Albemarle County Planning Commission
March 29, 2005

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, March 29, 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 and Calvin Morris. Mary Hughes was present for David J. Neuman, FAIA, Architect for University of Virginia. Absent was Bill Edgerton, Chairman.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; Claudette Grant, Senior Planner; Jan Sprinkle, Chief of Zoning Administrator; Amelia McCulley, Division Director of Zoning and Current Development; Glenn Brooks, Senior Engineer; Sean Dougherty, Senior Planner; and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Ms. Joseph 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:

Ms. Joseph invited comment from the public on other matters not listed on the agenda.

Kat Imhoff, representative for Monticello, stated that she just wanted to take a moment because there have been so many projects coming up in the Pantops area just to reiterate their thankfulness that there is a goal in the Comprehensive Plan that talks about protecting the view shed from Monticello. There are two items before the Commission this evening that are located on Pantops. She asked to commend the staff, Sean Dougherty, and the applicant, Michael Barnes for Luxor, who met with them ahead of time and talked about the view shed impact on Monticello. They would have liked to have seen some of that conversation reflected in the staff report. It is a really appropriate place for rezoning to keep the history of that dialogue captured as part of the public record. But, they appreciate everything that has been done in the past and really look forward to working with more applicants as more projects come forward. They see this as obviously one of the last big infill areas for the County. She also wanted to point out that they have just placed a little over 1,000 acres under easement and they are providing a beautiful backdrop for Pantops. With that in mind, she wanted to thank the staff for their work and to ask that anytime that there is a rezoning that Monticello be part of that process. She stated that they would appreciate it.

There being no further public comment, Ms. Joseph stated that the meeting would move on to the review of the Board of Supervisors Meeting.

Review of Board of Supervisors Meeting – March 16, 2005.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on March 16, 2005.

Consent Agenda:

Additions to the Moorman's River Agricultural and Forestal District – Request for Planning Commission acceptance of 3 additions to the Moorman's River Agricultural and Forestal District. (Rebecca Ragsdale)

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

Mr. Craddock moved for approval of the consent agenda.

Mr. Morris seconded the motion.

The motion carried with a vote of (6:0). (Edgerton – absent)

Regular Items:

SDP 2004-076 Poplar Glen: Request for Final Site Plan (prior to Preliminary) to allow the construction of a 27,694 s.f. townhouse community with 26 dwelling units on 6.65 acres. The property is described as Tax Map 60 Parcels 31, 32, 33, and 34, and is located in the Jack Jouett Magisterial District on Stillfried Lane off Ivy Road (Route 250 West) behind the Kluge Children's Rehab Center. The Comprehensive Plan designates this property as Urban Density Residential in Neighborhood 6. (Yadira Amarante)

Glenn Brooks summarized the staff report in Ms. Amarante's absence. This is an application for a waiver of the road standards to allow VDOT Mountainous Terrain Standards on a private road. It came before the Commission in January and was deferred. It is now before the Commission with a plan that shows the layout and profiles, which is attached to the staff report. He asked that the Commission ignore the references to the critical slopes waiver because those were approved with the rezoning, as pointed out by Mr. Kamptner at the last meeting. Therefore, those do not apply. The only item before the Commission for review is the waiver for the mountainous terrain standards. During the current review of the final site plan staff has concluded that the proposed road does not meet County road standards for this type of development, that the matter cannot be approved administratively and that the Commission must take action before approval of the final site plan is granted.

He presented a sketch of the applicant's plan showing that portion of the road which requires the mountainous terrain standards rather the rolling terrain standards. There was some discussion at the last meeting of what portion of the road exceeded the 10 percent rolling terrain requirement because it went up to the 16 percent mountainous terrain standard. Staff recommends approval of the requested road standards and road width waivers with conditions.

Ms. Higgins stated that the staff report says that there is a 20 foot section that is as steep as 16 percent.

Mr. Brooks stated that actually there was only one point on the road that reaches 16 percent. He pointed out that he went beyond that and bracketed the area that exceeds 10 percent, which is actually the rolling terrain maximum. He pointed out that the location where it is reaching the 16 percent is just past the second driveway.

Ms. Higgins asked what is the breaking point based in the current amended adopted VDOT Road Standards. Also, since there is an increased rate what is the maximum and if it was in the less than 400 vehicle trips category. She asked for a comparison.

Mr. Brooks stated that the new standard is basically the same, but it just does not write it out as a mountainous terrain standard. It allows up to a 16 percent grade where you have a mountainous terrain, and it is a footnote in the new standards table. He stated that it allows for less than 400 vehicle trips.

Ms. Higgins asked if in this case that would apply.

Mr. Brooks stated yes it would as he understands it.

Ms. Higgins stated that therefore they are not considering anything that would not be available under the Public Road Standards.

Mr. Brooks stated that was one of the factors in staff recommending approval.

Ms. Joseph asked if there were any other questions or comments. There being none, she opened the public hearing and asked if the applicant would like to speak to the Commission.

Mark E. Keller, President of Terra Concepts, PC, stated that he really did not have any thing more to add to what has already been said about the project. If there were any questions about the specifics he would be happy to answer them. The civil engineer that designed the road, Erin Franklin, is present tonight to answer any questions.

Ms. Joseph asked if anyone had any questions for Mr. Keller. There being none, she asked if there was anyone present from the public that would like to speak on this issue. There being no one, she closed the public hearing to bring the matter before the Commission for discussion and a possible action.

Mr. Rieley asked staff what the critical issue was that he thought was at stake and why he was recommending approval.

Mr. Brooks stated that the critical issue would be the vertical grade. Staff did not consider safety as a concern because James Baber, of the Fire Rescue Office, reviewed this and indicated that this was safe. In the review of a road plan and a site plan the ordinance requires that the rolling terrain standard be followed, which was 10 percent. Therefore, his main issue was that the applicant could not meet the ordinance standard and had to come to get a waiver from the Planning Commission. Therefore, it was not an issue of it being an unsafe standard or an unsafe road. It was simply an issue of meeting the ordinance requirement.

Mr. Rieley asked if engineering had any concern with the safety of this small piece of 16 percent gradient, and Mr. Brooks replied that they did not.

Ms. Higgins moved for approval of SDP-2004-076, Poplar Glen, for the reduction and road standards waiver consistent with the staff's recommendation.

1. Construction of the road shall be in accord with the display presented to the Planning Commission on 3/29/05.

Mr. Morris seconded the motion.

The motion carried by a vote of (6:0). (Edgerton – Absent)

Public Hearings:

SP 2004-052 Kenridge (Sign #40): Request for special use permit to allow development of a multifamily complex in accordance with Section 23.2.2.9 of the Zoning Ordinance which allows for R-15, Residential use in a CO, Commercial Office district. The property, described as Tax Map 60 Parcels 27 and 27B, contains 16.5 acres, and is located in the Samuel Miller Magisterial District on the north side of Ivy Road (Route 250 West) approximately 1/2 mile west of the intersection of Ivy Road and the 29/250 By-pass. The property is zoned CO, Commercial Office, and EC, Entrance Corridor. The Comprehensive Plan designates this property as Office Service in Neighborhood Seven. (Claudette Grant)

Ms. Grant summarized the staff report and presented photos in a power point presentation. The applicant Kenridge, LLC, is seeking approval for a special use permit to allow development of an 80 unit residential complex on a 16.5 acre property located on Route 250 West across from the Birdwood Golf Course. The residential units would include 4 detached units, fourteen (14) 34 foot villas, twenty four (24) 42 foot villas, and thirty-eight 24 foot townhouses. The special use permit would allow for R-15, Residential use in a CO, Commercial Office district. The site is located in an Entrance Corridor. The site is currently developed with a main house and 3 dependent buildings. The buildings on the site are currently vacant. This site was the former national headquarters for Kappa Sigma Fraternity and a non-profit foundation. This is also known as tax map 60, parcels 27 and 27B. The property is zoned CO, Commercial Office located on the Entrance Corridor. It is designated Office Service in the Comprehensive Plan, in Neighborhood Seven.

The property is bounded to the north by the CSX rail road and to the south by Route 250. The site is adjacent to the former Institute for Textile Technology, which is located on the west and the White Gables residential development, which is currently being built on the east. The area in the vicinity of the proposed development is largely institutional in nature. Many office and commercial buildings are located here. However, there are also several residential developments in the area, such as Farmington and Ednam.

This portion of Neighborhood Seven is best known for a series of historic estates and homes, some of which have been adapted for re-use as offices and sites for special events. A substantial amount of infill residential and office use has occurred around these older structures, generally maintaining the original character of the area. Several relatively undeveloped University of Virginia properties are located on the south side of Route 250 West, and could influence the character of the area significantly if they were developed more intensively. The University has not identified any specific plans for these properties at the present time.

Staff has heard from a variety of interested parties about this project. The applicant for White Gables has submitted a letter stating their support of the development. The Chair of the County appointed the Route 250 West Task Force who also submitted some comments regarding primary traffic concerns. It does not appear to be a future connection to the former Institute of Textile Technology building, which would allow further interconnection of properties fronting Route 250 West and thus enable a consolidated entrance for those properties. Outside of that most of the other comments that the Route 250 West Task Force noted the applicant has said that they plan to address. Staff has also heard from several people who are potential purchasers of the White Gables development. Their primary concern was an increase in buffer between the Kenridge site and White Gables. She pointed out that residential uses such as both of these projects, Kenridge and White Gables, do not require a buffer.

The following are several concerns and issues that need to be resolved.

- Critical slopes appear to be disturbed on this site, but the applicant has not shown or stated to what extent this will occur.
- Stormwater management has not been adequately addressed.
- There are some traffic concerns related to public safety because this section of the Route 250 West Corridor carries a high volume of traffic, has many access points, exhibits horizontal and vertical curvature problems, and has three signals. In spite of these difficulties, the applicant has agreed to provide access connection to the adjacent White Gables development and nearby Legal Research. The applicant has also agreed to align the Kenridge access with the existing golf course entrance at the Birdwood Development across the street. It is anticipated that the Virginia Department of Transportation will allow a traffic signal at this new entrance when warranted. Currently, VDOT has found that a traffic signal is not warranted at this location. When a traffic signal is warranted VDOT anticipates that the developer of the affected parties will share in the cost for installation. Approval of the White Gables special use permit application was conditioned on several items, including the applicant being responsible for the costs of a traffic signal and its installation at the intersection of Route 250 West and an access point serving the property approved by VDOT and the County's Director of Engineering. The applicant for Kenridge has not formerly agreed to participate in the costs of the signal, but through discussions has agreed that this would be of interest as the project develops and when the traffic signal is warranted.
- Pedestrian connections need to be shown on the plan.
- Also, there are several comments on the historic resource or the buildings on the site. In terms of the historic resources, there have been questions or concerns regarding the connection of the existing historic resources to the proposed development. It is not clear how the existing buildings will be used.
- No affordable buildings have been identified and the affordability goals have not been met.

Staff has identified the following factors, which are favorable to this request:

1. A shared interconnected road is being shown on the plan between two high density developments.
2. The entrance to the property will be in alignment with the Birdwood development, making it easier for a future traffic signal to be installed at this location.
3. Several of the historic resources/buildings will be retained.
4. The front setback is equal to that of the adjacent White Gables development.

Staff has identified the following factors, which are unfavorable to this request:

1. Adequate information has not been provided relative to critical slopes, pedestrian connections, amenities and open space, stormwater management, grading and zoning.
2. Site design and building locations need to relate to the land form and the existing historic resources on the property.
3. The existing trees on the site are significant. There is a need for a tree inventory and landscape plan.
4. Affordable housing has not been addressed.
5. There is a lack of description for the use of the existing buildings on the site.
6. Lack of interconnection for the former Institute for Textile Technology property.

Staff is not able to recommend approval at this time because the following issues have not been addressed and are not resolved:

1. The engineering and zoning comments previously noted in the staff report.
2. The attached Historic Resources, Current Development, and Architectural Review Board comments.
3. The attached Route 250 West Task Force interconnection comment regarding the adjacent former Institute for Textile Technology property.
4. Pedestrian connections have not been adequately shown on the plan. (Note: In a previous plan the applicant showed pedestrian connections, but did not show it on the current plan. The applicant stated that they did not mean to not show pedestrian connection.)
5. Amenities and open space have not been adequately shown on the plan.
6. Affordable housing has not been adequately addressed.

Staff recommends deferral of action regarding this request until the issues as noted in this report are adequately resolved. The applicant submitted a revised plan, but it was too late for staff to review it to provide comments. But, the applicant did make the request that staff give that plan to the Commission.

Ms. Joseph asked if anyone had any questions for Ms. Grant. There being none, she opened the public hearing and asked if the applicant wanted to address the Commission.

Steve Blaine, attorney representing the applicant, stated that he had some boards that would be useful for the Commission's review. He stated that tonight he would like clarify what the applicant was actually asking approval for. As Ms. Grant mentioned, there has been a revised plan. He confirmed that the features identified in their original application are a part of the proposal, which both the staff and the approvals on the adjoining White Gables project identified as important to the development of this project. What they would like to do is to get some direction from the Commission on how to best incorporate those features in the conditions for their special use permits. A number of these features can be more clearly depicted on a concept plan that could be adopted and incorporated in the special use permit. Some conditions may have to be articulated. They would like to use the public hearing tonight to get some direction from the Commission. They would agree with staff that action would not be appropriate where they are tonight. But, they would ask that the Commission direct staff to work with the applicant to articulate those conditions in a format that they would be able to consider at their next available meeting.

To clarify the plan that has been placed on the board, there is a 70 unit residential development involving twelve (12) smaller 24 foot wide townhouses, fifty-one (51) 42 foot villas or townhouses, and six (6) single-family houses. In addition there will be the manor house. They would propose to return the Kenridge Manor House to a residential use, which is how it was originally designed. The other proposed use for the carriage house would be a small office upwards of 2,500 square feet. In December they had a plan that they received input on from the Planning Commission. In late December they went before the ARB with that plan and received some feedback. They resubmitted the plan that the staff tonight did review with the Commission in January, but they did not get before the ARB until March 7. That is the reason for the lateness of the most revised plan, which was submitted on March 18 and 10 days after they received comments from the ARB. Some of the significant changes in those plans were to eliminate a row of townhouses more immediately adjacent to the historic structures, as Ms. Grant described, to give more of a buffer to help with the transition from the new development or new housing to the historic

structures. He suggested that they confirm the features that this plan should better describe and what they should focus on for conditions of the special use permit.

As to interconnectivity, they believe the interconnectivity between the White Gables project, which was to the east, is critical to addressing VDOT's concerns that was identified during the White Gables approval. This plan could show a driveway or a vehicular connection to White Gables. They have offered to provide an easement so that the residents of White Gables may access this connection to Route 250. Also, as Ms. Grant mentioned, that if there is a signal warranted, then these properties along the north side of Route 250 can access at a common entrance to Route 250. The VDOT representatives that they met with felt that was a real benefit in this project. Therefore, they can write that into a condition. They can also show on the plan how that would be accommodated and make the commitment that they would provide an easement to the residents to White Gables, as well as tenants in the office building to the east, if that access should be desired. Similarly, they could provide access to the ITT property, which has not been requested by the owner of the ITT property. But, they could commit in a condition that they would provide a similar easement should access be desired by the owners of the project.

Regarding pedestrian connections, they could draw in the sidewalks. They have said all along that they would provide a trail system, but have not received any direction on whether that should be a bicycle, vehicular or multi-purpose trail system. But, they were open to that. Once again, they would commit to that in a written condition. There are two entrances to this site that would be closed so that it would only be a single entrance and a single access point to Route 250. Once again, they would commit to that in a written condition. In terms of open space, with the proposed setbacks they would calculate a 4 ½ acre edge park that would provide green space. They would confirm that the stone wall, which they agree is an attractive feature and a selling point of this project, would be retained and would only be disturbed minimally. They have already engaged a tree survey, but it has just not been completed yet. But, they acknowledge that one would be necessary for a site plan. They would expect to be able to preserve all significant trees in this area. Once again, this is approximately 4 ½ acres as a result of the setback. They can label that open space, passive recreation area or whatever suits the County's preference.

In terms of uses, the carriage house would be located in this area. The main dwelling would be reconverted to a principle residence. There is a question about parking. The townhouses will for the most part have front loaded garages. The parking will really be relegated in the sense that there will not be parking seen from Route 250 from the external portions of the site. It will all be turned in. Most of the townhouses will have two-car garages. They understand that they will have to comply with Subdivision Ordinances that will require two parking spaces per unit for these types of units. It is anticipated that these will be subdivided so that they know that they have subdivision setback and lot restrictions. They know that they are going to have to submit and request a critical slopes waiver. The critical slopes are not really well defined in this concept plan, which is just for planning purposes. But, they would not ask for a critical slopes waiver until they have provided the engineering department the appropriate grading and plans so that they could make a recommendation to the Commission in favor of that waiver. They anticipate that being at the site plan stage.

In terms of affordable housing, they are all seeing housing prices just go through the roof. They saw in Virginia that the housing prices went up 16 percent last year. In going on the Office of Federal Housing Enterprise site to look for some good news to report, he found that in the state and locally for the fourth quarter prices for housing has actually decelerated. That does not mean that it has not continued to up, but it has gone up at a lesser rate than it has before. Albemarle County does not have a real clear definition of what affordable is. He asked the author of the staff report what her definition of affordable housing was and she did not have a definition. But, the Piedmont Housing Alliance and others regard 80 percent of average mean income as an affordable level. The average median sale price of a home in Albemarle County at the end of last year was $262,000. If you take 80 percent of that, the median price of a home in Albemarle County is $210,000. These units are expected to sell for well over $500,000 a unit. Given the style and level of finishes that the ARB certainly will require, the manor house renovations and the architecture that you are seeing developed in this area; it is not likely that the project is going to be able to meet that level of $210,000 a unit. The architect is here tonight to answer questions about the plan. They would like to have a few minutes after the public comment to answer questions.

Ms. Joseph asked if there were any questions for Mr. Blaine.

Mr. Thomas asked where the auditorium was on the new plan.

Mr. Blaine stated that the auditorium does not make it on the new plan. The auditorium is a 1969 dated structure. There is no evidence that it has any historic value. They have looked at conversion options for that building. Even if it was converted to an office, it would be difficult to convert that use because of the parking requirements. Therefore, the auditorium would be removed under this plan. The other two structures do have historic significance, which includes the main house and the carriage house, and they are preserving those structures.

Ms. Joseph invited comment from members of the public. She invited Tim Slagel, the only person listed on the sign up sheet, to come forward and address the Commission.

Tim Slagel stated that he worked with the owner of The Ivy Road Properties, which was the immediate property to the west of the Kenridge proposed development. Just by way of clarification, Ivy Road Properties is commonly known as the Institute of Textile Technology prior to the ITT's ownership that was called the Boxwood Estate. He pointed out that he would refer to it as the Boxwood Estate. He stated that he had three brief points. The first is that the applicant has proposed on the southwest of the development several units that were within about 25 to 30 feet of the property line. The main residence of the Boxwood Estate property is about 35 feet from the property line. Their concern is that from the site line along Route 250, and also for the main residence that is very close to that property line, that those units right on that corner impact both of those pretty heavily. If this development plan is rejected tonight they would request to see that at least the edge of the main estate property be shown on future plans just for reference purposes. There are probably about four or five units right on that corner that are actually in front of where the main estate is. That is the concern because that is anticipated to be a residence building. Therefore, those units on that corner would impact that residence pretty directly. The second impact was that they have not as the applicant explained or requested any sort of road interconnection with the Kenridge property. That may happen at some point, but they are not sure. There are a lot of mature plantings along the edge of the property line. They would request that those mature plantings be taken into consideration. They understand from the applicant that a survey is in the process.

Ms. Joseph asked if there was anyone else present to speak regarding this item.

Len Mailloux, resident of Charlottesville, stated that he owned a piece of property to the north of the Kenridge property on the other side of the railroad and across the fairway. The property is located in Farmington Heights. He stated that he was sort of a dual agent in this project because he also represented the White Gables project from a marketing standpoint. But, there is a representative from White Gables here this evening as well. He asked to speak regarding his property that looks directly at this particular property. He stated that his property was 3 acres and runs almost the full length of the Kenridge property. He asked that the applicants address the issues to Route 250, to the White Gables side and a little bit to the west side. Since he looks directly at this property he would like to make sure that the applicant is going to do some kind of screening there because he really did not care to be looking at these buildings. From what he could see he did not think much thought had gone into the design. From reading the file, he noticed that in some cases that they were using hearty plank siding on these properties. He pointed out that he looks at White Gables and the manor house and he sees beautiful Jeffersonian architecture that people have gone to great expense to create and build. The proposed parking is above ground. White Gables has no above ground parking for the residents. There are no elevations. He requested that the applicant address some screening and the run off as far as his property is concerned.

There being no further public comment, Ms. Joseph closed the public hearing to bring the matter before the Commission for discussion and a possible action. She mentioned that Ms. Maliszewsk and Ms. Mahon were present if there were any questions concerning the historic nature of this property or the ARB review.

Ms. Higgins asked if the zoning was CO on the property to the west or Boxwood Estates. If so, with this being a residential zone that there was no buffer requirement.

Ms. Grant stated that was correct.

Mr. Craddock stated that he would like Ms. Mahon to come forward for a question. In the staff report it said that the auditorium was potentially eligible due to its association with Kappa Sigma. He asked if it that was for five years from now or was it on an application to be put on the National Register.

Ms. Mahon stated that according to Mark Wagoner at the Department of Historic Resources because of the auditorium's association with the fraternity it could potentially be eligible for listing on the National Register of Historic Places. The criteria that is typically used for listing is a 50-year bench mark for historic resources. There have been instances in the past when a resource is threatened by imminent destruction that the 50-year bench mark has been waived and the resource has been nominated successfully to the National Register of Historic Places. Without an evaluation of the site by the Department of Historic Resources she could not tell them if it would be eligible for listing now. But, potentially at the 50-year mark yes it could be because of its association.

Mr. Craddock pointed out that it may not survive to the 50-year mark.

Ms. Mahon agreed that it may not survive the 50-year mark. She pointed out that the review is done on a site by site basis. The main criterion is whether or not it meets other significance criteria other than the fact that it is old and if it had a particular significance for architectural style or association with a person or an event. One of the things that had come up in recent years is regarding the newer architecture that has been demolished or lost and that historically it was significant. Right now this is a building that was built in 1969 that has historical association to an important fraternity in Charlottesville.

Mr. Rieley stated that one of the concerns they have heard expressed is the setback relative to the White Gables. It seems that from this drawing the White Gables setback is substantially less than what is being proposed for this project. He asked what those side setbacks are.

Mr. Blaine stated that the setback from the eastern boundary for their project would be about 20 feet. The setbacks for White Gables from the same line would be 15 feet. Therefore, their setback would be larger than their setback because White Gables is literally right up on the line.

Mr. Thomas asked if the applicant has had any conversations with the ITT property owner about the closeness of the western corridor or about the interconnectivity.

Ms. Grant stated that it was her understanding that they have not had discussions. She asked Mr. Blaine if he could confirm that.

Mr. Thomas asked Mr. Blaine to come forward to answer that question.

Mr. Blaine stated that the principals of both projects are friends and they have had conversations, but he had not been privy to those. He stated that he was sure that they have relayed to the owner of the ITT property the willingness to provide access. But, as Mr. Slagel pointed they don't really see any desire for it. The closeness and the particular reference to the plantings is why they are doing the tree survey. But, they are now more sensitized to their concern and they will certainly have a conversation with them afterward.

Ms. Higgins stated that he spoke about the potential about an access easement to White Gables and it was shown on this plan. She asked if that also includes not just the easement, but the actual access to the property line.

Mr. Blaine stated that they would commit to construct it at the time for build out. He pointed out that they have not been asked to do anything in that regard. If the issue is when it would be built, they can write a condition that it will be built at the time of construction.

Ms. Joseph asked if anyone else had any questions for Mr. Blaine.

Mr. Blaine stated that they could propose the list of conditions based upon the staff report, which they just received on Friday. But, they would not expect the Commission to take action on that tonight.

Ms. Joseph stated that staff had recommended that the Commission defer this item. Therefore, she assumed if they recommend deferral that they are not caught in any kind of time crunch at this point. She asked if this was something that they needed to request the applicant to do.

Mr. Cilimberg stated that the applicant had indicated that they would be willing to defer because he was not sure if they were at that time point. He suggested that they make sure that the applicant concurs.

Ms. Joseph asked Mr. Blaine to come forward to make sure that they understand the deferral request.

Mr. Blaine stated that they want to make certain that the Commission understands what they propose and what they were taking action on. If that takes another several weeks, they would request deferral until a meeting date that they could hopefully identify tonight.

Mr. Thomas asked if they would be addressing all of staff's comments and the unfavorable mentioned items on page 9.

Mr. Blaine stated that they would absolutely do that. He pointed out that they would view those as unaddressed as opposed to unfavorable.

Mr. Craddock agreed that the request should be deferred, particularly so that the view shed from the back of the property could be addressed.

Mr. Rieley asked Ms. Maliszewski to come forward to answer a question. He asked where this project is relative to ARB review.

Ms. Maliszewski stated that the ARB has reviewed this project twice and made comments. The ARB's last action was included the staff report. There were four members present at the last meeting where they reviewed it. In trying to get a recommendation to the Commission there was a (2:2) tied vote. Therefore, she would say that there are outstanding issues with the ARB. The outstanding issues included the depth of the setback and the arrangement of the buildings. The ARB did not get into the detail of the look of the buildings. She pointed out that the ARB had not reviewed the latest submittal. She pointed out that this was a unique site because of its view from the Entrance Corridor.

Mr. Rieley stated that he had a list of concerns that relate directly to what might happen next. This is a substantial improvement from what they saw last time. He was gratified to see the reduction from 80 to 70 units because he felt that a big part of the difficulty with this project has been in trying to get too many buildings onto a tough site with existing buildings that have architectural significance. He complimented the staff for a really thorough, sensible and supportable set of concerns for a really complex set of issues. He stated that he agreed with every one of them. They are in an unusual situation. It is very clear that additional changes are necessary on the plan. Clearly the staff has not had an opportunity to review the most recent submittal. He stated that he did not have a position on whether the auditorium should stay or not. But, he certainly would like to see that thoroughly vetted with staff and our experts in historic resources and let them look at it very carefully and work with the applicants on that issue. He felt that they could make a very good case both ways. But, he did not think they know enough to make that determination. He agreed with all of the concerns that Mr. Slagel raised about the Boxwood Estates property. He was concerned that the most recent submittal does not adhere to the 275 foot setback for its length. The buildings on the western edge of the property are closer to Route 250 and two of the buildings actually violate that 275 foot setback. That remains an issue. He felt that setback should be adhered to as it was on the earlier plan. He felt that the critical slopes must be identified at this level and not wait until the site plan level. The last thing they want to do is after the rezoning is in place to have to start wrestling with the critical slopes as an independent issue. His sense is that is not going to be a

major issue and is not one of the central issues in this application. He felt that affordable housing must be addressed. It is one of the pillars of the Neighborhood Model. It is always recognized that developments are going to be more attractive to developers if they don't have to deal with affordability of housing. He felt that they have to be just as serious about it between Farmington and Ednam as they are in Red Hill or Esmont. He pointed out that because this is in the development area. He felt that they should be evaluating proposals for higher density relative to the Neighborhood Model. He voiced concern about the streetscape being lined with garage doors from one side to the other. White Gables made a wonderful effort in getting that kind of garage door and getting them underground. He felt that needs to be addressed and an issue that needs to be dealt with. Most of these issues need another thorough round with staff. Most of them are design issues that need to be dealt with at the plan level and were not condition issues that can be dealt with a series of conditions. There needs to be another round of thought redesign to deal with them. He felt that the issue of how this property appears from the north, while it is not an ARB issue, is an issue that the Commission should be sensitive to and how it affects adjacent landowners. The fact that the ARB is still concerned with fundamental issues like the arrangement of the buildings underlines the fact that there are still fundamental design issues to be resolved. But, personally he felt that this has made great strides since they saw it the last time and he looked forward to it continuing to get better.

Mr. Morris stated that he would like to see the various landowners get together to work out some of these details. Therefore, he did not think they could defer this to a specific date, but would like to see it happen as soon as possible.

Mr. Thomas agreed with everything that Mr. Rieley said.

Ms. Higgins made a motion to accept the applicant's request for an indefinite deferral for SP-2004-052, Kenridge. Because of everybody's concern with the Entrance Corridor she felt that it has pushed everything down the hill to the back where the railroad and the adjacent properties are. She felt that it was going to be very difficult because of the falling grade and the railroad in the rear, which is going to be one of the biggest challenges.

Mr. Rieley seconded the motion.

The motion carried by a vote of (6:0). (Edgerton – Absent)

ZMA 2004-007 Belvedere (Sign #62): Request to rezone approximately 254.03 acres from R-4, Residential to NMD, Neighborhood Model District, to allow up to 807 dwelling units, with an overall density of 4.4 dwelling units per acre, ranging from a density of 1.4 dwelling units per acre in some areas to 9.5 dwelling units in others. The property, described as Tax Map 61 Parcels 154, 157, 158, 160 (portion) and 161, Tax Map 62 Parcels 2B, 2C, 3, 5, and 6A, and Tax Map 62A3 Parcel 1, is located in the Rio Magisterial District on the east side of Rio Road (Route 631) immediately east of the Southern Railroad. The Comprehensive Plan designates this property as Neighborhood Density in the northern portion of the property (3 to 6 dwelling units per acre), Urban Density in the middle and southern portions (6 to 34 dwelling units per acre), and Community Service adjacent to the railroad, in Neighborhood Two. (Sean Dougherty)

Ms. Joseph pointed out that this was unusual situation because the applicant had a discussion this afternoon about whether or not they would like to request a deferral. She asked the applicant to come forward and address this issue.

Don Skelly, representative for Stonehaus Development, stated that yes that as per his conversation this afternoon with both Ms. Joseph and Mr. Cilimberg that they would like to defer at this point.

Ms. Joseph asked if the deferral request was for an indefinite time.

Mr. Skelly stated that they would like to move forward and get a date if that was possible.

Mr. Cilimberg stated that he did not know if that was possible. It has the same type of circumstances as the last application. He spoke with Mr. Stoner yesterday and told him that based on the outcome of this meeting that they would want to get some information from the applicant, have the opportunity to get together with them, and then staff would get the request advertised as soon as they felt that they could get the review done and get a staff report for whatever that date would. Staff will need to determine that date. In fact, the Commission does not need to take an action to indefinitely defer because the advertising was not legal for this particular consideration tonight. Therefore, they were going to have to readvertise and hold a public hearing again anyway at a new date. But, he felt that the applicant's willingness to defer to address the issues, which he felt that Mr. Skelly described this afternoon, certainly lets staff know that they are going to be working with the applicant in trying to get this scheduled as soon as possible.

Ms. Joseph stated that part of what they had talked about was the documentation that is required so that this can be a complete application to make sure that they are not rezoning somebody's property that has not agreed to it.

Mr. Skelly stated that he did have the proper documentation in hand, which has been resolved as they anticipated. They understand that this information will not allow them to proceed this evening. But, they had hoped since they have been in the process for over two years that they would get an expedited review.

Ms. Joseph placed the question before the Commission and asked them how they would like to proceed on this item. The Commission knows that the applicant is requesting a deferral. They know what the staff report says. They know that the documentation was not submitted, and that the request was not advertised properly. They know that there are several outstanding issues. They know that the Commission has reviewed this request five times in the past. The applicant has asked that the Commission go through some of these items that the staff brought up and give them direction. The Commission is now going to discuss whether or not they are going to give the applicant feedback on this item. The applicant has requested deferral. The public hearing will be opened to allow those who have come to provide comments at this time. That will still happen even if the Commission decides to hear the applicant one more time and to go through the whole process almost like a work session. She asked what the Commission's pleasure was.

Mr. Rieley stated that he would like to hear the public's comments, but beyond saying that he agreed with the staff in that he was not certain that he felt that it was useful to turn what was scheduled for a public hearing into a work session.

Mr. Craddock agreed with Mr. Rieley.

Ms. Higgins stated that the length of the outstanding issues appears to be very lengthy. Therefore, she was not sure if there was a particular element, at the applicant's request, that they could give feedback on. She asked if there was something that the applicant really needs from the Commission to carry it through to the next step in the process.

Mr. Morris agreed, but noted that many of the items were recurring ones.

Mr. Thomas agreed with the other Commissioners.

Ms. Joseph stated that they would open the public hearing and ask for public comment. Then, they would ask the applicant if there were any issues that they felt were extremely important that they would like to get some advice on from the Commission this evening. She asked Joe Cochran, to come forward and address the Commission. She pointed out that there would be another opportunity for the public to speak at the next public hearing. She invited anyone interested to come back and speak at the next public hearing.

Joe Cochran, an attorney with Richmond & Fishburne representing the Dunlora Community Association, stated that their board had asked him to come and speak tonight on behalf of the Association concerning

the application. There is one issue at this point that they need to talk about. It has to do with the proposed development of condominium buildings adjacent to the Rivercrest section of Dunlora, which is identified on the plan as block 2 in Belvedere. The plan shows condominium buildings planned for that area. As you can see, the Rivercrest section has upscale duplex structures. The topography is such that the Rivercrest section sits lower than this area where the condominium buildings are proposed. If you have been out there you will see that there is a ridge behind the Rivercrest homes and a nice mature forest area. Many of the residents have said that when they bought in Rivercrest they were told that area would remain undisturbed other than if there were development on the ridge area that it would be single-family homes. Obviously, when residents saw this plan they were very alarmed by the proposal. What the residents are interested in seeing here is that ridge and the mature forest that is here now remain in intact. They understand that their condominium buildings could require significant grading on that ridge. The objective that they have to the plan is anything that has to do with that ridge concerning any grading or any clear cutting of that area. There are several areas of concern, which includes the environmental concern regarding the grading and the critical slopes and what impact that will have on existing drainage facilities in the area and also the forest area between Rivercrest and the condominium buildings. They are also just pure and simple aesthetics. Frankly, the residents in Dunlora don't want that kind of development to be that close to them. If there is a way that the ridge and the forest could be preserved that is what they are asking for. Those are the comments he had for the association. There are a number of people here tonight from Dunlora, which includes most of the people in the room. He thanked the Commission for their consideration on these comments.

Mr. Dougherty stated that was part C of the current development and it was a preservation space not to be disturbed of .6 acres. There is not a ton of space along the back of those homes. The applicant has not yet requested a critical slopes waiver.

Ms. Higgins asked if he was saying that in the Code of Development they were saying that .6 acres will not be disturbed. She asked how large was the whole area that defines these mature woods and critical slopes area. She suggested that the applicant might be able to answer that question.

Mr. Dougherty stated that he could not provide a good answer for her questions at this time.

Ms. Higgins stated that they were looking at a rezoning for a lot of different parcels. She asked what the zoning was on that specific area right now.

Mr. Dougherty stated that it was zoned R-4.

Ms. Higgins stated that even under current zoning the applicant could do multi-family.

Mr. Dougherty stated that it was the same zoning as the Rivercrest property and Dunlora.

Katie Hobbs, resident of Albemarle County, stated that she was also a member of the DISC Committee. She reiterated that as they develop in the growth area, they need to be very careful how they allow development and what they do with it so that it does not interfere with another adjacent development. In this case just providing a lot of screening with a lot of evergreens to provide year round screening would make a big difference. She suggested that the townhouses be of a color that blends in the forest. Some way they need to make sure that as infill is developed that the people who are already living there are happy with what is coming.

James Seal, resident of 2816 Northfield Road, stated that he was present as the President of the Northfields Community Association. They are located immediately to the west of the entire length of this subdivision. Basically, they have two roads being Huntington Road, which is immediately adjacent, and the Northfield Road. Their main concern, which they expressed over and over to Frank Stoner at his open meetings and private meetings, was the traffic that will be dumped particularly on Huntington Road from this development. Mr. Stoner has talked over and over that the Free Bridge would be relegated to pedestrian traffic only. Now in the staff report it talks about rebuilding it and also about building a second access. They are totally opposed to that, which they have made extremely evident to Mr. Stoner at several occasions. They also have the proposed Huntington Extension, which will dump another 600

cars a day onto Huntington Road that is a totally residential road. They have not seen a traffic study from Mr. Stoner so they don't know what the proposed traffic flow will be. When someone coming out of Belvedere wants to go north on Route 29, they can make a right hand turn on Huntington Road and then go up to Carrsbrook and make another left hand turn and then go to Route 29 without stopping. Mr. Stoner said that people will not do that. He suggested that someone try to tell people not to do that. If they do what he says and they go down Rio Road to Route 29 and make a right hand turn and go north to Carrsbrook, they will hit nine stoplights. With no stop signs versus nine traffic lights, they certainly know which way the public will go.

John Pelleck stated that he was on the Rivercrest and Dunlora Board. The only point that he would like to make is that they are of the opinion that there have been some changes in the plans that are drawn up for Belvedere and they would like to be accommodated with the opportunity to see these plans at Mr. Stoner's earliest convenience. As stated earlier, they would like to know what is taking place and what might occur relative to their development, which adjoins the new Belvedere.

Ms. Joseph asked if there was anyone else present that would like to speak regarding this request. There being none, she closed the public input portion of the hearing and asked the applicant if he would like to address the Commission with any specific questions that he wanted addressed. She reminded everyone that this request will be readvertised and that there would be another public hearing.

Mr. Skelly stated that with the Commission's permission, they would like to address the issue raised by the Rivercrest residents regarding the distances just to provide some clarification. They have made some changes to the plan. One is the relocation of the community center, which use to be on the side that directly abutted the Rivercrest community. They have at the request of that community relocated that to face over the ravine that currently holds Townbrooke Crossing in response to their concerns. Someone inquired earlier about what the distances are between the multi-story buildings. It is 175 feet from the face of the building to the face of the building at the closest point. That wooded buffer is between 50 and 75 feet in width. They would like to get the guidance of the Planning Commission at this point on one specific issue, which is the width of the right-of-way along the junction between Fairview Swim Club. Fairview has expressed a willingness to cooperate. They have just received a confirmation about that this afternoon. They have verbal confirmation that they are willing to cooperate in granting a land swap for the necessary right-of-way at that junction, which will accommodate the creation of sidewalks on both sides. Previously the issue has not been with the width of the pavement, but with the ability to accommodate a 5 foot tree lawn and a 5 foot sidewalk. Their position has been that the Fairview Swim Club has been reluctant to see that area developed into a sidewalk, although they are willing to. Because of the majority of the development being to the east side, which would be the top one-half of the screen, and absent of any development moving southward on the other side of the road, they felt that a sidewalk in that location would be redundant as it would feed down to the current Free State Bridge, which is not currently ready for pedestrian access. Their hope was that they would not in fact have to construct a sidewalk there as it would lead to a bridge that does not have pedestrian facilities, and then in turn it provides access in to the Northfields community, which does not have sidewalks.

Mr. Thomas stated that a sidewalk in there would be very dangerous.

Mr. Skelly stated that was their feeling because it would feed people in to a situation where they have no where to go except just across the bridge or to cross the road at a point where there will not presumably be a cross walk. Therefore, they would just like to get some guidance.

Ms. Higgins asked if she was correct in saying that they will have adequate right-of-way available with this land swap to do a 6 foot planting strip and a 5 foot sidewalk on one side and you don't have adequate area on the other.

Mr. Skelly stated that they have it on one side.

Ms. Higgins stated that they could reserve that 6 feet and the 5 feet on the other side just in case in the future the bridge creates a pedestrian access.

Mr. Skelly stated that was correct.

Ms. Joseph asked if he would have some type of documentation that he would be able to get that in that area.

Mr. Skelly stated that he received confirmation from Reeves Bailey at Fairview today that they were getting a letter. Unfortunately, he did not receive the fax before leaving for the meeting. But, he was told that it was on its way. The question in their perspective is just whether or not that is something that the Planning Commission feels is warranted in that location or not.

Ms. Joseph asked if it would be 15 feet and then neck down to 30 feet.

Mr. Skelly stated no, that at the narrowest point it is 46.5 feet and it was literally at a pin point. What they would be able to do is to create the sufficient roadway width with a 6 foot tree lawn strip and a 5 foot sidewalk, which would run on the top side of the road and would connect the development in block 2 with the development in block 3. There would be sidewalks along the Fairview boundary leading from the current entrance back into the development and also on the north side as well. The missing sidewalk piece would extend from roughly the current Fairview entry down to the Free State Bridge. Their concern there would be following pedestrians basically to an area where they would only have an option of either crossing a busy road or trying to cross over the current Free State Bridge, which is a very narrow bridge.

Ms. Joseph asked if it was a public road.

Mr. Skelly stated yes, that it was a public road.

Ms. Joseph asked if anybody had received any VDOT input concerning this right-of-way.

Mr. Skelly stated that he had a meeting with Jack Kelsey, Sean Dougherty and Chuck Proctor to discuss the standards. Mr. Proctur's initial reaction was that there was sufficient roadway there to support it and the issue in his view was that it was more of a planning issue as to whether there needed to be tree lawns and 5 foot sidewalks on both sides.

Mr. Thomas asked if he could talk a little bit about the cross over on Free State Road coming from Dunlora into Belvedere.

Mr. Skelly stated that was currently reserved for dedication by the County. There is currently a gate in place. Currently it actually serves as a secondary emergency access for the Dunlora community. He pointed out that since they had received comments back from VDOT that they were now prepared to address the other outstanding issues.

Mr. Dougherty stated that essentially what the Code of Development says for other portions of Belvedere Boulevard is an 80 foot right-of-way. For this section, however, it is just not listed. He stated that what he and Jack had discussed was that a minimum of 56 feet of right-of-way through there would be what would be required generally for safety. That is something that he felt they could examine further. But, as far as these sidewalks on the Fairview Swim Club, even though there is not a pedestrian way on Free Bridge coming across from there, you have the Northfield Neighborhood and all of the other neighborhoods that are further out along Rio Road. What you are essentially asking is that all of the children that live in this development who want to traffic to the west and towards those other neighborhoods would go all the way out to Rio Road and along Rio Road and then go back into those neighborhoods. As a child, generally even if your mother tells you not to, whether walking or riding their bike, they will not go all the way around the road. Therefore, he did not think that they would be ending up with a situation that would be safe.

Mr. Craddock asked if that bridge was going to be replaced.

Mr. Dougherty stated that was another whole different issue that is out there.

Mr. Craddock stated that over the years he knew that the kids from those neighborhoods walk that bridge.

Mr. Dougherty stated that this swim club is obviously a center for children and those are the things that are at play. Therefore, he just wanted to make sure that they were very clear about what they were talking about to make sure that the Commission is clear on the issues.

Mr. Craddock stated that if the bridge is going to be replaced that they might as well let them do it as to have someone else having to do it.

Ms. Higgins asked if they were just talking about having sidewalks on one side as opposed to having sidewalks on both sides.

Mr. Dougherty pointed out that they would have to decide whether they would have to go around the traffic circle.

Ms. Higgins stated that her point was that at some point in the development when the volume of children in the development and the bridge is replaced that you could have a staged proffer that says that would be added at a certain point and reserved in the mean time.

Mr. Dougherty stated that staff feels that to let this go forward with less than 56 feet would end up causing big problems in the future, especially for the character of Belvedere Boulevard.

Mr. Rieley stated that he did not feel that was what Ms. Higgins was arguing about. He agreed and felt that she was saying that the full right-of-way to do it correctly needs to be obtained. Then they would need to figure out and build what they really need to in order to deal with the pedestrian traffic that would be in the foreseeable future with a guarantee that as additional improvements, i.e. other sidewalks, etc. is necessary that it is bonded so that it can just be built when it is necessary.

Mr. Dougherty stated that it could be tied to phasing.

Ms. Higgins pointed out that the bridge ought to be one of the issues because they acknowledged that some of the children were going to use it as a connection.

Mr. Cilimberg stated that it was worth mentioning because it was mentioned by the public as well. The Free Bridge project has existed for some years in the secondary plan. It was essentially replaced by building a connection from Free State Road to Rio Road in the Six-Year Plan. This project is going to provide for that road. So VDOT can then move money back to replacing the bridge if the County decides to keep it in the Six-Year Plan. Planning Commission review is a part of the six-year process. That decision will be made at some point in the future. It may or may not be included in the Six-Year Plan. But even if it is not it was the decision of the Board of Supervisors a few years ago that they would not completely abandon the Free State Road Bridge if it were not to be improved. It would remain as a pedestrian and bicycle access. So the reality is that if Free State Road is never upgraded that it still will serve for pedestrians and bicyclists. So at some point in time that sidewalk being provided in this project could be a connection to that pedestrian facility. What he felt that they were saying is to make sure that there is enough right-of-way now to get the sidewalk on one side and then at such time that the phasing of the development would occur on the other side that a sidewalk would be provided. He asked if that was what they were saying.

Mr. Rieley stated that he thought that was what Ms. Higgins was saying, but he was saying something a little different.

Ms. Higgins stated that he brought up a good point. Right now she felt that there was a ton limitation on Free Bridge because school buses don't go across it. At some point when a decision is made to not rebuild it, then it would fall to pedestrians and bicycles. But, at that time it would be restricted from vehicular traffic. At that transition point it might be more important that this is addressed. If the conflict was in putting bicycles, children and a car on the bridge at the same time, then she felt that the point was well taken.

Mr. Rieley stated that all of those suggestions were good points. But, they have a whole list of issues that have to be dealt with between now and when the next time this comes before us. He stated that he would like the specific issue to be continued to be looked at with the input that they have given. He felt that if it was physically needed now for safety reasons and not that it is substantially safer not to have to go around that roundabout to get to that traffic, then he felt that they should get the improvement as well as the right-of-way. If it was deemed not to be a big deal and it was something that could easily be done without sacrificing safety, then he would agree with Ms. Higgins that it could be brought along at a later time. But, they need some assistance on that.

Ms. Joseph asked staff if he needed more on that.

Mr. Dougherty stated that was all that he needed right now.

Ms. Higgins moved to accept the applicant's request for indefinite deferral of ZMA-2004-007, Belvedere.

Mr. Rieley seconded the motion.

The motion carried by a vote of (6:0). (Edgerton – Absent)

Ms. Joseph thanked the applicant for requesting a deferral at this time so that they could work out some of these issues. She urged them to sit down with staff to work out some of these things so that all of the documentation was in place so that they could have some good dialogue on some of the issues that were brought up in the staff report.

ZMA 2004-009 Cottages at Jefferson Heights (Sign #88): Request to rezone .759 acres from R-1 (Residential) to PRD (Planned Residential Development) to allow 4 dwelling units (4 single-family attached). The property, described as Tax Map 78, Parcel 55A3 is located in the Rivanna Magisterial District on Pantops Mountain Road within the Jefferson Heights Development at the northeast corner of Pantops Mountain Road and Route 250 East. The Comprehensive Plan designates this property as Urban Density, recommended for 6-34 dwelling units per acre, in Neighborhood Three. (Sean Dougherty)

Mr. Dougherty summarized the staff report. Weatherhill Homes has requested a rezoning of a property from R1 to PRD to add 0.757 acres to the previously approved Pantops Place (now called The Cottages at Jefferson Heights) PRD. The parcel is undeveloped and located adjacent to Route 250 East, across from the Martha Jefferson campus. With this rezoning, the applicant is requesting approval of a 4-unit condominium building with a density of 5.28 units per acre. That includes all of the other units at The Cottages at Jefferson Heights. The proposed application plan (Attachment B) would be added to the previously approved application plan dated October 18, 1999. The applicant's proposed proffers are also provided for review (Attachment C). The approved application plan (October 18, 1999) and proffers for the existing development are also attached for information (Attachments D and E, respectfully). Currently the rest of the development is already approved for development and being developed.

The parcel is located to the southeast of Westminster Canterbury and is directly adjacent to Phase 1 and Phase 2 of the Cottages at Jefferson Heights. To the south is Route 250 east and to the West is the Glenorchy subdivision.

Planning and Zoning History:

- The parcel was zoned from RA to R1, Residential in 1980 with the County's adoption of the new zoning ordinance and comprehensive map revisions.

Under this section of the staff report staff listed a couple of other items. The first one should have said that the adjacent parcel, Pantops Place, is referring to the adjacent parcel and not this parcel.

It is essentially just an extension of what is there. Each of the condominium units has a garage, which are essentially like what is existing. He asked to make one correction to the staff report regarding his statement regarding the 5.28 acres for the overall density. The correction is that when you factor in the

other portions of the Cottages at Jefferson Heights that the overall acreage is 10.8 dwelling units per acre. To get 10.8 dwelling units per acre on this parcel there would need to be a multi-family building. Essentially they were looking at the relative density. Under by right uses in the R-1 district the applicant could possibly construct one house.

He pointed out that he had met with Kat Imhoff, the Director of Monticello, and she realizes that this is an extension of what has already been approved. Therefore, she was happy with what they were doing here. Everything else as far as the Comprehensive Plan and the Neighborhood Model is pretty much in order. If there are any specific questions, he would be happy to answer them.

The next item is the pedestrian orientation. This was a very simple project and one of the things that the applicant has done was shift the sidewalk to the other two buildings on the other side of the street. Initially the sidewalk had come down Pantops Mountain Road on the other side of the street. Other than that the character of the development has already been established and sort of embedded. There is not a whole lot in this instance where a lot of these principles are defined like in a larger rezoning.

As far as parks and open space, there is an amenity area to the rear that is going to be incorporated into the proffers. That area will be accessible to the residents of this property. It is a sufficient amenity. Regarding the mixture of housing, phases 1 and 2 contains apartments and cottage units. In general, for senior housing it is an appropriate mix and is just an extension of what is already there.

Essentially, the County's policy for encouraging development in higher density within the development area provides for the public need and justification for this request. The aging demographic of the County is also driving the demand for development such as Pantops Place.

There have been no impacts identified regarding the anticipated impact on natural, cultural and historic resources. The applicant is proffering to preserve a hedgerow that basically separates this development from the Glenorchy development. This came through as a proffer for phases 1 and 2 and will continue as a proffer with this development. The applicant has his preservation checklist in place and staff is confident that there will be no problem preserving the hedgerow with the plan that they have.

Staff has identified the following factors, which are favorable to this rezoning request:

1. The proposal is for a use which is supported by the Land Use Plan at this location.
2. The proposal provides for a higher density than existing zoning.
3. The overall residential density including Phase 3 is 10.8 units per acre. This is in keeping with the Comprehensive Plan's Urban Density designation for this area which calls for 6-20.1 dwelling units per acre.
4. Residential uses are supported by a pedestrian network and close proximity to shopping and employment.
5. The applicant has proffered to protect a mature hedgerow and fieldstone wall along the east side of parcel, preserving the historic character of this feature and providing screening from the Entrance Corridor and Glenorchy.
6. Elevations are proffered to depict the appearance of the structure.
7. The ARB has granted preliminary approval.

The applicant has installed a bio-filter feature. This will help address some of the storm water on site. The applicant has also been very careful with their plan for the storm water outfalls along Route 250. In other words, the applicant has done a very good job.

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

It should be noted that, at the time this report was written, the County Attorney had not had the opportunity to review the proffers. However, staff is comfortable with the substance of the proffers as proposed by the applicant. The final language for the proffers can be worked out between the Planning Commission and Board of Supervisors meeting.

Staff believes that a residential use and the proposed density is appropriate for the property and recommends approval, with proffers as proposed by the applicant (subject to final approval of proffer language and form by the County prior to Board action).

Mr. Kamptner stated that the proffers had been discussed at a meeting on Thursday and Friday. The primary change will be made to proffer 3, which would be replaced by incorporating the existing proffers into this set of proffers as they apply to this land. He pointed out that all of the proffers would be incorporated with any amendment. He noted that attachment E on page 2 was an amendment to proffer 4B. All of that will be updated and pulled into the set of proffers that will be accepted as part of the rezoning instead of just cross referencing them.

Ms. Higgins stated that the Commission would take action on them as if they were incorporated.

Mr. Cilimberg stated that they would be taking action with the understanding that would be done for the Board of Supervisors meeting.

Ms. Joseph opened the public hearing and asked the applicant to come forward and address the Commission.

Hunter McCardle, representative for Weatherhill Homes, stated that he did not have anything else to add, but would be happy to answer any questions.

Ms. Joseph asked if there was any other member of the public present to speak on this issue. There being no one, she closed the public hearing to bring the matter back before the Commission for discussion and a possible action.

Mr. Craddock stated that on proffer 2 it says that the maximum number of independent living cottages is 30 and with the proposed and present it is 27.

Mr. Kamptner stated that proffer 2 will be clarified because when staff looked at it last week it did not make sense. Therefore, proffer 2 will be clarified and proffer 4 will be deleted.

Mr. Thomas made a motion to recommend approval of ZMA-04-09, Cottages at Jefferson Heights, subject to final approval of proffer language and form by the County prior to Board action.

Mr. Morris seconded the motion.

The motion carried by a vote of (6:0). (Edgerton – Absent)

Ms. Joseph stated that ZMA-2004-009 would be heard by the Board of Supervisors on April 20.

ZMA 2004-012 Luxor Commercial (Sign #86): Request to rezone 3.523 acres from R-6 and R-15 (Residential) to PDMC (Planned District Mixed Commercial)and to rezone 1.377 acres from CO (Commercial Office) to PDMC to allow a 1,500 square foot bank and 80,000 square feet of mixed commercial. The property, described as Tax Map 78, Parcel 55A4 (portion thereof) and Tax Map 78 Parcel 55D, is located in EC Entrance Corridor and the Rivanna Magisterial District on the north side of Route 250 East between Montessori School and Aunt Sarah's Restaurant. The Comprehensive Plan designates this property as Urban Density, recommended for 6-34 dwelling units per acre, in Neighborhood Three.

AND

SP 2004-038 Luxor Commercial Drive-in Window for a Bank (Sign #86): Request for a special use permit to allow for a drive-in window for a bank in accordance with Section 25A.2.2 of the Zoning Ordinance which allows for drive-in windows serving or associated with permitted uses within PDMC. The property, described as Tax Map 78, Parcel 55A4 (a portion thereof), contains 23.168 acres, and is pending a rezoning to PDMC (ZMA-04-12).

AND

SP 2005-001 Luxor Commercial Drive-in Window for a Coffee Shop (Sign #86): Request for a special use permit to allow for a drive-in window for a coffee shop in accordance with Section 25A.2.2 of the Zoning Ordinance which allows for drive-in windows serving or associated with permitted uses within PDMC. The property, described as Tax Map 78, Parcel 55A4 (a portion thereof), contains 23.168 acres.

AND

SP 2005-002 Luxor Commercial Veterinary Office (Sign #27): Request for a special use permit to allow for a veterinary office in accordance with Section 25A.2.2 of the Zoning Ordinance which allows for veterinary offices and hospitals within PDMC zoning. The property, described as Tax Map 78, Parcel 55D contains 1.377 acres. (Sean Dougherty)

Ms. Joseph asked if these items would be heard separately or all together.

Mr. Cilimberg stated that the Commission could hear these items as one public hearing, but the actions would probably be deferrals because of the advertising problem and would have to be done for each application.

Mr. Dougherty read the legal descriptions for ZMA-2004-12, SP-2004-38 (with waiver request for a reduction of the stacking requirement, SP-2005-01 and SP-2005-02. Essentially in the legal he did not break down the two acreages, 3.523 and 1.377, into the different zoning categories. Therefore, the legal ad was incorrect as it ran. Therefore the potential to make a motion this evening is not possible. After the items are readvertised they will have to come back at a later date to actually make the motion. He stated that it was staff's mistake and he apologized for that. One of the parcels was originally rezoned to allow for a veterinary clinic. The other parcel, 55A4, surrounds that parcel. If you look at the colored drawing, there is another parallelogram inside the larger rezoning that is 55A4, which is where the veterinary clinic was approved in 1995. What the applicant has done is joined with the owner of the land for the veterinary clinic and this other land to create basically a neighborhood service area here along Route 250. As they all know the application is accompanied by requests for three special use permits.

With a zoning classification of CO, R6, and R15, the property could be developed with commercial uses along Route 250, with medium density residences to the rear. It would primarily be residences. He spoke with the applicant and Kat Imhoff. The point that he made to Ms. Imhoff was that if this was to go as all residential it would probably be less attractive from Monticello than what the applicant is proposing. The Comprehensive Plan specifically requests that no retail be developed along this side of Route 250. The approval of the Eckert stands in contrast to that. The rezoning would essentially stand in contrast also to the Comprehensive Plan.

Mr. Rieley stated that since this is in direct contradiction with the Comprehensive Plan why we are not starting with a comprehensive plan amendment.

Mr. Cilimberg stated that very honestly he felt that there was a decision ultimately with Eckert that set a different design in motion for this area. Of course, the County has an entire Pantops study going on, which is right now in a down period because of staffing. It is an arguable point. It could be subject to a comp plan amendment, but he felt that staff focused on the fact that Eckert was changed and this was an attempt to provide a little different type of development than just the stripping of Route 250 East, which was one of the things that the Comp Plan does recommend that we not do. Staff made the choice here to go ahead and process this. Staff really has no choice if the applicant wants to move forward with it anyway. Staff made the choice to move forward with the rezoning and focus on the design aspects for something that would be different than stripping Route 250 East. There is some mix of residential in the general area.

Mr. Dougherty pointed out that there was some residential towards the rear. The other thing, too, is that what the applicant is proposing and what the rendering shows is that at least from the road that it is not going to appear as conventional strip development. It is going to really be more active to the interior. Activity towards the front they have provided through the cut-through between the two buildings. But,

essentially this would not be characterized as strip development. The Comprehensive Plan says limit strip development on Route 250 East by preventing commercial development.

Ms. Joseph asked what the land use designation in the Comp Plan was.

Mr. Dougherty stated that the land use designation was urban density residential.

Ms. Joseph how was the Eckert project processed. She asked if that just came in as a rezoning or did that go through the Comp Plan process.

Mr. Cilimberg pointed out that the Eckert project was not unanimously recommended by this Commission either. It was approved by the Board. But, it was a split vote by the Commission. It was recommended for approval, but not unanimous.

Mr. Rieley stated that it was the same issue at that time concerning the procedure.

Mr. Thomas stated that their discussions at that time were leaning towards that it was an area of transition even though the Comp Plan did not state it.

Ms. Joseph asked what kind of information does the County have from the people who have been meeting and talking about Pantops in terms of any particular land use.

Mr. Cilimberg stated that he did not think that they have gotten to that point yet. There are some uses here that people in the Pantops area have said that would be desirable to have in the area. The comments have been basically random at this point as far as who was attending and their thoughts. But, they have not gotten to specifically identifying land use in specific areas.

Mr. Morris stated that what he had heard from residents at Westminster Canterbury and others in what they have brought forth is that there is virtually nothing commercial on the north side of Route 250 and it is very difficult to get across Route 250 to get to the south side. Therefore, they were wondering when it is going to be our turn to get some commercial.

Mr. Craddock stated that was part of the argument on whether to keep the north side residential and having the entire commercial on the south side at Peter Jefferson, which is a campus like atmosphere as opposed to strip commercial. He pointed out that whether this will look better than residential is subjective.

Mr. Morris stated that he was stating what was mentioned in the planning sessions regarding Pantops.

Mr. Dougherty stated that the next item was the principles of the Neighborhood Model and pedestrian orientation. Essentially, the applicant has made it possible for people to walk from Eckert and get onto a sidewalk as soon as they cross over the drive isle between Eckert and the bank. A pedestrian connection from essentially the passage way directly back between the two has been requested by staff. Now the pedestrian would have to walk sort of around in a circle. He felt that the applicant has done a fairly good job. But, ideally they would have the pedestrian connection this way. At the very least it would be very helpful to have curb cuts in those islands and a cross walk established from the front to the rear, especially if this does become very popular among residents of Westminster Canterbury and the other elderly residents of the neighborhood. But that is something for consideration. Also, the two parking spaces located directly in front of that passage way were requested to be eliminated or somehow buffered. This can probably be taken care of at the site plan stage. But right now you walk from that passage walk directly into parking. If those two parking spaces were not there, it would enable people to get directly from the center of the passage way out to the parking lot. That is still an outstanding issue.

The next element is the parks and open space. The area lining Route 250 and the two preserved mature trees, the plaza connecting the interior of the site to Route 250, essentially the passage between the front and the rear of the buildings along Route 250, and the outdoor space amenity shown adjacent to the coffee shop are excellent responses to the principles of the Neighborhood Model. The dark green square

to the right of the coffee shop is some sort of plaza that will be constructed in association with the coffee shop. There is a green oval space in the front that is sort of in the middle of the sidewalk, which is the applicant's representation of a park plaza or a green space that he has proffered to construct. The applicant wants to enable himself some flexibility on what that will eventually be, particularly if there are restaurant uses located in these buildings. There may be an opportunity for outdoor seating or something like that.

The next element is the mixture of uses. The area for rezoning in conjunction with the other residential uses around this area creates a mixture of uses. By itself in the definition of PD-MC, it implies a mixture of uses and he felt that was what was going to happen here. The other principles of the Neighborhood Model don't necessarily apply that relates to housing and what not.

The relationship between the application and the purpose and intent of the request zoning district is the next topic. The PD-MC districts permit development of large-scale commercial areas with a broad range of commercial uses under a unified planned approach. It is intended the PD-MC districts be established on major highways in the urban areas and communities in the Comprehensive Plan. In recognition that such large-scale development may substantially reduce the functional integrity and safety of public roads if permitted with unplanned access, it is intended that multiple access to existing public roads be discouraged and that development and access be oriented toward an internal road system having carefully planned intersections with existing public roads. The application conforms to the purpose and intent of the PDMC zoning classification. The applicant has done a very good job of providing these roads and the circulation to make this work.

Public need and justification for the change: As residential uses develop in this area as prescribed in the Comprehensive Plan, residents of the area and those who travel in from 250 East will have more options for services and retail in this area. Additionally, Rolkin Road, which serves the site is a benefit and is proposed to eventually connect into Fontana and the proposed Cascadia Neighborhood Model District, providing a connection from the Darden Towe Park area of Route 20 to this area. This will decrease the number of cars that currently travel to the intersection of Route 250 and Route 20 to head east on Route 250. This route begins to develop some relationships that are not currently possible.

Anticipated impact on public facilities and services: The proposed rezoning will impact schools less than if developed with existing residential zoning. The construction of Rolkin Road, the roundabout and eventual connection to Fontana and Route 20 works to help mitigate some of the traffic impacts.

He presented slides of the area to clarify the applicant's request. He pointed out that the one thing to be aware of is that it would be desired by VDOT to bring State Farm Boulevard up basically to where Aunt Sarah's is and it would require the elimination of Aunt Sarah's. It would come up come and bend over towards the Luxor property behind Aunt Sarah's, which was sort of the idea. The applicant has proffered to make this connection possible if connections are to be made across the Aunt Sarah's site. That is a situation that is completely up in the air. One feature of the application plan that is significant is the approvability of the stacking lanes next to the bank because they do not meet the zoning requirements. The substance of this issue is discussed in SP-2004-38 later, but Jan Sprinkle is here and she is going to talk about that part of it as it relates to the special use permit and included in the rezoning.

As far as our recommended action, staff believes that a front to rear pedestrian connection can be made with the revisions to the application plan with the pedestrian connection that he spoke of earlier. Regarding the necessary reduction in stacking spaces, staff requests the Planning Commission and Board to review the comments of SP-2004-38. Staff believes that the conflict with the Land Use Plan is more problematic than the pedestrian connection, the stacking requirements and the Eckert. As mentioned previously, certain people within the Pantops Master Planning process have identified that these sort uses along Route 250, especially with the connection back to Fontana, may be appropriate.

The next topic is the special use permits. The special use permits for the bank and coffee are fairly similar. Therefore, he reviewed those two special use permits in conjunction with each other. The proposal is for a 59 square foot bank with a walk-in and drive-in facilities to be located along Route 250. The bank is proposed to serve as a branch for First Citizens Bank. However, he was not sure if that has

been finalized. It will include two teller drive-in windows and one ATM. The second proposal is for the coffee ship walk-in and drive-through facilities. The coffee shop's proposed location is interior to the west of the proposed mixed-use buildings at the back of the site. The bank and coffee shop will be served by Rolkin Road, which will act as the rear access road for the entire development. Motorists coming from the west along Route 250 will essentially have to pull in and access it from the rear. Coming from the east they could come in the right in right out or they could come up to the intersection to go in.

SP 2004-38 BANK DRIVE IN WINDOW SUMMARY:

Staff has identified the following factors, which are favorable to the request:

1. The design responds well on many levels to the Neighborhood Model.
2. In most cases, a reasonable system for vehicular and pedestrian circulation has been established.

Staff has identified two factors which are not favorable to the request:

1. Drive-through windows, in general, do not promote pedestrian activity.
2. Insufficient information has been provided to justify the bank's request to modify the stacking requirement.
3. The site's interior pedestrian access has deficiencies

Staff finds that this request generally complies with the provisions of the Zoning Ordinance. The request, however, is dependent on approval of the requested rezoning. The rezoning is dependent on an application plan that could be approved that meets zoning requirements. In order to approve the special use permit for the bank and the application plan in general, the Commission needs to grant a modification to the stacking requirements. At this time, staff is unable to support the applicant's request for the drive-through at the bank without additional research or information showing that the County's requirements are excessive.

If the Planning Commission believes that a waiver to the stacking requirements is warranted, then staff would recommend approval of SP 04-38 with the following conditions:

1. Drive-through windows will be limited to three (3); including any to be used for an ATM (Note the change: staff is not really concerned whether it becomes a personal teller or an ATM) and
2. Architectural Review Board issuance of a Certificate of Appropriateness.
3. Applicant is responsible for installation and maintenance of control devices such as signage, and pavement markings as indicated on the site plan. The crosswalk just beyond the drive-up window bays for the bank shall be identified with crosswalk signage on either side of the drive aisle.

SP 2005-01 COFFEE SHOP DRIVE-THROUGH SUMMARY:

Staff has identified the following factors, which are favorable to this request:

1. The coffee shop will include a landscaped patio and provide a walkable destination for residents of Westminster Canterbury and Pantops Place, among others.
2. A reasonable system for vehicular and pedestrian circulation has been established.

Staff has identified the following factors, which are not favorable to this request:

1. Drive-through windows, in general, do not promote pedestrian activity.

Staff finds that this request complies with the provisions of the Zoning Ordinance and recommends approval of SP 05-02 for the coffee shop with the following conditions:

1. Drive-through windows will be limited to one (1); and
2. Architectural Review Board issuance of a Certificate of Appropriateness.

3. Applicant is responsible for installation and maintenance of control devices such as by-pass lanes, signage, and pavement markings.

SP 2005-02 VETRINARY OFFICE

The proposed veterinary clinic will be located inside the mixed use building lining Route 250. It will be confined to a soundproofed and air condition building. The clinic shall conform to Section 5.1.11 (listed below) which puts forth specific requirements for veterinary clinics confined to building interiors.

Engineering and Zoning staff have no objections to the veterinary clinic. There is one condition that staff has drafted, which they can look at it at the end which Zoning and staff would like to add.

SUMMARY

Staff has identified the following factors, which are favorable to this request:
1. The veterinary use can conform to the requirements of Section 5.11.1.d.
2. Veterinary uses can function well in shopping centers when outdoor facilities are not needed and when conflicts at entrances and exits are minimized.

Staff has identified no factors unfavorable to this request.

Staff recommends approval of SP 05-02 with the following conditions:
1. A separate entrance and exit be provided for the clinic in accordance with Section 5.1.11d.
2. No outdoor runs or outdoor exercise area is to be provided at this location.

Ms. Joseph asked if that was his added condition, Mr. Dougherty stated yes.

Mr. Rieley questioned if all of the animals had to stay inside.

Mr. Dougherty stated that another potential condition is the conditioning the location of the veterinary clinic within the masses of the mixed-use buildings. The situation is that the property that is owned by Nigral Bray is basically where the parallelogram is and that is where the veterinary clinic is proposed to be located. Staff had indicated in the email that he measured 325 feet from Westminster Canterbury, but he felt that there was a problem on the scale on the larger plan. The gray circles indicate 100 feet and 200 feet, and the requirement is that the enclosed kennels or the soundproofed and air-conditioned kennels be more than 200 feet away from any residential lot line. That has been achieved there. It needs to be conditioned that the veterinary clinic goes on the Nigel Bray property, which is the smaller parallelogram. The only space that they would have a problem with locating the veterinary clinic would be in the three buildings towards the rear. On the other side of Rolkin Road there are some proposed residential units.

Ms. Joseph stated that all of that was still zoned residential.

Ms. Higgins asked if there was any residential use proposed in the three building on the rear of this site.

Mr. Dougherty stated that there was no residential use proposed on the site at all. Therefore, the closest residential use would be at the corner of Westminster Canterbury. He felt that the best way to condition it would be that the veterinary be located in one of the buildings towards the front, which was the way the applicant would prefer to have it done.

Mr. Cilimberg stated that the administration of the Zoning Ordinance was not going to allow that facility to be within 200 feet. If there is a more particular location that they want to see the veterinary in within the building it would be fine to delineate it. That has been done before. If they were concerned about distance it was located from residential that has already been taken care of. Therefore, it would be for other reasons that they might want to locate it within a specific area of the building.

Mr. Dougherty stated that one of the other reasons might be the issue that was raised about customers of veterinary clinics potentially taking a little pit stop before they went into the business. The area along

Aunt Sarah's Road to the massing on the right hand side would probably be appropriate for that sort of thing. He stated that he would not want to encourage it, but if that were to have to happen, then our other concerns would have to take place on the interior of the veterinary clinic.

Ms. Higgins stated that the outdoor runs is a separate issue to what she was talking about having a separate entrance to avoid animal conflicts. It says in the cases of shopping centers of other urban density locations you may want to require this to confine it to an area versus it is going to happen outside unrestricted.

Mr. Craddock stated that they were talking about a pit stop area.

Ms. Higgins stated that the other one says area for outside exercise to be exclusive from access by the public by fencing or other means. She pointed out that when you get out of your car the veterinary has a sign that says this is where you go.

Ms. Joseph stated that this is different because it is outdoor exercise runs. It is more formal. She was talking about an informal area.

Ms. Higgins stated that she was saying that it was going to happen anyway at the ingress.

Mr. Dougherty stated that it might be appropriate to locate these places adjacent to the entrance or something like that. A lot of times when you get into the strip mall situation there is no opportunity for this sort of thing. Therefore, it becomes sort of a default. He stated that he was not sure whether that is something that they want to encourage or discourage.

Mr. Craddock stated that the current veterinary clinic at Pantops does not have an outside area.

Mr. Cilimberg stated that actually falls under a special use permit that the Board reviewed a few years ago at Pantops Shopping Center. It was expressly not provided for because there was not place for it.

Ms. Joseph asked Ms. Sprinkle to clarify the stacking issue because there was a request from the applicant for a waiver or modification from staff for that.

Ms. Sprinkle stated that she received a letter from Michael Weston of First Citizens Bank who requested to reduce their required number of stacking spaces for the proposed First Citizens Bank. She thought that the request did not really explain very thoroughly a good reason for staff to grant the modification. He quotes only that the bank would be one of the smaller models of 1,500 square feet. It is a satellite to the main branch on Route 29. It is their experience that they don't need 5 stacking spaces. However, in granting a special use permit we are granting a special use permit for a bank drive through window. They are not granting it for this particular bank with this particular bank's experience. They need to look at all of our experience in Albemarle County. Staff found when they wrote the parking section of the Zoning Ordinance with the stacking that 5 was the number that they thought was appropriate. Without any further explanation that this one bank's experience staff did not feel that it was needed to grant this modification. There are only 3 clear stacking spaces for each lane. Beyond those 3 it goes into 1 lane. Staff did not feel that was a great design for reducing the modification. That is staff's position. She was not sure if there has been a formal request for the Commission to appeal our decision.

Ms. Joseph noted that there was a formal request made.

Ms. Higgins asked if a coffee shop with a drive through window an eating establishment or a fast food restaurant.

Ms. Sprinkle stated that it does not matter.

Ms. Higgins stated that it did because under Section 22.0 fast food requires a special use permit and under eating establishments it is a by right use.

Ms. Sprinkle stated that she thought that they had changed that in the Zoning Ordinance so that the definition says that fast food and eating establishment is the same thing.

Ms. Higgins stated that under Section 10.13.04 it requires a special use permit under fast food restaurant. She pointed out that if this changed to a fast food restaurant it could be a problem.

Ms. Sprinkle stated that staff would like to have that clarified.

Mr. Kamptner stated that what Ms. Sprinkle was saying was that a couple of years ago the definition of eating establishment was amended under the definition section.

Ms. Sprinkle stated that staff would get that worked out before it comes back to the Commission.

Ms. Higgins stated that the stacking was okay for what is proposed for a single drive through window and the parking, of course, is a conglomerate of the gross areas in the PD-MC zoning. Under the PD-MC zoning there is a perception of gross parking requirements. The parking adjacent to that bank if you went to the specific requirements for a bank there is more spaces in proximity to that bank. With three drive through you can reduce it by 75 percent so it could be required for 3 parking spaces. She was trying to approach this one if more than adequate parking spaces are required are we as concerned about decreasing the stacking. In other words, if they are parking spaces short on the stacking is it okay because if she saw the line full she might pull into a parking space. She asked if that has ever been done before.

Ms. Sprinkle stated that it has not been brought to their attention and they have not considered that.

Ms. Higgins stated that in a PD-MC zoning she could see where it would make sense.

Ms. Joseph asked if there were any other questions for staff. There being none, she opened the public hearing and asked if the applicant would like to come forward and address the Commission.

Michael Barnes stated that he worked for C.W. Hurt Contractors and represents Virginia Land and Nigral Bray with this rezoning. They were basically happy with the plan that they have developed. They think that it is buildable and it would marketable. They were happy with the positive staff comments that they have received to date. They were happy with the ARB comments that they have received to date. They were happy with the proffers as they have provided them. They were happy with the conditions and even with the ones that have been added on tonight. He felt that they could work around the one about the distance from the residential dwellings themselves. It was always the intent that Nigral Bray's veterinary clinic would be on the Nigral Bray's property, which is the one in the front where the buildings are. Therefore, that should not be a problem. They believe that this plan represents most if not all of the Neighborhood Model elements. They have worked hard to try to incorporate those. They have relegated the parking from not only the Entrance Corridor, but from the streets that are going to be behind it through the use of buildings and landscaping. They have brought the buildings up to the front and the streets. The larger buildings are all two stories, except the one in the rear. They have provided pedestrian access along 250 and the connection over here to whatever ends up happening with the Aunt Sarah's parking lot. They are proffering to put a sidewalk up to our property line with Westminster so that they connect down into our site. They have sidewalks along the roads on the exterior and they have sidewalks in front of all of the buildings as well as sidewalks connecting the coffee shop. One of the challenges that they face is trying to front all of these roads with buildings they need square footage. Square footage is a function of parking. They are very close on the amount of parking. Right now they have two or three extra spaces. Obviously, that does not show handicap spaces and they will have to incorporate those where they make sense at the site plan stage. They are going to lose a couple of those spaces. As far as the connection up the middle they are not opposed to that and will even try to work that in at the site plan stage if they can. They also believe that the plan helps with the transportation concepts for this area. They provided staff with a larger scaled plan that he had folded up. It shows that this area is a component of a larger area. This Rolkin Road continues on back to tie into Fontana, which will eventually tie into the Lakeridge Subdivision that they are working on. That will eventually tie back into Franklin, Cascadia, Avemore and all of the neighborhoods that are in the northeast quadrant of the Route 20/250 intersection. They will

have the capacity to come through here and come to the light at Rolkin Drive and if there is redevelopment of Aunt Sarah's they have proffered to extend this road down to our boundary with Aunt Sarah's so that it can be continued around Aunt Sarah's and tie it in with State Farm. That would give you connections over to the new hospital and State Farm itself. It really will start to build a parallel network in this area. Therefore, he felt that there were a lot of advantages that they were working on. He presented the first plan that they brought in, which he would call strip development. That would be something if they could get passed that there were plenty of clients that would love to go into something like that. He believed that the Comprehensive Plan was saying that it was trying to limit strip development. The intent is to prevent the stripping out of the rest of the corridor. They have worked hard with this plan to try to prevent that by bringing the buildings up. Those buildings are close as they possible can be to Route 250. There is an existing sewer line that runs east/west and the buildings are right up against that sewer line easement. As for this plan, you can see that it has a large bank in it with numerous stacking lanes and numerous drive thoughs.

Speaking to the special use permit conditions, again, they are satisfied with all of them and are willing to work with it. They requested the waiver in this case because they are trying to keep the capacity for internal to this development that you could come from the Eckert site and drive over to the Aunt Sarah's and use these multiple pathways through the site to improve the circulation. Keeping those accesses, particularly in the narrow strips, creates the need to compress the bank down into a smaller site. The bank is now on .4 acre and originally they started off with a 1 acre site. In large part they have compressed the bank area in order to maintain that internal access. That is one of the major reasons that bank is so close up to Route 250. It also helps in trying to provide a little more building mass up on Route 250. But, as a result obviously they are going to have a drive through associated with something that must have the capacity to drive all the way around the building. The ARB recommended a 22 foot width of this and nothing greater. If they have to add the extra stacking they have to increase this, which would increase the amount of impervious area between the buildings and the Entrance Corridor. As far a stacking goes they have to speak from personal experience. Mike Weston is here tonight and would like to speak to his experience with several banks that they have in town and the demands that they experience around the peak hours, which is going to be the concern here. They feel that this is more than adequate. Most of the time they only have one of their windows open because of the demand that they exhibit. This is a relatively small bank at 1,500 square feet, which could actually be smaller than 1,500 square feet. He stated that he would argue that one of the main reasons that they would want to have stacking is that they don't end up with a situation like you have with the McDonalds in Shopper's World where you have people cueing all the way back into the main entrance into the development. With this if someone was really cueing in here, and they were only several spaces short, they were going to cue back into the parking lot. They would request relief from always trying to protect against the extreme example. They feel that only on the extreme worse days would they experience that. They are trying in some respects mitigate a large football field worth of asphalt out in front of this bank dedicated simply to the stacking of cars that may never arrive at that area. With that, he would be happy to answer any questions. Present to answer any questions are Mr. Nigal Bray, with the veterinary, and Mr. Weston, with the bank.

Ms. Joseph asked if there were any questions for Mr. Barnes. There being no one, she asked if there was any one else present to speak regarding this application. There being none, she closed the public hearing to bring the matter back before the Commission for discussion and action.

Mr. Rieley stated that he had a question about the Internal pedestrian connection on the north/south that staff is recommending. If they were inclined to vote in favor of this and thought that was an important component then what is the mechanism that they would use to condition it.

Mr. Cilimberg stated that it could be included as part of the application plan and it would be shown as a feature. He reminded the Commission that they could not take an action on this tonight because it will have to be readvertised and brought back to them. Staff is going to do that as quickly as possible unless there are real issues that the applicant needs to address before it comes back. This is somewhat like the Belvedere project in that if there is anything that the Commission wants to identify other than how you may be inclined in the stacking request then you need to identify that. He felt that the applicant would want to know because they don't want to come back here and have that issue facing them.

Mr. Rieley stated that proffer 5 is intended to address these 2 big white pine trees. That pine is shown sandwiched between the sidewalk and the cub. There is nothing in condition 5 that is going to keep those trees alive. Those trees will be dead if that illustration is anywhere near correct.

Mr. Dougherty stated that he illustrated the pine trees to show where they would roughly fall on the plan. The sidewalks would have to be somehow designed to avoid killing the trees.

Ms. Higgins asked if he had a picture of what that looks like right now.

Mr. Rieley stated that if his drawing did no show them correctly relative to where the sidewalks are intended to be on the plan, then they need to know that. The reason that he brings that up is that it is underlined as one of the great attributes of saving those trees. The proffer as it is written now does not assure that. They don't have enough information to know whether as they are illustrated are correct or some how that needs to be reworked so that it is clear that you can design that site in such a way that you save those trees if indeed they are that important.

Ms. Joseph pointed out that the question was whether those trees were that important.

Mr. Dougherty stated that he did not think providing pedestrian access somewhere around them won't be too difficult. He felt that a solution needs to be established for that. He pointed out that he illustrated these trees on here so that they would have an idea of what they were talking about. There are only roughly drawn on the plan.

Ms. Higgins asked where the sewer line was located. It was brought up that the buildings were located right along the edge of the sewer line.

Mr. Dougherty pointed out that it was near the sidewalk.

Mr. Rieley asked that they ear mark that as an issue that needs resolution he felt that would be great.

Mr. Dougherty asked if that issue was just for the protection of the trees or a solution for pedestrian access.

Mr. Rieley stated that they it was clearly related in where the trees were located relative to where the curb cut is going to be and relative to where the sidewalks will go in.

Mr. Dougherty stated that the curb cuts have already gone in there.

Mr. Rieley asked if it was right next to the trees.

Mr. Dougherty stated that it was pretty close, but not right next to it.

Mr. Rieley stated that they might already be tarnished. If it is an issue that is significant, then it should be resolved before it comes back to the Commission. With this kind of development it can sometimes be argued that even nice trees have to give way as you become more urbanized.

Mr. Dougherty stated that one of the justifications is that this environment is being sealed off at least in the peripheral of the immediate adjacency of Route 250 natural features that predate 10 or 15 years. These trees have a lot of life in them.

Ms. Higgins stated that she wanted to make sure that this is addressed before it comes back. In the staff report it talks about PD-MC not being more intense. When she went to the proffer where it referenced Section 22.0 it was the C-1, Commercial section. Therefore, it was not as similar as she expected. That is where it came out that the fast food was a special use permit requirement. If that is the case, she asked that they address it. She questioned what category a coffee shop with a drive through window

would fall in. She asked that zoning weigh in on that so that this is covered in that action so that the applicant does not find himself with a problem or if the use changes that there would be a problem.

Ms. Joseph asked if there were any other comments on the proffers. She asked why they eliminated farmer's market.

Mr. Barnes stated that they started with the uses that were eliminated from the original rezoning for Mr. Brays property. He pointed out that they would be happy to add as many uses as the Commission wanted to add back in there. He noted that they had added back in hardware store. If the Commission wanted them to add that back in that they would be happy to do that.

Ms. Joseph stated that they could talk about that, but there was one more question that she had. In proffer 8 she was a little concerned that they agreed to make interconnection as long as a mutual maintenance agreement can be achieved. She pointed out that was not saying much.

Mr. Barnes stated that he thought that they would do that. But, what they were trying to do here is if they say that they have to by proffer attach to this property and they are using this travel way to come in here what kind of leverage does it give us to negotiate a receptacle maintenance agreement between ourselves and the neighboring parcel. The main thing was to maintain bargaining leverage with whatever the future tenant is that comes in there so that they are not obligated to provide it without some kind of receptacle maintenance.

Ms. Higgins stated that in the staff report on page 9 and top of page 10 it says the PD-MC is Section 25a of the Zoning Ordinance. It talks about C-1, CO, HC and some uses are allowed in the PD-MC. When you go to the proffer section you have referenced Section 22.0 of the Zoning Ordinance, which was just C-1. So that is what she thought was strange. Now under that classification that applies to Section 25.0, if that is the correct one, then maybe this issue about the fast food goes away. She stated that they would have to look at all three sections, but that C-1 specifically calls it out. She asked that staff make sure that the correct section is listed on the proffer form. It is a much broader set of uses than just C-1.

Mr. Cilimberg stated that it was broader uses unless they get proffered out. What this is doing is that only those uses allowed in Section 22.0. What it is saying is that the other potential uses in the two other uses that PD-MC can cover will not be applicable here.

Ms. Higgins asked if it was on purpose to only reference Section 22.0.

Mr. Cilimberg stated that he did not know if it was on purpose or not, but that was the effect of it.

Ms. Higgins asked Mr. Barnes to respond to that question.

Mr. Barnes stated that what they were trying to do is when they come in for a rezoning they don't want to ask for too much. They have Nigral Bray's property as C-1. They started off with C-1 zoning, but they came in to ask for Planned District so that they could get some reductions in setbacks and buildings and things like that. So basically they were taking the C-1 uses and using that as the model. If the Commission wants them to look at other uses in other districts they can go back and do that.

Ms. Higgins stated that she wanted to make sure that the action that the Commission was taking on a proffer form that was not all the way filled out and does not have an attachment that they know that it is the right one. Then the other question was that they have not had a coffee shop with a drive through. If the use changes or the interpretation is that it is a fast food that there is no listing for coffee shop or drive through. If it is a fast food, then it should have a special use permit with it. She felt that they need to do it right. She noted that it would be clarified before it comes back to the Commission.

Mr. Cilimberg stated that as a point of clarification the applicant is basically proffering down to only one district and some uses in that district. He asked if the Commission wants more uses or not.

Ms. Higgins stated that she did not have a problem with that, but that she just wanted to understand it.

Mr. Barnes stated that they were using the structure that was set up by the County Attorney's office on how to go about uses. They could have used picked three zoning districts and then said not this one or that one. It was simpler for them just to pick one and do it this way.

Ms. Joseph pointed out that the Commission was not going to vote on this tonight.

Ms. Higgins asked if they need a request for a deferral.

Mr. Cilimberg stated that they could defer the request to a date to be determined. He stated that the applicant does not have to request the deferral because it has got to be readvertised. One thing that has not been addressed, which the applicant was most interested in is what your determination or guidance on the stacking is.

Ms. Joseph stated that there were a couple of issues. She asked that they also discuss the Comprehensive Plan aspect of this.

Mr. Cilimberg stated that he knew that that the issue for the applicant was the stacking.

Ms. Joseph asked if the Commissioners would like to go through and discuss the stacking aspect of the request.

Mr. Morris stated that he had no problems with the reduced stacking due to the size of the bank.

Mr. Craddock asked how big the BBB&T was across the street.

Mr. Barnes stated that there is a BBB&T that is across the street on State Farm, which was bigger than this. The credit union is much, much bigger. The new Sun Trust Bank was approved under the previous ordinance and it has four drive through and much fewer stacking places in front of that. That is one new bank that has been built that has fewer stacking spaces per lane that what they were asking. He stated that he thought they have 10 to 12 stacking places on that for 4 drive throughs. He noted that they were providing 10. He noted that next time he would provide a spread sheet of various things with this information.

Ms. Higgins stated that if an analysis of some sort is submitted and the Zoning Administrator and Ms. Sprinkle brought this up. Maybe there is enough information that the Zoning Administrator who has increased flexibility since the ordinance was amended in 2003 to grant a reduction. She just did not know if they were setting a precedent to overrule the Zoning Administrator in this particular case. She stated that she really did not have a problem with it if it was thee spaces.

Ms. Joseph stated that it was brought up by Ms. Sprinkle that the applicant was providing more parking for the bank than was required. Therefore, they were going to look at that aspect also.

Ms. Higgins stated that was an arguable issue.

Ms. Joseph stated that she felt that Ms. Sprinkle was open to look at that.

Ms. Higgins stated that possibly the applicant might want to put an argument before the Zoning Administrator before this comes back so that they won't have to overrule the Zoning Administrator.

Mr. Rieley stated that there was another issue that Mr. Barnes raised that he did think was pertinent. It is that there is plenty of room to get all of the stacking would require any property other than the bank itself. So if their stacking is not sufficient and it backs up that it is going to back up in their own parking lot and disrupt their own. It is not going to hurt anyone else, which he felt was an issue that ought to be considered.

Ms. Higgins pointed out that they could also pull into another one of those parking spaces.

Mr. Rieley stated that the issue of the Comprehensive Plan is still out there. He stated that it was one that he had struggled with on Eckert and also on this. There is no question that this is better than some other things that Mr. Barnes had pointed out that could be worse. This is essentially the suburban model that is turned inside out. Everything is served by automobiles, but part of it is on the inside. It is probably an improvement for something in this area. He felt that they should be guided by the Comprehensive, which is our charge. It is the reason staff recommended denial of Eckert when it came to them before. He stated that he was really worried that they have just slipped into a defector Comprehensive Plan Amendment because on the spur of the moment they feel like this one is okay. It is not based on any analysis. It is not based on looking at a broader bigger picture and how the parts all fit together. It is based on an off the cuff decision. Therefore, he was concerned about that.

Ms. Higgins stated that the leader of the Eckert and this being in proximity to the Eckert that Eckert might lend it to be considered that way. She actually looks at this that there is an internal parcel that has been subject to actions over a period of time, but may be they have expired. But, this is a more cohesive way than pursuing it under its current zoning and maybe this was an opportunity and if the Eckert was approved without the Comprehensive Plan Amendment and this is more like it. In other words, if you can achieve the same goal would you really question the process part of this?

Mr. Rieley stated that he was questioning that the process is there for a reason and if you skip a step in this one he felt that it raises long term concerns. He stated that they don't' know if it meets the same goals because they have not looked at it in the broad context, which is exactly the reason why you have the CPA process. But, they don't have to solve this tonight. He was just saying that it remains an issue.

Mr. Thomas felt that it was a legitimate point, too.

Mr. Craddock disagreed with Mr. Rieley because it has certainly been something that has been talked about on Pantops for a long time about the business end of the north side of Route 250.

Ms. Joseph stated that they had someone come in fairly recently about doing the same sort of thing across from the Airport and wanting us to do some type of fast forward instead of having it industrial they wanted to have it residential. One of the things that they talked about was doing the Comprehensive Plan Review in conjunction with the rezoning request.

Mr. Thomas pointed out that they had done that with the Glenwood Station just recently.

Mr. Rieley stated that the message that they left was that they were so enthusiastic about having the affordable housing component in it that they advocated compressing the two reviews together. They did not talk about leaving out the CPA review.

Mr. Cilimberg stated that there was one example from many years ago where the commercial at Mill Creek Shopping Center was not recognized in the Comprehensive Plan. They actually did review that as a rezoning with the expectation of changing the Comprehensive Plan. In that case there was actually the expectation that the commercially designated area in that region would be moved to the location of the shopping center. That was somewhat a conscious decision to allow a rezoning and change the plan to move the designation from another location to that location, which was felt under new circumstances to be more appropriate. He felt that this one deserves a little bit of that discussion and he was going to get David Benish involved in that because he really oversees what they do with the Comprehensive Plan. He stated that they could have some more conversation on how they could look at this in relationship to that particular consideration.

Mr. Rieley stated that he was not convinced that the Comprehensive Plan was right in this case.

Mr. Cilimberg stated that what he was saying was that it may be worth visiting as part of this rezoning some of the facts behind what has been designated there and if in fact this change does make sense in the context of the Comp Plan. He stated that his note to the Chair was that they could defer the request

with the expectation that it would be readvertised. He asked Mr. Kamptner if it was necessary for the Commission to take an action.

Mr. Kamptner suggested that they set a date for the hearing.

Mr. Cilimberg stated that they could not put a date on it because they don't know how long it would take for the applicant to cover all of the outstanding issues.

Ms. Joseph suggested that the Commission not ignore it and that they need to address it. She asked that the next hearing be set as soon as possible even if there needs to be some analysis of the Comp Plan. She felt that it needs to be done quickly. She stated that the Commission was deferring the request as summarized below.

Due to an error in advertising, the Planning Commission took no action on ZMA-2004-012, SP-2004-038, SP-2005-001 and SP-2005-002. The Commission asked staff to set a new hearing date as soon as possible once all of the details have been worked out and the applications have been readvertised. Staff needs to consider whether an analysis of the Comprehensive Plan needs to done in conjunction with this review. Also, the applicant needs to obtain relief from the stacking requirement from the Zoning Administrator.

Old Business:

Ms. Joseph asked if there was any old business. There being none, the meeting proceeded.

New Business:

Ms. Joseph asked if there was any new business. There being none, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 9:24 p.m. to the April 5, 2005 meeting.

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V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon Claytor Taylor, Recording Secretary.)