Albemarle County Planning Commission
March 25, 2008

The Albemarle County Planning Commission held a meeting, public hearing and work session on Tuesday, March 25, 2008, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Marcia Joseph, Bill Edgerton, Eric Strucko, Thomas Loach, Linda Porterfield and Jon Cannon, Vice Chairman. Commissioners absent was Calvin Morris, Chair. Julia Monteith, AICP, non-voting representative for the University of Virginia was absent.

Other officials present were Wayne Cilimberg, Planning Director; Megan Yaniglos, Planner; Ron Higgins, Chief of Zoning; Amelia McCulley, Director of Current Development & Zoning/Zoning Administrator; Gerald Gatobu, Senior Planner; Patrick Lawrence, Planner; Mark Graham, Director of Community Development; Scott Clark, Senior Planner; Jonathan Sharp, Engineer and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

Other Matters Not Listed on the Agenda from the Public:

Mr. Cannon invited comment from the public on other matters not listed on the agenda.

Paul Accad, resident of Glenmore for 13 years, said he wanted to bring the Planning Commission some information that he shared with the Board of Supervisors on March 19. On March 5 while listening to a Board budget meeting Supervisor Rooker made a statement that 62 percent of the land in Albemarle County does not generate enough tax revenue to pay the revenue sharing agreement with the City of Charlottesville. It is, of course, due to land use tax deferment. He did some research on it and went to the Board of Supervisors on March 19 to suggest the creation of a task force to review both the revenue sharing agreement with the City of Charlottesville and the land use tax deferment policy. He suggested that it be done in the same style as the Development Review Task Force in 2006. Interested members from the Board of Supervisors, Planning Commission, citizens, stakeholders and possibly somebody from Charlottesville could participate. These two programs impact the budget dramatically and need to be reviewed. He suggested that anyone interested in hearing the Board's discussion could listen to the five to six minute talk on the County's or Charlottesville Tomorrow's website. As a resident and taxpayer of the county he thought that they need some leadership on these issues that he believed are linked. There have been a lot of facts that have come out about these programs. He asked that the Planning Commission pay particular attention to the land use issues upcoming in the next few months.

There being no further comments, the meeting moved to the next item.

Review of Board of Supervisors Meeting – March 12, 17 & 19 2008.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on March 12, 17 and 19, 2008.

- Mr. Loach expressed concerns about the Board's action on the Patterson rezoning since it was recommended for denial by the Commission and the Crozet Advisory Committee. He felt that this points out that there is a disparity between the verbiage in the Master Plan and what the colors on the map are showing. For that he asked staff to provide the demographic information on the number of homes already built in Crozet and the number of homes approved so that the Crozet Advisory Committee can start looking at this for the upcoming year before the Master Plan gets hopefully revised. He asked for this information by the next Crozet Advisory Committee's meeting at the end of April.

- Ms. Joseph requested that the Commission receive an overview and copies of the Pantops Master Plan upon completion.

Consent Agenda:

Approval of Minutes: September 25, 2007, October 30, 2007, February 12, 2008 and February 26, 2008

Motion: Mr. Edgerton moved, Mr. Strucko seconded for approval of the consent agenda.

The motion passed by a vote of 5:0. (Mr. Morris was absent.) (Ms. Porterfield abstained since she was not present for the 2007 minutes.)

Regular Items:

SDP-2008-00014 Gentry Property/Verizon Tier II PWSF - Final
The request is for approval of a treetop personal wireless service facility with a steel monopole that would be approximately 130.75 feet tall (695 feet AMSL) and 10 feet AMSL above the height of the tallest tree within 25 feet, with a 12' x 30' x 10.92 (W x L x H) prefabricated shelter/equipment cabinet. This application is being made in accordance with section 10.2.1.22 of the Zoning Ordinance, which allows for Tier II wireless facilities by right in the (RA) Rural Area. The site contains 9.596 acres, and is described as Tax Map 121, Parcel 89. The property is located in the Scottsville Magisterial District and is zoned RA, Rural Area. The Comprehensive Plan designates the property as Rural Area in Rural Area 4. (Gerald Gatobu)

Mr. Gatobu presented a power-point presentation and summarized the staff report. (See staff report)

- Staff recommends approval of this personal wireless service facility. Based on the findings presented in the staff report, staff recommends approval at seven feet above the reference tree.

Ms. Joseph questioned how staff measures from the tree, which is not from the trunk of the tree. She noted that a letter of determination was done by the zoning administrator stating that the measurement is done 25' from the drip line of the tree.

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

Maynard Sipe, attorney with LeClair Ryan, and Stephen Waller, consultant for Verizon Wireless represented the request.

Mr. Cannon invited public comment. There being none, the public hearing was closed and the matter before the Planning Commission.

Mr. Edgerton noted that he was surprised with the zoning administrator's determination concerning the measurement being done 25' from the drip line of the tree. The reference tree is actually 50' from the pole. It changes the ordinance without the Planning Commission's input. He questioned if the determination could be appealed by the Planning Commission.

Mr. Kamptner noted that determination would have to be made official and then could be appealed by a single Commissioner.

Mr. Edgerton noted that the ordinance does not reference the drip line and should not be used to measure from. Therefore, he felt it was unfair.

Ms. Joseph felt that it was an official determination.

Ms. McCulley noted that it was an advisory determination.

Ms. Joseph agreed with Mr. Edgerton and suggested that they talk with an arborist concerning this issue.

The Planning Commission disagreed with the determination and considered appealing the decision. The Commission asked the applicant to consider adding a condition, if approved, that the monopole be within 25' of the trunk of the referenced tree at a height of 7' above the referenced tree. After discussion, the applicant's representative, Mr. Sipe, agreed to the proposed condition if the request was approved.

Motion: Ms. Porterfield moved, Mr. Edgerton seconded, for approval of SDP-2008-00014 Gentry Property/Verizon Tier II PWSF subject to the condition that the final site plan show the monopole within 25' of the trunk of the reference tree and at the height of 7' above the referenced tree.

The motion passed by a vote of 6:0. (Mr. Morris was absent.)

Mr. Cannon stated that SDP-2007-00014, Gentry Property/Verizon Tier PWSF was approved. This does not require Board of Supervisors action.

Mr. Kamptner assumed for now that any desire to appeal the decision of the zoning administrator will be held off so this issue can be worked out in the upcoming work session.

Ms. McCulley pointed out that she did not intend to make an official determination at this point, but intends to come to the April work session and have discussion with the Commission.

Mr. Kamptner said that the language in the ordinance needs to be clarified, which can come out of the work session.

Mr. Edgerton said that in regards to the appeal question, if the Commission is asked to approve additional towers between now and the work session and the applicants are not as willing to accommodate concerns such as his, then he did want to appeal the decision.

Mr. Cannon said that there is an ambiguity here that is a real policy issue. It is a legitimate issue that the Commission should get into as a generic discussion. There is a question about the health of the tree and the yielding capacity of the tree. He felt that was an appropriate question that the Commission should address as part of a review of the interpretation.

Mr. Kamptner said that if the reference tree dies that pole has to be relocated somewhere else. The monopole can only be seven feet taller than the referenced tree.

SDP-2008-00013 Dunlora Gates – Preliminary

The request is for preliminary site plan approval to create 18 lots with open space on 7.9 acres. The property is zoned R-4, Residential, described as Tax Map 62 Parcel 10 and is located in the Rio Magisterial District on Townbrook Crossing approximately 0.071 miles from the intersection of Shepherds Ridge Road and Townbrook Crossing. The Comprehensive Plan designates this property as Neighborhood Density in Urban Area 2. (Megan Yaniglos)

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

- The applicant is requesting the approval of modifications for curb and gutter, sidewalks, the disturbance of critical slopes as well as the approval of the proposed open space that are required for the approval of the preliminary site plan to create 18 lots on 7.9 acres adjacent to the Dunlora Subdivision. In June, 2006, the Planning Commission took action on five waiver requests and the appropriateness of proposed open space for a 14 lot subdivision on this parcel. The Planning Commission granted approval for the waivers and the open space at that time. The waivers being requested with the current proposed site plan are similar to the waivers granted in June of 2006.
- The first modification requested is for the disturbance of critical slopes, which is for the construction of the roadway units and to install a stormwater management facility. Engineering

staff has determined that the proposed configuration of the stormwater management facility could be amended to disturb fewer critical slopes. Staff recommends approval of the critical slopes modifications with the conditions that stormwater management facility be amended by narrowing the bio-filter possibly adding a small site while in siting the facility away from the stream. And that no critical slopes disturbance occurs in the stream buffer except for the necessary stormwater conveyance system from the facility to the stream.

- The second modification requested is for curb and gutter. The applicant is requesting that no curb and gutter be required for the proposed public streets. The two public streets that are adjacent to this parcel do not contain curb and gutter. The pattern of development within the adjacent Dunlora Subdivision is rural cross sections without curb and gutter. Therefore, staff recommends approval of this modification.
- The third modification requested is for sidewalk. Sidewalks are required on both sides of each new street within a subdivision in the development areas. The proposal will provide a concrete sidewalk on only one side of the street that will connect to existing sidewalks on Townbrook Crossing. The adjacent areas have existing sidewalks on one side of the street that promotes the need for pedestrian access. Staff recommends approval of the modification of sidewalks.
- The zoning ordinance requires that all open space must be authorized by the Planning Commission. The open space proposed is approximately 2.72 acres. It provides protection of critical slopes, conservation of existing trees and drainage areas. There is also proposed a stormwater management facility within the open space, which is an allowable use. The open space also provides a reasonable buffer from adjacent subdivisions and will connect to the open space on the south side of the parcel. Staff recommends approval of the proposed open space.

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

Mr. Edgerton noted that on page five under recommendations it says that since both favorable and unfavorable factors have been identified under this section staff is unable to make an overall positive finding for the approval of the critical slopes waiver. Therefore, he was confused.

Ms. Yaniglos said that there was some confusion on that. The applicant has worked with engineering staff to modify the biofilter to not impact as many critical slopes in the open space per the conditions. That will be a condition of the approval for the critical slopes.

Mr. Edgerton noted that there would be a different drawing. To the east it appears that the actual construction of the biofilters will disturb a lot of critical slopes. So the applicant is proposing to relocate the biofilters away from the critical slopes.

Ms. Yaniglos replied that it would not relocate the biofilters. They are proposing a new shape based on engineering's recommendations to narrow the biofilter and impact less critical slopes.

Mr. Edgerton asked if they approve this there will be an entirely different drawing presented to the Board.

Ms. Yaniglos replied that it would not go to the Board, but there would be a new submittal.

Ms. Joseph asked if there will be vegetation placed on the slopes of bio filter for mitigation of the critical slopes.

Ms. Yaniglos said there is no requirement for landscaping to be provided. She suggested the Planning Commission could recommend a condition if they approved the request.

Ms. Joseph said that if it was a biofilters there should be vegetation placed within it. She invited the engineer to address this issue. She asked if they have a man-made slope like this if they often require some sort of vegetative cover.

Jon Sharp, Engineer, said that typically they like the bottom side of the embankment slope to be 3:1. They don't like any wooded vegetation on the embankments themselves. Obviously, there will be a

planting plan inside the biofilters. For stream buffers if the disturbance is approved by the program authority, all stormwater management facilities are exempt from doing mitigation.

Ms. Joseph said that there would be vegetation within the biofilters itself, but engineering would prefer to have nothing on the sides of these.

Mr. Sharp replied that was correct mainly for the embankment to help preserve the integrity of the dam itself.

Mr. Edgerton questioned what the condition of the area was around the biofilters.

Mr. Sharp replied that it was wooded.

Mr. Edgerton noted that they were going to be cutting down a lot of trees to put in the biofilters. From engineering perspective they did not want to put anything back at least on the dam side.

Mr. Sharp replied that was correct. Also, if engineering feels that there is no reasonable alternative location for the stormwater facilities they are also exempt from needing a critical slopes waiver. So they are asking as a condition that they disturb the least amount of critical slopes necessary to get the facility in based on engineering's recommendations.

Mr. Edgerton pointed out that the whole reason for the need of the biofilters is to deal with the additional erosion that is being caused by the proposed development.

Mr. Sharp said that typically it deals with treating the imperviousness of the system water runoff. There are also other small critical slope areas on the site that this waiver is for.

Ms. Joseph noted that there were some units being shown on the critical slopes on this site.

Mr. Sharp replied that was correct.

Ms. Joseph noted that the real concern is that aspect if they can't find any other place. If the applicant moved some of the units they could locate the biofilters somewhere else.

Mr. Sharp replied yes, that potentially the applicant could move it out further. He noted that their design is to move their facility completely out of the stream buffer.

Mike Myers, with the Engineering Group, asked to shed some light on this. They met with staff to talk about ways to push the pond up the hill out of the stream buffer area. This plan was approved in 2006 with the pond shown in this location in the stream buffer. Since then they have slide the pond up the hill to basically get it out of the stream buffer. There was an exhibit provided that showed the revised limits of clearing in the critical slope area for that pond. The applicant has done what he can to push the pond up the hill to be out of the stream buffer. It is a better use of the existing land to provide the stormwater management that provides the water quality for the entire impervious area of the site. Unfortunately, this plan does not reflect that. But, they are working with staff to work out the issues of where that pond needs to be to minimize any sort of disturbance of the stream buffer. The biofilter itself by design has a number of plantings that are specified to go in.

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

Jim Gates, property owner, said he would be happy to answer questions.

Mr. Edgerton asked if he would be willing to defer this and bring it back with some engineering that represents exactly what is going to happen as opposed to a sketch.

Mr. Gates said that since he had been working on this project for four years he would prefer not to defer. But, if it was a difference between approval and non-approval, then he would request a deferral.

Mr. Cannon invited public comment.

John Batowelette, resident of Dunlora in River Crest, pointed out that there is an elevated knoll on the boundary between the Gates development and the River Crest boundary. That elevated knoll runs about 75 to 100 yards. He asked that they maintain the integrity of the elevated knolls because it serves as a buffer between the two areas. They would hope that knoll would not be distorted or only be a minimal disturbance. The buffer minimizes the intrusive effect of the new construction. They hope to maintain the naturalistic look of the area.

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

Mr. Edgerton asked that the applicant provide additional engineering information on a current plan.

Ms. Joseph suggested that the applicant work with staff to try to revegetate some of the critical slopes that engineering does not have a problem with. A way to mitigate going into the critical slopes is to replace the vegetation, which would help heal this neighborhood.

Motion: Mr. Strucko moved, Mr. Edgerton seconded to accept the applicant's request for deferral of SDP-2008-00013, Dunlora Gates Preliminary.

The motion passed by a vote of 6:0. (Mr. Morris was absent.)

Mr. Cannon stated that SDP-2008-00013, Dunlora Gates Preliminary was deferred.

SDP-2008-00020 Whitehouse Commercial Site Development Plan – Preliminary
The request is for preliminary site plan approval for construction of commercial office space in three two-story office buildings totaling 65,120 square feet on 4.81 acres zoned HC - Highway Commercial. The property, described as Tax Map 78 Parcel 11 is located in the Rivanna Magisterial District on the proposed Olympia Drive in the Pantops Development Area between the Pavilions Townhomes development (currently under construction), the CarMax and Free Bridge Auto sites. The Comprehensive Plan designates this property as Regional Service in Urban Area 3. (Patrick Lawrence)

Mr. Lawrence presented a power-point presentation and summarized the staff report. (See staff report)

- The applicant requests a waiver for critical slopes and disturbance of land within the buffer between the commercial and residential properties.

- Staff recommends approval of the two waivers requested by the applicant. The plan has been reviewed by the Site Review Committee and may be approved administratively if the Commission approves the two modifications. The critical slopes are mitigated by engineering. The landscaping provided between the commercial property and the residential property would be landscaping that hides the commercial property from the residential.

Mr. Cannon asked if there were questions for staff.

Mr. Edgerton noted that the staff report indicates that the applicant because of the retaining walls can't provide the buffer as required by the ordinance.

Mr. Lawrence replied that the applicant has to get into the buffer zone to disturb it both for planting and to create the retaining walls.

Mr. Edgerton asked if any current vegetation in that buffer would not be there anymore.

Mr. Lawrence replied that was correct that it would not be there anymore and there was not very much there now. He noted that as the site exists today there is current construction and grading on the

Pavilions site, which is southeast of the site. Mass grading for townhouses is being done on that site at the current time.

Mr. Strucko said that the applicant wants to put 65,000 square foot of office space here with associated surface parking. He asked how many daily vehicle trips that would generate.

Mr. Lawrence replied that the applicant had provided that information on the plan.

Mr. Strucko asked if it was a by right application with a waiver request.

Mr. Lawrence replied that it was a by right applicant with two waiver requests.

Ms. Joseph asked where the stormwater was going.

Mr. Lawrence replied that the stormwater was going off site into the stormwater management facilities in the Pavilions at Pantops.

Ms. Joseph asked if it was possible to get more street trees on the corner of Rolkin. It appears that the street trees stop where the serpentine walls are located.

Mr. Lawrence replied that it was something that they could mark as a condition for the applicant.

Mr. Cannon suggested that the Commission talk to the applicant about that.

Ms. Porterfield asked if the reason the applicant has to go into the buffer is due to the required parking numbers. She suggested that the applicant cut back the number of parking spaces so they could pull out of the buffer.

Mr. Lawrence replied that the number of parking spaces is contingent on the size of the building. It would require a reduction in the building size. There is parking beneath the larger structure as well as surface parking to the outside of the property.

Ms. Porterfield verified that he was saying by the applicant enlarging the buildings in order to meet the parking requirements they have to go into the buffer.

Mr. Lawrence replied that is partially correct. The idea of the buffer between the two uses is a screening capacity. It is beneficial for the residents in the residential area to have this type of screening between the two uses.

Ms. Porterfield suggested that they could pull that back toward the buildings and still have that type of screening, but maintain the buffer as such. The 20' buffer would be there plus what they are showing if they pulled it back from the buildings and lessened the parking a little bit.

Mr. Lawrence replied that could happen.

Ms. McCulley said that it is important to clarify that when there is a buffer disturbance waiver in front of the Commission, they still have to meet the landscape screening requirements. The Commission would just be allowing them during the construction phase to intrude into that buffer and do disturbance. But, the applicant has to mediate it and basically install the equivalent screening. In this case it is a wall and trees.

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

Justin Shimp, representative for the applicant, asked to address one thing specifically about the two retaining walls and the parking and if they would have to reduce the parking. He believed that only the one retaining wall is actually in the buffer. They chose to do two shorter walls instead of one tall wall to break it up in the shrubs in front of both. He believed that they could maintain a 20' buffer and put in one

taller wall. He felt that the net impact on the site would be worse. They would end up with the same screening at the top of the hill. It would be the same 20' requirement, but they would end up with one tall wall that would not be as well screened by the shrubs as they have in the plan in front of the Commission.

Ms. Joseph asked if there were two 10' sections of wall going in here.

Mr. Lawrence replied that one was a 3' section and then there is a larger section of tiered wall.

Mr. Shimp noted that it varied throughout, but were not as tall as 10'.

Ms. Porterfield questioned the lighting.

Ms. Joseph pointed out that parts of the wall are 10'.

Mr. Shimp noted that it varies. He requested to add one more thing about the existing vegetation for that buffer. He was involved with the adjacent plan for Pavilions Townhome. There was a grading easement 20' or 25' over onto this piece. He noted that even though the trees might be shown in the photographs and might not be gone yet, but they will be to construct those roads seen for the townhouses. Therefore, from about the stub out at the end of the street adjacent down to Olympia Drive those trees will be cleared as part of the Pavilions Phase One Plan. It is an active project.

Mr. Strucko asked if the primary access to this is going to be Rolkin Road. He asked if a traffic study had been conducted to determine the impact on Rolkin Road.

Mr. Shimp replied that he believed that those plans were submitted and reviewed by VDOT previously with the understanding of the land use of a certain commercial density there. That was not reviewed as part of this site, but reviewed with the design of the roads.

Mr. Strucko estimated that 60,000 square feet could probably house as many as 200 to 300 employees. He was not sure how many daily vehicle trips that would generate.

Mr. Cannon invited public comment. There being none, the public hearing was closed and before Commission.

Mr. Edgerton questioned if the applicant has already graded and cleared the existing vegetation along this buffer.

Mr. Lawrence said that as part of the approved Pavilions at Pantops plan the mass grading and erosion and sediment control plans have been enacted. The grading has occurred adjacent to this site and easements obtained for grading within this particular property. On this property the grading has not been done.

Mr. Edgerton said that perhaps the same owner owning two pieces of property they can totally work around the ordinance requirements of not disturbing the buffer by granting an easement across property and doing the grading and then coming in later and saying oh by the way they want to disturb this buffer.

Mr. Lawrence noted that there are two different things going on here. One is that Pavilions at Pantops has been approved, bonded, grading easements in place and begun.

Mr. Edgerton asked if the grading easement was granted by owner of this property to accommodate the development of the Pavilions.

Mr. Lawrence replied yes of the adjacent property. What they are asking for with this one because this site plan is different from the other one is that they are looking forward to the plantings within the buffer zone, which must have a waiver to disturb that to get the plantings in.

Mr. Edgerton said that when the Pavilions project was approved an easement was required on this parcel that had nothing to do with the Pavilions.

Mr. Lawrence replied that he believed that to be correct.

Mr. Edgerton noted that at that time there was no suggestion that there was going to be a commercial development here. It was just a piece of land and the owner graciously provided a grading easement to help develop the Pavilions. Now that grading has occurred that has basically negated the buffer zone as required in the ordinance. Now they are being asked to grant a waiver to allow them to disturb this buffer, which has already been disturbed, and provide some landscaping and stepped retaining walls. It seems by cooperating in this way these two adjoining property owners have worked around what was intended by the ordinance.

Ms. Porterfield noted that if the parking was reduced, they would not need as much parking that would pull it out of the buffer.

Mr. Edgerton agreed.

Mr. Strucko said that it was an intensive use in a very tight situation surrounded by residential areas. Therefore, he was sensitive to the impacts on the surrounding areas. He would certainly want to keep intact any buffer zones. He agreed that the planned use may be more intensive than this parcel can withstand. Therefore, he would be less inclined to grant a critical slopes waiver as well.

Mr. Cannon asked even if the size of the project was reduced and the parking went away there would still need to be a buffer to enter into the buffer zone to improve it so it would function correctly.

Mr. Lawrence replied that is correct.

Mr. Cannon said given the state of things as they are today however that came about there would be some benefit to granting the waiver here to allow the activities that are requested.

Mr. Lawrence replied that is correct.

Mr. Edgerton said that the second sentence in Section 21.7.3 on page 5 says screening shall be provided as provided as required in Section 32.7.9 except that the Commission may waive this requirement. So the applicant has to provide that screening regardless of what happens if they do anything commercial on this site.

Mr. Cannon said that the screening including the planting of vegetation in the buffer area could be accomplished without the waiver.

Mr. Edgerton said that it has to be accomplished.

Mr. Kamptner said that the question was can they put screening in without having to regrade the buffer area and have it work.

Mr. Cannon noted that was the question.

Mr. Lawrence said that he did not see that they could plant nor provide a retaining wall without disturbance of land within the buffer zone. So basically what is being asked for is a logical position of they have to put the plants in and they need the permission to disturb the buffer to put the plants and retaining walls in.

Mr. Edgerton questioned if staff had indicated that the buffer has already been disturbed.

Mr. Lawrence replied that he was not positively sure of that statement.

Ms. McCulley said that she would be more comfortable if staff could research that. That seems to be a significant concern on the Commission's part. She would like to be able to provide that information.

Mr. Edgerton said that if the grading for the Pavilion required the disturbance of what is being proposed as the buffer that is required by the ordinance, then he would like to know that.

Mr. Cannon asked staff how they can accommodate that inquiry consistent with the requirement to take action on this request.

Ms. McCulley replied that there was no room in the time schedule except by a request for deferral by the applicant.

Ms. Joseph asked Mr. Graham if there was some planning behind the storm water going off site or if there was a regional basin. She was hearing some say that they feel that the site is overdeveloped. She questioned if they were anticipating that these sites would be developed to the max and that was why the stormwater was taken care of off site.

Mark Graham said that he was not very familiar with this site plan and would defer to Mr. Sharp or Mr. Custer who would be more knowledgeable about the particulars of this one. He noted that the regional basin was sized to accommodate the planned development within that water shed. So he felt reasonably comfortable that it is sized to be able to handle this development.

Ms. Joseph said that it would be a reasonable expectation when that basin was sized that the anticipation was that the whole site would pretty much be covered with asphalt or some sort of impervious surface.

Mr. Graham replied that was correct. He remembered looking at the calculations and they were looking at this type of intensity for the whole highway commercial area up there.

Mr. Kamptner pointed out that the zoning has not changed.

Jon Sharp said that he reviewed the storm water amendments to the facilities. That sized most of the commercial areas for 90 percent impervious. However, it is up to the discretion of the applicant to size a facility as large as he wants. There is length to enabling the applicant to have that much impervious area just because he sized the facility to handle it. But a previous stormwater plan for where it drains to is able to handle the development as shown. It is not a county owned regional facility. He noted that Southern Development is in possession of the ponds now. It is able to accommodate this site.
Ms. Joseph noted that she was looking for the history of when that was sized. It had to be sized with some sort of an idea of what was going to be happening out there.

Mr. Sharp replied that was correct. He believed that the original sizing was back in about 2004 and they assumed that all of the commercial up front along the proposed Olympia Drive all the way down towards the Guadalajara site to be 90 percent impervious. That is typically the value given for all commercial.

Ms. Joseph said that is why she did not have a huge problem seeing all the asphalt out there. That was what was anticipated and what the zoning says out there. She would like to see something other than Forsythia because it is not a screening shrub. If they are going to do some screening between residential and commercial it has to be something that is more substantial. She would like to see street trees along there. She would like to know whether the buffer was intact or not. But, it is something that they would talk about later. She was not fond of 20' buffers. She felt that sometimes it was better to remove what ever is there and replace it with something that they know will thrive. At this point she did not have a problem with this as long as they did the other aspects of changing the vegetation and adding more street trees.

Mr. Cannon noted that there were some outstanding questions on the buffer and exactly what necessity is present for the waiver in order to get an effective buffer in place under the current circumstance. That is an area of question. This use is contemplated by the zoning and is consistent with the plan. So he did not have objections to the use. But, it may be that there could be less intrusion into the buffer and less

impact on neighboring uses if there was some downsizing or some adjustment in the site. He was not sure what was necessary within the buffer itself in order to make an effective separation.

Mr. Loach agreed with Ms. Porterfield. The other side of that coin is that this is being constructed in coordination with the other land use. So the people who are going to be moving in there are going to be well aware of what the buffer diameter is going to be and what is going to be between them and this commercial area. He agreed with Ms. Joseph that sometimes that buffer is better, especially if it is gone already, that it be improved.

Mr. Edgerton asked if the applicant asked for a deferral what kind of information could they bring back regarding the buffer.

Ms. McCulley said that she would be able to tell the Commission whether an E & S plan or some county approval anticipated and approved disturbance of what constitutes a buffer in this area. She would like to bring photos that show what is there now and then better describe what is going to be what is going to be reestablished in the buffer

Mr. Cannon suggested adding what would require a waiver to reestablish it and what would not. That would be helpful.

Mr. Edgerton said that he would very much like the applicant to give the Commission the chance to review this additional information. He suggested that the Commission invite the applicant up to answer that.

Mr. Cannon invited the applicant to come forward and address the Commission's question about requesting deferral to give them more time to get the facts.

Mr. Shimp requested a deferral.

Motion: Mr. Edgerton moved, Ms. Joseph seconded to accept the applicant's request for deferral of SDP-2008-00020, Whitehouse Commercial Site Development Plan – Preliminary in order for additional information to be provided.

The motion passed by a vote of 6:0. (Mr. Morris was absent.)

Mr. Cannon stated that SDP-2008-00020, Whitehouse Commercial Site Development Plan Preliminary was deferred.

The PC took ten minute break at 8:15 p.m.

The meeting reconvened at 8:28 p.m.

Work Sessions:

SP-2008-00001 East Pantops Complex
PROPOSED: Special use permit request for an athletic facility with soccer fields, tennis courts, basketball courts, and parking for the facility and for a proposed greenway trailhead.
ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre); EC Entrance Corridor - Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access; FH Flood Hazard - Overlay to provide safety and protection from flooding
SECTION: 10.2.2.4, Swim, golf, tennis or similar athletic facilities (reference 5.1.16).
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre)
ENTRANCE CORRIDOR: Yes
LOCATION: US 250 East, approximately 300 feet south of the exit ramp from I-64 East at the Shadwell exit (Exit 124).

TAX MAP/PARCEL: Tax Map 78 Parcel 33
MAGISTERIAL DISTRICT: Scottsville

AND

SP-2008-00002 East Pantops Complex
PROPOSED: Display parking for car dealership (includes area requested for rezoning to HC under ZMA2008-00001).
ZONING CATEGORY/GENERAL USAGE: HC Highway Commercial - commercial and service uses; and residential use by special use permit (15 units/ acre); RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre); EC Entrance Corridor - Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access; FH Flood Hazard - Overlay to provide safety and protection from flooding
SECTION: 30.6.3.2(b), Outdoor storage, display and/or sales serving or associated with permitted uses, any portion of which would be visible from an EC street; provided that review shall be limited to the intent of this section. Residential, agricultural and forestal uses shall be exempt from this provision.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre)
ENTRANCE CORRIDOR: Yes
LOCATION: US 250 East, approximately 500 feet south of the exit ramp from I-64 East at the Shadwell exit (Exit 124).
TAX MAP/PARCEL: Tax Map 78 Parcels 33 and 33A1
MAGISTERIAL DISTRICT: Scottsville

AND

SP-2008-00006 East Pantops Complex
PROPOSED: Request seven (7) additional development rights to subdivide into a total of 12 lots on a 31.63 acre portion of 45.5 acre parcel
ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre) EC Entrance Corridor - Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access
SECTION: Zoning Ordinance Section 10.2.2 (28) Divisions of Land and Section 10.5.2.1 Special Provisions for Multiple single family dwelling units where permitted by special use permit
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre)
ENTRANCE CORRIDOR: Yes
LOCATION: US 250 East, approximately 500 feet south of the exit ramp from I-64 East at the Shadwell exit (Exit 124).
TAX MAP/PARCEL: Tax Map 78 Parcel 33
MAGISTERIAL DISTRICT: Scottsville

AND

ZMA-2008-00001 East Pantops Complex
PROPOSAL: Rezone 1.8302 acres from RA Rural Areas zoning district, which allows agricultural, forestal, and fishery uses and 0.5 units/acre (see attached list), to HC Highway Commercial zoning district, which allows commercial and service uses; and residential use by special use permit (15 units/acre). Proposed uses include a two-story, 35,000-square-foot retail and office building and a 4,250-square-foot car dealership with outdoor display parking. Proposed number of residential units is zero.
PROFFERS: No
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre)
ENTRANCE CORRIDOR: Yes
LOCATION: US 250 East, south of and adjacent to the exit ramp from I-64 East at the Shadwell exit (Exit 124).
TAX MAP/PARCEL: Tax Map 78, Parcels 33 and 33C
MAGISTERIAL DISTRICT: Scottsville

Scott Clark presented a power-point presentation and summarized the staff report. (See power-point presentation and staff report.)

- The Commission is asked to provide guidance on three questions, and to give staff direction on any particular information or analyses that they wish to see at the public hearing for these items.

Mike Hardy, owner and developer of property, represented the proposals.

Public comment was taken from the following persons:

Lane Bonner spoke for the proposal. He suggested a possible trade off of highway commercial property.

Jeff Werner, of Piedmont Environmental Council, spoke in objection to the proposal because it was zoned Rural Area and not in the growth area.

The Planning Commission reviewed and discussed the questions posed by staff and provided comments and suggestions as indicated in the following summary.

In summary, a work session was held by the Planning Commission on East Pantops Complex for four connected applications on the following: a zoning map amendment to rezone from RA, Rural Areas to HC, Highway Commercial; and three special use permits for: Swim, Golf, Tennis or similar athletic facility (section 10.2.2.4, reference 5.1.16); Display Parking in the Entrance Corridor (30.6.3.2(b)); and Additional Development Rights (10.2.2 (28)) and 10.5.2.1). In a power point presentation, staff reviewed the proposals. The Commission reviewed and discussed the proposal, answered the questions posed by staff and made comments and suggestions. Public comment was taken. No formal action was taken.

The Planning Commission made the following comments regarding the questions posed by staff:

1. Does the Commission feel that the requested rezoning (ZMA-2008-00001) from RA to HC is appropriate in this location under the Comprehensive Plan?

It was the consensus of the majority of the Commission (with the exception of Ms. Porterfield) that the requested rezoning from RA to HC is not consistent with the comprehensive plan and not appropriate in this location. Some Commissioners said that such a proposal should not be considered without an amendment to the comprehensive plan. There was no indication by the Commissioners that a comprehensive plan amendment would be appropriate for this area. Staff indicated that the next opportunity for applicant submission of a Comprehensive Plan amendment application would be September, 2008.

If the property was to be rezoned, Ms. Porterfield noted her preference might be LI. She said that consideration should be given to the fact that the property was located at the intersection of Route 250 and I-64 that today did not appear to be rural in relation to other nearby properties.

2. Does the Commission feel that an athletic facility (as proposed in SP-2008-00001) is appropriate in this location under the Comprehensive Plan?

It was the general consensus of the majority of the Commission (with the exception of Ms. Porterfield) that the athletic facility (as proposed in SP-2008-00001) is inconsistent with the Comprehensive Plan. The Commission did note that an athletic facility of a smaller scale and size might be appropriate. But, the Commission would need to know a lot more about the impacts of that facility in this location if it was going to proceed as a special use permit.

Ms. Porterfield stated that she would like to see the proposal fully developed so that the Planning Commission actually had something to look at, such as plans, size, what the building is going to look like, etc. She felt there is a real advantage for the Albemarle community to have the facility in this location because of I-64 access.

3. Does the Commission feel that granting additional development rights (as proposed in SP-2008-00006) is appropriate under the Comprehensive Plan?

It was the consensus of the full Commission that granting additional development rights (as proposed in SP-2008-00006) is not appropriate under the Comprehensive Plan.

Administrative Waivers
The work session was held to develop criteria for administrative waivers for buffer disturbance, site plan requirements, open space dedication and disturbance of critical slopes. These proposed Zoning and Subdivision Ordinance amendments implement the Board of Supervisors' action to endorse the Development Review Task Force recommendations to streamline review process in the Development Areas. (Amelia McCulley)

Ms. McCulley presented a power-point presentation and summarized the staff report. (See staff report and power-point presentation)

Most waivers are not complicated. There are some waivers that staff can relatively easily address with administrative clear guidelines in the ordinance. She asked to hold back discussion on one portion of the critical slopes section in the report, which is in phases. One is sort of a baby step. It was discussed last time in November, 2007 and there was a general comfort level. The second is more comprehensive and she suggested that they not do that right now. Some of the things are not fully developed, such as what they are looking at in terms of mitigation. She did not want to run the risk of slowing down the other things because they have to more fully develop the critical slopes analysis.

This is based on a recommendation from the Development Review Task Force. The purpose of the Task Force was to review and assess the current legislative review process for improvements and efficiency, effectiveness, quality and adequate public participation. There was a May 2, 2007 report to the Board. This initiative is all about the fourth priority, which was based on establishing staff authority for waivers and modifications in the development areas. The suggestion is that the Board adopts standards that allow staff to have clearly defined discretion and authority on several items that would have a significant impact on streamlining the approval process. So staff identified three additional reviews for administrative approvals. There was a couple that the Development Review Task Force came up with. One would be an out right exemption. That is one that staff showed the Commission a diagram of last time. That is the subdivision ordinance requirement that all of the lots share the same access. There are numerous cases throughout the County where there is property that actually lies on two sides of a public road so it is absolutely physically impossible for that property to share the same entrance. So instead of wasting the Commission's and staff's time they would write an out right exemption for those cases with existing public roads.

Mr. Edgerton asked if these situations would be located in the development area. He noted that in the second slide she had bolded in the development areas because that is where the focus is.

Ms. McCulley replied that the 404 exemption would apply anywhere a property is split by existing public roads.

Mr. Edgerton noted that some of the examples shown were not in the development area and the issue does exist.

Ms. McCulley agreed that was a good point because this situation could exist in the rural areas. The actual waivers being discussed are primarily development area waivers. Site plan waivers are another staff initiative and open space dedication, which again is development area because they don't allow it in the rural areas. A work session was held on November 20, 2007. The Commission agreed to the 404 exemption for property split by an existing road. They talked about the need to do what they are doing tonight to try to hammer out some clear criteria for these waivers. They talked about the need to provide adjacent owner notice. Staff suggested that they would do that and provide notice to neighbors before staff rendered an administrative decision in order to receive input before making a decision.

Ms. Porterfield asked how much notice will be given.

Ms. McCulley replied that it would be the same notice that staff currently gives for site plans and subdivisions. They would follow that schedule, which she did not know exactly how far in advance. But, that current schedule allows for a couple of weeks before a scheduled Commission date they can tell staff if they have concerns and want to call an item to a Commission meeting. It is several weeks in advance.

Ms. Porterfield pointed out that she was not on the Commission at that time and might need a little more explanation.

Ms. McCulley noted that it was more fully described in the staff report and the attached minutes. They talked about the need to further discuss the critical slopes waiver and that of all of those listed that was the one that warranted a lot further thought and discussion. On February 5, 2008 the Commission approved on the consent agenda resolutions of intent for the zoning text amendment and subdivision text amendments that would be necessary to implement these changes. Then the purpose of this meeting is to establish the clear criteria to guide staff in rendering administrative decisions.

The first one is buffer disturbance, which has suggested criteria for staff that would actually be in the ordinance.

- If adequate landscape screening is not present in that area. To actually meet the screening requirements in the ordinance they were going to have to disturb the area. If there are trees in that area that an arborist or a certified landscape architect finds would damage surrounding property or about to fall due to dying, decayed or something like that.
- If the county engineer determines that disturbance is necessary to provide drainage improvements in that area and there is no other adequate area.

She stopped at disturbance of buffers and asked for input and comments.

Mr. Cilimberg noted that the question was how far in advance of an item coming to the Commission do people have to request that item be reviewed.

Ms. Porterfield asked how far in advance staff notifies them so that they have enough time to respond.

Mr. Cilimberg replied that they are getting an adjacent property owner notification not too long after the submittal date. Staff needs to know from them approximately four weeks before the Commission meeting that they would like the Commission to hear the item. As an example, for April 22 Planning Commission date March 31 is the deadline for adjacent owners to let staff know that they would like the Commission to see the item that was submitted on February 25.

Ms. Porterfield asked if that is when staff would notify the adjacent property owner.

Mr. Cilimberg replied that it would be several weeks before the appeal deadline, which is March 31. So for a February 25 submittal the adjacent owners would get that letter early in March.

Ms. McCulley noted that the notice is sent by regular mail. The proposal would be that staff would send out notice to the neighbors along the same schedule. They would receive notice three to four weeks before staff would make a decision on a waiver. They would be told in the notice that this waiver is before us that would include the description of what is being proposed and they would like information from them that they might staff to consider in rendering a decision about one of these waiver requests.

Ms. Porterfield noted that in her previous planning experience, it was the responsible of the applicant to send the notices out to everyone. Those notices had to go by return-receipted mail. The applicant had to prove that everyone necessary had been notified.

Ms. McCulley said that was not done here. Staff has considered that because they spend substantial costs in the mailings of these things. It is not just the postage, but the staff time involved to do that. They have talked about that even on a bigger level in terms of they put out the public notice signs. That is another significant staff time. Staff would probably at some point like to revisit whether the applicant bears more responsibility.

Ms. Porterfield noted that she would like to see staff revisit that. In addition, they would know that every single abutting property owner has been notified.

Mr. Loach said that it was said that staff was giving N number of days or weeks so people could get input back so staff can make a determination that it would be called before the Planning Commission or were they making a determination of what they are saying makes it different in the way staff acts.

Mr. Cilimberg said that actually the adjacent property owner was requesting.

Ms. McCulley said that it would not be with the administrative waivers. Staff is suggesting it as a process with administrative waivers. They would follow the original intent of the Task Force and the direction from the Board that the public would be able to participate by providing information to staff before staff renders the administrative decision. Now if staff is not comfortable because of the level of public interest in making this an administrative decision staff is going to refer it to the Planning Commission. Staff is not going to choose to take that on. But in the event that there isn't sufficient public interest or contentious issues then staff would receive input from the neighbors to consider and whether to grant the waiver or not.

Mr. Loach asked if that means that the neighbors no longer would have the ability to call their Planning Commissioner and have him call an item.

Ms. McCulley replied yes, that is the intent with these being an administrative waiver. That is the charge that staff understands from the Board.

Mr. Edgerton said that the neighbors could come and talk to staff about it because staff would be making the decision.

Ms. McCulley replied that is correct.

Mr. Edgerton said what they are being asked to do here in an effort to expedite the approval process is they are being asked to give up the authority and the responsibility of making certain decisions or reviewing certain issues. The Commission would be delegating that to staff to make those decisions. The neighbors would be notified and be invited to the site review meeting. The neighbors could come in during the middle of the day when the site review meetings are held and express their concerns to staff. He asked if under what is being proposed would they have the authority, as they do now, to call it up before the Commission if they could not make it to the meeting or they were concerned that staff was not going to listen to them.

Ms. McCulley replied not as it was being proposed because they would be right back where they are now.

Ms. Porterfield asked that since she kept hearing that due to open and frozen positions staff has much more than they can get done, why do they want to do more.

Ms. McCulley said that this actually is less than preparing a report and coming to these meetings. It would take less time for staff to do it administratively.

Ron Higgins pointed out that for every hour the Commission spends there is probably 20 hours of staff time to get it ready.

Mr. Loach said that from his short period of time on the Commission the number of times that a proposal has come in with recommendations and they have been changed is significant and not insignificant. He was very reluctant to take away the power from the people to be able to go to their representative and say that they would like to have the broader Planning Commission or the Board of Supervisors take this under consideration. He was very uncomfortable about it. In his view it would only be appropriate in areas that were master planned where the master plan was intact and agreed upon so that both sides their expectations were know. In that instance it may be more applicable because the master plan was done,

everybody had input into the master plan and the out put was okay with everybody. What they were actually doing is using the administrative waiver to push or promulgate the master plan. That might make more sense. He was reluctant to take away the citizens power.

Ms. McCulley said that it is certainly the Commission's prerogative to suggest that the process be what he was talking about. She was not certain that staff would support that. Ultimately, it will be the Board's decision. It is certainly a prerogative to suggest that be the way they set up the process that a neighbor or a Commissioner can call it to the Commission.

Ms. Joseph said that they were not changing anything about the site plan rules that stand right now. Anybody can call up a site plan if they want to. This is just focused on the waiver request. So site plans could still come back to the Commission.

Mr. Edgerton noted that waivers could not be called up is what he was hearing.

Ms. Joseph replied yes, but that site plans that had waivers on it could. At that point it could be discussed by the Commission.

Mr. Cilimberg noted that the point is that most of the time waivers are associated with the site plan. So rather than calling the waiver up they would be calling the site plan up.

Ms. Joseph agreed.

Mr. Cannon said that this is a good idea. This is creating a set of limited cases in which the staff can rule without the Commission. It would be good because it would save time for both of them. Then they could spend more of their resources doing other kinds of things. Therefore, he thought it was a good idea. He questioned whether these are appropriate criteria and address the issues that occur frequently that really don't require and the kind of review that the Commission is able to give.

Ms. Joseph and Mr. Cannon agreed with question 1.

Mr. Loach agreed that it was a good thing, but not at the expense of allowing the neighbors to go to their Planning Commission if they have concerns and have them call it up. If what staff was saying is true, that should be the minimum amount of times that would happen. But when it does occur he believed that the public still has the right. In the growth areas they have enough problems with getting things approved when the community is against it and the master plan says that it is not to be without letting all of the little things slip by, too. He felt that it was a good thing, but not at the expense of overriding the ability of the community to call up items.

Mr. Kamptner noted that right now anyone can call up an item. If they want to call up the site plan they don't have to identify a reason to call it up. They don't have to state any reason why they think that a provision of the zoning ordinance has not been addressed. If the right to call up is going to be plugged into this should it be because for any reason or because they can cite that staff has misapplied one of these criteria for that particular waiver.

Ms. Joseph agreed that it should be for any reason. It should continue to not have to state the reason.

Mr. Loach noted that it does not happen that often.

Mr. Kamptner said that his perception is that site plans get called up because someone does not like the project. Then they go through this frustrating exercise where they are constrained by the law that it is a ministerial decision. They have to tell the people who show up there is really nothing they can do because they have not found any provision of the subdivision ordinance or zoning ordinance that has not been complied with. -

Ms. Joseph noted that is how the subdivision and zoning ordinance gets changed. Sometimes people come up with some things that they have not thought of that are specific to a certain area and sometimes

they change the ordinance because of those comments from people. Whether it was frustrating to everyone at least they have the opportunity to talk about it.

Mr. Kamptner said that historically that has not been the case.

Ms. McCulley said that the thing that helps in having someone state their reason is that it helps staff know what to focus on when they bring the item to the public meeting. It does not have to be a good reason. It could be any reason. It just really helps staff know what they are thinking and where they are coming from and maybe focus the discussion on that.

Mr. Cilimberg noted that it would be helpful if they say it is because of the use. Then they will know that in the report that it is not about particular technical items. It is good to know why they are asking for it to be called up.

Mr. Cannon said that it was a great idea. He asked that they move on to question 2.

Mr. Edgerton noted that before tonight's discussion on the disturbance of the buffer he was prepared to say yes that looks great. Frankly, he was pretty unhappy about staff's assessment of the need or the lack of need for a buffer in the interpretation. It worried him because he was hopeful that in their efforts to allow the Commission and the staff to focus on a more efficient operation he was hopeful that were not going to be making it easier to do bad planning in this community. He thought that Ms. Porterfield was right on target when she pointed out that what was being proposed on that site was the only reason that buffer was being disturbed. He thought that they could engineer just about anything, but maybe those buildings should have been a little smaller and maybe a few less parking spaces would have been a more appropriate solution. Based on staff's recommendation he was not confident that approach was taken. He did not hear staff say that the applicant should not have proposed such a dense development. That project was in the development area. The Comp Plan tries to direct growth into development area and they certainly want it to be as dense as it can possibly be per the land use plan, but, not to ignore the critical things like buffers and critical slopes. Therefore, he was worried about this. If there is no appeal to the public to challenge this in a public forum, which is what would happen if these things become administrative approvals, then they are favoring the development community and perhaps their desire to maximize their profit with a very negative long term impact on the community. Therefore, he was struggling with this.

Mr. Strucko agreed that his struggles were not foreign to Ms. Joseph or him. Both Ms. Joseph and he were the ones that sat on the committee referenced by staff. He was not as active as a participant as Ms. Joseph, but he did recollect that they had a lot of debates on political science. Elected representatives and the people have the right to petition their government or call things up or participate here. But, they also had discussions about the efficiency of government operations and whether or not these rules or regulations are imposing an undue burden on the development community rather to do exactly what they expect them to do in the master plans that are laid out So they were wrestling with that and going back and forth. He recalled saying that he reserved the right to change his mind at the very last minutes. He questioned whether they were really meeting one of the demands placed upon this committee to afford adequate public participation if they take it out of this setting and put it in the back offices there. But, some of the public complaints were that when projects get to this level they don't have any say in what has been going on. The projects have been cooked long enough where it is hard to actually change the appearance. So they went back and forth. That is his recollection of how this committee dynamic unfolded.

Ms. Joseph noted that she did not support any of this at the community discussions. She was supporting it now because it is something that the community came up with. She was trying to get the best possible that they can out of this so that everybody feels comfortable with it. She agrees with Mr. Loach and Mr. Strucko that the public needs to have some input in this. Yet, they kept hearing all along that these things hung up a project and that there was no good to be done for the public because nothing would ever change and they would just be frustrating people. She asked how they can change the ordinance so that everyone is not frustrated. She asked if they really want to start looking at the impervious coverage on

these sites a little bit more carefully than they have been so that they make sure that they have some green space on there. All they are doing is following what the ordinance says they can do.

Mr. Edgerton noted that the ordinance is the law and there should not be a variance without a very good reason. He was just cautious. One of the reasons they get bogged down is that they don't have the staff support to deal with the pressures from the development community. If they had more staff, then they could address these issues more efficiently. That would require raising revenues to pay for more staff. This is a bad time to talk about that.

Mr. Strucko said he was on the side of protecting the process by allowing the public to come in and at their discretion call things up. There are too many exceptions to the rule.

Ms. McCulley noted that she heard the consensus of the Commission that the process would allow for a neighbor to call a waiver to the Commission so that it is not administratively decided.

Mr. Cannon said that there has to be a threshold for staff's idea at least of having them specify a reason. These are designed to be pretty straight forward criteria. By asking them to specify a reason at least they get them thinking that there is some constraint on this process so that when they get to the Commission there is not this massive disappointment. That is something they run into repeatedly. He frankly did not know if people feel better having raised it to the Commission and having them say sorry they can't do much for them.

Mr. Edgerton noted that they only have to say that when the applicant has met all of the provisions of the ordinance without a waiver. He said that is the only time the Commission has to approve something under the law. The Commission grants waivers when they feel that it is for the betterment of the community.

Ms. Joseph suggested that the waiver requests be included in the email the Commission receives when projects come in. Then they could call staff with questions, visit the site and call it up if necessary.

Mr. Edgerton said that basically they could roll it into a consent agenda experience.

Ms. Joseph agreed that it could be a consent agenda item or something that would have less staff activity on that. If it was really something that was extremely important, they would not have to depend upon the neighbors who might not know what is going on or might be busy. It could be something that a Commission member could pull even outside of their district.

Mr. Edgerton acknowledged that the committee and staff have worked hard on it. But, he was anxious about the shift. He would rather spend their time on bigger planning issues rather than arguing about waivers and trying to fine tune buffers and critical slopes. The Commission does not have time to do that because they are so burdened. Certainly staff does not have time to do that either. He suggested that they get more staff to handle the workload more efficiently. He was anxious about bending over backwards with limited staff capability and limited time to make it easier for the development community to push the development on this community. They have a lot of people in this community who have spoken year after year at the polls that they want to preserve what is good about this community. That is why they sit here every Tuesday night. He questioned who would benefit from this. If the public can take off from work for the site review meetings, it might be helpful.

Mr. Cannon suggested that it could work both ways. Staff is not going to approve all the waivers.

Ms. Porterfield noted that in her previous planning service, they had a subcommittee of the Board to recommend issues for the consent agenda. If the subcommittee felt by a majority vote that the item could go on the consent agenda, then the Board handled them on the consent agenda. Anybody could come to the hearing and ask that an issue be pulled from the consent agenda to be heard at the meeting. Otherwise interested parties including the abutting neighbors could check on line and know that an item has been scheduled for the consent agenda. They would know that unless someone requested the item be removed from the consent agenda it would be approved. That would give the opportunity that an item

could be called up and could be discussed. She suggested that service on the consent agenda subcommittee could be rotated amongst the PC. Hopefully, this method would keep staff from having to complete full-blown staff reports as well as help back up staff when they recommended easy approval of an item.

Mr. Loach asked the number of times that something has been called up during the last year. He had not seen it too many times. He did see that it was a large problem. The other thing they were talking about was when someone comes asking for something that can't be done. He felt that was a matter of education and could be done outside of the preview of the Planning Commission. He did not think that there was a problem that they were solving with this. He agreed with Mr. Edgerton that the extra time that they have to spend here is well worth it. He had not seen that many developments that don't approved around this county and the end result.

Ms. McCulley suggested in the interest of time that the process that she hears in consensus is that a neighbor or a Planning Commissioner, regardless of whether it was their district or not, can call for that item to come to the Planning Commission for discussion.

Mr. Loach agreed with Mr. Cannon that there should be a reason. That is reasonable to ask for. If it was something that can't be changed, that is the time for the education.

Ms. McCulley said that if that accurately captures process she asked what is missing and what do they need to add.

Mr. Edgerton said that the list is good. In the spirit of compromise he asked to include the opportunity for a concerned citizen of a Commissioner with reason to call something up he would be comfortable with it.

Mr. Cilimberg noted that with more density and infill there are going to be disturbances of buffers that have already been disturbed. The ordinance does not necessarily speak to the disturbance being a buffer that is always been there. It is just a buffer and may have no thing in it. They may be better served by a waiver that puts something in it.

Ms. Porterfield noted that in the case tonight, the reason the buffer was being disturbed was because they were overdeveloping the site. That was the crux of the issue.

Mr. Cilimberg noted that can be an arguable point. If in fact they believe that any waiver as a result of development should not be allowed, then they should not have the waiver. If they are going to consider that reducing that waiver was a result of overdevelopment of the site, which is always going to be the case theoretically, then they should not have the waiver. They should keep it at 20' and not have a waiver provision and just let people develop within the confines. That is different than what is before the Commission right now, which is about waiving provisions in the ordinance.

Mr. Porterfield felt that was one type of situation that should not be an administerial decision but should have to come to the Planning Commission.

Mr. Edgerton said that if staff is not comfortable asking the question about whether the applicant is overdeveloping the site, then the Planning Commission needs to be involved.

Ms. Joseph noted that it was all by right. By right does not mean someone can encroach in the buffer zone or put buildings over critical slopes, but it is in the development areas. If they want more, then they need a bigger buffer.

Ms. McCulley suggested that they might need maximum impervious coverage, a minimum landscaped area or something like that.

Mr. Edgerton said that they could change the ordinance. But, they have to live with the existing ordinance until they can do that.

Ms. Joseph said that since it was such a big issue that at some point they really need to talk about this.

Mr. Cannon noted that they have a process issue, which they have addressed. He asked how much pressure does the resolution of the process issue take off the discussion of the substance. They have four substance areas here that they could spend a lot of time discussing the details of. Or they could set another time to discuss it. They could say with the process solution they were generally comfortable with them and bless staff to go on. He encouraged the Commission to decide one thing or the other. Then if they want to talk about a particular item, then they should do so for the benefit of staff.

Ms. Joseph asked if they could schedule it for another time.

Mr. Cannon said that if they get into buffer or waivers generally, but it would not be limited and include the broader context with longer conversation. He questioned if they had that much time to do so tonight.

Ms. McCulley said the other option was to go ahead and try to put this into some language ordinance and still have ability to make changes, but to go to public hearing.

Ms. Porterfield asked that before they do that that she would love to hear if there were any issues that came up before the board that would have been administered this way. She would really like to see a list of those before voting on this. She would like to see some history as to how it was going to impact.

Ms. McCulley said that any of the waiver requests that have come to the Commission since she had been here would first go to staff. She would not say that staff would approve them. But, under this process the waiver requests would go to staff. Then a number of them would be called to the Commission; but, not every single one. Higgins staff would send you the hard ones and take care of the simpler one.

Mr. Higgins said that it would be safe to say that the Commission has had some difficult ones. Staff is quite likely to send the Commission the hard ones and handle the easy ones administratively. That is the way it would work. The other thing he was still playing the new guy having been here for less than a year. So in order to help with the project he had to go back to ground one and understand where it came from by reading the discussions and minutes. They tried to focus this on setting the bar high for an administrative waiver so they would not compromise. If it looked like there was a compromise that they were trying to be made, they love the Planning Commission to deal with that. That is what the Planning Commission is really for.

Ms. McCulley pointed out that staff is suggesting some tighter criteria than are currently in the ordinance to give better guidance to help deal with some of the tough issues. There were many things that the Commission would have no problem with and want staff to do administratively as a site plan waiver.

Mr. Higgins said that they were trying to make it easier for people to do the right thing even though it might involve the waiver. The waiver needs to be done well in order to get an administrative waiver.

Mr. Strucko asked how the Commission would know about the proposal to call an item up.

Ms. McCulley replied that staff would give notice to the Commission.

Mr. Strucko asked if everything that staff was doing administratively they would know about.

Ms. McCulley replied that any of these potentially administrative waivers the Commission would know about.

Ms. Porterfield asked if they would get more than a little blurb.

Mr. Higgins said that staff could tell them what the waiver is and what the situations are that would lead staff to believe it could be administratively approved. It could be how the request meets the criteria.

Ms. McCulley noted that staff could provide more information if a Commissioner asked for it on a particular one.

Mr. Cannon suggested that the Commission reschedule to finish this discussion in the interest of time.

Ms. McCulley asked if there was anyway that they could go to public hearing with drafted text at which point the Commission could make changes.

Ms. Porterfield asked that they bring it back to another meeting first before writing the zoning text language
.
Mr. Cannon asked that staff proceed with the ordinance language. The question is whether they are at that point. He was comfortable, but not sure if the other Commissioners agreed.

Mr. Kamptner suggested that staff take a stab at drafting the ordinance and then bring it back for a work session. He said they the staff report and plug in the ability for Commissioners and abutting owners to call it up as discussed.

Mr. Cannon noted that flushing it out in language would also give more precision to the criteria so that the Commission would understand better how that would work, which would be useful.

The Planning Commission reviewed and discussed the questions posed by staff and provided comments and suggestions as indicated in the following summary.

In summary, a work session was held by the Planning Commission to review and discuss criteria for administrative waivers and modifications. In a power point presentation, staff reviewed the recommendations. The Commission reviewed and discussed the recommendations, answered the questions posed by staff and made comments and suggestions. No formal action was taken.

The Planning Commission made the following comments regarding the questions posed by staff:

1. Are the proposed criteria appropriate for these administrative waivers? Are any additional criteria relevant?

The Planning Commission generally felt that these administrative waivers were appropriate with some additional criteria being added that would allow an abutting owner or any Commissioner with reason to call an item up for review. It was important to know why an item is called up so that the community could be notified in a timely fashion.

2. With regards to critical slopes, should additional waivers beyond the two specific ones be undertaken at this time?

In the interest of time, the Planning Commission asked to postpone further discussion and reschedule to another meeting. The Commission agreed with staff's request to draft ordinance language to bring back to include the ability to allow Commissioners and abutting owners to call the issue up. It was suggested that staff create a set of example cases in which staff could rule without the Commission. It would be helpful if these cases could be drawn from actual Planning Commission issues.

Old Business:

Mr. Cannon asked if there was any old business.

- Mr. Cilimberg clarified that the original staff recommendation to the Planning Commission in the Pantops Master Plan did remove the Wheeler property. The Commission decided to keep it in

the Pantops Master Plan. That recommendation is what went to the Board. The Board took it out.

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

New Business:

Mr. Cannon asked if there was any new business.

- The Planning Commission discussed the Land Use Taxation issue and whether it was appropriate for discussion. Mr. Loach suggested that the Commission should talk about the relative merits of land use and ACE and how they should play out in the discussion of protecting the rural character of the County. There were some varying opinions. Staff noted that the Board of Supervisors needs to discuss the land use revalidation information within the next several months to determine staff's role. After that the Planning Commission's role would be determined. Mr. Loach took the issue off the table unless the Board's review of this matter takes an excessive amount of time.

- Mr. Kamptner said that Lloyd Wood was appointed to replace George Bailey, who recently passed away, on the BZA.

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

Adjournment

With no further items, the meeting adjourned at 10:30 p.m. to the Tuesday, April 1, 2008 meeting at 6:00 p.m. at the County Office Building, Room 241, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

_____

V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)