Albemarle County Planning Commission
March 27, 2007

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, March 27, 2007, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Duane Zobrist, Eric Strucko; Bill Edgerton; Pete Craddock, Jon Cannon, Calvin Morris, Vice-Chairman and Marcia Joseph, Chairman. Julia Monteith, Senior Land Use Planner for the University of Virginia was present.

Other officials present were Wayne Cilimberg, Planning Director; Steve Allshouse, Fiscal Impact Planner, Claudette Grant, Senior Planner; Ron White, Director of Housing; Pat Mullaney, Director of Parks and Recreation; Dan Mahon, Trails & Greenways Planner; Juan Wade, Transportation Planner; Mark Graham, Director of Community Development and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

Other Matters Not Listed on the Agenda from the Public:

Ms. Joseph invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved on to the next item.

Public Hearing:

ZMA 2005-00017, Biscuit Run (Signs #52, 56, 63)
PROPOSAL: Rezone approximately 828 acres from R-1 Residential (1 unit/acre), and R-2 Residential (2 units/acre) to NMD Neighborhood Model District - residential (3 - 34 units/acre) mixed with commercial, service and industrial uses. Maximum number proposed residential units: 3,100. Commercial uses proposed also.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential in Neighborhoods 4 & 5-residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses.
ENTRANCE CORRIDOR: Yes
LOCATION: Between the east side of Old Lynchburg Road and the west side of Route 20; adjacent and to the south of the Mill Creek South subdivision, adjacent and to the west of the intersection of Avon Street, Extended and Route 20 and includes 981 Old Lynchburg Road, Charlottesville VA 22903.
TAX MAP/PARCEL: 90/5, 90/6D (portion), 90/17D, 90A/3, 90A1/1, 90A1/1E, 90A/1A, and 90A/1B.
MAGISTERIAL DISTRICT: Scottsville
STAFF: Claudette Grant

Ms. Grant presented a power point presentation and summarized the staff report.

- The applicant proposes to rezone approximately 828 acres from R-1, Residential and R-2, Residential to NMD, Neighborhood Model District.

- The purpose of the public hearing is for the Commission to act on the applicant's request for a rezoning to accomplish the goals of the Comprehensive Plan for a mixed use development in the development areas in Neighborhoods IV and V.

- The applicant has proposed a development with up to 3,200 residential units, 150,000 square feet of commercial and office uses, a school site and a 92 acre district park that is located in an adjacent area zoned Rural Areas, which is not part of the rezoning request.

- On the eastern side of the proposed Biscuit Run Development there is one proposed access located on Avon Street Extended and 2 proposed accesses/entrances off Route 20. The west side of the site proposes 5 accesses onto Old Lynchburg Road. One of the 5 accesses onto Old

Lynchburg Road is a connector road, which runs from Route 20 through the site and the Southwood Mobile Home Park development over to Old Lynchburg Road.

- The revised proffers also include a pedestrian connection with future vehicular connection between the Biscuit Run development and the Mills Creek South Subdivision. Staff does not have a plan that shows this connection to Mill Creek South.

- As described in the staff report the Commission has held several work and information sessions for the Biscuit Run project. There is a lot of information in the staff report and its respective attachments. Staff will not go into all of the details, but highlight the areas of importance.

- Historic Resources – Staff would like to see a Phase 1 survey completed prior to any grading of the site. The applicant provided a Phase 1A Reconnaissance level survey, which is not accepted by the Department of Historic Resources. Staff would have preferred the Phase 1 survey to be completed prior to the rezoning. But, the applicant has chosen not to do this. If significant historic resources are found during the Phase 1 survey it will be up to the applicant to act accordingly and provide the necessary appropriate information. Staff has agreed to this compromise, which could be risky for the applicant. She added that they do not have a proffer with this commitment.

- Staff is concerned that there will be a level of disturbance to areas that abut roads and lots. Staff requested and the applicant has provided a revised greens plan and storm water management and stream conservation plan. While these plans have improved the clarity of areas to be disturbed the plans either do not clearly say what areas are to be preserved with no disturbance or shows areas to be preserved that will not be. The passive recreation areas, buffers, parks and critical slopes will be extensively disturbed where ever they abut roads and lots.

- Proposed new water and sewer pipe line installation traverses other areas labeled as passive recreation. But, no temporary impacts are noted in these areas. In addition, the proposed water and sewer construction will impact other areas labeled as green ways and parks.

- During the work sessions specific areas were discussed with the applicant where additional protection of significant critical slopes is needed. The applicant has indicated that he will make these revisions to the plan in order to further protect significant critical slopes on the site. But, until staff sees a revised plan staff is unable to commit on the level of impact. These impacted areas need to be clearly delineated on a revised plan.

- The applicant provided a detailed traffic impact analysis. According to the traffic study this development will generate approximately 30,000 vehicle trips in a 24 hour period. A total of 410 elementary students, 170 middle school students and 158 high school students would impact the school system from the proposed development. The applicant has proposed a site for an elementary school, which this development would support. The county schools are near capacity. The additional students in the middle and high schools from this development would support the expansion of school capacity. There is currently no commitment from the applicant for these additional students generated from this development. There is currently a need for additional police officers. This development would create an additional need for officers.

- They have had several discussions about the lack of sewer capacity to serve a development the size of the proposed Biscuit Run. The Albemarle Service Authority is requesting a phasing plan prior to the rezoning approval. Staff added that there are some discussions that may take this information out of the proffer and the applicant and Sewer Authority may come to an agreement. But, that is something that is still in the works.

- This proposal has been before the Architectural Review Board who has no objection to the rezoning as long as their requests have been made to the Code of Development and the Application Plan. This will be subject to a revised application plan and a Code of development. The proffers require both sustentative and technical changes. In most cases the funding provided

in the proffers is not enough to cover the necessary costs to complete the activity. So there will be a need for someone or an organization to come up with additional funds to complete activities.

- Regarding the proffers: The applicant has indicated a willingness to make a variety of revisions. However, staff does not have revised proffers. The applicant has agreed to contribute $25,000 for the cost of extending the greenway trail from the northern boundary of the property to I-64 along Biscuit Run. The applicant has indicated that they value the construction of a Class A trail to be $25 per foot. But, $25,000 will only cover 1,000 feet. Staff estimates the extended trail to be about 4,000 feet resulting in the need for $100,000.

- The improvements the applicant has offered is listed in the staff report.

- Waivers have also been requested for the provision of a parking and loading study and preliminary lot layout to be completed during the site plan stage. Staff finds this acceptable and supports the request for these waivers.

- There are several outstanding issues relating to the need for revised proffers, general development plan and Code of development.

- Staff has identified the following factors, which are favorable to this rezoning request:
    1. This project proposes mixed-use development generally meeting a number of principles of the Neighborhood Model.
    2. The road connection from Old Lynchburg Road to Route 20 creates an additional east and west connection in this portion of the County.
    3. This development will add additional commercial/retail uses to a portion of the County that lacks retail shopping options; particularly as residential development in this portion of the County continues to be built.
    4. The layout and design of the proposed plan attempts to protect some of the natural resources.
    5. The applicant proposes to provide proffers towards much needed transportation improvements to this portion of the County.
    6. A school site for an elementary school has been proffered.
    7. A district park site has been proffered.
- Staff has found the following factors unfavorable to this rezoning:
    1. As described by Attachments E & J the lack of details on the plan and code of development makes staff analysis difficult.
    2. As the proffers currently stand they are not consistent with the application plan and code of development dated December 12, 2006.
    3. Substantive and technical issues still remain with the proffers.
    4. Issues described in Attachments E, J & L are still outstanding.

- Staff is not able to recommend approval because the issues listed as unfavorable factors are not resolved. With the resubmission of revised information for this extensive project on February 28th, reviewing staff has had limited time to review, analyze, comment and coordinate the revised information that is included in the staff report. In some instances, different staff reviewers have made comments that have not been rectified due to time constraints. Staff has included some of these unresolved issues in this staff report in order for the Planning Commission to get an understanding of the additional work needed. There are unanswered issues and concerns regarding this application that, depending on how they are addressed, would dictate the substance of a recommendation. If the Planning Commission agrees with staff and does not recommend ZMA 2005-017 to the Board of Supervisors for approval, staff recommends if a revised plan, code of development and/or proffers are submitted that the revised information be

submitted to the Planning Commission for its review and recommendation to the Board of Supervisors.

Ms. Grant distributed two letters to the Commission. (Attachment A: Letter dated February 1, 2007 to Claudette Grant from Scott Collins, P.E. in reference to request for waiver of lot layout for ZMA-05-017; Proposed Biscuit Run Neighborhood Model District) (Attachment B: Letter dated February 1, 2007 to Claudette Grant from Scott Collins, P.E. in reference to request for waiver for parking and loading study for ZMA-05-017; proposed Biscuit Run Neighborhood Model District)

Ms. Joseph asked if there were any questions for Ms. Grant. There being none, the public hearing was opened and the applicant invited to address the Commission.

Steve Blaine, attorney for the applicant, said there have been at least ten work sessions on this project during the past 13 months. He thanked both staff and the Commission for the attention they have given to this project since September, 2005. The evolution that this plan has taken includes a lot of public input on the application. He presented a power point presentation. For the benefit of the audience it is important to reiterate that there are extra owner benefits that the public will derive from this planned community. There are ten reasons why Biscuit Run is a positive project for the community, as follows:

1. The have achieved a master plan for the remaining southern development area the employs the Neighborhood Model. They have filled out the remaining growth area.
2. The plan encourages walking and biking to work and shopping by incorporating those uses within the neighborhood.
3. It is an environmentally sensitive land plan. There is less than 2 percent of this project that involves critical slopes that will be impacted through development. There is over 350 acres, or 40 percent of the project, that is either in greenway, buffer or some other preserved area.
4. The plan promotes children walking to school. That is something that they really don't have throughout the county. It includes the future elementary school and the Covenant Elementary School.
5. It contains proffers that will assure affordable housing.
6. It contains proffers that will contribute cash to Habitat for Humanity for revitalization of Southwood Mobile Home Park. It will provide a range of affordable housing and not just those meeting the 80 percent threshold that our proffers do.
7. They have a transit orientation in the plan that promotes the use of transit in the community.
8. There are over 4 miles of hiking and biking trails for community recreation.
9. There is interconnectivity to promote neighborhood connections for better transit, reduced car trips and community vitality, which is something that needs to be stressed. Biscuit Run needs to be able to interact with the adjacent neighborhoods. The Mill Creek South interconnection was mentioned. Their plan and proffers would detail how that would be brought about.
10. A much needed 92 acre district park for residents of the area will be provided.

There is a discussion in the staff report about proffers where staff mentions that all the funding is not needed for the activities that are planned. What they are trying to do is to find what a contribution is for the residents of these communities to contribute for public infrastructure. Last Tuesday night the Planning Commission approved a project called Avinity, which is less than a quarter mile from the Biscuit Run project. It is a project that involved a density of about 10 times what the by right density is or about 120 units on 10 acres. In that proposal the Commission recommended to the Board of Supervisors that a pro capital contribution for the zoning would be $3,200 per unit. What they have done as a comparison is taken the cost of the project and their proffers for Biscuit Run to give the Commission a kind of check. They have provided an estimate of the actual dollar values of the proffered items. These values came from Steve Allhouse's's analysis. For the sake of argument he used the county's estimates. The total does not include affordable housing proffers, transportation proffers or the actual infrastructure proffers that are beyond what would be required in a by right development. It shows at a pro capital unit contribution for their project with these factors would be $3,800. If that is compared to the Commission's recent recommendation that would mean that the Biscuit Run residents are paying a 20 percent premium over what Avinity would, which is only a quarter of a mile away. To include the things that Steve Allhouse did not include, such as the actual cost of constructing the greenway trail within Biscuit Run and the actual utilities, grading and other infrastructure that their proffers will require them to do to the school site

it brings the per capital unit contribution to $4,800 resulting in a premium that the Biscuit Run residents will pay compared to residents living within a quarter of mile a 50 percent premium. If they add in the transportation improvements, which includes cash and non-cash, the total value of the proffers is over 31 million dollars. On a per capital basis the residents of Biscuit Run will be paying $10,000 per unit compared to residents who will live a quarter of a mile from this site. That would result in a 218 percent premium. How do they reconcile the premium with Biscuit Run with an approval the Commission just made last week? This project exceeds the standards in the county and provides many benefits to the community.

The unintended consequence of the process is that they are actually providing a disincentive for the very kind of planning that the Comprehensive Plan calls for. They have spent 10 months working on a traffic impact study and had agreed upon the perimeters of that study. They made recommendations for improvements in their proffers to reflect those recommendations. Then two weeks before the public hearing they received a memo from the Transportation Department that throws the traffic study in the trash. It also suggested another category of improvements that were unrelated to their impact. They are prepared to talk tonight about that in more detail. Mr. Proctor from VDOT was here to talk about that. In the end they would recommend that the Commission recommend this project for approval, but that they expect the approval to be with conditions. Obviously, they have to have clear and unambiguous proffers to include the substantive changes. The Commission can fill in the blanks with other changes as they listen to other testimony, which can be included in their recommendations. They have that over the Supervisors, who must ultimately accept the proffers. They can make recommendations that might be beyond what they are prepared to agree to tonight, but at least they would be contained in their recommendations. Obviously, they would have to have a revised application plan to reflect all of the changes that they have talked about that have been in the green space plan, which have to be consistent with the proffers. In the code of development, of course, it has to be clear. But, the code of development is not without detail. Current development meets all of the requirements in their application for the Commission to consider. Therefore, they need to be clear about that. The GDP has all of the requirements for consideration for approval or denial. There is no lack of detail. It does not contain the things that they have talked about and that they have agreed to do. That is a different thing. They ask that the Commission make a recommendation of approval with conditions. They are prepared to work with the Commission tonight to arrive at those conditions and are prepared to answer questions.

There being no questions for Mr. Blaine, Ms. Joseph opened the public hearing and invited public comment.

John Martin, resident of Free Union, said that residents of this community face a perfect storm of increased capital costs to provide for our future water supply, improvement of nutrient and removal at Moore's Creek Wastewater Treatment Plan and upcoming expansion of treatment capacity at the Moore's Creek Plant. Additionally, the tax bills are increasing as less and less of our federal and state tax dollars are returned to this community by Congress and the General Assembly to help us fund essential services such as schools and transportation. On top of this mountain of looming new debt the public has recently learned of major improvement that must be made to the Meadow Creek Sewer Interceptor and the Moore's Creek Sewer Interceptor the scope of which is presently under study, but undoubtedly will require tens of millions of additional funding. Unfortunately, there is little public evidence that the county, city, the RWSA and the ACSA are even communicating let alone planning by meeting together for the management of this future new debt with all four parties apparently planning instead the sail into a looming storm in separate small sword boats. Under these circumstances there could not be a more difficult time for Biscuit Run to be moving forward. At the very least all further rezoning considerations should be deferred until the cost of improvements to the Moore's Creek Sewer Interceptor in its entirely upon which Biscuit Run will be absolutely dependent are known. It is highly regrettably that this community has reached this stage of rezoning consideration for a gigantic new residential development with so little consideration given to a public infrastructure necessity, a sewer interceptor and the public purse. The danger to the entire community is that funding priorities for new development, such as Biscuit Run, will nudge water supply and water protection funding priorities further into the out years. It is time to take a breath and properly manage our future risks. This is our water shed.

Alias Anderson, Executor Director of the Alliance for Community Choice and Transportation, said that they all saw at the Commission's work session last month that there is tremendous public support for this

community if it happens to be a model of transit friendliness of bicycle friendly design and of walk ability. In fact, with the up zoning that is proposed they should all agree that is absolutely the only way that this development will work for this community in if it is a model of transit bicycle and pedestrian design. What she sees in the proposal and in the staff report so far does not represent that model community. It requires a paradigm shift for all of us. She does not see that represented so far nor some of the specifics that she would love to see. First of all the new amount that has been proffered for the trail that would connect the site to I-64 was great to see. But, the County trail staff can tell us exactly how much that trail would cost to build. She was not sure that this number represents a sufficient amount to do that. She would like to see more money there. Secondly, she sees bike lanes on Old Lynchburg as part of a much larger proffer and the money could be used for that. If bicycle commuting is an essential part of making this development work, then that needs to be an assured part of this plan. There needs to be bike lanes and paths connecting the site to destinations like downtown and the University. Lastly, the transit proffer is not enough. If it costs $800,000 a year to run transit to the site, then $250,000 over ten years is not enough for a development of this size. So they need more money there. Furthermore, they need to see how this development is going to be designed to be transit friendly. They keep hearing that it is going to be, but they need to see how. Are they going to build stations and bus pull offs from the beginning. Where are they going to be? Are the homes in the development going to be oriented towards those stations? What about the commercial spaces? So she hoped that they see that type of proposal as part of this community from the beginning because the up zoning depends on those facts from the beginning.

Roger Schickendantz, resident of 1858 Scottsville Road, said that he submitted a letter to the Commission and Board of Supervisors in January. He wanted to emphasize some of the points in that letter, particularly in light of the VDOT statement regarding the widening of Route 20. Therefore, he wanted to address the proffer about the widening of Route 20. As a local homeowner he had lived at this address for 11 years and has noticed increasing traffic. There is already an unsafe situation where he lives, which is about a quarter of a mile north of the Avon Road and Route 20 intersection. He urged the Planning Commission to reject the proffer to widen the road and consider other alternatives in light of safety issues. There was a motorist killed just yards north of his house within the last month. There is a need for traffic calming and not for a high speed thoroughfare. In areas where there are residential houses the houses are very close to the road, which is more indicative of the streets in Charlottesville. This road is a corridor of scenic beauty for Charlottesville and Albemarle County. The road leads up to Monticello and provides a context for Monticello. But, it is disappearing fast. The rolling hills are incredibly beautiful. Amazingly it still maintains that character now. Route 20 is designated as a Scenic Virginia By Way. There are other roads in the area that are trying to get their roads established as Scenic By Ways. It should be noted that Route 20 is a Scenic By Way already and they should try to protect and maintain it. In addition, there is a movement in Congress right now to establish a National Heritage Area called the Journey through Hallow Ground that extends from Gettysburg all the way to Monticello following Routes 15 and 20. Route 20 south is really an adjoining part of this historic connector to Charlottesville and to Jefferson's home in Lynchburg. He made the following suggestions as to how to deal with Route 20:

- Route 20 should be preserved as a 2-lane road by reducing the speed just as was considered for Park Street and other streets within Charlottesville. .
- Install a traffic signal at the intersection of Avon and 20 south.
- Recognize that wider straighter roads cause people to drive faster.
- Recognize that all roads leading into Charlottesville are 2 lanes for the most part. He has not seen any indication that will change. Therefore, how does increasing the capacity of this road assist with handling Charlottesville's traffic?

Morgan Butler said that he heads the Charlottesville/Albemarle project at the Southern Environmental Law Center. A well designed Biscuit Run project could become just the type of functional and appealing community that the county envisions for its growth areas. On the other hand a project that is rushed through the review process before all issues are resolved could turn 800 acres of our southern development area into a new outburst for suburban sprawl. They feel that a number of major issues still need to be resolved before the Commission considers recommending the project. Among those issues are:

1. Waste water capacity – As set forth in the Service Authority's March 16 letter this development creates a potential capacity problem for 2 different components of the county's sewage system.

One is the Biscuit Run trunk sewer. Secondly, is the Moore's Creek interceptor. The Authority requests that the applicant pay for its share of potential upgrades to both components. But, the applicant's sewer proffer only explicitly addresses the first. The upgrade to the Moore's Creek interceptor is significant enough that it, too, must be explicitly addressed.

2. Environmental protection – Staff has recently identified a number of sensitive resources on the site needing additional protection and the Commission has agreed. In response the applicant has promised to make some adjustments to its plan, but a revised plan has not been submitted. As a result staff has been unable to offer a full analysis of the plan's impacts to natural resources.
3. In response to comments at the last work session the applicant added two proffers offering additional protection against storm water run off and erosion. However, as staff points out restrictions on the reach of these protections significantly limit their value.
4. Site Design – They again caution against placing the retail component of this project at one side of a 2 mile wide site and along the highway. An appealing neighborhood center could be fashioned better by turning the through street into more of a main street with retail uses dispersed along its core in mixed use buildings. This would facilitate transit and it would eliminate the need for a big parking lot to serve a strip mall.
5. Transportation - The importance of fully understanding the cumulative transportation picture cannot be overstated with a proposal of this scale. Outstanding questions include:
    a) What benefits does the Sunset Connector offer? If warranted, what is the applicant's appropriate share of the cost of that road?
    b) How do VDOT's recent cost estimates inform staff's efforts to quantify the improvements that this project necessitates?
    c) Is the $815,000 set forth in proffer 6H a sufficient amount for the slated improvements that includes the expansion of the Fifth Street Bridge over Interstate 64?
    d) Is enough being done to ensure that transit will serve this site?

In sum there are a number of major substantive issues that have yet to be resolved. Please take more time to ensure that this proposal is a responsible one before the Commission considers recommending it.

John Krunchshank, resident of Earlysville, said that he was speaking today as a representative of the Piedmont Group of the Sierra Club, which has about 1,200 members in central Virginia. The Sierra Club has serious concerns about the pattern of growth that is occurring in our area. They are witnessing a rush to develop without a well thought out plan and safe guards for our natural resources. Decisions have been made that benefit the financial interest of certain individuals and businesses that erode the quality of life for the majority of residents in our community. Yes, we have many more shopping center, housing units, paved roads and great restaurants, but with them have come the deterioration of air and water quality, the destruction of natural habitats and a profound loss of beauty. The proposed rezoning of the Biscuit Run property is an issue that will have far reaching consequences. It will drastically change the character of the greater Charlottesville area. Fundamental questions about transportation, water supply, sewage treatment and environmental protection remain unanswered. The Sierra Club is sponsoring a petition drive to ask the Albemarle County Board of Supervisors to conduct a full analysis of the impact of the proposed Biscuit Run development on surrounding rural areas before making a decision on the rezoning on this property. A copy of the petition has been given to the Clerk. Currently there are 458 signatures on the petition and the number is growing. The citizens are telling the Planning Commission and the Board of Supervisors to slow down the process, study the situation and carefully plan for our future. A community should know what it wants to become and carefully plan to make that a reality.

Tom Olivia, resident in the Scottsville District for 25 years, said that he cherished the district's open spaces and the natural resources. Biscuit Run is an extraordinarily large project that will have wide and lasting impacts on much of the Scottsville District. He commended staff, the applicant and Commission for the hard work that in many ways has improved the design of the proposal over the last year. However, as staff notes there are negatives, such as the fiscal impact analysis, and there are significant open issues. He concurred with staff's recommendation that approval not be granted for the rezoning of the property now. In addition, he has much broader concerns that are not given sufficient weight in their review process. These involve quality of life and water environmental impact issues. He has attended five or six information and work sessions on this project over the past year and members of the public have been allowed to speak and almost universally they have been strongly opposed to the Biscuit Run

development. Simply put 30,000 additional vehicle trips a day will be bad. It will lower the quality of life of existing residents. Why would a project that would clearly and recognizably lower the quality of life of so many residents be approved? Why is this good? Beyond that in terms of the wider environmental impact much effort has gone into identifying and protecting on site natural resources. Truly this is good. However, there has been very little analysis of the effects of the project on off site environmental resources. What will this do to bio-diversity, water and so on in the surrounding rural area? Surely this will have some major negative effects. If the County, which has many commitments to protect our natural resources, is to successfully pursue these commitments they need as the Sierra Club has asked a significant environmental impact analysis of this project before they can reach a judgment. In addition, because there are so many quality of life issues that are arising in a project like this they can see why they can very much use the type of optimal sustainable population size estimate that Advocates for Sustainable Albemarle Population has proposed.

Charlie Armstrong, resident of 1509 Maymont Court, commended staff in how responsive she is to citizen's requests. In the green space plan on the northern tip of the development, which is a peninsula shape, they could see their area. There is a small piece of yellow shaded, which is a T3 zone, which is not part of the larger Biscuit Run development in the center. That is what adjoins his lot. Access to this is off of their street and Oak Hill Drive. No interconnection is planned. It is not even possible in that area because of the topography, which are all critical slopes. But, they are showing potential development in that area. They don't think it is appropriate for that area. The Neighborhood Model is a good thing inside the development, but it is just not appropriate on their street. Their house sits about 50 feet back from the road. The houses being proposed as part of the T3 District the front porches will be 6 to 8 feet from the road way. That is a great departure to what their existing neighborhood is. It is just not appropriate and does not fit. Their street is a rural section with ditches and large front yards. This would have a small amount of sidewalk, curb and gutter and storm sewer with houses slammed up against the street. He felt that placing development against their neighborhood on these critical slopes is just bad planning and they would oppose it. He generally supports the idea of Biscuit Run and the place is right and the plan in general is very good, but it was just the northern portion that he was concerned about.

Amanda Armstrong reiterated what her husband said. In looking at the plan it appears that their subdivision has conveniently been left off of the plan. From the plan it appears that this rezoning would have a minimal impact to the existing Oak Hill Drive Neighborhood by building next door to only a few houses. In fact, the rezoning of this portion would directly impact not only the Oak Hill Drive neighborhood as he suggested with construction traffic and these sorts of things. It will also affect the 14 Oak Hill Subdivision houses in this neighborhood as well. The prior plans submitted to the Commission showed this area as green space. They wrote letters as a neighborhood in March, 2006 to the applicant to request that the applicant allow the same buffers as has been allowed to other direct neighbors to this proposed project. They are the only subdivision which has not been promised the same buffer. They ask that the applicant revise the current plan back to the way it was shown in the prior submittal showing green space or at the very least a buffer adjacent to their subdivision such as that proposed for neighboring Mill Creek of 300' or so.

James Hansen, resident of the Oak Hill neighborhood, reiterated the comments made by the Armstrong. In principle he agrees with this rezoning process. He looked forward to some of the new retail and public amenities since he knows that growth is inevitable. His one concern is that small strip of land at the end of their neighborhood and all of the adjacent neighborhoods. The additions of the T3 zoned area will really only result in increased traffic and an increase in the construction impact on their neighborhood. He appealed to the developer to consider changing the zoning of that strip of land to help preserve their neighborhood.

Stephanie Blance, of the Oak Hill neighborhood, said that she lived across the street from the Armstrongs. Therefore, her lot also directly borders Biscuit Run. In the planning process they wrote letters to the Commission and the applicant to make everyone aware of their neighborhood. Although their neighborhood is small they are affected by the proposed development. They met with Mr. Blaine and he sort of allayed their fears and concerns when he showed them the green space next to their neighborhood. The most recent plan shows that area designated as zoned T3. They are concerned about that. Again, they wrote letters and Mr. Blaine met with them again. She asked that the T3 get changed back to rural space or they ask for a buffer as the other adjoining neighborhoods. Not only will

the houses not fit into their neighborhood, but the setback differences and their rural neighborhood versus the new Neighborhood Model just will not fit. In addition, since there is no connections from that piece of land to the rest of Biscuit Run all construction traffic will have to go through our streets and neighborhood.

Doug Arrington said that he had been following this proposal since the beginning. He was still not seeing Old Lynchburg Road being dealt with particularly the section between Hickory Street and the current entrance into Biscuit Run. He understood that the road could carry 10,000 vehicles per day. In speaking with some folks with VDOT he was not sure if he was real clear that safety was the main consideration of the ITA. He also has not seen any drawings. The ITA had stated that there was going to be a S3 and S4 there would be two dedicated left hand turn lanes. He has not seen any drawings and he was in the dark about what this will look like. He was not sure if anybody at this time really knows. There is still the question about the Southwood Connector and if that is going to happen and if there is a binding agreement for that to happen. That also rolls into if something is going to happen to eliminate the dangerous section of Old Lynchburg Road right as it tapers from the 4 to the 2 lane. That land is owned by Southwood as well, who will be coming before the Commission for a rezoning. Something needs to be pulled together on that. He felt that the majority of the ingress and egress is going to occur on the Old Lynchburg Road side. The Route 20 intersection is called the main entrance and may very well be for the commercial. But, for general traffic he felt that most of it was going to be drawn on to the Fifth Street/Old Lynchburg Road side. The bridge expansion is going to have to be dealt with. The corridor is already over loaded. The question raised is whether this additional traffic will bring it over the top. Further, the school count has to be taken into consideration. It will be 1 student for every 4 homes. A standard is 3.8 students per home, which leaves a difference between 2,000 and 1,800 students.

Jerry McMcormick Ray, representative for Citizens for Albemarle, said that they are concerned about the rate of growth and its impact on our water and environmental assets. Our local streams and reservoirs are feeling the impact of development. The State Department of Environmental Quality has found that the Rivanna River, North Fork Rivanna, the Mechums River, Beaver Creek, Meadow Creek and Preddy Creek are all listed as state impaired water. Most of these rivers flow through the growth areas and are not healthy. They are designated for expensive state clean up. Albemarle County in the last year along has approved major alteration of our landscape with expected impacts on the health of our water systems. Approval of the North Pointe Development, Places29, Rivanna Village, Hollymead Expansion, among others will increase the load of pollution to these waters. While Moore's Creek Sewage Treatment Plant is today the model in outstanding performance its performance will be compromised without a major upgrade. Citizens in the state will pay the cost of this upgrade. As more developments are approved and plans to connect their sewage to the Moore's Creek Interceptor for treatment how big must the upgrade be to accommodate the growth. The Moore's Creek Interceptor not only serves northern sections of the County, but also the expanding growth of the City in its southern portion, the western portion of the urban ring south of Route 250, the University of Virginia, Crozet and the vast growth of the southern county. The Biscuit Run interceptor also feeds into the Moore's Creek Interceptor. However, at a size capacity based on the current zoning if the 828 acre rezoning of Biscuit Run is approved as planned for a Neighborhood Model District the existing capacity of Moore's Creek Interceptor will be insufficient to the task. The developer must include a sewer master plan for the entire development with a schedule for phasing in the different portions of the development. Does he plan to contribute a monetary amount to the cost for increasing the interceptor's line capacity? If Biscuit Run is approved tonight the loft of upgrading the existing Moore's Creek Water Treatment Plan will fall to citizens much more than the expected pay for their sewage treatment. Neither citizens nor the county will be ready to add another major cost to their shrinking budgets. Citizens for Albemarle urge the County Planning Commission not to approve the rezoning for Biscuit Run. County staff does not recommend approval. It is bad planning for the citizens and bad for the health of our water and environmental assets.

Carlton Ray, Environmental Scientist for the University of Virginia, noted that he was present last December and did not want to repeat himself. A line from his previous statement was that everyone seems to agree on the need for sound scientific information to guide us through the road to an uncertain future. This need is especially apparent for such a massive enterprise as Biscuit Run. A process of environmental impact analysis is absolutely required and supported by funding for significant research devoted to the effects of growth on environmental health and citizen's well being. He concluded that as matters now stand Biscuit Run Development is unsupportable. This is contrary to one of the benefits mentioned by the developer. Biscuit Run is not environmentally sensitive. If only because of its size and

for a host of other reasons, just a few of which are pollution, waste, water, sedimentation, loss of habitat and interaction among all of those, it is a place that is frankly being trashed. His question is doesn't anyone here think that there is sufficient information on which to base an environmental assessment. He was tempted to relinquish the rest of his time for an answer.

Jeff Werner, representative for the Piedmont Environmental Council, said that since 1972 PEC has worked throughout Virginia's Northern Piedmont to promote rural land conservation and advocate for land use and transportation policies that allow smarter growth in the region's developing and urban areas. PEC is generally supportive of well planned growth in the growth area and Biscuit Run has the potential to serve as a model for fulfilling the Neighborhood Model. The PEC believes that good planning can prevail here. They urge Albemarle County and the applicant to take the time to get this project right and allow that process to happen. The City and County officials and planners, VDOT, local residents, advocacy groups and the applicant have struggled to not only adequately address, but to identify and define the issues that come with a proposal of this scale. The PEC endorses this approach and encourages the applicant and Albemarle County to pursue resolution of several specific issues. Among them: VDOT analysis indicate that the applicant share the necessary improvements to Route 20, Avon Street and Old Lynchburg Road as approximately 32 million. The proffers do not cover theses costs. The County tax payers are already footing the bill for past development approvals. The proffer package should be adequate enough so that the taxpayers are not required to subsidize the cost of this development. Given the portrayal that Biscuit Run is a mixed use community the project has a relatively small amount of commercial space. Increasing the mix of non-residential uses might reduce the negative fiscal impact and reduce the number of off-site vehicle trips generating from the development. The County Service Authority has expressed concern regarding sewer capacity and had specifically asked that information be made available for their review and analysis prior to any decision on this rezoning. Questions remain as to how this transit oriented development will fully implement the promised transit component. They need a through analysis of how multi-modal and pedestrian access will be accommodated, encouraged, implemented and maintained. Finally, the applicant should initiate a direct dialogue with officials from the City, the County and the University of Virginia to address the proposal's aggregate impact on transportation and public infrastructure and seek solutions that will allow this development to compliment the area around it and not contribute to growing problems with traffic and inadequate infrastructure. Hard work is necessary to resolve the questions and concerns on this proposal. The transportation and infrastructure solutions alone will take time to work through, to analysis and finalize. They acknowledge the applicant's eagerness to move forward, but support the community's determination to get it right. A solution will require a delicate balancing act of timing, patience and open discussion. It is understandable for the applicant to oppose any extensive delay or deferral. So it is absolutely necessary that the applicant and local officials work together now and responsibly take the time necessary to work out the best solution for the entire community.

Sally Mange, resident of Mill Creek South for 10 years, concurred with staff's conclusion that this proposal is not ready for action at this time because there are outstanding issues. She asked to address the issue of connectivity. It probably can't be applied retroactively in this situation. Mill Creek South, the adjoining neighborhood to the northeast, has only 200 dwelling units. It has streets with no curb and gutter and no street lighting. It has one access road out to Avon Street, which is very steep. In icy condition they have blocked their access out of the subdivision. If that connector road is made through to Stony Creek Drive a significant number of people will seek that short cut out of Biscuit and head up Avon Street to cut off ½ mile or so and miss a light or two. Those persons will end up on that steep grade with a big curb on a residential street. That is the street where she and many others walk daily. It will have a tremendous impact on their neighborhood. It really is not a situation that she thinks connectivity was meant to address. With the relocated school site a trail that would connect Mill Creek South to Biscuit Run makes great sense. She questioned if students would be able to walk to the school site on the south side due to the great distance. The connector road would also have an Impact on a very beautiful wooded area that our community really impressed upon Mr. Blaine the importance of protecting that wooded area to the area south of Mill Creek along Stony Creek Drive. It would send drainage into their storm retention pond, which was not designed to carry that extra drainage load that this would impose. Therefore, she felt it was very important not to impose connectivity retroactively under these circumstances.

Kevin Fletcher, resident of the Scottsville district, said that everybody has said everything that is relevant. He was concerned over the fact that Mr. Blaine makes the comment of saying that he has created a

master plan for southern Albemarle County. That is not his responsibility, but it is the County's. The County should develop that master plan. The applicant failing to answer staff's questions in E and J is a big concern. Also, the fact that the proffers are ambiguous at best concerns him very much that the applicant feels the need that they must move on. Therefore, it is very important that the Commission is united in voting against this and send a message to the Board of Supervisors that this is not a good plan and is half baked at best.

Andrew Macelfresh thanked everybody for supporting their concerns about the plan. He supported his neighbor's concerns from the Oak Hill Neighborhood. He asked that the Commission consider the suggestions made by the Armstrongs about the little parcel of land at the northern tip.

Mark Lebrath, resident of 1070 Bishop Hill Road, spoke in favor of the plan. He felt that it was a very good plan from a design standpoint. He agreed with many of the comments, but feel that those are legal questions that need to be ironed out between the attorneys in terms of what the legal definitions of the proffers are. In general from a plan standpoint he felt that they have done a good job in addressing some of his concerns, such as rural preservation by implementing the Neighborhood Model and by addressing affordable housing with the ability to work with the Habitat for Humanity in the Southwood Development. He was of the opinion that it was a good plan; however, more legal definition needs to be taken into account before the plan can be approved.

Anne Mallock, resident of Earlysville, said that she had long advocated for infrastructure first. She has not answers, only questions. There are many unresolved issues. Please get the answers to these questions before making a decision. They want to avoid repeating the mistakes of earlier projects where insufficient public structures were funded to the detriment to all of those living near by. The amount of stress on the environment and on existing public services is unknown. From the plans it is unclear what will happen to these areas they call green ways. Are these green areas to be truly undisturbed or will they be first dug up and have utilities put in and then called green ways afterwards. That is not a way to protect our critical resources. Are these greenways buildable land that has been donated for parks or it is land that could not be developed anyway and put aside for parks and attributed to $43,000 per acre. Are we padding the proffers by including interior streets in this amount? The dollar figures are shocking, especially during this annual budget time. The County figures show a 20 year impact of 134 million dollars with a fiscal impact shortfall after proffers of almost 46 million dollars. Where is this money coming from? Plus there is a transportation shortfall of 54 million dollars according to the emails from VDOT. It is incumbent upon the applicant to provide the needed information in a timely fashion for proper staff analysis prior to approval. Please take that time and deliver it.

Ron Sites, Headmaster at the Covenant School, said that their school of 692 students serves a broad and diverse regional population. The last time he appeared before the Commission was in 1999 and 2000 when they began plans to build their new high school in Albemarle County. Their upper school is located on Hickory Street adjacent to the Biscuit Run project and the Southwood Mobile Home property. He pointed out that he was speaking at the authority of their board. There are a number of reasons that the Covenant School is now willing to step forward and endorse the project. First is transportation and safety. The parkway connecting Route 20 to Fifth Street will eliminate the need for many of their students to use I-64 as a connector road. They had originally anticipated the southern connector would be constructed by now. Obviously, this has not occurred and makes the Biscuit Run Parkway even more important to the school for the safety of their students. When they moved to this location they built a 12.8 million dollar campus adjacent to Southwood, who have been wonderful neighbor. They look forward to having a school located adjacent both to the new Biscuit Run neighborhood and the future Habitat development. One in five of their students receive financial aid. They believe that the diversity in their school over the coming years will continue to grow with these developments. Importantly the owners have listened to us. They have watched the sell and the development of this property from the beginning. When the original plans were made public they notified the developers, the Planning Commission and the Board of Supervisors of several specific concerns that they felt would have an adverse effect not just on their school but on the surrounding neighborhoods. The developers have been more than responsive and they are pleased with the changes they have made in their willingness to listen. Finally, it is a good plan. The plan provides an environment adjacent to their school that they believe will enhance rather than detract. The proximity of the walking trails a sizeable park and future students walking not only to Covenant but to a new County elementary school make it very attractive for Covenant. In this regard they believe that

they have developed a thoughtful approach for developing the property. In summary, our Board supports the project because they believe it is good for the County, it is good for the surrounding neighborhood and particularly good for the Covenant School and their students. They can only hope that all developers will be as sensitive as they have been with us.

Joel Hamilton, currently resident of Woodboork, said that he had lived for 7 years about 2 miles south of Biscuit Run on Old Lynchburg Road and will be moving back there. His first concern is that Old Lynchburg Road is already an unsafe road and increasingly heavily traveled. It has not seen any way that this has been addressed significantly. Additionally, he was concerned that the connector from Route 20 will actually bring traffic flow off Route 20 onto Old Lynchburg Road. He would like to see full compliance with the Development Code so that everybody understands what this project really is about in full before it proceeds. He has concurred with nearly all of the concerns expressed this evening. He was for lower density development. Putting 3,100 units, which is 8,000 to 10,000 people, in one place strikes him as an extraordinary development. If T3 represents the highest density, then the development in the northern tip is most peculiar type of development for rural areas that he has seen anywhere.

James King, resident of 2307 Jefferson Park Circle in the City of Charlottesville, said that he wanted to take his hat off to the Commission because they were saving the City of Charlottesville by pursuing a high ethical responsibility. He knew the Commission had not legal responsibility for the impact of this project on City residents, but for the last month and a half he had come to meetings with the help of Mr. Jack Flynn and Ms. Peggy King and he really has been impressed. The applicant is trying to do a good job on the project, but his timing and idea about phasing are unrealistic. It would be much better to take the time and really allow the Commission to do the design work and so on. He wanted them to get down to the things that make an impact on everybody and not just the City and make some recommendations. If the Sunset Avenue Fontaine Connector will cost 12 million dollars, he felt that 10 million dollars should be proffered by the applicant. For the Moore's Creek improvements and other things that will have a gigantic affect from now to forever that a much larger proffer should be asked of the applicant. He felt that this was not like other projects one that they will be able to change or improve later. The approval will be forever. Therefore, he wanted to go against the applicant's idea that it was better to have this one big plan rather than a lot of little plans that come sequentially. He disagreed because smaller projects could be planned more easily. Therefore, the Commission should multiply the amount of time that they take. He thanked the Commission on behalf of the City.

Joseph Raines, resident of 2835 Penny Lane, said that he own the headwaters of the body of water this development is named after. He has been to may meetings. It seems that ten years ago they were discussion sprawl versus congestion. He did not like sprawl. In general he was in favor of this plan because the more people they put in this place the less that will be somewhere else. He can't answer all of the tiny details. He felt that they would work out most of these problems to the best of their abilities, which include the transportation and water problems. They always do. This is a good plan and it will probably work.

Peter Clark, resident in the J shaped area on the west side of development, said that he has been in communication with the applicant and Commission. He thanked the folks from Oak Hill who expressed their concerns. He asked that they consider the information sent to the Commission on behalf of the 8 residents who live on Old Lynchburg Road. The applicant has indicated that they will provide water and sewer service for them. They will lose their water because they are on the Oakhill Water Supply that is on the property now in the possession of the developer. They would also like to have a greater buffer around our properties. The green space to the right abuts up against the UVA Polo Ground, which is wooded and a buffer in itself. They would like to see that area changed to give them a greater buffer. There are a few other issues addressed in an email letter sent on March 8, which he hoped the Commission would refer to that again.

Dan Lynch, resident of Mill Creek South, thanked the Commission for the time they have given to this project. He hoped that the Commission would take a lot more time on this project. Traffic is his major concern. There are 3 major roads going into Charlottesville. With the additional traffic generated by Biscuit Run they will face a lot more traffic on Stony Creek Drive. He was not asking for sidewalks or street lights because he loved where he lived. It is a beautiful place to live and they can see the stars at night.

Jay Descant, a 6 year resident of Charlottesville City in the Fry's spring neighborhood, asked the Commission to consider the environmental impact for this development. He was frustrated as a city member by the proffers recommended by the city a few weeks ago because they were soft. It is time that the city and county take a joint stand on things and work together to figure out concrete situations. They have heard about a number of problems tonight. He asked to reinforce the issue of transportation in and out of the southwest corridor of Charlottesville. He walks his dog and bikes. He did not have any idea where the additional traffic will come in and out of this neighborhood safely. It is getting worse on a daily basis. He bikes to work about 80 to 95 percent of the time. He drove to work last Tuesday and it took 14 minutes. He lives 1.75 miles from his job. The point is that there is congestion there right now. One traffic study said there would be 59 cares per second traveling on Old Lynchburg Road in the peak hour times. That is a lot of cars. A quote on the county website said, "In deciding whether or not to approve a proposed development the county takes into consideration several issues other than just a pure financial impact." He encourages them to live that statement. He asked that they think about how to get people in and out of the County and City safety. He asked that they make sure that they protect their neighborhoods.

Overton McGee, Habitat of Humanity of Greater Charlottesville, thanked the Commission for their flexibility in the somewhat unusual affordable housing proffers that involve Habitat. There are still some questions about several matters that relate to Habitat. One is the Southwood Connector. They have resolved all of the remaining issues on that and expect to sign that contract next week as soon as their attorney returns to town. That will be settled next week and they will have a signed contract to sell that easement to the developers of Biscuit Run. The second issue is the affordable housing cash proffer. Their plan is to redevelop Southwood to a higher density and make it mixed income and include affordable housing for the families that already live there. Of course, it is affordable housing now. They want to create permanent affordable housing for those families. That requires that they add some more units in addition to the 361 units currently there now. The cash proffer being designated for Habitat has 2 advantages. One is that the affordable housing will be built at Southwood next door to Biscuit Run. So they will have the affordable housing in closer proximity to the expensive housing than would ordinarily be the case. The other advantage is that many of those cash proffers are $16,000 per affordable unit and many of those units will be sold or rented to families with much lower incomes than is ordinarily the case with the proffer money that is proffered in the Albemarle cash proffers. Their primary business is working with families who earn between 25 and 60 percent of area median income. At Southwood they will be working with some families who have incomes much lower than that. The other matter is the design proffer. They met this afternoon with Mr. Goodal from Tortes Galles. They think that the design proffer would be very helpful to them because it would help them get off to a faster start in their work with Southwood.

Lynn Kalpard said that she lived right where Route 20 and Avon Road meets. She has lived there for over 35 years. She suggested that they work with the traffic problem that we have today. She leaves her farm in the morning and has to wait to get out of the driveway for at least 5 to 10 minutes due to the traffic. At 5:00 p.m. if she goes into Charlottesville and comes home there is at least a line from I-64 to the traffic stop light at Piedmont. There is already a traffic problem. She would hope that possibly Biscuit Run could help them with that problem before they add more traffic.

Ms. Joseph asked if there was any further public comment. There being no further public comment, the public hearing was closed and the matter was before the commission. She noted that from Parks and Rec that the following persons are present: Dan Mahon, Trails & Greenways Planner and Pat Mullaney, Director. From VDOT Joel Denumzio and Chuck Proctor are present. From the Service Authority Gary Fern and Pete Gorham are present. Steve Allshouse, Fiscal Impact Planner and Ron White, Housing Director are here. Therefore, the Commission has many resources here for this project.

The Commission took a ten minute break at 7:35 p.m.

The meeting reconvened at 7:45 p.m.

Ms. Joseph noted that the public hearing had been closed and the matter before the Planning Commission.

Mr. Morris said that he would like to invite the representatives from VDOT to come forward and explain their analysis.

Chuck Proctor said that he worked in the Culpeper District Planning and Land Development and basically does traffic studies. He developed the spread sheets that were in their packet. There are a couple of minor errors, which were all related to real estate costs. He separated out the residential and the commercial on the back page. Basically, this is just a planning tool to give them an idea of where to look at for transportation improvements. The key thing to this is the average traffic increase on the individual corridors. The estimates are estimates he generated at the District Office based on what he thought VDOT would traditionally give them as an estimate for those types of project improvements along those corridor. But, it is not something that the County has really put any input into. He asked to clarify that for everybody. The estimates are generated by VDOTt based on what is in their long range plan for the corridors throughout the state. All of these projections are based on 2014 dollars. He wanted to quantify that number. They are not on today's dollars. He picked it one half the ways through the build out year for the improvement costs.

Mr. Cannon asked what was the relationship between the present day dollar and the 2014 dollar.

Mr. Proctor replied that the dollars have grown at a 5 percent increase yearly.

Mr. Cannon said that is deflation over time and it was roughly 5 percent a year, and Mr. Proctor replied that was correct.

Mr. Edgerton said that the pro rata share was the 32 million dollars and was what he calculated for it.

Mr. Proctor replied that 32 million dollars would be the total based on the initial spreadsheets that he ran. There were some differences. He checked on some the right-of-way values and he adjusted the right-of-way values from 50 percent to 30 percent, which dropped the cost to 28 million.

Mr. Edgerton asked what percentage he used for the pro rata share.

Mr. Proctor replied that it varies depending on the corridor. He looked at individual corridors. He looked at Route 20 corridor from I-64 to the four lane divided section to their development. He looked at Avon Street from the City limits to their development. He looked at Route 780, which is Old Lynchburg Road, the section that goes into the City from Fifth Street into the City. He looked at Old Lynchburg road in the section south of the four lane divided section. Those were the four corridors he looked at.

Mr. Edgerton asked how he calculated it and if it was $15,000 going down each side.

Mr. Procter replied no, that he took an average of the ADT's of the volume at the intersections to get an average ADT for that corridor. Then he used the difference in the background and their development traffic and developed a percentage. That percentage he put numbers to for an estimate.

Mr. Edgerton asked if these numbers are credible by the standards that he is using state wide.

Mr. Proctor said that there was a study done in Florida for developing a pro rata share methodology that they have used on the Wickham Pond. Basically he tried to pull that methodology in to developing a way to establish what some kind of corridor improvement cost would be based on their development traffic or impacts that a development was creating on a project.

Mr. Craddock asked what can be done to a scenic by way.

Mr. Proctor replied that there is some protection in that they would have to meet the federal guidelines and look for alternatives. If there are no alternatives, then it is not that they would improve it, but they would have to develop the project and do an environmental impact analysis and get citizen input and address any issues that might be quantified under 4f.

Mr. Craddock said a couple of speakers brought up questions tonight that closer to Avon Street/Route 20 intersection that the houses through there are very close to Route 20. That would require it to go through a lengthy process.

Mr. Proctor replied that these are something that VDOT in the long range plan has in there. It is not something that the county has or it is on any other plan or it is programmed as a project. The traffic study that they did for the development looked at the intersections and the traffic volumes on that road is reaching a level that would dictate widening and improving the road so that it could carry the traffic that is projected to be on that roadway in the future. They are not saying that it should be done. These are just his take on what they should be based on from the information that they have and what they have in their long range plan just to give you an idea of what some of those costs would be if they want to go those routes.

Mr. Craddock said that there had been some concern closer to the intersection closer to Routes 20 and 53 about storm water if Route 20 is widened and the water in that creek overflows. With the new FEMA regulations there is a house that is in the flooding area. Would that be taken into account if Route 20 is widened and the stream diverted.

Mr. Proctor replied that they go through a lengthy study on environmental impacts with any project that they do. Route 20 would qualify for federal funds. Therefore, they would have to go through the whole environmental impact review to look at documentation together.

Mr. Craddock asked if that was for spot improvements, too. Or, is it more nebulous for spot improvements.

Mr. Proctor replied that most any project they do now they are going to seek federal funding for it. In such cases that they have to do an environmental statement for each one of the federal projects that they do.

Mr. Cannon said that he wanted to make sure that he understood. In the pro rata share cost summary the total results for each of these specific transportation issues that were addressed, Route 20, Avon Street and so forth, the pro rata cost share represents the costs of improvements to those roadways attributable specifically to the additional traffic generated by Biscuit Run. He asked if that was correct.

Mr. Proctor replied yes, based on his calculations based on the estimates that he generated.

Mr. Cannon noted that there was a memo from Joel Denumzio with a copy to Mr. Proctor dated March 19, which says that the cash proffer for Route 20 needs to be increased. There is no statement as to how much it needs to be increased, but only that it needs to be increased and the spot improvements to Old Lynchburg Road south of the 5th Street Extension needs to be clarified. He assumed the basis for the statement on Route 20 is his calculations here in the pro rata cost summary. He asked if that was correct.

Mr. Proctor replied yes, noting that he has done a number of calculations on this. Actually, he looked at it a few minutes ago as a 2 lane section. It is still in the neighborhood of 8 million dollars to just do a 2 lane improvement of that road to address all of the safety concerns and put in the turn lanes that would be required along those points. That is more than the applicant is proffering for.

Mr. Cannon said from that statement when he says needs to be increase he does not yet have a firm number in mind of what would be the appropriate increase. He asked if there are several possibilities.

Mr. Proctor said that he would give them the information, but that he does not necessarily have a firm figure to go on because he was not sure what would be built out there

Mr. Strucko asked if his cost estimates were based on Route 20 becoming a 4 lane divided section with bike lanes and curbing.

Mr. Proctor replied yes, and that what is spelled out on that sheet is what he estimated based on the 2014 costs. That would be what it would include.

Mr. Cannon said that when Mr. Proctor said that it was up to the Commission did he mean that it was up to us to figure it out as a policy matter what portion of that cost share they would want to ask for by way of a proffer or is there some other element that he is missing.

Mr. Proctor replied that there are no improvements that are specified for that corridor. He generated improvements based on what they thought it might be. It is just quantifying what those improvements are since he was not sure what the county is going to want for improvements along that corridor.

Mr. Cannon asked if that was up to the county, and Mr. Proctor replied yes, that was up to the county.

Ms. Joseph said that they don't have this designated on any list of when these improvements will be made.

Mr. Proctor replied that this is not on any kind of plan for improvements. The section from Mill Creek to Route 53 was looked at a number of years ago, but it has not been on any kind of list for the future.

Mr. Cannon said that the 14 million dollar for Route 20, the pro rata share cost summary, was based on some assumption by Mr. Proctor of what their improvements would be.

Mr. Proctor replied yes, that it was listed for 4 lanes, but it just depends on what the county wants that corridor to look like.

Mr. Cannon asked if he could give a range and if 14 million is the highest level of modification or is there a lower range.

Mr. Proctor replied that he would have to rerun it. He just did some rough calculations and it somewhere in the neighborhood of 8 million dollars would improve it as a 2 lane facility. To quantify something else that does include their frontage improvements, too.

Mr. Strucko asked if the total costs to improve Route 20 to a 4 lane divided section with bike lanes and curbing is 33 million. He was looking on page 105 of staff report and he wanted to make sure that he read this correctly.

Mr. Edgerton noted that page 98 gives the break downs for the different intersections.

Mr. Proctor said that what he estimated here was 38 million dollars. He has changed the right-of-way and utility estimate because it is high. Therefore, that number has bee revised. None of the other numbers changed, but it dropped it to 28 million. It should be about 30 percent as opposed to 50 percent.

Ms. Monteith asked if he could explain what would trigger VDOT to do an EIS on Route 20.

Mr. Proctor replied that if the county wanted to push that forward as a project and VDOT would start the process to develop it as a project, one of the first things that they would have to do is an environmental impact study along that corridor as part of that first step process in the developing of that project.

There being no further questions for Mr. Denumzio and Mr. Proctor, Ms. Joseph asked that they go on to the next issue.

Mr. Zobrist noted that there are a lot of open issues. There are two ways that the Commission can go. Since they have incomplete information he thought that probably everyone would feel more comfortable if the applicant wanted to defer to give them time to look at all of those issues. He suggested that it be deferred tonight so that they don't waste a lot of time tonight and then have to come back and do it all over again. There is a point when they have to stop coming back and doing it over and over again. If the applicant does not want to defer, then he thought that they ought to proceed and figure out where they all agree and what issues are not on the table and get those resolved so they don't have to look at them again in the future. Then they have to see if they can fill in all of the blanks, as Mr. Blaine suggested. It is up the Commission to define the issues how they want to and if they are comfortable with that to do that.

If not, since Mr. Blaine wants a decision the Commission will have to make a decision at some point in time. He suggested that the Commission ask Mr. Blaine if he has an interest in deferring.

Ms. Joseph asked Mr. Blaine if they would consider asking for a deferral. They have heard from staff, the Planning Commission and the public that there are a lot of unresolved issues. The Commission would accept a deferral to get those items addressed.

Mr. Blaine said that they would entertain a deferral if they can understand what would be accomplished in the deferral. A deferral without a very clear path forward only leads to a 6 year process. They are not interested in that. What they heard tonight were open issues, but issues that they are quite up to task and they believe the County Attorney is up to task. He agreed with the speaker that most of these are legal issues. They would believe that they can state and describe for the Commission as they have done in various correspondence since the December 12 how they would revise the plan and the code of development to address very specific comments that they have received. They would not entertain a deferral in which they would submit a new complete general development plan with 18 pages and a code of development, which would be about 65 pages bound to reflect the changes that he did not believe that they have really any controversy about. The Commission has a piece of correspondence from him dated February 15 in which they respond in the affirmative to almost everything the staff has asked for to be shown in the code of development. White he thinks they have issues he thinks that they are overstating many of the issues. He felt that there were some issues that they could tackle tonight. He felt that there were some real easy clarifications on proffers and some additional proffers that can go directly to some of the things that they have heard tonight. So they would like to do that. If they could defer to answer questions or to satisfy the Commission that they do have all of the answers in various format. Then they could do so without delaying their ultimate decision, which would be reserved to the Board of Supervisors based on their recommendations. He asked to respond to the suggestion that they are pushing this through. They feel that they have been up to task and there has been responsiveness from the reviewers, but it is important to know that the investors in this project really can be okay if this zoning is turned down. They will survive if this zoning is turned down. Now what the investors would not appreciate or where they are hurt or perhaps would lose their investment is if they spent another year, or whatever it would take, and they ended up having the rezoning turned down or even the zoning might become impractical from a financial standpoint. So they are okay with the turn down of the rezoning if they can have it with dispatch. They think that the only people that lose there are the community because the community does not then get all of the things that they talked about tonight that are the benefits of this plan. So they do have issues remaining, but he believed that they could resolve them. If they are talking about a two week deferral to resolve the issues with the County Attorney and the staff since they seem up to task, and could still meet within that window. They would still be able to have a work session with the Board on May 9 instead of a public hearing. That would push off the Board's decision for another 30 days. There is a $21,000 a day to carry the land and in 30 days it is $600,000. They would rather that money go to the county in the form of proffers than to investor bankers. So the answer is yes they would entertain a deferral, but it would have to be with a very clear path forward.

Mr. Edgerton asked if Mr. Blaine would ever recommend to a client to make a decision based on multiple documents that are contradictory. That is the problem that the Commission is faced with.

Mr. Blaine replied that he did not believe so because the ultimate signing execution is the county when the gavel goes down when the Board of Supervisors approves the request. The policy requires that proffers be submitted 9 days before the public hearing of the Board of Supervisors. They have already submitted signed proffers and they expect to go through several drafts of those proffers before they are finally signed.

Mr. Edgerton agreed that the Board was ultimately going to make the decision here. But, the Commission's role in what they have to do with the best information they have is to make a recommendation to the Board who has the ultimate responsibility to take action. The staff report lays out the outstanding issues that staff needs the answer to. He did not know if that could be accomplished in 2 weeks or not. If staff cannot work under that schedule then they were kidding themselves in talking about a 2 week deferral. He asked for staff input on that.

Mr. Blaine felt that the Commission is up to task in making the recommendation and making it clear substantively so that the Board has the benefit of their advice.

Mr. Edgerton said that they have a code of development that disagrees with the plan. The have plan that disagrees with the proffers. They have multiple copies of proffers. To be very candidate he was not sure exactly where we stand. The staff report reflects that staff is confused as well and he was really struggling with this. From the majority of the speakers there was a unified message that maybe it was not in the best interest of the county to push ahead with this until some of these issues have been resolved. That is why the Commission is asking for the deferral.

Mr. Blaine said that he understands that if it was the consensus that it was the matter of seeing everything resolved and negotiated and placed in a revised GDP, code of development and proffers then he would agree that 2 weeks would not be sufficient time. But, he would maintain that it is not necessary because those are details that they can iron out. There are some substantive matters that he thinks should be addressed. He did not think that the members of the public have the benefit of the Commission's knowledge and review and understanding of the proffers in the plan. That has been demonstrated. He would not want that to be the last word on them. As those issues come up they will be prepared to commit and go further. The trails issue, for example, there has been another proffer from another developer to extend that trail from Biscuit Run to I-64. So our number was attempting to take into account their contribution. But, if there is any shortfall they can say tonight that they would make it up so they can get the trail system connected. Things like that he would like to take them off the table because they are fairly easy to address. They have some solutions to propose for the Oak Hill neighborhood. But, he just met with them last week. They are up to task and welcome the opportunity to address it.

Mr. Morris said that a lot of things have been coming down the pipe. His sympathy is with the applicant and the staff. However, as far as the sewer question and transportation question and the A1 Study and so on he would like those types of things, Mr. Blaine, to really be addressed.

Mr. Blaine said that on the sewer capacity they have already met with Albemarle County Service Authority about the agreement that would be put in place for any required upgrades to the Biscuit Run Interceptor. They just received today their revised peak flow numbers. They are actually more beneficial than what they had based on the engineering previously. It may end up that there is not need for an upgrade. If there is a need for an upgrade that is due to the Biscuit Run development, the Biscuit Run owners will pay for it. They already have precedent with Old Trail. They have a format to use. It is in our interest to have that agreement because they don't have building if there is not sewer capacity. That seems to be the concept that is lost here. It does not matter what the zoning is. If there is not a pipe to provide sewer, then this is all moot. So their decision does not create capacity. It does not create the commitment for capacity. They still have to satisfy ourselves.

Mr. Strucko said that it depends on who pays for the capacity.

Ms. Joseph asked Gary Fern and Pete Gorman to come up and address that issue for the Service Authority.

Gary Fern, Director of the Service Authority, noted that Mr. Blaine was correct that they met last Friday to discuss the project. There are two issues here. One is the Biscuit Run trunk sewer. The second is the Moore's Creek Interceptor. As stated in their letter of March 16, the Biscuit Run trunk sewer is owned and maintained by the Service Authority. The Moore's Creek interceptor is owned and maintained by the Rivanna Water and Sewer Authority, which is another entity. He suggested that first they discuss the Biscuit Run sewer. They talked to Mr. Blaine and Mr. Collins last Friday and they can put into place an agreement such that when the development gets to a certain point they can require the developer to pay for any upgrades to the Biscuit Run Sewer. That answers question one in who will pay for it. The developer will pay for that increase that is necessary for their development in the Biscuit Run Sewer.

Mr. Zobrist asked if they would require that to be bonded. Usually they turn that over to the home owners in the development and the developers are long gone.

Mr. Fern replied that their intention right now, and they need to work out some of the legal details, is that those provisions stay with the land. If they sell out to another company, then whoever ends up owning the land is going to end up having to pay for those increases to the sewer.

Mr. Zobrist said that his understanding was that if they turn it over to the home owner's association, then the responsibility would fall on them and not the developer.

Mr. Edgerton asked if the agreement that had been agreed to had not been written down.

Mr. Fern replied that was correct.

Mr. Edgerton said that it does not have a price tag that is associated to it so they are willing to sign an agreement for anything that subsequently turns out to be an expense associated with the improvements. He noted that there was no number put on it at all.

Mr. Strucko pointed out that liability could be passed on to a subsequent land owner.

Mr. Edgerton said that the commitment was being made whether it stays with the current applicant or a subsequent owner. The agreement will be written with no price tag. It will be wide open for whatever it is going to cost. He asked if that was correct.

Mr. Fern replied that the short answer to that question was that currently the way they have the agreement set up with the folks at Old Trail is that they will pay the entire cost. They expect to do the same thing for this development.

Mr. Zobrist noted that was just for the Biscuit Run Connector.

Mr. Fern replied that was correct that it was just for the Biscuit Run trunk connector.

Ms. Joseph asked how the public finds out about what kind of agreement they come to.

Mr. Fern replied that it would have to go to their Board of Directors. So, of course, it will be discussed within their public meetings.

Ms. Joseph noted that one of their statements in the letter said that they wanted some sort of phasing and some sort of agreement before the rezoning was approved. She asked if he was still feeling that way.

Mr. Fern replied yes, that they are.

Ms. Monteith asked how the timing works if they need to discuss this with their board. She was not sure how this all works out in terms of timing, particularly given a 2 week time frame.

Mr. Fern replied that if that was the case, then they will to have a draft agreement in place and go to their board at their next meeting, which will be April 19.

Mr. Edgerton asked how long it would take to get it before their board and a decision to accept or reject. Starting right now are they talking a month or 2 weeks.

Mr. Fern replied that the board would meet on April 29 and he did not know whether they chose to make a decision. The next meeting would be the following month. In defense of the applicant he wanted to say that they met on Friday. The Service Authority has revised their waster water design standards and those were supplied to Mr. Collins. It sounded like they received them today. So they are still working on flow numbers that would need to get back to us for review.

Mr. Zobrist asked about the Moore's Creek Interceptor.

Mr. Fern noted that was a much larger question. Currently the Rivanna Water and Sewer Authority are studying their inceptors and they will continue to study them. At this point in time no one, including the

Service Authority, knows what the additional capacity in the Moore's Creek Interceptor will need to be. The Moore's Creek Interceptor takes in waste water flow from basically the southern half of the city, southern part of the county and heads out as far as Crozet. They need to take all of that into consideration when looking at what the new capacity will be in the Moore's Creek Interceptor. Rivanna anticipates that they won't have answers to those questions as to what type of capacity will be necessary or what they are going to find in the existing inceptor as far as capacity until this fall. So they cannot put a dollar amount on that at this point in time.

Mr. Cannon asked if there is a way they have of structuring an agreement in anticipation that additional capacity might be necessary related to this development and putting the developer under contract to supply that amount whatever it may turn out to be.

Mr. Fern replied yes, that they can come up with a technical way to put that into an agreement. But, he did not know whether the developer would agree to it.

Mr. Edgerton noted that he was confused because this is a whole separate entity that controls this. He asked if they were meeting on April 19 and be able to render a decision by then.

Mr. Fern replied no. Next fall is the earliest that they would know how much capacity was available in the Moore's Creek Interceptor.

Mr. Edgerton asked if the applicant has made any promises to them about taking care of the additional needed capacity if there is a need.

Mr. Fern replied that he would have to ask applicant because he did not know.

Mr. Edgerton noted that a number of folks from the public who spoke indicated that conversation had not happened.

Mr. Zobrist said that they could add a provision to the agreement that said a certain percentage if any upgrades to Moore's Creek and add a percentage of how Biscuit related to everything else. They could write that into the agreement.

Mr. Fern replied that they would write it into a separate agreement from Moore's Creek.

Mr. Zobrist said that it could be done. That way the other authority enters to the benefit of their bargain when they have to upgrade it. Or is it between both authorities and the applicant.

Mr. Fern replied that the upgrade itself would be born by the Rivanna Water and Sewer Authority. The City of Charlottesville and the Albemarle County Service Authority being Rivanna Water and Sewer Authority only two contributor will bear the brunt of that.

Mr. Zobrist asked if they would tender that to the project where the applicant agreed to pay.

Mr. Fern replied yes. The Service Authority would need to negotiate with the city what percentage of that increased capacity in the Moore's Creek.

Mr. Zobrist said that they have a means today to set a formula and ask the applicant to do that if they deemed that important.

Mr. Fern replied yes, that he thinks that they could.

Mr. Morris asked how soon that could be done for the benefit of the applicant.

Mr. Fern said that he would venture to say that they would not have it ready for the April 19 meeting.

The Planning Commission took a ten minute break at 9:39 p.m.

The meeting reconvened at 9:53 p.m.

Mr. Cilimberg said that the next thing was that a comment was made by staff of the desire for a Phase I Archeological Historical Survey to be completed prior to grading and disturbance of the site. It is covered in the staff report. Staff needs the Commission's reaction to that. Of course, the applicant has weighed in a bit on what they feel they are willing to commit to.

Mr. Edgerton felt that staff's argument was very compelling. He supported staff's suggestion.

Mr. Morris supported staff's suggestion although he would suggest that they take a look at this and not possibly survey the entire 880 acres, but specific locations if that is possible. If not, that would be acceptable. But, definitely a Phase I Study should be required.

Mr. Zobrist asked if staff wanted the Phase I Study done before disturbance, but not as a condition.

Mr. Cilimberg replied that Phase I Study was not a proffer or a requirement under this review to do it before the zoning decision is made. But, the Phase I Study was to be done before the disturbance.

Mr. Zobrist, Mr. Strucko and Mr. Craddock agreed with Mr. Cilimberg.

Mr. Cannon asked what the applicant's resistance was to that or if there is still resistance to that.

Mr. Zobrist said that he did not think there would be.

Mr. Blaine agreed to do a Phase I prior to disturbance, but they would also agreed with Mr. Morris. They need to in the proffer be very specific about the scope of that. Even if they were limited to 358 acres, and he did not know what the actual area of potential disturbance was, they were talking about a crew of 4 doing shovel tests every 50', which would probably be a 24 week constant exercise. It is overkill. What they have done is an initial Phase I, which was done over a year ago. They provided that information to the staff and identified potential hot spots, some of which they were able to accommodate in design and others were high unlikely that they qualify for the National Historic Register. They are talking about piles of rocks and chimneys. But, they will survey those. Then the question is what they will do with the Phase I Survey. It is possible that they may actually have to do Phase I to accommodate a wetlands disturbance. This is really set up for a Federal permitting under NIPA. So they might have to do a Phase I Study beyond the project. They are prepared to do that. But, at least under NIPA they have a Federal agency that reviewed the Phase I. They will have to work with State Historic Department on what the mitigation would be. If they are not in a federal review, then what are they doing requiring a Phase I Study. As they did in the Fifth Street/Avon Street project it was suggested that there could be human remains. In a Phase I if it is not evident from the surface then if they have a hot spot they can search for potential human remains. In that case then they are obviously thrown in to it. It does not matter in the federal. They have to comply with the laws that deal with the removal or non-disturbance. So they agree to a Phase I Study. They would like to define it to the already identified hot spots. They don't need a proffer. But, they would say obviously if required for federal permitting beyond that and then they would follow the protocol that is mandated by the agency.

Ms. Joseph asked if there was any input from staff on that. She asked if that was agreeable.

Mr. Cilimberg asked to make sure if Mr. Blaine said that it would not require a proffer. He thought that that the intent from what was offered for it was that they want to have a proffer that committed to the Phase I Survey over whatever area is deemed to be appropriate before there would be grading and disturbance of the site.

Mr. Blaine said that agreement on that is complicated. They would say in the proffer, although it is unnecessary, that they would do beyond those if required by federal permitting. He thought that goes without saying, but just to be clear he thought that they were in agreement.

Ms. Joseph asked if the Commission was alright with that, and the Commissioners agreed.

Phasing/Sequencing

Mr. Edgerton said that he wanted to make sure before they forward that Mr. Blaine has said no to phasing. He asked if that was the final judgment on that. He wanted to make sure that staff understood what they heard.

Mr. Blaine replied that it was no to providing a precise schedule of how the project in its areas will be developed unless it is with the obvious caveat that is going to be dictated by internal factors.

Mr. Edgerton said that he wanted to make sure that he understood that.

Mr. Cannon said that he wanted to understand this because they talked about two things One, was a sequence of development. Two, was a schedule of development. His understanding was that in the end they were talking about a sequence of development and not a schedule of development. He asked if that distinction serve any use for the applicant.

Mr. Blaine replied that it does serve a use to them. He thought that they could provide sequencing, but he did not know what it does to address your concerns.

Mr. Edgerton noted that Mark Graham explained that without some sequencing he could not control the grading.

Mr. Blaine said that is why he could not tell you how to do it. But, that is why he is recommending performance standards. So that is in lieu of having a detailed prescription.

Mr. Edgerton asked Mr. Graham to come back up because he was not sure that was what was said. He asked Mr. Graham if that was what he had said. He noted that he asked Mr. Graham rather directly if there was a sequencing that could be used and he suggested using the proffer that staff structured on North Pointe to minimize the impacts so they would not have another Hollymead Town Center.

Mr. Graham replied that what he was trying to say is that if they had a sequencing plan that said which areas were going to be disturbed and which would not, then they could come up with more prescriptive measures that were going to say what they precisely expected in each section. Maybe an example would help. For example, they had a phase when they looked at it was 50 acres and one of the prescriptive measures would be that it appears that they should be able to grade this within 3 months. So they would have in there that they would expect the clearing and grading to occur in more than 4 months weather permitting. It would be permanently vegetated as soon as that clearing and grading have been completed. He asked if that helps.

Mr. Edgerton said that was what he thought he heard him say before. What he did not understand was why Mr. Blaine does not understand why that is important. He asked if Mr. Blaine agreed to the sequencing.

Ms. Joseph replied that he did not.

Mr. Cilimberg said that on page 18 the first proffer was cash for the greenway dedication and pocket parks. The $25,000 as explained earlier would get about 1,000 linear feet of area.

Mr. Edgerton asked if 4,000 linear feet has been calculated.

Ms. Grant said that about 4,000 feet is what would be needed. It was $25 per foot.

Mr. Craddock pointed out that the applicant mentioned that somebody else would do the rest.

Mr. Zobrist said that the applicant said they would make up for any short fall in their presentation. He asked if the applicant said that they would pay for it all if they can't somebody else to participate. He asked if that was correct.

Ms. Joseph asked if that is the way the proffer is written.

Mr. Blaine said that the proffer would have to be revised because they don't know when and how much Avon Park has agreed to contribute. But, they could craft a proffer to provide that they would make up any deficiency. They will make sure that it gets built. They are talking about another $75,000, which they will agree to that.

Ms. Joseph reiterated that they agreed to revise the proffer to make sure that gets built.

Mr. Blaine agreed that was correct.

Ms. Joseph pointed out that several staff members were present from Parks and Rec. She asked if anyone wants to ask specific questions about this.

Mr. Strucko said that he was looking at the proffer language with red comments. In the red commentary it says more specificity is needed regarding the phasing of the dedication of the greenway so that the proffers are clear as to what triggers the phase. Parks would rather avoid a complicated phasing process and accept the whole greenway system sooner than later.

Ms. Joseph asked Mr. Mullaney if he wanted to address that concern.

Pat Mullaney, Director of Parks, said that he agreed.

Mr. Blaine said that as he understood the comment the greenway would be dedicated and then any existing trails could be used by the public. It is now owned by Albemarle County. The trail construction they would like to do as the adjoining areas are constructed. They can do it in the early phases, but they were fine with that.

Ms. Joseph noted that the Parks and Rec representatives were shaking their heads in agreement.

Mr. Edgerton asked if the Commission was going to try to wordsmith the actual document or if they were going to be working from that.

Ms. Joseph said that they would be reviewing the concepts.

Mr. Cilimberg noted that the staff report was really directed more to the substantive matters and the comments within the proffer section, which were some of the technical and operational aspects of making it work as staff has provided. The report at the front focuses more on the substantive issues.

Mr. Strucko asked if there was a concern with the Commission that the actual proffer language is still not finalized.

Mr. Edgerton noted that he was concerned with that from his perspective, but he was not a lawyer. They have legal expertise so that once the direction is established, yes, he would like to see it finalized before they make a decision.

Mr. Strucko said that he agreed with Mr. Edgerton. In his reading the staff report he saw two very aggregate concerns. One was that there were questions staff outlined that are unresolved issues. Then as he read through the proffer document he saw Mr. Kamptner's commentary throughout with a lot of questions and unresolved issues. He assumed that the cumulative effect of both of these groups of unresolved issues lead to the recommendation for not approving a rezoning because there was inadequate information. So if they are going to head down that road tonight.

Mr. Cilimberg pointed out that typically when the Commission receives these rezonings in the perfect world the proffers would be essentially done. In the real world they find many times that the proffers substantially are done, but there are a lot of things that need to be taken care of before the request goes to the Board in terms of the technical aspects and the operational aspects of the proffers. What they try to focus on for the Commission in particular are the substantive areas that are being made. Understanding

the commitments then the applicant and ultimately staff in reviewing the applicant's proffers can make sure that it is going to happen through the wording of the proffers. He thinks that the outstanding issues here are the number of outstanding substantive matters that they are trying to get resolution of. That does not mean that there is a lot of cleaning up that still does not have to happen.

Ms. Joseph noted that it was hard to ignore the stuff in red.

Mr. Cilimberg said that is the way that they get it because that is what they need to be able to communicate with the applicant.

Ms. Joseph asked Mr. Strucko if he was okay with that if they stick with page 18 and maybe flip back occasionally.

Mr. Strucko relied yes, that they should just push through.

Ms. Joseph said that the next item is affordable housing.

Mr. Cilimberg noted that number 2 covers affordable housing. In the Commission's previous work session they indicated that they wanted to be distributed over the phases of development that they were okay with cash in lieu of units that goes to the Habitat project or other projects the county is trying to realize the same benefits from. They accepted the default that a full 15 percent affordable housing would be provided within the Biscuit Run project itself. But, they also noted that Ron White felt that a minimum of 10 percent affordable housing needed to be provided in Biscuit Run. On page 19 of the report staff noted that they still don't have any real tie to a substantive project in Southwood Mobile Home Park. There is still that missing link.

Mr. Zobrist felt that the Commission was very clear that if that could be worked out to staff's satisfaction when it is available, and if not they have to build it in Biscuit Run.

Mr. Cilimberg replied yes, basically the Commission arrived at that conclusion.

Mr. Zobrist asked why they are still asking the question that they have no mechanisms. The applicant has committed to it. Conceptually the Commission was okay with off site affordable housing in Southwood. Therefore, it seems that one is pretty clear.

Mr. Edgerton asked for some clarification on the affordable housing. With the one-third that the applicant wants to get credit for by making a $1.600 contribution to the Southwood project does that mean he only has to build 10 percent physically for his project?

Mr. Cilimberg replied that the minimum that the Commission established, based on Mr. White's comments, would that they would at least get ten percent in Biscuit Run if there was money being proffered for Southwood.

Mr. Strucko noted that was what the majority of the Commission agreed upon with one exception.

Mr. Edgerton said that he was just trying to understand what they were all agreeing on.

Mr. Cilimberg said that the idea was that they were going to get a certain level of affordable housing, at least 10 percent, within Biscuit Run and if necessary they would go to 15 percent if there was not cash going to Southwood. But, if cash went to Southwood they would at least get 10 percent within Biscuit Run.

Mr. Edgerton said that when Southwood comes in for a rezoning it will all be affordable housing.

Mr. Strucko noted that it would not all be affordable housing.

Mr. Edgerton asked if Southwood would have to give 15 percent since that is what the Comp Plan says.

Mr. Cilimberg noted that according to their policy that was correct.

Mr. Edgerton asked if basically Biscuit Run would only be providing ten percent and some cash for Southwood.

Ms. Grant replied that was correct.

Mr. Strucko said that Southwood according to Overton McGee there are 361 units currently right there that are classified affordable, but they want to add more units at market price. They would preserve at least 361 units as affordable.

Ms. Joseph invited Overton McGee to respond.

Overton McGee, of Habitat, replied that they don't know what the exact mix would be. He would guess that they would apply for one half of it or more to be affordable by county's definition of affordable being less than 80 percent less of area median income. They would expect to have at least 361 affordable units and probably more depending upon the density for which they are rezoned. So they certainly anticipate having much more than 15 percent affordable.

Ms. Joseph asked if there were any other questions.

Mr. Strucko said that during their last work session they discussed this at some length concerning the percentages and how it would work. The concern was whether they are maximizing the supply of affordable housing that they would potentially get by having Biscuit Run do all 15 percent within their development. In their discussion he thought the Commission was okay with Biscuit Run meeting this affordable housing unit issue by doing some of it in Southwood. That is what he objected to. He was saying no because Southwood already has existing affordable housing and he did not know if it would increase the overall supply. They will get at least 10 percent from Biscuit Run. The 5 percent affordable housing floating between Southwood and Biscuit Run is where he was a little confused.

Mr. Edgerton said that he was not sure if that fits with the Comp Plan.

Mr. Strucko noted that the standard number was $1,650 per unit, which was what they have used in the past.

Ms. Joseph asked if the majority agrees with this.

Mr. Cannon noted that the Commission has already done this.

Ms. Joseph said that the only other thing she would like to add to this is if they would look at the proffer statements Avinty is coming up with and Rivanna Village. It might be appropriate so that they don't lose the housing or the funding. She suggested that it be tied to the site plan or whatever. If they don't have qualified buyers by site plan phase the proffer language still needs some work to make sure that they don't lose the units. At least there would be some funding. She asked if the Commissioners agreed.

The Planning Commission agreed.

Mr. Blaine agreed.

Mr. Zobrist suggested that it be made clear that it should not count against the 15 percent if for some reason that Southwood decided that they were only going to do 15 percent that it would be 15 percent plus the number of units that they paid for.

Mr. Cilimberg said that the design money for Southwood project is a separate proffer.

Ms. Joseph pointed out that Mr. Strucko was not the only one that disagrees with allowing the 5 percent to be in Southwood. She also felt that the 15 percent should be on the site.

Mr. Edgerton said that he agreed too.

Ms. Joseph noted that there were 3 Commissioners who disagreed with allowing the 5 percent of affordable housing to be in Southwood. Last time it seems to be the consensus of the commission that $500,000 could be considered a proffer amount that has been given to the Southwood development. Does the Commission still agree? She noted that she did not agree with that either. She felt that it was a wonderful thing. If that is what the applicant wants to do it would be a nice donation, but she did not know if it would be Habitat or who would own Southwood. It just does not feel right. She felt that the 15 percent affordable housing should be on the Biscuit Run site.

Mr. Cannon asked if there is an agreement about to be signed that advances the Southwood project to a point where they can feel comfortable that these arrangements are going forward more or less in the way that they are anticipated to.

Mr. McGee said that the agreement that they referred to earlier was the agreement having to do with the road easement. But, they would be happy to sign something that made sure they get the number of units the Commission wanted. What they were talking about was 5 percent of about 3,000 units. They would be happy to sign something saying that there would be at least that many units plus 15 percent or whatever would give the county a little comfort about this.

Mr. Edgerton said that if he understood what was being suggested that they would get 5 percent of 3,100 was155 units. So they are asking to be able to get credit for 155 of the units that they need to build by building in Southwood. Three of the Commissioners said that they are not comfortable with that and four said that they are. The second part of it is the design fee of ½ million dollars. They also want to get credit at $16,000 a unit for that if it does not get built. He did not realize that they were going to try to get credit for that as well. All of sudden they are moving more units over to Southwood and it was getting further away from the Neighborhood Model. He was uncomfortable with that.

Mr. McGee noted that they are proposing the design fee would come out of that 5 percent that they have been talking about.
Mr. Edgerton said that was where he was confused because it does not say that in the staff report. It says the applicant/owner may also receive credit for a donation for up to $500,000 in design purposes in Southwood development at the rate of 1 dwelling unit per $16,000 documented design cost.

Mr. McGee said that, of course, they have other concerns to consider. From their point of view having that ½ million dollars up front will really help speed up their process and help them build more affordable units in the long run.

Mr. Edgerton noted that it does not make Biscuit Run a better project.

Mr. Strucko said that they get credit for 31 affordable units for that.

Mr. Edgerton noted that all of a sudden they are talking 186 units of their commitment have been covered in the contribution for design services.

Mr. McGee asked if he meant that they were not included in the155.

Mr. Edgerton replied that was correct. That is the way it is written.

Mr. Cannon asked if that is the intent that those be taken out of the number of affordable units on site.

Mr. McGee noted that he might have misunderstood.

Mr. Blaine asked if the Commission's preference was if there is a credit for design fees to only have it deducted from the 5 percent so that they are assured of 10 percent within Biscuit Run. He asked if that was their intent. They will make the words reflect what the Commission wants.

Mr. Cannon reiterated that the concern is to have ten percent of the affordable housing built in Biscuit Run and if the choice is to have additional units of affordable housing financed off site with a contribution of $16,500 that those units actually be built off site and that there not be a credit for those units from a contribution that is going to something other than affordable housing, i.e. design. He asked if that is correct. The concern is to be able to count the units at 15 percent rather than have the money to something else a more generic expense. He understands the point, but was just trying to express the concern.

M. Monteith said that she was looking for a clarification here. She understood that Habitat was going to be engaged in the affordable homes that got built in Southwood. So if a certain number of homes stay in Biscuit Run would Habitat be involved in those houses, too. She asked if that is yet to be discussed.

Mr. McGee replied not to his knowledge. His understanding to the latest draft of the proffers was that Habitat would about 1.9 million in cash that would come in at $16,000 per unit as they build the affordable units. Then addition to that they would get ½ million dollars up front to use for design to help speed up their whole project. So he thought that the design portion would be included in the 155 units that they would be expected to build. They would still build far more than 155 affordable units. But, some of that money would come up front instead of having to wait 10 or 15 years for that to dribble in at $16,000 per unit.

Mr. Zobrist noted that was just an advance on the 155 units.

Mr. McGee replied yes, that they viewed it as an advance that would help them go faster. Of course, they mentioned Habitat building affordable units in Biscuit Run. They would love to do that, too.

Mr. Strucko said that there are currently 361 affordable units in Southwood. Those units are guaranteed in the future. He asked if they were going to displace those folks.

Mr. McGee replied that their plan is that everyone who follows the rules and pays the rent can stay. Of course, their challenge is that this is going to require a great deal of money to redevelop this. So it is going to be a very slow project. The more money they have the faster it goes.

Mr. Strucko pointed out that 15 percent of 3,100 are 465 homes. Where are those going to be built?

Mr. Edgerton said that 355 units are going to be built in Southwood because that is going to be the 5 percent or the 1/3 of the 15 percent they want to build in Southwood. If they go along with the proffer as being proposed right now they are also going to get credit for an additional 16,500 for another 30+ units. They are dribbling down and they are going to have less than 15 percent units actually in here.

Mr. Zobrist noted that actually what they are saying is that there are still going to be 155 units they will build and the $500,000 is just an advance against those units. They will still credit them.

Mr. Edgerton replied that is not what it says.

Mr. Zobrist questioned if the purpose was to get the language right as to what they have agreed to.

Mr. McGee said that he believed the Forest Lodge folks are comfortable with the 1.5 million dollars coming out of the 5 percent and not out of the 10 percent.

Mr. Zobrist replied that was what he thought he said. So there will still be155 units. He would also take the language a little further that this proffer is only good so long as Habitat is building affordable units and they are the owner. He suggested that they put it on the table. That is what they all expect to happen. In his view if this helps them get to their affordable units faster, then that is a benefit to the community.

Mr. Cilimberg said that otherwise if Habitat is not involved, then Biscuit Run does 15 percent.

Mr. Zobrist replied that was correct in that otherwise Biscuit Run does the whole thing.

Ms. Joseph disagreed with the $500,000 because that is putting that money into design services that are not even defined. It is taking it out of the affordable housing bank. Therefore, she could not agree with that.

Zobrist asked that it be restated.

Ron White, Director of Housing, said that he had a very simple way of getting over this hurdle. It was what he suggested to the Commission at the last work session. If they go with this concept of the two developments cooperating and Biscuit Run providing cash or contributions to Southwood the simple way of doing it is for that cash to come into the county as a cash proffer, just like they have accepted on other projects, and let Biscuit Run restrict it for a period of time that they agree to. He suggested that it might be 5 years. Then if that money is not used or Habitat during those 5 years does not move forward then they would have that money to use on other affordable housing projects. It is a very simple way of dealing with it. It may take some of the anxiety off. With the way it is set up now we will get more than the combined 15 percent just the way it is proposed now. But, he felt that the Commissioners had a level of discomfort with it. The design money is very important up front. The county could apply for $25,000 to help with redevelopment activities in Southwood. That is it from the state and federal government. This is 20 times that to help with redevelopment activities. Habitat and the county will not have problem seeking grants for the actual construction of the units. But, the pre-development funding is just not available any more. Non profits struggle to come up with that to do it. So the design feature is very important. The other piece is if they apply for a CDBG grant to help with infrastructure grant to help with infrastructure costs in Southwood 51 percent of the units will have to serve low and moderate income. So they have some control over Habitat by putting public money in to them. They can't put public money into a for profit development, but a non profit development they can. That is just a couple of ideas to throw out. They will be glad to work with the applicant if the cash proffer way is better. On the design services because they have a contract already with the engineers and designers he would rather not see that design service money come through a cash proffer if they have a better way of working out directly and they can document it and ensure that it is a reasonable cost and give them credit for it. He said that he would be happy to work with the applicant on it.

Mr. Morris felt that was what they agreed to last time and he was okay with it.

Mr. Zobrist agreed.

Mr. Strucko noted that he still objects.

Mr. Edgerton disagreed. With all due respects they were concerned with providing affordable housing county wide, but they have a Comprehensive Plan directive that says that they need to have mixed incomes living in the same community. Therefore, he was uncomfortable with taking the affordable housing commitment off of Biscuit Run's shoulder by helping Habitat. That is what he was struggling with.

Mr. White said that he could agree with that.

Mr. Edgerton felt that it was a wonderful idea. He wished that the applicant would offer $500,000 with no strings attached. But, they want to get credit for building affordable housing by giving that, which he has trouble with. He did not think that was appropriate.

Mr. Strucko noted that $16,500 does not build an affordable house.

Mr. Edgerton said that it covers the down payment.

Mr. Strucko disagreed noting that was credit for 30+ units.

Ms. Joseph said that one of the methods discussed was that this runs through the county through the Housing Fund.

Mr. White noted that it was with a cash proffer.

Ms. Joseph agreed with Mr. Edgerton and Mr. Strucko on this. She asked if that does make people feel more comfortable or don't they care.

Mr. Zobrist noted that the other four Commissioners seem to already be comfortable with it. He felt that they need some language that basically says that they will pay for the first 30 units up front or whatever it is to Habitat and then Habitat will guarantee that they will build in exchange for that. If Habitat is not doing what they are supposed to do they will put the units on site. He did not think they were trying to wiggle out of the commitment to put in 15 percent affordable housing. They came up with a plan to help Habitat. He felt that they need to move forward and help both sites meet their obligations. It seems that they have both agreed to do it, but the question is just how to say it.

Mr. White said that the cash proffer would be the cleanest way. That would also be the cash proffer for the design services. When they loan that money to Habitat or whatever they can have a signed agreement between the county and Habitat that runs with the land and if they sell it that money has to either be paid back by the subsequent purchaser or that subsequent purchaser would have to produce the affordable units.

Mr. Zobrist said that the money winds up as a permanent affordable housing subsidy over a period of time.

Mr. White said that it is subsidizing the development rather than an individual purchaser or individual.

Mr. Cannon noted that was more protection over that money than what they would have otherwise.

Mr. McGee replied yes, that it would.

Mr. Cannon said that he was comfortable with that.

Mr. Zobrist felt that it was a good idea.

Mr. Cilimberg noted that on the Learning Center Site the applicant has expressed a willingness to provide the 12 useable acres. He suggested that the Commission confirm that with the applicant. He noted that the applicant was shaking their head yes.

The planning commission was okay

Mr. Edgerton noted that there was another piece to the learning center.

Mr. Strucko said that he had a question on the evaluation of the parcel. He asked if it was at $43,000 an acre.

Mr. Cilimberg replied that he could not confirm. That was what was provided by the fiscal impact plan. They have not gone to Real Estate to discuss that with them.

Mr. Strucko asked what it costs to grade that kind of parcel and make utilities available.
He asked if it would be 2.4 million.

Mr. Cilimberg replied that he could not answer that question.

Mr. Strucko noted that was what was presented tonight as the value.

Mr. Cilimberg said that the valuations were provided based on what the applicant had seen in the fiscal impact analysis. Pat Mullaney raised the question in the fiscal impact analysis for the green way dedications because that was essentially unusable land. He noted that presented a potential value, but he could not say that it was the value.

Mr. Strucko said that the justifications that they heard in accepting the proffers were based upon value from the applicant's earlier presentation.

Mr. Cilimberg noted that was not what staff had presented.

Mr. Strucko said that what he was seeing in the staff report is a presentation of values that are pretty different. If they are going to assess the adequacy of proffers based on whatever measures and the value is one of them he would like to know what the worth is. It is not $200,000 an acre. They know that the transaction for this was approximately $42,000 an acre. So if they are going to assess the adequacy of the proffers or the extent of the proffers based upon a dollar value, then what is that dollar value?

Ms. Grant said that in terms of the evaluation she spoke with Steve Allshouse earlier. They have some discrepancies with his numbers and how he came up with the numbers. So he would not hold fast to the numbers that are attached.

Mr. Strucko noted that Steve's notes say $43,751 equals the medium per acres assessed value of all the parcels in the proposed development.

Ms. Grant pointed out that Mr. Allshouse has left the meeting.

Mr. Zobrist asked if that was the current appraisal.

Mr. Strucko said that he believed that was what that note means. He has seen the school site depicted as a 2 million dollar proffer, but here it is depicted as ½ million dollar proffer.

Ms. Monteith asked for that information to be provided to the Commission.

Ms. Grant noted that they need to clarify that.

Ms. Joseph said that what staff was saying is that she was not quite sure it is as accurate as it could be.

Ms. Grant replied that was correct.

Ms. Joseph asked Mr. Graham if he wanted to address site preparation.

Mark Graham said that he had not looked at this particular one, but he could provide some historical perspective on this. He was responsible when Baker Butler Elementary School was rough graded. That was a 55 acre site. They rough graded 22 acres in 2003 at a cost of 650,000.

Ms. Joseph said that was just grading and not infrastructure. That is no water or sewer.

Mr. Graham said that there was storm water and erosion and sediment control basin that went with it. The construction costs have roughly doubled since then. He would guess it would cost 1 to 1.2 million dollars.

Mr. Cilimberg said that if this were to come back to you based on a deferral and when it goes to the Board they are going to pin down these values.

Mr. Edgerton said that there is another piece to the learning center in the staff comment. This was not in the fiscal impact study. There were significant impacts to the county schools beyond the elementary schools. There has been no proffer made.

Mr. Cilimberg said that was going to be his next point after the useable acres for the elementary school. There was the point raised that there was going to be additional middle and high school students that would impact the capacity of the middle and high schools not being addressed through a proffer. The proffers of the applicant are devoted to providing the finished site for the elementary school.

Mr. Zobrist asked what acreage was decided on 12 or 11.

Mr. Cilimberg replied that he had just heard 12 acres, which the applicant has said they were willing to do.

Ms. Joseph asked does there need to be additional school proffers.

Mr. Zobrist asked if they have any policy or precedent.

Mr. Cilimberg said that it has been that any thing that is identified in the capital improvements program has been considered as eligible to be covered through cash proffers. They face this each time cash proffers are discussed. There have been a level of cash proffers that have been typical in rezonings over the last year or so that could be theoretically considered in some cases to pay for additional school capacity needs as a part of that numbers.

Ms. Joseph asked what they know about the middle school or high school that these children will go. Are there improvements that they know need to be made now in the CIP?

Mr. Strucko replied yes. Currently Monticello High School is building an auditorium for 4.7 million.

Mr. Cilimberg said that they are in the process of building.

Mr. Strucko noted that this new elementary school is not going to get built immediately. As the residents for Biscuit Run come on line and get constructed these students are going to go to Cale, which currently has a number of modular units. He assumed that they are currently over their capacity. The three schools impacted by this development are Cale, Walton and Monticello High School. The current CIP has 2.9 million in it for Cale Elementary for their renovations and additions. That is the price tag for what they are planning. Should Biscuit Run take in proffers for the immediate impact that they are going to have on Cale prior to this? He did not know what the tipping point is or the X numbered houses that will have to get built to generate the X number of additional elementary students. That is the critical mass number that will trigger the construction of new elementary school.

Ms. Joseph noted that Mr. Brian Wheeler was in the audience. She asked if he wanted to address this.

Brian Wheeler said that he was here as only one School Board member and he would reflect that at some point as Biscuit Run is built out fully they will certainly need additional middle school and high school capacity. Some of those projects are in the CIP right now. They have a future high school in the CIP for the out years. There are projects being considered by the Long Range Planning Committee. They are currently building an addition to Cale Elementary School, which was in place of the southern elementary school. Mr. Strucko can speak to the multipliers that are in the staff report. Therefore, they can get a real idea of how many students are projected to come at each level. The proffer that is on the table right now is for the school site. The School Board was pretty supportive of moving the site centrally within Biscuit Run. He would pass on that positive feedback. The question is how they can assess as a community the impact of students at the other levels and also building the school within Biscuit Run. This proffer is just for the site, which is why they need to think about all of those costs.

Mr. Strucko asked what the true value of the proffer is. A student generates a certain number of costs and they look to off set those costs. They need to give the developer credit for the site and the grading, but they need to make sure it is valued accurately so that they can ensure that they are getting a true mitigation cost. Mr. Graham estimated 1 to 1.2 million cost for the grading and utility readiness plus another ½ million for the actual parcel, which is 1.7 million. This development is going to generate between 700 and 800 students.

Ms. Joseph noted that the applicant has made this contribution for the elementary school and staff has asked the Commission if they expect more of a contribution because they know that there will be middle and high school students. That is the question they are discussing right now.

Mr. Strucko noted that if their concern was long range deficits and the impact of this development he thought that the biggest price tag comes with school aged children that come in with these units.

Ms. Joseph asked if they want to address the middle and high school students.

Mr. Cannon asked if there is a method. They have seen a quantification of cost attributable to certain transportation improvements. Do they have a method that would quantify the additional burden placed on middle and high schools as a result of new students coming in directly as a result of the construction of Biscuit Run?

Ms. Monteith said that it seems that they would want to take into consideration the fact that they might be providing elementary school to people who live outside of Biscuit Run also. Based on the acreage if know how many students that addresses the capacity for an elementary school level. There must be a formula that the county has for that.

Ms. Grant said that based on her conversations with the folks at the schools this development once built out will support the elementary school by itself. For this acreage of a parcel of this size, 12 acres, they are saying that it is about 400 students.

Mr. Cannon said that the sentence raises a question about the anticipated needs of additional students. He asked if they have a way of quantifying those additional needs.

Mr. Cilimberg replied not an evaluation of per unit or per student.

Mr. Cannon said that there is some additional cost, but they don't know what the amount would be.

Ms. Grant noted that she did have some information, which came from the schools. They have an estimated cost for the expansion at a middle school for 170 students is about 4.6 million. They have calculated this at 137 square feet per student. Therefore, 470 students require 23,290 square feet at $200 per square foot.

Ms. Joseph asked if they expect some sort of contribution towards that.

Ms. Grant noted that it was 4.6 million for the middle school and about 4.5 million for the high school for the additional 158 students.

Mr. Strucko said that his answer was yes.

Mr. Craddock said no because they have never expected this from anybody else along the way.

Mr. Zobrist noted that as Mr. Strucko said, until they have a policy from the Board they have to quit trying to go somewhere they are not supposed to be going. That is where they are heading as a group. He was against it. He suggested that they get beyond this stuff unless it is something that they have been requiring and other developers have tenured. He asked staff what the new impact fee bill that will be debated next week will say about this stuff.

Mr. Cilimberg replied that they would discuss impact fees for transportation only.

Mr. Zobrist said that if that is signed into law next April 4 when can they start looking at it.

Mr. Cilimberg noted that if passed it would not take effect until July and they need to see what the legislation is actually going to say as to how the impact fee would be developed.

Mr. Zobrist said that he agreed with Mr. Craddock and Mr. Strucko until they have a policy developed.

Mr. Strucko said that he was not with him. He thinks this is a completely unprecedented development in scope, magnitude and size. They are more informed than they have been in the past with respect to the fiscal impact of this on the community. This particular development will generate the need for another elementary school. What does it cost the community. It will be 20 plus million dollars in construction cost.

The proffer is for 1.2 plus .5 or 1.7 million. He does not need any more information than that to recognize that there is an imbalance there.

Mr. Cannon noted that he has said on other occasions that he believe as a conceptual matter that they should be requiring developers to internalize costs that otherwise get externalized on the public. Mr. Zobrist's point resonates with him because he thinks they are stumbling through this without a policy and without a principle. He did not know how to do this in a principle way because he has no way of navigating based on the policies that they have and the precedence that they have. He agreed in concept that they need to be moving in that direction, but he did not feel comfortable knowing how to do that in way that is principled and fair.

Mr. Morris echoed his points completely. He did not feel comfortable without a blueprint. They don't have it so let's move forward.

Mr. Edgerton agreed that it was frustrating that they don't have a policy. The final decision is the Board of Supervisors, but they have an obligation to send a strong message that they need to establish some way to cover these costs whether through proffers or through cash contributions. He felt that $3,100 was not sufficient for this project.

Mr. Strucko felt that is not a precedence setting number, but just a stab in the dark.

Mr. Edgerton felt strongly that applicant needs to make significantly more cash proffers to off set these costs, particularly since they were dealing with impacts on the school budget. They should suggest to the Board that they consider raising this traditional amount significantly as soon as possible.

Mr. Cilimberg reiterated that the Commission agreed with the 12 usable acres. The majority said they did not see introducing additional proffers for schools at this point based on what has occurred to date regarding projects that have preceded this one. There is an interest generally on the Commission that the Board needs to address those cash proffer demands that are beyond what they have been recovering in cash proffers to date. The middle and high school is an example.

The Planning Commission agreed with Mr. Cilimberg.

Mr. Cilimberg noted that the district park has a $200,000 funding for the master plan of the district park that has been committed. It has been noted that in actually developing the park, which would be beyond what is proffered; there will be additional funding needed. Funding will be needed for actual improvements for developing a park. The $200,000 is to fund the actual master plan that would lead to the development of the district park. The question is whether that is enough. He asked if it falls under the category of what they just discussed.

Mr. Edgerton agreed that it did fall within the category of what they just discussed.

Ms. Joseph invited Mr. Mullaney to address the Commission on the park question.

Pat Mullaney, Director of Parks, said that he wanted to try to put a number on it because it was significant. They can't tell the Commission how much the developer should pay. They don't know how much the county should pay. The applicant is trying to develop the way that they want him to develop. But, a 10,000 person development what they can say if they look at the type of facilities that they typically provide that means: 3 little league baseball fields, 1 full size baseball field, .6 adult softball field, tennis court, outdoor basketball courts, 5 to 6 playgrounds, 3.5 large multi-purpose fields and 2 junior multi-purpose fields. If they took those typical facilities and a piece of raw land and talked about clearing, grading and parking be it on this piece of property or on a school site they were talking about an approximate amount of 4 to 5 million dollars. That is just putting a number on the significance of that impact. It is not for Parks and Rec to decide who pays for it.

Mr. Morris said that they had looked at the 92 acres as being more passive than active recreation.

Mr. Cilimberg noted that there is a value to whatever acreage and access to the park.

Mr. Morris said that they wanted to keep at least part of that acreage for people to be able to use for walking and jogging trails.

Mr. Strucko agreed because that was the demarcation line between the growth area and the rural area. That is what directed his thinking to keep this as a passive park to maintain some of the natural feel to it since it is the rural area. He would like to see the active park activities happen within the designated growth area in the remaining acreage of Biscuit Run.

Ms. Joseph asked if the Commission feels that there needs to be additional funds or is a 92 acre park with $200,000 for master plan and access to this site enough.

Mr. Strucko felt that it is enough. He gave the applicant credit for giving 92 acres for the park and accommodating the school site within the development area.

The Commission was okay with the proposed proffer.

Mr. Cilimberg said that they have had the discussion on overlot grading related to the sequencing or not sequencing of the development and how grading would occur. They heard the applicant say that that they would be willing to provide a proffer as North Point did, but the Commission might want to verify that with applicant.

Ms. Joseph asked Mr. Blaine if he was okay with this, and Mr. Blaine replied that he was.

Mr. Cilimberg noted regarding transportation improvements that there are some that are very directly addressed. He went through the numbers with 1 & 2 being actual physical improvements along with 4, 5 and 6. The rest are cash contributions. A point to be made is whether they feel it is enough cash or not. Generally speaking these cash contributions are towards improvements. They don't necessarily cover the full improvements. So it is putting money into the bank, but until the county has the balance in the bank or VDOT has the balance the projects don't happen. That is something that they need to be cognizant of in whether or not they feel the proffered amount of dollars for what is specified is appropriate. Generally speaking it is just going to give us money towards something that they still have to pay more for. One way that might be addressed to some extent is that whatever the cash amount is that there is some fairly liberal flexibility in how it can be used. It might be that there are one or two projects when they put all of the money together they could actually get done versus having it spread over a number of projects that all sit around waiting for enough money to get done.

Mr. Morris asked staff and the applicant to take a look at Mr. Proctor's figures and readdress this. He could not tell them whether this is where it should be or if it should be closer to the figures Mr. Proctor came up with. He asked that this be readdressed.

Mr. Cannon said that he wanted to see a line of reasoning other than a pure arbitrary line drawing that he feels comfortable with that helps explain whatever result they come to. He does not have any preordained result in mind, but he was very uncomfortable with this ad-hoc approach. Since they don't have a policy they have to do something. He was looking for a way to reason up or down somewhere here and hopefully the people who address this will be able to give the Commission some guidance on that.

Mr. Zobrist felt that this was sort of a black hole issue because they don't know if these improvements will even happen. How long has Meadowcreek Parkway and Jarman's Gap Road been on the list. There is only one reason that these projects have come off of the bottom of the list right now, which is that they are abandoning everything else to get those roads built. So they are saying to the applicant here just in case these get built some time they will hold a lot of money for them. If the money comes into the general fund unrestricted that is like giving an unrestricted gift to the university since they can spend the money anyway they want. He was not sure that does not violate our trust with the neighbors that are listening to the proffers that say certain things are going to get done in your neighborhood that are going to lessen the impact on them. He did not like to put restrictions on the people who control the money, but on the other hand the proffer was made after discussions with Mr. Blaine and the people who live out there as to what would help them to be able to accept more of that. He understands that the Commission can't

control it. But, on the other hand a bit chunk of this money is for widening Route 20 and he had not heard anyone that was in favor of doing that.

Ms. Joseph noted that they don't have any money for Route 20. It would take a whole lot more than 5.5 million to do that work.

Mr. Zobrist said that philosophically they don't have anything that is concrete except what they are going to do themselves.

Ms. Joseph reiterated what she heard from the Commission is that they want the applicant to come up with some things that will actually be able to happen without sitting in a fund for 20 years and nothing ever manifesting itself. But, there are some things that they can do that will make an impact.

Mr. Strucko noted that one thought was that they need to collect the cash without it being earmarked for specific things and let it accumulate to a critical mass so that something can actually get done.

Ms. Joseph noted that she had also heard people say get with VDOT and find out what they can do.

Mr. Strucko questioned why Jarman's Gap has not been widened or Meadow Creek Parkway has not been constructed. He felt that one of the major reasons is that there is no money. Here they have a development that is going to generate over 30,000 daily vehicle trips. Obviously, it will have an immediate and direct impact on roads that are already inadequate. If they look at page 137 of the proffer list and he was going to base his discussion on these values that only one-third of the overall proffers are for roads and transit. For how many work sessions have we sat here and listened to people say that their number one concern is traffic. But, the best that they can come up with is roughly 8 million dollars if they look at the 5 million for Route 20 and the 1.6 million for the Sunset Connector. What does that get you? The Lickinghole Creek and Eastern Avenue was estimated at 10 million dollars, which was several years ago. This is less than that for a development that is going to generate 30,000 daily vehicle trips. He felt that this proffer was willfully inadequate.

Ms. Joseph invited Juan Wade to comment on the transportation proffer.

Mr. Wade said that at the last public hearing there was a lot of discussion on whether Route 20 should be widened or not. They talked about this being a high priority for the Board that was number 3 on their primary list to have it widened essentially from Route 53 to Mill Creek Drive. The applicant heard the discussion from the public and then came back and said that if they don't want the 5.5 million for widening Route 20, then it could be used for a spot improvement for Route 20 or other improvements. In the proffer the applicant mentioned bike lanes on Old Lynchburg and Avon. He felt that some direction from the Planning Commission will help us in these discussions in whether they support Route 20 being widened either from Route 53 to the site entrance or from Route 53 to Mill Creek Drive. That would be essential in their discussion particularly if they want staff to provide a list of projects that could get done. That would be some good direction.

Mr. Zobrist said that if there are projects that can be done more comfortably, then he did not feel uncomfortable asking the applicant to pay his fair share of them. But, just to put it in the general fund and let it disappear into the next project is not in keeping in consonant in what they are telling the public that are meeting with Mr. Blaine to come with this development.

Mr. Strucko said that they know that there is going to be a traffic impact and that there are roads that need improvement.

Ms. Joseph agreed and asked what they can get done.

Mr. Edgerton felt that the questions are good, but at this late hour he was not sure that the Commission could come up with a reasoned opinion on that. Some good points have been made about not widening Route 20 from the folks that live there. He was not a traffic engineer, but he was concerned about whether it will serve with an additional 30,000 vehicle trips not widened. That is something that none of the Commissioners have the expertise to make that determination. He agreed with Mr. Strucko's

statement that the amount of money offered so far in the proffer for transportation is willfully inadequate. He suggested that before making a decision on this that the applicant determine the absolute maximum they can proffer. Then the Commission can decide whether that is good enough. That is really the only way they can move ahead with this without a policy.

Mr. Strucko said that they have known from past presentations by the applicant that they are willing to consider something in 30 million dollar range. Now the question is if it is 30 million how they value it. Part of that is 2 million for the school site. Here they are looking at ½ a million for a school site, which frees up 1.5 million.

Mr. Zobrist noted that it was 1.7 million because of the grading and site preparation.

Mr. Strucko noted that the school plot itself was valued at 2 million, the grading at 2.2, which are 4.2 minus 1.7. The difference there could be applied to something else. If it is 30 million, which is $10,000 per unit, that he would be willing to go with it, but he was also willing to analyze what does that 30 million cover. On page 137 from the fiscal impact study a number that is close to 20 million. Therefore, they would have an additional 10 million. Perhaps that could go for roads.

Mr. Wade reiterated that based on discussion tonight there has possibly been some cost savings in some other proffers that the applicant is take this information back and may be see if he can come up with another number for transportation. Then with that number staff would work with VDOT and the applicant based on the traffic impact analysis and the discussion from the public hearing what projects they think are most pertinent and could get done.

Ms. Joseph agreed.

Mr. Morris pointed out with the money they have on hand. They will take a look at that. If it is straightening out part of Old Lynchburg Road and they can get all of it done rather than spot patching things on Route 20 he would suggest that it be done.

Ms. Joseph agreed with Mr. Craddock that the 1.5 million that the City had requested really needs to be in there

Mr. Wade noted that staff supports that as well.

Ms. Joseph said that the Commission talked about page 137 that really needs to be changed. It is not as accurate. They talked about the fact that the applicant and staff were going to work to come up with some numbers that more accurately reflect it.

Mr. Strucko asked what about it is not correct. Is it the $43,000 per acre?

Ms. Joseph said that staff said that they have not done the research that was necessary to do that. So she did not think the Commission could get into the real specifics right now. That is something that they might want to site down with Steve Blaine and Claudette Grant about it at some point. She did not think they would be able to figure it out tonight.

Mr. Strucko agreed that they could discuss it later. One other issue on transportation proffers, he believed that during the applicant's presentation in the list of proffers he was citing some internal roads as proffers. He questioned the internal road proffer.

Mr. Cilimberg replied that there are things that have been listed as a proffer value that are in fact necessitated by the project itself.

Mr. Strucko asked to go on record as saying that he was not going to give credit for that. That is not part of the 30 million dollars that he was talking about earlier.

Mr. Cilimberg said that included in the monies are transit. He was assuming that they consider transit as part of this mix. While there is a consideration for more funding for transportation, the transit is one of those areas that needs to be better addressed.

Ms. Joseph agreed and that they had gone through that one.

Mr. Cilimberg said that there has been indicated tonight by Habitat for Humanity that there is an agreement coming that will assure that this road connecting beyond Biscuit Run to Old Lynchburg Road through Southwood will be enabled by the ownership interest. The summary on transportation is:

- Looking again at the cash amounts and not the physical improvements to see if there is a higher level that can be provided for and what would be the most beneficial projects that could result from that and get done. The applicant has not responded to that.

Mr. Blaine responded that they would agree with the approach. These proffers did come about in a bit of an ad-hoc fashion, but remember that the way that they do this is they have a traffic study that is suppose to identify those improvements that are generated by your project. That is how they started pegging the improvements. So those that were clearly identified as those that would not otherwise be required they agreed to build them. Then there is a category of improvements generated by background traffic. They could argue should they have to give anything for that because it is background. But, no they said they would proffer nevertheless for contribution of that. But, their point of whether or not that ever gets built requires other funding. They like the idea as long as the money goes for transportation improvements in their relative study area at least. The flexibility is something they can work with. They have kind of thrown a piece of work that they all agreed to at the beginning. But, that is okay. They started by asking for a list of the priority projects they would like to see built in the area. They couldn't get that from either the County or VDOT. So there is another advantage to this. That is that they can wait and see how the priorities can be met. They would have the money and could apply it to priorities as they develop. So they would agree that whatever they arrive at ought to be determined in a "reasoning down" way. They could start with the universe and then reason down how they arrive at it. It is not going to be Mr. Proctor's number because he said that this was a list of things for planning purposes. Mr. Proctor did not say that these improvements were necessitated by our project. If they understand that, he felt that they were okay with this recommendation going forward.

Mr. Cilimberg said that they have talked about the master sewer phasing plan.

- What has been determined here tonight is that there is an opportunity through agreements to potentially accomplish what a sewer phasing plan that gets proffered would otherwise accomplish. They were going to rely on the agreements.

The Planning Commission agreed.

Mr. Cilimberg said that from the phasing for retail development it is the one phasing that relates square footage to dwelling units. That was actually something that was done with Old Trail in a fairly comparable way. There is also the potential space for the County regional library. The response of our library providers is that they feel comfortable with a site that would be located near Monticello High School on publicly owned land. So they are not necessarily looking for the library site here. They will need a certain size on that publicly owned land. There is no proffer being provided towards providing that space next to Monticello High School. If the Commission is okay with that, what this would boil down to is that simply that there would be the phasing of retail development and the public library proffer would go away.

Mr. Strucko said that he was not comfortable with that. Proffers should cover schools, roads, fire/rescue, libraries, parks and recreation, water management and affordable housing. This development is going to generate a need for libraries. That is one of the services that the County or tax payers provide.

Ms. Joseph noted that is confusing because they have another site for the library that is close by and the library folks say leave it on that site.

Ms. Strucko noted that Mr. Cilimberg said that the facility size though on that site may change based upon the residents.

Mr. Cilimberg said that this project at build out will contribute to the capture of the customers of the library. There is a general size that these libraries will be built to anyway. It is really a question of whether this project should contribute towards what the actual library construction costs.

Mr. Edgerton asked what population generates the need for a new library.

Mr. Cilimberg replied that he did not have that answer, but could obtain the answer from the Community Facilities Plan.

Mr. Blaine said that they would make a cash proffer in lieu of the on site. He did not know what that amount is. But, this is actually something that Supervisor Dorrier is very keen about for a library in this area. If our cash makes it come about sooner, then they will contribute cash. They will need to get together with the library folks to get some unit costs.

Mr. Morris noted that this was really in keeping with John Haliday, the Director of Jefferson Madison Regional Library.

Ms. Joseph noted that the applicant had agreed to a proffer to contribute money for the library near the high school.

Mr. Strucko asked if the location was behind the fire station.

Mr. Cilimberg noted that it was the fire station and not the high school.

Mr. Kamptner said that the numbers that he put in his comments was that the County's policy requires providing 0.7 square feet per person. The estimate was that this project would have 7,000 with 2.25 residents per units creating a need for 4,900 square feet of library space.

Mr. Cilimberg noted that was the basis for determining dollars. The last of the proffers regards critical slope waivers for roads and connection with any developed area. He thought that was something that the Commission asked for in their work session, but there are still issues to work out in terms of the wording of that with the County Engineer. But, there is intent to provide for it. The following summary is based on what the Commission has discussed and the applicant's response.

- The intent to provide for the necessary additional monies to build the green way connection covered under the first proffer.

- There was a lot of discussion about affordable housing. There were a lot of mixed feelings here on the Commission as to how to address that. But, the applicant has been asked to make sure that they are providing at least 10 percent affordable housing on site and that the credit towards off site with Habitat could be accomplished through either actual down payment assistance or the monies for developing their development plans. They would want to see any monies that go towards Southwood, if Southwood in fact does not end up developing, returned on to this site to provide for the rest of the 15 percent or go towards a comparable kind of project that Habitat is doing.

- The Commission is okay with the 12 usable acres. The applicant agreed to that with the learning center.

- There were some mixed feelings, but the majority of the Commissioners felt that they would not go to additional monies for middle and high school. He noted that is the kind of thing that the Board really needs to pay attention to in proffer policy as well as parks.

- The Commission agreed that their 92 acres of land plus right-of-way and utilities service and the $200,000 to fund the master plan was sufficient.

Mr. Strucko asked if there are utility services going through those 92 acres for potential development south.

Mr. Cilimberg replied no there would not. This would be to provide bathroom facilities at the park.

Mr. Edgerton noted that it was rural area from that point on because the growth area was gone.

Mr. Cilimberg envisioned that if the jurisdiction approval if this were to happen would be for limited service to the park.

Mr. Strucko asked if there is development on the lots to the south that the applicant owns.

Mr. Cilimberg replied that those lots would not be eligible for jurisdictional area by public utilities.

- North Pointe proffer regarding grading is what the Commission at a minimum would want to see.
- In the transportation area the Commission agrees with their physical improvements that the applicant has proposed in the proffer.
- Regarding cash proffers the Commission wants to see that revisited with the idea of potentially more cash and more attention to priorities where projects can get accommodated
- The Commission wants a greater transit commitment since they feel it is important.
- The Commission wants the agreements that are being reached for the connector road through Southwood.
- The master sewer phasing plan is covered by agreements.
- The Commission agrees to the retail phasing and working towards the critical slopes waivers for roads and connection with developed areas.

Mr. Cilimberg felt that in all of these cases the applicant was agreeable.

Mr. Strucko asked how staff views the 37 plus acres of pocket park. Is that an amenity or is that something that can be viewed as a proffer.

Ms. Grant replied that it would be viewed as an amenity.

Mr. Cilimberg said that those are typically what go with the project to support the project's needs rather than the public park facility.

Mr. Strucko said that it would depend on how the value it. At $43,750 an acre that is 1.6 million worth of proffer listed here. If it is valued at something higher, then that is a higher amount of proffer that would have to be pulled off of the proffer list in his opinion and treated as an amenity.

Mr. Cilimberg replied that anything that is not part of what is for the public's purpose beyond what is necessitated by the project is not part of the proffer value.

Mr. Strucko asked if fire/rescue had an opportunity to comment on the impact that 7,000 additional residents would have on their services at the Monticello Station.

Ms. Grant replied that fire/rescue did comment early on this project and they seemed to be okay with the proposed plan.

Mr. Strucko noted that 7,000 additional residents would certainly add to the call volume for the Monticello Station. It is currently a single engine station there. He felt that 7,000 residents would necessitate an ambulance and an additional engine. He would expect to see a proffer made for fire/rescue for something like that.

Ms. Joseph pointed out that fire/rescue did not say that there was a need.

Mr. Strucko felt that was an over sight.

Mr. Cilimberg said that he did not get into the waivers and the modifications. Where they are right now is the question of will there be a deferral or not. For the most part, except for the sequencing and phasing. There has been agreement by the applicant. If there is a deferral to report to the Commission staff needs to see the things that the applicant is committing to in writing, whether it is on the plan or in the proffers. So until that is in hand staff cannot then review and develop the report for the Commission. He asked Mark Graham what he thought reviewers would need if that is provided by the applicant in terms of time frame to do a review. They are talking about the County Attorney's Office, Housing, Parks and Recreation, Engineering staff and Zoning staff. Mr. Graham's thought was that it would take at least three weeks for their review of those things to be able to give us the comments to put in the staff report and get it to the Commission a week ahead of the meeting. That part of whatever they are reporting on is going to be a minimum of five weeks to be safe. He was not counting whatever time the applicant may need to put these things in writing.

Ms. Joseph said that the question is whether the Commission feels comfortable enough to act on this or do they want to see the revisions that they have all talked about tonight before acting on it.

Mr. Strucko said that he needs to see the revisions before making a recommendation to the Board if they commit this community to this rezoning.

Mr. Edgerton agreed.

Mr. Cannon felt that has been the premise of their discussion.

Mr. Morris agreed.

Mr. Craddock noted that they also wanted to see the agreements from the Sewer Authority

Mr. Zobrist said that he would wait to see if the applicant wanted to defer. If he does not want to defer, then they have to vote.

Mr. Blaine said that the meeting has been very productive. They respectfully request that the Commission recommend approval tonight. They have a very detailed set of notes on what he would consider condition under which the Board should accept their recommendations. They are in disagreement on the sequencing. He would like to think they can reach some accord before the final vote that would satisfy one Commissioner in particular. But, he believed they risk coming back and frankly forgetting what they talked about if they were talking about six weeks from now. A lot of the things they talked about they discussed the last time. The issues have been well debated and thoroughly vetted substantively. They are in agreement.

Mr. Edgerton noted that it is well taken that people forget when they don't write things down. That is why he would like to see it written down.

Mr. Blaine offered to get a transcript of the meeting if they like. He asked the Commission to recommend approval with conditions.

***Motion on Rezoning Request**:*

***Motion**: Mr. Strucko moved, Mr. Edgerton seconded, to recommend denial of ZMA-2005-00017, Biscuit Run.*

Ms. Joseph asked what the motion was based on.

Mr. Edgerton said that it was based on unresolved issues as stated in the staff report.

Mr. Cannon suggested including outstanding issues on transportation proffers of major proportions.

***Amended Motion**:*
***Motion**: Mr. Strucko moved, Mr. Edgerton seconded, to recommend denial of ZMA-2005-00017, Biscuit Run, based on unresolved issues as stated in the staff report, including outstanding issues on transportation proffers of major proportions.*

Mr. Kamptner urged the Commission to the extent that they can to identify all of the issues that they want the Board to resolve.

Mr. Morris said that it should everything that they have talked about.

Mr. Kamptner said that it is almost the inverse of recommending approval with the conditions. It would include all of the issues that Mr. Cilimberg has just identified plus updated general development plan, revised proffers a revised code of development as recommended by staff.

Mr. Cannon asked to make clear that Mr. Cilimberg's list, although it was a blueprint for further work, did not resolve major substantive issues that are still outstanding, including among others the amounts of proffers.

Mr. Strucko agreed.

Mr. Craddock agreed, but that one of the things that hinged on it was the Service Authority did not want the Commission to act until they had their information hammered out. He was in substantial agreement with everything Mr. Cilimberg went over, but he felt that the Service Authority issue is very important.

Mr. Morris agreed.

Ms. Joseph agreed with Mr. Craddock that there are too many outstanding issues here. The sequencing is extremely important so that the community at least has some general idea about what is going to happen. The community also needs to know about what sorts of transportation projects they are talking about.

The motion for denial of the request was approved by a vote of 7:0.

(Note: Mr. Zobrist voted aye only on the condition that they don't have a specific amount on the transportation because he felt that all other issues were adequately resolved and could be worked out by staff.)

Mr. Cilimberg noted that the waivers did not get specified in the recommendations section. There were two waivers and modifications that staff had recommended approval of provided that the project moved forward. He asked if the Commission wanted to take action on those tonight. If the Board keeps it and acts on it these waivers and modifications would be necessary should the project be approved.

Mr. Cannon noted that it could come back to the Commission.

Mr. Cilimberg asked if the Commission was saying that they did not want to act now, but wanted to wait and see. He asked Mr. Kamptner if that requires that the Commission take an action on the waivers and modifications now since it was technically listed.

Mr. Kamptner replied that in a planned development district that can be acted on at any time. The desire is that they be dealt with at the same time as the application itself.

Mr. Edgerton said that they have a unanimous vote from the Commission for denial of the project because the applicant is not wiling to give us the additional time that they need to resolve all of these issues. Therefore, he could not in good conscious think that they would support waivers for a project that they just voted to deny.

***Motion on the Waivers**:*

***Motion**: Mr. Edgerton moved, Mr. Strucko seconded, to recommend denial of both waivers and modifications requested for ZMA-2005-00017, Biscuit Run.*

The motion was approved by a vote of 7:0. (Note: Mr. Zobrist voted aye on the basis that they are moot as a result of their previous denial of the application. Mr. Strucko voted aye for the same reasons.)

Ms. Joseph stated that ZMA-2005-00017, Biscuit Run will go to the Board of Supervisors work session on April 11 with a recommendation for denial. The public hearing will be held on May 9.

In summary from the Action Memo:

When the applicant was asked by the Commission at the conclusion of the Staff Report and Public Comment period whether he would consider a deferral to allow for the resolution of the multitude of "unresolved" issues Mr. Blaine indicated that he would consider a deferral if the Commission would clearly identify the issues that need resolution.

Staff and the Commission, with input of the applicant**,** spent the remainder of the meeting identifying the issues that needed resolution. At the conclusion of this exercise, Mr. Blaine declined to ask for the deferral that he had initially said he would consider.

Based on this, the Commission decided that a recommendation for denial was the appropriate recommendation to make to the Board of Supervisors.

Motion on Rezoning Request:

Motion: Mr. Strucko moved, Mr. Edgerton seconded, to recommend denial of ZMA-2005-00017, Biscuit Run.

Ms. Joseph asked what the motion was based on.

Mr. Edgerton said that it was based on unresolved issues as stated in the staff report.

Mr. Cannon suggested including outstanding issues on transportation proffers of major proportions.

Amended Motion:

Motion: Mr. Strucko moved, Mr. Edgerton seconded, to recommend denial of ZMA-2005-00017, Biscuit Run, based on unresolved issues as stated in the staff report, including outstanding issues on transportation proffers of major proportions.

1. As described by Attachments E & J the lack of details on the plan and code of development makes staff analysis difficult.
2. The current proffers are not consistent with the application plan and code of development dated December 12, 2006.
3. Substantive and technical issues still remain with the proffers.
4. Issues described in Attachments E, J & L are still outstanding.
5. A revised plan, code of development and/or proffers needs to be submitted. The revised information should be submitted to the Planning Commission for its review and recommendation to the Board of Supervisors.
6. It should be made clear that the list reiterated by Mr. Cilimberg, although it was a blueprint for further work, did not resolve major substantive issues that are still outstanding, including among other things the cash amounts in the proffers.

7. The following summary addresses the points discussed by the Commission as reiterated by Mr. Cilimberg:

- The Commission is generally satisfied with the Application Plan, but wants the plan to specifically reflect preservation areas not to be disturbed, and conservation areas and the conditions of their disturbance and restoration. The Commission also asked that the plan show the connection to Mill Creek South in a location that would provide acceptable vehicular connection in the future. The applicant indicated agreement to do these things.
- The Commission requests a plan to phase or sequence the development so as to understand the order of development and its relationship to the provision of infrastructure as well as enable the best management of grading and storm water management by the County. The applicant indicated agreement to build the through road from Route 20 to Route 631 (inclusive of the Southwood Connector) and to provide pedestrian and bicycle connection from Mill Creek South to the District Park as part of the initial development of the project. The applicant did not indicate a willingness to provide a sequencing plan for the full development.
- The Commission requests a full Phase I Archeological Study be completed prior to grading/disturbance of the site and necessary measures to avoid resources be employed based on the findings of the study. The applicant indicated agreement to conduct such a study for potential "hot spot" areas identified in the Phase I reconnaissance survey and those areas necessary to meet other Federal permitting requirements as they may be applicable.
- The Commission requests that the necessary additional monies to build the green way connection northward from the northern property boundary be provided. The applicant indicated agreement to do this.
- The Commission has mixed feelings as to expectations for affordable housing. The majority of the Commission agrees that at least 10 percent affordable housing be provided in Biscuit Run and that credit for off-site housing in Southwood's redevelopment could be accomplished through either actual down payment assistance funding and/or funding of their development plans. If Southwood does not end up developing, the Commission wants the money to be provided for a similar project to Southwood or the full 15 percent affordable housing be provided in Biscuit Run. The applicant indicated agreement to do this.
- The Commission wants 12 usable acres to be provided for the Learning Center. The applicant indicated agreement to do this.
- After some discussion and varying opinions, the Commissioners agree that they do not request additional funding to offset the Biscuit Run impact on middle and high schools. The Commission agrees that this is the kind of thing that the Board really needs to pay attention to in developing a proffer policy (as well as parks).
- The Commission agrees with the applicant's commitment to donate 92 acres of land plus right-of-way and utilities for a District Park and $200,000 to fund the master plan for the park's development. The Commission does not feel that additional funds for park improvements are necessary.
- The Commission wants, as a minimum, the North Pointe proffer regarding grading to be committed for Biscuit Run. The applicant indicated agreement with this.
- In addressing transportation impacts, the Commission agrees with the physical improvements the applicant has proposed in the proffers.
- Regarding cash proffers to address transportation impacts, the Commission suggested that the issue be revisited with the idea of the applicant proffering more cash to address impacts and that cash be collected in a single fund to better allow the Biscuit Run related transportation impacts to be addressed as needed (rather than be collected in multiple funds where Biscuit Run's proportionate share of the improvements to be constructed will sit until government funding for the remainder is available to undertake the particular project). The applicant indicated agreement to consider changes in their commitment, but not likely at the levels noted by VDOT in their latest comments.
- The Commission wants the applicant to make a greater commitment to transit. The applicant indicated agreement to consider changes in their commitment.

- The Commission wants to see agreements reached for the connector road through Southwood. The applicant and the Southwood owner indicated this will be accomplished very soon.
- The Commission agrees that, at a minimum, the master sewer phasing plan should be covered by agreements between the applicant and ACSA and RWSA. ACSA representatives anticipate these agreements.
- The Commission agrees with the proffer regarding phasing the retail portion of the development and does not see the need for the applicant to provide leased space for a library, but it does want a cash commitment towards library development in the southern urban area. The applicant indicated a willingness to do this.
- The Commission agrees with the applicant's commitment to apply for critical slope waivers for roads in the project.

8. One Commissioner felt that a proffer should be made for fire/rescue because 7,000 additional residents would necessitate an ambulance and an additional engine.

9. Some Commissioners thought the actual proffer values may be lower than the applicant said they are committed to provide and the difference may allow the applicant to commit more to transportation.

10. Regarding transportation, the Commission feels a full commitment to the City of Charlottesville's request should be provided, inclusive of $1.5 million to fund Old Lynchburg Road improvements as well as $250,000 for ITS and funding towards the Sunset/Fontaine Connector.

The motion for denial of the request was approved by a vote of 7:0.

(Note: Mr. Zobrist voted aye only because of the transportation commitments. He felt that all other issues were adequately resolved and could be worked out by staff.)

Motion on the Waivers:

Motion: Mr. Edgerton moved, Mr. Strucko seconded, to recommend denial of both waivers and modifications requested for ZMA-2005-00017, Biscuit Run.

The motion was approved by a vote of 7:0. (Note: Mr. Zobrist voted aye on the basis that they are moot as a result of their previous denial of the rezoning application. Mr. Strucko voted aye for the same reasons.)

Ms. Joseph stated that ZMA-2005-00017, Biscuit Run will go to the Board of Supervisors for a work session on April 11 with a recommendation for denial. The public hearing will be held on May 9.

Old Business:

Ms. Joseph asked if there was any old business.

- Mr. Cilimberg noted that the rezoning for Biscuit Run would go to the Board of Supervisors on April 11 for a work session. Due to the complexity of the project and having gone through the number of work session on the rezoning he offered that the Chair and Vice-Chair might attend that meeting and participate as they determine appropriate.

There being no further old business, the meeting moved on to the next item.

New Business:

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

Adjournment:

With no further items, the meeting adjourned at 11:57 p.m. to the Tuesday, April 3, 2007 meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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