Albemarle County Planning Commission
November 22, 2005

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

Other officials present were Wayne Cilimberg, Planning Director; David Benish, Chief of Planning; Stephen Waller, Senior Planner; Sean Dougherty, Senior Planner; Rebecca Ragsdale, Senior Planner; Bill Fritz, Chief of Current Development; Amelia McCulley, Zoning and Current Development Director/Zoning Administrator and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

Other Matters Not Listed on the Agenda from the Public:

Mr. Edgerton invited comment from the public on other matters not listed on the agenda. There being none, the meeting proceeded to the review of the consent agenda.

Consent Agenda:

a. **SUB 2005-288 Rio East Office Park** – Open Space Appropriateness. (Francis MacCall) (Tax Map 061, Parcel 124A)

b. **SUB 2005-289 Montgomery Ridge, Phase III** – Open Space Appropriateness and Critical Slopes Waiver request. (Francis MacCall) (Tax Map 046, Parcel A)

Ms. Higgins stated that she would not be able to vote on item a. because she recused herself from the previous action. Therefore she asked the Commission to take separate actions.

Action on SUB 2005-289, Montgomery Ridge, Phase III:

Motion: Mr. Rieley moved, Mr. Morris seconded, that the consent agenda item b. SUB 2005-289, Montgomery Ridge, Phase III, be approved.

The motion passed by a vote of 7:0.

Action on SUB 2005-288, Rio East Office Park:

Motion: Mr. Rieley moved, Mr. Morris seconded, that the consent agenda item a. SUB 2005-288, Rio East Office Park, be approved.

The motion passed by a vote of 6:0. (Commissioner Higgins abstained.)

Item Requesting Deferral:

ZMA 2005-006 Logan, Clevester (Signs #10,11) - Request to rezone .545 acres from the R-2 (Residential) Zoning District to the R-4 (Residential) Zoning District to allow property boundary line adjustments. The property is described as Tax Map 61, parcels 44A and 44A1 (portion of, 17,503 square feet adjacent to Tax Map 61, parcel 44 including an existing dwelling) located at 2530 Hydraulic Road (Route 743) at the intersection of Hydraulic Road and Turtle Creek Road in the Jack Jouett Magisterial district. It is zoned R-2 (Residential) and EC (Entrance Corridor) Overlay. The Comprehensive Plan

designates this property Urban Density in Neighborhood 1 and recommends 6.01-34 dwelling units per acre. The R-4 Zoning District allows for up to 6 dwelling units per acre. (Rebecca Ragsdale)
APPLICANT REQUESTS DEFERRAL TO THE DECEMBER 20, 2005 PLANNING COMMISSION MEETING.

Mr. Edgerton stated that this rezoning request was deferred from the September 20 meeting and the applicant is requesting an additional deferral to the December 20 meeting. He opened the public hearing since the request has been advertised and invited public comment. There being none, he closed the public hearing to bring the matter back before the Commission for action.

Motion: Mr. Morris moved, Ms. Higgins seconded, to accept the applicant's request for deferral of ZMA-2005-006, Logan, to December 20, 2005.

The motion passed by a vote of 7:0.

***Regular Items*:**

SDP 2005-078 Verulam Farm Conservation Group LLC - Ntelos (CV601) - Request for approval of a treetop personal wireless service facility with a wooden monopole that would be approximately 101 feet tall (10 feet AMSL above the height of the tallest tree within 25 feet), with ground equipment in a 160 square foot and 11-foot tall building. This application is being made in accordance with Section 10.1.22 of the Zoning Ordinance, which allows for Tier II wireless facilities by right in the Rural Areas. The property, described as Tax Map 74 Parcel 17, contains 356.26 acres, and is zoned RA, Rural Areas and EC, Entrance Corridor. The site is located on Bloomfield Road (Route 677), approximately .75 miles from the intersection of Route 637 and Route 677, in the Samuel Miller Magisterial District. The Comprehensive Plan designates this property as Rural Areas in Rural Area 3. (Stephen Waller)

Mr. Waller summarized the staff report:

- This is a request to allow the installation of a Tier II personal wireless service facility on property held under a conservation easement and owned by the Verulam Farm Conservation Group, LLC. The facility would include a 101 foot tall wooden treetop monopole equipped with an array containing three flush mounted panel antennas and also an 11 foot tall utility building that is 160 square feet in area.

- During a site visit staff observed that a red balloon that was floated at the proposed height of the proposed monopole could be seen near the tops of the tree line from a location that was interior to the site. From all other surrounding locations the balloon appeared to blend in well with the trees. There is also an existing facility with another 101 foot tall monopole at this site. Staff observed that brown monopole also blends in apparently well with the surrounding trees.

- Staff attempted to summarize the staff report with the executive summary that is provided at the beginning. If the Commission has any further questions, he would be happy to answer them. Also, Ntelos has a representative in attendance.

Mr. Edgerton stated that on page 4 of the staff report in the middle of the page staff referenced the existing special use permit that is scheduled to expire on January, 2006. The condition of the special use permit will only allow two monopoles. He asked staff to provide some background on what had happened to that one. He asked what would happen if the applicant decided to use that special use permit.

Mr. Waller stated that if they were able to work out another agreement whereby the Nature Conservancy would allow that other third facility to be installed as it was approved with the special use permit previously, then there would be nothing preventing them from doing that. The zoning ordinance allows three tree top monopoles within an area defined by a circle with a diameter of 200 feet. There is nothing in the County regulations or by County policy that would prevent us from allowing them to install that facility if they could meet those requirements and also do that in accordance with the approved construction plans for that facility. Under the conditions of the easement as it stands right now, two

facilities are allowed and those two facilities have to be encompassed within an 800 square foot area. The facility that was previously approved by the special use permit for T Mobile would not meet that requirement anyway. With the time that it took to negotiate this second facility there, he would doubt that they would be able to do that within the time allowed. Also, if they were to change the construction plans that were approved with the original special use permit, they would have to come back before the Commission anyway as a by right Tier II because they would no longer be in general accord with those plans.

Mr. Edgerton asked if the previous applicant was aware that they were about to lose their option.

Mr. Waller stated that the special use permit approval letter lets them know when it was set to expire and they actually had a monopole that was at the site when they went to review the second facility that is currently there. They actually pulled out of the area altogether. At that time when Nextel was pursuing their application they sold their monopole to Nextel. T Mobile was the first to file an application at this site. They stopped their work in the Charlottesville area and Nextel came along looking at this site and T Mobile ended up selling the monopole that was already there on the site to Nextel. He felt that it would take a lot of work for them to get a building permit approved and also to amend the easement language within the next two months. It was something that he could not see happening. But, there is nothing in the ordinance that would prohibit them from having three facilities on this site all with low visibility.

Ms. Joseph asked if T Mobile had filed for a building permit.

Mr. Waller stated that they had received their preliminary zoning inspection for their building permit. But, something happened at their corporate headquarters and they decided that it was not the right time to proceed in this area.

Ms. Joseph asked if the building permit had been withdrawn or if it was still pending.

Mr. Fritz stated that the building permit had not actually been issued because they had not submitted all of the necessary information. The actual construction would have had to have started in order for the applicant to meet the special use permit deadline.

Mr. Waller pointed out that staff would not enforce the conditions of the easement. Staff would look to the Nature Conservancy to do that. If Verulam Farm Conservation Group, LLC did allow T Mobile to go on site and attempt to install that facility, they would then be in violation of their conservation easement. But, as far as the site itself, staff reviewed all three sites and all three sites were determined to have low visibility and also to be acceptable sites.

Mr. Fritz stated that the key issue for the Commission is that there is a special use permit out there that could be exercised before January. If it is this would represent the third site and it would still be a Tier II and staff would still be recommending approval of it.

Ms. Joseph asked where the T Mobile approved site was located in relationship to the other sites.

Mr. Waller stated that the T Mobile site would be to the right of the Nextel's site shown on the plan.

Ms. Joseph asked if all three sites would be clustered together, and Mr. Waller replied that the sites would be clustered together and within the amount of distance allowed for the three treetop facilities.

Mr. Waller stated that the Nature Conservancy would have to approve to allow a third facility to be allowed.

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

Jessie Wilmer, representative for Ntelos from Waynesboro, Virginia, spoke for the request. Also present were Tony Edwards, who was their RF Manager, and Chris Nicholas, their engineer for this area. Ntelos

is requesting consideration for a personal wireless service facility located on the Verulam Farm property. Ntelos is in the process of improving its existing coverage along the I-64 Corridor. Right now they have coverage through 64, but they actually call this the Ivy hole because of the large amount of dropped calls right within this area. Having this site would close that hole as well as provide additional coverage to the surrounding residences. They will use an existing logging road to access this facility. They have provided staff with a tree conservation report, which is in effect for, during and post construction of the facility. The facility will be minimally visible from the Entrance Corridor. They did a balloon test with staff and found because the facility is flush mounted and painted brown that it really will blend in with the tree. It was not visible from a lot of different vantage points. The ground equipment was not visible at all. They contacted the Virginia Department of Historic Resource and they have found their proposal has no adverse effects on historic resources in this area. Regarding the conservation easement, the property owner has voluntarily placed the property into a conservation easement with the Nature Conservancy. Initially when that was done they put it in the conservation easement that they lease 800 square feet for one pole thinking that it was a co-location pole. Therefore, there is 400 square feet for each carrier. But, with the County's policy co-location is not an option because it is only 10 feet above the tallest tree. Therefore, Ntelos has gone back to the Nature Conservancy and have worked with them for the past 8 months. The Nature Conservancy has amended their easement to allow a second pole within the 800 square feet. Therefore, Ntelos has leased 800 square feet from Verulam Farm Conservation Group and Nextel has leased the other 400 square feet from Mr. McGuire. If T Mobile would come in right now they have leased all of the property that is within the conservation easement. Therefore, they would have to go back and work it out with the Nature Conservancy. She asked that the Commission approve their request.

Mr. Edgerton invited public comment. There being none, he closed the public hearing to bring the matter back before the Commission for action.

Motion: Ms. Joseph moved, Ms. Higgins seconded, that SDP-2005-078, Verulam Farm Conservation Group LLC – Ntelos (CV601), be approved as proposed.

The motion passed by a vote of 7:0.

Mr. Edgerton stated that SDP-2005-078, Verulam Farm Conservation Group LLC – Ntelos (CV601), was approved.

***Public Hearing Items*:**

SP 2004-004 Lewis & Clark Exploratory Center (Signs #89,92,94) - Request for a special use permit to allow establishment of the Lewis and Clark Exploratory Center of Virginia, in accordance with Zoning Ordinance Sections 10.2.2.49 and 13.2.2.13, which allow for a historical center, and modification to Section 5.1.42. In addition to a 15,000 square foot building, trails and constructed exhibits are proposed. Special events and festivals may also be requested. The park property, Tax Map 62 Parcel 23, contains a total of approx. 102 acres, and is zoned RA, Rural Areas, R-1, Residential and EC, Entrance Corridor, and Flood Hazard Overlay. The proposed site is located on approximately 18 acres at the northern end of Darden Towe Park, on the west side of Stony Point Road (Route 20 North), approximately one-half mile north of the intersection with the Richmond Road (Route 250 East), in the Rivanna Magisterial District. The Comprehensive Plan, Land Use Plan designates this area as Parks and Greenways, and Neighborhood Density Residential (3 - 6 d.u. per acre) in Neighborhood Three. (Rebecca Ragsdale)

Mr. Edgerton stated that SP-2004-004, Lewis and Clark Exploratory Center, was deferred from their October 4 meeting.

Ms. Ragsdale summarized the staff report. (See staff report.)

- This is a special use permit request that has been before the Planning Commission previously in October. It is for an historical center for the Lewis & Clark Exploratory Center of Virginia, a nonprofit organization. They would like to establish the historical center within Darden Towe Park. The site is 18 acres on a leased acre by the County and City for the park land. The site is

adjacent to Trevillians Creek. She referred to the map and explained the proposed location of the building and trails.

- The applicant is requesting to use the gravel road that exists in the park and have their entrance reach the exploratory center by coming around and extending this gravel road.
- The site is zoned R-1 and RA. This part of the site is Parks and Greenways designated in the Comprehensive Plan. The other area is Neighborhood Density in the plan.
- The site layout has been changed from the previous review with a slight reconfiguration of the parking spaces and some additional spaces. Now the total number of parking spaces is 83. The main change is that previously there was a new entrance on to Route 20 to serve the park and now the preferred means of access through the park is now proposed along that access road.
- The expected visitation that staff has received from the applicant would be a maximum average of 100 visitors per day to the site.
- Along with the proposal the applicant has requested modifications to the supplemental regulations that are in the zoning ordinance for historical centers to allow a larger building. Instead of 1,500 square feet, which is in the supplemental regulations, they would like 15,000 square feet. In the previously staff report, the applicant submitted their space needs justification based on some of their larger items like the replica of the Keel Boat taking up space and how they would like to devote that space.
- In addition, there is another supplemental regulation modification to allow more than 10 percent of the floor area of that 15,000 square foot building to be devoted to accessory uses. The applicant would also like to hold up to 12 special events and 4 festivals per year at this historic center.
- This was before the Planning Commission in October and the application was originally submitted in 2004. It was deferred at the October meeting. The new staff report is to give the Commission more information to address those issues that were raised by the Commission. After the October meeting the applicant submitted a revised application plan, which showed one means of access to the site through the access road around the eastern side of the park adjacent to the river. That has been reviewed.
- The new access proposed for the historic center was reviewed by the engineering staff and water resources. Engineering comments have been provided in the staff report. The access road is not located within the stream buffer, but it is located with the floodplain. It may require a special use permit once final engineered plans are reviewed because of fill in the floodplain. Also, the engineering comments indicated that the alignment of the road does cross over some critical slopes and would require a waiver. That was not identified in time for the full review of critical slopes by staff in time for this meeting. The Planning Commission will review that along with the special use permit. Engineering did suggest a site plan, which is a requirement of an historic center. As mentioned with the floodplain there would be more engineering that would go along with that. The applicant submitted a justification for the critical slopes waiver, which included their approach to the design and upgrade of the proposed access road to the site. Staff feels that the justification for the location of the road is very useful information.
- The alignment of the road is shown in a general location and is the only access shown to the proposed building. So as a condition of approval it is recommended that the site be developed in accord with the application plan. So any major changes or any new proposals for access would have to be reviewed with the new special use permit action.
- Staff does not have any new information regarding the eastern connector. There is no new information. There is a study that is getting under way in conjunction with the City and no alignment is known at this point.
- Also, provided in the new staff report is additional information regarding historical and interpretative themes for the historical center. Historical center is defined in the ordinance as buildings, structures or facilities used for education and/or interpretative activities related to natural, cultural or agricultural history open to the public and located at or adjacent to an historic resource. The applicant has provided some more detailed information about how they meet that definition. It was previously determined by the zoning administrator that it fit as an historical center by special use permit.
- So staff has provided some recommended conditions of approval. Should the Planning Commission wish to approve the SP 2004-004, the following conditions are recommended:

1. The site shall be developed in general accord with all sheets of the plan entitled "Lewis & Clark Exploratory Center," revised October 18, 2005 and prepared by Nelson, Byrd, Woltz. Setbacks indicated in the table on sheets L3.1 and L3.2 do not set increased minimum setbacks.
2. The top of the Lookout Tower, measured in elevation above mean sea level, shall not exceed [AMSL + 35]. The approved height shall at no time be taller than the tallest tree within 25 feet of the Lookout Tower, and shall include any base, foundation or grading that raises the pole above the pre-existing natural ground elevation.
3. A maximum of 12 special events, in accordance with Section 5.1.42.i, are authorized per calendar year.
4. A maximum of 4 festivals, in accordance with Section 5.1.42.j, are authorized per calendar year.
5. A lighting plan and a landscaping plan shall be submitted, reviewed, and approved by the Architectural Review Board prior to final site plan development plan approval.
6. In accordance with Section 32.7.9.9, a 20% tree canopy shall be required for the site based on the disturbed area for the historical center building, parking, and access road.
7. Prior to any grading or construction activity, the limits of the 100-year flood plain and stream buffers, where adjacent to constructed proposed improvements including the amphitheater, timber fort, lookout tower, entrance road and retaining wall, shall be flagged at 10-foot intervals by a land surveyor to prevent encroachment land disturbing activity, storage of construction equipment or materials, and actual construction of improvements during construction.

- Staff recommends approval of the modifications to Section 5.1.42:

  Section 5.1.42.a new historical center structures:
  Approval of a modification to allow the historical center structure to exceed the ordinance provision that new buildings associated with historical centers not exceed 1,500 square feet in floor area with the following condition:

  - The new historical center structure shall not exceed 15,000 square feet in floor area.

  Section 5.1.42.g Accessory Uses: Approval of a modification to allow the floor area of accessory uses within the historical center building to exceed 10% of the total floor area of the structure with the following condition:

  - Accessory uses identified in Section 5.1.42(g) shall not exceed 20% of the floor area of the building.

Mr. Edgerton asked on the last point if staff was recommending, because of this project, to modify those sections of the ordinance.

Ms. Ragsdale stated that Section 5.0, Supplemental Regulations were set up so that in special circumstances where it may be deemed appropriate that those regulations could be modified.

Mr. Edgerton asked if that would just be for this particular project.

Ms. Ragsdale stated that it was just for this particular application. Staff's recommendation for approval is based on the fact that it is in the development area. Also, it is the uniqueness of their space needs with the big keel boat and all of that.

Mr. Rieley pointed out that it was a ten fold increase in what is recommended, and Ms. Ragsdale agreed.

Mr. Edgerton stated that he was under the impression that there really was no clearly targeted Eastern Connection route, but on page 11 of the site plan there is a nice dashed line coming off of Dorrier Drive saying potential alignment of the Eastern Connector Road.

Ms. Ragsdale stated that was strictly based on the applicant's submittal.

Mr. Rieley stated that it was an alignment that has been proposed, but it does not have any special official designation.

Mr. Edgerton stated that it at least shows us that it will not impair that.

Ms. Higgins stated that the Commission did previously ask the question on whether it could be accommodated across the site in some form, which was potentially where that came from.

Mr. Thomas pointed out that the applicant had previously stated that they would accommodate it.

Mr. Morris noted that the applicant had put that in writing.

Ms. Higgins pointed out that she did not see a condition #2 that talks about the tower.

Ms. Ragsdale stated the conditions are shown on page 4 of the executive summary. She pointed out that an error was made in the last sentence and should be corrected to read "tower" instead of "pole."

Mr. Thomas asked if the applicant has to do any filling in on the property if they will have to come back for another permit.

Ms. Ragsdale stated that our engineer reviewed the plan and it looked like it may be designed so that fill won't be required, but they have not gotten the engineering for the whole road. So it may be that there will be some fill needed, and the applicant would have to return to the Commission.

Mr. Benish pointed out that it would require a special use permit for activity to fill in the floodplain.

Ms. Joseph asked if noise was something that was regulated for special events and the festivals.

Ms. Ragsdale stated that was addressed in the supplemental regulations.

Ms. Joseph stated that staff referenced Section 5.1.4.2.i and j and she thought that they talked about things that would not be amplified.

Ms. Ragsdale stated that in the supplemental regulations it was 5.1.4.2.h, the operation shall be subject to daily tours, normal hours opened to the public limited to daytime hours only and outdoor amplified sound shall be prohibited at all times.

Ms. Joseph stated that they were assuming that with approval of this that there would never be amplified sound outdoors. She pointed out that the city residents were very concerned about the noise when someone was contemplating an amphitheater on the river.

Mr. Rieley asked if the last version of this had no amplified sound as a condition. He questioned whether it was still included as a condition of approval.

Ms. McCulley stated that it was in the ordinance, but unless it was modified by the Commission it is a prohibition.

Mr. Rieley stated that his view was that it would be beneficial to include it as a condition as they often do even though it is a little redundant.

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

Warren Byrd, principal of Nelson-Byrd Landscape Architects, stated that they have been working as the site planners or landscape architects with the Lewis and Clark Discovery Center Board and representatives for several years. He stated that he was present to discuss the design in a little more detail, the design changes and again to answer any design questions that the Commission might have. The plan that he was referring to was the one on the board. The most important thing is to realize that the change in the last six weeks has been to move from an entrance that was off of Route 20, which was considered problematic, to an entry road that comes through the park and goes by the lower fields and comes back up the slope more of less paralleling where the existing cross country trail is. Essentially, there is about 1,200 linear feet of road from the point that the gravel road ends to where it arrives at the center plus the parking area. This change has allowed the center to come through the park, which they feel is a good one, and takes the traffic off of Route 20. It has allowed them to fit the parking into the grades a little more generously and less steeply. The maximum slope on the parking is now 3 percent and they don't have any site walls as part of that grading, which they had before. The issue came up about the fill in the entry road. They do need about 100 linear feet of fill as they see it now if they want that road to stay at 10 percent or less, which they consider to be a good thing for obvious reasons. If one is willing to allow the road to be steeper, then they don't need as much or any fill if they are allowed to let the road go to 15 percent. So currently they have conceptually conceived it to be a 10 percent or less entry road coming up to the drop off for the Discovery Center. They also included a much older section, which is probably not in their report, but was located towards their right on the board. That was to make a point about how the building is meant to sit into the grade. The building has not been designed in style yet, but it will be tucked into the grade. There was an issue raised recently about the view from the river. The idea is that it is a sight line to the river, but there will be existing trees on the river front as they can see in that section will help filter or baffle that view, plus additional trees that they are planting. The whole intent of this center is to fit in rather than to stand out, which was the point he was trying to make through that section as well as in the site plan. The other thing that they have done is accommodated the cross country trails fully in this site plan and also have kept the Rivanna Trail continuous through the property and onto the adjacent property beyond. The only principle adjustment that they had to make of the existing conditions was that the dog park had to be shifted slightly up hill 10 or 15 feet to allow the same amount of square footage that they currently have.

Mr. Craddock asked if the proposed plan shaved off any portion of the Little League fields next to the river, and Mr. Byrd replied that it stayed outside of that area.

Ms. Higgins asked if it would just follow the existing trail or was it going to be constructed as new sections.

Mr. Byrd stated that it would probably be done for both. They are keeping the trails in their existing location everywhere they can, but where there is interruption because of what they have done they would be relocating it. Also, they did everything they could to avoid all steep slopes or critical slopes since that was an issue.

Ms. Higgins asked if the plan has been worked out through the County's Parks and Recreation Department that maintains this particular site.

Mr. Byrd stated yes, that it has been reviewed and discussed. In fact it was through their initiative that they came to introduce this road through the park rather than off of Route 20. Up to this point until several months ago they were not looking at that favorably, but now they are looking at that favorable. There was a consideration on the part of engineering that because of the critical slope issue and the fill issue that there was an alternative to come through the existing parking lot, but the Parks and Recreation staff are not in favor of that for obvious reasons. He pointed out that a certain Master Plan had proposed that a while back.

Mr. Rieley stated that the road way plan that showed the grades was very helpful. It shows a pretty extensive area of disturbance because of the fact that the road is on a steep cross grade as steep as 27 percent. He asked what cross slope gradients they were using in order to catch up on the side slopes.

Mr. Byrd replied that typically they were aiming for 3:1 or broader.

Ms. Slaughter pointed out that the maximum was 3:1.

Mr. Rieley stated that particularly in a site that totes itself as being environmentally responsive and environmentally educational as a part of its mission that he probably has some room to make the road a littler steeper if they don't ask for a waiver to fill in the floodplains. From his perspective that would be a reasonable tradeoff. He noted that he just wanted to put that on the table.

Mr. Morris agreed that it was a good point.

Mr. Rieley stated that the staff report talks about a retaining wall. He asked where that was located.

Mr. Byrd stated that they have taken all of the retaining walls off of the plan.

Ms. Joseph stated that she had a question about the letter which was the justification for considering this as an historic site.

Mr. Byrd suggested that Fran Lawrence might be able to address that better.

Ms. Joseph stated that there were a couple of statements that talk about the fact that it is on the Rivanna River and a site with archaeological and cultural remains. She asked if anyone has done any studies on the site. She asked if there has been a Phase One Archaeological Study done on the site.

Fran Lawrence, resident of 1729 Chesapeake Street in the City of Charlottesville, stated that it was good to be here again. As they move along with their plans he acknowledged that they would probably be back before the Commission again. He pointed out that he had addressed Ms. Joseph's questions in an email. He felt that they were legally connected to the Rivanna River in its entirety.

Ms. Joseph stated that they talked about the Rivanna River last time and that makes her very uncomfortable. She acknowledged that they did not have to have this discussion here.

Mr. Lawrence stated that their interconnection with that is to some extent that they are both a Lewis and Clark Center and an Exploratory Center. They think that the two are interconnected. They are about the Virginia roots and also about rivers.

Ms. Joseph pointed out that his letter states that the site is at and includes the location of the Monocan Village, a site with historic archaeological and cultural remains. She noted that the Commission has had other projects come before them that have been residential and they have done Phase One Archaeological Studies because they knew there were historic remains on there and they wanted to know what the impact was on the historic archaeological remains on that particular property so that they would not have problems in the future if they came upon an old grave or an old settlement or whatever. It was for Belvedere so that they could go ahead and plan the development. So because they were basing this on an historic site, she wondered if there had been done any Phase One or any sort of archaeological studies or whether they have talked to anyone. She knew he had talked with Professor Meredise in his letter, but she just wondered had anything been done. Regarding #4, has anything been done on that.

Mr. Lawrence stated that he would answer that in two parts. One is that Professor Hankman at the University is satisfied that the Village was kind of moved in this area, which includes us. They know that they found remains at South Fork, which was again up the river about a mile or a mile and a half in the same Village and they think on the same site. But, no there has not been a study. And should there be a study at Trevillians, for instance Trevillians Creek has some sort of concrete thing that shows it clearly came much later than the 18th or 19th century, but was it a mill or bridge or something. That creek and that bottom should be studied. But, they were not doing any construction in that. They certainly would be willing to have those studies done before they do any construction in that area. But, the construction would actually be in what would have been plowed fields for decades, if not centuries. But, do they think

the bottom at Trevillians Creek is where Indians camped and stayed there? He would certainly think so. They don't have any documentation at this time and should they do that? He replied yes. And should they do that before there is any construction in the floodplain? He replied yes. If they wanted that to be a condition, they would accept that.

Ms. Ragsdale asked to add that is also in the supplemental regulations that they put in for historic centers and it went along with the site plan process for the site plan agent. In this case, they would envision that the historic preservation planner would review and comment on these historical centers. As she stated it would be part of the site plan requirement of the supplemental regulations that the applicant would submit a Phase One Study if it was determined necessary to survey the areas of the site proposed for the historical center use prior to final site plan approval.

Ms. Joseph stated that this was a little different in her mind because they needed to establish that this is an historical site initially.

Ms. Ragsdale pointed out that she just wanted to point out that was in there.

Mr. Lawrence felt that regarding the issue of whether they were an historical site that he felt that they were because they were part of that Village according to Profession Hankman. Also, they were because of the connection with George Rogers's home place, their connection to the district of the Southwest Mountains and to Monticello.

Ms. Joseph noted that he was not in the district and he was not really adjacent to the Southwest Mountains Historic District.

Mr. Lawrence pointed out that in the ordinance that district is not really defined.

Mr. Rieley pointed out that there is a map included.

Mr. Lawrence stated that they were in the district that included Monticello, Shadwell and all of those estates. He stated that he respected their view on this.

Mr. Rieley stated that #4 reads that the site is at and includes the location of the Monocan Village, which is a site with historic archaeological and cultural remains. He pointed out that they did not know that and whether that Village was actually located on this site since he had said he did not have any knowledge of any archaeological information.

Mr. Lawrence stated that they know from Profession Hankman that the land that is on their site was part of the extended Village. This Village ran from somewhere around Free Bridge to the North and South Fork of the Rivanna River and that includes their site. So they are a part of that Village. Now whether there are architectural remains next to them or on their 18 acres, they are not certain.

Mr. Rieley thanked him for his information.

Ms. Kay Slaughter stated that in reply to her question, they could certainly have the DHR look at it. But, according to Jeff Hankman when the park was built there was no review at that time and there was no Phase One Study. That is really when the roads were put in. Some of the roads were probably put in before that when it was a farm. They were told then that the remains were not there. But, that the Village is not as they think of Villages now where you say here is Rivanna or Milton, but it really was all along the river and the river was the artery and the highway. Yes, they have found remains up at the soccer field, but the way he described it to us and the literature they have consulted choose how it extended into Fluvanna. So it is really a whole area, but he said that there were not any remains as far as he knew on that site.

Ms. Joseph stated that it would really be nice to have some sort of written documentation with somebody's signature on it that is an expert that has looked at this that will give up that. What she is

telling us is that someone told you something. This is the first one they have done and it is really important that the County get it right.

Ms. Slaughter stated that there are extenuating circumstances so she could not have that document or that letter from him. That is just the way it is. But, she did want to explain that to them. They can definitely have DHR come and look and do the Phase One Study.

Mr. Lawrence asked to make a couple of quick observations. He thought that no matter what else that was why they were there. They looked around as to where they ought to be and were delighted that there was an opportunity to connect with the George Rogers Clark birthplace, which is truly an historical property. He felt that was enough for what they were doing. George Rogers Clark was one of the early explorers, and he and Thomas Walker are the guys who inspired Jefferson to do what he did when he went to Kentucky and he conquered the Northwest Territory. He was the older brother and was asked to do it first. The Lewis and Clark expedition started in Louisville when Lewis brought the boat down and met William Clark, who was living with George Rogers Clark. That was a wonderful evening. He was sure that they ate and drank into the evening and they left the next morning. So George Rogers Clark and the Clark home place is the third best property in the County next to Monticello and Lewis' home both at Ivy and also his home at Cloverhills. It is fourth in line in terms of historical significance. This has been a great process. Even if they don't always agree on things, they have a better idea today and they think a great idea based on their interchange with the Commission. It has been productive. On the plan the critical slopes are shown in cross hatches. From the beginning of this process to today, except for the cross hatches that are on the new road, they have moved all of their development off of the cross hatches. They have also gotten rid of all of the retaining walls. It is a project really supported by the County and City Park and Recreation people. They hope that the Commission will support it. Pat Mullaney is here and can address the Darden Towe Committee's approval of the new access easement and reaffirm with the Commission that our landlord is going to carefully watch the steps of our development to make sure that if they should not succeed that the City and County would have a Darden Towe Park infrastructure that they would love to have.

Kay Slaughter, of 1501 Short 18th Street Charlottesville, stated that she was happy to answer any questions. She stated that they have been working on this project for about ten years now. The whole theme was that the trip started here. The idea of that was because of the connections between Lewis and Clark and Jefferson to this area and not just at Darden Towe Park or to the Rivanna, but to this area. They wanted to have an exploratory center and not a museum where people would come and just look at things, but where there could be some interaction. They looked at a number of sites in the City and County and very seriously considered them. But, when they chose this site it was for several reasons. One of which was the river because of the history of the river. The history in Jefferson's time and even before that in what they were talking about earlier of it being the highway for Monocans or the Native American Village of the Monocan Nation. The river was also important for another reason. They wanted this to look at the east and what did they know of the east with the earlier explorers and think that they were going to find in the west in really looking at the Rivanna River, the James River and then comparing that. What was that like for them to arrive at the Missouri and Mississippi? The mountain views were important because the mountains that they would have know would have been the Blue Ridge. Charlottesville at the time of Lewis and Clark was the west. We were it. We were where people had gone from the eastern parts of Virginia and then from there they went to the Rockies. What they had been doing before they had this center is to involve people with an interactive experience. Many of the people here have been involved with kids over the past several summers. There have been hundreds of kids building a replica keel boat, which they have completed. But, they still have 25 other boats that Lewis and Clark used on their trip that they are using with children to learn a little bit about history with real hands on experience. That is the reason that they chose this site. They feel that the Commission's suggestions have been good to kind of get to the basics that they want on this site. They chose a very sensitive architect and landscape architect because they really respect this site and want to fit into the site. They don't want to stand out on the site. They want to use the site in a way that is respectful. They have said that they will accommodate the eastern connector in any configuration and they hope that the Commission will recommend this and move it forward. They certainly listened to all of the discussions over making this particular classification and have always said from the beginning that they needed this

size building based on what our needs were with the keel boat and the activities that they have planned at the site. They are supportive of the conditions that staff has recommended.

Mr. Edgerton opened the public hearing and invited public comment.

Pete Stoll, resident of Key West, stated that he had a couple of issues. He stated that he did not see the relevance of a tower here, and he would be against the tower. The second issue is if the eastern connector is important to the County and they really want to have one, perhaps one of the most or maybe the least costly alignments is going to be off of Dorrier Drive. He would suggest the following to be considered. Once the County labels this as being historic that is the end of any road ever going through there. The second thing he would like to see considered is a phased development of this project. He would say that the critical area is northeast of Trevillians Creek. He did not think that they ought to allow anything to be done there until they decide where the alignment is going to be. Once you do something in there that is the end of the road ever going through there. But, he really did not have any issues with the use. He hoped that the Commission would consider those issues.

Mr. Edgerton asked if there were other members of the public to speak on this issue. There being none, he closed the public hearing to bring the matter back before the Commission for consideration and action.

Mr. Thomas stated that he would just like to throw it on the table with the Commissioners that Mr. Rieley was on CHART and Mr. Morris currently was on CHART. In their experiences with drawing lines on maps through CHART that probably is, as Mr. Stoll just stated, the best and most economical path for it to go across. He asked how enthusiastic was that route accepted by the MPO or was it even accepted by MPO.

Mr. Rieley stated that Mr. Morris might have a different view of this, but his feeling was that it never got that far. It was one of several general routes that were discussed. He felt that Mr. Stoll makes a good point. He felt that if they essentially take this route, which has a certain amount of logic to it, out of the equation, it may force the acceptance of a much more disruptive route.

Mr. Thomas stated that not only getting down to that point or to that point across the river is going to even be more difficult than getting it across the river with what has been put in front of them.

Mr. Rieley stated that there was no inexpensive way to make that connection, but it seems that a phased approach makes some sense because it would allow the expensive part of the project that is going to require a lot of fund raising to move ahead while it would hold out of the project the stick built trails there. He felt that at least one of the critical things is, and he thinks Mr. Stoll is right, an historical designation on that property would be problematic. Second, he felt that if that land gets tied up with the federal grant money that the foundation has received for this project that it could tie the proposal up in knots for a long time. It would be an awfully simple and painless way to address that and still let the project move forward.

Mr. Morris stated that in today's CHART informal conversations, as well as some formal, that this location as well as one south of 250 has been talked about. But, that is why CHART went forward to the MPO with a formal recommendation that we do the Eastern Connector Study yesterday. The County and the City have forked up money on it, but was disappointed that it might come about in 2007.

Mr. Rieley stated that probably from the traffic perspective they could really look at the numbers and the pressure that it was the most pressing traffic pattern that they need.

Mr. Thomas agreed that it would relieve a lot of the traffic.

Mr. Craddock stated that he did not mind the phasing in part, but he felt that to think that the eastern bypass was going to go through there is about as much possible as Meadow Creek Parkway ever being built. He drives Route 250 all the time and they have a proposal here for a lot of office buildings right at the corner of 250 and 20. He felt that it would be irresponsible to drop off another big layer of traffic right

there on the little Stony Point Road where they just spent a lot of money to put a sidewalk in instead of making an improvement to the road at least as far as the Elks Lodge. If they want to phase it in, that is fine if they feel it is important to have a tower on that piece of property.

Mr. Rieley stated that it may be irrelevant if they follow the idea of the phasing route as it relates to the two structures in the northern part of the park. But, normally when they have special use permits, they see there is a building, building elevations and what these things are going to look like. He was surprised that the package, unless he missed something, did not include elevations of this tower. There is a point in the staff report that says that it has to conform to the plan, but inside the plan there was nothing any larger than that. He asked if there was a reason that they did not require for this project what they would have required for almost any other project.

Mr. Benish stated that they have had renderings and cross sections of the buildings.

Mr. Rieley stated that he was talking about the tower and the fort.

Mr. Benish stated that staff felt that was of less of a detail.

Ms. Joseph stated that in other words that whatever went up that there would be no reviews as far as the aesthetics was concerned and it would just happen.

Mr. Benish stated that staff addressed the conditions of the height of the tower basically.

Ms. Joseph stated that height was the only item.

Mr. Benish stated that the other aspect was that he believed that Pat Mullaney of Parks and Recreation had some oversight over where improvements are going to be and the types of improvements that are going to be a part of this project. It was one of the concerns that Parks and Recreation had. So it was going to be subject to a reiteration with a review by the Parks and Recreation Department.

Ms. Joseph pointed out that it was not a part of the conditions.

Mr. Benish stated that it was part of the lease agreement.

Mr. Rieley stated that his reason for raising it as a concern was that they be consistent. He thought about what they put Wendell Wood through on a project that was zoned correctly and he just needed a critical slopes waiver, and they insisted on seeing the buildings and the elevations of the buildings. The fort is proposed to be a 50 foot square building, which was not an insignificant structure. The only height limitation is with zoning of 35 feet. So that is a heck of a building to just find out about after they build it and what it is going to look like. They require so much more from other applicants.

Ms. Higgins pointed out that this is just the special use permit review and they still have provisions that they can see the proposal at the site plan stage.

Ms. Joseph stated that at the site plan stage they cannot ask for that.

Mr. Benish stated that the Commission has had a number of work sessions and the amount of improvements that were out in this area have actually been reduced over time.

Mr. Rieley stated that it was minus a few Indian villages.

Mr. Benish stated that staff must have thought that there was a level of comfort on those issues with the Commission.

Ms. Joseph asked Mr. Mullaney to come forward to answer some questions. She asked when he was present last time they talked about whether or not this would be successful for the long haul for a very

long time. She thought that they talked about taking a look at these buildings as they are being designed so that it is something that Parks and Rec could use in the future if they need be. It is kind of interesting that yesterday on the radio there was a little story about Lewis and Clark Bicentennials and how across the country the turn out for these kinds of things is very low. So she started thinking about this in terms that it was important for that to be included.

Mr. Pat Mullaney stated that he actually brought the copy of the lease agreement between the City, the County and Lewis and Clark Exploratory Center. The way it was worded under development by Lewis and Clark Center is, "no improvements of any kind including roadways and parking areas shall be made to the leased ground except with the County and City's prior written consent both as to the improvements and as to the contractors and subcontractors performing the work." It is not just going to be Mike Suetz at the City and himself. It is going to be the County, the County Executive's Office and the Board of Supervisors that are going to give the final approval to anything that is going to happen before it is built. He heard the Commission talk about the tower, but he did not know what a tower should look like. He did not know how it could be used afterwards. The tower is something that could, of course, go away. He stated that he was more concerned about the size of the building because the tower could go away fairly easily. But, he wanted to give the Commission comfort that it was not just going to be his judgment. But, it is going to include the full Board of Supervisors and City Council review.

Mr. Edgerton stated that his interpretation of the lease is that they will have to sign off on any improvements or footprint.

Mr. Mullaney stated that he had actually asked Mr. Davis for clarification on that and that was his feelings on that. It is going to go to the Darden Towe Park Committee that has two Board members and two City Council members. It will go forth to our Board of Supervisors and City Council with a recommendation from them. So everybody will get a shot at it.

Mr. Rieley asked relative to this point of being able to use the building should it not meet expectations, have you in the past five or ten years every requested a building of this kind of scale and configuration as a part of your CIP process.

Mr. Mullaney replied no, that he has not.

Mr. Rieley stated that this was something he would try to back into and try to make the best out of it if it came his way, but it was not something that he would ask for.

Ms. Higgins asked what the provisions in the lease were because this is a land lease, which obviously assumes that structures will be added to the land. What does it say about how the buildings are handled at the end of the termination or the reversion on the lease? She felt that should clearly be spelled out.

Mr. Mullaney stated that it is. It says that any improvements to the land that were not approved by the City and the County will be removed by Lewis and Clark at their expense.

Ms. Higgins asked what about at the end of its use or if they vacate or terminate the lease in any way, then they can't take structures away necessarily. She asked if it addressed that.

Mr. Mullaney stated that if the County wanted to use the structure, then they would have to come back.

Mr. Rieley stated that there is no guarantee that the projections for this place are going to hold up. If they don't there are several scenarios. One of which is that other localities have done by supporting the ongoing operation through tax revenues. One is to probably have more commercial type of events to raise money and other places have done that kind of thing. Another possibility that they need to be cognizant of is that it will come back to the County and the City. Whether or not this is a useful building or one that they would go out and generate is a significant piece of information. He stated that he appreciated the issue being brought up.

Ms. Higgins asked if the 15,000 square foot building would be treated as a maximum. But, even that building will have to go through the committee, go back to the Board and the City as the landowners under the requirements of the lease, and maybe they will say at this time they only want to do 12,000 square feet or 5,000 square feet. They are only setting an upper limit. They will have to go through that process even to approve and justify that. Without flexibility at that limit then the property owner, which just happens to be the County in this case and not a property owner that walked in off the street, that they have a plan for this. When she looked at the break down of the spaces and whether the building was reused or not, they might think build something at 15,000 square feet and maybe it will be a big community center in the future. She felt that would be the board's goal. She felt that this was well thought through and that they were just looking at the justifiable parts. If a tower was designated there, she had assumed that the tower was going to be composite represented at the time that they were relating to. So it is not going to be a glass tower with a tassel on top or something like that. It has to go through the process under the lease even before it can be considered. They don't have an architectural element here to decide what looks historical or not. But, she did not have a problem with that.

Mr. Morris stated that they have not touched on Mr. Stoll's comment that once this is designated as historic that puts a whole new light on anything. However, do they think it is fair to hold them up while waiting on the County and the City and VDOT to do their little thing?

Ms. Higgins stated that she was of the same mode, but was going to ask Mr. Benish one other question. Historically there was an eastern connector that preceded the early '90's. It was actually in one of the plans, but it went away. Now the discussion of this connector has come back again. She thought that from an earlier discussion from a Planning Commission standpoint that they wanted to make sure that it could be accommodated and that this would not be in what they perceived as a direct path. But, there again it is a City/County owned property and if their goals and our goals are to address the transportation issue there is nothing to preclude it from going here. Whether it ends up here based on a line drawn on a map is it is going to be years and years in the making.

Mr. Edgerton stated that he agreed with Mr. Craddock's comment that dumping all of that extra traffic onto Route 20 or Stony Point Road defies logic at this point.

Mr. Morris stated that he was absolutely right, but that was discussion for another day.

Mr. Thomas applauded the board and the members of the Lewis and Clark organization for even attempting to raise the enthusiasm of the Charlottesville because most don't have any idea of what Lewis and Clark did. He would hope that over a period of time that they could encourage the local people to find out what Lewis and Clark was all about. He felt that it was very important for that to be part of our local area because it was all over the inside of Monticello. Inside there are many of Lewis and Clark's Indian antiques. He felt that the questions that they have been asking as a Commission are very necessary. He felt that it was an important historical part of Albemarle County.

Mr. Rieley stated that he felt that way, too. He felt that the story of Lewis and Clark was an important one to convey and to celebrate locally. He felt that it is an example of good people with good intentions coming forward with a proposal with a prospect of intended negative consequences. He has a lot of concerns about lots of aspects of this project about the specific points that are pertinent to this special use permit because that is the only reason why they are here. His first concern and he really raised his eyebrows when he was reading the staff report because it implied that they crafted the zoning text amendment for historic centers around this proposal. It was the exact opposite that was the case. We had lots of discussions and went to great lengths to make the point that they were dealing with a zoning text amendment for historic centers throughout the entire RA district. Every piece of property in the RA district will be affected by this. They made the point repeatedly that if the Lewis and Clark Center did not meet the criteria set forth in this that it might look at a different mechanism for achieving this goal, for instance, in a rezoning. One of the important criteria that they talked about was a nexus between the site and the interpretation of the site. He thought at the last meeting when they had heard some of the connections that were positive, but he thought that they were a stretch. He felt that Mr. Lawrence used that term inappropriately a little while ago. But, he did not fault the applicants for stretching a little bit. It is

an indication of the enthusiasm for this project. But, the last time they heard from both staff and the applicant that Lewis and Clark traveled in part by river, that this site was on a river, and therefore, that was sufficient reason to call this an historic site. They have heard lots of other ones. He was particularly taken by the letter that justified the tower by saying that one could view the Blue Ridge Mountains as a surrogate for the Rocky Mountains. Once again, he felt calling that a stretch is putting it kindly. The test for whether any site is suitable for a historic center is not whether or not you can draw some tortured connections between the physical attributes of the general area of an Indian Village that could be anywhere between here and Fluvanna County and the specific events that are being interpreted. The test is really whether you are interpreting historic information particularly about this site. In his view, this site does not meet that test. Interpreting this proposal in this way he thinks will very likely come back to bite us because it is not the first one that they are going to see. If they allow these kinds of very vague connections to be their criteria, he felt that they will be eventually sorry that they did. That being said, it is pretty clear from their conversations last week that was a minority position that needs to be articulated. But, he also thinks if this proposal does go forward they should look very carefully at the ways in which the parameters are and what the conditions are. He felt that the idea of requiring phasing is very sensible. The area north of Trevillians Creek has two of the most questionable elements in this park. He had heard someone refer to it as an historical theme park without the rides. To delay that part of the project and let it be thought about a little bit more at the same time that the work is going on for the Eastern Connector would be very prudent. It may turn out that there are all kinds of reasons why the Eastern Connector cannot go there or why it shouldn't go there. But, there may be reasons, including the reason that the Lewis and Clark Historical Center is a higher and better use than the roadway. He stated that he was certainly open to that possibility. But, it seems that those arguments can be made and there is not rush on that part of the project. It would be prudent and sensible if they are going to approve this to approve the part south of Trevillians Creek.

Ms. Higgins stated that in response to his reference to how this would affect other applications that she did not perceive at all that they were making a use consideration. She thought they have under consideration a special use permit for a particular use in a particular zoning and that was before the Commission. But, the way he had worded it was that he was questioning or hinting that they should be looking at the use and that it does not meet the definition in the ordinance. Not to put Mr. Kamptner or Ms. McCulley on the spot, but that is a zoning requirement or decision and she did not know if the Planning Commission could say that they don't think it meets the definition and won't allow it under a special use permit. She asked that they separate this.

Mr. Rieley pointed out that when this request first came before the Commission it came as a community center and the zoning administrator approved that designation and they took issue with it. Now the request is back before the Commission.

Ms. Higgins stated that now they have clearly defined what that is. She felt that their role here is not to decide whether the use fits the definition, and she just wanted to ask Mr. Kamptner the question.

Mr. Rieley stated that the Planning Commission wrote the definition and were the ones who set the parameters. He guaranteed that if this request had come to them as something that could be justified on the basis of we have a historic site because it is on a river and people used rivers to explore the west, he would never have voted for it. That was not his understanding of what that zoning text was intended to be.

Ms. Higgins stated that she understands that, except the Commission crafts and recommends adoption of a lot of zoning text language to the Board of Supervisors. But, it is not necessarily in their preview to make the designation of what meets it and what does not. So she wanted to ask that question of Mr. Kamptner. If they denied or recommended it unfavorably based on it not meeting the criteria, then again she felt that the assumption here is that it does. What they are here to do is say how do they address the impacts and how do they craft it if the Commission decides to approve it within that framework. If it does not meet the definition, then they can't even consider it for a special use permit. She asked to be relieved of that question.

Mr. Rieley suggested that Mr. Kamptner answer the question, too. He pointed out that every time the Commission grants a special use permit or a waiver of critical slopes they are required to make a judgment about whether or not that use should be allowed. He pointed out that she did not have to agree, but in his judgment it does not meet it.

Mr. Kamptner stated that use determinations are made by the zoning administrator. Therefore, he would pass the question over to Ms. McCulley.

Ms. McCulley asked that the question be clarified.

Mr. Edgerton pointed out that in the second to last paragraph of the staff report it says, "The zoning administrator has previously determined that the proposed Lewis and Clark Exploratory Center meets the definition of historical center as defined by the ordinance." The question is has that determination been made.

Ms. McCulley stated that determination was made. There is not a separate written official determination. It was made as part of her review of the special use permit some time ago. In terms of the approach that she takes to these, she is not an historian. It is just like reviewing a plat that a surveyor or engineer has submitted. She is not going to check behind them on their work. They are the professionals and they are sealing it. She was not going to check behind and make sure that there are specific archaeological features and things like that because she was not an historian. She is taking their word for it. The primary thing that she heard out of their five point letter is the adjacency to the George Rogers' Clark birthplace.

Mr. Rieley pointed out that he did not go on the Lewis and Clark expedition. From his perspective it was not that pertinent at this stage of the game. He felt what was pertinent was the kinds of conditions and the sequence or phasing.

Ms. Joseph stated that it may be redundant, but she felt that it would be necessary to add some sort of condition making sure that there is some kind of collaboration with the City and County Parks Department to ensure that the buildings proposed could be reused for some kind of recreational purposes for the use by the City and County. She also felt that it was important that a Phase One Archaeological survey be done on this site to make sure where they are proposing the parking areas and everything else is not on some sensitive archaeological historic site. She also felt that there should be some sort of condition dealing with any kind of noise, particularly the outdoor amplified noise between certain hours. She felt it was important because what they heard last time was that the noise along the waterways travels very clearly and for great distances.

Mr. Rieley stated that clearly the sound ordinance applies, but in addition the Commission has often added a condition saying that no amplified noise be allowed.

Mr. Edgerton felt that staff had made it very clear this evening that all of this would be redundant, but at the same time he could not see any reason not to include it in the conditions.

Ms. Joseph stated that she had extreme sympathies about what Mr. Rieley was saying that they don't have documentation that tells us that this is a historic site. They have someone's renditions of conversations that they have had and it makes here very uncomfortable in designating this as an historic site and the fact that the ordinance is so clear on that.

Mr. Rieley stated that since this is the first historic center that it will be used as a model. It has to be. They are establishing the precedent by which future centers will go by. He felt that the way in which this is interpreted and designated as a historic center has to be consistent because they can't then tighten it back down and say no, they were just talking about places like Pine Knot where they are actually interpreting that site. He agreed with Ms. Joseph about those conditions. But, he would like to raise the issue that Mr. Stoll raised again for just having the special use permit cover the area south of Trevillians Creek.

Mr. Edgerton pointed out that the staff report on the top of page 4 reads, "It is important to remind the Commission that the special use permit procedure by its very nature predisposes that a given use may be allowed on parcel X, but not on parcel Y within the same zoning district. Therefore, any action on this special use permit would not set a precedent in the rural areas." He asked if Mr. Rieley was not convinced that was the case.

Mr. Rieley replied no, but that was a separate issue. The issue that he was talking about is simply designating the area for the special use permit is that part of the property that is south of the creek because it allows the majority of the project to go ahead on the intensive part of the property. The only thing it leaves out is really a fort and a tower, which are two of the most questionable parts of this to begin with. The trade-off between delaying the tower and the fort relative to the importance of this transportation connection he feels is pretty clear. Therefore, he recommended that they approve the part that is not going to be a potential obstruction.

Ms. Higgins agreed with all of the recommendations that Ms. Joseph made, but felt that it might be splitting hairs. A special use permit that allows a historical center she would not think is the same as saying we are identifying this as the historical site of "the site." That is not within our authority to do. The Commission cannot go out and point at the ground and say that this right here is an historical site. They are talking about a center that has a relationship and an adjacency. So when they say giving it historical designation, she did not think that was within the Commission's authority to do.

Mr. Rieley noted that was her interpretation and he felt that it was a risk.

Ms. Joseph stated what they needed was some sort of documentation that would substantiate the fact that this was an historic site.

Ms. Higgins stated that she did not conclude that by allowing a special use permit it does not make it an historical site. When they do a Phase One Archaeological Study if they find remnants or foundations or something along the stream that may be more, but she did not think that the special use permit makes it the same as an historic building.

Mr. Kamptner stated that he would like to add something that was not too technical. He has not looked at the historic site designation rules, but granting the special use permit for an historical center is not equivalent to a designated historical site. But, a determination that a historical center can go at this site is at least an explicit finding that there is an historical resource either on this site or adjacent to it.

Ms. Joseph stated that they could make the connection that the adjacency should have some sort of relevance to the historic site that is going and requesting the special use permit.

Mr. Rieley asked to put this in context of a little bit of history because this is not unprecedented. When the original master plan for the park was done his office had worked with Mr. Byrd. They brought the master plan to the County. At that time Jerry Fisher was the Chairman of the Board of Supervisors and he told them that a road had been planned to make a connection from the east and pointed to a couple of possibilities of ways that was planned to go. He asked if they had taken into consideration that the park was to get federal funding. They admitted that they had not. He insisted that the designation for this park that went for the application for federal funds did not include that land, and it did not include that land. It took out that area to the north and also the river corridor. It was very specific for the exact same reason that he did not want to complicate the process unnecessarily. He felt that it was very much the same issue. It just seems that the trade-off between building this tower and fort immediately and allowing the rest of the project to move ahead as opposed to going ahead and approving the parts of it that are not going to be a potential obstruction. They don't know if it is going to be an obstruction or not. But, it is a potential.

Ms. Higgins stated that all of the Commissioners were in agreement with that, and asked that they move forward.

Mr. Thomas asked if the existing athletic fields used microphones or amplified sound.

Mr. Craddock stated that they did not.

Mr. Rieley suggested that they include both his and Ms. Joseph's suggested conditions.

Mr. Kamptner asked before a motion was made that staff get clarification on either the phasing or what is being done with the area north of Trevillians Creek. He asked if it was being phased or if the recommendation was that the fort and the tower not be approved as part of this special use permit.

Mr. Rieley suggested that the Commission be very clear about that. He did not think there were any objections to building trails in that area that was consistent with the Byrd Nelson Woltz plan. However, they should be built by the County. They should not be spending money that can be attached to federal funds on that property. So the special use permit should only apply to the area south of Trevillians Creek, which was his view.

Mr. Edgerton stated that Mr. Rieley had made a very convincing argument that a prohibition of applying or using any federal grants in that area, which was consistent with what previously was required when they planned the original park.

Ms. Higgins questioned whether the Commission can actually carve out a piece of property and exclude it.

Mr. Kamptner stated that really what they were doing is delineating where the special use permit activities can take place. Related to that, he stated that condition 1 needs to be correspondingly revised before it gets to the Board of Supervisors for approval.

Ms. Higgins stated that the end of condition 1 should say, "the improvements shown on the referenced plan that are north of the creek are not covered under this permit."

Mr. Kamptner agreed that it would be towards that effect, but that staff can craft some condition language between now and the Board.

Mr. Morris moved for approval of SP-2004-004, Lewis and Clark Exploratory Center with all amendments that are stipulated by staff and that have been discussed.

Ms. Higgins seconded the motion. To clarify the motion she stated that it included the five conditions that are in the staff report with the following three changes:

- modification to #1 that a Phase One requirement be added;
- a condition that was specific to no sound amplification; and
- the other modification.

Ms. Joseph asked that the condition concerning the collaboration between the City and County Parks be added.

Ms. Higgins reiterated that the lease agreement collaboration language be inserted as a condition.

Ms. Joseph pointed out that she was very specific that they look at these buildings proposed so that they could be constructed if they need an alternative use at some point in time to include both the County and City.

Ms. Higgins stated that she did not think they could require that because the City has not even responded to this based on the input.

Ms. Joseph stated that the City owns part of this and they were just being nice.

Ms. Higgins agreed.

Mr. Morris amended the motion to include the additional conditions just discussed.

Ms. Higgins seconded the motion.

Ms. Joseph stated that she could not support this because she cannot see the connection between the historic aspects of this site and what is going to happen on the site.

Mr. Rieley agreed with Ms. Joseph's point, but really applauded their hard work. He felt that the motion that was coming out of the discussion was sensible.

There being no further discussion, the role was called.

The motion passed by a vote of 5:2. (Commissioners Joseph and Rieley voted nay.)

Mr. Kamptner suggested that the Commission take separate actions on the two modifications.

Mr. Morris moved to approve the two modifications as requested.

Ms. Higgins seconded the motion.

The motion passed by a vote of 5:2. (Commissioners Joseph and Rieley voted nay.)

Mr. Edgerton stated that SP-2004-004, Lewis & Clark Exploratory Center, would go to the Board of Supervisors on January 4, 2006 with a recommendation for approval.

In Summary from the Approved Action Memo:

Regarding Action on SP-2004-004*:*

Motion*: Mr. Morris moved, Ms. Higgins seconded that SP-2004-004, Lewis and Clark Exploratory Center, be approved only to include the portion of the request south of the creek and subject to the following conditions recommended by staff and amended by the Planning Commission:*

1. *The site shall be developed in general accord with all sheets of the plan entitled "Lewis & Clark Exploratory Center," revised October 18, 2005 and prepared by Nelson, Byrd, Woltz. Setbacks indicated in the table on sheets L3.1 and L3.2 do not set increased minimum setbacks. The improvements shown on the referenced plan that are north of the creek are not covered under this permit.*
2. *The top of the Lookout Tower, measured in elevation above mean sea level, shall not exceed [AMSL + 35]. The approved height shall at no time be taller than the tallest tree within 25 feet of the Lookout Tower, and shall include any base, foundation or grading that raises the tower above the pre-existing natural ground elevation.*
3. *A maximum of 12 special events, in accordance with Section 5.1.42.i, are authorized per calendar year.*
4. *A maximum of 4 festivals, in accordance with Section 5.1.42.j, are authorized per calendar year.*
5. *A lighting plan and a landscaping plan shall be submitted, reviewed, and approved by the Architectural Review Board prior to final site plan development plan approval.*
6. *In accordance with Section 32.7.9.9, a 20% tree canopy shall be required for the site based on the disturbed area for the historical center building, parking, and access road.*
7. *Prior to any grading or construction activity, the limits of the 100-year flood plain and stream buffers, where adjacent to constructed proposed improvements including the amphitheater, timber fort, lookout tower, entrance road and retaining wall, shall be flagged at 10-foot intervals by a land surveyor to prevent encroachment land disturbing activity, storage of construction*

equipment or materials, and actual construction of improvements during construction.

8. *Outdoor amplified noise is not allowed on site.*
9. *As stipulated in the lease agreement between the applicant and the City and County, the proposed improvements are to be reviewed by the City and County prior to construction to make sure there are alternative uses available for the improvements should the venture fail.*

The motion passed by a vote of 5:2. (Commissioners Joseph and Rieley voted nay.)

Mr. Edgerton stated that SP-2004-004, Lewis & Clark Exploratory Center, would go to the Board of Supervisors on January 4, 2006 with a recommendation for approval.

***Action on Modifications to Sections 5.1.42 and 5.1.42.g**:*

***Motion**: Mr. Morris moved, Ms. Higgins seconded, to grant the following two modifications from Section 5.1.42 and 5.1.42.g as follows:*

Section 5.1.42.a new historical center structures:
Approval of a modification to allow the historical center structure to exceed the ordinance provision that new buildings associated with historical centers not exceed 1,500 square feet in floor area with the following condition:

1. The new historical center structure shall not exceed 15,000 square feet in floor area.

Section 5.1.42.g Accessory Uses:
Approval of a modification to allow the floor area of accessory uses within the historical center building to exceed 10% of the total floor area of the structure with the following condition:

1. Accessory uses identified in Section 5.1.42(g) shall not exceed 20% of the floor area of the building.

The motion passed by a vote of 5:2. (Commissioners Joseph and Rieley voted nay.)

The Board took a break at 8:01 p.m.

The meeting reconvened at 8:07 p.m.

ZMA 2005-008 Pantops Park (Sign #14) - Request to rezone 4.87 acres (Tax Map 78, Parcel 16) from HC (Highway Commercial) to NMD (Neighborhood Model District) to allow a 42,000 square foot bank and office building and two 22,500 square foot mixed office and retail buildings with proffers. Highway Commercial zoning allows for commercial and service uses; and residential use by special use permit (15 units/ acre). Neighborhood Model District zoning is intended to provide for compact, mixed-use developments with an urban scale, massing, density, and an infrastructure configuration that integrates diversified uses within close proximity to each other. The Comprehensive Plan designates this property as Regional Service and Industrial Service in Neighborhood Three. Regional Service designates areas for regional-scale retail, wholesale, business and/or employment centers, and residential (6.01-34 units/acre). Industrial Service designates areas for warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre). The property, described as Tax Map 78, Parcel 16 is located in the EC Entrance Corridor Overlay District and the Rivanna Magisterial District on the south side of Route 250. This property is the former Moore's Lumber site. (Sean Dougherty)

Mr. Edgerton stated that due to advertising error the Commission will not hear this request as a public hearing item tonight. The public hearing will be opened to receive public input and the review will be treated as a work session.

Mr. Dougherty summarized the staff report and presented a power point presentation: (See staff report.)

- Pantops Park, LLC is requesting to rezone the former Moore's Lumber site near the intersection of Rt. 250 East and Rt. 20 North from Highway Commercial to Neighborhood Model to construct a central banking facility, offices and retail. The request is accompanied by a special use permit request for a drive up facility for a bank. The Comprehensive Plan designates this property as Regional Service and Community Service in Neighborhood Three. It is located in the Entrance Corridor Overlay District.
- During its review, the ARB had no objections to the rezoning request. The ARB has to review the applicant's revisions on December 12.
- The proposal is for three buildings. Each building will contain a mixture of uses. The general development plan is in accord with the principles of the Neighborhood Model.
- The staff report identifies a lack of the applicant's mitigation for the Albemarle County Service Authority's access for the lower parking lot. A new set of proffers includes this, which he passed around.
- Additionally, the applicant has replaced a proffer to replace a traffic signal that really could not have been implemented in this location in exchange for a $15,000 contribution towards pedestrian and vehicular improvements in the area. Given these new proffers, staff cannot be sure this contribution is adequate. The County Attorney has been given little time to review the revised proffers.
- The site contains manmade critical slopes, which were created through an approved site plan in 1972. The zoning administrator has made an interpretation that manmade critical slope that is a part of an approved site plan does not require a waiver by the Commission. This is essentially where the back of the existing Moore's property drops off to the lower part. There are some critical slopes there. The private easement on the site can be built as a road regardless of the pending proposal for a rezoning. However, with respect to this proposal the connection allows for better site access and the interconnections informative element that the Neighborhood Model identifies. Opposition has been raised by two neighbors, the Albemarle County Service Authority and Robert Adams, a physician who has a practice at 183 Spotnap Road.
- The three main concerns raised are increased traffic, costs associated with maintaining a private road and a potential inability to regulate parking and deliveries along a private road. Staff believes that these issues can be addressed in part with a new proffer for pedestrian and vehicular improvements. Additionally, a maintenance agreement would have to accompany the road at the site plan stage. Ideally this road will become a public connection. However, at this point the ability to make that road public does not exist. C.W. Hurt, who is the main property owner along Spotnap Road and in the area, has indicated support for the road and a willingness to cooperate with the applicant at the site plan stage. He noted that he had a letter from Mr. Hurt that he circulated.
- Staff recommends approval for the request. However, the changes to the proffers make for a more fitting response to the impacts of the proposal. However, staff is unable to determine given the submission of the revised proffers yesterday if the revised third proffer will fully account for the proposal's impacts.
- Then in addition to the rezoning, there is a request for a special use permit for a drive-up facility for a banking institution. The drive-up facility is located behind the building adjacent to 250 and is obscured from the Entrance Corridor, which is a very desirable condition.
- A requirement of a by-pass lane has been waived by the County Engineer. This is basically because the entrance to the parking facility is located in an area of the parking lot that is very far from access points and there really is no anticipation of conflicts of that facility. In addition, the engineer has requested that a turn around area be located near the entrance of the drive-through facility, and it is located there close to the entrance of the drive-through facility.
- The other justification for the waiver is that the applicant's is proposing to basically build the office portion of that building over the drive-through facility and this necessarily creates a restraint for the width of the lanes. In general, the by-pass lane in this instance seems excessive.
- With respect to SP-2005-15, the bank drive-up, staff had identified the following factors which are favorable to the request.
  1. The ARB supports the drive-up facility in this location.
  2. The design is in keeping with the Neighborhood Model.
  3. A safe system for vehicular and pedestrian circulation in the site's interior has been established.

- Staff has identified no factors which are unfavorable to the request.

- Staff recommends approval with the following conditions:

1. Drive-up windows will be limited to three (3); including one to be used for 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.

Mr. Rieley asked if the projection on the front of the building an observation tower, and Mr. Dougherty stated that it was not.

Mr. Dougherty presented a quick tour of the site through a power point presentation, which provided a view from different points on the site. He pointed out that the easement goes through the Service Authority parking lot, which has implications to it. He pointed out the intersection of South Pantops Drive and Riverbend Drive. There is a pedestrian signal, but there is no striping. One of the concerns staff raised is that with the increase of people working in this area and potentially opting to walk the pedestrian facilities existing in the area may pose a dangerous situation. He asked if there were any questions.

Mr. Edgerton stated that he was trying to find in the original proffers about the traffic signal, which VDOT has already said that they will not allow in that location because it was too close to the intersection.

Mr. Dougherty stated that the main reason was that the signal would be located too close to Rt. 20.

Mr. Edgerton stated that the current situation with this new set of proffers is that they are abandoning that request. Staff is concerned about the $15,000 being enough to cover the pedestrian facilities. He asked if there was a number attached to the traffic signal because he thought that would cost a lot more.

Mr. Dougherty stated that traffic signals would cost more, but the applicant is not offering any figure. He suggested that Mr. Cilimberg might be able to give a better idea about that. He pointed out that the applicant just submitted the revised proffers yesterday and did not indicate where they got the figure.

Mr. Rieley asked if there was a proffer for the light that had a fractional ratio based on the traffic on Route 250.

Mr. Dougherty stated no, that it was just for the hard cost to construct a light. The old proffers were contained in the staff report.

Ms. Higgins stated that the contribution shall be determined by multiplying the hard cost with the purchase and installation by the fraction and numeration which shall be the number of motor vehicles entering and exiting the connection. It is a typical prorated share contribution.

Mr. Rieley stated that if the signal is required because of this additional use he would question that method of determining the share of the cost.

Ms. Higgins stated that it was her understanding that the signal was not required and it is not even going to be allowed.

Mr. Morris stated that was correct.

Mr. Edgerton pointed out that the signal would be too close to this intersection.

Ms. Higgins stated that they could put the money on the table, but they can't spend it there.

Mr. Rieley stated that number 1 of the new proffer form in the third sentence it says that the applicant with the approval of Albemarle County Planning Department and consent of adjoining property owners, whose consent is required, design the extension in a fashion, so on and so forth. He asked what this proffer means if the consent is not forthcoming.

Mr. Dougherty pointed out that this was one of the other changes to the proffers. The Service Authority and the applicant have met and the Service Authority is opposed to the connection. He thought what they were trying to do there is say that they are willing to do it and they realize that building a road through and using the easement that is there would have impacts on the Service Authority. Therefore, they are trying to put their best foot forward and propose that they will cover what would be required to realign access for the Service Authority given the location of the easement and the effects that it has on the Service Authority's access to the rear parking lot.

Ms. Joseph asked what it does to this project if that road does not go through in staff's estimation.

Mr. Dougherty stated that it would require significant review and probably some alteration to what is here, abut they do have the right to build the road and they intend to do it. If the road did not go through it, he felt that it would cause significant problems or at least would make the site's access and the intensity of the uses proposed here really out of balance with what the site can support.

Mr. Edgerton stated that he was confused because one minute they were reading a proffer that says that all of the adjacent property owners have to sign off on it in order for it to be valid. Then staff is saying that the applicant has the right to build the road regardless of how the adjacent property owners feel.

Ms. Higgins stated that she interpreted that to mean that this is a connection back to a private road that involves people who signed a private road agreement of some sort at some time that says they are responsible for maintaining it. It all has to do with how they collaborate. Because if they put this traffic on a private road where the financial responsibilities are bore by others, then whose responsibility really is it? She suggested that they hear from the other parties that are here tonight, specifically Bill Brent of the Service Authority.

Mr. Dougherty clarified that what they were talking about is just the road or the private access easement and then the connection to the Service Authority's parking lot from this new road. The new road shares the easement that is there. The Service Authority's access to the lower parking lot is somewhat inside the easement that the applicant is proposing to construct. He pointed the triangular area. The part about the owner's agreeing is with reference to the access to the parking lot and not the private road.

Mr. Cilimberg stated what it boils down to is that the easement that they have the right to establish has a connection. They have to accommodate if they are doing that how the access to the Service Authority will be provided.

Mr. Edgerton stated that if Dr. Hurts owns the two properties that the applicant could go straight if he wanted to.

Mr. Cilimberg stated that the letter from Dr. Hurt indicates that he would agree with modifications that might better accommodate the connection.

Ms. Higgins asked if it was an expectation that this will stay a private road.

Mr. Dougherty stated that the applicant has proffered that he will dedicate and build with the rezoning the road to be accepted with VDOT standards. It is really a matter of getting further cooperation along Spotnap Road.

Ms. Higgins asked if he would define what he means by the road. She asked if it was the little connection from that parcel down to Spotnap Road or is it from the connection to Spotnap and all the way down to South Pantops. She felt that was a real element here.

Mr. Dougherty stated that the only portion that the applicant can build as a public section that VDOT can accept is on their property.

Ms. Higgins noted that VDOT won't accept a piece of a road that goes to no where.

Mr. Dougherty stated that they are planning on building it with the anticipation that somewhere down the road that a public connection could be worked out, but they cannot be expected to make that public connection on their own right now.

Mr. Cilimberg stated that they are going to design it to a public standard from 250 down to Spotnap. But, it won't be acceptable to VDOT until such time that Spotnap can also be accepted into the public system. That is the difficulty. It is not from there through their site. It is what exists. Without the cooperation of the landowners who are a party to Spotnap to determine how to make it acceptable to VDOT then that cannot happen. So it will remain private all the way through until such time that can be accomplished. The bottom line is that is what they run into when they are trying to make interconnections in an urban setting where existing roads have already been built to various standards, including private road standards. He felt that is the concern of the Service Authority, in that they are a party to Spotnap Road. He suggested that Bill Brent could speak to that. They are a party to the private Spotnap Road right now. He was sure that they would love to see the road become public as well, but it is going to take a combination of all of those who are a party to Spotnap to make that happen.

Mr. Edgerton invited Bill Brent to address the Commission, but noted that it was a work session.

Bill Brent, Executive Director of the Albemarle County Service Authority, stated that he came prepared to make statements in a public hearing, but he would reframe from that given the fact that new proffers have been offered that he has not had the opportunity to review. Initially the Service Authority's opposition is not to the project itself, but to the fact that they propose to build a road connection Route 250 to South Pantops Drive, a portion of which would travel over the existing portion of Spotnap Road which provides access to their property. They realize that a lot of large trucks and heavy equipment in our operations which travel Spotnap and they are concerned with the safety of our employees and our customers in traveling Spotnap. Spotnap has its limitations. It varies in width from 29 to 39 feet. Parking exists on one side of the street, but not on the other. There are sight limitations. The existing traffic control devices, such as painted curbs, signs and so forth, are routinely ignored. Being a private street the enforcement of these regulations is almost impossible. Adding through traffic to this street they felt was unacceptable. It was suggested in the staff report that this street at some point would become a public street and being accepted and maintained by the Highway Department. It was also suggested that the lack of cooperation to this end was preventing this from happening. Nobody has approached us about the possibility of converting Spotnap Road as it exists now to a state maintained highway. They are also concerned about the maintenance responsibilities. Spotnap Road is now subject to a private road maintenance agreement. The road is for the benefit of property owners which abut that road. Two parcels, none of which is the applicant's parcel, do not abut it, but does have an easement to the road. Another parcel, which does not abut it, but which has since then been developed and they did not utilize the access to Spotnap. He noted that the applicant's parcel, which is the subject tonight, is not subject to this road maintenance agreement. So as it stands today changes would have to be made to the road maintenance agreement to subject that property to the cost of maintaining the road. They have concerns about the access to their rear parking lot. The attorney for the applicant told him yesterday that they were willing to proffer that they would provide reasonable access. He would take them at their word and assumed that was in their proffer. He believed, but could not speak for the Board of Directors tonight, that they would consider reducing if not eliminating the opposition for the proposal that Spotnap become a interconnecting street if that street could be brought up to state standards and maintained by the state. But, of course, that would be a decision that would be up to the Board of Directors.

Ms. Higgins asked to ask one question of the applicant. Mr. Brent stated that there was a property of adjacency that was developed and did not connect. She asked if someone would point that property out.

Mr. Morris pointed out that it was the doctor offices.

Mr. Edgerton invited the applicant to address some of the issues.

Frank Cox stated that he was representing Mr. Dittmar, Virginia National Bank and everybody else that is involved with this project. This was a highway commercial zoned site. Moore's Lumber Company had a building sitting right on the line where they wanted to build their new building. Given the geometric of the site, the parking needs and the overall orientation of the property, they needed to scoot the building up to where it was located originally. Mr. Dougherty encouraged them to apply for the Neighborhood Model District, which has opened up a lot of issues on this. Over the last four months they have been trying to develop this site. For a small site of 4.8 acres, this is a very interesting way to take the Neighborhood Model in which they can't achieve everything, but can achieve a lot of the good things. They have been able to do that with relegated parking, pedestrian access and interconnectivity. They have looked at the easement and talked with the property owners to determine if a road meeting state criteria could be built within the easement that everyone agrees was established for the purpose of building such a road. In fact, there is an easement that continues off to the southeast that would allow Monican Parkway to move off in that direction if the will exist. There are some physical problems with doing that, but there is in act an easement in place. In the early stages of this project was where they got the idea of a possible signage, which was brought to their attention by some folk in the County. The idea of this road becoming a public road was also brought to their attention. He agreed with Mr. Brent that it was an excellent idea that the road becomes public. But in the meantime they were more than willing to participate in any maintenance agreements that are in place for Spotnap. The existing Spotnap should have been a public road to start with. Spotnap could easily be converted into a public road meeting an existing VDOT standard with very little work. It could probably take 2 inches of asphalt and one or two minor waivers of waive able design criteria that are in place through VDOT under their current regulations. But, in essence this project is one that creates less impact than the original Highway Commercial District. He was not sure if they knew they would have had to go through all of this to move the building 5 feet closer to the street if they would have done it. But they are here now and really want their support. They really want to work with the Service Authority if they want to tie into the road. At present their facilities trespass on the existing easement. He was sure that they have grown accustomed to the utilization of the easement in the way that their own facilities are plugged into it. However, this road is going to create interconnectivity in a serious vein that is going to ameliorate some of the traffic problems that they have on this southern side of the 250 corridor. They also have agreements to access directly to their west in the area that moves into Riverbend Drive through the existing medical facilities. Again, that was something that was insisted upon during our earlier work sessions with the staff. He felt that they have gone through the process the last four months of so and have come up and resolved a lot of these issues. They agree with the conditions that Mr. Dougherty has presented to the Commission relative to the special use permit. The revised proffer was submitted today in hopes of clarifying some concerns. He was not sure if VDOT has made a statement of adamantly not supporting a signal at that location. At one point there was rumination as to that being an intersection that would carry a significant road across to the north. They are not excited about a signal at that location at this point in time. However, the genesis of the signal proffer was one that they were trying to participate in that though from a traffic generation standpoint, it was a tail wagging a dog condition given the total ADT volume on 250. So here they stand with the proposal and he would certainly love to answer any questions other than the concerns Mr. Brent has posed. He was sympathetic with every issue that he has presented. He felt relative to the interest of the community in this project that it made a whole lot of sense. Bottom line it is a whole lot better than the Moore's Lumber Company redeveloping in its formerly existing shell. The pictures that Mr. Dougherty showed were of the site before they demolished the structures.

Ms. Higgins stated that the Code of Development addresses the parking requirements. The staff report indicates that they would have to work the parking requirements, of course, to the building and they don't have a building design at this time. But, what she was trying to understand is some of the references to the mixed distribution and phasing of land uses. The proffer statement does not specifically reference. It is Highway Commercial now and it does not specifically reference what uses that they are looking to incorporate here. So when you compare it to what is there now it is obviously better. But, are there specific uses listed.

Mr. Cox stated that the Code of Development on page 5 one of the specific requirements under the NMD District is that the uses be designated permitted and prohibited. Those uses under the existing Highway Commercial District that they have not excluded, they maintain those as allowable and permitted uses for the future. Those in italics are those which they have specifically excluded from the by right uses.

Ms. Higgins stated that the Code of Development will be incorporated by reference on the proffer form.

Mr. Cox stated that this was sort of like an overlay and these are the rules and regulations.

Ms. Higgins noted that so many of these uses don't seem to fit with the plan. In other words, a lot of these by right uses don't seem to fit necessarily with the plan. If the Code of Development is suppose to go with this plan, and then she did not know how these uses could be used. One of the problems here is parking and traffic and how it was going to be handled. So there has to be a nexus for those three issues.

Mr. Cox stated that the Code of Development placed a limitation on the total amount of retail that could be developed. It is limited to 11,000 square feet. That played hand and glove with the justification for the parking impact study that sought certain reductions using transportation demand management and a shared parking formula. Getting right to her questions, they sat down with the owners and reviewed the list of uses that were permitted by right and they scratched out the ones that they agreed to scratch out and kept the ones that they preferred to leave in.

Ms. Higgins stated that since it was a work session, she was not trying to make a judgment. She was just trying to look at the site with the parking and mix of uses. From the old school, every time one of the office spaces changed they had to go to zoning and figure out what the parking requirements are. In essence they could pick a few high uses that demand more parking and use it up and then have some vacant spaces because there is not a way to just typically give it with the uses that they were looking at. She just did not know how that could play out because there were a lot of uses in here that don't seem to fit it.

Mr. Edgerton suggested that the Commission might want to narrow the list down. But, from the owner's perspective why offer more than they have to.

Mr. Cox pointed out that it was quite possible that Mr. Dittmar might want to sell daylilies from the roof, and he would be permitted to do that with the uses permitted by right.

Mr. Morris noted that as long as he had enough parking.

Mr. Cox stated that the key point that she was making was relative to whether or not they were going to overwhelm the parking demands. What they tried to do with presenting the traffic impact analysis and the parking studies was to create a balance keeping in mind that they know that retailers want more parking than the County would prefer under a Neighborhood Model application of percepts less parking. What they resolved out of this was that it would be a safe and sound thing to do to limit the total amount of retail square footage permissible. They have all recognized in the work sessions with staff that the intent for the retail is to support retail ancillary to the principle office uses that are on the property as well as those that surround it so that whatever retail that it might be such as a deli or any other modest service use would be something that is pedestrian accessible as well as vehicular accessory to the community at large.

Ms. Higgins stated that what she was getting around to, and staff can research it, because the NMD is fairly new and there are not many cases where they have had it, but this is a stacked building and she was wondering why they don't have something like in the PD-MC or the new shopping center designation where basically you will have a mix of uses, assuming the shared, and you can set you parking spaces and it does not have to be recalculated every time a use changes.

Mr. Cilimberg stated that it will not have to be recalculated according to what Mr. Dougherty has told him.

Ms. Higgins pointed out that the Code of Development infers that it will.

Mr. Dougherty stated that zoning was not comfortable with any shopping center standard. By restricting the retail to 11,000 square feet, the bank has its own associated requirement and everything else is office. Essentially, the zoning administrator was comfortable with that, but there will be some fine tuning at the site plan stage depending on the uses. But, at this stage there is no way to determine that. But, what the Chief of Zoning said is that if they limit it to 11,000 square feet of retail that using the traffic demand management tools, which helps us get built into this development, the tools that are really needed to start to counter some of the car culture that is in Pantops and dominates it. Essentially, she is comfortable with those traffic demand management tools being implemented, whether it is changing the facilities with what they have in the Code. She is comfortable that at the site plan stage that these things can be worked out.

Ms. Higgins stated that what she would like to know is that when she sees three buildings if there is a more simplified way to do this rather than the way it is suggested to be done in the Code of Development.

Mr. Dougherty stated that the applicant proposed a more simple way of doing it and the shopping center requirement. But, zoning was not comfortable in applying that to the entire square footage of the buildings.

Ms. Higgins asked if someone looked at it to see if it meets the definition regardless of what zoning's comfort level is. She did not think that the intent was to prevent the application of those interpretations. When the uses change, even with the 11,000 square foot limit, that someone can go in and say well now we have gone to this higher use and we only have this many parking spaces so they can't rent to this person. She felt that they needed to get those two things together.

Mr. Edgerton felt that Ms. Higgin's question was very important and probably needed to be resolved if zoning was just looking at the parking for a specified amount of retail and the rest office.

Mr. Cox pointed out that they were asked to show how this site could infill even more intensely to give a graphic representation on how that could be accomplished. That was the purpose of the exhibit in the Code of Development for the parking deck. They recognize that if they did anything other than what was shown on the rezoning plan being reviewed that it would require another rezoning.

Ms. Joseph stated that when they were working on these parking impact analysis with Ms. Sprinkle and zoning that the idea was that it would give them certain flexibility for the uses on the site so they would not have to come back and ask for specific uses.

Mr. Cox stated that the NMD District has a lot of moving parts to it. He thought that when the County elected to adopt the NMD District in the form that it did that they recognized that it was not a perfect equation because they were working towards a dynamic equilibrium. There were so many pieces of this that even with larger projects like Albemarle Place when that was approved; it was approved with a very substantial shared parking study. But, part of the Code of Development it was recognized that with each site plan that was submitted that there would have to be a justification and a compatibility assessment with the initial parking study that was accepted with the zoning. Now as they established for the Pantops Park the parking impact relationships they did it thinking of really three uses. There was a modest amount of retail that would be support for the general area for pedestrians from the offices. The second dominant use would be the two offices in the southern portion of the project, which included the Virginia National Bank building of 86,000 square feet all total on site. But, the retail has the ability to serve a pedestrian market that is not going to inundate the site with vehicular traffic. That gave us he platform to work with zoning and to go through the TDM machinations and come up with a shared parking formula and a reduction factor that they have applied to the site. In looking at their parking they were thinking bank, office and some amount of retail on the first level of the back two buildings, but not necessarily having all of that for retail. But they would have that as the cap so that if everyone decided to drive in that there would be a cushion from a parking standpoint.

Ms. Higgins noted that she was looking for something more like Hollymead Town Center, which actually has a schedule based on how many square feet that you build. Then there is a range of 4.0 to 5.5 parking spaces designated for that mixture of uses. In this case she felt that it got rather complicated and that someone still perceives this after the rezoning and you get a site plan each time a tenant changes over having to re-verify something. She felt that they have made leaps and bounds to improve that process and they don't want to go backwards on it. She felt that could be further evaluated. This is probably one of the most walkable areas on Pantops.

Mr. Cox noted that with the medical offices right next door they did not want to preclude that from the list of desirable tenants for the property.

Mr. Craddock felt that this was going to be the backdoor to get to the new Martha Jefferson Hospital. He questioned a couple of connections shown on the plan.

Mr. Cox noted that one was for Crown's connection to the road and the other goes behind the medical office.

Mr. Cilimberg stated that what he had heard tonight was some concern about how the parking will be administered as part of the County's approval process. There are three points in time where parking would be evaluated. The first is here with the rezoning and what seems to be important in defining the amount of use and the various types of use to achieve the general parking that they can anticipate for the development as it is proposed. The second point in time is going to be as site plans come in and how particular parking will be required with those site plans based on the uses that will actually occupy the space. The third could be as different users vacate and relocate in spaces. What staff will do before this comes back to you is clarify with zoning how they will administer the parking. He felt there was some question whether that third point in time was going to be one that zoning even gets into. He felt that there was some anticipation that is going to be at the site plan stage and then that will be it, and as uses change there will not be a re-evaluation of parking there. But, staff will confirm that with zoning. He felt that is what the Commission wants to know.

Ms. Higgins stated that was because it ties back to the uses.

Mr. Edgerton stated that he thought that he heard a lot of concern about trying to get something a little more committed on how that connection is going to be made from this road down to South Pantops Drive on Spotnap. He did not know if there was any way to resolve that.

Ms. Joseph asked if there was a real possibility of Spotnap becoming a public road.

Mr. Rieley stated that it does seem that from a practical perspective that this is going to have to move ahead in a less than ideal circumstance and that is if you are connecting up a road that was built to state standards as opposed to one being built as a private road. But, he did not see any reasonable way to anticipate that this thing is going to be done as a public road all at once. So it seems that the missing piece not in the proffers is the maintenance agreement. That is something that has to be addressed and Mr. Cox said that they were willing to do that. Beyond that he felt that the assurance that they can get the pieces moving ahead in such a way that it can feasibly lead to this being a public road that is in everybody's best interest.

Ms. Joseph stated that the other piece in the proffers has to do with the pedestrian access and they don't really know what they think is necessary out there.

Mr. Rieley noted that staff said that they would look into that more carefully.

Mr. Edgerton stated that was going to be hard to determine without some educated guess as to what pedestrian draws would be included in the retail. If it is a Starbucks, he felt that they have a problem. That is not just going to be supported by pedestrians, but it is going to be pulling an awful lot of traffic on

to the site. He noticed looking down the list that they are covered for that use in the Code of Development.

Ms. Joseph suggested that they make it easier for pedestrians if they want to walk to the site.

Mr. Rieley felt that a connection all the way from this project down to the connection between South Pantops and where it comes into Riverbend as the slide showed is important. It seemed that there is a missing piece in the sidewalk in that it did not continue all the way to the property line. If you get to the property line and can't make the connection, then that is an issue. He felt that it should be conceptualized all the way through and then they build as many of the other pieces as they can.

Ms. Higgins stated that the other thing in the report is the bank drive-in window that takes a special use permit. She noted that the ARB did not take exception to it. It is behind the building and has been reviewed by engineering.

Mr. Rieley stated that he loved seeing them utilize the Neighborhood Model District to achieve a somewhat better form, but he did want to encourage the Commission and staff to be thinking about the more pure vision of the Neighborhood Model and to strive to work in that direction as much as they can while at the same time realizing that they need to be pragmatic and need to encourage these kinds of zoning designations because it is going to get them closer to where they want to be.

Ms. Joseph felt that the pedestrian connections would make a good argument for the Neighborhood Model. She asked Mr. Cox if he could take these amenities that he gave numbers to and put them on the application plan.

Mr. Cox stated that the large scale plans contain that information, but that the plans might have been reduced to a level where it cannot be seen. One of the things that they attempted to do was to integrate the civic space with the bank building between a car wash and a car dealer. Also, as they pursued longer range master planning looking at creating a site that afforded the ability to have an ultimate phase ten years down the road where they could capture more of the essence of the Neighborhood Model. Mr. Dougherty was very interested in them organizing the space right at the intersection of 250 and Monacan Parkway so that an infill building would fit there. They adjusted their site for that purpose. They also reconfigured some of the early phase pieces of the projects so that ultimately they could accommodate more of an infill opportunity. He felt that was a good and responsible encouragement by staff of an applicant in a transitional area that albeit right now is not anything that he would classify as Neighborhood Model material. At least they were creating a paradigm that hopefully others would follow as more properties redevelop. Relative to private road, he felt there was near term and long term aspect of that too. They very much feel from a transportation standpoint that the intra-neighborhood vehicular movement is going to be aided and abetted by this connection because it would provide some opportunity for access to those that are circulating internal for the precinct, this commercial and industrial area that is south of 250. But, he felt that if the desire is for this to become a public road they want to participate in that. But, also there is truly going to need to be an in initiative by the County because they cannot go out and dictate that a road that should have been public in the first place becomes one. But, they certainly want to participate in that process. As they have worked with VDOT and as they have developed preliminary plans and profiles for our alignment and ensuring that they can fit it all within the existing easement they can do that and still meet current day VDOT design criteria.

Ms. Joseph asked staff if he has any other questions answered at this point.

Mr. Dougherty stated that he would like to mention from the staff report that VDOT identified the reconfiguring of the median and the narrowing of the travel ways on 250 would allow for a right hand turn off 20. That does not exist now so if you are waiting to turn on 20 you have to wait until all of the traffic has gone through. That is one thing that has been identified by VDOT that would work towards some of the transportation issues in the area.

Ms. Higgins stated that he was talking about west bound right turn on to 20. She asked how that would

relate to this site. To do that you would have to come out of the site and then turn left and then turn right, which is probably not a movement that you would want to encourage.

Mr. Cilimberg stated that in a case of new development within a larger area of existing development and existing traffic circumstances what typically has happened in the past with proposals that there be some kind of contribution towards ultimate improvements. Right now they have $15,000 on the table now. So the question is whether or not that is significant to deal with future transportation improvements in the area, whether they be pedestrian or with the road system. He stated that he did not think putting a right turn lane onto Route 20 is substantially created by this proposal. He felt that contribution towards improvements that are necessary in the pedestrian and road system is very much contributable to this development. The question is what the proper amount is.

Mr. Rieley asked staff to bring some suggestions next time on that issue.

Mr. Edgerton stated that the Planning Commission will discuss this item, Pantops Park, again on December 13, 2005.

In summary, the request was deferred to the December 13, 2005 Planning Commission meeting due to an advertising error. In lieu of a public hearing, the Commission held a work session to discuss the proposal and provided feedback to the assist the applicant and staff with outstanding issues.

Work Session.

Dickerson Road Affordable Housing Project Pre-Application Work Session – (David Benish)

George Ray, applicant, submitted two attachments. (See Attachment A and B)

Ms. Joseph asked if there had been a change made since the staff report, and Mr. Ray replied that some changes have been made.

Mr. Benish summarized the staff report. (See Attachment C)

- This is a pre-application work session to discuss the Dickerson Road Affordable Housing Project proposal for the 200 (+/-) units on 22 acres off of Dickerson Road adjacent to the airport and the Hollymead community.
- The Commission held a work session on this proposal in February and staff provided a brief summary of what they felt was the findings of that. Also, the minutes from that meeting are attached in order that the Commission can decide whether they agree with staff's summary. Staff summarized the Commission's answers to the five questions raised previously. Those questions spoke to whether this is the appropriate location for residential. The area in the Comp Plan is shown for industrial. So there was a concern about the conversion from industrial land use to residential. That type of change from the Comp Plan usually requires a Comprehensive Plan Amendment process to be reviewed and the Commission was concerned about the length of time that process would undertake. Therefore, the Commission had some discussion about how to deal with that. They also had questions about the mix and the design of the development. Staff tried to summarize the Commission's direction at that meeting. This type of review process does not require specific recommendations or actions. Therefore, the Commission is only providing direction to staff. He asked if the Commission had any questions about staff's summary or the minutes because they could go over that.
- The minutes indicated that the Commission did feel like additional information on the proposal would be important from the applicant.
- The applicant has continued to craft the proposal.
- One of the issues that the Commission had was how the commitment was going to be made to affordable housing. The applicant has worked on that issue. Ron White from the County's Housing Office is present. The applicant has been working with Mr. White about those concepts.

- Staff had hoped that a market analysis would be available from the Places 29 process, which would really help us further discuss the issues regarding the need for the demand for industrial land. That is not completed as of yet.
- Staff is prepared to walk the Commission through the Comp Plan to talk about the inventory of industrial land. Staff has provided some numbers on the inventory to the Commission previously. The summary of that is that we probably have significant capacity in the short term of 5 to 10 years, but over the long term of the plan there may be some question as to this pattern of piece mill erosion of our industrial land designation.

Mr. Edgerton noted that on that point that one of the things that has come out of recent conversations here is that the land values have gotten so high in the 29 Corridor areas that even if the zoning is there it is irrelevant because you can't afford to buy the land for that use. There is nobody that is willing to spend that kind of money for industrial property.

Ms. Joseph asked if he was saying that they were willing to spend it for residential, and Mr. Edgerton stated that was correct and they were hearing this over and over again for residential and retail.

Ms. Higgins noted that it was the supply and demand issue.

Mr. Benish pointed out that staff is still trying to investigate that and feels that the market analysis might help target what sort of demands there are for these types of land uses and what are the right price points for those. Also present is Bob Marry from the Thomas Jefferson Partnership for Economic Development. He may be able to speak to some of those issues if the Commission wants to ask some questions. Susan Stimart and he have spoken with Bob about this issue. As he recalled Mr. Marry did recognize that there are some pricing issues with certain types of industrial land. By the same token there are other industries that would potentially pay that price depending on what product that they were going into. For example, the UREF Fontaine Research Park and that sort of end of development potentially may have a need for a location that this might provide an opportunity for. But, he would let Mr. Marry speak to that. He felt that staff has found that for certain types of industries that the County has priced itself out of the market competitively in other areas. But, how far that covers the range of things that are permitted in Industrial Services is the question. Industrial Service includes Light Industrial, which is basically a business district or an office park. Ron White is also present for questions. The main reason for the work session was for the applicant to provide more information, and then they could get back to the question of how to address this as a process moving down the road.

He distributed the early from the Places 29 process that included the framework of a. b. and c, which were reviewed by the public. Two of those, framework a. and c., did include this area as a low density residential area. There are four maps in the packet. The first map is the existing conditions. Framework a. and c. show it as low density land. Framework a. shows more protection of the environmental areas, such as the stream valley areas. Framework b. shows it as an employment designation with a small retail area located there. Framework c. shows a little more basic low density. (See Attachments)

The consultants will review this area and look at the findings in the future to come up with a more detailed recommendation. Option b. is intended to reflect what would be an employment type of designation, which would be consistent with this Comprehensive Plan. The middle option more reflects what is in the Comp Plan now.

In the staff report the prior concept map was included because staff was not able to coordinate getting this proposal in the packet because Mr. Ray was out of the country. Staff was not able to coordinate it and what Mr. Ray is passing out is different.

George Ray stated that he was one of three partners of the limited liability company that is proposing this project. He presented a power point presentation to walk the Commissioners through the proposed project. The purposed of the presentation is to obtain feedback and direction from the Planning Commission. Since the February 1, 2005 work session, they have been working on incorporating the Commission's comments. They have been working with staff and Ron White on this proposal. The

purpose of this second work session is to get some direction and feedback on how the Commission would want them to proceed with this project.

The name of their LLC is Sugaray and the principals are Suzanne Jessup Brooks, who is present tonight. The others include Mike Gaffney and himself. They have had discussions with two builders to provide the housing product that they would show them tonight. One is Gaffney Homes, who helped them on Glenwood Station with an affordable housing product which has been very successful. They have also had some discussions with Ryan Homes. They feel that they have a very strong affordable housing component for this project. He felt that they would be able to build a better product for less money than many of the area builders due to their type of production. They have had a scale model built by an architecture student at the University of Virginia. He presented the model which displayed each of the proposed products shown on the colored renderings. Mark Keeler, the owner of Tara Partners, was present to comment on the site plan. The project manager, Marilyn Young, was present as well as his wife, Jane. They have named this project Willow Glen. The objective, much like Glenwood Station is that they want to deliver a quality product in which all of the condos, single-family residences and townhouses all relate to each other. He felt that there ought to be a relationship between the architectural elements. Ms. Young will go over the affordable housing components proposed for this project.

They have proposed 210 units on 23 acres, which was 8.99 units per acre with a combination of townhouses, condominiums or flats, and single-family houses. They held a series of focus groups, which included some fire fighters and teachers. They found that the fire fighters and police officers in particular did not want to live in attached housing. They have used that for a couple of things. One in trying to provide some diversity for the community, but also to reduce the density and to put a product within the project that might be of interest to those particular civil servants. He reviewed the proposal.

Marilyn Young stated that they know that the affordable housing target is for the 15 percent to be affordable. In our community with the approximately 200 units that is 30 units out of the total. As they are looking at the targeted market for who is going to qualify for the assistance, they know that there has been a lot of talk about the work force component that are people that are needing housing, which are people who are important to the community. This would include the active and retired law enforcement, fire fighters, teachers and civil servants in the County. The question is how do they go about getting enough money and how do they get the assistance. So this is what the developer and the builders are proposing to do here. She felt that it was a real testimony to their commitment to affordable housing to be willing to be this specific this early on. They have a lot of work to do in order to know how much this project will cost to deliver and how long it is going to take and what the product is going to be. They have made this commitment to offer these specifics at this point in time and are looking for a $10,000 write down from the cost of the lots on those 30 that are going to be affordable lots.

Ms. Joseph stated that she was clarifying that what they were offering was 15 percent of all of the units in the affordable range. Right now what she was explaining was what affordable means.

Ms. Young stated no, that this was the target of what the program is going to be, and they have to figure out where the money is going to come from.

Ms. Joseph asked if 15 percent was what their affordable component is.

Ms. Young stated that was correct. What they wanted to talk about was what was affordable and how do you determine who qualifies and those sort of things. There are no easy answers. She thanked Mr. White for being present and that they would appreciate any clarification that he could add. This is a significant offer from the developer and the builders to talk about. What is the cash or contribution that the builders and developers are going to be offering to help make it affordable? Given the cost of the land and development, it is a real tough nut to crack. Given the amount of money available to the County, it is a struggle meeting these targets for any developer. So they are proposing to do it two different ways. To have a direct write down of $10,000 on the cost of a lot to the builder, which will come right off the top or returned to the partners in this development? Then to get another $300,000 that is going to come from

a surcharge on the remaining lots. Basically, they would be helping to create a fund or a pool of monies that could be used according to criteria that is yet to be developed.

Mr. Edgerton asked if they discount the price of the lot to the builder, how they are going to control whether he adds that price back in to his assessment.

Ms. Young stated that it would be part of the contract to the builder.

Mr. Edgerton stated that this would deal with the first sale, but not the resale.

Ms. Young stated there have to obviously be other things that are going on. The assistance programs through the County and PHA and others, there are all sorts of criteria for appreciation payback and how much profit sharing or interest carry, whatever. There are a lot of things to think about. But, this is the basic structure of it. The current assistance structure that they have right now, it is her understanding that these County and Piedmont Housing Alliance programs and other state and local money would serve those people with median incomes up to 80 percent of the area median. They would like to expand that program a little bit, and would talk a little more about why they feel they need to expand it. But, to look more to the VHDA guidelines, which moves according to the household size to 100 to 115 percent of the area median. She presented the power point presentation noting that there are a lot of things to think about in formulating these programs. They need to work collaboratively with the County to come up with solutions to solve all of these problems about the structure of the program. HUD uses the household size in their calculations. The average household size in Albemarle County is somewhere around 2.6 percent. With those adjustments it will reduce the number of people who would otherwise be eligible. VHDA starts with the average County income, but each agency does it differently. She reviewed the various assistant programs including the County's down payment program noting that it was very difficult for many persons to qualify. Therefore, either the criteria have to change or somehow there has to be some other type of pot of money. They are hoping that they can work with the County to try to fill some of that gap. She stated that they were trying to focus on as low as they can go down. When you look at those income levels it is probably going to be 70 to 100 percent that is going to be the meat of the market for new construction. Possibly for existing construction they could reach down further. Given new construction as a practical matter it is going to be tough.

Ms. Joseph asked if the proposal was for 15 percent affordable and the rest would all be at market.

Mr. Edgerton stated that 7.5 would be affordable by the definition because the definition as it stands is 80 percent or less.

Mr. Ray stated that if it was the will of the County that they take the whole pot and direct it to 80 percent or less that they would do that. But, they keep hearing that there are people who cannot afford housing who make more than 80 percent of the median income. They are throwing it out there, but if they don't like it they will adjust it to something else. They want to work with the County. This is just one of their ideas.

Mr. Edgerton asked if in the focus group if they found they could deal with the greater then 80 percent.

Ms. Young stated that if you take someone who is a mid-grade employee if you look at those HUD guidelines that many times they will exceed. She guessed the question they have to ask is how well they are servicing their house to work towards their target right now.

Ms. Joseph asked if they realize when someone comes in for a rezoning for residential and a special use permit is that our expectations are that 15 percent are for affordable housing regardless. She was really surprised because when this was presented for an affordable housing project that it was going to be something different than what they normally see. That is what they normally see.

Ms. Young pointed out that they were working under the VHDA guidelines.

Ms. Higgins stated that it would be how they arrived at the number of units that need to fall in that category. They understand what it takes to get in that category. But, affordable housing has been defined by the County as the 80 percent. So that would account for the whole. That is a target and does not mean that every development has to be 15 percent. Some have been approved with less.

Ms. Joseph felt that when this was presented as an affordable housing project that there certainly would be more than 15 percent of the units offered would be in the affordable range.

Ms. Higgins stated that they would require it across the board.

Mr. Edgerton stated that this proposal was one-half of what the Comp Plan was proposing.

Ms. Young stated that they would go back and look at the price points. They obviously are in the conceptual stage here. They are trying to work with the County and the goals that they understand with working with the work force that a lot of people who don't qualify at that 80 percent with the conflict what somebody can afford at those levels. There just is not a product. They are trying to deliver a product as opposed to proffers that is something that they are not always seeing here. Before you get to the rezoning, she asked to speak to Places 29 plan c. She noticed on plan c that there is a lot of high density right along 29. She does not live two blocks off of 29 and they get a lot of road noise. She asked that the Commission reserve their judgment on whether their proposal fits in with the proposed Ruckersville Parkway at this point.

George Ray stated that the impression that he got was that the 15 percent was a defined and that the County did not want more than 15 percent because there is a down side in concentrating too much affordable housing in one area.

Mr. Edgerton stated that was exactly correct, but that the difference was a huge gap in their definition of affordable and the Comprehensive Plan.

Mr. Ray stated that if they wanted them to put all of the units into the $185,000 or less that they will do that. He felt that they felt that they had come up with a good idea to include the group of persons who could not afford a house in the County such as the firefighters, school teachers, etc. that go to Waynesboro to buy a house that were not included in the group of 80 percent median income. This need would be in addition to the people with 80 percent or less. If it does not work, then they will modify it. He stated that he could not put $600,000 in a pot and help both groups. But, if he had to do 15 percent affordable, then he did not know how to do it. It depends on whose guidelines that you use. For 16 foot wide townhouses the builder feels they can sell that for $200,000, and they will come up with a way to wipe that down either by writing down the lot to the builder or making a cash contribution from the other pot, they will figure out a way to make those affordable at $185,000. The second part of that proposal was for the ones that cost $235,000; they would come up with a private pot of money that does not have government restrictions and do some down payment assistance for people who make above the 80 percent of the median income. In order to do that they would buy a different priced house and would qualify to buy the different price house. They would still be subsidizing their acquisition. They could also donate it to Piedmont Housing Authority and take a tax write off, which they could then put back into a bigger program for that and let them administer it. He noted that they don't know how to administer it.

Ms. Joseph asked where they would find houses for people to buy.

Mr. Ray stated that it would be restricted to this project. They would be putting the money up and they would be restricted to spend it on this project. They would be giving the money for affordable housing, but would restrict it to being used for their project.

Mr. Thomas stated that the affordable housing would be paid for by the higher price housing.

Mr. Edgerton pointed out that a school teacher would not qualify for this affordable housing.

Mr. Ray noted that it would almost have to be a two person income.

Mr. Edgerton stated that if there was a single entry work force there would be nothing available.

Ms. Higgins pointed out that the buying power would be limited based on the increasing interest rate.

Mr. Ray stated that those are all legitimate concerns. The challenges are the rising interest rate, the length of the approval process and the construction cost escalation. When the full impact of rebuilding the Gulf coast hits he did not know what was going to happen to some of these projects. Those are all things that they are going to try to address. This is a legitimate attempt to build as quickly as possible affordable housing in Albemarle County. He could not emphasize enough that they were offering to work with the County staff and Ron's office to come up with something that is workable. He pointed out that if what they proposed tonight would not work, then they would figure out another way that would work.

Ms. Joseph stated that there were a couple of other issues that they should discuss. The first is the layout and the industrial land. The proposed layout looks great. The industrial land aspect of this is something that she is very concerned about because of where this is located, because of all of the roads that connect because it is near the airport, because there is the nuisance factor and the factor of convenience for someone that does have an economic use on the property. So that is the kind of thing that they also need to talk about not only what their target rate is in affordable housing, but also the other aspects. She pointed out that she was getting very tired.

Mr. Cilimberg stated that there were some fundamental questions regarding this. The Commission has an idea of what the applicant would like to pursue. In order for this to happen there are some other things that have got to happen. The Commission has to give some direction on how they would like to see that occur if at all. The first point is that this is industrially designated in the Comp Plan. So there is not an application that can be made right that is consistent with the Comp Plan that is any where close to what they are proposing to do. So if you want to change the plan the question is what you have to see in order to make that change beyond what you have seen tonight. As an example, as to the employment aspect of the land use that is there now and what is the mechanism that you want to look at that. Is it on its own as a review or is it part of what they are doing right now as part of Places 29. Places 29 will be a comp plan change. In fact, when you had Mr. Wood's proposal for additional area the Commission told him to change the Comp Plan and they would like that to be looked at concurrently with Places 29.

Mr. Edgerton stated that he would like to continue down that route. It makes a whole lot more sense to look at the entire region rather than a specific area.

Mr. Cilimberg stated that Places 29 as Mr. Benish mentioned will look at the need for industrial land versus other land. That is part of the analysis and is part of what ultimately comes out as the options for dealing with this particular area will be reflective of that. He felt that the three scenarios that were laid out for the public were just for reaction. Next they will submit some real scenarios for consideration. By early March that is what is going to be before the public. Unless the Commission is directing staff to be pursuing this independently of that, then their best recommendation is that they be looking at Places 29 as kind of a land use approach to this area while the applicant is looking at how they might want to be structuring a project provided the plan gets changed.

Mr. Ray stated that what they would be requesting is that the Commission allows them to go to the site plan stage and let them start preparing the site plan. They would ask that they consider the Comprehensive Plan Amendment and rezoning at the same time simultaneously. Some of the things that scared them are the rising interest rates and some of these costs that they are going to have, which is going to make a project like this more difficult. He would suggest that they came to the Planning Commission in February of this year, which was before the Places 29 project began. He noted that he was in the public sector for 20 years and these things always have a habit of dragging out. He pointed out that they were offering an affordable housing project and would work with the County any way that they can, but they need their help with part of the help being an expeditious review of the project. Otherwise, he feared that it would become more and more complicated.

Ms. Joseph stated that she could buy into that if they had not come in and seen them last February. But, it has been a long time since February since they've come back again.

Mr. Ray stated that they had done a lot of work since February.

Ms. Joseph stated that this project was not any different than what Mr. Wood is doing.

Mr. Ray stated that they were in line first.

Mr. Thomas stated that he had always been worried about the industrial property around the County, specifically in depleting all of the LI zoning. He asked if this stays LI what type of use they would put in.

Ms. Higgins stated that it was zoned RA, but was shown in the Comp Plan as Industrial Service. She noted that if there was a rezoning before the Commission, the question would be if they would rezone the property consistent with the Comp Plan. She felt that would be a very difficult thing to do because of the residential context, the input you would get next door, etc.

Ms. Joseph agreed because they were currently working on Places 29 and were trying to look at this and how it meets the regionally. When they look at this regionally she hoped that the County was looking at what is happening in the rest of the County too and how whatever they do in this area will affect the other areas.

Mr. Edgerton stated that he would not be surprised if Places 29 does not come back with another recommendation other than Light Industrial for this area. He favored allowing the consultants to sort out this mess.

Ms. Higgins stated that if this was a comp plan amendment before the Commission without Places 29 going on she felt that they were all saying the same thing. She felt that was a meaningful way to tilt. If there was a rezoning request for light industrial it would be hard to deny it, but it would possibly be difficult too. But, maybe this is more compatible. She felt that there were a lot of rezoning uses that could be request that the neighborhoods would be very much impacted by.

Mr. Morris stated that when he originally read this he had built up false assumptions on his part. But, the applicant is proposing to locate a 200 +/- affordable housing project on approximately 22 acres. After he read through this he was curious to know how the applicant was planning on doing it. When they started talking about the 15 percent instead of the 100 percent, he felt that was logical but he misinterpreted it. He felt that was where the balloon was burst for him because he made false assumptions based on what he read. He apologized, but that was where he was coming from.

Mr. Benish asked if there were any questions for Mr. Ron White, County Housing Director.

Ms. Joseph stated that it was very important for the Commission to know what is going on in Albemarle and felt that it was very important the next time that they discuss this for Susan Stimart to be here.

Mr. Benish stated that Ms. Stimart's function is to help promote partnerships to implement the County's neighborhood model and not in charge of the economic development for the County. But, she certainly was versed in what is happening. The last thing that he wanted to clarify was with the Wendell Wood process that they went through. What they have agreed to with Mr. Wood's proposal was that they would come back at strategic times during the Places 29 process. The earliest strategic time was after they would get the economic information to vet it in full and at the time that they would have some sense from the consultant with what the proposals would be either by charrettes coming out in that February or March time frame. The question would be how much public vetting of those that you would want, which would dictate the earliest possible time that they could bring this back to you. That would be the first opportunity that they would see a consultant recommended series of proposals and some public feedback on those. He felt that was where the March/April window was, which was how they were planning to proceed with

Wendell Wood's proposal. That does not mean that they were committed to an action. Mr. Wood is recommending that 225 acres be amended in the Comp Plan from Industrial Service.

Mr. Edgerton pointed out that he had heard that project has gone away and gone to Nelson County.

Mr. Benish pointed out that he had not withdrawn the comprehensive plan amendment.

Ms. Joseph asked if staff was proposing that you bring this along the same tract when that information is obtained.

Mr. Benish stated that during the work session with Mr. Wood they had discussed coming back to the Commission before an adoption of the Places 29, which was at the next strategic point if there was additional information that they could further discuss that issue.

Mr. Rieley stated that this was different than Mr. Wood's project because there was a considerable amount of design work and quite specific proposals from the place mix as well as the design of the site and the buildings.

Ms. Higgins pointed out that the comp plan amendment has to go through before the rezoning.

Mr. Rieley stated that it seemed that there should be a mechanism to forward a proposal that is specific as this into that process so that it can be evaluated. Because it is not as if the whole County is a blank slate and they are not looking at previously developed sites as if they are a blank slate. He did not see any reason why a piece of property that has a concrete proposal on the table can't be put into the mix as it might have some influence on the direction.

Mr. Cilimberg asked if he meant by in the mix as being a part of the Places 29 review.

Mr. Edgerton suggested that they take the proposal to the consultants and tell them this is what they want to do.

Ms. Joseph felt that it made prefect sense to do that.

Mr. Rieley did not think it can or should come with a recommendation particularly, but he did not see any reason why a specific proposal can't be evaluated within that context and considered. They may find that it is a good fit or they may find that it is not. Or they might find that it is partially a good fit.

Mr. Cilimberg stated that our approach with dealing with a project like this somewhat like Mr. Wood's would be to show the consultant what is being proposed.

Mr. Rieley stated that he would absolutely agree.

Mr. Cilimberg stated that it was not something that they would hold out and say let's see what you come up with and then we will compare it to this. They would want them to see it, understand it, evaluate it and consider it as part of what they are coming forward with. That gives them an early look at how they see that fitting. That may allow them to move on with this project and not have to wait for further approvals in the Places 29 process.

Mr. Rieley stated that in addition they also in the Crozet Master Plan requested changes. They requested that they take a chunk of area out and put it in somewhere else. Therefore, what they adopt may not be what the consultants will bring back to us.

Ms. Higgins asked if they were saying that it would be considered concurrently.

Mr. Cilimberg stated that what they were saying was to give the consultant what the applicant has developed, evaluate it and have them provide their thoughts regarding that in context of the bigger picture

of the recommendations that are going to be coming forward with for this winter meeting and bring that to the Commission and let them see how they see it fitting. Then the Commission will make a decision whether to move forward with the rezoning application with the understanding that the comp plan amendment may actually be something that happens later.

Mr. Morris agreed.

Ms. Higgins stated that they would potentially consider the rezoning without the comp plan amendment.

Mr. Cilimberg stated that they could go ahead and basically do them concurrently with the understanding.

Ms. Higgins asked if the applicant should just put a request in now for a comp plan amendment.

Mr. Cilimberg stated that this would be much more expeditious. He pointed out that he did not think there was any application that could be put in now for a comp plan amendment change that would go any quicker than having it evaluated as part of the Places 29 discussions that were going on right now because they have the resources to look at.

Ms. Joseph pointed out that the market study was very important.

Mr. Cilimberg stated that there is a process going on right now and changes will result out of that.

In summary, the Planning Commission held a work session on Dickerson Road Affordable Housing Project. The applicant gave a power point presentation and reviewed the proposal, particularly the affordable housing components of the project. The Planning Commission reviewed and discussed the proposal and provided the following comments and suggestions to the applicant on how to proceed with their request:

- There were many unanswered questions related to the applicant's mechanisms for providing affordable housing, whether the proposal met the 15 percent target and how it would be administered.
- The proposal should be forwarded to the consultant to be evaluated and considered as part of the Places 29 regional review. The specific proposal would have some influence on the direction of the study and possibly allow the applicant to move forward and not have to wait for further approvals in the Places 29 process.

Old Business:

Mr. Edgerton asked if there was any old business.

- Next week Mark Graham will be present information on the Hollymead Town Center runoff to the lakes at Forest Lakes.

Mr. Edgerton asked if there was any further old business. There being none, the meeting proceeded.

New Business:

Mr. Edgerton asked if there was any new business. There being none, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 10:30 p.m. to the next regular meeting on November 29, 2005.

V. Wayne Cilimberg, Secretary

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