Albemarle County Planning Commission
February 22, 2005

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, February 22, 2005 at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Rodney Thomas, Marcia Joseph, Vice-Chair, Jo Higgins, Pete Craddock, Calvin Morris and Bill Edgerton, Chairman. Absent was David J. Neuman, FAIA, Architect for University of Virginia.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; Stephen Waller, Senior Planner; Bill Fritz, Chief of Current Development; Claudette Grant, Senior Planner and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

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

Other Matters Not Listed on the Agenda from the Public:

Mr. Edgerton invited comment from the public on other matters not listed on the agenda. There being none, he stated that the meeting would move on to the review of the consent agenda.

Consent Agenda:

a. **SDP 04-111 Creekmill Commons Preliminary Site Plan** - Critical Slopes Waiver Request (Stephen Waller)

b. **SDP 2005-007 Boar's Head Inn Sports Club Minor Amendment Critical Slopes** - Critical Slopes Waiver Request (Francis MacCall)

c. **Approval of Planning Commission Minutes**: November 9, 2004 and January 11, 2005.

Mr. Edgerton asked if any Commissioner would like to pull any item off of the consent agenda for discussion or if there was a motion.

Ms. Joseph asked to pull the minutes of November 9, 2004 off of the consent agenda. She asked to make some comments about the critical slope waivers that were before the Commission in the consent agenda. She supported the critical slopes waiver requests for several reasons. According to the staff report the critical slopes were man-made. Approximately 2 percent of the Creekmill site is being disturbed in critical slopes. Approximately 1 percent of the Boar's Head site is being disturbed in critical slopes. She stated that this was a very minimal impact on the environment and the community as a whole. Therefore, she could support the requests because of that.

Mr. Morris moved for approval of the consent agenda with the exception of the minutes for November 9.

Mr. Thomas seconded the motion.

The motion carried with a vote of (7:0).

Deferred Items:

SDP 2004-00045 Northtown Center: Request for preliminary site plan approval to allow the construction of a 150,930 gross square foot retail development. The property is described as Tax Map 45, Parcels 110, 110A, 111, 111A and 111B. The subject parcel contains approximately 15.9 acres, zoned HC (Highway Commercial) and EC (Entrance Corridor), and AIA, Airport Overlay. This site is located on the east side of Seminole Trail (Route 29 N) immediately opposite Lowes and Kegler's. Three Special Use Permits are also under review for this project, SP 2004-24 (Drive-in for bank), SP 2004-25 (Drive-in for a

restaurant) and SP 2004-62 (Drive-in for a pharmacy). This site is located in the Rio Magisterial District and is designated as Community Service in Neighborhood 2.

AND

SP 2004-00024 Northtown Center – Drive-in Window for Bank: Request for special use permit approval, in accordance with Section 24.2.2(13) for a drive-in window for a bank.

AND

SP 2004-00025 Northtown Center – Drive-in Window for Restaurant: Request for special use permit approval, in accordance with Section 24.2.2(13) for a drive-in window for a restaurant.

AND

SP 2004-00062 Northtown Center – Drive-in Window for Pharmacy: Request for special use permit approval, in accordance with Section 24.2.2(13) for a drive-in window for a pharmacy. (Bill Fritz)
DEFERRED FROM THE JANUARY 18, 2005 PLANNING COMMISSION MEETING.

Mr. Fritz summarized the staff report. The Planning Commission held a public hearing on January 18, 2005, which was deferred to allow the Architectural Review Board to do additional review. The ARB review was done on February 7, 2005, and their action memo is included in the attachments. The ARB did support the special use permit for the pharmacy that is SP-2004-00062, but they did so with some additional conditions that are included in the packet. The ARB did not support the special use permit for the bank. Originally, staff had supported the special use permit for the bank with the belief that it had met the Design Guidelines based upon the ARB's comments. Staff is changing their recommendations to denial for the bank drive through window. The ARB did not support the special use permit for the restaurant and staff had not recommended support of the special use permit for the restaurant either. Therefore, staff is not making any changes to that recommendation. The ARB did not support the disturbance of the critical slopes stating that the proposed grading was not consistent with the Design Guidelines respecting existing topography. The Board did state that with additional information from the applicant that it may be possible to support grading on critical slopes. But, without more detailed information it was not possible to determine the impact of the development on the Entrance Corridor. Their comments were based on the ARB Design Guidelines.

As stated before there are two provisions for visions for critical slope modification. One is Section 4.2.5.a and the other is Section 4.2.5.b. He pointed out that he would simply refer to those as A and B from now on. Section A is largely procedural. It states how the review is to be done and the information that is to be provided to the Planning Commission by staff and the applicant. Section B contains the criteria under which the modification may be approved. It is a series of four statements. For the modification to be granted it does not need to meet all of the criteria, but it only needs to meet one of the criteria under B. Staff provided the Commission some additional comments on B.

To summarize, staff is unable to find that any of the criteria are met. The ARB's recommendation is that the disturbance of the critical slopes is inconsistent with the ARB Design Guidelines because the developer does not respect the topography. The proposed disturbance would be detrimental to the public welfare; and, therefore they could not make the findings required under 1 or 2. Furthermore, they cannot find that criteria 3 can be met. Staff stated in the previous staff report that it may be possible to develop on this property with a much different design, but with lesser or potentially no impact on critical slopes. Therefore, staff is not able to find criteria 3 is met either. But, these are findings that the Commission needs to make. Staff is just providing the Commission with some comments. Staff is recommending approval for the special use permit for the pharmacy subject to 2 conditions. Staff has conditions should the Planning Commission approve the critical slopes modification for the site plan.

Mr. Edgerton asked for some clarification on how he could recommend approval for SP-04-62. He asked what information staff has that gives him assurance that should be approved.

Mr. Fritz stated that the staff had previously recommended approval, but the Architectural Review Board was able to support that with two provisions, which has been included as conditions.

Mr. Edgerton asked if staff would approve it assuming that the applicant could come up with a better design, which the Commission or the ARB has not seen. He asked if that was a fair statement.

Mr. Fritz stated yes, that the building elevations would be subject to further Architectural Review Board review. But, the concept of the drive-through in terms of its location and its relationship can be addressed through conditions, which was staff's belief of the ARB's findings.

Mr. Edgerton stated that the reason for deferral on January 18 was because they were not able at that time to have the benefit of the follow up review by the ARB, which was scheduled for the first week in February. The Commission was hoping to have that information before they met this evening. He asked if there was any new information submitted for that meeting by the applicant.

Mr. Fritz stated that there was one new piece of information submitted.

Mr. Edgerton stated that the elevations that were submitted were dated May, 2004, but they do not seem to be consistent with the site plan. There are several issues that were confusing, but he realized that they were looking at something that already had been reviewed.

Mr. Fritz stated that was correct. He noted that those elevations are in their packets.

Mr. Edgerton asked if these elevations were different from what was submitted last June.

Mr. Fritz stated that these elevations were submitted and reviewed in February by the Architectural Review Board. The applicant did not make any revisions or changes. That was noted as a difficult factor in the review by the ARB staff because the plans had been changed. Some of the buildings had been changed in terms of their height and location; but, the building elevations had not been changed to reflect that. That was part of the ARB's concern in their ability to provide comments and state yes that they think this is something that can or cannot be done. The ARB was saying that the information that they had did not match the site plan, and that was a difficulty for them.

Mr. Edgerton stated that there was no new information, which was his question.

Mr. Fritz stated that the only new piece of information was information as to the design of the location of the drive through for the bank.

Mr. Edgerton asked if there were any other questions for staff.

Ms. Joseph stated that she was very confused because the pharmacy drive through is way to the south of the site.

Mr. Fritz stated that was correct.

Ms. Joseph stated that you would enter through the north and you would have to cross over the critical slopes to get to the pharmacy drive through. The ARB recommended denial of the modification for critical slopes. And yet to access this pharmacy they are recommending approval for you to have to go through these critical slopes. Therefore, she was a little confused as to how that all works together.

Mr. Fritz stated that the staff for the Architectural Review Board is here if the Commission would like to ask her. He stated that he would best characterize the Architectural Review Board's review of the special use permits as they were reviewing it as if the plan that was before them was going to be approved. Should that plan be approved, then the restaurant and the bank were not acceptable, but the pharmacy was subject to some more review and potential modifications.

Mr. Edgerton stated that in the history section of staff's write up on January 18, it lists a number of previous applications to develop this same piece of property. There was no mention of litigation that he believed occurred after the last denial by the Commission and the Board. He stated that he would appreciate it if staff would share with the Commission the status of that litigation.

Mr. Fritz stated that he would defer that question to the County Attorney's office.

Mr. Kamptner stated that regarding the litigation, the County prevailed on something that most people would consider a technical ground in that the wrong plaintiff filed the action. So the merit of that case, which essentially was an appeal of the denial of the critical slopes waiver, was not considered by the court.

Mr. Edgerton asked if anybody else has any questions for staff. There being none, he opened the public hearing and invited the applicant to come up and address the Commission.

Wendell Wood stated that their request for a deferral was based on the fact that when they went to the ARB they had requested that they look at this plan as a footprint and not as an architectural plan. But, the ARB did not want to do that. The ARB looked at it and requested elevations and renderings. They pleaded their case in that was very expensive when they felt that they still have some issues. Ms. Joseph may have spoken to whether the proposal was even going to get there. They did not want to spend the additional $40,000 that was going to be required to provide elevations and renderings. But, they have agreed that they are going to do that and provide elevations and architectural renderings of the site. A couple members of the ARB were concerned that they could not visualize what this project would look like from Route 29. Therefore, they have agreed to hire an architect to work with their engineer to provide finished elevations as the site will be built with existing trees showing what the site will look like when it is finished.

Mr. Edgerton pointed out that he had been told that Mr. Wood was going to request a deferral, and he was trying to figure out why the Planning Commission should even consider a deferral. He asked why he felt that those things that were required of other applicants should not be applicable to him.

Mr. Wood stated that they have some issues that perhaps other applicants did not have. They felt that they were trying to resolve the footprint issue first. They had made a statement to the ARB that they would give them any facades and architectural information that they requested. He stated that a couple of the members of the ARB said that they could not make a recommendation because they did not know what the roof lines would look like, how tall the buildings would be and whether the retaining wall would even be seen from Route 29. The ARB indicated that information could not be determined from those drawings, which he agreed with. But, their position was that they wanted to take it in steps because it is going to be another $40,000 in additional costs. If there are some members that are just flat out not going to approve our footprint, then it is sort of wasted money. They did not win that argument with the ARB. Therefore, they are going to supply that information.

Mr. Edgerton asked if he was formally requesting a deferral.

Mr. Wood stated yes, that is correct. He pointed out that the architect was suppose to provide a deadline this week of when they could have the renderings and elevations supplied to the ARB so that they could get back on their agenda. Therefore, they should have that information very soon.

Mr. Edgerton stated that would be a request for an indefinite deferral.

Mr. Wood stated that he did not view it as indefinite because they should know the exact timeframe by Friday of when the architect can provide that information. It is their intent that it shall be a short time period. He pointed out that they have lost one tenant already because of delays.

Mr. Thomas asked Mr. Wood if the ARB has explained exactly what they are looking for.

Mr. Wood stated that the ARB asked for elevations from Route 29 and renderings that will show the architectural design on the buildings from Route 29.

Mr. Thomas asked if the ARB had explained the design elevations in the back ground and all of that.

Mr. Wood stated yes, that it would include the elevations showing the banks. If the retaining wall can be seen, then it will be shown on the plan with elevations. Mr. Wright asked to see anything that could be seen from Route 29 on the elevations. He stated that the architect was doing two slices possibly at 20' and 40' from the two different perspectives.

Mr. Rieley stated that while they were here he would like to get some information about what the ARB's position is. This is about Mr. Wood's concern about spending money when there are fundamental issues that have not been addressed. He felt that it was a fair position. Regarding the modification for activities on the critical slopes, the ARB's made the following recommendation: the ARB cannot recommend support for the modification request because it clearly does not meet the ARB's Guidelines regarding grading, preservation of natural features and treatment of the existing topography. His question is if between now and the time that he proposed to take new information back to the ARB if he was going to give them something that is substantially different relative to the critical slopes regarding grading, preservation of natural features and treatment of the existing topography.

Mr. Wood stated that he was not sure if he could answer that. There is some question about what the ARB said about what they can see. He felt that the members said that they were not sure what, for example, the storm water detention in the front would look like. This new plan will show exactly what that will look like. He felt that was part of the critical slopes. In other words, it is shown on the plan and it is how they would get across there with disturbing the least amount of the critical slopes. Ms. Joseph brought up how you get across it because she could not determine that from those plans.

Mr. Rieley stated that the plans that they have show a parking lot on top of the critical slopes. He asked if the parking lot was still going to be on top of the critical slopes.

Mr. Wood stated that it would on a portion of it.

Mr. Rieley asked if he intends to change that portion of the plan or not.

Mr. Wood stated no, but they do have to get from one side of the property to the other, which involves changing that plan. To answer the question on how to achieve that with the least disturbance, that on the first plans it had all of the storm detention in the rear of the property. It is now being split to the front. There currently is a storm detention on the front that the VDOT put in when they built the highway. The first plan covered that up. This plan is going to utilize that and split the detention into two different ponds so that there are fewer disturbances to the critical slopes.

Mr. Rieley pointed out that was not in their packet for this plan.

Mr. Wood stated that the elevations have been changed. The elevations of the site have been lowered.

Mr. Rieley stated that the plan that they have only has one detention pond. He asked how that will be different than what we are talking about now.

Mr. Wood stated that the ARB seemed to have the opinion that by looking at it with a rendering with the elevations that they could determine what it would look like. The one next to the road would in essence be a feature, which was not demonstrated that way, but the first one was intended all along to be a water feature on the property. This was their request that they wanted to see exactly what was visible.

Mr. Edgerton asked if the plan was going to change.

Mr. Wood stated that he would guess that the plan changes to meet the request that they made of us.

Mr. Edgerton stated that he was not talking about the submission, but was talking about the actual footprint plan which he had acknowledged that the ARB had a lot of trouble understanding. He asked if that was going to change to address their issues.

Mr. Wood stated yes, they were going to address their issues. He pointed out that they asked the ARB to look at it from the footprint standpoint, but they said that they couldn't.

Ms. Higgins stated that one of the building blocks for providing these perspectives has to do with establishing what the line of site is. She suggested that they look at the topography, the height of the elevation and the road to the site. In trying to look deeper into the site she suggested that they look at the adjacent properties relationship, particularly the properties with houses closest to the site. She asked if he had considered doing just a cut section through the site so that they could evaluate what the buffer looks like between the properties. She felt that has been an issue that has repeatedly been brought to their attention. She acknowledged that there was a sufficient height difference and he had mentioned that his grading might change and that height difference might be a critical factor in considering that. She stated that the buildings have to be placed after the cut section has been done.

Mr. Wood stated yes, that would be done because that became an issue because a couple of the members wanted to know the relationship of the trees to the structures that were on the boundaries in this buffer zone. There will be a cut section.

Ms. Higgins stated that to the south it should show how the off site properties relate to his property. She pointed out that she was trying to understand how the buffers were going to be handled. At one time he had mentioned a fence, which was not on the plan. She noted that anything like that would be of assistance.

Mr. Wood stated that all of that would be on this rendering and on these cross sections. He pointed out that Ms. Maliszewski had indicated that she was willing to meet with the architect about what she would request to be put on this plan. He had agreed that the architect would meet with her to go over what she is expecting. They will provide whatever she was expecting.

Ms. Higgins stated that anything that he can do to assist with diminishing the impacts to the adjacent property that she felt that the Commission would consider.

Mr. Rieley stated that he was really trying to get a straight answer because he felt that it was to both Mr. Wood's interest, as well as the Commission's, to be clear about this. He noted that he had just put a circle around the area in which critical slopes are disturbed on the parking lots and buildings. It is a really big area. It seems in reading the ARB's recommendations that is what they had talked about. This area of critical slopes is not covered by parking lot and building because it was right in the middle of the site. Since both the ARB and the Commission have fundamental problems with those disturbances and staff has said that they cannot make a finding that the conditions are even met for that to be considered, his question is if he is going to bring back to the ARB a redesign of this project that eliminates that disturbance of critical slopes in the middle of the site.

Mr. Wood stated that the area that he just held up will be significantly reduced. To answer that question on that plan, there will be development on critical slopes, but it will not be to the extent to what he had just circled.

Ms. Higgins stated that this plan shows all critical slopes on the site. It does not differentiate between the ones that he is going to disturb and the ones he is not.

Mr. Wood stated that he was not aware of the plan that he was looking at, which was the reason why he answered the question that way.

Ms. Higgins suggested that he take the plan that shows all of the critical slopes disturbed and show us which ones are affected and which ones are not.

Mr. Thomas pointed out that one critical slope goes all the way to the highway.

Ms. Higgins stated that she was implying that some of the critical slopes up here might not be disturbed.

Mr. Wood stated that the critical slopes up next to the highway will be disturbed, but will be placed in the same place. It is now a detention pond, but it will be enlarged to meet their requirements to serve and to be a part of the detention pond on the whole site. That area is not paved over.

Mr. Rieley stated that it was not paved over in this plan, which was why he wanted to make it clear about what he was circling. What he circled was the parking lot and building areas on top of critical slopes. That is a big area. What he is trying to avoid is that they were given a situation where building elevations are not going to solve that problem. You talked about this issue the last time that you were up here. If there is a fundamental issue dealing with critical slopes, you don't need this to go back to the ARB another time in order to make that determination. He stated that he was just trying to get an honest assessment on how much the next plan that you are going to take to the ARB is going to change because if it is not going to change substantially, then it is going to be a waste of everybody's time. He stated that it also would be a wasted expensive for him.

Mr. Wood stated that they intend to show the Commission what the ARB requested of us to do. They think that meets the request that was made. The issue that they were speaking of right now is that they wanted to know how it was going to be treated. The way it was shown on that plan was that it was not shown as a feature or for storm detention.

Mr. Rieley stated that they have the parking lot and building squarely on the middle of critical slopes and this project has to be redesigned in order for that not to be the case. He stated that he was just trying to find out whether he was going to redesign it or not.

Mr. Wood stated that if he was asking if there is going to be no building on critical slopes, then he did not believe so.

Ms. Joseph stated that he has talked about elevations. But, that is 1 tiny issue out of 36 issues that the ARB brought up concerning this site plan, seven of which deal with the layout of the site itself. Several of them deal with the grading. Therefore, she did not think that an elevation, as Mr. Rieley said, is what the ARB is looking for as a solution to this. There are many, many other issues that the ARB talked about in their comments. She pointed out that layout is a big one. It says revise the building layout to incorporate existing site topography. That is big. That means that the ARB's expectations were that plan is going to be modified significantly. She pointed out that the Commission could ask Ms. Maliszewski.

Mr. Wood stated that he thought that their comment to that was that it had made significant progress and they could not tell without a rendering. You will notice from the first plan to the second plan that the ARB requested them to make the buildings perpendicular to 29 to tie the buildings together architecturally with the landscaping. These are the items that they believe that they are going to be able to show that will "tie this site together." The ARB said that they needed to see that with the elevations. The ARB even made a comment that the very wall on Route 29 is a little a skewed. They agreed that they will parallel that. He stated that he was answering the question the way that the ARB asked them to do it.

Mr. Rieley stated that he would restate his question. The basic issue is the grading, preservation of natural features and treatment of existing topography as it relates to the fact that a tremendous amount of this site is taken up by parking and big buildings on top of critical slopes. He asked if he was going to change that. He pointed out that he still did not know what his answer is.

Mr. Wood stated that for one thing he was making several assumptions. Buildings were not on the critical slopes. There is parking going down through the middle of this property, but there is one building that encroaches on to road.

Mr. Rieley suggested that they make sure that they are looking at the same plans.

Ms. Higgins pointed out that it was shown on the critical slopes plan that there is a portion of the buildings that go on it.

Mr. Rieley stated that critical slopes go underneath the building.

Mr. Wood stated that was only on a portion of it. The largest building on it is the one to the left and it was not on a critical slope.

Mr. Edgerton requested Ms. Maliszewski to come forward and address the Commission concerning the ARB's action.

Mr. Rieley stated that from their motion that it seemed that the ARB had a problem with activities on critical slopes because it does not meet the ARB Guidelines regarding grading, preservation of natural features and treatment of existing topography. He asked Ms. Maliszewski if that was correct.

Ms. Maliszewski stated that was correct, but that there were a whole lot of issues. It was complicated and the ARB was trying to comment on each of the specific areas and work with the applicant at the same time. Obviously, the ARB does not want to separate the plan from the building elevations because the way the building looks in terms of the elevations is what impacts the Entrance Corridor. Therefore, the ARB does not want to separate those two things. If the plan was to come back to the ARB with much improved elevations without the layout or grading changed at all, she noted that her recommendations would not be changed and she would suspect that the ARB's might not as well. However, Mr. Wood is correct when he says that there was discussion about the specific members asking for more information to clarify what the appearance from the road would be. There was an indication or suggestion made depending on what that appearance was that there could be no impacts of critical slopes.

Mr. Rieley stated that does clarify it.

Mr. Edgerton stated that Mr. Wood seemed to have trouble understanding the question, but he was wondering what benefit would be gained by a deferral. The Commission needs to vote on Mr. Wood's request for an additional deferral. He noted that if he heard Ms. Maliszewski correctly, if the plan does not change and the impact on the critical slopes does not change, then her opinion of that will not change. He asked if that was correct.

Ms. Maliszewski stated that was correct.

Mr. Edgerton stated that it was his understanding that in addition to the drive through windows that the biggest decision that the Commission was going to be asked to make was whether to allow a waiver to put buildings on critical slopes. Frankly, if the plan is not going to change then all they were going to see is an additional series of elevations that might address some of the concerns of the ARB. But, that does not address the Commission's concern of the critical slopes. He stated that he felt less than enthusiastic about dragging this out. He asked Mr. Kamptner if the Commission was allowed to defer action on Mr. Wood's request until the end of the public hearing.

Mr. Kamptner stated that would certainly be allowed.

Mr. Edgerton stated that there were a number of people signed up to speak and that he would suggest that the Commission defers action until they are heard. He pointed out that the Commission would defer action until everyone had a chance to speak. The first person on the list was Professor Askor who would be speaking on behalf of the Carrsbrook residents.

Professor Askor, resident of Carrsbrook, stated that he would like to speak on behalf of his neighbors. He stated that they see this as an issue regarding the conflict of rights, and therefore an issue of justice. You as an entrusted Commission have to decide whether to preserve and protect the rights of a residential community, and the health and well being of their immediate environment literally in their back yards. The lakes are literally in their back yards and they all consider this as part of their property. Or will the Commission allow a developing corporation to go on with this quasi irresponsible project because they are responsible people in their own activities. But, the consequences of their project and the impact it will have upon their neighborhood will be irresponsible. They even admit it time and again in that they cannot control all of the adverse impacts. Who is going to pay the price of the discrepancy? Our waters will be polluted and our quality of life will be damaged. And if this is so, who is going to pay the price for that?

He felt that Albemarle County was going to pay the price. He felt that the County's rating of being the quality number one place to live in the United States will be number ninety-nine. He stated that he was also puzzled why they need another bank. In a one mile radius there are four or five banks. He felt that at some point they need to draw the line against private gain at the expense for common good. He felt that Mr. Jefferson would be on our side.

Richard Lear stated that the questions that the Commissioners were asking the developer on Northtown Center really cover a lot of the issues that he wanted to bring up before the Commission. Therefore, he did not need to take a lot of their time to do this. He pointed out that he did have a little history that relates to the pond since he has lived in Carrsbrook for 31 years. Over that period of time he has had the opportunity to see various developmental projects in Albemarle County and the impact of those projects on the surrounding environment. The one impact that had the greatest significance on the Carrsbrook ponds was the expansion of Woodbrook at the end of the '70's and early '80's. Once that new neighborhood was put in no silt fences were put in or any good protection put in. As a result of that, they lost about one-third of the closest pond to Woodbrook. They lost about one-fifth of the second pond and the third pond became much shallower because of that. There have been other kinds of projects in the area that worry him a little bit. For example, when the Hilton Hotel was built there was a tremendous storm and runoff as a result of that particular construction project even with the use of silt fences. Actually the southbound lane of Route 29 was partially closed in the right hand lane because of the runoff from that thunderstorm. He suggested that they also take a look at Hollymead Town Center. They all know what happened there with the flooding on Route 29. If you want to see the impact on ponds, take a look at North Forest Lakes. If you drive through that subdivision you can see that the pond catches the silt from the Hollymead Town Center construction site. One of the ponds looks absolutely black. You could walk on it since it is so silted over. His concern is that he did not think their ponds can handle that kind of disruption. So the questions they are asking and the clarification that they are seeking is right along what he was going to ask them for tonight. It is important for us. That area is our watershed. That part of Woodbrook and Northtown Center is the watershed for our ponds along with the springs. They do have springs that feed the ponds and they do maintain a certain level of water. During the couple of years of drought, they did not lose a lot of water in our ponds. There was no rainfall, but their streams never dried up. So the critical slopes and springs make it very important for us to keep that going that way. He thanked the Commission for looking at the critical slopes. He asked that the Commission keep the streams in mind because they are very important to us. He felt that the County got it right when they developed the Fashion Square Shopping Center. If you remember they put up a large concrete catch basin, which was right across from Staples. That seemed to work quite well in terms of run off and might give them some protection. Also, he supported the sloping of the land so that rains would go off more towards 29 north and run down the storm sewers as opposed to using filters with the ponds. He presented photographs to the Commission, which he had emailed previously. (Attachment - Email from Marcia Joseph dated February 22, 2005 with email to Planning Commission with letter from Richard Lear with four photographs attached.)

Joe Mason concurred with Mr. Lear's recommendations. The only thing that he would have to add is that when he went to the ARB meeting one of the things that he brought up there, which was probably not the right place to do it, was that this parcel seems to demand that it be developed in two separate pieces. He did not think anybody has come out and said that. But, maybe it is not the job of the Planning Commission to do that. But, Mr. Wood actually asked that question when he brought that. Mr. Wood had said that if anybody tells us that we have to do it that way, then we will do it that way. At the meeting Mr. Wood had actually said that the County recommended to him that it not be done that way, but that it is done as one big parcel. He noted that he doubted if the County actually recommended that. If it can be said that it should be developed in two separate pieces in order to preserve the critical slopes, he asked for it. He asked that someone say that in order to put the critical slopes matter to rest, which would be great.

Charlie Trachta stated that he was representing the Woodbrook Homeowner's Association because their President, John Gallagher, could not be here tonight. One of the things that they have heard over the course of the last few months was that Mr. Wood said that he speaks to the communities and that he had tried to make sure that our concerns are met. There are fourteen homes in Woodbrook that borders his properties. He has twelve signed sheets saying that these people have not met Mr. Wood and that their

concerns are not met and they do not agree with the granting of the waivers of the critical slopes. They have met with Mr. Wood over the course of six or seven years over different projects, but not this project. He presented a copy of the letter on which they had twelve of the fourteen homeowners sign regarding the Northtown Development. (Attachment – From Woodbrook Neighborhood Association) The only thing that he would suggest if the Commission is going to defer the request tonight is that they should have Mr. Wood talk to the neighborhoods so maybe they can work some of these issues out. If they defer the request, then another public hearing is going to be needed. If Mr. Wood changes the plan, the neighbors need to see what they are. They can't tell them today if the plans are changed that everything is cool because it might not be. One thing that the ARB said was that they might not rule where the neighborhood would like them to. The buffer zone between Woodbrook and this project that has that big wall might not be liked by the ARB even though it could possibly help the neighborhood. So just because it is going back to the ARB does not mean that they were going to be happy. If this request is deferred, they would like to see another public hearing.

Lynn Gorman stated that there are a lot of Carrsbrook residents here tonight which shows the interest that they have. He stated that he had not heard any comments about the people living north of the proposed shopping center and how it impacts them. There are hundreds of people down there that are going to be directly affected. It goes down to about a 45 degree angle. If you touch any part of that critical slope one way or the other it is going to have a negative impact on that entire section down to the floodplain. There is a series of three ponds. From his opinion, he felt that building elevations and putting retaining walls next to 29, in his opinion, are easy fixes. The big fix, as the Commission addressed, is the critical slope. He stated that he could not see any way around it. He pointed out that he wrote a letter to the Chief of Current Development and mentioned that if there were a development occurring on the critical slopes in the parking lots what are they going to do with the gas, oil and everything that is going to flow downstream. That whole section down there is going to become toxic. In his opinion, he could not see anything positive coming out of this whatsoever. They would destroy the water shed, which feeds all of this area. Once the critical slopes are gone that is it. He pointed out that this was a very big concern for everyone living in that area.

Kathy Welsh, resident of Woodbrook, asked if the shaded portion indicates critical slopes.

Mr. Edgerton stated that was correct.

Ms. Welsh, representative of Woodbrook, pointed out that close to 50 percent of the whole place is being paved over on critical slopes. This is such a graphic representation of what is going on over there. She stated that she could not imagine what else can be done to fix this. She pointed out that they were still flattening out this place and putting concrete over it.

Lee Floydburg, resident of Woodbrook, stated that his wife, Kathy Welsh, had just spoken. Therefore, they were double teaming them a little bit. In sum, there is such a tortured history to the development of this property. The review that he has had of the preliminary site plan, which has been placed before them by the applicant, in terms of its treatment or what he would characterize as total mistreatment of this piece of property duplicates that which was proposed for the Home Depot development a couple of years ago. There is the history that went on there about how that was dealt with. He strongly reinforced that this footprint on this piece of property which disturbed the critical slopes and perennial stream is just abominable. He was quite confident that if the applicant wanted to that he could come forward with a development plan which would be consistent with preservation and protection of the natural environment that this piece of property currently exists in. It does not need to be flattened and paved over in order for him to develop a workable project that would benefit the community commercially as well as our neighborhoods that surround it.

There being no further public comments, Mr. Edgerton closed the public hearing to bring the matter back before the Commission.

Ms. Higgins made a motion to accept the applicant's request for deferral of SDP-2004-00045 (which includes the request for the disturbance of critical slopes), SP-2004-00024, SP-2004-00025 and SP-

2004-00062 for Northtown Center. The applicant's request was made in order to satisfy some of the information discussed and requested by the ARB and Planning Commission.

Mr. Morris seconded the motion.

Mr. Craddock stated that he would like to make it known that in the ARB's recommendations number 4, 13, 14, 21 and 22 that they all deal with revising the building layout, the site layout, the grading plan and the grading. He felt that falls along with a lot of the questioning that has come up tonight. That is if there is not going to be a revised site layout and revised grading that it was literally the dog chasing his tail again because it was not going to be approved next time. If there is going to be significant revised grading on the site layout and building layout, then it would be worthwhile coming back. He stated that he said it last time, which was more in jest, but he did say that this site would lend itself better to a Gander Mountain or a L.L. Bean Store with the stream and critical slopes being used as a valuable asset to a store with something on both sides of it incorporating the critical slopes and stream into the building design. But, he did not see that here.

Ms. Joseph agreed with what Mr. Trachta had said that if this request comes back and really does reflect what the ARB was looking for, then it will be a brand new plan and they would need to get some public input on that. If the request is not called up for critical slopes, then she would call it up right now for when it comes back. Therefore, the revised request will come before the Planning Commission for the critical slopes.

Mr. Edgerton asked if that could be made part of the motion.

Ms. Higgins agreed to modify her motion to approve the applicant's request for deferral for that reason so that the revised request will come back before the Planning Commission for the critical slopes waiver. She agreed with what Mr. Trachta said because sometimes in the enthusiasm to potentially modify the development to account for some people's concerns that it could actually be more detrimental to the adjacent property owners. There are examples of that out there, and he gave the most unique one that is the wall. Potentially the wall could become more important now if there is no site grading done and the site not lowered. If the difference goes away, then it may not be as good for the buffering. For those reasons, she would agree.

Mr. Morris agreed to the amendment to the motion.

Mr. Thomas suggested that the applicant meet with the neighbors if he was serious about revising this request.

Ms. Joseph stated that it was very good to see so many people here and that they were concerned about their neighborhood. She hoped that when this comes back that they will come back.

Mr. Rieley stated that he was torn on this one because he has never voted against an applicant's request for a deferral to go back and keep working on their plan. The reason that he torn about it is that, as Mr. Wood eluded to last week and this week, that this is not a shorter or an inexpensive process, but what lies at the basis of all of this concern is that they have a staff report in which the staff has said that they cannot make a determination that either of the two criteria have been met to make a determination that a critical slopes waiver is warranted. They have a very clear statement, which he read several times, from the ARB essentially endorsing that view and he had not heard a statement from the applicant that he intended to make substantial changes to rectify that. Therefore, he just wondered if by deferring this that they are just wasting everybody's time. He stated that he certainly made it clear, last time as well, that absolutely he has no intension of supporting a plan that has parking and buildings on top of critical slopes in this area. Therefore, he wondered if they were doing anybody a favor by dragging something out if others feel the same way. He agreed with everything that Mr. Craddock said.

Ms. Higgins stated that everybody was saying two different things. She disagreed because on page 11 of the staff report staff has actually said that it was generally consistent with the critieria 4.2.5.a for granting a modification and has recommended approval to the Commission for modification on 4.2.3 and 4.2

criteria. It specifically talks about this on pages 7 and 8 of the original staff report. It actually goes into significant depth that this particular stream is a designed urban water feature. The open space plan does not designate it as a major or locally important stream valley or adjacent critical slopes. At the end of the conclusion of that it actually says staff concludes it does not represent an aesthetic resource. She stated that she knew there is a perception that every stream with critical slopes is something that should absolutely be protected. She felt that the reality is that in the development areas there are steep slopes and they have to be categorized in the stream assessment program, which was a very long and involved task that the County went through. They came out with a finding on this particular stream and it is not necessarily consistent with what everyone wants to hear. With that said, there were other reasons such as the sanitary sewer that was already put in along the stream. This goes on to explain stuff about potentially creating a design urban water feature. She felt that the plan before the Commission that Mr. Wood has requested for deferral is actually a rendition that was done after he got the findings from staff and he did make significant changes, but they were looking at it after the changes were done. He had included an urban water feature and she had heard things like fountains and some other features. But, staff did have that statement in the original report.

Mr. Rieley stated that this staff report had a different recommendation than was made in the other one.

Ms. Higgins stated that was after the ARB meeting and the ARB had a specific statement. She pointed out that this assessment was done without respect of what development would occur here. This particular stream has had activities that occurred along one side. There is also a pumping station in the downstream area. VDOT constructed the road widening and put a basin in front of it. It is not in its pristine state to begin with. With that being said does not mean that some of the critical slopes are not worth saving. She was just saying that in an urban infill type of situation that they can't purely look at one side of it. Therefore, she was looking at a different section of the staff report.

Mr. Rieley stated that he was looking at the current staff report. He stated that he would like to read from the new one because she was reading from the old staff report. On page 2, it says that staff is unable to recommend to the Commission that any of these criteria are clearly met on this application, and the criteria are 4.2.5.b. Further, at the end of the paragraph it says that therefore staff recommends that the findings required to grant a waiver under Section 4.2.5.b.1 or 2 cannot be made. It could not be clearer in the current staff report. He pointed out that was the current recommendation.

Ms. Higgins stated that there was also a section in here that refers to the earlier part of the report and this is the one that refers mostly to the ARB. She agreed that different people had input into this.

Mr. Edgerton asked what staff's current opinion is.

Mr. Fritz stated that it was a confusing thing that they were trying to make clear. Obviously, they were only partially successful. The criteria for granting a modification are a two step process. There is part A and part B. Our recommendation on A has not changed. They still are finding that it does not result in the four criteria being the siltration losses that agreed to the septic affluent, storm water, runoff and removal of soil and rock. Those are the criteria contained in Section 4.2. Staff is advising the Commission that under provision A that those things are not going to be adversely impact. Set those aside because that is not the criteria for granting the modification. It is a consideration, but it is not the criteria. The criteria are in B. In both the prior and current staff report staff focused the Planning Commission's attention on Section B in saying that the Commission needs to make positive findings. In both the prior and current staff report staff provided some guidance for the Planning Commission. They did come out a little more forcibly this time than they did previously. Staff gave the Commission some things to chew on, but they did not make positive findings before and they were not making positive findings now. So our recommendation has not really changed. They are still saying that under A it meets the criteria, but they were unable to make the findings under B. It is important to note that it is B that contains the criteria for granting a modification and not A.

Mr. Edgerton stated that he was hoping that Mr. Wood would say that he is going to redesign the project. They had tried to get him to say that, but he refused to say that. He said that he was going to adjust it. Without a major redesign he personally did not believe that they were doing anybody any favors,

including Mr. Wood. He stated that he did not see any reason to drag this out any longer. If he wants to redesign the project, then he can do that and bring it back to us. In this one, the real major issue is the critical slopes. There is no way that he can do this footprint without destroying the critical slopes. He stated that he was going to vote against his request for deferral. He felt that they need to act on it. He stated that he had never voted against a request for deferral, but he did not think they would see any improvement on this. He felt that all they would do is drag this out. He has had since last June to make all of these adjustments and he has not made them. The plan keeps coming back with an asphalt platform over close to 80 percent of the critical slopes on this property. Therefore, he would not be able to support his request for a deferral.

The motion carried by a vote of (4:3). (Edgerton, Rieley, Craddock – No)

Mr. Edgerton stated that the motion was approved for indefinite deferral to allow the applicant time to submit the information requested with the condition that a public hearing will have to be held on the revised request.

Mr. Kamptner pointed out that the requests would have to be readvertised and additional public hearings held.

Public Hearing Items:

ZMA 2004-016 Glenwood Station: Request to rezone 9.31 acres from Planned Residential Development with Special Use Permit - PRD w/SUP for Office Use zoning district, to Neighborhood Model District - NMD to allow a combination of residential and commercial uses. This development includes 50 residential condominium units, 28 townhouses and a total of 78,000 square feet of commercial/office space, which consists of 3 buildings. The property, described as Tax Map 61, Parcel(s) 129F is located in the Rio Magisterial District on the south side of East Rio Road, directly across from Rio East Court and between Fashion Square Mall and Squire Hill Apartments, Route 631, approximately 1,600 feet from the intersection of Route 29 and Rio Road East. The Comprehensive Plan designates this property as Urban Density, recommended for 6.01-34 dwelling units per acre in Neighborhood Two. (Claudette Grant)

AND

SP 2004-061 Glenwood Station Drive-through: Request for special use permit to allow development of a drive-thru window as part of a financial institution to include a total of three lanes, with one being dedicated to an ATM in accordance with Section 20A.6 b.1 of the Zoning Ordinance which allows for drive-through windows serving or associated with permitted uses in a NMD, Neighborhood Model District. (Claudette Grant)

Ms. Grant summarized the staff report. Glenwood Station is a mixed use development that is currently under construction. The office portion of the development was approved by a previous special use permit and rezoning to allow Planned Residential Development on April 7, 2004. The applicant would now like to have a drive in bank, which cannot be accommodated with the PRD zoning. A Neighborhood Model District is now being requested with a special use permit for the drive through. The property contains 9.31 acres and is located on the south side of East Rio Road. The Comprehensive Plan designates this property as Urban Density recommended for 6.01 to 34 dwelling units per acre in Neighborhood 2. The applicant has incorporated many of the Neighborhood Model concepts into the design of Glenwood Station including a mix of use types. Some of the differences between the proposed plan and the previous plan are that the approved plan for Glenwood Station is made up of three commercial buildings with a total of 64,000 gross square feet of office space, two buildings of three stories and a third building of two stories in height. The proposed plan maintains the three commercial buildings with an increase of 14,000 square feet, which would total 78,000 gross square feet of commercial. The proposed plan would make all three buildings three stories. The current approved plan also includes five condominium buildings including 38 units and 28 townhouses. The proposed plan would increase the number of condominium units at 12 units to 50 units, which is accomplished by introducing 2 units in a lower level of one building and combining two 9 unit buildings into one larger building with 28 units. There would be structured parking below building G. The number of townhouses would remain the same as originally planned. The density of the proposed project is consistent with the Urban Density classification. The

addition of commercial use in this area provides for a mixed use area of the County. Many services for residents are within walking distance of the proposed development. This generally meets the Neighborhood Model principles.

In summary, regarding the rezoning staff has identified the following favorable factors:
1. The rezoning is in keeping with the Comprehensive Plan.
2. The proposed use provides for a "mixed-use" community in this part of Neighborhood Two.
3. Residential uses are supported by a pedestrian network, public services (schools, fire, and rescue services, transit) in close proximity to shopping and employment.

Staff has identified no factors which are unfavorable to this request.

Staff recommends approval of the rezoning. It conforms to the Comprehensive Plan and the Zoning Ordinance. The particular parameters of this development are included in the Code of Development. Proffers were not needed.

In reference to the special use permit for a financial institution drive-through, the one issue that did come up is that the engineer stated that it should be approved with one condition that the outside lane be dedicated to by-pass traffic only. The proposed financial institution is located at the north eastern end of the subject parcel between building C-2 and C-3. Staff does not anticipate or fore see any conflicts with the proposed location of the drive-through.

In summary, staff has identified the following factors, which are favorable to this special use permit request:
1. There would be not expected conflict between vehicles stacked in the drive-through lanes and off-site traffic passing the entrances to this site.
2. The drive-through land/bypass lane would offer the opportunity for customers that do not need to access the windows to bypass the stacked traffic awaiting service.

With the exception of the requested condition for a by-pass lane, staff has not identified any other factors which are unfavorable to this request. Staff finds this request generally complies with the provisions of the Zoning Ordinance and the Comprehensive Plan, and recommends approval of SP-04-61 with the following conditions:
1. The outside lane is dedicated to bypass traffic only.
2. The drive-through window as part of a financial institution shall be limited to three (3) lanes that follow through to the teller windows and the ATM machine.

Mr. Edgerton asked if there were any questions for staff.

Ms. Higgins asked if there were previous conditions or proffers that went with the previous zoning.

Ms. Grant stated that there were conditions, but no proffers with the previous zoning.

Ms. Higgins asked if those conditions would go away now with this zoning change or should those be perpetuated with the Neighborhood Model zoning. She pointed out that staff mentioned that there are no proffers, but stated that things are addressed in the Code of Development. She asked if the plan was a proffered plan and the Code of Development a proffered document, which means that it becomes part of this and a part of the plan that they are locked into.

Mr. Kamptner stated that in the Neighborhood Model zoning district the applicant has to submit a Code of Development, which is approved. It provides the zoning regulations for the applicable Neighborhood Model District. He pointed out that the Neighborhood Model District requires that the plan be a part of the rezoning. He stated that it did not have to be proffered.

Mr. Cilimberg stated that in the Planned Development Districts the application plans are a part of the zoning and do not have to be proffered. The nice thing about the Neighborhood Model District and one of

the reasons that staff pushes it as a favorable district is that it incorporates a lot of different considerations that many times you have to get proffers for. It also does it in a comprehensive way.

Mr. Higgins asked what about the conditions that was associated with the previous zoning that had a special use permit.

Ms. Grant stated that the previous conditions have all been met. Those conditions included items such as final elevations needed to be approved by the Director of Planning. That condition was completed. Another condition was that the site shall be developed with general accord with the application plan entitled, "Glenwood Station/Place dated December 22, 2003" with minor changes allowed to accommodate the required parking when approved by the zoning administrator. It also included a condition about the additional entrance to the Fashion Square Mall, which is included in this plan. It also included a condition about setbacks, which is included in the Code of Development.

Mr. Rieley asked if that was in the previous conditions, and Ms. Grant stated that was correct.

Mr. Rieley stated that he had some of the same concerns that it seems to be sort of a blurry line between what was in the old application and what was in the current application. He asked if the requiring the garage doors to face the streets was a part of the previous approval that the Planning Commission made.

Ms. Grant stated that it was part of the previous approval for the applicant.

Ms. Joseph asked if the layout was the same. She asked if all of these buildings the same as they were in the originally approved plan.

Ms. Grant pointed out that she had mentioned that the applicant had combined two of the condominium buildings into one. Also, the applicant added some units in the basement of one of the buildings.

Mr. Rieley stated that from his own personal perspective that it would be really good when the Commission reviews a request where one falls on the other one to have as much information about the previous ones because it is really hard to remember. He stated that it really helped to review the previous record so that they could recognize what has changed in the new proposal.

Ms. Higgins stated that it sounds as if nothing has been lost if those items have been concluded and the Code of Development will become part of the rezoning. She noted that was one benefit of the Neighborhood Model District.

Ms. Joseph stated that the Code of Development references blocks. She asked if there was something that showed where these blocks are located.

Ms. Grant stated that the site plan that was submitted did reference the blocks, but that the layer was turned off for the copies that they received. Therefore, she posted the site plan on the board for the Commission's review, which showed those referenced blocks.

Ms. Joseph stated that it was a little bit of irony that one of the reasons that they come in for a drive-through bank for the Neighborhood Model for a walkable community.

Mr. Rieley agreed with that, but pointed out that the Neighborhood Model allows drive-through windows.

Ms. Higgins stated that bank would not be supported just by that neighborhood.

There being no further questions for staff, Mr. Edgerton opened the public hearing and invited the applicant to address the Commission.

Mark Keller, with Terra Partners, stated that they have been the group who has been working on Glenwood Stations for nearly two years. He passed out an attachment that showed what the site plan looked like for that front area that was just approved yesterday, which showed what that area would like

with and without a drive-through window. He pointed out that the construction had already started at Glenwood Stations and the construction was going along very well. The sales and leasing are moving along at a very brisk pace. Therefore, they feel that the project is being well accepted in the market place. He stated that Ms. Grant has done a good job of describing what this Neighborhood Model rezoning and the special use permit is requesting. He pointed out several areas that had changed on the first application plan for the PRD rezoning He stated that the three buildings were the same, but some parking and retaining walls had been added. The additional parking in one area was needed to support the additional third floor on one of the buildings. The new plan showed the actual defined architecture of the buildings as opposed to the old plan only showing rectangles and blocks for the buildings. With the exception of one building, the other buildings had been totally designed. He pointed out that there were several renderings for the Commission to review. He pointed out that the pool complex was missing from one of the renderings. He explained the changes that they had made to the plans. Previously they had two rectangular buildings in separate areas each with nine units. What they have done is taken that rectangle and added it to this rectangle, created some eccentric area and rotated the whole barn 90 degrees, which enabled them to bring the pool facility and fitness area and move it up more to the common area and the streetscape. They feel that this is an improvement over the plan as well. Also, to access the parking deck, which has 26 parking, which is just a few more spaces necessary than the ten units that would be added into this building. The parking was changed in one area to be in a curvilinear fashion, which enabled them to put in a pocket park where a parking lot used to be. He stated that they are adding 12 units. The current request was for 8,000 square feet of commercial space. The new proposal is asking for an increase of 9,534 square feet. It is about 5,000 square feet less than what the Neighborhood Model Code of Development states. He stated that they felt that any additional square footage would make it hard to find adequate parking for. Buildings 2 and 3 are going to basically be book end buildings, with the exception of the drive-through. In other words, they will design one building and build it twice with one over the other. Regarding the land uses that they have listed in the rezoning, he pointed out that previously they had a rezoning to R-15 with a special use permit to allow office space. Now with the Neighborhood Model and their discussions with potential tenants for the site and commercial buildings since one has started to go up they have been asked to add a few more flavors to the selection up there. Those are preliminary very small scale complimentary convenience oriented uses that Ms. Grant basically touched on. As they consider tenants for the space they will have to be careful concerning the parking regulations for each use. Currently they are working with Jan Sprinkle in Zoning who has an extensive letter as well as a parking matrix dated January 28. He pointed out that Ms. Sprinkle was still reviewing that information. They want to make sure that the site plan for these changes that they have already completed that the parking that they are reflecting is realistic. They don't want to come before the Commission to ask for uses that they really can not meet in the end result when it comes to site planning. But, they feel that Ms. Sprinkle has almost got her hands around that issue and possibly she has got with Ms. Grant. They hope to add a few more of these complimentary uses because they think it is going to add a lot to the cross section of the neighborhood there. Therefore, they would have office and some sort of convenience commercial uses and residential uses in the same area. On the handout, that site plan refers to phase 2 which are the last two buildings. He stated that they set aside some area that appears as green space right where the drive-through in this area is going to occur. Therefore, this whole plan for this side of the site can occur without the drive-through, but they have had banks and others say that they might be interested in coming to Glenwood Station. The bank, in particular, seems to be one that if they can't get a drive-through that they are reluctant to come into any such area. Therefore, they were trying to package a request for a drive-through and to let the Commission know that it works. He pointed out that the circulation for this drive-through is somewhat unique that it is not a shared circulation for parking spaces where people are going in, but it was truly dedicated one way from here to here only for drive-through windows. Therefore, they feel that it is not intrusive at all to the otherwise normal function of the site.

Mr. Thomas asked if the drive-through request was only for banks.

Mr. Keller stated that the current request was only for banks.

Mr. Edgerton asked if he agreed with staff's suggestion that the outside lane be dedicated to by-pass traffic only.

Mr. Keller stated that initially they had some reluctance about that issue because they had a solely dedicated area there. But, if someone changed their mind all they had to do was to wait a little while and then they could get out. That person would not be holding everybody else up. He stated that there would be a lane for the window teller, the second lane would be the ATM and then the other would be a drive-through lane.

Ms. Higgins stated that she thought that their parking could be calculated by the gross square footage. But, he had talked about using a parking matrix and doing parking calculations for each use. She asked how that stood at this time.

Mr. Keller stated that it had not been suggested that they could comply a shopping center or a gross per square foot application with this. For clarity sake, they were working the parking through with Ms. Sprinkle because they now know the finite shape of the building. In regard to the first building, since they have the up fit design for each interior suite they are able to use the square footage of the whole building for parking calculations rather than the 80 percent net to gross calculation. He pointed out that the parking requirement is less for a bank with a drive-through than it is for the same square footage of office. He stated that they would have to work with Jan Sprinkle on the parking calculations for any type of use that went in.

Ms. Joseph asked if they have discussed the basketball parking area with Ms. Sprinkle and what does she think about that mixed use in the parking area.

Mr. Keller stated that he had not discussed that with Ms. Sprinkle. He pointed out that he had discussed that with Ms. Doherty at the beginning of the project. The basketball in the paved area of the parking lot has been there forever and was not a new thing. In fact, they had that basketball area in another location on the site. Actually it was Ms. Doherty who had suggested that some of the people who worked in the office might want to spend lunch hours playing basketball and it seemed a little exclusive for it to be located so far away. She had suggested that they spread out their recreation throughout the site. He pointed out that they were fine with it and it did not seem to be that big of an issue.

Ms. Joseph asked if they had met their recreational requirements on the site. She pointed out that it just seemed to be very odd for the basketball court to be located in the parking lot due to the safety aspects and the liability. She stated that it did not make a whole lot of sense to have people playing basketball in the parking lot with other people driving through there.

Mr. Keller stated that he would leave that up to them, but that they were already meeting their recreational requirement. He pointed out that issue had not been revisited with the Neighborhood Model request. He stated that they were only adding 12 units to the mix. The applicant would probably be satisfied with or without the basketball court.

Ms. Joseph stated that the development was not all residential and had commercial activities up front.

Mr. Rieley asked whose liability it would be. He asked if it the County would have any liability.

Mr. Kamptner stated that the County would have no liability.

Mr. Craddock asked if there was any discussion on the provision of affordable housing with the additional units.

Mr. Keller stated that they did not make any comment on that.

Ms. Higgins asked if there would be any condominiums or townhouses that would be in the affordable range.

George Ray stated that there would be a few, but that they are trying to meet their responsibility for affordable housing with the Airport project. He stated that the ability to provide affordable housing is a function of the land cost and a function of the density. With only 78 units with the land cost that they have

it is pretty difficult to provide that use. There will be a few that meet the requirement of under $175,000. Those would include the two units on the terrace level on that 8/10 unit building.
Mr. Edgerton asked if there were any other questions for the applicant. There being none, he invited comment from other members of the public on these applications.

Jeff Werner, representative for Piedmont Environmental Council, stated that he wanted to offer enthusiastic support for this since they trust the Neighborhood Model and want to see it being used. He stated that it was growth area, which was exactly what the PEC has supported for a long time. The idea of the drive-through is not troubling. One of the ideas of infill development is to reduce the vehicle miles traveled and not getting people out of their cars. He felt that this project would contribute overall to what they were shooting for. He stated that they want to support any developer who is coming in with a creative idea and they wanted to endorse this one. He stated that this was a good step forward and he encouraged the Planning Commission to vote yes.

Mr. Edgerton asked if there was any other member of the public that would like to address the Commission. There being none, he closed the public hearing to bring the matter back before the Commission.

Mr. Rieley moved for approval of ZMA-2004-016, Glenwood Station.

Mr. Thomas seconded the motion.

Ms. Joseph stated that she was concerned about the affordable housing aspect of this. She stated that she felt a little bit strange that they were not asking for something like this as they have in past rezonings. It is nice that the applicant is pursuing some other affordable housing, but there is no guarantee that is going to happen. She pointed out that it had not even been a formal request. Therefore, she felt uncomfortable for them to ask for that.

Mr. Rieley felt that Mr. Joseph had good point. He stated that since this is a Neighborhood Model rezoning and it has a mix of housing types that affordable housing is one of the pillows of the Neighborhood Model that he felt that it was doubly important. It is a relatively small project.

Ms. Higgins stated that affordable housing was not mentioned in the staff report and was not related to the area. But, if you look at what surrounds this property that is in close proximity to the Mall, there is a significant pocket of affordable housing. Therefore, she did not dwell on the issue because this property was a piece in a bigger section. She felt that you cannot put everything into every item. When the proposal was approved last time she felt that was sort of the perspective that it had. She stated that every goal of the Neighborhood Model in a small tight area could not be met. But, she felt that they could if they looked at it in context.

The motion carried by a vote of (7:0)

Mr. Rieley moved for approval of SP-2004-061, Glenwood Station Drive-through subject to the conditions recommended in the staff report.

1. The outside lane is dedicated to bypass traffic only.
2. The drive-through window as part of a financial institution shall be limited to three (3) lanes that follow through to the teller windows and the ATM machine.

Mr. Morris seconded the motion.

The motion carried by a vote of (7:0)

Mr. Edgerton stated that SP-2004-061 and ZMA-2004-016 for Glenwood Station were unanimously approved and would be heard by the Board of Supervisors on March 16, 2005.

SDP 2004-116 McCleskey (NEXTEL) Tier II PWF: Request for approval of a treetop personal wireless service facility with a metal monopole that would be approximately 110 feet tall (7 feet AMSL above the height of the tallest tree within 25 feet), with ground equipment in a 37.5 square foot and 8.625-foot tall cabinet placed on a concrete pad. This application is being made in accordance with Section 10.1.22 of the Zoning Ordinance, which allows for Tier II wireless facilities by right in the Rural Areas. The property, described as Tax Map 102, Parcel 17, contains approximately 109.29 acres zoned Rural Areas and Entrance Corridor. This site is located in the Scottsville Magisterial District off of Scottsville Road (Route 20) approximately ¼-mile north of the intersection with Red Hill Road (Route 708). The Comprehensive Plan designation for this property is Rural Areas 4. (Stephen Waller)

Mr. Waller summarized the staff report. This proposal is for the installation of a Tier II personal wireless service facility. The facility would have a 110-foot tall metal monopole equipped with one array consisting of two 8-foot long by 1-foot wide, flush-mounted panel antennas at its top. Supporting ground equipment would be contained within an 8.625-foot tall, 6.83-foot wide, 5.5-foot deep cabinet on a concrete pad. The lease area for the proposed facility is located on property described as Tax Map 102 - Parcel 17 of approximately 109.29 acres zoned Rural Areas and Entrance Corridor. This request has been submitted in accordance with Section 10.1.22 of the Zoning Ordinance, which allows for Tier II wireless facilities by right in the Rural Areas.

The ARB has reviewed this request and granted approval subject to the administrative approval of three conditions that can be found in Attachment C of the staff report. During a balloon test, staff observed that a test balloon flown at the height of the proposed monopole was visible from only two vantage points. Those locations were Walton Middle School and the southbound lane of Route 20 south. At those times the views indicated that a brown monopole located in the same position as that test balloon would be provided with a substantial amount of backdrop by the incline of Roundtop Mountain. Based on the results of the balloon test and the applicant's demonstration of compliance with all other requirements set forth in Section 5.1.40 of the Zoning Ordinance, staff has identified not unfavorable aspects of this proposal. Ms. Joseph has a couple questions regarding the Architectural Review Board review. At the time it showed a proposal for a wooden monopole. He stated that he had not had a chance to speak to Ms. Maliszewski, but that she indicated that at the Architectural Review Board meeting the ARB was aware that it would be a metal monopole and they were okay with the change. At the time that the action was written the description that was given of the project was a wooden monopole, which was taken directly from her staff report and it did not reflect the change that was in the ARB minutes.

Mr. Edgerton stated that the drawings on C-1, page 24 that the site plan refers to the proposed wooden pole. That probably needs to be changed.

Mr. Waller stated that was correct.

Ms. Joseph stated that the other condition from the ARB was not to remove any of the trees within the proposed access way.

Mr. Waller stated that no additional trees were to be removed. He pointed out that he had spoken with the applicant and Ms. Maliszewski about that condition. The plan that the ARB reviewed originally showed one of those trees to be removed, which was the 98' tall tree. The revised plan that was submitted to the Site Review Committee, which was submitted after Ms. Maliszewski's staff report was due, was to be deleted. It showed a realignment of the road. On this plan they were attempting to add a parking space. The applicant indicated that area of parking would remove the second tree that the ARB had reviewed, but they are using a smaller cabinet. Therefore, they would keep the second tree, which was 99' tall. But, the first tree would still be removed. That particular drawing will have to be revised to show exactly what the ARB reviewed and approved.

Ms. Joseph stated that tree would be a lot more comparable to the pole.

Mr. Edgerton stated that in the staff report he had referenced that Dr. John Carter, who owned the adjacent property, had expressed concerns for the possible impacts that may be imposed on his property

by the proposed facility. It was noted that his wife was present to represent the family's interests, but that it said that no additional comments had been received. He asked if staff has received her reaction to this.

Mr. Waller stated that he had not received any additional reaction from her. When she saw the balloon test the balloon was much lower than the property that she owns. From her discussion she did not have any further concerns.

Ms. Joseph pointed out that she had previously asked Mr. Waller if the Nextel people had contemplated co-locating on that Virginia Dominion transmission line.

Mr. Waller stated that while they were in the field they saw how close one of the towers was to the site of the facility and they discussed that with the applicant and he indicated that he did not think that was the route that they were going to go. That could have been done only with a building permit, but because of the age of the structure they would have to replace the tower that they would have been locating on with a totally new structure and it would have required approval of the electric company to shut down power for a while and things of that nature. It would have been a disruption of the services for the purposes of attaching their facilities to what would have ended up being a new structure in any case. Then building a new structure would have required a special use permit.

Ms. Joseph stated that attachment A shows all of these sites and she wondered are these proposed sites or existing sites.

Mr. Waller stated that they were all proposed sites.

Mr. Edgerton opened the public hearing and invited the applicant to come forward and address the Commission.

Carl Taskus, representative for Nextel, stated that Mr. Waller has done a great job of providing an overview of this project. If there were any other questions, he would be happy to answer them. In regards to the power pole, that was their target initially to go on that power transmission tower. After speaking with Virginia Electric Power, structurally it could not hold our antennas and they would have had to rebuild that entire tower to do that. At that point, they backed off into the treetop tower because their initial access was going to be through the property owners to get to that tower. Since he was agreeable to those options it just made sense to back off in there.

Mr. Edgerton asked if there was anybody from the public that would like to address the Commission. There being no one, he closed the public hearing to bring the matter back before the Commission for discussion and a possible action.

Mr. Morris moved for approval of SDP-2004-116, McCleskey (Nextel) Tier II PWF.

Ms. Higgins seconded the motion.

The motion carried by a vote of (7:0)

Mr. Edgerton stated that SDP-2004-116, McCleskey (Nextel) Tier II PWF, was approved.

Mr. Kamptner pointed out that the applicant would have to meet the conditions of the ARB separately.

Old Business:

Mr. Edgerton asked if there was any old business. Regarding the upcoming retreat, he pointed out that on Friday night they would meet at L'etoile Restaurant at 817 W. Main Street for dinner from 6 p.m. to 8:30 p.m. There being no other old business, the meeting proceeded.

New Business:

Mr. Edgerton asked if there was any new business. He stated that last week there was a whole series of kind of confusing articles in the newspaper about recommendations from the consultant and Rivanna Water and Sewer Authority. He pointed out that he had received a lot of reaction from the public about these issues. This is not something that the Commission has been asked to weigh in on. He stated that he was going to try to collect as much information as he could about this because he needed a lot more information before he could even have an opinion about it. The magnitude of the decision that the Board will have to make on this is going to be rather extreme and it will be hard to disconnect it from the planning issues. He felt as such that the Commission needs to get educated and do the best job that they can in trying to advise the Board on some of the implications. Just as an example, one of the comments that came out of the meeting on Thursday night was that if the option of the built in pipeline from the James was pursued that there would be no additional reason to worry about the existing Rivanna Watershed. If that decision is made it really undoes about thirty years of concern in this community for the watershed. He felt that this was not something that the Commission could responsibly ignore. He stated that he would collect some information and would ask the other Commissioners to help him figure out a way to express the planning issues.

Mr. Cilimberg suggested that it might be helpful for him to talk with Mr. Rooker, Chairman of the Board of Supervisors, about that. Staff has deferred to the County Executive's Office and the Board of Supervisors on these issues.

Ms. Joseph stated that it sounded as if Rivanna is focused on how to provide water during a drought, which was what their mission is and not on the planning issues right now. She felt that they were more concerned about the bottom line of how much water do we need, how much it is going to cost and how are they going to do it without what are the ramifications of the public, land use or whatever as a result of this. She pointed out that was where she thought they were at on that issue.

Mr. Cilimberg stated that there might actually be a point where there will need to be an amendment to the Comprehensive Plan to reflect what might be recommendations on the study. That would have to come through the Planning Commission first before going to the Board. Therefore, in advance of that in thinking ahead and maybe talking with Mr. Rooker there could be a little bit of thinking about what is the best way for that kind of thing to come to the Planning Commission.

Mr. Edgerton pointed out that the Comprehensive Plan has been developed around those issues.

Ms. Higgins stated that she had another item of new business. She stated that she had been told by two different sources that there is legislation that is pending that will potentially be detrimental to those doing conservation easements in rural areas. There are tax benefits that large landowners over the last three to five years have been taken advantage of. But there is legislation that has been proposed that will take away the significant tax benefits that are offered to conservation easements. Of all of the many times that they have talked about ACE, which is funded out of the County's pocket, that this is a revenue source that the state and federal have said wait a minute because we are losing too much revenue because of these tax considerations given for this purpose. She suggested that staff look into this situation so that the County can provide some input.

Mr. Kamptner stated that he would look into the matter and bring back information to the Commission next week.

There being no further new business, the meeting proceeded.

Adjournment:

Mr. Craddock moved to adjourn the meeting to 6:00 p.m. on Friday, February 25 at the L'etoile Restaurant at 817 W. Main Street, in Charlottesville.

Mr. Thomas seconded the motion, which was unanimously approved.

With no further items, the meeting adjourned at 8:30 p.m. to 6:00 p.m. on February 25 at L'etoile Restaurant.

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V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon Taylor, Recording Secretary)