Albemarle County Planning Commission
December 13, 2005

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, December 13, 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; Joan McDowell, Principal Planner; Amy Arnold, Senior Planner; Bill Fritz, Chief of Current Development; Amelia McCulley, Zoning and Current Development Director/Zoning Administrator; Margaret Maliszewski, Design Planner; Jack Kelsey, County Engineer; Glenn Brooks, Senior Engineer; 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. Before getting started he wanted to note that this will be Mr. Waller's last meeting with us. He noted that the Planning Commission really appreciated Mr. Waller's assistance and wanted to thank him for all of his good work.

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.

Neil Williamson, of the Free Enterprise Forum, stated that he had three items for the Planning Commission this evening, which are as follows:

- On next week's consent agenda is the Places 29 Vision Statement. The Free Enterprise Forum believes that the Planning Commission should take a good careful look at that document to ensure that it matches up with your vision of the Comprehensive Plan and represents the views of the entire community. They have some concerns with some of the statements in the Vision Statement. It is a work in progress and your input will be important. He hoped that the Commission would provide that to staff.
- An article in The Oregonian entitled "Portland: lost in its own reflection" by Joel Kotkin was distributed for the Commission's review. He pointed out that the article was an opinion piece concerning the growth and development in Portland, Oregon. (Attachment A)
- He thanked the Commission for their service. He acknowledged that the Commission puts in a lot of time in reviewing a lot of documents, thinking about a lot of different things and how they all fit. He stated that he had never had any question about their desires to make this community as strong and as beautiful a place as possible. For that, he thanked them.

There being no further comment from the public, the meeting proceeded to the next item.

Review of Board of Supervisors Meeting – December 7, 2005:

Mr. Cilimberg reviewed the actions taken by the Board of Supervisors on December 7, 2005.

Regular Item:

SDP 2005-019 Hollymead Town Center Area D (Abington Place) Critical Slopes Waiver Request - This is a proposal for approval of a final site plan prior to preliminary approval to allow a multi-family development with twenty-two (22) townhouse blocks containing 149 dwelling units. The property is described as Tax Map 32 - Parcel 46 (portion) and contains approximately 23 acres, zoned Neighborhood Model District (NMD). This site is located in the Rio Magisterial District, at the west end of the Hollymead Town center (adjacent to the Deerwood Subdivision) and is accessed from Timberwood Boulevard [State Route # 1721]. The Comprehensive Plan designates this property as Town Center in the Hollymead Community. (Stephen Waller)

Mr. Waller summarized the staff report.

- This is a request to allow the disturbance of critical slopes in order to allow construction of a multi-family development with approximately 22 townhouse lots containing up to 149 units.
- The development for the southern half of the property is not yet totally shown. It is basically a grading plan for that area of the site because the developer is working with the developers of Area A in Hollymead to iron out some issues with inner connections between Area D over to Area D on the south. That is why the all of the 149 units are not shown on the plan.
- Staff has reviewed this request for disturbance of the critical slopes and supports most of the disturbance because it has been determined that the proposed site plan is in general accord with the approved application plan for this site. In order to meet that plan staff understands that a lot of that disturbance would have to take place. Much of that disturbance was contemplated during the review of the rezoning.
- There is also an area of critical slopes within that green line, which was marked on the plan. The critical slopes are marked in orange where a storm water BMP is being proposed within a greenway buffer that is shown on the plan. Normally, if staff can determine that there are no alternative locations for a storm water management facility, like utilities, the critical slopes disturbance will be considered to be exempt. But, because staff has determined that there are some viable options for locating those BMP's that don't disturb the critical slopes in that particular location, staff recommends denial of the waiver request as it is being proposed right now and as that disturbance is shown on the plan.

Mr. Edgerton voiced concern about the determination that the road alignments and building locations are in accordance with the approved application plan. The roads are close, but the configuration of the buildings and what was shown in the original rezoning, in his opinion, was considerably at odds with what is being shown now. He asked how that determination was made.

Mr. Waller stated that Mr. Cilimberg could respond to that question.

Mr. Cilimberg asked to speak to that question. The Current Development staff, in combination with the Planning staff, looks at these kinds of site plans as they relate to application plans. Ultimately, the determination is made by Planning staff. There are two aspects to this that are applicable. One is the application plan that was part of the rezoning itself. The other is the Code of Development that had many pages, which was not provided to the Commission. But, the Code of Development actually provides for the opportunity to vary from the plan as it was shown in the rezoning. Staff looked at both the application plan and the Code of Development and felt that the real intent was expressed as part of the rezoning action for the plan, which is shown as part of the rezoning plan. The dwelling types and street sections that are shown in this plan are allowed under the Code of Development. But, that is not where staff stopped in the evaluation because they also needed to look at other important features that the application plan showed. That includes the greenway area and park facilities. There is a linear park within the development. There is an adjacent pocket park. This plan also shows a neighborhood park, which was important. The second piece that was important in relation to the street system was how the units may or may not have compared to what was in the application plan. That application plan showed units that fronted the street. In some cases there was parallel on street parking. There were parking lots relegated. This plan actually has replaced the units that were in the arrangement shown in the application plan with units of a type that the Code of Development allows that actually line the street. The street system includes on street parallel parking in front of all of those units. In this case rather than relegated parking, they are providing alleys which rear load the units. Staff felt that was a net positive as compared to the approved application plan. Because it was allowed under the Code of Development to make that variation, staff determined that was a reasonable variation. Staff is still discussing with the applicant that there is a street here that goes only one block back. Staff expressed real concerns that the units that would ultimately occur along this very western street would have to go all the away around to get out of the development. So the applicant has actually been working on that with staff. These units will have to go away in this Phase One because this street will need to be continued back to the western street to provide a full two block street from the west to the east side of the project. Staff is continuing to talk with them about how the alleys continue behind the units that would be constructed in this area. But, in this section they do add the linear park with the provision of a pocket park and a neighborhood park; they get the units that front the streets with on street parallel parking; and then add the rear loading of the

units through alleys. Essentially, that is what staff concluded with that variation.

Mr. Edgerton stated that what he was saying was that the Code of Development that came in with the rezoning allowed for as much flexibility as they are looking at right now.

Mr. Cilimberg stated that was correct.

Mr. Edgerton stated that he was having a little trouble with that because the Commission spent an enormous amount of time with the previous owner of this property who brought in elevations and renderings showing us how sensitively this property would be developed. The impacts it would have on the neighboring community was something that they were concerned with at that time. To have a series of drawings that they studied very hard to be dismissed because of the language in the Code of Development causes him some concern. In the future he would like to emphasize that what they are looking at is not something that they can count on seeing in similar projects like this. He finds these two different experiences entirely.

Mr. Thomas agreed with Mr. Edgerton.

Mr. Edgerton stated that if they had seen this layout in the Code of Development, he would not have supported it. He asked if there were other comments or questions of staff.

Ms. Joseph stated that today she had talked with Mr. Waller about another reason why Planning, Engineering and the Parks Department think that this detention facility should be moved. It had to do with maintenance.

Mr. Waller stated that was correct. It is a facility that will just serve the lots or the units that they are looking at here. It serves no greater regional purpose. So it would never be a facility that the County would ever consider as a public facility to be maintained by the public. But, it is shown within an area that is proffered to be dedicated to public use. Parks and Recreation are weary of accepting the full extent of those BMP's within the greenway dedication, even though it was anticipated that a portion of it would possibly be built in that area if it was determined that they had to be by the County Engineer. He spoke with Mr. Mahon who said that if they have to be put that in there, then they would be looking for some strict language in the covenants and deeds for this development stating that they are subject to private maintenance and not public maintenance.

Ms. Higgins stated that the County has a way to cover this with a storm water maintenance agreement that is required at the time of the approval of the plans that would designate who the entity is to maintain it. Just because it is located within the greenway does not mean that it automatically shifts to Parks. That is a covenant that is recorded and runs with the land. So that would cover that particular situation not only in this case, but in general.

Mr. Waller stated that outside of the maintenance agreement they were concerned that if the homeowner's did not maintain it and something fails with it, then it would fall back to them.

Ms. Higgins noted that is the case for any development at any location. There should be a right within there for annual inspections and recourse. But, it does run with the land. In this case, she would agree that the physical location is an issue. But, they would not put it there for that particular reason. She asked if that was not correct. She stated that Glenn Brooks was here and could address that. But, she felt that was a standard.

Glenn Brooks, Senior Engineer, stated that they do have an agreement, but it would have to be altered a little bit because it was not on their property. The plan would have to be recorded. He was not sure how that would work out, but they would pass it to the County Attorney to look at.

Ms. Higgins stated that they would have to make sure that after they dedicate the property that they would still retain the responsibility.

Mr. Brooks stated that they would retain maintenance responsibility. It is certainly not an unique situation,

but it would be on County property because it will be dedicated according to the proffer.

Ms. Joseph asked Mr. Brooks to come up and show the Commission where he thinks the other site might be.

Mr. Brooks stated that the rezoning just states that there will be supplemental BMP's, but it does not say where. It could be within the site. It could be smaller facilities next to the townhouse units and they would have to make room for them there. But, they would need to change the layout to do that. Supplemental BMP's could be throughout the site depending how they work their drainage and layout. But, the most obvious, of course, would be right up the slope out of the greenway. This has gone through various iterations on the plan. It was first shown as blank and unspecified. It does not say on this plan. But, in the plan in the staff report it says that there is a green play area there now. He suggested that the applicant might be able to talk about that some more.

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

Kelly Strickland, representative for Rivanna Engineering, stated that he was here on behalf of the applicant. He thought that there were two primary issues that he would like to touch on, and then a couple of other comments afterwards. The two reasons that he believed that staff recommended denial of this waiver is 1) for aesthetic resource reasons, and 2) because there might be an alternative or a better place to put the facility on site. First, as far as aesthetics goes, he wanted to pass out some photographs. The first four pictures show the disturbed areas that they are talking about. It is about 1,000 square feet between the two critical slopes. One is on each side of the site. So they are not substantially large. The last picture shows some of the disturbances on the site next door for comparison. He was bothered that a bio-filter is not an aesthetic resource in a greenway. When the plan was approved during the rezoning application it was stipulated that the greenways would be allowed to have bio-filters in it. He thought that by putting a bio-filter on the contour right above the creek elevation following down through there as they are showing it makes it an aesthetic resource. There are plantings that will be going in there. They would be grading the site to create the most functional storm water management resource that you can put there. That brings us to the second issue in finding an alternate site that might work better. There is an area that is about 13,000 square feet above this site that is up outside of the greenway. What happens though is that by moving it to that site they will be creating the 2:1 slopes off of the road to get down to that 420 elevation where they need the bio-filter to sit. That is going to be substantially more disturbance than what they are showing on the plan that has been submitted. He noted that he was speculating 20, 30 or 40 percent more disturbance area, which is all in 2:1 slopes to grade down to that site. There is an additional 14 feet of cut to install the bio-filter at that elevation. So he felt that by moving it up to an alternative site they were creating more harm than good by protecting the critical slopes that are shown in the photographs. Those are the two main points that he wanted to make, which he feels are opposed to the staff's recommendations.

Mr. Strickland continued that there are two other points that he would like to bring up. 1. As noticed in the photographs this site has not been disturbed. Both Areas A and C, which are next door, have been disturbed. But, this site actually has not. They are trying to get a final site plan approved prior to a preliminary. They will actually be creating an entire plan before they even start moving dirt. They are trying to get the plan approved first. The waiver was actually requested back in May of this year and they are holding off on any kind of site work until they have an approved plan. 2. The second point is that there has been a little bit of discrepancy in how people have looked at proffer #4 of the approved rezoning application. He hoped that Mr. Kamptner might be able to help them out here. Their interpretation of proffer #4 is that the County Engineer is responsible for deciding what parts of the greenway will not be dedicated to the County. He felt that the proffer takes care of the question that Ms. Joseph asked earlier about ownership of a BMP facility and maintenance of a BMP facility. He thought that the original rezoning application took care of that question. It said that any BMP that was in the greenway will not be part of the dedication, and that dedication will be determined by the County Engineer. He felt that was what was stipulated in proffer #4. He did not think there was a question at all about the maintenance of the BMP facility. Again, he would like to point out that a bio-filter in a greenway with a path running through it is an aesthetic resource to the County. The one last thing he did not mention about moving it up the hill 13,000 square feet is that area slopes only about 4 to 6 feet across the entire site. So it is a

wonderful spot for children to play in this townhouse development. He would hate to see them lose that resource because of 1,000 square feet of critical slopes down in the greenway buffer. The owner/applicant is also here and can answer any further questions. He did not address the question about the discrepancies between the application plans, but the owner can answer any of those questions as well.

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

Mr. Thomas asked for another explanation on the bio-filter and what are the negative effects of it.

Mr. Brooks stated that it was more of a trade off between where else it could be on the site and here. He noted that he had tried not to make too much of a judgment about that. The last time this issue came up was with Westminster Canterbury, but staff did not bring it before the Commission and some of you said that they should have. So he was trying not to say that a play area was more or less important than a bio-filter. His determination was that there are other locations. Therefore, he could not just approve it. But, to have a BMP like this in a play area that the drawbacks might be, depending on how it is built, the maintenance. All of the studies that the County has done in other municipalities have shown that maintenance is typically poor unless the County regularly enforces it, which Albemarle County does not. Another thing is that it may hold water in part. It is a long facility with one outlet, which has concerns with the mosquitoes particularly with the low lying areas next to a playground. It will flood minimally during storm events. A foot to 2 foot is the typical design for flooding, which may or may not be a problem depending upon one's perspective. Then based on the trail it is not so much what would be the negative aspects of it, but what could be there instead. That is an evaluation that the Commission is going to have to make. Then there are maintenance issues with taking out the soils medium and replacing it at times, keeping track of the plantings and keeping it mowed. The bank on the downhill side next to the trail may be fairly steep when it is complete. Typically, when they get a plan like this and it shows 3:1 slopes, what they end up seeing in the field is 2:1. Then if it is 2:1 staff usually ends up seeing something steeper. As far as aesthetics, depending on what kind of outlet structure they use, it could be a big metal piece that sits next to the other trail area or a concrete piece. It is usually an industrial looking pipe and fitting. He pointed out that is what comes to his mind.

Mr. Thomas asked if it was put in another location would you have the same problem.

Mr. Brooks stated yes it would, but it just depends on where they would like it located. In this particular instance, he could not grant it as an exemption because there are other locations. Staff could do some policy guidance in whether they would rather have play areas.

Ms. Higgins stated that as far as compatibility if the condition based on the pictures was correct, then it might not be attractive. But, if it was something that has been graded and planted with specific plantings and if it is maintained it could be aesthetically pleasing and not a negative. It has been looked at as a compatible use with greenways. The County over time is going to have to use the same area for that sort of thing.

Mr. Brooks stated that it could be done tastefully from staff's perspective.

Mr. Rieley asked if there were other areas that could be used other than the play areas.

Mr. Brooks stated that there were, but it would involve changing the layout within the development to have some immediate collection points in one or two different facilities.

Mr. Rieley asked if it was acknowledged from the beginning of the design of this that a BMP in the greenway area would require an additional procedural step according the Planning Commission.

Mr. Brooks stated that staff let the applicant know fairly early on. This particular BMP was not installed on plans until the third revision. It was tried closer to the road and then over in the 50 foot greenway dedication area, but then it was determined that was not quite big enough for the density of the area

coming to it. Therefore, they ended up with a facility larger than they anticipated.

Mr. Rieley stated that there is really no reason that the strategy of smaller BMP's throughout the plan could not have been incorporated from the beginning.

Mr. Brooks stated yes, but it would have taken a different design approach.

Ms. Higgins pointed out that in the proffer it was anticipated because they put the term in there "except for land that is required for purposes of storm water management." At the time of the rezoning there was a plan that indicated that it would be located there.

Mr. Brooks stated that as he recalled during the rezoning that most of the discussion was about an anticipated down stream basin that was suppose to be done on Wendell Wood's property, and that was given as the real alternative. This was something that was a fall back. He did not think it was anticipated to have this much of an impact.

Ms. Higgins felt that engineering has done their job and they don't want to make a blanket decision because there are other concerns. They are not weighing the play area versus the basin. They have come up with the correct answer that it can be located some place else. But, is this a case where the design that has been proposed after the third revision one that might have been anticipated. With the level of disturbance of the critical slopes she felt that a bio-detention is a compatible use if the green way dedication is not interfered with, there is still going to be a trail and the issue of maintenance is addressed. She did not see any reason to give up a couple of tenths of an acre of green space that can be maintained. She felt that was usable.

Mr. Rieley stated that this is a real gray area here, and he wished he had a better sense of the range of alternatives. But, he was persuaded by Mr. Brooks' analysis that there are various ways in which this could be done. The applicant's proposal is what is most convenient for the developer as the staff report points out. It is an important principal that the open space system is not just the left over area to put things that are difficult to put other places. He felt that they should protect the open space. While he felt that it was a mixed issue, he basically supports staff's position.

Ms. Joseph stated that she would rather have the applicant maintain the density here so that there is not one more excuse to go out in the rural areas to develop. She noted that they could provide the plants in the area to camouflage some of those clean outs, etc. that are going to be sitting out there.

Motion: Ms. Higgins moved, Mr. Thomas seconded, that SDP-2005-019, Hollymead Town Center Area D (Abington Place) Critical Slopes Waiver Request, be approved subject to the condition as recommended by Mr. Kamptner.

> BMP's on critical slopes shall be sited, designed and planted as approved by the County Engineer to minimize land disturbance and to reduce adverse visual impacts to the greenway resulting from the land disturbance and the equipment installed.

The motion passed by a vote of 4:3. (Commissioners Thomas, Joseph, Higgins and Craddock voted aye.) (Commissioners Morris, Edgerton, Rieley voted nay.)

Mr. Edgerton stated that SDP-2005-019, Hollymead Town Center Area D (Abington Place) Critical Slopes Waiver Request, has been approved.

***Public Hearing Items**:*

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 Community 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). Community Service designates areas for community-scale retail wholesale, business and medical offices, mixed use core communities and/or employment services, 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. Craddock asked if this was just a work session.

Mr. Edgerton stated that it was not and asked staff to explain it.

Mr. Cilimberg stated that there was some confusion and he had sent an email today, but the Commissioners might not have seen it. This request first came before the Commission as a work session because of an advertising problem with the zoning map amendment. So staff readvertised for tonight. The zoning map amendment has been properly advertised and is before the Commission for public hearing based on that advertising. There was an associated special use permit that was realized late in the game that did not get advertised for tonight. So that is on the agenda for next week. Now Mr. Dougherty will give the status of this rezoning tonight so that the Commission can consider what action that you want to take and you will receive the normal public input. What Mr. Dougherty has suggested in the staff report is that they were not yet there in terms of the items of the items to be decided upon. But, it will be the Commission's choice on how to handle the action tonight. But the zoning map amendment is properly before the Commission tonight and it has been properly advertised.

Mr. Craddock stated that he had a call and had told the person that this request had been moved to next week because that was what was in the staff report. He noted that person is here tonight, but he did not get the email today.

Mr. Cilimberg stated that the Commission would receive regular comment and then decide how they want to handle it.

Mr. Edgerton stated that the Commission would hold the public hearing tonight on the zoning map amendment, but they would not be taking action until next week because there are still certain details that have to be addressed on the special use permit.

Mr. Cilimberg stated that was what they had to decide. But, those details will be there next week.

Mr. Edgerton asked if the details that need to be resolved between now and next week will materially change things.

Mr. Cilimberg stated that Mr. Dougherty was going to go over that information with the Commission right now.

Mr. Dougherty summarized the staff report:

- This is a request to rezone 4.87 acres (Tax Map 78, Parcel 16) from HC (Highway Commercial) to NMD (Neighborhood Model District) to allow for the construction of three buildings in a Planned Development. The property being considered is the former Moore's Lumber property on Richmond Road. Since the last year the applicant has made some progress with the right-of-way consideration, which is one of the largest considerations of this project.

- The applicant had submitted revised proffers and a document indicating a "commitment to dedicate" that establishes a mechanism to address some of the issues related to the connection with 250 and Spotnap Road. This document was deemed to be insufficient for enforcement purposes. At the County Attorney's request the applicant submitted an agreement related to the dedication of this road. This agreement was emailed to the Commission yesterday. There is a copy of this agreement here that will be passed out. This agreement should all parties agree and sign it along with the requested revisions to the proffers establishes a framework for Spotnap

Road to be dedicated as a public road. The applicant anticipates that this will happen. But, at this point they don't have any real indication from all of the parties that this dedication will take place.

- Regarding maintenance and enforcement issues that the Albemarle County Service Authority has raised, as well as other tenants along Spotnap Road, the commitment to dedicate as a revision to proffers would allow for Spotnap to be a complete public connection from Route 250 and South Pantops Drive. Should the applicant gain the commitment to dedicate, the proffers to improve the roads to public standards for acceptance by VDOT would eliminate maintenance and enforcement issues.

- Another revision that the applicant has made is that they are proffering to construct and address the proposed changes to provide access to the Albemarle County Service Authority's lower parking lot that would be affected by construction of this new road.

- In addition, the applicant has removed a number of uses from the Code of Development based on the discussion here on November 22 and those are listed in the staff report.

- Another issue was brought up, which was more of an internal issue for staff, regarding the application of parking standards and the reductions at the site plan stage. The Chief of Zoning has clarified that the reduction would be reviewed at the site plan stage and granted if the appropriate TDM tools are used at the site plan stage. She has also indicated since the last meeting that the residential density in the area, the proximity of the City of Charlottesville, a growing number of private transportation systems that serve senior housing in Pantops in addition to the availability of public transportation, make this project a suitable candidate for such a reduction. Zoning is comfortable with the reduction in conjunction with limiting the retail in the development to 11,000 square feet.

- Staff had sent a request to VDOT for a cost estimate for pedestrian safety improvements that have been identified by staff. In other words, it simply was two crosswalks, striping for the intersection of South Pantops Drive and Riverbend Road and striping at the 250 and Riverbend intersection in addition to a pedestrian signal at that location. Unfortunately, VDOT has not returned a cost estimate for those improvements. However, with the applicant now working towards this dedication agreement and the associated proffers for the road to be dedicated, staff considers this a significant improvement and it may be possible for those improvements to be implemented with the capital improvement program, depending on the Commission's response to this.

- Another issue that has remained with this project is the proffering of a traffic signal in front of the former Moore's site. This is less than 600 feet from the intersection of Route 20 and 250. The optimal minimum distance between traffic signals for VDOT is a quarter of mile, which is 1,320 feet. At 600 feet this is extremely close to the existing intersection. Staff has been told by both Chuck Proctor and John Winn of VDOT that they would never approve a intersection at this location for that reason in addition to the fact that the grade or slope in that area is steeper than what they generally approve for intersections and that there are some constraints for sight distance coming onto 250 from the east and around that bend down towards the traffic signal. Staff had suggested that the contribution for this proffer could be used for general pedestrian improvements and/or a reconfiguring of the travel lanes moving into the Route 20 intersection to provide enough room for a right hand turn lane on to Route 20 thereby augmenting the ability to turn out of Pantops Park towards the left towards the City of Charlottesville and providing more cueing space in that lane.

That is a summary of the issues. Due to the incomplete nature of the proffers and the "commitment to dedicate" unsigned and in draft form, staff cannot recommend approval at this time. Mr. Kamptner might be able to speak more to this, but there are a significant amount of changes to be made. Staff does not have any assurances at this point that the agreement is something that will be supported. Staff feels that the applicant could line these issues up for approval next week.

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

Ms. Joseph asked that staff obtain written confirmation from VDOT on the traffic signal and pedestrian improvements.

Mr. Dougherty stated that he would obtain that documentation from VDOT.

Mr. Cilimberg stated that there is a proffer for a signal that can't be installed based on the VDOT comments that staff has received from two different individuals. Staff does not have that in writing, but their indication has been that there will not be a signal there. It is being proffered, but in VDOT's mind it cannot happen based on what they have told us. So either that proffer goes away or there has been in other cases a more general proffer that would allow for whatever that amount that would have been put towards the signal to be used for transportation improvements in that area. They are not contributing to all of the problems that lead to putting in new lanes or pedestrian cross walks or even a signal at this location. So they would be contributing towards a potential project in the future that could be undertaken. But, they have to decide whether they feel that is reasonable or not based on the information that you have. The applicant may or may not agree to proffer for that. Staff is just trying to lay that one out for the Commission. In terms of the proffers that they have otherwise, they have been reviewed by Mr. Kamptner and his suggested alternative language has been provided to the applicant.

Mr. Kamptner stated that he had forwarded that information to Mr. Dougherty this afternoon.

Mr. Cilimberg stated that if that language is incorporated into the proffers, then staff feels that would be taken care of before next week. Regarding the agreement, if all parties sign, then that will be taken care of. So that is why staff is telling the Commission that this is where we are now and this is what could happen.

Ms. Higgins asked if this agreement would supersede proffer 2.

Mr. Kamptner stated that what that document would do is provide evidence for us that, at some point, when the triggers and proffer tools are in place, that they have an agreement that they will all be dedicating the property.

Ms. Higgins stated that the wording in proffer 2 has a lot of provisos that talk about excluding the design requirements and things like that.

Mr. Kamptner stated that Mr. Dougherty and he have met today and discussed that issue. That is one of his questions as to whether or not simply paving Spotnap Road addresses that. He felt that the sequence of the events of proffer 2 needs to be reorganized. From talking to the applicant's attorney today his impression was that they are making a lot of progress in getting the consent from all of the stakeholders who need to consent to the activities in proffer 1.

Mr. Morris felt that this is the natural egress from this site to get into Charlottesville. He felt that a new traffic light at that intersection would be a dangerous.

Ms. Higgins pointed out that making Spotnap Road a public road was extremely important. Therefore, provided that can happen and it is made very clear that it can happen makes her feel more comfortable.

Mr. Edgerton stated that on that point he asked if there has been any effort made by staff to determine that. The last sentence of proffer 2 says, "Owner will exercise best efforts to obtain the agreement of all owners of the land on which existing Spotnap Road or any portion of the proposed extension is located to dedicate the fee interest in such land to public use without charge." He stated that they could have a nice agreement, but if they don't have the authority then it is not worth anything.

Mr. Kamptner stated that his comment to that sentence he just read is that it needs to be stricken. There is absolutely no way that Zoning could ever enforce a standard of "best efforts." It needs to lead to the written consent that allows this to happen. But, if it does not, the proffer needs to state that if this can't happen within a certain period of time or there is a refusal by one of the stakeholders, that this won't happen. Then the rezoning needs to be analyzed with that possibility. The situation that they were

dealing with in proffers 1 and 2 is pretty uncommon - where they have other land owners that are involved and their participation is a contingency to both of these proffers.

Ms. Joseph stated that if that road does not go through, then the possibility is that this thing could happen in phases until that road goes through.

Mr. Kamptner stated that they need to get to the point that this rezoning would be analyzed with the possibility that the extension would not be constructed as a public road. It is possible that there may not be agreement that Spotnap Road would be accepted into the state maintained system.

Ms. Higgins felt that would mean that they don't make the connection.

Ms. Joseph questioned if not, then is any part of the rezoning viable.

Mr. Edgerton suggested that maybe all of these questions would be resolved before next week and they could defer action. There being no further questions for staff, he opened the public hearing and invited the applicant to address the Commission.

Bill Dittmar, applicant, stated that others present tonight included Frank Cox of Cox Associates and Dan Goodall from Virginia National Bank. Mark Giles was unable to attend. He hoped to address some of the confusion on the proffers and hopefully they can resolve some of the issues. The first as to proffer 4, they have no significant commitment to a stop light at this location whatsoever. This came up in early discussions with the County. There was a discussion that perhaps an intersection would occur at this location going through the Winn property and possibly connecting down to 20 at some point. They were asked if they would want to participate at that point and they had said that they would, which was carried forth in proffer 4. They would love to withdraw that proffer now and do so. They have heard from Mr. Dougherty in the discussions that staff has had with VDOT that the prior owner Grant Cosner had discussions with the prior engineer at VDOT, who had also suggested that a potential stop light would occur here not only because of a potential intersection, but for traffic calming for slowing the traffic down that backs up on 250. There seems to be tremendous confusion on what would or would not be wanted here. They did not withdraw the proffer from the last meeting not because of a desire to have a traffic light there, but to keep it in place in case there ever was an opportunity to show our commitment to participate in that when and if it happened. It seems to be creating much more heat than light. They withdraw it at this time.

Mr. Dittmar continued that in terms of the proffer 1 for the extension of Spotnap, that he wanted to talk about what they can do and what they want to do. If Mr. Giles was here, he would talk about things being transformational. By transformational at this location they could have come in on the site and dropped the building back and done it under current zoning. After much discussion and participation in the Pantops College the new zoning model seems to work better. There is an existing easement that they can utilize to bring in a private road into their site. There are actually three locations on 250 that connect to what was the old Moore's site. But, the three years that he has done rebuilding most of what he had done is adaptive reuse and this is obviously that type of project. They are taking a hardware lumber store and creating it into the new Neighborhood Model. That was why they have chosen this path. As such, they have down zoned in some of the things that they have withdrawn from the by right uses because they don't think they are appropriate for what they are trying to accomplish there. They also wanted to create a more campus orientation and pedestrian friendly site. One important item was the interconnectivity in the Pantops area in creating new roads that would take some of the stress off of the 250. The extension of South Pantops is to occur. Therefore, they wanted to participate in this. In their proffer they are promising to build the road way on their property to VDOT specs. That is what they can do. They specify that in the proffer and guarantee that. What they cannot guarantee is that the Board of Supervisors would want that road into the system and that VDOT would accept it. After hearing the Commission's comments last time they have gone out to try to work with the other property owners and to hear their concerns. They have spoken to Dr. Hurt and Mr. Brent of the Service Authority, and there is a willingness on their part to dedicate. They hope that happens. They cannot make them do that. But, they believe that they will. If they do that and they can upgrade that road to VDOT standards and they accept it, they will do that. But, they can't determine at this point. They don't think that the project's rezoning should hang on their ability to take a road that is already built and make that a VDOT standard to have it

done. If that is the case, then the County is going to face that everywhere there are private road systems already in place and new projects being developed. In the extension of Spotnap they have a private right-of-way that exists that they can connect to and they are going to build the road way on their system to VDOT standards and they hope that they can bring the other road way up to that standard and that they can force the other owners to dedicate it. But, they have had discussion with Dr. Hurt who has indicated that he will sign the agreement. Bill Brent has indicated that he will take the agreement to his Board at their upcoming meeting. Therefore, they think that they will be able to show that interconnection.

Mr. Edgerton asked if there were other members of the public that would like to address this application.

Bill Brent, Executive Director of the Albemarle County Service, stated that they are the owners of one of the properties abutting this project. Last week when he addressed the Commission he expressed the Authority's opposition to this project because of the traffic concerns on Spotnap Road, which currently has traffic problems that they think will be compounded by the additional traffic. They have looked at this time and realize that during peak periods most of the west bound traffic exiting this site is going to use Spotnap because they will be unable to cross 250. They are also realistic and understand and accept that there is a current easement across the Service Authority's property to this parcel that is proposed for redeveloped. He felt that to compromise that he would guess that neither party in this will be completely happy. But, yesterday afternoon the attorney for the developer did email him a proposed agreement whereby they proposed to upgrade the existing Spotnap to meet state standards, construct the portion of Spotnap across our property to state standards and to develop the portion on their property to state standards. Similar provisions were offered in the proffers, which he thought were confusing and contradicts what is in the contract in what is proposed to us. But, he would trust that is something that they could work out in the coming days and weeks. If this discrepancy can be resolved, then it is his intent to recommend to the Board of Directors of the Albemarle County Service Authority that they agree to dedicate the land necessary for them to upgrade this road so that it can be brought into the state highway system. Any thing less than that he thought that the Board would continue its opposition to the project. The developer has also proffered to provide an acceptable commercial entrance into our rear parking lot and they are grateful for that proposal and hope that can be worked out. With these two issues appearing to be close to resolution it is his proposal to recommend to the Board of Directors that they lift our opposition to the project. He will have the opportunity to bring this to the Board's attention on Thursday. The Board is not scheduled to meet again until the third Thursday in January so he was not exactly sure when they will have an opportunity to act on it. But, it will be in their hands on Thursday.

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

Ms. Higgins suggested that the agreement have a signature block for Pantops, LLC. Also in #1 in the portion on top of page 2 it talks about the owner will dedicate the deed of dedication, which she assumed would mean deed and plat because right-of-ways are usually done by plat. Also, it should mention any associated drainage easements that go to the road. In the previous staff report there was a lot of discussion about parking and she felt that issue needed to be resolved. Hollymead Town Center is a Neighborhood Model District and her understanding of the commercial areas there is that they have a gross square footage that is based on a number of parking spaces per square feet and the parking space number is set. They design the site and the buildings at site plan stage, but then after that as tenants change over they don't have reevaluations of parking requirements. She referred back to the 2003 modification to the parking standards where there was a lot of discussion about how much staff time it takes to reevaluate this over and over again. She was not sure when staff read the staff report tonight how the zoning staff was doing that. But, she knew at rezoning they could not set the exact amount, but at site plan they do. She asked staff to provide some clarification on that issue.

Mr. Dougherty stated that one point of clarification is what is constructed out there now and the other as far as commercial uses it is PD-MC and not Neighborhood Model. Staff will obtain an answer to her questions from the Chief of Zoning.

Ms. Joseph felt that the Neighborhood Model rezoning should ask for the parking information up front.

Mr. Cilimberg reiterated that staff will have the Chief of Zoning address the parking issues. They know that they at least need to know what it should be up front because it is part of the plan that they are looking at. What they are asking is why it has to be continuously relooked at during the subsequent process. They can ask that of zoning.

Mr. Rieley suggested that the signal proffer be changed to address the pedestrian improvements.

Mr. Cilimberg pointed out that was something that the applicant would have to agree to do.

Mr. Morris asked Mr. Dittmar to come forward and address the Commission's concern.

Mr. Dittmar stated that when they went back last time and looked at the undertaking to rebuild the road way that is not on their property and not part of their original estimate, which was substantial additional monies that they are coming up to. They are looking to put forth additional money on top of that. The expansion of Spotnap is going to far exceed the $15,000. Therefore, they are not at this time offering that $15,000. They are offering to improve the existing Spotnap, which will create not only a vehicular connection all the way from South Pantops Drive to 250, but also pedestrian access all the way from Pantops to 250 in conjunction with all of the amenity space and cross connections within their own properties.

Mr. Edgerton stated, "To clarify, there will be no offer for pedestrian improvements off site."

Mr. Dittmar stated other than what was on the full road way.

Ms. Higgins asked if they have had an inspection of the existing Spotnap Road and have a level of expectation of what needs to be done to get it up to state standards.

Mr. Dittmar stated that the problem is that they have to get with VDOT on that and have to do a survey. They have gotten with Mr. Roell to get "as builts", but as yet they have not found them. They are going to have to core the road way. Their current feeling is that by milling the edges they know they have the distances that are required and put a 2" overlay. The gutters and sidewalks are slightly below VDOT standards currently, but they have accepted those in the past. But, he could not speak for VDOT. That is why the notation is in the proffer that the assumption is that they will accept that because it has been their past practice. It has only been two weeks since they realized that they were going to be responsible for the other part of the road. They have gone out and made what they feel is great progress in getting the commitments from the four other land owners to participate. If they had "as builts" they would be a lot further. They don't anticipate any thing substantial as a problem to that.

Mr. Thomas asked if the road from 250 all the way through to Spotnap will be VDOT standards.

Mr. Dittmar stated that where the existing road is now that the road will be built to VDOT specs because they have an absolute right-of-way. Also, they have made an agreement with Mr. Brent about their entrance that is in the right-of-way. The proffers stipulate what they can do. What they want to do is bring the rest of the road way up to specs and get it dedicated.

Ms. Higgins suggested that if this agreement does not get signed, someone should ask VDOT if they will accept a road that goes nowhere. VDOT does not typically accept segments of roads that don't connect to other public roads.

Mr. Dittmar stated that this is an extremely important issue to bring up. He would like to take this moment to address the Commissioners to say the following. He did not think it was possible to come in here and say this rezoning is propagated upon the fact that they can get VDOT to accept a roadway. He felt that it needs to be accepted because as a by right if they were not going through a rezoning they would build this road way maybe not to VDOT standards, but they would connect within this. If it is stipulated that they have to have a dedication of all of the property owners and if they have to know that the road way can be brought up to VDOT specs and that they will accept it that is not possible for us as a property owner or as a developer. They don't even know if that can be determined at the Board of Supervisors' level, which is what he is saying.

Motion: Mr. Rieley moved, Mr. Morris seconded, that ZMA-2005-008, Pantops Park, be deferred to next week. The following items need to be addressed:

- Proffers in final form;
- Agreement for public roads; and
- Change signal proffer to proffer for general transportation needs in area

The motion passed by a vote of 7:0.

Mr. Edgerton stated that ZMA-2005-008, Pantops Park, was deferred to next week's meeting on December 20, 2005.

ZMA 2005-013 Inn at Monticello (Sign #78, 79)

PROPOSAL: Rezone 4.6 acres from R-4 Residential (4 units per acre) to amend proffers to allow an additional dwelling unit & possible expansion of the existing inn. The property is also in the Entrance Corridor (EC) Overlay District and Flood Hazard Overlay District.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential-residential (3-6 units/acre) and supporting uses such as religious institutions and other small-scale non-residential uses.
LOCATION: Tax Map 77E1, Section 1, Parcel 1; 1188 Scottsville Road (Rt. 20) & Willow Lake Drive (Rt. 1135)
MAGISTERIAL DISTRICT: Scottsville
STAFF PERSON: Rebecca Ragsdale

Ms. Ragsdale summarized the staff report.

- The property is zoned R-4. It was rezoned in 1984 when the Willow Lake Development rezoning was approved. That was a rezoning that was approved with an application plan and proffers. What the applicant would like to do on their 4.6 acre property, which currently has one dwelling on it, would be to have the opportunity to have another dwelling in the future. In this case, they do operate the Inn at Monticello. So there is the potential that they might want to expand the inn use into that other dwelling. They have submitted five new proffers, which limits the number of dwellings on the property to two.
- It is in the Development Area of Neighborhood IV, an area of the Comprehensive Plan recommended for Neighborhood density. It is on the border of the Neighborhood and the Rural Areas. Scottsville Road is the boundary.
- The Willow Lake Development is located behind the property. To the south there are some apartments, Stone Creek. There is an R-1, residential subdivision Lakeside to the north. Also, nearby is Piedmont Community College and Monticello Visitor's Center.
- The property is fairly rural in character. The structure on the property is historic.
- Most of the property along the frontage along Route 20 is in the floodplain. Staff felt that three principles of the Neighborhood Model apply and that this is an appropriate parcel to be predominantly open space and lower density than what is recommended in the Neighborhood density recommendations in the Comprehensive Plan. Also given the natural constraints of the floodplain and that the property being historic as far as it being appropriate for parks and open space.
- It also added to the mix of uses in the area given the inn's use. The existing parking is located relegated to Route 20 and is not visible from adjoining properties.
- Staff did not identify any negative impacts from the rezoning to adjoining properties based on the fact that they were posing one additional dwelling.
- During the course of review there were some reviewer concerns. Engineering has noted that the floodplain is along the frontage of the property. Their current access is from Route 20 on a driveway over the floodplain. VDOT comments were that they were okay for this use proposed and that the entrance does have adequate sight distance, but it does cross over Cow's Branch and the associated floodplain. So engineering has recommended that access be upgraded to remain free of flooding and alternative entrances be explored, such as from Willow Lake Drive.

Potentially if the applicant did upgrade that entrance that drives over the floodplain that might also involve a special use permit for activities in the floodplain.

- Another concern was from Fire and Rescue about that bridge over the floodplain.
- The applicant has proffered five proffers that are intended to address all of the reviewer comments, including the concern that this property is also in the Entrance Corridor. The ARB did look at this request. Staff included the ARB comments in the staff report along with assurances that the historic resources would not be adversely impacted. Therefore, the proffers do limit the number of dwellings to two. They have proffered to do a site plan if they do expand the tourist lodging into the other building. This is a request for a single-family dwelling, but staff knows this has a potential of being more of a commercial use on the site if they have two buildings that are used for tourist lodging, which the ordinance equates to a bed and breakfast. It is allowed by right in the residential district with a zoning clearance. There is not a site plan associated with it. With two dwellings there is no site plan requirement. But, based on reviewer comments staff felt that a site plan would be appropriate. The applicant has proffered to do that prior to expanding the tourist lodging and also as part of that evaluating the bridge for structural soundness and then at that point they would have engineering determine what the best entrance is for them. Then also they have submitted a proffer that prior to any new buildings on the property as a new residence that they would consult with and obtain approval from the Department of Historic Resources and our staff, the Planning Director, regarding the design of the new structure so that it is compatible with the existing historic structure. Staff felt that the proffers were appropriate.
- Regarding the location of where the new dwelling unit could go, the applicant provided some information in the Commission's packet. The existing structure is setback over 300 feet from Route 20. They are limited as far as where they could place another structure because of the floodplain and the setbacks from Willow Lake Drive. That is not part of the proffer, but it is not expected to be visible and given the other review staff is comfortable with the proffers as submitted and the applicant's approach to addressing review of comments.

Mr. Edgerton asked if there were any questions for Ms. Ragsdale.

Mr. Craddock questioned why the ARB would not review the rezoning request.

Ms. Joseph pointed out that the ARB does not review single-family dwellings.

Ms. Ragsdale stated that it says prior to expanding accessory tourist lodging into any new dwelling that they build that they would go through all the site plan requirements specified in the site plan section of the ordinance, which would also include the Architectural Review Board.

Ms. Higgins asked for clarification in the staff report about the applicant's justification on page 3 that says this is a distinctly separate property and they no longer will be tied to the proffers made under the application in 1984, which was attached. This land was open space in Willow Lake, and was deducted from their open space and will still meet the 25 percent requirement. She asked if they could take a property that was covered under a rezoning and sell it off and then have somebody come in and say that they are no longer a part of that rezoning.

Mr. Cilimberg stated that they could say what they want, but they are still part of the rezoning until the Board changes it.

Ms. Higgins stated that it was possible to say that they are not tied to those proffers. When you read through those proffers there are not specific proffers that affect it except for the plan that shows it as open space.

Mr. Cilimberg stated that under the proffers of the approved rezoning they were part of until those get changed by an action of the Board. That is essentially what they are doing here is asking for that part to be changed through the ultimate Board action.

Mr. Edgerton stated that if he was reading the 1984 site plan, it looks like unit 35 is now being treated as an inn. So it might have been part of it as a separate lot.

Ms. Higgins asked if the request was really just to change the proffers in the R-4 zone.

Mr. Cilimberg stated that was correct.

Mr. Rieley questioned how the second dwelling could be an accessory tourist lodging.

Mr. Cilimberg stated that he had asked that question during staff review in how they could have a second tourist lodging when it is obvious that the owner can't live in both. The answer to that is that the second unit can be occupied by the innkeeper.

Ms. Joseph asked if the innkeeper lived there and it was considered to be their residence, and Mr. Cilimberg replied that was correct.

Ms. Higgins asked if the site plan for the tourist lodging would include just the addition or would it include the existing house and the new house and the parking for both.

Ms. Ragsdale stated that the drainage calculations on the site plan would be for the disturbed areas, but she was assuming that in their calculations they would be taking into account the other areas of the site. But, she was not familiar with the way engineering regulations are with storm water runoff on the way they would weigh in the effect of this property and all of the other ones. But, they will be addressing whatever runoff would be generated from the paved parking area and the structure also if the site plan comes in for tourist lodging and they have to add parking spaces. The site plan will cover all of the structures and impervious surfaces.

Mr. Cilimberg stated that when a site plan requirement applies to new development it applies to the site in total and not just the new development.

Ms. Joseph stated that the original rezoning allowed them to have 120 units. Did they build a120 units, and if so is this 121.

Ms. Ragsdale noted that she did not have the number of units that got built in Willow Lake. This property was not shown for any other units.

Ms. Joseph stated that it was on the original rezoning because they changed the way the road is coming in. It looks like there were already two units on there and if the original rezoning was approved for only 120 units. She asked if anybody ever figured out if they went over the total number of units allowed.

Ms. Higgins pointed out that there has to be another action on this since then because there are more units out there because she had lived there. This plan is pretty out of date.

Ms. Ragsdale stated that zoning did evaluate it based on the rezoning action and what was in all of the approved plans and what the rezoning action specified for this property and they did decide that there was no approval for another dwelling unit. That is why the applicant is here requesting the rezoning. She pointed out that the plat was included because it had some topographic information on it and the actual location of existing road.

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

Rebecca Lindway stated that this was a single unit dwelling that was operated as a bed and breakfast with five rooms. The current information in the County is that you may in a single dwelling operate a bed and breakfast of no more than five rooms. It does not have to have the owner in it. She could name one in particular, the Silver Thatch Inn, where the owner does not live in the unit at all and there are seven guest rooms there. The owners live on the next street. So there are many applications to the bed and breakfast concept within the County of Albemarle. They know those applications and have taken them into consideration. This property is historic and their decision very well might be part of the history of this particular house. It was once 12,000 acres and was divided when I-64 came through. The owner then sold parts off to the Visitor's Center and Piedmont College. The last parcel became Willow Lake when

Ms. Shockley moved. That property then underwent all of the litigation and rezoning that they are looking at. However, one property known as number 1 and on your forms noted as 35, which is the Inn at Monticello. That property was cut off and set free and nobody paid any attention to the proffers. It was proffered as green space to the Willow Lake condominiums. They have no relationship to the condominiums. They get no service. They get no snow removal. They have no use of their swimming pool, which was noted in the original plan. They have no use of their jogging trails, which never did get built. Of all of the units that could be built, all were not built. There is an empty lot directly behind their home, #16, which they have on occasion considered the purchase of. They have decided not to purchase that lot because they have 4.6 acres, of which one-half is in the floodplain. In reference to the site plan and to your comment about the storage units and visibility from the road, the proposed home would not be seen from Route 20. It cannot be seen because they have maintained to great costs to themselves every tree on that property. They have a 200 year old Linden tree that just had $2,000 worth of work done to it. That is just the every other year process on trying to save a tree. They feel that they are good neighbors. They understand the historic value of the property. That property was built in 1856 and it has its original roof and windows. However, the tourist industry is changing. Guests don't want a tourist home where you live in someone's house and pay them a few dollars and get a cup of coffee and get to stay over. They want amenities. So every new property coming along in Albemarle County has the so called amenities such as fireplaces, Jacuzzis and other things. The Inn in Monticello built in 1856 did not have running water until 1952. There is no way that they can put in a Jacuzzis in any of those rooms. But, yet they also feel that they own 4.6 beautiful acres and because this property was cut loose from Willow Lake many years ago and nobody recognized that they have no relationship to those people, except they were the original home on that huge piece of property. They are being somewhat handicapped if they want to do anything else with their own property. They have a son that really wants to move to Albemarle County, who always says mom you've got this great piece of property, and what do you mean I can't put a house over there. And so they started looking at the idea of what do they do. Can they please have one more dwelling unit? The reason you see some very amateur drawings with six bedrooms, six bathrooms and a hallway is because basically when they went to the planning committee original beginning structure of being here tonight, the concept was what if you go here, then you better cover all of those basis. Therefore, we designed this as if it were tourist lodging without calling in an architect and spending all of that money. Therefore, they went ahead and did the best they could in this situation and that is to be honest. She noted that they have been there ten years and have grown a great business, but don't expect to see her ten years from now doing the same things. She thought she would retire before that. So they don't know what will eventually happen to the property. But, they do know that they ought to be able to increase the density by one dwelling unit. It does not do anything to the plan that is already in existence because number one they never built all of the units that were approved. The overall density of the Willow Lake property was never done. If they look at green space, should she have to serve as someone else's green space in this particular situation? Should they not stand alone and be who they are. They are the Inn at Monticello, which could be sold tomorrow and become a private home. But, they have listened to all of the requirements of the County for tourist lodging and they meet every one of them. She asked to be given the opportunity to grow their business if they so determine meeting all of the regulations of the tourist industry, of the health department, fire department and all of the departments that come to play when you have a property such as this. As well as meet the requirements of a site plan. If it were a single unit home, they don't have to do that. If they open it up to Architectural Review they are not going to build something that is an eyesore on this marvelous historic property. Therefore, whatever they would do architecturally would be well within the concept of the existing home. They recognize that they would have to look at the bridge and floodplain. It has not flooded yet during all of the recent hurricanes. They are willing to meet all of the requirements put in front of them, but all they were requesting was to be allowed to have one more dwelling.

Mr. Edgerton asked if there were any questions for the applicant.

Ms. Joseph asked if they had ever been given access through Willow Lake Drive.

Ms. Lindway stated that there were separate spots on that particular drawing that they could access Willow Lake Drive along the upper north red lines. But, they have never had it.

Mr. Edgerton asked if there were other members of the public that would like to address this matter.

Peter Sherman stated that he was an innkeeping consultant and he had talked with the applicant for a long time about this. He stated that he worked with inns and bed and breakfasts throughout the mid-Atlantic. One of the beauties of the bed and breakfast business model is that it has afforded the economical resources to promote historical preservation of a lot of old buildings. Looking at the Inn at Monticello as a bed and breakfast at five rooms at a location such as it is, he felt that it was about as close to anything that anybody asks for in a tourist lodging that is close to dining, activities and historic resources. In looking at what has happened around it and what is likely to happen down the road, the greatest contribution to preserving that property as is and of avoiding the possibility of that sometime 20 years from now when everything around the Inn at Monticello is so thoroughly developed that someone comes in wanting to fill in the property with dirt and build apartments to fill the high density needs of the County. Therefore, the possibility of putting in one more dwelling with five more guest rooms on that site ensures the economic viability of that site preserved primarily as it is. As Ms. Lindway said, it was imperative to keep whatever structure that goes on there compatible and handsome, which would be a necessity for anybody that wanted to expand the bed and breakfast. He strongly recommended that the Commission approve the request.

Martha Garland, owner of the property directly across the street with her husband, stated that they were good neighbors. She had no issue with what they were proposing. Being ignorant of this process, she just wanted to ask the question if this is approved does it affects in any way the zoning of the Lakeside Subdivision or their property. They have talked about the Willow Lake Subdivision. But, Lakeside Subdivision is different because it has one house per acre, and her concern was that this not be a threat to the property across the street. She asked if they would answer the question of whether it would affect her property.

Mr. Cilimberg stated that it would not.

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

Motion: Mr. Thomas moved, Mr. Morris seconded, that ZMA-2005-013, Inn at Monticello, be approved with proffers.

Ms. Joseph asked that before this rezoning request goes to the Board that zoning clarify the following information:

- How many units have been built in Willow Lake?
- If there are 120 units out there how does this request affect that?
- Are they looking at density or open space because it is very confusing because the information before us is showing this designated as a lot.

The motion passed by a vote of 7:0.

Mr. Edgerton stated that ZMA-2005-113, Inn at Monticello, will go to the Board with a recommendation for approval on January 11, 2006.

The Board took a five minute break at 8:42 p.m.

The meeting reconvened at 8:48 p.m.

SP 2005-024 Schuyler Country Store (Sign #29) - Request for a special use permit for a country store, in accordance with Section 10.2.2(22) of the Zoning Ordinance which allows for country stores. The property, described as Tax Map 126 Parcel 34, contains 2.69 acres and is zoned RA, Rural Areas. The proposal is located at 8429 Schuyler Road (Route 800), approximately 1,200 feet north of its intersection with Howardsville Turnpike (Route 602) in the Scottsville Magisterial District. The Comprehensive Plan designates this property as Rural Area 4. (Amy Arnold)

Ms. Arnold summarized the staff report.

- The applicant has requested a special use permit to allow for the construction of an approximately 800 square foot country store with an area for outdoor display and sale of plants.

- The property contains 6.299 acres and is designated Rural Area 4 under the Comprehensive Plan. The parcel is located at 8429 Schuyler Road, about 1,200 feet north of the intersection of Route 800 and Howardsville Turnpike in the Scottsville Magisterial District.
- The applicant proposes to sell products ranging from antiques, beer, wine to a variety of food products. He has also indicated an intention to provide an outlet for locally produced goods. The proposed building includes a full service kitchen, but does not include at this point seating as part of the proposal. Zoning, however, limits the seating for country stores to one exterior picnic table and a small interior area for seating related to food service.
- The immediate area is characterized by mature mixed deciduous and evergreen woodlands, scattered residential dwellings and abandoned quarry sites. The aerial does a good job of describing the local condition.
- The parcel was the site of a 1940's country store called the T.L. Beasley's Store. The store was in operation until the 1970's. The store lost its non-conforming use when it was converted to a residence. A fire in April of 2000 badly damaged the original 1940's store building and was subsequently raised in 2003.
- Recently staff has been working to identify existing ordinances that tend to hinder the preservation of country stores and country store sites. Staff established an outline process for developing recommended changes in the ordinance as well as setting standards for country store site details. Staff is planning a series of meetings with the Historic Preservation Committee as well as current owner/operators of the County's surviving country stores to get additional feedback.
- Staff has identified the following factors favorable to this application:
    1. Re-establishes a country store on a site with a history of that land use.
    2. Provides links between local producers and the community.
    3. Provides a community gathering place.
    4. Contributes to reducing the overall level of traffic in the district by providing rural-scale services that would otherwise have to be obtained by driving a further distance.
- Staff has identified the following factors unfavorable to this application:
    1. Increased traffic at this intersection during store hours (6:00 am – 9:00 pm).
    2. The applicant would remove trees to provide additional site distance.
- Staff has reviewed this request for compliance with the provisions of Section 31.2.4.1 of the zoning ordinance and recommends approval, based on consistency with the Comprehensive Plan, subject to conditions of approval.
- The third recommended condition regards pavement and vehicular entrance details appropriate for the site. The Schuyler Country Store proposal has provided the opportunity for staff to begin to identify what comprises rural character for the purposes of establishing a set of site standards for country store. Condition #3 recommends a variation on a standard VDOT entry by combining VDOT's recommended entry configuration with alternative paving surfaces. At the time of the staff report VDOT had not responded to our proposal for that detail, but has since contacted us. They have reiterated that they would require a hard paved surface in the entry for the full width of the easement.
- Condition #2 and #3 have been changed to allow for staff to verify the appropriateness of the gravel paving for the parking area and to allow for VDOT entry requirements at the time of the site plan approval. Each Commissioner should have received an amended set of conditions to reflect those two issues.
- The fourth issue identified by staff is the preservation of the existing White Oak, which is a substantial tree. Condition #4 recommends alternative parking locations and permanent tree fencing to assure that the preservation of the White Oak would be assured for many years to come.
- In the last few days staff has received two more comments from neighbors. The Commission should have a letter from Linda Lloyd and an email from Thomas Vincent.

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

Ms. Higgins asked if this request would have to go through a formal site plan review, and Ms. Arnold stated yes it has to go through site plan review.

Ms. Higgins asked if there was a ditch section along the road and if it would be a limited entrance.

Ms. Arnold stated that staff supports a limited entrance as VDOT has recommended.

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

Brenda Moon, applicant, thanked staff for all of their assistance. She asked the Commission to approve the special use permit because there once was a store at the site. They would like to work with the County to bring the country store back into existence. There have been a couple of questions about the White Oak. They will place a fence around the White Oak so that that there is no traffic that will compact its roots. One of the other issues was the lighting by their neighbor. They would be willing to work on the lighting. She felt that was the only two concerns that they have heard at this time. They will work with VDOT to get the clearance for the right-of-way.

Ms. Joseph asked what type of items they would want to display outside.

Ms. Moon stated that they would like to display plants, trees, vegetation and shrubbery.

Ms. Joseph pointed out that some of the concern was that the items for display outside not be old office equipment, etc. She stated that there may be some discussion about putting some limitation on the items that can be displayed.

Mr. Edgerton asked if there were other members of the public that would like to address the Commission.

Tim Brady stated that he had recently built a house in the area and was the President of the Cory's Homeowner's Association. He stated that he wanted to come before the Board and reiterate what was they said. They have talked about this proposal as an association and, of course, there is no general consensus among everybody, but they feel the Moons have done a good job of clearing the area so far. But, they want to reiterate a couple concerns. The first concern is the lighting. Lighting at night would be a concern for them. Also, they mentioned selling beer and wine. They would want to have some idea of what the normal operating hours would be and don't support late hours. They request that there be an established set of normal operating hours. But, again they would support the Moon's application if these things were taken into consideration.

Mr. Edgerton asked if he was familiar with the County's lighting ordinance. He wondered if that would satisfy their concerns about the lights.

Mr. Brady stated that he was not familiar with that ordinance, but noted that his house was visible from the store.

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

Mr. Morris stated that he understands some of the concerns, but felt it was wonderful that they were looking at something that would revitalize the country store concept. Therefore, he was in favor of the request.

Ms. Higgins suggested that a condition be added concerning the hours of operation. When talking about doing a standard private subdivision road street entrance and if this is a commercial use in the rural areas she was not sure that a commercial residential street entrance is appropriate. Because if they were doing any kind of delivery trucks and there is a ditch line and a residential entrance, a commercial truck might not be able to get into the entrance. Therefore, she was trying to determine if engineering had commented on condition #3.

Ms. Ragsdale stated that was VDOT's recommendation and it was their detail. Staff tried to get VDOT to agree to forgo the paved hard surface.

Ms. Higgins stated that it could end up being restrictive to the delivery trucks.

Ms. Joseph suggested that a condition be added restricting the outdoor display products in order to make the neighbors comfortable.

Mr. Rieley suggested that the condition be added that the outdoor display shall be limited to plants and agricultural products. He suggested that the hours of operation be extended to 11:00 p.m.

Mr. Morris preferred that the hours of operation stay from 6:00 a.m. to 9:00 p.m.

Mr. Thomas suggested that the hours of operation be extended at least to 10:00 p.m.

Mr. Morris agreed that the hours should be extended to be 6:00 a.m. to 10:00 p.m.

Motion: Mr. Morris moved, Mr. Rieley seconded, that SP-2005-024, Schuyler Country Store, be approved with the recommended conditions as amended.

1. Special Use Permit 2005-24 shall be developed in general accord with the concept application plan dated November 15, 2005, prepared by Brenda and Robert Moon, and titled "The Schuyler Country Store, SP2005-24" (Attachment F.). However, revisions to the sketch plan shall be allowed for compliance with the Zoning Ordinance.
2. The parking area shall be comprised of a loose gravel surface with parking spaces (provided the total trips per week do not exceed 350) delineated by wheel stops, flush railroad ties, or some similar means subject to the approval of the Zoning Administrator.
3. The vehicular entrance into the site shall be constructed based on the VDOT Standard Private Subdivision Road / Street Entrance with the exception of using gravel as an alternative paving material, or such other standard as may be required by VDOT.
4. The existing White Oak (Quercus alba) as shown on Attachment B. shall be retained, and it shall be protected by the following:
   a) Permanent fencing shall be installed at the drip line (outermost extent of the canopy) of the existing White Oak as identified in Attachment B., the full circumference of the canopy. The fencing shall be installed before any site disturbance commences and shall be maintained for the life of the tree. The fencing materials may include post and wire, split rail, or picket types. The fencing shall not be comprised of chain link. The fencing shall be subject to the approval of the Zoning Administrator.
   b) No materials of any sort shall be stored within the drip line of the tree.
   c) No vehicular or equipment movement or parking shall occur within the drip line of the tree.
5. Water and septic systems shall be subject to Health Department approval prior to site plan approval.
6. Hours of operation shall be between the hours of to 6 a.m. to 10 p.m.
7. Outdoor display shall be limited to plants and agricultural products.

The motion passed by a vote of 7:0.

Mr. Edgerton stated that SP-2005-024, Schuyler Country Store, will go to the Board with a recommendation for approval on February 1, 2006.

SP 2005-025 Jarman's Sportcycles (Sign #32) - Request for special use permit to allow outdoor display of vehicles in accordance with Section 30.6.3.2(b) of the Zoning Ordinance which allows for outdoor sales, storage and/or display in the EC Entrance Corridor Overlay Zoning District. The property contains 2.219 acres zoned EC Entrance Corridor and HC Highway Commercial. It is described as Tax Map 78, Parcel 33B and is located in the Scottsville Magisterial District on the south side of Richmond Road (US 250 East) approximately .14 miles west of its intersection with Sleepy Hollow Lane (a private right-of-way). The Comprehensive Plan designates this property as Rural Area 4. (Margaret Maliszewski)

Ms. Maliszewski summarized the staff report.

- This special use permit request is to store and display vehicles at a site on Route 250 East. As you know 250 East is an Entrance Corridor and outdoor storage and display requires a special use permit when it is proposed on an Entrance Corridor. The focus of this type of review is

specifically limited to the potential impacts of the proposed development on the Entrance Corridor. The site is located on the south side of Route 250 East a short distance east of the I-64 interchange adjacent to the building that they commonly refer to as the Farmer's Market Building. In this proposal the display of vehicles would be limited to the porches of the proposed building, which was shown in yellow highlight on the plan. The proposal has been designed to compliment that adjacent building. Again, the focus of this type of review is specifically limited to the potential impacts on the Entrance Corridor.

- The ARB has reviewed the proposal. The ARB had no objections to the request and recommended conditions related primarily to the location of the display and to the maintenance of the existing wooded area on site. There are also conditions recommended on lighting and signage because those are items that could have an impact on the character of the Corridor.

- Staff is recommending approval of the special use permit with the conditions listed in the staff report.

- Staff received comments from one adjacent property owner. Those comments were from the Thomas Jefferson Memorial Foundation, which were emailed to the Commissioners last week. Copies of the email were distributed to the Commission.

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

Ms. Higgins stated that on condition 3 with the recommendation where it talks about the existing woodland on site is indicated by the "existing tree line" shall be retained in its entirety. Her interpretation is that starting at the tree line at the back of the site there are septic drain fields there which will have to be cleared. She asked if staff meant with the exception of what has to be cleared for a septic drain field because that area was all wooded. It is the edge completely out of sight from the Entrance Corridor because it falls off a steep slope there. But, she just wanted to make it clear if she made it a condition that they don't preclude that it is not compatible with the septic drain field.

Ms. Maliszewski agreed that it seemed reasonable.

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

Charles Hendricks, representative of the Gaines Group, stated that he was with the architectural firm on this project and was available for any questions about the site plan or the building.

There being no questions for the applicant, Mr. Edgerton invited comment from other members of the public. There being none, the public hearing was closed to bring the matter back before the Commission.

Ms. Joseph asked that condition 3 be modified by adding with the exception of that area necessary for installation of the septic field as previously suggested.

Mr. Rieley asked to make one suggestion. Since they had a letter from Monticello pointing out the importance of Shadwell and the fact that it was under an easement and its historical significance, it seems that some additional under story planting on that side, which is the northeast side of the property, would be in order. There are existing trees along there and there is no reason why they couldn't be under planted with Hollies or something that are shade tolerant.

Mr. Cilimberg asked for clarification on the proposed location of the trees from the corridor because that is why it is a special use permit.

Mr. Rieley stated that it was along the northeast side.

Mr. Cilimberg stated that it would be the area most adjacent to 250 on the east side of the building, and Mr. Rieley agreed.

Mr. Kamptner stated that there needs to be a connection between the outdoor display and this condition.

Mr. Edgerton stated that they were showing the primary and secondary drainfields to the southwest. So there would be no reason for them to clear any of the trees along this area.

Ms. Higgins stated no and that it was pretty thickly wooded. She asked staff what the tree growth was like.

Mr. Rieley stated that it was very young tree growth. He suggested that the condition stated that the trees be installed to the back of the building and it was adjacent to the outdoor display.

Mr. Kamptner stated that he did not see any problem with the nexus in this case because the purpose of the landscaping is to protect the Entrance Corridor which has a direct connection, and part of its purpose is protecting Shadwell and Monticello. He felt that the nexus was clearly made here.

Mr. Rieley asked that the screening of shade tolerant evergreen trees like Hollies be installed on the east side of the building from Route 250 right-of-way to the back of the building under the direction of staff.

Motion: Mr. Rieley moved, Ms. Joseph seconded that SP-2005-025, Jarman's Sportscycles, be approved subject to the following conditions as amended that reference the "Jarman's Sportscycles Preliminary Site Development Plan" with revision date of 10/21/05 (two sheets) prepared by B. Aubrey Huffman and Associates, LLC.

1. The outdoor display of vehicles shall be limited to the covered porches of the building only. Vehicles shall not be displayed elsewhere on the site, or between the northern parcel boundary and the EC.
2. Vehicles shall not be elevated anywhere on site.
3. The existing woodland on site, as indicated by the "existing tree line," shall be retained in its entirety, with the exception of that area necessary for installation of the septic field.
4. The existing four Sycamore (or London Plane) trees (Platanus x acerifolia or Platanus occidentalis) located along the Route 250 East side of the property shall be preserved.
5. Tree preservation measures shall be included on the E&S plan and the grading plan (submitted with the final site plan) to provide for conditions #3 and #4, above. The E&S plan and grading plan shall include notes and details consistent with chapter 3.38 "Tree Preservation and Protection" of the Virginia Erosion and Sediment Control Handbook (current edition). Tree preservation measures shall be coordinated throughout the site plan set and E&S drawings. In the event that any site plan or E&S drawings show inconsistent information regarding tree protection, the drawing(s) showing the greatest tree protection shall prevail.
6. Site and building lighting shall be limited to the satisfaction of the ARB as illustrated in an ARB approved lighting plan submitted with the final site plan.
7. Site and building signage shall be limited to the satisfaction of the ARB as illustrated in an ARB approved drawing included with the applicant's final submittal for a Certificate of Appropriateness.
8. The three board fence proposed along the Route 250 East side of the property shall align with the fence on the adjacent property to the west. The color of the proposed three board fence shall match the color of the fence on the adjacent property to the west.
9. Shade tolerant understory evergreen trees, similar to Hollies, shall be installed and maintained on the east side of the building from the Route 250 right-of-way to the back of the building.

The motion passed by a vote of 7:0.

Mr. Edgerton stated that SP-2005-025, Jarman's Sportcycles, would go to the Board of Supervisors on January 11 with a recommendation for approval.

Old Business:

SUB-03-262 The Rocks (Resubdivision) Final Plat - Modification of Road Standards – Request for approval of the extension of Newcomb Mountain Lane as a private road and the modification of the private street design standards. (Jack Kelsey)

Mr. Kelsey stated that this application was last reviewed by the Planning Commission. The staff report at that meeting provided a detailed description of the design waivers and modifications that were being requested by the applicant. It also included engineering's recommendation on those particular modifications. The item was deferred so that staff could go back and work out a couple of the outstanding items. In particular, there was the issue of the road width. They discussed a variety of options for that. Subsequent to that meeting, staff met with the applicant and worked out that particular issue, which required some additional clarifications. Staff took all of that information and consolidated it down into the design table that the reviewing engineers and the designers can use to come up with a road design. Staff is asking the Planning Commission to take a look at that table and see if they can all agree to it. There is one change or error that he picked up. The information in the attachment A, which is the design criteria table, there is an appendix A in the very back beginning with the dimensions of the fallout zone the pavement width there is labeled as 12 feet and should be labeled 14 to 16 feet.

Mr. Rieley stated that it looks like it is consistent with what they talked about. He felt that they pretty much were going to leave it in engineering's hands. He stated that he was perfectly happy with it.

Ms. Higgins asked if the applicant has reviewed this.

Mr. Rieley stated that the applicant has looked at it, and as far as he knows they are in agreement with it.

Ms. Joseph stated that the traction surface of stone chips has to be in some kind of regular maintenance schedule. Also, she felt that the pruning of the tree limbs needs to be in a regular maintenance schedule and should be spelled out in the maintenance agreement.

Mr. Kelsey stated that an amended maintenance agreement is required before they can get their final plat approval. He spoke with the applicant's attorney, Ms. Tara Boyd, and she said that she has actually been working with Mr. Kamptner on that amended agreement. He suggested that they ask the applicant if they have any concerns about those items.

Ms. Joseph invited Ms. Boyd to come up and address the Commission.

Ms. Tara Boyd stated that they were fine with adding those conditions.

Motion: Ms. Higgins moved, Mr. Morris seconded, that SUB-03-262, The Rocks (Resubdivision) Final Plat – Modification of Road Standards, be approved as per staff's recommendation with one amendment to ensure that the road maintenance agreement addresses the two issues that have been stated as follows:

- In accord with VDOT standards provide a traction surface of stone chips adhered with CRS-2 Liquid Asphalt and Latex additive applied where grade exceeds 12 percent; and
- All tree limbs must be pruned back from the full road width (14 feet minimum) and to a height of 13.5 feet minimum.

The motion passed by a vote of 7:0.

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 9:30 p.m. to the next regular meeting on December 20, 2005.

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V. Wayne Cilimberg, Secretary

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