. Engineering Department and Virginia Department of Transportation approval of the southernmost entrance, including all signage, safety and traffic calming measures to be implemented. [SP 8]

9. Zoning Department approval of all outdoor lighting to confirm compliance with Albemarle County Code § 18-4.17. [SP 9]

10. Fire Official approval of fire lane locations. [SP 10]

11. Albemarle County Service Authority approval of final water and sewer construction drawings, and provision of easements to adjacent properties for possible extensions. [SP 11]

12. Documentation of Army Corps of Engineers and Virginia Department of Environment Quality approval and permitting of any activity resulting in disturbance of the wetlands areas. [SP 12]

13. The applicant shall install and maintain a solid screening fence between the site and all abutting residential properties as determined by the Planning Department, subject to the following:
    a. The fence shall be constructed of wood.
    b. The fence shall be 8 feet tall. [SP 20]
    c. Except for those parts of the fence that are visible from the entrance corridor as determined by the Architectural Review Board, the fence shall be constructed so that the posts face internally toward the site. [SP 21]
    d. No trees of 6 inches or greater in caliper shall be removed for the purpose of constructing the fence. [SP 14]
    e. The applicant shall provide documentation that the consent of each abutting property owner has been obtained in any areas where the fence will be located on the abutting property. [SP 13]
    f. The applicant shall be responsible for maintaining the fence in a safe and suitable condition, including all parts of the fence installed on an abutting property. [SP 15]

14. The site plan must list the conditions of approval for all waivers and modifications approved by the Planning Commission or the Board of Supervisors. [SP 16]

New Site Plan Conditions:

15. The applicant shall maintain an undisturbed buffer between the site and all abutting residential properties as determined by the Planning Department, subject to the following:
    a. The buffer along the southern side of the property abutting the residential properties within the Woodbrook subdivision shall be a width of 40 feet. [SP 17]
    b. In all other areas for which a buffer is required by Albemarle County Code § 18-32.7.9.8, the buffer shall be a width of 20 feet.
    c. The limits of the buffer, including those parts of the site to which a 20-foot buffer is required, shall be clearly marked in the field for inspection and protected by construction fencing. [SP 19]
    d. Evergreen trees shall be installed and maintained by the applicant in areas within the buffer where existing landscaping does not provide sufficient screening. These areas shall be identified on the landscape plan to be submitted for final approval, and the Planning Department shall specify the species, size, spacing and location of the evergreen trees to be installed in its approval in order to achieve screening that is equivalent to a triple staggered row 15 feet on center, 12 feet in height. [SP 18]

e. Upon request of any owner of abutting residential property within the Woodbrook subdivision, the applicant shall provide white pine trees between 5 and 12 feet in height as specified by the owner, for planting by the owner on his or her property, as determined by the Planning Department to be reasonably necessary.

f. The applicant shall provide a bond or other surety in an amount determined to be necessary by the Engineering Department to assure that the existing and planted landscaping in the buffer is maintained, and to replace any landscaping that dies during construction or during the three-year period after a certificate of occupancy is issued. The bond or other surety shall be in a form approved by the County Attorney. The release of the bond or other surety shall not relieve the applicant of its obligation to maintain the screening required by this Condition 16 after the bond or surety is released.

16. The roof of the building shall be subject to the following:

a. The roof, including all screening walls and other structures, architectural features, and mechanical equipment on the roof, shall be treated or painted in a uniform color approved by the Planning Department. Only that part of a structure or architectural feature that is part of the exterior building façade visible to any abutting residential property shall be treated and painted in the uniform natural color. [SP 23]

b. All mechanical equipment on the rooftop shall be screened from abutting residential properties that are at higher elevations than the roof of the building by screening walls and/or landscaped planters approved by the Planning Department. [SP 24]

c. All rooftop mechanical equipment shall be grouped in clusters and/or located as far away as possible from the abutting properties along the southern property lines, as approved by the Planning Department. [SP 24]

d. As an alternative to complying with Conditions 16 (a), (b) and (c), and if Critical Slope Waiver Condition 7 is not implemented, the applicant may install a "green roof" technology approved by the Planning Department that would provide for the installation and maintenance of a substantially landscaped rooftop providing screening to at least an equivalent degree. [SP 22]

17. The applicant shall submit the findings of a qualified sound engineer regarding the generation of sound from the proposed heating, ventilation, and air conditioning equipment. If these findings demonstrate that the sound levels will exceed the maximum sound levels authorized for the proposed use under Albemarle County Code § 18-4.18, the applicant shall submit for review and approval by the Engineering Department proposed noise attenuation measures to reduce the sound levels to an authorized level. [SP 25]

18. A public bus stop shall be located adjacent to the public right-of-way or, if that location is not approved by the Engineering Department, the Charlottesville Transit Service, and the Virginia Department of Transportation, then internal to the site, subject to the approval of the Engineering Department and the Charlottesville Transit Service. [SP 26]

19. The retaining wall facing any abutting property or visible from the Entrance Corridor shall be subject to the following:

a. The retaining wall along the south sides of the property shall be terraced and landscaped using earth-filled gabions on the front, using a minimum of 10 steps, each of which shall not exceed 2 feet in height for each 1 foot of depth.

b. The top of the rear retaining wall facing abutting residential properties shall be landscaped with evergreen planting materials or vines having the ability to grow downward.

c. In its approval of the final landscape plan, the Planning Department shall specify the species, size, spacing and location of the planting materials or vines to be installed to satisfy Conditions 19(a) and (b) in order to mitigate the visual impacts of the retaining wall. [SP 27]

20. The following grading matters shall be clarified or addressed in the final site plan to the satisfaction of the Engineering Department [Albemarle County Code § 18-32.6.6d]:
    a. The proposed 463-foot contour appears to be missing in the outparcel grading. Revise the grading for this area.
    b. The software generating the proposed topography still is not contouring around the proposed retaining walls and along the U.S. 29 frontage. Proposed contours should "skip" at retaining walls, not run along them. The tight contouring in these areas obscures the retaining walls, which are a significant feature of the development of this site. Revise the grading plan to correctly show the proposed contours in these areas.
    c. The parking lot grades along the northwest corner of the site (near the existing 54-inch storm sewer outfall) appear to exceed 5%. Revise the grading plan in this area. [CSW 8]

21. The final site plan shall incorporate pedestrian walkways as follows:
    a. Pedestrian walkways incorporating architectural treatments approved by the Planning Department shall be provided to the main entrance of the building from the northwest corner of the site, the southwest corner of the site, and from the center of the west side of the site.
    b. A pedestrian walkway and stairs shall be provided from the southwest corner of the site to the property line of the property to the south to provide pedestrian access between that property and the site.

22. The following matters shall be clarified or addressed in the final site plan:
    a. The final site plan shall identify to the satisfaction of the Engineering Department the outfall for the silting basin, and shall indicate the proposed grading and conceptual structures associated with the outfall. [Albemarle County Code §§ 18-32.5.6d, 18-32.5.6k] [CSW 5]
    b. The applicant shall satisfy Virginia Department of Transportation requirements for frontage improvements contained in a letter dated October 24, 2000, from the Virginia Department of Transportation to Jeff Thomas of the Engineering Department, a copy which is attached hereto. [CSW 6]
    c. The final site plan shall identify the pavement design to the satisfaction of the Engineering Department. If designs for both "heavy" traffic and "light" traffic volumes will be included, the differences in such designs shall be explained to the satisfaction of the Engineering Department. [CSW 7]

23. Remove the slip ramp from the site plan.

24. The final site plan shall be reviewed and approved by the Planning Commission.

Old Business:

Mr. Cilimberg noted that the following upcoming meetings:

- Planning Commission and School Board meeting – 4:00 p.m., March 13, 2001
  Mr. Rieley and Mr. Loewenstein will be unable to attend the March 13th meeting.
  Mr. Cilimberg stated that he would reschedule this meeting.

- Mr. Cilimberg stated that Mr. Rooker and himself would be meeting with Jim Tolbert and Nancy Dammon on February 23rd to discuss the subject of a joint meeting.

With no further business, the meeting adjourned.