Albemarle County Planning Commission
December 6, 2005

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, December 6, 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; Tamara Ambler, Natural Resources Manager; Claudette Grant, Senior Planner; Bill Fritz, Chief of Current Development; David Pennock, Senior Planner; Mark Graham, Community Development Director 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.

Recognition of Pete Craddock for 5 Years of Service with the Planning Commission:

Mr. Cilimberg stated that the honors tonight go to Mr. Craddock for his 5 years of Service with the County on the Planning Commission. He presented Mr. Craddock with a Certificate of Service from the County of Albemarle.

Consent Agenda:

a. **SDP-2005-103 Community Self-Storage Preliminary Site Plan – Critical Slopes Waiver Request** – (Steve Tugwell) (Tax 061, Parcel 124E)

b. **Approval of Planning Commission Minutes** – September 20, 2005 & September 27, 2005.

Mr. Edgerton asked if any Commissioner wanted to pull either of the items from the consent agenda for further review.

Ms. Joseph asked to discuss the critical slope waiver request for SDP-2005-103, Community Self-Storage Preliminary Site Plan – Critical Slopes. She had no problems with the request, but has been talking with Mr. Tugwell about what has been going on recently with staff policy concerning critical slope waiver requests. She asked if staff could briefly go over that with the Commission and explain if there is a written policy available.

Mr. Fritz stated that he could answer that question in Mr. Tugwell's absence. Recently there was a change in the interpretation of a provision in the zoning ordinance made by the zoning administrator, which has not been made in writing. For years the interpretation was that all critical slopes required a modification to allow their disturbance. The modification in the interpretation was that if the County authorized the creation of critical slopes by virtue of an approved site plan you don't need a modification to disturb those critical slopes in a future site plan or subdivision action. But, the critical slopes have to be shown on an approved site plan. This particular application before the Commission, for example, has clearly man-made critical slopes, but staff was unable to identify the approved site plan that authorized their creation. Therefore, staff determined that the critical slopes modification was needed in this case.

Mr. Rieley asked if there are critical slopes that are a part of the site plan, but which were not created as a part of that site plan that would not apply.

Mr. Fritz stated that was correct if there were a portion of the property that had critical slopes on them that may have been man-made by virtue of some prior action, but it was not shown on an approved site plan.

Mr. Rieley asked what if it was shown on the site plan, but was not created as a part of that site plan.

Mr. Fritz stated that the critical slopes have to be created as a part of an approved site plan. If they were shown on a prior site plan that they were pre-existing man-made slopes or pre-existing natural slopes but were shown on the approved site plan and were not being modified in any way, that to further develop those would require a modification. It is only critical slopes created as part of an approved site plan that don't need a further modification to allow the disturbance. It is a pretty narrow subset.

Mr. Rieley agreed, but did not feel that it was unreasonable. His question is that the ordinance certainly does not make that distinction. He asked Mr. Kamptner if that is something that ought to be clarified in the ordinance because the ordinance just refers to critical slopes and defines the critical slopes.

Mr. Kamptner stated that was something that they can clarify when the critical slopes regulations are amended.

Mr. Rieley stated that it seemed that if they were cutting it that finely that in the interim that should be put in writing because that is a fine distinction.

Mr. Fritz stated that it has not been put in writing, but he would agree with him that it should be put in writing.

Ms. Higgins pointed out that based on the new Entrance Corridor that these critical slopes will be visible from Rio Road.

Mr. Fritz stated that the critical slopes are probably beyond 500 feet from the Entrance Corridor District. He pointed out that on the day of creation of the Entrance Corridor District on Rio Road or Route 29 this parcel did not front on either road. This parcel has existed for a number of years. Only that portion of the parcel that is within 500 feet is subject to the Entrance Corridor regulations.

Mr. Pennock stated that this request will be reviewed by the ARB.

Ms. Joseph stated that the staff report conditions were favorable and state that it will have limited or no visibility and improve an existing problem.

Mr. Fritz stated that there were some eroded slopes on the property.

Ms. Joseph felt that was really important to note and just wanted to clarify this issue.

Motion: Mr. Thomas moved, Mr. Craddock seconded, that the consent agenda be approved.

The motion passed by a vote of 7:0.

***Public Hearing Items**:*

SP 2005-010 Bart Neumann - Boat Dock 315 Rivanwood Place (Sign #42)
PROPOSED: Private boat dock on the South Fork Rivanna Reservoir
ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre); FH--Flood Hazard: overlay to provide safety and protection from flooding
SECTION: 30.3.05.2.1(2) Water Related Uses within the Floodway
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/density (.5 unit/acre)
LOCATION: Dock to be placed at west side of the Reservoir (TMP 45-67A), approximately 0.60 mile upstream of the Earlysville Road (Route 743) bridge crossing. Dock to serve Neumann property (TMP 45-185)

MAGISTERIAL DISTRICT: Rio
LEAD REVIEWER: Tamara Ambler

SP 2005-030 Michael Caplin Boat Dock (Sign #47)
PROPOSED: Private boat dock on the South Fork Rivanna Reservoir
ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre); FH--Flood Hazard: overlay to provide safety and protection from flooding
SECTION: 30.3.05.2.1(2) Water Related Uses within the Floodway
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/density (.5 unit/acre)
LOCATION: Dock to be placed at west side of the Reservoir (TMP 45-67A), approximately 0.70 mile upstream of the Earlysville Road (Route 743) bridge crossing. Dock to serve Caplin property (TMP 45-187)
MAGISTERIAL DISTRICT: Rio
LEAD REVIEWER: Tamara Ambler

Ms. Ambler summarized the staff reports for SP-2005-010, Bart Neumann and SP-2005-34, Caplin.

- Since the two requests were very similar she would discuss them at the same time. The two proposals are for the installation of a private boat dock for loading, fishing and bird watching on South Fork of the Rivanna River. One boat dock is intended to serve the adjacent Bart Neumann property, which was tax map 45, parcel 185. Directly adjacent to that is a proposal, which is the next special use permit application, to install a boat dock to serve the Michael Caplin property, which is tax map 45, parcel 187.

- These have been the first boat dock requests in several years and an updated coordinated process needed to be developed specifically the boat docks themselves will rest on city property, since the City of Charlottesville owns the reservoir. What needed to happen was a new coordinated process between the city and the county and Rivanna needed to be developed. That took several months to establish. Mr. Newmann and Mr. Caplin were very patient as they worked through that new coordination process. At this point in time Rivanna Water and Sewer Authority have issued their individual boat dock permits for both permits. The City of Charlottesville has signed off on the special use permit applications for both due to the boat docks within the floodway.

- There are currently a number of boat docks already in place on the reservoir. The addition of the proposed dock would not appear create adverse impacts nor detract from the primary use of the Reservoir, which is a public water supply reservoir. Staff does recognize, however, that a proliferation of residential boat docks could potentially detract from that primary use.

- Staff is recommending approval of the request with conditions associated with lighting and restricting impacts to the required 200 ft. vegetative stream buffer.

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

Ms. Joseph acknowledged that there is the normal pool elevation and the floodplain elevations and they have gone out and put some stakes in the ground. She asked how they were going to handle this if the property was sold or another inspector goes out that it will be documented where that precise area is that has been designated. She asked if there was some other tape that they could pull somewhere from another reference point just so that everybody knows so they can stay out of trouble.

Ms. Ambler stated that the only thing that she knew to do was in regard to the fact that the normal elevation of the reservoir was 382 and given that day she was able to figure out the elevation for where the floodplain is and then where staff wanted the buffer. She noted that there is not currently any effort to put a permanent stake in the ground or other thing of that nature.

Ms. Joseph asked if she was getting too detailed and is it that important.

Ms. Ambler stated that from her prior working experience in the County she has not seen other properties where that has been specifically permanently marked in the field.

Ms. Joseph stated that it would probably not cause any problems, and Ms. Ambler agreed.

Mr. Edgerton asked if the sheet with the elevation of 390 is basically the buffer line or is it 200 feet horizontally.

Ms. Ambler stated that it was 200 horizontal feet from the edge of the floodplain, which is what is required under the ordinance. She did make a clarification that both of these properties were existence and the improvements located on the properties prior to 1998 when the Water Protection Ordinance was adopted. Therefore, it is impossible for them to have that 200 foot vegetative buffer. In discussing this with the County Engineer, who is the Program Authority for the Water Protection Ordinance, they were trying to achieve some sort of compromise in maximizing the amount of woody vegetation in that buffer while not burdening the property owner by trying to make them adhere to something that was not in effect when they had their house. So the agreement that the she discussed with the Chief Engineer was that basically between the edge of the water and that floodplain at 390, which gives you in the field about a 35 foot horizontal buffer. In most of the non-point source literature a 35 foot buffer is usually a minimum for achieving nutrient sediment reductions. So that is basically just a site specific compromise on these two locations. Around the rest of the reservoir there are no current improvements. That buffer extends 200 feet from the edge of that floodplain, which would be from 390.

Mr. Edgerton asked if that would actually include both of the houses, and Ms. Ambler replied yes, that it would.

Ms. Higgins asked if in looking at the buffer from the aerial shot that right now the owner has cared for lawn in that area.

Ms. Ambler replied that these aerials are from 2002 and in Mr. Michael Caplin's situation on tax map 45, parcel 187 that buffer has actually grown up more than is shown in the photographs. During the last three years there is a lot more woody vegetation. So that area in between where she found the elevation of the edge of the reservoir and that elevation 390, he has actually got wooden vegetation there already. She showed the aerials to help show what it looks like, but it is deceiving because more vegetation has actually generated over the last several years.

Mr. Craddock asked if both of the boat docks were coming from the same company or if it just made it easier to review the two requests together.

Ms. Ambler stated no, that it was actually at the choice of the applicant.

Mr. Craddock asked if there was any verification required as to the current requirements of the wood used now as opposed to the old treated wood that they used which had arsenic in it.

Ms. Ambler asked Andrea Terry, who was the Watershed Manager at Rivanna Water and Sewer Authority, to help her with that question.

Andrea Terry, Rivanna Water and Sewer Authority Watershed Manager, stated that as part of that coordination process that Ms. Ambler talked about, Rivanna had some work to do to update our policies and our construction requirements and that was one of them. When the applicants came to us to obtain the permit they gave them the construction requirements and they coordinated with Rivanna regarding the structures which they have built. They have been on site and seen the built structures and are satisfied that they are the right materials to protect the water quality of the reservoir, which are what their RWSA's main concern is.

There being no further questions for staff, Mr. Edgerton opened the public hearing for both SP-2005-010 and SP-2005-030 and invited the applicant to come forward and address the Commission.

Bart Neumann, resident of 315 Rivanwood Place, stated that they have been working with Ms. Ambler and Ms. Terry in order to go through all of the steps that they needed to do. The dock will be used for boating and fishing. If there are any questions, he would be happy to answer them.

Michael Caplin asked to add that this was sort of an unknown territory and the two staff persons did an extraordinary job of figuring out the solution for an unsolvable question because there were no guidelines because it has been so long since anybody asked the question. So he would just state for the record that they did a great job.

Mr. Edgerton asked if there were members of the public present who would like to address these applications.

Tom Strassburg stated that he received a notice because his property joins the South Fork Rivanna Reservoir. It occurred to him that when he purchased the property it was his understanding that he could not have a boat dock or any sort of structure adjacent to the reservoir because it is owned by the City of Charlottesville and so on and so forth. His concern is that now all of us who now own property that adjoin the reservoir apparently received notices of this and may feel that if this is possible then why they should not pursue building a boat dock. Since he does some canoeing, he would really like to have a boat dock. It is a question at some point they will have to face the decision of when will this be stopped. If everyone wants to build a boat dock, then at some point perhaps that cumulative effect is a problem. When his application comes before the Commission he hopes it receives a similar favorable recommendation. The other concern he has is that 30 years from now he realizes that it might be necessary to raise the height of the dam. When that occurs it would seem that the appropriate protections ought to be in place so that subsequent owners or these owners should they still own the property are not in the position to claim compensation for a taking of their dock based upon the flooding that is bound to occur.

Mr. Edgerton pointed out that he believed that both of these were floating docks. He thought that it was mandated that the docks be floating docks so that they would move with the water level.

Mr. Strassburg stated that was his understanding. But, it seems as though it was conceivable should that water rise by 6 or 8 feet in that particular area that something should be clearly non-compensable should that occur. Those are his comments, but he does not take opposition to the proposal.

Mr. Rieley agreed that was a very good point.

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

Ms. Higgins stated that she had a similar concern because of that potential issue of more boat docks, but there are modifications to the basin. But, it appears that the boat dock use permit agreement that the property owners are required to sign and Rivanna Water and Sewer Authority has particular language in number 7 that probably protects that. It talks about not in any way interfering with the lawful operation of the reservoir including flooding and land management by the authority. Years ago she viewed the reservoir with Ms. Huckle who pointed out that there are boat docks and there are not boat docks on some of the properties. Having no boat dock actually can cause by going through the mud to create a lot more land disturbance and damage dragging a boat in and out. She was not saying this was a reason, but it does identify the area and it makes it a clean transition to the ground to the water. The other part of this is that this buffer under this requirement will remain intact. There are many property owners on the reservoir that completely mow everything down. It is a difficult ordinance to enforce and the people who have been there for many years it is in disagreement with their use of the property. So that being said, she felt that having a standard in a policy might be very effective in saving that minor land disturbing activity that happens on almost all the properties and can be abused.

Mr. Craddock asked how many lots were around the reservoir.

Ms. Joseph pointed out that Ms. Ambler had written the Commission a little note that there were 178 lots.

Ms. Ambler stated that was the number of parcels adjoining the reservoir.

Mr. Craddock asked if 19 percent had a boat dock.

Ms. Ambler stated that 19 percent had no evidence of a boat dock and 14 percent did have evidence.

Mr. Thomas asked if it was something the Commission should pursue regarding the number of potential docks that will be put on it and the repercussion to the reservoir at this point or is that the city's responsibility.

Mr. Edgerton stated that personally he felt that even though this may encourage other folks to want to have a boat dock that he thought each case is addressed individually. If there is an issue then that will be the time to deal with it. The City owns the property. The Rivanna Water Authority controls it. He pointed out that he really was confused at first why the County was involved.

Mr. Kamptner stated that the County regulates the land use.

Mr. Morris felt that Mr. Strassburg's comments were well worth taking into consideration when they take a look at trying to nail this down a little bit more.

Mr. Rieley pointed out that with the vast edge of shore line that he felt that the number of potential boat docks would be spread out. He was particularly concerned with the second point that Mr. Strassburg raised that in the event that the water line is raised that this not be considered a taking or something that requires compensation. He felt that was exactly right that it should be undertaken with the understanding that it is being constructed at the land owner's expense and if the water level has to be raised in the future to serve the primary use of this facility, which is the water supply, that should not be compensable. He wondered if they could add a condition that would cover that. He asked if there was anything in the existing conditions that would cover that.

Ms. Ambler stated that the conditions were Rivanna Water and Sewer Authority's conditions in their boat dock use permit and agreement, which were in Attachment D. As Ms. Higgins' pointed out that number 7 indicated that the permit shall not constitute an interest in resolvable property and activity herein shall not in any way interfere with the Authority's lawful operation of the reservoir including flooding the City of Charlottesville's land managed by the Authority and maintaining, etc. It is my understanding that should cover that.

Mr. Kamptner stated that this provision is much more detailed than any special use permit condition would be. This is a condition between the applicant and Rivanna Water and Sewer Authority. He pointed out that the County is really only authorizing the use.

Mr. Rieley stated that he had one further footnote, which is that they might point out to Rivanna that number 10 under Attachment E says that the use of CCA treatment was discontinued as of December 30, 2003. It was only discontinued for residential use. It is perfectly appropriate for and lawful for other uses. Therefore, that might be something that they want to say. He felt that was a statement of fact that was incorrect.

Ms. Ambler thanked Mr. Rieley for pointing that out. Staff will take that comment back to Rivanna.

Ms. Higgins asked how they would keep track of the boat dock restrictions and regulations.

Ms. Terry stated that Rivanna assesses a yearly fee, which is a means to help them track that.

Ms. Higgins asked if a contractor buys a property that during a title search that will not show up.

Ms. Terry agreed that it would not show up in a title search.

Ms. Joseph asked if any other special use permits show up in a title search.

Mr. Kamptner stated no, that the County does not record special use permits, proffers, variances or any of the land use approvals. He noted that the special use permits run with the land by law and not by the fact that it is recorded.

Ms. Higgins voiced concern that the special use permits do not reference the separate agreements.

Ms. Joseph pointed out that normally they would say receive approval from Rivanna and they already have because both agreements have been signed and approved.

Ms. Higgins suggested that it was a timing thing because in the next request the agreement might not have been done. They are not saying that these agreements are being relied upon in the special use permit conditions.

Ms. Terry stated that in the order of things Rivanna's permit had to come first before the City would sign the special use permit before it could be heard by the County.

Ms. Joseph noted that the City has to sign the application before it comes before the Planning Commission. She felt that they had everything that they need.
Mr. Kamptner stated that he did not think they needed to go to those lengths in this situation. The relationship here is different from the typical land use application because they really have Rivanna, although they are not the legal owner, they are the landlord and they ultimately control what happens on the reservoir. The County is granting permission, but they really control what happens.

Mr. Edgerton asked if they wanted to add a condition about the takings.

Mr. Rieley stated that he did not think it was necessary, but he really appreciated Mr. Strassburg bringing up the issue.

Action on SP-2005-010:

Motion: Mr. Morris moved, Mr. Thomas seconded, that SP-2005-010, Bart Neumann – Boat Deck 315 Rivanwood Place, be approved with staff's recommended conditions in the staff report.

1. There shall be no lighting within 25 horizontal feet of the Reservoir, measured from the elevation of normal pool, which is Elevation 382. See Attachment H.
2. There shall be no removal of vegetation or earth disturbance within the 200-foot stream buffer associated with the installation of the boat dock. The stream buffer is measured from the edge of the floodplain, which is Elevation 390. See Attachment H.
3. There shall be no other structures, such as decking or stairs, constructed in the 200-foot stream buffer.
4. Vegetation shall be allowed to naturally regenerate in the buffer area between the normal pool elevation of the Reservoir (Elevation 382) and the elevation of the edge of the floodplain (Elevation 390), where mowing has historically taken place. See Attachment H.

The motion passed by a vote of 7:0.

Mr. Edgerton stated that SP-2005-010, Bart Neumann Board Dock, would go to the Board of Supervisors on January 4, 2006 with a recommendation for approval.

Action on SP-2005-030:

Motion: Ms. Higgins moved, Mr. Morris seconded that SP-2005-030, Michael Caplin Board Dock, be approved subject to staff's recommended conditions in the staff report.

1. There shall be no lighting within 25 horizontal feet of the Reservoir, measured from the elevation of the normal pool, which is Elevation 382. See Attachment H.

2. There shall be no removal of vegetation or earth disturbance within the 200-foot buffer associated with the installation of the boat dock. The stream buffer is measured from the edge of the floodplain, which is Elevation 390. See Attachment H.
3. There shall be no other structures, such as decking or stairs, constructed in the 200-foot stream buffer.

The motion passed by a vote of 7:0.

Mr. Edgerton stated that SP-2005-030, Michael Caplin Board Dock, would go to the Board of Supervisors on January 4, 2006 with a recommendation for approval.

***Public Hearing Items**:*

ZMA 2003-008 Woodbrook Station (formerly titled Rio Hills) (Signs #65,66,67)
PROPOSAL: Rezone 1.21 acres from PD-SC - Planned Development Shopping Center - shopping centers, retail sales and service uses; and residential by special use permit (15 units/acre) to NMD Neighborhood Model District - residential (3 -34 units per acre), mixed with commercial service and industrial uses.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Regional Service - regional-scale retail wholesale, business and/or employment centers, and residential (6.01-34 units/acre).
LOCATION: (tax map 45/parcel 94A; Berkmar Drive [Route # 1403] approximately .75 miles from intersection of Berkmar Drive and Rio Road
MAGISTERIAL DISTRICT: Rio
LEAD REVIEWER: Claudette Grant

Ms. Grant summarized the staff report.

- Parkside LLC has requested a rezoning of approximately 1.21 acres from Planned Development-Shopping Center to Neighborhood Model District. The property is located on Berkmar Drive. The property is currently undeveloped. It is currently the undeveloped portion of the Rio Hills Shopping Center and is located behind Rio Hills Shopping Center.
- The applicant is requesting approval of 8 residential units and approximately 9,600 square feet of commercial office space. The proffers the applicant has provided include a sidewalk along Berkmar Drive from the southern most property line northward to the rear entrance of the Rio Hills Shopping Center. The proffers also include a stairway and pedestrian crossing from the eastern portion of the site to Rio Hills Shopping Center.
- The applicant was presented to the Planning Commission on February 24, 2004 as a work session item. The original request was for an amendment to the PD-SC District, which would amend the original Rio Hills Shopping Center application to allow a 2-story office building with 10,858 square feet of gross floor area.
- In many ways the plan conforms to the Comprehensive Plan and to the Neighborhood Model principals. But, there are some issues regarding the design, the need for a street tree waiver and the lack of a written commitment for affordable housing that should be addressed.
- Staff can recommend approval as proposed by the applicant with a waiver of the street tree requirement along Berkmar Drive North with the entrance to the project if the Commission does not feel there needs to be a commitment to affordable housing. However, if the Commission feels that a commitment is necessary, then an appropriate proffer would need to be offered by the applicant before this rezoning could be approved or other options would need to be pursued.

Mr. Edgerton asked staff what was the by right use of this property right now. It was his understanding that this property was promised as a buffer as part of the shopping center development. It sounds like the buffer is not living up to its expectation. He asked if that buffer requirement tied to the shopping center approval. If that was drawn as part of the shopping center approval years ago and now they put buildings on it that he was a little confused about what the by right use of the property is.

Ms. Higgins pointed out that back when Rio Hills was approved, knowing the history of what is across the road, there was not a school there and it was actually residential property. Therefore, at that time it was

the land use that the property was abutting, which was her understanding of it. The County subsequently purchased the land, tied them all together and put in a school and retained the parcel that you see as a vacant parcel, which is owned by the County of Albemarle.

Mr. Cilimberg stated that he thought the question is regarding the Planned Development-Shopping Center's zoning that this parcel currently has.

Mr. Edgerton stated that if the parcel was a part of the shopping center rezoning, then how it can be pulled out.

Mr. Cilimberg stated that they were pulling it out by a rezoning action. If they were to change the PD-SC as they were originally were proposing they would have allowed development to occur there, which was one approach. That was one approach. The Commission suggested more of a Neighborhood Model approach, which means a different district. In either case they would be changing what currently could happen there under the PD-SC that exists by your zoning action or ultimately the Board by its zoning action.

Mr. Edgerton asked if they did not have to worry about the past action where a promise was made to the community that this would be a buffer, but now they were talking about rezoning that promise.

Ms. Higgins pointed out that since the use across the road had changed that maybe it was a change in conditions.

Mr. Edgerton asked what could be done on this particular parcel under the current zoning.

Mr. Cilimberg stated that in this particular area of the PD-SC what exists today is what can be done. That is why they are seeking the rezoning.

Ms. Higgins questioned the boundary shown in the exhibition that was in their packet that showed the buildings. She asked if it would be a separate parcel.

Ms. Grant stated that the parcel had recently been subdivided.

Mr. Rieley stated that street trees were shown on the residential side of this, but not on the side with the commercial building. He asked why this was done.

Ms. Grant stated that it was something that they had discussed. The reason it was not on the northern portion of the property was because of the Rivanna Service Authority easement that runs across the property, which was shown in purple. They did not want to have to cut the trees.

Mr. Cilimberg stated in order to fit the building in with the existing curb, and then sidewalks and then the easement they would need to pursue the waiver.

Mr. Thomas asked staff why they need to discuss affordable housing on such a small parcel.

Ms. Grant stated that it is an issue that the Commission often discusses. Staff is really asking for guidance from the Commission because it is only eight units, which is a small amount. But, nevertheless, staff feels that it is something that needs to be addressed however the Commission decides to deal with it.

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

George Ray stated that he wanted to address their question, and then he would turn it over to Hunter McCardle from McKee Carson who will make a more thorough presentation. As Ms. Grant mentioned, when they came to this group back in February, 2004 his understanding was when they left that meeting was that they had unanimous support to rezone this to PD-SC. As he was leaving Mr. Rieley asked him to see if he could work with the County staff and develop this under the Neighborhood Model, which is

what they have done. He felt as a result of that they have a much better product than originally proposed. It has taken them quite a long period of time to put the pieces together, but he felt that this would be a much better project once it is done. He commended the County staff for working with them. To address the question, it was his understanding that when Rio Hills Shopping Center was approved it was before the construction of Berkmar Extended. The land across the street was all zoned R-6, Residential. At some point in time when Berkmar Extended was built and the proposed Western By Pass was identified the County changed the land use of that wedge of property across from this site from residential to transitional. Most of that property has now developed commercially, which includes State Farm Insurance, Pool business, Pet Food Discounters and Jefferson Home Builders, etc. He thought that the reason that it was so important to be used for screening at one point has gone away since that adjacent property is now commercial.

Hunter McCardle, representative for McKee Carson, reiterated that they have come up with a better product by achieving all of the principles that are applicable to the Neighborhood Model in creating a mixed use project on a particularly difficult site in a small infill site. He felt that it was a good use and hopefully a future precedent for how future small infill projects could be created to accomplish the mixed use with the Neighborhood Model principles within the growth area instead of extending our infrastructure out into the Rural Areas. He felt that it was very clear about the trees because they had worked with staff and the Service Authority to come up with different arrangements to get street trees along Berkmar Drive. That includes using small flowering trees. They have a nice hedge proposed along the parking area to reduce the visual impact of the parking. They have also used the relegated parking because they could not put it behind the buildings because the site is so narrow and tight. Therefore, they relegated the parking between the buildings. They went ahead and achieved some shared parking to reduce the amount of parking as much as possible on that. They tried to achieve all native species and reduce the amount of storm water as much as possible. He presented a model for the Commission's review. He noted that the Service Authority was not willing to work with them to allow any trees within their easement on this site.

Mr. Ray pointed out that the engineer that they worked with was concerned with root intrusion from a Dogwood tree into a cast metal pipe that is 5 feet in the ground. Therefore, they got a letter from a landscape person saying that typically roots from Dogwood Trees don't go 5 feet in the ground, but if they do there is material that you can put at the bottom of the hole that has something to kill the roots if they get that deep. He offered to continue to work with them to try to work that out. He felt that it was a situation that she might not have been familiar with the type of trees that they were proposing and they could possibly coordinate that.

Mr. McCardle stated that at this point they have looked at Dogwood and Red Buds and have sent all kinds of information to them.

Ms. Joseph asked if they have received an easement to plant part of this off site.

Mr. McCardle stated that was correct.

Mr. Ray pointed out that they have easements with the shopping center to build the concrete stairs. There is actually a separation from the shopping center in the back where you could walk through where Soccer Select used to be. Then they have an easement between the shopping center to plant all of these trees on that slope and to maintain them they have that agreement. They closed on this land and bought it yesterday. There are a couple of very miscellaneous easements such as one for storm water and the sanitary line. He pointed out that was also a Virginia Power easement. This property has more recorded easements than any piece of land that he has ever seen.

Mr. Rieley noted that his proffer simply says build stairs and walk as shown. He asked if he would have any problem in stipulating that the stairs and the walk would be built either to County standards or to VDOT standards.

Mr. McCardle pointed out that it was stated that way in the Code of Development.

Mr. Morris asked how many residential units would be contained in that building.

Mr. Ray stated that what they have in their current planning are 8 rental units there. The building has not been designed or priced. Therefore, it is not clear what the rental rate will be on those. He supposed that there was always the option if the rental market did not work that they could make condominiums and sell them off as individual units. But, with that small of a building it would probably be quite expensive to do that. Therefore, he would envision that they would be rental units.

Mr. Edgerton stated that it looked like four 2-bedroom units on each floor.

Mr. Edgerton pointed out that it had not been priced and the construction drawings have not been completed. They don't want to pay an architect until they make sure they can build the project.

Mr. Craddock asked what would be the rent that is classified as affordable. He asked Ron White what that amount would be for this type of unit.

Mr. Ray stated that he did not have the answer to that.

Ron White, Director of Housing, stated that not knowing specifically what type of unit it was going to be it was rather hard to say. But, from the information that he has gotten it was possibly a mix of 2 and 3 bedroom units. Some of the preliminary rents that they have talked about would most likely serve the households in the $42,000 to $52,000 income price range. So if the rents stay close to what has preliminarily been discussed, they would be looking at work force housing rents. He would not say that they were looking at Section 8 housing rents, but at work force housing rents.

Mr. Rieley stated that there is a statement under the factors not favorable to the rezoning discussing the fact that there is no affordable housing commitment and then there is the following sentence, "It should be noted that the Director of Housing said that 15 percent affordable housing policy should not be applied to this project." He asked if that is because 1/8 of the units would be 12 ½ percent and not 15 percent.

Mr. White stated that if they remember the proposal that they talked about several months in a work session in phasing in affordable units based on development size they did not include any affordable units on a development under 12 units. The Commission or Board has not dealt with that. But, that is the proposal that they have been working on. He thought that the Commission was favorable to that phasing, although it has not been adopted. So he believed that in a development of this size and given the fact that the projected rents when they have discussed this in the past looked to be reasonable rents for the proposed project or product. They are not talking about Riverbend and other models.

Mr. Edgerton stated that it sounds like a very reasonable proposal of anything less than 12 does not apply. But, that if that is actually adopted and they go in that direction, then they are urging people to do a lot of little projects so they don't have to deal with it. That would be a real tragedy.

Mr. White pointed out if they go that direction that they need to have safeguards in dealing with adjacent properties and ownership so that people are not coming in and doing things in phases to stay below the limit. That is what other localities have done. They need some legal work to be done on that.

Mr. Edgerton stated that one of the things that worried him a little bit about this project and not having any kind of a commitment to affordability is the immediate neighbor to the south is a trailer court, which is in pretty much disrepair. But, at the same time that probably really represents a real affordable housing option. He asked if they have focused on what kind of impact this might have on something like that.

Mr. White stated that he has not done any study on what that would mean. He would say that regarding the buffer that he rode by the site today and thinks the first impression would be that nice buildings would look better than looking at the back side of the shopping center. But, a lot has changed in that area. He noted that he was unsure how many units were in that trailer park, but he was sure there was a lot of affordable housing in that area.

Mr. Edgerton voiced concern if they raise the property values around the trailer park that they were

basically going to put it out of business because at a certain point the property will be too valuable to be kept as a trailer park.

Mr. Thomas felt that would probably be the bottom line eventually anyway no matter what they decide will go next door to it. It is probably going to eventually get to that point and it will be gone.

Mr. White pointed out that the property all the way up to the corner that included the apartment building was very valuable property. He noted that is just one of many trailer parks that would probably face that same economic fate, and that would become a big issue.

Ms. Higgins stated that the plan mentions underground storage. She asked if they were not participating in the regional basin that was downstream. She asked if there was an underground storage tank. She asked if Rio Hill's basin was not now a County basin that they would provide a pro-rata share contribution and participate in that.

Mr. McCardle stated that they were handling the quality on site. It is a holding also because they did several studies with the existing infrastructures there and worked with the County engineer. They have to release that water at the pre-development stage because of the sizing of the existing pipes. But, they do have plenty of storage in the facility on 29.

Ms. Higgins asked if they were going to build onsite and not participate.

Mr. McCardle stated that they were tagging in to that.

Ms. Higgins pointed out that she was surprised to see that because that basin was sized for more than the shopping center.

Mr. McCardle stated that this should hand as the pipes leading to that basin.

Mr. Cilimberg stated that it sounds like it is a pipe limitation because they would have to replace pipes to get it there.

Mr. McCardle stated that it was the amount of water going into those pipes.

Mr. Thomas asked which one it would flow into because there were two of them with one beside Colonial and one in front of Rio Hills.

Mr. McCardle stated that it would be the one in front of Rio Hills. He pointed out that they had studied both of those, but this one was the larger of the two.

Ms. Joseph suggested that the applicant provide photographs of the proposed architecture as referenced in the Code of Development to be harmonious with the adjacent community. She asked Mr. Ray to add copies of the easement agreement within the Code so that everybody knows and it is clear what he is proposing out there can be done as far as the plantings are concerned. She noted that it is referenced in the Code, but they don't know if they have gotten them or not.

Mr. Ray stated that he had no problem with including that information.

Mr. Edgerton asked if there were other members of the public who would like to speak regarding this application. There being none, he closed the public to bring the matter back before the Commission for consideration and possible action.

Ms. Joseph asked Mr. Kamptner if the proposed uses that were listed in the Code of Development were where it belonged.

Mr. Kamptner stated yes, but that staff does not have his comments yet on the Code of Development. The statement of the use needs to be clarified and, also, if any special use permit uses would be allowed, they be included as well. As they get through Neighborhood Model rezonings, they would expect that

those issues would be dealt with in the Code of Development and not the proffers. They are not there yet because part of it is just the ordinance language for the Neighborhood Model District right now.

Mr. Edgerton pointed out that the first line says in addition to the uses permitted by right in the ordinance.

Mr. Kamptner stated that he had a red line going right through that opening clause because the Code needs to just list the uses.

Mr. Edgerton stated that right now there is nothing in the ordinance and no clarification.

Mr. Kamptner stated that they could read that to include every single use classification in every zoning district, which is what the Neighborhood Model District allows the owner to select from in selecting the uses that will go in a particular district.

Ms. Higgins asked if the Code of Development has to be stated in the proffer form, too, that they are actually proffering the Code of Development.

Mr. Kamptner stated no, that the Code of Development is a separate requirement of the Neighborhood Model District akin to the Planned Development District, which has to have an application plan. So, under the Neighborhood Model, you can have proffers, but you also have to have the Code of Development and the general development plan, which is akin to the application plan.

Mr. Edgerton asked if they were under the impression that these adjustments to the Code of Development if they went ahead and recommended approval that they would have to be adjusted into an acceptable legal form.

Mr. Kamptner stated yes, the Code's form is pretty close and his comments deal with clarifying the uses, confirming the amount of amenities in green space, and he might join with Ms. Joseph in her comments for a little more specificity in the architectural standards in using examples such as elevations and photographs.

Mr. Edgerton noted that could be done by attaching copies of examples for reference, which seems reasonable.

Mr. Cilimberg suggested that they include that in their motion as an expectation.

Mr. Morris commented that the model really makes the proposal look good. He felt that the project has greatly improved since their work session.

Mr. Edgerton invited George Ray to address the Commission.

Mr. Ray stated that in the Glenwood Station project at that time that one section of Rio Road was not under the preview of the Architectural Review Board. They proffered the design, which was set up by authorizing the Director of Planning to be essentially the ARB, and they would also like to offer that same proffer at this point as part of their application. They would be happy to do that. But, that is all.

Ms. Joseph stated that in reading through this list of uses she asked if it was his intent to just allow the uses that they have listed individually such as the antique, gift, etc.

Mr. Ray felt that was correct because they had proffered out most of the retail type of uses. They see this as a residential office product and maybe one or two service business such as a travel agent.

Ms. Joseph stated that the line says in addition to uses permitted by right and then you have a listing. She asked if their intent was to include those uses that were listed.

Mr. Edgerton pointed out that it sounded like Mr. Kamptner was working on that question about the uses.

Ms. Joseph stated that she just wanted to make sure that the uses that they had listed were what they

expected.

Mr. Rieley stated that he had one more question for the applicant. He was looking through the Code of Development for the reference to the sidewalks being County or VDOT standard and could not find it. He asked where that reference was located.

Mr. McCardle stated that it was in the landscape section where they talked about fences and walls, etc. being up to the standards of the County. He agreed that it was specifically written in the Code of Development.

Mr. Rieley noted that Mr. Ray had stated that he had no objection to adding it. Therefore, he asked that be clarified. The reason it was important was that this was the public's access from the public way into the shopping center.

Ms. Joseph asked that more specific detail be included about the privacy fence that they were proposing.

Mr. Rieley agreed with Mr. Morris that this is a big improvement and in many ways a model of how to deal with a very difficult infill site that will in fact make the area a lot better. It seems to be uncomfortable with the waiver of the street trees because of the specific nature of this. He did not think it makes sense to impose our new standard for the entire Berkmar Drive as a different standard. He was particularly glad to see the mix of use, the residential and the commercial. He felt that it will invigorate and give some residential presence even though it is not very much at this stage of the game, but there is a big vacant parcel near by that may follow suit. But, that part of Berkmar where they have spent a lot of money on sidewalks that nobody walks on because there is not a residential component to that area yet. Therefore, he was really enthusiastic about this project from all of those perspectives. The one area that he has a lingering concern about is the affordable housing. While he certainly understands that the nature of this project having 8 units with 4 stacked on top of 4 with essentially the same floor plan is not one that is sympathetic to having one out of those 8 being a different kind of a unit. It seems that this should be the kind of project in which a cash contribution to the affordable housing fund would be a reasonable substitute for modifying what is a very efficient kind of a plan. He asked Ms. Grant if that was something that they had discussed.

Ms. Grant stated that staff had not discussed that with the applicant, although it was something that they had thought about as an option.

Mr. Rieley stated that in their discussions and they certainly discussed and heard Mr. White's proposal for not including affordable housing below the threshold of 12 units, he personally was not comfortable with that just because he felt that they were going to face a continuing decline in affordable housing in our community. He felt that in most cases a cash proffer is not a reasonable substitute for a decrease in affordability in the housing stock as a percentage of the growth, but, he did think that in unusual circumstances like this in which it does make sense to accept a cash contribution instead.

Mr. Edgerton agreed with Mr. Rieley that they should require some sort of contribution to affordable housing.

Ms. Higgins stated that she did not disagree with that in principle, but they had a report and they talked about it to some extent about small projects and its impact on it. That threshold was set by a committee that had involvement in the Housing Committee and the Commission passed it on with that provision. Therefore, she felt this was consistent with that and was not willing to undo what they had done in a previous session just because one came before them that was only 8 units, which was not even 2/3 of the 12. So they are being inconsistent with their previous action.

Mr. Rieley felt that they had not ever voted on the 12 units, but that they could go back and listen to the tape. He pointed out that there were a lot of different options discussed at that meeting.

Mr. Cilimberg noted that they have not finished with that yet. The Commission acknowledged things that they felt were acceptable and other that they wanted more information on to work with. Since other policies are not in place as yet was one reason why staff did not push that cash proffer alternative based

on where this project was and what Mr. White had suggested. Certainly the Commission and ultimately the Board in making their decision set out some of that direction as well.

Mr. Rieley stated that this is a larger policy that is going to have to be settled by the Board in those situations in which anything is required in which a cash proffer is an acceptable alternative and those which actually supply the housing is required. But, from his perspective, he thought that almost any project requires some acknowledgement for the requirement of affordable hosing. And this is substantial enough to require something.

Ms. Higgins felt that the Board needs to decide whether this is below the threshold or whether there is a threshold for requiring affordable housing.

Mr. Edgerton stated that staff has picked up that there are some varying opinions here and that they are saying how serious are you. He felt this is the time to speak up about it during the rezoning request because the applicant could sell the property tomorrow. Their only opportunity to address affordable housing is through rezoning and special use permits.

Mr. Rieley asked if Mr. Ray was willing to make a contribution to affordable housing.

Mr. Ray stated that they were willing to make a commitment, but did not know what kind of commitment they were looking for. He noted that the money has to come from some part of the project and they were willing to take a look at it.

Mr. Cilimberg stated that he believed that there has been one or two which have been approved by the Board at $1,500 per unit. The figure that was used by the committee moving forward when they talked to the Planning Commission was in the neighborhood of $1,700.

Mr. Ray stated that they would commit to 8 units times $1,725 to the housing fund.

Mr. Rieley thanked Mr. Ray for his offer and noted that it seemed appropriate. He felt that these cash contributions should be limited to situations like this and that it was no substitute for having places for people to live.

Ms. Joseph asked what was unique about this particular situation to not require any affordable units.

Mr. Rieley stated that the scale and the fact that it is only 8 units and the fact that, while the project has not been designed yet, but there is no question if you were to modify a fully simple floor plan in which you have four units stacked on top of another four to have one special unit that is smaller is probably going to interfere with the economy with the whole project. Therefore, it seems that this is the kind of situation in which the substitute of a cash proffer makes sense. He did not think that larger projects, like the one across from Birdwood, would be one because it was a big enough project to have carried its own affordable housing. But, he did think that they are going to find on small infill projects that there are situations in which it is going to make more sense to keep the project moderately affordable and to allow it to be done in an efficient way and not force one or two eccentric units into the project. He pointed out that was his feeling.

Ms. Higgins stated that there were a couple of technical points that she wanted to discuss. Regarding the question about the separate parcel, in the general development plan for the rezoning (attachment 1) under the tax map, parcel number it is the same one used in 2004 and if they are going to reference this it should have the correct tax map, parcel number of what they are dealing with. That is why she could not figure out if it was a separate parcel or not.

Mr. Cilimberg noted that they have rezonings all of the time where new parcels get created after the approval, but the plan they are working from is referencing the old parcels. That is not a substantive matter. There is not likely a tax map, parcel number yet for this because it was recently subdivided. So putting a number to it is probably going to be difficult at this point. But, it runs with the land and it runs with the parcel of reference at the time the rezoning takes place. But, new parcel numbers get created all of the time after zoning actions and there is no question that you are still working with the same area.

Ms. Higgins agreed that this was probably the parent parcel. She suggested that the plan is referenced with the correct date. Also, the standards and specifications should be added to the Code of Development. She noted that there was another suggested about the privacy fence.

Ms. Joseph asked that the sidewalks, fence and architectural rendering reference be clarified in the Code of Development. Also, they needed to make sure as Mr. Kamptner referenced that the land use designations are clarified. But, that was something that was going to happen before it goes to the Board.

Mr. Edgerton suggested that they make a specific list of what they want to add.

Mr. Cilimberg summarized the items as follows:

- A proffer as offered by the applicant of $1,725 per unit times 8 units for affordable housing.
- The architectural standards should be specified more clearly in the Code of Development, potentially through photographs that show examples.
- The easements that have been signed off should be added to the Code of Development as attachments.
- Clarify the statement of uses in the Code of Development to state the specific by right and special use permit uses, which seems to be just getting rid of a sentence here based on what the applicant said.
- Affirm the amenities in the green space and note exactly what they are in the Code of Development.
- Specify the construction standards for the stairway, sidewalk and privacy fence in the Code of Development.
- Reference the general development plan by date.

Motion: Mr. Rieley moved, Mr. Morris seconded that ZMA-2003-008, Woodbrook Station, be approved subject to the provisions outlined in the staff report and the Commission expectations as outlined by Mr. Cilimberg as will be refined and presented to the Board of Supervisors.

- A proffer as offered by the applicant of $1,725 per unit times 8 units for affordable housing.
- The architectural standards should be specified more clearly in the Code of Development, potentially through photographs that show examples.
- The easements that have been signed off should be added to the Code of Development as attachments.
- Clarify the statement of uses in the Code of Development to state the specific by right and special use permit uses.
- Affirm the amenities in the green space and note exactly what they are in the Code of Development.
- Specify the construction standards for the stairway, sidewalk and privacy fence in the Code of Development.
- Reference the general development plan by date.

The motion passed by a vote of 7:0.

Motion on Waiver #1 regarding omission of trees:

Motion: Ms. Higgins moved, Mr. Craddock seconded, to grant the waiver from the omission of the forest street trees for ZMA-2003-008, Woodbrook Station, based upon the justification on the conflict for the utilities.

Ms. Higgins pointed out that the applicant has actually increased the trees from 5 to 13 in the parking lot and exceeded the 5 percent requirement for plantings adjacent to travel ways and parking. Therefore, it has been made up in more than the four trees.

The motion passed by a vote of 7:0.

The Commission urged the applicant to continue working with the Rivanna Water and Sewer Authority on the planting of trees in the sewer line easement.

Motion on Waiver #2 regarding housing type:

Motion: Ms. Higgins moved, Mr. Thomas seconded, to grant the waiver to provide one housing type within this infill project due to its small size, unusual shape and justification provided in the staff report.

The motion passed by a vote of 7:0.

Mr. Edgerton stated that ZMA-2003-008, Woodbrook Station, would go to the Board of Supervisors on January 11, 2006 with a recommendation for approval.

Presentation:

Stream Watch Update – Mr. John Murphy – Director, Stream watch

In summary, the Planning Commission held a work session to receive an update on Stream Watch from John Murphy, Ecologist and Director of Stream Watch. Stream Watch is a program of key agencies and organizations involved in watershed management in the Rivanna Basin. They are sponsored by Albemarle County, Nature Conservancy, Rivanna Water and Sewer Authority, Rivanna Conservation Society, Thomas Jefferson Planning District Commission, Thomas Jefferson Soil and Water Conservation District and Fluvanna County. These agencies sponsor and govern the program that addresses the Rivanna River and its tributaries. They acknowledge that the streams and the rivers of this basin are a highly valuable resource, and that they all agree on the need for good information to use to better manage the resource. He explained the Stream Watch study program, their procedures and how the data is collected for their reports. He reviewed, discussed and answered questions about their mission, particularly their two generated reports or studies, which involve the condition of the Rivanna Basin. He specifically discussed the two reports or studies they have generated. The Planning Commission took no formal action.

Old Business:

Mr. Edgerton asked if there was any old business.

- ***Status of PC Retreat Issues****:*

As per the Planning Commission's request, Mr. Cilimberg provided a verbal follow up to his email of several weeks ago regarding the status of the issues raised at the Planning Commission's Retreat held last March.

1. **Format of Reports and the use of Executive Summary**

Staff has instituted this for the most part, but would appreciate Commission feedback on the content. Staff has tried to provide an overview of the meat of the report in the executive summary in a consistent manner. On the report as well, staff wants to get to a consistent format of presenting the information. Content is what is important to both the Commission and staff. In all cases, staff is giving their professional opinion through the recommendations. Staff requested Commission feedback on the reports and the executive summary to make sure they are hitting the target as best as they can.

The Commission made the following comments:

- Attachments to the staff report should include what was approved previously, references to ordinance sections that they are being asked to consider, and soils information and information on what can be done by right in comparison to the cluster development for RPD's. This information is very helpful in their consideration.

- Provide executive summaries on all staff report. For an executive summary on work session items for special use permits and rezonings it was suggested that staff develop a list of bullet points.
- In order to focus on staff's main issues, it would be helpful to have a summary of what is favorable and unfavorable to a request placed in the executive summary.
- Make it very clear in the executive summary what actions need to be taken by the Commission. It could be labeled "Action required" and placed in the top box of the executive summary.
- The graphics that the Commission receives with staff reports is highly variable. At the very least they should be able to look at the graphics in their package and know exactly where the site is and the boundaries of the property. Small maps showing the general area of a site are very difficult to read. The parcel location needs to be seen clearly in the report.
- The Commission pointed out that the Mr. Waller's staff reports on cell towers are the best and could be used as a model to go by.

2. **ARB/PC Review (discussed in last week's work session)**

This item was discussed in last week's work session. From the notes taken at that meeting, staff sees this as another matter within their overall workload, which is the biggest concern.

The Commission made the following comments:

- The staff issue was acknowledged very clearly at last week's work session.
- Coordinating the ARB and PC schedules would be very helpful. It will be difficult because the ARB only meets twice a month, but the Commission hopes that staff can figure out how to do that.

3. Tight Time Frame

There is a concern of having a review schedule that makes sure that it allows the Commission the time they need without feeling the pressure of not being able to defer. Staff feels that has been less of an issue during the past few months and is trying to factor that in. It is not always going to be controllable because of the 90 days restriction for application to PC action, which is a tight time frame.

The Commission made the following comments:

- The executive summary should alert the Commission if a request has to be acted on to meet the deadline.
- Since they are being driven by the state law, the County needs to be very firm about what is a complete application because that is when the clock starts. A clear standard for what a complete application is needs to be made and adhered to. Several years ago the Planning Commission developed a list that said that this is the information that they need to consider a request. But, not all of the items on that list are in the ordinance. The list needs to be worked on by the Commission to determine if ordinance changes should be recommended.
    - Regarding ordinance changes, the cluster development and phasing amendments in the rural areas should be at the top of the list.

4. Role with Board

Staff pointed out that the presentation of the Strategic Plan last week was in response to this item.

The Commission made the following comments:

- The presentation of the Strategic Plan last week was very helpful, but a little late. The Commission wants to receive updates on a regular basis in order to stay in the loop. A suggestion was made that an update of the strategic plan be given again after January, particularly for the benefit of the new Commissioners.

Mr. Cilimberg stated that one of the Board's biggest concerns was the expediting of the process, which Mr. Graham has been working on.

Mr. Graham pointed out that the biggest concern they are hearing from the development community is the development review process. Specifically, to what Mr. Edgerton referred to earlier as far as the time to get things worked out. The answers to this have not been worked out quite yet. Staff is trying to come up with some ideas or concepts. Then they will go out and talk with the public and development community about what they think of these ideas and what changes they think would be appropriate. At that point staff will be coming to the Commission and Board to discuss those. It is possible that some ordinance amendments will come out of those changes. One of the issues staff has noted to the Board is just how thorough and complex the reviews are now becoming. They are looking at a lot of issues. There are over 100 issues that staff is looking at on a legislative review. That greatly increases the probability that there is going to be issues there that are going to take a lot of time to work out. There are a lot of plans where there are conflicting objectives. As an example, staff is trying to balance whether stream protection is more important than making a road crossing to maintain a road network. It is not going to get easy. What staff has heard from the Board is that they are not interested in reducing the number of requirements. They say that the requirements are what they are and they are going to work to improve the process.

Mr. Edgerton felt that they need to get consistent with what they require from the applicants. He felt that was the main concern here. If the ordinance does not cover it, then they need to adjust it. Once it becomes a pattern he felt that it would play itself out in a very healthy way.

Mr. Thomas stated that expectations were more like a policy rather than a required ordinance type of thing for the developers.

Mr. Graham stated that staff has to be consistent in how they are reviewing these things. The other is understood expectations because everybody must understand what the expectations are.

Mr. Rieley stated that they have to acknowledge that there are going to be people just as a matter of strategy who withhold as much information as they can, but then complain louder than anybody else that the process is taking too long.

Mr. Edgerton stated that hopefully over a period of time they could put an end to that when they realize that the clock would not start ticking until the application was complete.

Ms. Higgins stated that the issues are becoming more complex due to infill, roads and traffic. Therefore, applicants are spending a lot of money to get plans done due to the complexity, which will make the process more difficult. An example is when an applicant submits the third plan and then the Commission says that they want it different. She felt that a piece of this will always be that way because of the nature of a lot of things they will see in future infill and traffic.

Mr. Cilimberg stated that the work session element helps in the review process when they are working with concepts. Staff attempts to remove the moving targets so what the Commissioners see are what staff and the applicant agree to disagree on.

5. Development Rights Theoretical Discussion

Staff has asked Mr. Kamptner to provide a date after the first of the year to have this discussion with the Commission.

Mr. Kamptner pointed out that any time in January would be fine.

The Commission made the following comments:

- There is still a lot of interest in having a discussion on this issue.

6. Rural Areas Discussion

Staff stated that the Rural Areas amendment would come back after the first of the year for further discussion. The Board has also expressed an interest in the country store regulations, which will also need to be addressed.

The Commission made the following comments:

- They were in agreement that the priority should be the Rural Areas discussion and should be the first one to be focused on.

7. Agricultural Forestal Program

Staff stated that there is a level of that which is about the separation of the land use taxation program and the agricultural districts. Then there is the question about whether the land use taxation program should be changed. One approach would be to make it only applicable if you are in an agricultural district, which would be a discussion of policy. The Board has asked for input on this issue. Therefore, staff would expect the Commission will be hearing more about that after the first of the year.

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.

Ms. Joseph noted that there was a newspaper article in last week's newspaper that she would distribute about Jeffrey Anderson, the new Executive Director of the Committee of Economic Development Partnership, concerning the area's need for industrial land. It is interesting because he thinks they need pockets of land of 50 acres or more. The other thing he is talking about is something that is a different entity than what is in the neighborhood model. She asked that this information be considered in how this fits into the 29 project.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 9:14 p.m. to the next regular meeting on December 13, 2005.

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V. Wayne Cilimberg, Secretary

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