Albemarle County Planning Commission
September 21, 2010

The Albemarle County Planning Commission held a public hearing, and meeting on Tuesday, September 21, 2010, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Don Franco, Calvin Morris, Linda Porterfield, Ed Smith, Mac Lafferty, Duane Zobrist, Vice Chairman; and Thomas Loach, Chairman. Julia Monteith, AICP, non-voting representative for the University of Virginia was absent.

Other officials present were Bill Fritz, Director of Current Development; Julia Wiegand, Senior Planner; Summer Frederick, Senior Planner; Wayne Cilimberg, Director of Planning; and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

Consent Agenda:

Approval of Minutes: July 13, 2010 and July 27, 2010

Mr. Loach asked if any Commissioner would like to pull an item from the consent agenda.

Motion: Ms. Porterfield moved and Mr. Lafferty seconded for approval of the consent agenda.

The motion passed by a vote of 7:0.

Mr. Loach noted that the consent agenda was approved.

Public Hearing Items:

SP-2010-00019 Afton Farmers' Market (Sign 48).
PROPOSED: To allow a farmers' market two (2) days a week from 3:00 p.m. to 8:00 p.m.
ZONING CATEGORY/GENERAL USAGE: Rural Areas (RA) - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); Entrance Corridor (EC) - Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access.
SECTION: 10.2.2 (54) Farmers' Markets; and 5.1.47 Farm Stands, Farm Sales, and Farmers Markets.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Area in Rural Area 3 - preserve and protect agricultural, forestal, open space, and natural, historic, and scenic resources/ density (0.5 unit/ acre in development lots).
ENTRANCE CORRIDOR: Yes
LOCATION: 9264 Critzers Shop Road, approximately one-quarter mile from the intersection of Route 151 and Route 637.
TAX MAP/PARCEL: 06900-00-00-01300.
MAGISTERIAL DISTRICT: White Hall (Summer Frederick)

Ms. Frederick presented a PowerPoint presentation and summarized the staff report for special use permit, SP-2010-00019, Afton Farmers' Market.

- The proposal is to operate a farmers' market two (2) days a week during the hours from 3:00 p.m. to 8:00 p.m. The applicant proposes to utilize existing structures and parking areas on site for the farmer's market.

- Staff recommends approval of the Special Use Permit with the following condition:
    1. Site lay-out should be in general accord with the application plan.

Mr. Loach invited questions for staff. There being none, the public hearing was opened, and the applicant invited to come forward.

Yvonne Harris, applicant, offered to answer questions.

Ms. Porterfield asked if she intended to operate the farmer's market on Tuesdays and Thursdays from 3 p.m. to 8 p.m. and if this would be seasonal.

Ms. Harris replied yes, that it would be seasonal for every week between April and October, two weeks in December, and maybe two weeks in March.

Ms. Porterfield asked if they have existing lighting since it was going to be dark at 8 p.m.

Ms. Harris replied yes.

Ms. Porterfield asked if that lighting meets the code.

Ms. Harris replied that she believed that the lighting meets the code. Their current business is open until 6 p.m.

Ms. Porterfield asked if they were extending the hours.

Ms. Harris replied that they were extending the hours on those two days to help people who work until 6 p.m. to be able to get fresh produce from a fresh market.

Ms. Porterfield asked if everything is going to stay open until 8 p.m. including her other businesses.

Ms. Harris replied yes, that the existing farm market was allowed to stay open until 8 p.m.

There being no further questions for the applicant, Mr. Loach invited public comment. There being none, the public hearing was closed, and the matter brought before the Planning Commission for further discussion and action.

Motion: Mr. Morris moved and Mr. Zobrist seconded for approval of SP-2010-17, Afton Farmer's Market.

Mr. Loach invited discussion.

Ms. Porterfield noted her concern was that what is being presented for this request is different from the next one. She wondered if the motion should indicate the hours, days and extra seasonal time the farmers' market is going to be opened. She asked staff if the lighting meets the code and if the applicant needs to bring the lighting up to meet the current standards.

Ms. Frederick replied that at this time she could not answer the question about the current lighting since staff has not looked into that.

Mr. Lafferty noted the hours of operation depend on the market, which depends on the geography of where it is located.

Ms. Porterfield suggested the motion be clear that this is a special use permit for the market to operate from 3 p.m. to 8 p.m. on Tuesdays and Thursdays during the season.

Mr. Lafferty noted that it was included in the information.

Ms. Porterfield pointed out it is not in the conditions.

Mr. Loach asked if there is a requirement in general that the lighting has to meet the code specifications.

Mr. Fritz noted that the ordinance has requirements for lighting, but he did not know when this lighting was put in since the site was developed a number of years ago. If the lighting was installed prior to the current ordinance and installed in compliance with the ordinance at the time, then the lighting would be nonconforming and could continue. If new lighting were proposed, then it would have to meet the new standards. There is no requirement for lighting at all if no new lighting is proposed.

Mr. Loach said they would need to provide enough light for their customers to see in order to operate a business, but he understood what was being said because of the seasons. If they were asking for these hours on these days, he did not see any reason to put any seasonal limitations on it. He was not sure why they would do that.

Ms. Porterfield said the question is if they don't limit this, then the business could become 12 months a year and 7 days a week until 8 p.m. every night. She did not know if that is what they really want for something like this. There are two similar requests back to back and they are very different. As far as what is going into the motion, she felt that it should be the same.

Mr. Loach said in knowing the area, which was rural, that he did not think there was any detriment for the proposed operating hours because the market is set back far enough from the road. He did not see a problem because the condition of the two sites would vary.

Ms. Porterfield pointed out that there are people who move to the rural areas for the dark skies. If they potentially have lighting that does not meet the lighting ordinances, it was problematic.

Mr. Fritz pointed out if the current lighting does not meet the ordinance or if it was installed without the proper approvals, then it would be in violation and they could be required to remove it.

Mr. Loach asked the applicant if they were installing any new lighting for this operation or using the existing lighting.

Ms. Harris replied they were using the existing lighting that is already up on the buildings.

Mr. Loach said the applicant would not have to add new lighting. Therefore, the current lighting would be under the old proviso.

Mr. Fritz said that he had not gone to the site, but believed that was correct. Since the lighting was installed some time ago, it was in compliance with the ordinance at the time because there was no limitation. Therefore, that lighting can continue. Any new lighting will have to meet current ordinance regulations.

Mr. Smith noted that the current regulations applied only if the lighting was above a certain lumens.

Mr. Fritz replied it was up to 3,000 lumens per fixture.

Mr. Zobrist agreed that they should not make it any broader than what the applicant has asked for. He suggested changing the condition to state that the site layout and operation shall be in general accord with the application plan submitted since the applicant has told them what she is going to do. If they leave it wide open, they would not be sure what they had been approved for. He thought that Ms. Porterfield has a valid point that it should be restricted for the application for not only the site, but the operation also.

Mr. Loach agreed that he did not want to extend it any further so that the applicant was only going to be able to operate during those specific hours under the seasons that she had asked for.

Mr. Zobrist concurred.

Mr. Loach said that they would leave it as what she is asking for. He asked Mr. Morris if he agreed.

Mr. Zobrist suggested that the motion be amended to include the condition that the site layout and operation shall be in general accord with the application plan.

Amended Motion: Mr. Morris amended the motion to include Mr. Zobrist's suggested amendment and that it should be SP-2010-00019 and not 17.

Mr. Cilimberg noted that the application plan does not actually have the hours and days of operation on it.

Ms. Frederick noted that it has hours and days, but it does not have the seasons.

Mr. Zobrist noted the application has hours and days.

Mr. Kamptner asked where the hours and days are, and Ms. Frederick replied that it was on the actual application and noted in Attachment B.

Mr. Loach noted that it was in the staff report that the applicant is proposing to operate a farmer's market two (2) days a week from 3:00 p.m. to 8:00 p.m.

Second: Mr. Lafferty seconded the motion.

Ms. Porterfield asked if they were not going to go with the months.

Mr. Loach assumed that the motion was as the application requests.

Ms. Porterfield noted that they were not limiting the months, but it can be Tuesday and Thursday any time during the year from 3 to 8 p.m.

Mr. Morris agreed.

Mr. Kamptner clarified that the whole application will be attached to the action letter.

Mr. Fritz noted that the application will be attached or staff will craft a condition so there is a single sentence to clarify that before they go before the Board of Supervisors. They are trying to make the Commission's intent clear that it is for two days a week, from 3 p.m. to 8 p.m. and not seasonally limited.

Mr. Kamptner pointed out just for the Commission's information that they had an old special use permit where the applicant had asked for a particular use subject to how they described they were going to operate that use. Because how they were going to operate that use was never put into a condition, it became problematic. Therefore, if there are any desired limitations on the operation of the use it is the better practice to include that as a condition, which they have done here. It gets difficult to track as the years go by. The permit itself is for the use and there is nothing that binds the use to the application. Therefore, conditions are preferred.

Mr. Zobrist said the Commission is binding them with this motion.

Mr. Kamptner agreed that noting it in the modification as the Commission is doing here that they are addressing that issue.

Motion: Mr. Morris moved and Mr. Lafferty seconded for approval of SP-2010-00019, Afton Farmer's Market with the conditions recommended in the staff report, as modified, as follows:

1. Site layout shall be in general accord with the application plan submitted.
2. The farmers' market shall be allowed two (2) days a week on Tuesday and Thursday from 3:00 p.m. to 8:00 p.m. (Staff to work on the condition to clarify prior to Board of Supervisors meeting.)

The motion passed by a vote of 7:0 with the conditions.

Mr. Loach noted that SP-2010-00019, Afton Farmer's Market is scheduled to go before the Board of Supervisors on a date to be determined with a recommendation for approval with amended conditions.

SP-2010-00016 Forest Lakes Farmers Market (Sign 37).
PROPOSED: To allow a farmer's market one (1) day a week from 4:00 p.m. to 7:00 p.m. during the months of April through September.
ZONING CATEGORY/GENERAL USAGE: Planned Use Development (PUD) - residential (3 - 34 units per acre), mixed with commercial and industrial uses.
SECTION: 20.3.2(9) Farmers' Markets; and 5.1.47 Farm Stands, Farm Sales, and Farmers Markets.
COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density in the Hollymead Community - residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses.
ENTRANCE CORRIDOR: No. LOCATION: 1650 Ashwood Boulevard (Route 1670), in the Forest Lakes South development.
TAX MAP/PARCEL: 046B5-00-00-001B0.
MAGISTERIAL DISTRICT: Rivanna (Summer Frederick)

Ms. Frederick presented a PowerPoint presentation and summarized the staff report for special use permit, SP-2010-00016, Forest Lakes Farmers Market.

- The proposal is to allow a farmer's market one (1) day a week on Tuesday from 4:00 p.m. to 7:00 p.m. during the months of April through September. The site is the current site of the Forest Lakes Swim and Tennis Club with associated parking. The applicant proposes to use the existing parking lot as the site for the farmer's market with vendors providing their own tables, tents, etc. from which to sell produce.
- Concerns from VDOT and the County Zoning Division were raised regarding the possibility of traffic stopping along Ashwood and simply pulling off the road to park. Hence, the condition in the recommendation for posting no parking signs in this portion of Ashwood Boulevard.

Staff recommends approval of the Special Use Permit with the following conditions:
1. Site lay-out should be in general accord with the application and the application plan.
2. Addition of No Parking signs along Ashwood Boulevard in front of the existing Swim and Tennis Club.

Mr. Loach invited questions for staff. He noted in the agenda it says during the months of April through September, but it is not in the conditions.

Ms. Frederick replied that is correct, but this specific application is for those months.

Mr. Zobrist suggested that they address the condition.

Ms. Porterfield asked what the parking situation is when they have swim meets and if they park on Ashwood Boulevard.

Ms. Frederick replied that it was her understanding from the applicant that the parking lot is full during swim meets, but they do not park on along Ashwood Boulevard.

Ms. Porterfield asked if the No Parking signs will be permanent, and Ms. Frederick replied yes that was staff's recommendation.

Ms. Porterfield asked if the signs would not affect any other use of the facility.

Ms. Frederick replied that it is not anticipated that it will.

Ms. Porterfield asked if that was because they were not parking there now, and Ms. Frederick replied that is correct.

Mr. Franco pointed out that they are parking there now during swim meets.

Mr. Lafferty assumed that they have permission from the swim club to do this, and Ms. Frederick replied yes that was correct.

Mr. Loach opened the public hearing and invited the applicant to come forward to address the Commission.

Scott Elliff, Board member of Forest Lakes Community Association, said they own the Swim and Tennis Club. They have been operating the Farmers' Market for three years. At the time it was the only farmers' market that was inside a private residential community in the state as far as they could tell. It is a terrific addition to their overall community. He made the following comments:

- The addition of the No Parking signs is a problem. People park there all the time for the swim meets, but it is not a problem for the Farmers' Market at all. They would be overjoyed if they had so many people that they needed to park all the way out on the street. Except occasionally, such as on opening day, there really is no problem at all. However, on swim team nights people definitely park on Ashwood Boulevard. When talking to staff, as it says, the applicant has agreed to monitor the situation. That is what they have been doing for the swim meets for ten years since there is no other place to park. There are hundreds of people that come to those swim meets. If they put up permanent No Parking signs, it would be a disaster there for those nights.
- He suggested not having that condition and to simply let them continue to monitor it. They pay to bring in extra police patrols to make sure they monitor traffic during swim meets. They do that on busy Farmers' Market days as well. Therefore, they would not be solving a problem for the Forest Lakes Farmers' Market, but creating a huge problem for swim meets and also for the occasional special event that occurs. They have fund runs, fund raisers, outdoor events, and so forth that use that area.

Mr. Loach asked if he said they have been running the Farmers' Market for three years, and Mr. Elliff replied that was correct.

Mr. Loach asked what the change is from what they are doing now to this proposal. He assumed they have not had problems with parking in the past.

Mr. Elliff replied that there was no change. They were simply asked to file this application because of a change in County ordinance. They have been running the farmers' market with no issue at all until somebody came to them and said please would you file some documents. He considered this to be a pretty proforma thing until he found out about the No Parking signs.

Mr. Loach said that he assumed that it was alright with the Association that they would be able to monitor the parking as they are now even with the swim meets.

Mr. Eliff replied that they have not had any problem with that. Swim meets have been going on for ten years and there really has not been any problems recognized in the community. It is something that is done and handled as a matter of course.

Ms. Porterfield noted that she was a mother of an older swimmer and remembers all of this and there was never a place to park.

Mr. Loach invited public comment. There being none, the public hearing was closed, and the matter brought before the Planning Commission for further discussion and action.

Mr. Franco asked why staff made the recommendation for No Parking signs.

Ms. Frederick replied that the recommendation came out of concerns from VDOT and the County Zoning Division who were concerned about cars pulling off Ashwood Boulevard and parking in that grassed area.

Mr. Franco noted that it works for the swim meets and there is no other option.

Mr. Loach suggested that the motion be made without the condition.

Motion: Mr. Franco moved for approval of SP-2010-00016, Forest Lakes Farmers' Market, with the condition that it is in general accord with the application plan submitted. The motion does not include the No Parking sign condition.

Mr. Kamptner asked if there was a desire to add a condition related to the season, and the days and hours of operation.

Mr. Franco asked to keep it to the one (1) day a week from 4:00 p.m. to 7:00 p.m. With respect to the seasons he thought that the application said weekends and sometimes during the winter.

Mr. Zobrist noted the application just says April to September.

Mr. Franco restated that the motion is for approval with two conditions that the site lay-out be in general accord with the application plan and with the time of the operation being limited to one (1) day a week, Tuesdays, from 4:00 p.m. to 7:00 p.m.

Mr. Morris seconded the motion.

Mr. Zobrist asked for an amendment that it be in accordance with the application filed and the application plan.

Mr. Franco accepted the amendment.

Amended Motion: Mr. Franco moved and Mr. Morris seconded for approval of SP-2010-00016, Forest Lakes Farmers Market with the conditions recommended by staff, as amended.

1. Site lay-out should be in general accord with the application and the application plan.
2. The time of operation is limited to one (1) day per week, Tuesdays, from 4:00 p.m. to 7:00 p.m.

The condition was not included regarding providing "No Parking" signs on Ashwood Boulevard.

The motion carried by a vote of 7:0.

Mr. Loach noted that SP-2010-00016, Forest Lakes Farmers Market, is scheduled to go before the Board of Supervisors on a date to be determined with a recommendation for approval with the conditions.

SP-2008-00056 Unity Church (Sign 6).
PROPOSED: Request to add 54 parking spaces to provide additional parking for church services.
ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: 10.2.2.35 Church building and adjunct cemetery.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots).
ENTRANCE CORRIDOR: Yes
LOCATION: 2825 Hydraulic Circle, approximately 800 ft. north of intersection with Whitewood Road
TAX MAP/PARCEL: 06100-00-00-00400.
MAGISTERIAL DISTRICT: Jack Jouett (Judy Wiegand)

Ms. Wiegand presented a PowerPoint presentation and summarized the staff report for special use permit, SP-2008-00056, Unity Church.

The purpose of the special use permit is to permit an expansion of parking at an existing church for a total of 134 parking spaces some of which will be paved with pervious material. This special use permit would not involve a change in the number of seats or the size of the sanctuary. The church has been located on Hydraulic Road since 1982.

Hydraulic Road is the boundary between the Development Areas and the Rural Areas where this church is located. The Comprehensive Plan designates this parcel and surrounding areas as Rural Areas. Churches are compatible with that designation. The current zoning is Rural Areas.

The church did a parking study. They looked at six Sundays back at the end of 2008 and early 2009 and found the following information:

- Average number of cars parked on Sunday: 138
- Sunday counts for Six Sundays: 152, 147, 153, 135, 117, 123
  - On four of these Sundays, they had more than 134 cars.
  - The average is also above 134
  - Does not include 10-15 additional cars for youth service in an accessory building
- ITE Trip generation parking required (for 250-seat church): 131.25 spaces

A county staff member went by at the end of 2008 on four Sundays and noticed that cars were parked on the grass and in the entry way or the circle area in the middle of the property.

Church Parking: Existing & Requested

Existing Spaces	84	(4 handicapped)
Spaces to be removed	-4	
Proposed Spaces-paved	19	(1 handicapped)
Proposed Spaces-pervious	35	
TOTAL SPACES	134	

Factor Favorable

1. Adding parking spaces would reduce the need for attendees to park on the grass or in the roadway. Staff discussed with the church the idea of having two services, but since they can get all of their people in the sanctuary at one time they would prefer to have everyone at one service.
2. Adding the parking spaces would permit all the members to attend the same church service and would accommodate larger numbers of guests for weddings and other events.
3. Pervious paving materials would be used for approximately two-thirds of the new parking spaces.

Factors Unfavorable

1. Permitting parking above the maximum normally allowed for churches in the Rural Areas may set a precedent for similar requests. The church is right at the edge of the rural areas next to the development areas and has its entrance on a major street, Hydraulic Road. Therefore, the proposed use was less of a problem and a distinguishable situation from a church that is well into the rural areas as perhaps on a small two-lane road.
2. Approval of this special use permit would allow some additional impervious surface in the water supply watershed. There are 19 additional parking spaces that would be paved.

Staff recommends approval of this Special Use Permit subject to the following conditions:

The original conditions are from SP-2003-00053 (approved 10/13/2004), and the changes for the current special use permit SP-2008-00056 are shown in ***boldface italic*** type (additions) and strikethrough type (deletions):

This property is subject to SP2003-00053 ***SP200800056*** and the following conditions of approval:

1. The church sanctuary shall not exceed two hundred fifty (250) seats;
2. ~~Construction of the two hundred fifty (250)-seat sanctuary shall commence within thirty (30) months of the approval of this permit or it shall be deemed abandoned and the4 authority granted by this permit shall thereupon terminate;~~
2. The site shall be developed in general accord with the c***C***onceptual p***P***lan ***en***titled "***Application Plan for*** Unity Church," Revision 4 ("6/28/04 Comments), prepared by Muncaster ***Dominion*** Engineering, ***and dated August 19, 2010 (hereinafter, the "Conceptual Plan"), and with the Architectural Review Board action of February 16, 2010, as determined by the Director of Planning and the Zoning Administrator. To be in accord with the Conceptual Plan, development shall reflect the following major elements within the development essential to the design of the development:***
   - ***Number of parking spaces and location of parking areas***
   - ***Paving materials, as approved by the County Engineer***
   - ***Location of proposed facilities, including the pergola, labyrinth, and playground***

   as shown on the Conceptual Plan. Minor modifications to the Plan, which do not conflict with the element above, may be made to ensure compliance with the Zoning Ordinance.
3. ***All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval.***
4. ***Construction of the parking areas and other items shown on the Conceptual Plan shall commence on or before 60 months after [insert date of approval by Board of Supervisors] or this special use permit shall expire.***
5. ***Expansion of the church and/or establishment of a daycare not in Building 2 or for more than 25 children or provision of afterschool care shall require approval of an additional Special Use Permit.***
6. ***Approval of the Public Health Department shall be required prior to site plan approval.***
7. Adjustments to the number of parking spaces approved by the zoning administrator and a rearrangement of the parking spaces to the satisfaction of the Architectural Review Board shall be deemed to be in general accord with the conceptual plan. Any expansion of, or addition to, the uses, activities, or structures must be determined by the zoning administrator to be in general accord with the conceptual plan, the staff report, and the Architectural Review Board action of August 2, 2004;
8. The applicants shall relocate the twenty-two (22)-space parking lot shown north of the driveway nearer to the traffic circle;
9. The applicants shall provide plantings to the satisfaction of the Architectural Review Board;
10. Location of water meters and water lines on the site shall be adjusted to the satisfaction of the Albemarle County Service Authority;
11. The property may not be further divided; and
12. There shall be no more than one (1) residential dwelling on the property.

She noted the following reasons for taking some of the prior conditions out:

- Condition 1 updated to show the sanctuary shall not exceed 250 square feet.

- Condition 2 is the standard condition about general accord with the conceptual plan. Staff updated the earlier conceptual plan to the standard format. Staff asks for the design of development such as number of parking spaces, location, and paving materials that would be approved by the County Engineer. These are the ones staff would pay particular attention to during review of a site plan.

- Condition 3 was proposed to assist the ARB with their review since the property is in the Entrance Corridor. The ARB has looked at it.

- Condition 4 allows 5 (five) years to start the project. It is the standard. This is the condition staff wants to change.

- Condition 5 is a rewording of the earlier condition where they were allowed a daycare under a previous special use permit for up to 25 children so long as it was in building two (2). This condition states that if the applicant wants more than 25 children or somewhere else, then they need to come back for another special use permit.

- Condition 6 is there because the church has a septic system and the public health department has to approve that. Part of the paving is going to be over the drain field and the public health people have said that is not a problem.

- Condition 7 is basically outdated because it also addresses parking space.

- Condition 8 is crossed out and has been done.

- Condition 9 is in regards to the plantings that are to support their work with the ARB.

- Condition 10 – Albemarle County Service Authority has said they have taken care of this.

- Conditions 11 and 12 are conditions from previous special use permits that should be continued to protect the Rural Area.

Ms. Wiegand referred back to condition 4.

Mr. Cilimberg said if condition 4 were one that the Commission wants to include in their action, they would probably have a revised version that essentially covers the same ground. Condition 4 will be an updated version of what they are using for standard conditions when someone asks for more than the two years that they automatically get with a special use permit. That can be done before the Board meeting.

Ms. Porterfield asked if all of the conditions will be renumbered, and Ms. Wiegand replied yes.

Mr. Franco asked what happens to SP-2003-53.

Mr. Kamptner replied that it would be superseded by this new special use permit and new conditions that apply.

Mr. Franco asked if that needs to be specified and how does condition 4 relate to that.

Mr. Kamptner replied that condition 4 would have to be revised to reflect that a number of these structures and items shown on the conceptual plan already exist.

Mr. Franco asked if this action supersedes or voids the prior special use permit.

Mr. Zobrist noted that this action would amend the special use permit.

Mr. Kamptner noted that it just takes the place of the prior special use permit.

Mr. Franco asked what happens if it is not commenced within five years and the other special use permit comes back up.

Mr. Kamptner replied that is what needs to be clarified in condition 4 because the standard condition deals best with new special permit uses and when there is an amendment to an existing use.

Ms. Porterfield asked if the five years is for anything that has not been built yet.

Ms. Wiegand replied that it was for what is on the conceptual plan.

Ms. Porterfield noted that there are three items on the conceptual plan that have not been constructed yet. Therefore, they now have five years to do those. That gives them extra time.

Mr. Kamptner pointed out that the issue raised will be clarified in that condition.

Ms. Porterfield said that it is not just the parking lot, but for the rest of the things.

Mr. Zobrist asked where the idea came from that there is a normal limitation on parking for churches in the Rural Areas. This has come up before. Churches are churches and it does not matter where they are. He asked if there is a statute that says that.

Mr. Loach said that he had the same question. They approved the capacity for the sanctuary and have 15 more parking spaces. He asked if ordinances are broken now when they are parking more cars than that.

Ms. Wiegand replied that they wanted to construct that.

Mr. Loach said that they are not breaking any rule because they have more cars than they can park.

Mr. Zobrist said that there is just a minimum number and they had to waiver it to go down to the ones they had because they were below that required for 250.

Mr. Cilimberg said that the parking requirement is for the size of the church. In this case, they are trying to provide more parking to deal with their demand.

Mr. Zobrist said that he remembers this when it was before the Commission before. They downsized the parking requirement because the Commission at that time was always looking at downsizing the required number. He did not think there was an upper limit. He questioned if there was a statute. He asked if they could take this unfavorable factor out of it since he did not think that was unfavorable.

Mr. Cilimberg replied that was part of staff's analysis. If he did not agree, that was fine. That is not part of the conditions.

Mr. Zobrist said that he understands that it is not part of the conditions. However, he wanted to know why the staff is bothering with this if there is not a limitation. He asked why there is a factor unfavorable if there is no limitation on parking. They went through this before with Mr. Edgerton since he always wanted to limit churches in the Rural Areas to less parking and less size because they were rural churches and that is what it is meant for.

Mr. Cilimberg said that it was above the maximum normally allowed for churches.

Mr. Zobrist noted that there was no normally allowed that he was aware of or no statute. He questioned if that is correct.

Mr. Morris asked Mr. Kamptner if by law the County even has the right to put a maximum number of parking spaces for a church.

Mr. Kamptner replied under the general zoning authority yes. Under the RLUPA requirements, they would need to look at it on a case by case basis. It may be a perfectly legitimate kind of restriction in a particular case.

Mr. Loach said the question he would have in this case is not the issue of how much can one park at a church, but the issue of the water quality and it being in the watershed. It would be more applicable if they were going to restrict parking spaces one way or the other. That said, are they improving things by putting in these impervious parking spaces, and by doing that are they improving the water quality. The staff report says this property is in the Ivy Creek Watershed and part of the South Fork Rivanna Watershed . . . and additional parking beyond that required can impact the water resources emphasized for protection. The question is will this actually improve the situation by the way it is planned, or is there a better way to do it.

Ms. Wiegand noted that the reason staff asked for the pervious pavers is those are further out in most cases and less likely to be parked on. In the Rural Areas, they wanted run off to go into the ground rather than running off into storm sewers or something.

Mr. Loach said he could see what she was saying, but if they go back to the slide with the numbers they have been averaging, it seems that they are almost at or above the maximum of what they are asking for. So essentially, while they may be further out it looks like it is going to be used. There was one slide that showed the statistics.

Mr. Zobrist pointed out that the church was built with more than the required number of parking spaces to start with. Ordinarily the County would be saying that they have to have 131 parking spaces. However, here it was lowered below that because the Commission wanted a lower number if it was possible. He asked Mr. Morris if that was correct.

Ms. Porterfield noted that the Commission had heard other applications for the land on this side of the road. One request was for a school. One of the reasons the school was turned down was because of the run off. If they were looking at anything with this church in limiting the amount of parking, it would probably have to be in the same vein as the turn down on the school because of the fact it is more the run off.

Mr. Loach said essentially if they can't limit them to their current parking on the grass, then shouldn't they do something to improve it as much as possible with the pervious pavers. They don't want to make things worse, but better for the size of the church.

Ms. Porterfield said that definitely makes sense and definitely should be in the minutes indicating why they are looking at this.

Mr. Loach noted that prior they would probably have taken another look and said yes, the runoff is important and it should be part of the discussion.

Mr. Cilimberg noted that in a general situation with the extra parking beyond the available surface parking that when they get into the grassed areas and other areas that they have the potential for erosion. There is no real control associated with that, which is built into the parking. This gives additional parking area, which will fall under certain requirements in its design, and the pervious parking actually is a step beyond that. Therefore, that is what improves the situation over what might exist now.

Mr. Smith asked if everything drains to the bio-filter.

Mr. Cilimberg replied that he was not sure in this plan.

Mr. Lafferty noted that he had some questions about that. It looks like there are some pipes in the drainage area on the maps and the detail is hard to read. In the lower right hand corner of the top drawing it looks like there is some drainage that actually drains into the catch basin. However, there is a pipe that looks like it goes off site. It is on the drainage area map, which is an architectural drawing in Attachment B labeled C-8. The pipe looks like it goes through the retention pond and then goes off site.

Ms. Wiegand noted that the applicant was here with their engineer who could answer that question.

Mr. Loach opened the public hearing and invited the applicant to come forward and address the Planning Commission.

Katurah Roell, representative for Unity Church, said that he would be happy to answer any questions. The whole site drains to a bio-filter and then once it shifts through ultimately drains off-site into the watershed.

Mr. Lafferty noted that he was concerned about it. It looks like a pipe actually installed that goes up to collectors in the additional parking lot being put in.

Mr. Roell replied that is right. He referred to the site plan noting that their dais around the circle and on the existing parking lot that does collect the current runoff and that does run to the bio-filter in the upper right hand corner. Initially they proposed grass pave, but the County preferred that they use pervious paving material. Secondly, the other portion of the parking lot being increased will be paved because that is the area of the septic field. Since they are not in the development area, they cannot tap into the sewer in Hydraulic Road. Therefore, they have to put impervious pavement over top of the septic field area.

Mr. Franco noted that on the bottom right corner of the drawing it actually is a mound there.

Mr. Lafferty acknowledged the mound, but that there was also a pipe that goes from the collectors in the middle of the parking lot on Sheet C-6.

Mr. Smith pointed out that was the sanitary sewer coming from the subdivision. There are two man holes.

Mr. Franco noted that was storm water coming from the other side of the street. It is dumping behind the proposed parking lot in a little drainage swale that then goes to bio-filter.

Mr. Cilimberg said if they look at Sheet C-5, they would see the proposal in terms of this drainage. Sheet C-5 shows the additional parking area, the grading to direct the runoff, and also the pipes that collect the parking on the left that sends it to the bio-filter.

Mr. Roell noted that was correct. Most of the paving will be pervious paving in order to have direct penetration into the ground.

There being no further questions for the applicant, Mr. Loach invited public comment. There being none, the public hearing was closed, and the matter brought before the Planning Commission for further discussion and action.

Motion: Ms. Porterfield moved and Mr. Zobrist seconded for approval of SP-2008-00058, Unity Church, with the conditions (as will be renumbered) recommended in the staff report, as amended with the appropriate changes made to condition #4 by the County Attorney to reword condition 4 to handle the situation of extending the entire site plan.

1. The church sanctuary shall not exceed two hundred fifty (250) seats;

2. The site shall be developed in general accord with the Conceptual Plan entitled "Application Plan for Unity Church," Revision 4, prepared by Dominion Engineering, and dated August 19, 2010 (hereinafter, the "Conceptual Plan"), and with the Architectural Review Board action of February 16, 2010, as determined by the Director of Planning and the Zoning Administrator. To be in accord with the Conceptual Plan, development shall reflect the following major elements within the development essential to the design of the development:
    - Number of parking spaces and location of parking areas
    - Paving materials, as approved by the County Engineer
    - Location of proposed facilities, including the pergola, labyrinth, and playground

    as shown on the Conceptual Plan. Minor modifications to the Plan, which do not conflict with the element above, may be made to ensure compliance with the Zoning Ordinance.

3. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval.

4. Construction of the parking areas and other items shown on the Conceptual Plan shall commence on or before 60 months after [insert date of approval by Board of Supervisors] or this special use permit shall expire.

5. Expansion of the church and/or establishment of a daycare not in Building 2 or for more than 25 children or provision of afterschool care shall require approval of an additional Special Use Permit.

6. Approval of the Public Health Department shall be required prior to site plan approval.

7. The applicants shall provide plantings to the satisfaction of the Architectural Review Board;

8. The property may not be further divided; and

9. There shall be no more than one (1) residential dwelling on the property.

The motion carried by a vote of 7:0.

Mr. Loach noted that SP-2008-00058, Unity Church is scheduled to go before the Board of Supervisors on a date to be determined with a recommendation for approval with conditions.

ZMA-2010-00006 Hollymead Town Center, Area A2 (Signs 40, 55, 56).
PROPOSAL: Rezone 77.365 acres from Neighborhood Model zoning district which allows residential (3 - 34 units/acre) mixed with commercial, service and industrial uses and R-15, Residential which allows 15 units/acre to Neighborhood Model zoning district which allows residential (3 - 34 units/acre) mixed with commercial, service and industrial uses and R-15, Residential which allows 15 units/acre in order to amend the application plan, the code of development, and the proffers.
PROFFERS: Yes.
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Town Center - Compact, higher density area containing a mixture of businesses, services, public facilities, residential areas and public spaces, attracting activities of all kinds. (6.01-34 dwelling units per acre); Urban Density Residential - residential (6.01-34 units/acre) and supporting uses such as religious institutions, schools, commercial, office and service uses; and Parks and Greenways - parks, greenways, playgrounds, pedestrian and bicycle paths in the Community of Hollymead
ENTRANCE CORRIDOR: No.
LOCATION: Parcels are west of US 29/Seminole Trail and accessed from Towncenter Drive and the unnamed street connecting Towncenter Drive to Dickerson Road (Rt. 606) in the Hollymead Development Area.
TAX MAP/PARCEL: 03200-00-00-04500, 03200-00-00-05000, and 03200-00-00-05600. MAGISTERIAL DISTRICT: Rio
(Judy Wiegand)

Ms. Wiegand presented a PowerPoint presentation and summarized the staff report for special use permit.

- This request is for changes to the previously adopted zoning in Hollymead Town Center Area A2. The purpose of this rezoning is to amend the Code of Development to allow an indoor theater in Block B-2, to amend the application plan to shift the boundary between Blocks B-1 and B-2, and change the internal circulation in Blocks B-1 and B-2. This application originally included a request to relocate the connection between Towncenter Drive and the Willow Glen development, but it is no longer necessary to process that with the rezoning.
- The full Hollymead Town Center—all five areas—had already been rezoned prior to this application. Area A-2, the subject of this application, was rezoned in 2007. The area being discussed is just south of the Abbington Townhome Development. Included in this zoning map amendment in the Northern Development Areas are three parcels as outlined in red on the display.
- The Comprehensive Plan designates this area as a Town Center with a little bit of Parks and Greenway and a small amount in Urban Density- Residential. The Hollymead Town Center development was the subject of a CPA that was approved in 2001. The proposed Places29

Master Plan shows the HTC area as a series of Centers and Commercial Mixed Use areas. The addition of an indoor theater would be compatible with both the Comprehensive Plan and the proposed Places29 Master Plan.

- The zoning on the parcel in the primary area they are talking about is Neighborhood Model District. Hollymead Towncenter Area A-2 was rezoned to Neighborhood Model District under ZMA-2007-00001 and approved on September 12, 2007. The proposed rezoning would make only minor changes to that previous rezoning.
- The Forest Springs Mobile Home Park parcel was included in this rezoning because of the connection from Willow Glen to Towncenter Drive. That part has been dropped as part of the rezoning.

OUTSTANDING ISSUES

In the staff report staff indicated there were two outstanding issues with the Application Plan. These issues are related to the internal design of the block. The first one concerns the midblock road. Staff believes that the Application Plan needs some revision prior to any action for approval of the rezoning.

These revisions include a change to the internal design of the block to:

1. Create a through street aligning with Lockwood Drive between Town Center Drive and Meeting Street so that parking lot aisles do not open directly onto the street. Buildings, parking structures and/or parking lot screening walls should face this street to provide a sense of spatial enclosure.
2. Move the theater building further away from the Greenway so that any retaining walls over six feet in height can be terraced. In addition, the retaining walls should be laid out to respect users of the greenway and trail.

In addition, the Application Plan for Blocks B-1 and B-2 should be simplified to show the key features of the block (i.e. streets, building envelopes, parking envelopes, block boundaries, and the pocket park shown on the original Application Plan in Block B-1) instead of specific buildings, parking structures and parking lots. In addition, modifications to the Code of Development are necessary to include a commitment to terrace retaining walls, as well as the addition of indoor theaters to the list of uses allowed in Block B-2.

Finally, the Application Plan needs to be revised to remove the relocated connector to Willow Glen and the parcel containing it as the relocation can be handled under the existing proffer.

Outstanding Issue #1

The approved Application Plan is from the 2007 rezoning. The midblock street is clearly intended to function as a local street connecting Meeting Street with Abington Drive across Towncenter Drive.

Two things have changed with this - the alignment of the road and the function of the road. Staff supports the new location because the alignment connects not only to Meeting Street, which is a public road through the center of development, but also to Lockwood Drive that is a public road that continues all the way through to Timberwood Boulevard. Staff thinks is it a better connection than the previous one up to Abbington Drive.

However, the second major change in this was the change in the design of the street. Staff does not support this. What was clearly a local street in the 2007 is being proposed to be a travel way, which is basically part of a parking lot with many parking lot aisles that empty into it. The functionality of the street as the parking lot reduces its ability to be used as a local street significantly. Both the County Engineer and the Chief of Current Development have reviewed this change and indicated that the 2007 Plan street functions as a street and this one basically does not. Staff believes that the two public streets also function as a public street.

Outstanding Issue #2

The second outstanding issue concerns the retaining walls that are shown on the application plan. Staff was asking that they move the theater building further from the Greenway so that retaining walls over six (6) feet in height (these range between 16' and 20') could be terraced. In addition, the retaining walls

should be laid out to respect users of the greenway and trail. The plan should also show the trail. The trail was included in the 2007 plan and it is not on this one.

In a meeting with the applicant's representatives yesterday they indicated that there were retaining walls in the 2007 application plan and it was approved with them. Staff went back, checked the copy of the approved plan in the file, and found several darker lines, but they are not labeled as retaining walls and no measurements are given. It was not clear at the time that plan was adopted that these lines were intended to represent retaining walls. As soon as staff saw something that was clearly labeled retaining wall they said no this is not what they like to recommend because the retaining walls are too tall. If they need that much of a retaining wall, they would need to terrace them.

Factors Favorable

1. Adding the indoor theater to the allowed uses in Block B-2 will provide an additional area for the owner to provide an entertainment destination in the northern Development Areas of the County.
2. Changing the alignment of the midblock road provides a better connection aligning with Lockwood Drive between Towncenter Drive and Meeting Street than the alignment shown in the original rezoning.

Factors Unfavorable

1. The design shown for Blocks B-1 and B-2 on the proposed Application Plan contains a midblock road that is actually a parking lot street where local through traffic would be competing with parking lot traffic. It has also lost the sense of spatial enclosure that would have resulted from the development under the original rezoning with buildings on both sides of the street.
2. The layout of buildings and parking in the blocks requires 16- and 20-foot high retaining walls along one side of Block B-2, overlooking the greenway. Such walls will detract from the natural, scenic character of the greenway.

Recommendation

Staff recommends approval of this application provided that the outstanding issues regarding the application plan and code are addressed:

- Change the internal design of the block to:
  - Create a through street aligning with Lockwood Drive between Town Center Drive and Meeting Street so that parking lot aisles do not open directly onto the street. Buildings, parking structures and/or parking lot screening walls should face this street to provide a sense of spatial enclosure.
  - Move the theater building further away from the Greenway so that any retaining walls over six feet in height can be terraced. In addition, the retaining walls should be laid out to respect users of the greenway and trail. The trail should be shown on the revised Application Plan.
- Simplify the Application Plan for Blocks B-1 and B-2 to show the key features of the block (i.e. streets, building envelopes, parking envelopes, block boundaries, and the pocket park shown on the original Application Plan in Block B-1) instead of specific buildings, parking structures and parking lots. This would give the applicant more flexibility as they come in at different times with site plans for different portions of the area.
- Modify the Code of Development to include a commitment to terrace retaining walls, as well as the addition of indoor theaters to the list of uses allowed in Block B-2.
- Revise the Application Plan to remove the relocated connector to Willow Glen and the parcel containing it as the relocation can be handled under the existing proffer.

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

Scott Collins, representative for the applicant Route 29 LLC, presented a PowerPoint presentation and explained the proposed zoning map amendment plan.

- The plan is actually for the development of the Great Escape Theater. This is a great high class, family owned operation/organization that is interested in coming to Charlottesville. The company is very excited about this project coming to the Hollymead Town Center area. What is unique about the Great Escape Theater? It is a theater company that actually goes out and buys the

land to develop their own building. Therefore, they have a buy into the community. Because of that, they are here to stay. They become part of the community and give back to the local organizations to support the community. That is a lot different from some of the other theaters with bigger chains that go in and rent a space. This company is part of the community and buys into the whole aspect. They will create a stadium seat theater that focuses on bringing the movie experience to a small and mid-size community. Most of the other theaters focus on the high populated markets such as Richmond and Northern Virginia. This theater company goes into smaller communities to provide this experience.

- As the staff report points out they are looking at making two changes to the amendment as proposed. The first is the allowance of the indoor theater in Block B2. The whole section was divided into B-1 and B-2. The B-2 section did not allow a theater. That is what they are looking to change to add that to the matrix. The second part is the location of the change in the road, which staff is supporting. It is the classification of how that road is laid out that they are going to be talking about a little more.
- The proposed plan for the most part is very similar to the approved rezoning from 2007. It maintains many of the same characteristics such as buildings along Meeting Street and Town Center Drive with relegated parking within. It has a residential part next to the greenway area. The new layout also improves the road network as described given more of a connection from Lockwood Drive over through the block and better access as they talked about with the slight shift in boundaries in the new layout. It provides the best spot for the movie theater. They looked at about five or six different locations for this theater. They worked hard with the theater company to develop the plan as it shows more buildings around the side to help relegate the parking. What they have is a plan that emphasizes the streetscape along Meeting Street and Town Center Drive. What they also get when they emphasize streetscapes along the Main Corridor is more of a utilitarian road that gives more access to the parking and utilities, which makes the block functional.
- Staff recommends approval of their plan, but has found two unfavorable factors with the plan. The first is the local road versus access to the parking lot. The second is the retaining walls. As far as the overall plan from 2007 that calls this a local road, the intent from what he has been told is that they would have development coming down Town Center Drive or in this area that would access shopping. There are some fatal flaws with this layout that staff has locked into that they like. One of the first fatal flaws is that there is inadequate space for the stacking of cars. Having a parking lot of this size with only two access points off a local street inside this block creates a serious issue for cars stacking or trying to make this turn. It creates a congestion point with only the ability to stack four cars before the fifth car is stuck out in Town Center Drive before creating an intersection failure. It is the same kind of situation they would have in the other area. The second issue with this is they have created basically two choke points. There are over 300 spaces within this area all trying to access this local road out of two spots. With that, they would be creating traffic congestion in several areas when trying to enter or leave. Another thing is speed control. If this is a local road and does not have any access other than these two points the tendency for drivers to use this as a cut through and the speed of these cars is going to be increased dramatically. When looking at the interior block to try to make it pedestrian oriented it is tough to do when they have set it up where cars have free reign to go faster speeds because there is nothing there slowing them down. One of the other aspects of it is creating a through street through the middle of the block would seriously impact the amount of parking spaces they can do within that block. It is driving more and more spaces into a parking deck versus having a half and half type of situation where they have surface parking and parking decks on this plan.
- The improvements to the proposed street they are proposing still focuses the main corridor street on Town Center Drive and Meeting Street and uses this for more of a utilitarian for access to their parking area. What they have is a road that has access to many isles so that it does not create a choke point at any location. It gives access all up and down the road to the parking around into the parking decks. In addition, they actually have another entrance onto Town Center Drive that gives a third point of exit and entrance into this block, which also helps with traffic access management to this block. The new design helps the whole parking lot flow better. In addition, it would slow down traffic if there were more points of ingress and egress. It would keep traffic flow down and prevent this from being too much of a cut through.

- The second thing is about the retaining walls, which the staff report did not go into much detail about until he pointed it out to staff yesterday. This is the approved plan from 2007. He asked that they look at the grading and analysis to see what the grading would actually look like. They did an analysis on what the dark lines that staff could not tell if it was walls or not. If they look at what was approved with the grading plan, those are definitely walls. Those walls are anywhere between 6' – 10' to 20' – 26' high. That is what is approved right now. They could go out and build this right now because with approval of the rezoning someone can get an early grading plan if that grading plan matches what has been approved. They are not talking about taking any more or decreasing the development area. They are talking about the same exact design and wall systems. Another solution about the greenway path is that there is a trail that is planned to go in the greenway trail. A solution for that is possibly to take this trail and put it on the other side of the creek, still within the greenway area, and give access to the future development area on this side of the creek. It is about 50 acres of already zoned land that is for future development as opposed to running a trail way behind this development next to the walls where there is already a crossing across this block. The future area that is shown of the already zoned land could give all of this area access to the commercial area.
- In summary, they hope that the Commission finds in favor of the staff with recommendations for approval of the rezoning amendment. They also hope that they allow the retaining walls to be designed and built as originally contemplated in the rezoning approval of 2007. They hope the Commission finds in favor of the mid-block road that creates a better connection and access within this block. As a condition of approval, they are willing to establish a condition of approval where the applicant will work with staff to decide the best route for the trail through the greenway. He offered to answer any questions that they might have.

Mr. Loach invited questions for the applicant.

Mr. Morris asked Mr. Collins to go back to the proposed plan. As they are going down the proposed road to the top, which he would assume would be to the west, he thought that it seemed to require a person to back out right into the road. He asked what could be done about that. He could understand the larger flow of the parking, but that one really seems dangerous.

Mr. Collins replied that they were agreeable to work out those that work out to the road.

Ms. Porterfield noted that she had trouble with the design of the roads. As a consumer using the roads, she agreed that the roads currently don't work. She noticed that there was a pocket park that has disappeared from this area on the plan. There is a lot of residential, but not much green space.

Mr. Collins noted that the pocket parks and recreational space has been reoriented on the plan. Some of the recreational space is labeled pool and clubhouse and sports court. Other areas are not labeled and show benches.

Ms. Porterfield noted concern with the high retaining walls and the dangerous safety aspects. She questioned if there was anything that could be done.

Mr. Collins said that the retaining walls would have all of the proper hand rail and shielding from any type of incidents such as that. The main retaining wall is behind the theater, which includes the emergency access out of the theater that has a sidewalk and handrail. There is a handrail on the retaining wall that is further away. That divides two levels of access to keep people off that. They could put a fence and do other things like that to keep pedestrians away from those walls.

Ms. Porterfield asked if there was any way the theater could be moved to have some step down of the retaining walls.

Mr. Collins replied that the biggest problem is if they moved the theater up to create any type of terracing, they lose the third connection. At that point it is not aligned with the roadway across the street nor do they have the adequate 300' separation. That is driving a lot of that aspect with that. The more the development is moved away to terrace the wall they were also impacting the available parking.

Ms. Porterfield asked if they are at the edge of providing the required number of parking spaces and if they lose any that they drop below it. She questioned if they could eliminate the parking in front of the theater.

Mr. Collins replied yes. He noted that some of the spaces next to the theater could be turned into parallel parking spaces. It would be a more acceptable form of parking along the local streets per the county ordinance. Some of the spaces could be incorporated into the underground parking area. He did not see any loss of those spaces. So that change could be made. He felt that the parking spaces were needed in front of the theater for drop off and pick up.

Mr. Lafferty agreed with Ms. Porterfield that the wall was objectionable. Even if they moved the trail over across the creek, it still was going to be a 20' wall with a 2- to 3-story building.

Mr. Collins noted that it is protected right now by the greenway area behind so that the wall can't be seen. It is not like other situations where these walls are visible to driving corridors or to homes backing up to the area. This is completely hidden with this greenway.

Mr. Lafferty noted that the concept of a greenway is that it is suppose to be something used by people in relaxing. He was not sure if walking next to a wall that is four times one's height is very relaxing.

Mr. Collins noted that he was not sure anyone could walk through this greenway area. Right now it is so overgrown with thorns and wooded area.

Mr. Lafferty asked if they show a trail on that.

Mr. Collins replied that there is a trail. The reason the trail was put there is that there is a sewer easement. The sewer was installed ten years ago and the area was already grown up, which why it provides the flexibility of possibly putting the trail on the other side that might do some good.

Mr. Zobrist said that it makes sense to put the trail on the other side so people can walk on it. He was not bothered by that because there are walls that high in the area already. That is a difficult piece of dirt. All they have to do is walk in behind any of those stores and there are big stairways going up. It is something they have to deal with to develop the property. There is no road behind the stores. The owner has their own liability issues to worry about with kids falling off there or attracting nuisances. He did not think it was going to hurt the view shed. He did not like tall walls, but if the walls were not visible and they move the path over he had no problem.

Ms. Porterfield asked if the people on the shopping side would be to access the path on the other side or would there be access only for the residential area. She asked if somebody was going to build a bridge.

Mr. Collins noted that they would build a bridge. Right now there is an above-ground sewer crossing over across the creek. They would build a bridge across the sewer line right above it. They would be providing that crossing.

Ms. Porterfield asked if that is in the current proffers.

Mr. Collins said that is what they are willing to make as a condition this evening. Regarding the grading there is about a 70 to 80 feet difference between the traffic circle and the back of the site, which also leads to the necessity of the walls.

Mr. Franco asked if there was any reason why the building could not go into the ground.

Mr. Collins replied that the biggest reason had to do with safety and parking in a structure below the ground. That was the other major issue that was problematic with theaters dealing with safety and their clientele.

Mr. Franco noted that it could be day lighted on three of the sides and reduce the size of the wall by doing that.

Mr. Collins said that they looked at all of those options, but those were all deal breakers.

Ms. Porterfield asked if the movie theater does not want it if one of the levels of the parking is going down into the ground.

Mr. Collins replied that is correct and is one of the theater's requirements. Ultimately, what happens is the second level and there on up is all parking for the residential anyway. Therefore, it does not have anything to do with the theater parking. There is one level of parking for the theater.

Mr. Lafferty asked if the footprint of the theater could not be any different.

Mr. Collins replied that they played around with many different designs. The problem with changing the theater is very expensive costs. They did change the theater from 16,000 down to 12,000 square feet to make everything work.

Mr. Zobrist said that at the end of the day they were getting down to the demands of the purchasers. To make a deal work it has to work this way because they won't buy the building if it is not there.

Mr. Collins agreed that it was to the point that it would be tough for them economically.

Mr. Loach agreed with staff's point about the number of entrances. He asked if they could reconfigure the parking lot so that there were some ways out where they could put some stop signs to slow traffic both ways coming across.

Mr. Collins replied that when they start reconfiguring the parking to cut down the additional points here and there they would lose parking space. At this point, that is a premium. It also adds more accessibility than just limiting it to two or three spots.

Mr. Loach said that he did not want to decrease safety for more increased parking spaces. He asked staff to readdress this issue.

Ms. Wiegand said that staff discussed this with the applicant yesterday and heard their proposal. Staff simply did not agree with their arguments. Staff feels that is too many points of intersection and they will have a conflict between the through traffic and the parking lot traffic. Staff sees all of the other spaces where people are backing out in to the road that is not appropriate. Staff believes the parking can be rearranged to avoid the choke points without having basically the travel way through there that is going to be in compatible with the street. She did not believe the safety arguments that they heard. She thought that these were going to be slow enough and curved enough that people are not going to race through them.

Mr. Morris said when he looked at this at least in the B1 area it just reminded him of the road in front of Target, which leads into the parking lots. The other side of the road is right in front of Target and goes on. He has not seen many problems with that particular road and it appears to flow smoothly.

Mr. Porterfield pointed out that there are continuous stop signs in front of Harris Teeter. There is a stop sign on the throughway, which is the road parallel to Harris Teeter. It means that all of the traffic is stopping and going. They are doing it a little like that in front of Target because they have a number of stop signs there. The difference is that roadway affects only Target. The other one is affecting all of the other shops farther down. In order to get into the parking lot across from the cemetery everyone gets in the right hand lane, which means there is a huge queue. If they want it to be a through street or want at least to be able to connect, they need to get rid of all of those stop signs. She could visualize a stop sign at every one of these lanes of parking.

Mr. Cilimberg noted one thing they also have to keep in mind is that people that park in that B1 area, which at least initially will be for the theater, will be walking across the through road at every one of those aisles. That is another conflict point. It really comes down to the functionality of that through road. If they feel that it just needs to serve parking, then the design goes in that direction. If it was to function as a through road for people from Lockwood over to Meeting Street, they don't want to have that many friction points. People are not going to use roads where there are many friction points with a lot of people and traffic coming from aisles as a through road. That is the difference in what they see in front of Harris Teeter and for people coming into the Target area from the traffic circle where there is just parallel parking on that street.

Mr. Cilimberg noted that the Hollymead Town Center original plan had it as a through road and not with parking and the through travel way. This plan does not have the sidewalks along the road and the people would have to walk through the parking area.

Mr. Zobrist said that everything is a compromise and asked where the tradeoff is here.

Mr. Collins pointed out that there is a slip lane on the roundabout. Any traffic coming down Town Center Drive basically takes the slip ramp around to Meeting Street. He thought that it really cuts down on the necessity of having a through street through this block. In addition, is someone is coming down Lockwood Drive they have to make two points of conflicts to make the turn or go straight across. If they make the one turn onto Town Center Drive then they have basically the right-of-way and it cuts down on the number of points of conflict as a through street.

Ms. Porterfield said that she did not know how much they need the through street since the applicant has said that they need the street up close to the theater for varieties of reasons including the pick-up and drop-off of children. She suggested that they redesign this and come back with some new plans.

Mr. Loach noted that the staff and the Commission have offered constructive criticism. He was not sure if they were going to be able to solve this now.

Mr. Loach agreed with staff. He asked if there was a motion.

Mr. Franco said that he had listed to the comments. If people drive with courtesy, there is no issue. He did not have a big problem with the change in the design that is down the B-1 side. He did not like the parking that backs out onto it. He heard the applicant say they are willing to redesign that. He would prefer not to see 20' retaining walls. He would like to explore other opportunities or other ways to reduce the size of those by stepping a portion of the parking deck down into the ground. They should be able to reduce that wall from 20' or 16' by 4' so that a portion of it is still day lighted. At least some of it would be up above the ground. Theaters traditionally have been very tall buildings. He asked if there was a way to put part of the theater ramping it down through the lobby. He believe they could pick up 2' to 3' up to 5' in the lobby area by having a transition there that would not ruin the architecture of the building and be able to reduce the wall behind it. Personally, he thought that getting the parking that backs out onto the travel way, providing a little bit pedestrian connection between the perimeter roads and trying to lower the heights of the walls would make this something he could support.

Mr. Smith suggested consideration of a portion of the front street to be one way for drop off and pick up for safety reasons.

Mr. Collins replied that it was 30' and there was not a problem, but that was a possibility.

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

Justin Morgan said that he was a bit concerned about this plan with the proposed road that aligns up with Abington Drive through the Abington Place Subdivision. He was not quite sure that road is that wide going through Abington Place. He was concerned that it could be a cut through to Deerwood. Abington Drive through the subdivision is barely two lanes because there was parallel parking on each side and

then the road through. He pointed out that in the original 2007 plan this was all residential. He was a bit concerned that this has gone from something to be mostly residential to mostly commercial.

The Planning Commission took a break at 7:40 p.m.

The meeting reconvened at 7:47 p.m.

Mr. Zobrist noted that he spoke with Scott Collins during break and he would like to clarify the visual impact along the greenway. Apparently, it is a stream and there will be nobody looking across it at the back of the theater.

Scott Collins asked to talk more about the trail way. If they move the trail way on the other side of the greenway the trail way would be level basically with the top of the wall. Therefore, they would not be in the trail way looking up at a 15' to 20' high wall. They would be looking level across at the development. The trail way would be 15' to 20' higher than many of the tree areas along that creek and the greenway.

Mr. Zobrist said as he understands it during the original rezoning the applicant did not own that side of the creek. Now the applicant has acquired the property and is able to make that proffer.

Mr. Collins replied that is correct. The original applicant in 2007 did not own any of that land. Since it has gone back to Route 29 LLC both sides of the creek are owned by the applicant. Therefore, they are able to make a change to the greenway/trail way that adds benefit to the overall development and to the plan, which is why they are proposing it.

Mr. Zobrist said that the greenway is made to go up either side because it is an intermittent stream.

Mr. Collins said that is correct. It keeps development off that intermittent stream and protects that greenway area and any grading in that area.

Mr. Loach asked that the Commission get a consensus of where they are. Right now the issues with the parking as outlined by staff are still of enough concern that he was not sure he could support it.

Mr. Franco said that he would like to see the plan come back with the parking that backs on to the travel ways whether that is the one in front of the theater or the one that separates B-1 and B-2 not backing onto it but as a parallel parking situation. The number of entrances he was less concerned about those, but he would like to see some kind of pedestrian accommodations along that street. He sees it on one side. He wanted to see what it looks like with the parking changes. Maybe he could live with it on one side versus both.

Ms. Porterfield agreed about the backing out of parking. They need to do something about that. She was concerned about the number of openings from the parking lots and parking garages onto these limited streets. She thought that the idea could possibly have merit about making it one way if they are looking to drop off and pick up so that they are going the direction so always to be on the side to put kids into the car. She was concerned about the height of the retaining walls. If the applicant wants them that high, can move the trail to the other side, and is willing to build the bridge that is going to be adequate for people to get over there from these parking lots, she would like to see new plans. She was concerned that the pocket parks are not shown on the diagram. There is a lot of residential and they need to make sure that there is a reason for people to want to live there. It would be a nice idea to have different types of pocket parks with different amenities.

Mr. Smith supported the one way road section and to see fewer entrances. There are eight entrances shown on the plan and fewer would help.

Mr. Zobrist suggested that the applicant allow this to be used as a work session. It has been very constructive and he would like to see it written up.

Mr. Lafferty said that he went along with what everybody else has said. He found that the plan is hard to follow. He would like to see more specificity in the plans when it comes back.

Mr. Morris agreed with what has been said. It would be nice if the retaining walls were lower, but the walls have to be the height they have to be. As long as the retaining walls do not go beyond what was in the 2007 plan he suggested that they go with it.

Mr. Loach invited the applicant to come back up. The consensus is there is more work that needs to be done. There is an opportunity to defer, rework, and then come back to the Planning Commission. He asked the applicant if they wanted to defer.

Mr. Collins said that he appreciates the comments tonight. The one tricky thing about this is the timing. Timing always seems to drive a project. The theater's season is Thanksgiving and Christmas. That is what works for them. If they start there and work their way back they have to finish construction by October. It means they have to start construction in February, which means the site plan needs to be under review fairly quickly. That is the whole driving thing. They have talked to staff about the possibilities and maybe running parallel paths with the site plan and the ultimate Planning Commission and Board of Supervisors approval. That is a risk that they are willing to take if that is still an option. That would give them a little bit more flexibility to iron out other aspects of this. There are many things he heard tonight that can easily be addressed and taken care of, particularly backing out the parking onto the street, incorporating the ideas about the pocket parks, and showing their concept of the greenway which seems to be a favorable one. He thought that they were almost there. He asked for some direction from staff or the Commission about if there is any way to go back, defer tonight, and get back in front of everybody to make this work.

Mr. Morris asked staff if there could be a conditional approval so the applicant can stay on schedule.

Ms. Cilimberg noted that staff identified conditions that need to be addressed in order for the request to be approved. He was not sure if the Commission could craft a motion to allow an action and send it on to the Board of Supervisors in that way. Each Commissioner was making different comments. He was hearing that the Commission wanted this to come back before it goes to the Board. If that is what the Commission is looking for, then really what staff has recommended is not going to work in terms of moving this on. It is not scheduled to go before the Board yet because staff does not schedule until they know they have in hand for the Board meeting all of the things the Planning Commission had included in its recommendation that those had been addressed so that when it is advertised it is available for the public. The earliest would be November for the Board. For the request to come back to the Commission in October it would delay it another month to go to the Board. The applicant can make an application for a site plan. They will kind of be guessing what will work for the Commission and the Board ultimately. He thought that Mr. Collins understands that. That is the risk he was talking about. If that is something they want to do to get that ball, rolling it can be done. Staff does not advise it because they never know how the Planning Commission and the Board are ultimately going to act on the rezoning. However, it certainly can be done. It may have to be adjusted based on things the Commission and Board ultimately decides. Essentially, because of the need to make sure they have all those things necessary for the Board to have its public hearing advertised and it has to reflect the Planning Commission's recommendation anything that goes into October is not going to allow us to do that for November. That is why it would end up being December for the Board.

Ms. Porterfield said that it sounds like they could run a parallel application with the site plan with all going to the Board in December.

Mr. Morris said that it boils down to the primary concerns being the parking and access on that street.

Mr. Loach noted that there were many issues that made this problematic, but he questioned whether the Commission has gotten enough feedback to deal with this.

Mr. Zobrist noted that he could craft a motion with all the conditions so they could approve it conditioned upon moving the greenway on the other side of the creek and the bridge.

Ms. Porterfield appreciated the fact that they wanted to move this application on, but if they could have done four connections, they could have done four connections for tonight. Staff provided some ideas to the applicant and they could have come back even though it was only a week ago. She supported the idea of giving them the ability to go out, make the changes, and then come back to a work session so the Commission can go ahead and enact it at that point and it moves with all the pieces together to the Board in December. She wanted to remind everybody that the Martha Jefferson Hospital is in front of schedule. Therefore, someone can build things right now and get them done. However, if they are a Planning Commission and don't do the total of their own job, they might as well dissolve and let the Board of Supervisors act as a committee as a whole to do this stuff.

Mr. Franco noted that it was the level of detail that was the Commission's job. The real question comes do they have to know exactly how high a retaining wall is during rezoning. He did not know that he has to. He expressed a desire to have the walls lowered as much as possible. But he did not know in this stage of the approval process that he needs to know if they are 16' or 16.5'. It is really a question in the level of detail that each Commissioner is comfortable with to move a plan forward.

Mr. Loach said that the Commission has problems and concerns that were brought to them by staff, which was what they were responding to. That is the difference he sees between them. He agreed with Ms. Porterfield that it was the Commission's job and position and if there was enough concern for staff to come to the Commission with this that they should resolve it before sending it to the Board.

Mr. Zobrist asked if the applicant can get by with four connections and that is okay with the Commission. If the applicant agrees to the following, then the Commission could see a plan that looks like that, rubber stamp it and move it forward.

- put the greenway on the other side of the creek and keep it roughly at the same level as the retaining walls;
- put in a bridge;
- give pedestrian accommodations on the road and internalize those outlets;
- make the feeder road portion down to the parking area one way so they can have on-street parking; and
- add the pocket parks and other public features.

Mr. Loach noted that he did not know.

Mr. Zobrist said that the Commission has vetted this very thoroughly. They know the problems and come up with solutions for them

Mr. Morris agreed.

Mr. Lafferty noted there a tremendous amount of loose ends that they just don't know.

Mr. Loach asked for a motion since he did not think they would resolve it any more with discussion.

Mr. Franco noted that in summary, they have the four connections; the path to the other side keeping it roughly at the same height and providing a bridge; and designating the parks and having that being generally consistent with the number and size on the original application plan. With respect to the through street, it includes eliminating the parking that backs out on to it. He asked if that was all the concerns. That would be eliminating the entrances

Ms. Porterfield noted that they were going to internalize the parking, and Mr. Franco replied that would happen since they were eliminating entrances.

Mr. Zobrist pointed out that there were four corrections. They were going to eliminate language that says that is going to be a through street. The street will be used for parking access, however people want to use it. They are going to give pedestrian accommodation in the parking area.

Mr. Cilimberg noted that would be along that street and in the parking area.

Mr. Zobrist asked if they want to add a condition making the street in front of the theater one-way.

Mr. Franco noted that he would prefer leaving that up to the applicant to figure out how to get rid of the backing. He thought that was a great solution or recommendation and was okay with that, but he did not want to make that a condition at this point.

Ms. Porterfield asked about not having backing out of the parking spaces.

Mr. Cilimberg said that all of the perpendicular parking on both the through and theater street would be removed and can be parallel.

Mr. Franco agreed that the parking could be parallel.

Mr. Franco made a motion to recommend approval of ZMA-2010-00006, Hollymead Town Center, Area A2 with the following conditions:

1. The access to the parking lot in Area B1 be limited to four connections.
2. The Greenway Trail to be accommodated on the other side of the creek roughly the same height as the top of the retaining walls with a pedestrian access across the greenway to it from this side.
3. The Parks to be better designated on the plan and be generally consistent with the size and number shown on the original application plan.
4. The parking on the two main thoroughfares and the parking that backed into those be eliminated. Parallel parking is fine. There shall be no condition of backing into those.
5. They improve the pedestrian access along the primary thoroughfare that is there.

Mr. Cilimberg said that one of the things pointed out in the Code of Development was the need to add the indoor theater to the list of the uses allowed in Blocks B2.

Mr. Franco asked that to be included as well.

Mr. Cilimberg said the Willow Glen piece, because that can be dealt with under the proffers that already exist, does not need to be a part of this.

Mr. Franco agreed.

Mr. Cilimberg said if all of that is included then they have covered everything.

Mr. Lafferty asked if they want to give some indication as to where the bridge should be.

Mr. Franco replied that as long as there is a bridge he was comfortable with that. He asked if they have a recommendation.

Ms. Porterfield said that the bridge needed to have parking nearby in case somebody wants to use the trail. She asked if the parking would need to be handicapped accessible.

Mr. Lafferty said he would guess that somewhere near the recreation area next to the theater they would put the bridge.

Mr. Franco noted that there was a road right there to the other side.

Mr. Lafferty said if they want to have a road, then they don't need a bridge.

Mr. Collins pointed out that they were proposing the bridge to go over top of the sewer line that already crosses over the creek. This location may provide a little bit of a shield since it is more behind the bio filter than it is behind the theater. It is further down.

Mr. Franco noted that he was comfortable with that location.

Mr. Morris seconded the motion.

The motion passed by a vote of 4:3. (Porterfield, Lafferty, and Loach voted nay.)

Mr. Loach noted that ZMA-2010-00006, Hollymead Town Center Area A2 is scheduled to go before the Board of Supervisors on a date to be determined with the following recommendation:

The Planning Commission, by a vote of 4:3, recommended approval of ZMA-2010-00006, Hollymead Town Center, Area A2 provided that the outstanding issues regarding the application plan and code are addressed:

1. The access points from the primary through street to the parking lot in Area B1 are limited to no more than four access points.
2. The Greenway Trail is shown on the plan on the opposite side of the creek from the development in Block B2 at roughly the same height as the top of the retaining walls behind the development in Block B2 with provision of a pedestrian access across the stream from the development side near the theater.
3. The parks and public spaces are labeled on the plan and are generally consistent with the size and number shown on the original application plan.
4. The perpendicular parking on the two through streets is eliminated. Parallel parking is fine.
5. Sidewalks are provided on both sides of the primary through street and pedestrian access points are provided crossing the street from the parking lot in Area B1 to the development on the other side of the midblock street.
6. The Code of Development is changed to add the indoor theater to the list of the uses allowed in Block B2.
7. The Willow Glen connection change is removed from the plan as it can be dealt with under the existing proffers.

Mr. Smith asked how they would handle the handicap parking if they were going to use parallel parking.

Mr. Collins replied that they would look at more spaces right across the street for the handicap and some of those parallel spaces can be handicap accessible as well.

Mr. Cilimberg pointed out that the city does a lot of parallel handicap spaces.

Mr. Franco said the other thing he would like to ask that would help is what kind of parking lot grades have they had and if they were finding that the county standard or the purchaser's standards are regulated out more. In other words, they have five (5) percent criteria and if they were going to relax that to 6 percent or something like that, it would help the retaining wall.

Mr. Collins replied that would help. Anytime they increase it any bit over that length of run it would pick up probably another five (5) feet.

Mr. Franco said this is something that he has talked to this public body about before. He thought that the five (5) percent standard was probably excessive and it could be steeper and not be a problem.

Mr. Loach asked that he hold on to that thought and bring the matter up under old business.

Mr. Franco pointed out that he just wanted to take advantage of the applicant.

Old Business

Mr. Loach asked if there was any new business.

Mr. Loach noted that one of the things he wanted to speak about they handled last week, but he did not think they ever came to a resolution. That was a situation when the gentleman had the building plat that basically had no place to build. He was wondering if they shouldn't be sending this issue back to staff to look at and come up with some policy so that they don't get in the same type of situation again and the public does not have that expectation. The guy was between a rock and a hard spot and he wondered what the Commission should do. He wondered if there was a better way to resolve that. He suggested that staff look at the percentage that Mr. Franco was just talking about along with this issue and come back with some recommendations.

Mr. Morris suggested that they take a closer look at critical slopes.

Mr. Loach said it would be nice if they have a building spot to be able to build on without 100 percent being in critical slopes. He felt sorry for that poor guy.

Mr. Zobrist asked Mr. Fritz how many non buildable slopes he thought they had in the county.

Mr. Fritz replied as he said last time if that parcel had been created prior to 1980 it would not have been here. It was created after 1980 and in doing so it was determined it had a building site. The piece of property would have a drain field on it that could fail. Maybe they have two drain fields and one of them fails now they don't have the two anymore that they would be required to have. Both drain fields could fail and they want to relocate them. They have an ordinance that is 30 years old and they have properties that are old, too. This is the first case he could think of where they have been in exactly this situation. It could happen again. They are working right now on critical slopes. Somebody brought it up that this was one of the things that the Board of Supervisors directed staff to do. They are looking at critical slopes now, but it is only in the urban or development areas. However, it is likely that some of the techniques that they are working on might be applicable in the rural areas. However, there are some other broader policy implications there. They are working on that. Therefore, it might spill over into the rural areas to try to address that particular problem.

Mr. Loach said that would be great. He would hate to get into that position again.

Mr. Fritz noted that staff felt the same way since it was an unfortunate situation.

Mr. Loach asked Mr. Franco to address his issue.

Mr. Franco said that staff had addressed parking lot grades in the past. He acknowledged that it had been looked at in past. This is a good example of where at least his values would have been to reduce the height of the walls. Even at one percent, it would not have compromised the parking lot or how everything worked. He would rather see some relaxation of that standard versus a 20' height wall in the back.

Mr. Lafferty said that 5 percent is the standard on Interstate highways. Therefore, most of them are under 5 percent.

Mr. Fritz agreed that it is 5 percent. That is a provision that can be modified. He was not sure if the zoning administrator or he did that. Effectively his staff would do it because it is a modifiable provision. For example, in this case, if the Board of Supervisors were to say yes they really want every effort to be undertaken to reduce the height of those retaining walls the applicant could file a request that said they would like to go to 6 percent. The result would be a shortened retaining wall that could be good grounds for granting the modification provided that all of the other requirements can be met. It is done on a case by case basis.

Mr. Lafferty noted that it was a good discussion because the Commission could make a recommendation if they go to a steeper slope.

Mr. Franco pointed out that he did not mind calling the applicant and recommending that. He would support that personally since the wall will not be very visible. However, he did agree that it does possibly compromise the experience in the greenway, whether on the path or not, to have that large wall back there.

Mr. Fritz said that staff went back and looked at an example exactly like this, which is North Pointe. They requested a modification for some of the slopes in their parking areas and there was a lot of effort to try to reduce the height of the retaining wall adjacent to Route 29 and some other things. They did grant that waiver because it resulted in a reduced retaining wall height. Staff went back, read the intent, and was able to say they were still able to provide adequate and safe parking. Therefore, staff granted a modification. He did not remember what the slope was.

Mr. Zobrist asked if that increased expediently as you go further down the slope.

Mr. Fritz replied yes that the longer the run it was obvious if it was 500 feet at 6 percent versus 20 feet at 6 feet they can pick up a lot of difference there.

Mr. Lafferty noted that 5 feet in 100 feet is 5 percent.

Mr. Fritz said that it could make a big difference over a long run.

Mr. Franco noted that Rio Hills is closer to 6 percent than it is to 5 percent. That is a good example of what that difference is.

Mr. Fritz noted that the ordinance provision requirement of 5 percent in any direction makes it easier.

Mr. Cilimberg pointed out that the other way they could make up the difference across a site is by stepping down the buildings in different stories from the front and back. He did not know if the applicant had thought through that much or not.

Mr. Franco said that was where he was with the parking deck. He could understand the safety, but they are going to have a requirement of shielding the headlights and they would have this 3' or 4'. If they put 3' in the ground, he did not think they compromise the safety of the thing and would help reduce some of the heights. That 3' would transcend through the whole site and reduce the height of that wall. He could understand not wanting to put both levels underground for visibility. However, with 3' he could see it picked up. The problem has always been that he did not want to design sites because he did not appreciate it when he was on the other side.

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

New Business:

Mr. Loach asked if there was any new business.

- Ms. Porterfield noted two issues of concern in her district. 1. The shooting in a Glenmore neighborhood; and 2. VDOT open burning at the Shadwell interchange.

Ms. Porterfield asked to make everyone aware that there was a shooting in Glenmore. A woman was hit as she was gardening in her backyard. The Glenmore Homeowner's Association sent in a letter to a number of people because it appears there is a loophole in the county code that Neighborhood Model Districts are not covered by Section 10-107 of the Albemarle County Code, which prohibits the discharge of firearms within residential areas. The shot came from that district. Bob Tucker did reply to this letter and indicated that the matter is scheduled to be added to the County Code along with some unrelated housekeeping amendments at the Board of Supervisors November 3 meeting. The shooter was target practicing from within the Village of Rivanna. The point is that it was inside the development area, but not within the areas that are currently prohibited for shooting.

With regards to the open burning, Mr. Cilimberg said he would provide Ms. Porterfield contact information for the Fire Marshall.

- There was a discussion held on the Robert's Rules of Order. No action was taken.

- **NEXT MEETING ON SEPTEMBER 28, 2010** at 6:00 p.m. in Room 241 with City Planning Commission

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

Adjournment:

With no further items, the meeting adjourned at 8:47 p.m. to the Tuesday, September 28, 2010 joint meeting with the City Planning Commission at 6:00 p.m. at the County Office Building, Room 241, Second Floor, Room 241, 401 McIntire Road, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

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