Albemarle County Planning Commission
May 24, 2011

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, May 24, 2011, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Ed Smith, Thomas Loach, Linda Porterfield, and Don Franco. Members absent were Russell (Mac) Lafferty, Duane Zobrist, Chairman; and Calvin Morris, Vice-Chairman. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Other officials present were Eryn Brennan, Senior Planner; Scott Clark, Senior Planner; Amelia McCulley, Director of Zoning/Zoning Administrator; Johnathan Newberry, Code Enforcement Officer; Glenn Brooks, County Engineer; Wayne Cilimberg, Director of Planning and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

Election of Temporary Chair for this meeting:

Mr. Cilimberg noted that the Planning Commission needed to elect a temporary Chair for the evening. He opened the floor for nominations for the election of a temporary Chair of the Planning Commission for this meeting.

Mr. Smith nominated Tom Loach to be Chair for the evening.

Mr. Franco seconded the nomination.

Mr. Cilimberg asked if there were any other nominations. There being none, he closed the nominations and called for the vote.

The nomination of Tom Loach as Chair of the Planning Commission for the evening carried by a vote of (4:0).

Mr. Cilimberg turned the meeting over to Mr. Loach.

Other Matters Not Listed on the Agenda from the Public:

Neil Williamson, with the Free Enterprise Forum, congratulated the County on a job well done on the changes to the home occupation regulations and said they appear to be working well.

Consent Agenda:

Approval of Minutes: November 30, 2010 and January 11, 2011.

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

Ms. Porterfield asked to submit several small edits.

Motion: Mr. Franco moved and Mr. Smith seconded for acceptance of the consent agenda with Ms. Porterfield's amendments.

The motion carried by a vote of 4:0.

Mr. Loach noted that the consent agenda was approved.

Public Hearing Items:

AFD-2011-00001 Review of the Hatton Agricultural and Forestal District

Periodic (10-year) review of the Hatton Agricultural and Forestal District, as required in Section 15.2-4311 of the Code of Virginia. The district includes the properties described as Tax map 135, parcels 13, 13A, 13B, 14B, 15, 15A, 15C, 17, 18, 19, 22, 22A, 22C, 22C1, 22C2; tax map 136, parcels 2A, 6B, 8H, 9, 9A2, 9B, 9C, 9D1, 9E. The district includes a total of 8,715.047 acres. The area is designated as Rural Area in the Comprehensive Plan and the included properties are zoned RA Rural Areas. (Eryn Brennan)

Ms. Brennan presented a PowerPoint presentation and summarized the request.

- This is the ten-year periodic review for the Hatton Agricultural and Forestal District. The district was created in 1983. Originally, the district included approximately 2,500 acres. The district now includes 24 parcels and 860 acres. The district is located at the southeastern corner along the Rivanna River and is composed largely of forested parcels and large farm parcels.
- Land owners were notified of the district renewal by certified mail on March 8, 2011 and as of this date, no landowners have requested withdrawal from the district.
- On April 5th the Agricultural and Forestal District Committee recommended renewal of the Hatton District for a ten-year period.
- Staff recommends the Planning Commission recommend renewal of the Hatton Agricultural and Forestal District for a period of ten years from the date of the Board of Supervisors action.

Mr. Loach invited questions for staff.

Ms. Porterfield noted this one was the first she had seen that had dropped this many acres. She asked what that withdrawn acreage turned into.

Ms. Brennan responded that she believed there were quite a few withdrawals during the 2003 review. She noted that there had been an increase in acreage to the adjacent agricultural and forestal district, which is the Totier District that will be reviewed next. She did not know if people withdrew and then went back into the Totier Creek Agricultural and Forestal District. While this district has decreased significantly, the Totier Creek has increased by 2,000 acres. It might be the effect of having two districts that are in such close proximity to one another. The two districts were founded at the same time.

Mr. Loach opened the public hearing and invited the applicant to address the Commission. There being no one present to speak for the applicant, he invited public comment. There being no public comment, the public hearing was closed and the matter before the Planning Commission for discussion and action.

Motion: Ms. Porterfield moved and Mr. Franco seconded to recommend approval of the renewal of the AFD-2011-00001, Hatton Agricultural/Forestal District for another ten-year period from the day of the Board of Supervisors action.

The motion passed by a vote of 4:0.

Mr. Loach noted that AFD-2011-00001 Hatton Agricultural/Forestal District Review would go to the Board of Supervisors on June 1, 2011 with a recommendation for approval of the renewal for a ten-year period.

AFD-2011-00002 Review of the Totier Creek Agricultural and Forestal District

Periodic (10-year) review of the Totier Creek Agricultural and Forestal District, as required in Section 15.2-4311 of the Code of Virginia. The district includes the properties described as Tax map 121, parcels 70A, 70B, 70D, 70E, 72C, 85, 85A; tax map 122, parcels 5, 5A; tax map 128, parcels 13, 14A, 14B, 14C, 14D, 27, 29, 30, 72; tax map 129, parcels 3, 5, 6, 6A, 7A, 7D, 9; tax map 130, parcels 1, 5A; tax map 134, parcels 3, 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H, 3I, 3J, 3K, 3L; tax map 135, parcels 7, 10, 11. The district includes a total of 860.268 acres. The area is designated as Rural Area in the Comprehensive Plan and the included properties are zoned RA Rural Areas. (Eryn Brennan)

Ms. Brennan presented a PowerPoint presentation and summarized the request.

- This is the ten-year periodic review for the Totier Creek Agricultural and Forestal District. The district was created in 1983. Originally, the district included approximately 6,900 acres. The district now includes 55 parcels and

roughly 8,700 acres. The district is located in the southeastern corner of the County along the Rivanna River and adjacent to the Hatton Agricultural and Forestal District. It consists primarily of forested and large farm parcels.

- Land owners were notified of the district renewal by certified mail on March 8, 2011 and as of this date, only one landowner has requested to withdraw a parcel from the district.
- On April 5th the Agricultural and Forestal District Committee recommended renewal of the Totier Creek Agricultural and Forestal District for a ten-year period.
- Staff recommends the Planning Commission also recommend renewal of the Totier Creek Agricultural and Forestal District for a period of ten years from the date of the Board of Supervisors action.

Mr. Loach invited questions for staff. There being none, he opened the public hearing and invited the applicant to address the Commission. There being no one present for the applicant he invited public comment. There being no public comment, the public hearing was closed and the matter before the Planning Commission.

Motion: Ms. Porterfield moved and Mr. Smith seconded to recommend approval of the renewal of AFD-2011-00002, Totier Creek Agricultural/Forestal District for another ten-year period and to approve the owner's request to withdraw tax map 135, parcel 11 from the District.

The motion passed by a vote of 4:0.

Mr. Loach noted that AFD-2011-00002 Totier Creek Agricultural/Forestal District Review would go to the Board of Supervisors on June 1, 2011 with a recommendation for approval of the renewal of a ten-year period and allow the one withdrawal.

SP-2009-00025 Dover Foxcroft (Signs 20 & 22).
PROPOSED: Church-related uses in existing buildings
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 (.5 unit/ acre in development lots).
ENTRANCE CORRIDOR: No.
LOCATION: Spring Hill Road (Route 606), approximately 0.25 miles northeast of the intersection with Frays Mill Road (Route 641).
TAX MAP/PARCEL: Tax Map 21 Parcels 21-5A and 21-51A2.
MAGISTERIAL DISTRICT: White Hall (Scott Clark)

Scott Clark presented a PowerPoint presentation and summarized the request.

This is a special use permit request for Spring Hill Baptist Church, whose existing church abuts this property and who received this land as a donation. The property needs the requested special use permit before it can be used for church activities.

Specifics of the Proposal:
The proposed uses include:

- Outdoor worships services 3 times per year
- Weekly bible-study groups (approximately 10-15 people)
- Monthly meetings for community groups (15 – 25 people)
- Church member retreats in existing guest house (20-25 people)
- Church-run community events 3-4 times per year (300-400 people)
- Weddings (up to approximately 175 people)
- Vacation bible school (two weeks per year, 150 students per week)
- Tutoring camp
- Recreational and craft uses for church members in existing barn and woodshop

No new structures, entrances, or parking areas are proposed. These are all to be done in the existing structures on the property. The portion shown in the dashed line on the slide is actually the area of the activity.

SUMMARY:

Staff has identified the following factors favorable to this application:
1. The church use on this property would also provide a meeting place for community groups
2. This use would not require any new built facilities in the Rural Areas
3. The existing conservation easement held by the Virginia Outdoors Foundation on the property limits the scale of use on the site.

Staff has not identified any factors unfavorable to this application:

Staff recommends approval of SP-2009-00025 Dover Foxcroft Church-related Uses subject to the conditions outlined in the staff report.

Mr. Loach invited questions for staff. Hearing none, he asked considering there are no buildings proposed on this 51-acre property, what rose to the occasion that they could not do what they wanted to do without needing a special use permit.

Mr. Clark replied that it is the fact that it is being used by a church organization for that organization's activities. It is as much a church use as a worship site.

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

Katurah Roell, with the Piedmont Development Group, said he was here on behalf of the Springhill Baptist Church. There are members of the Board present if there are any questions. The property was donated to the church by the landowner about five years ago. The church has used the property periodically over time. As can be seen by the date of the application 2009, they have worked with staff since then to narrow down the particulars and give the church legal right and use of the property. That is why they are before the Planning Commission. The church requests approval.

There being no questions for the applicant, Mr. Loach invited public comment. There being no public comment, the public hearing was closed and the matter before the Planning Commission for discussion and action.

Mr. Franco questioned the second recommended condition regarding all outdoor lighting. He questioned if they would want to put a lumen on that so it does not affect flood lights that would normally be regulated or pole lighting at the end of the sidewalk that would not normally be regulated.

Mr. Cilimberg replied that the standard condition the Board began using about three years ago was just to cover all the lighting. Therefore, staff was continuing that. It is something the Planning Commission can recommend if they want that condition, which has been a standard rural area condition.

Mr. Franco asked the Commission if they see that as a problem and if they should have the applicant respond.

Mr. Roell asked to respond to the lighting condition. There are some particular flood lights that have been on the property for some time. He requested the condition apply to any new parking lot lighting or any additional lighting that would be added to the property and not anything that has been in existence. That has been his understanding in other reviews as well. He thanked Mr. Franco for bringing that issue up.

Mr. Franco pointed out that the existing lighting would be his concern. He would like to make a motion.

Motion: Mr. Franco moved and Mr. Smith seconded to recommend approval of SP-2009-00025, Dover Foxcroft Church related uses subject to the conditions as recommended by staff, as amended in condition 2 to exempt existing lighting.

1. Development and use shall be in general accord with the conceptual plan titled "SP Application" prepared by Natural Design Concepts, LLC and dated 3/7/11 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the

Zoning Administrator. To be in accord with the Conceptual Plan, development, and use shall reflect the following major element within the development essential to the design of the development, as shown on the Conceptual Plan:

- Location of buildings and structures (all existing, no new)

Minor modifications to the plan, which do not conflict with the elements above, may be made to ensure compliance with the Zoning Ordinance.

2. 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**. (Staff to modify the condition so it applies only to lighting installed after the date of the Board action.)**

Mr. Loach asked if there was further discussion.

Mr. Cilimberg asked Mr. Kamptner if it would be sufficient to say all new outdoor lighting shall be only full cut-off.

Mr. Kamptner replied that staff would modify the condition so it applies only to lighting installed after the date of the Board's action.

The motion passed by a vote of 4:0.

Mr. Loach noted that SP-2009-00025, Dover Foxcroft Church related uses would go to the Board of Supervisors on a date to be determined with a recommendation for approval subject to staff's recommended conditions, as amended.

SP-2008-00038 Ragged Mountain Dam (Sign # 6 & 11).
PROPOSED: New dam for Ragged Mountain reservoir.
ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots);
FH Flood Hazard - Overlay to provide safety and protection from flooding.
SECTION: 30.3.05.2.1(1), Dams, levees and other structures for water supply and flood control. COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic, and scenic resources/ density (.5 unit/ acre in development lots).
ENTRANCE CORRIDOR: No.
LOCATION: At end of Reservoir Road (Route 702), 1.8 miles from the intersection of Reservoir Road and Fontaine Avenue Extended (Route 29)TAX MAP/PARCEL: Tax Map 75 Parcels 1, 47C, and 47C1.
MAGISTERIAL DISTRICT: Samuel Miller (Scott Clark)

Scott Clark presented a PowerPoint presentation and summarized the request.

This is a request for a replacement dam for the existing dam at the Ragged Mountain Reservoir just west of the City of Charlottesville.

Specifics of the Proposal:

- New dam on the downstream side of the existing Ragged Mountain dam
- Intended to replace the old dam with a safer one and to increase the storage capacity of the reservoir.
- Earthen construction using soil and rock removed from land around existing reservoir
- Height of 135 feet from the stream-valley floor below the existing dam
- Maximum 42-foot vertical increase over the current normal pool height of the reservoir water surface, but lesser increases could occur if the dam were built in stages.
- Access to the dam construction site would be via Reservoir Road.
- Construction of the dam would take approximately two years.
- During construction there would be no public access to the Ragged Mountain Natural Area.

- **Conformity with the Comprehensive Plan:**

- This approach to increasing public water supply is consistent with the RWSA Community Water Supply Plan and is recommended in the Public Utilities section of the Land Use Plan.

In the PowerPoint presentation staff presented several graphics. The applicant has a much more detailed presentation on the technical matters. The applicant could provide a better view of the main features of the new dam. He noted the location of the old and new dam. He noted the new water intake and the spill way for high water events, which would come down and drain into the same creek. One drawing shows the dam as it might be constructed for a 30' increase as opposed to the 42' maximum. The area in the center could be added to bring it up to that 42'. Another graphic shows one of the main impacts of this increase, which will be the change in the shore line and the reduction of the above water area of the reservoir property. The inner line of the two shows the existing approximate shoreline in the reservoir. The outer line in the hatching shows where the shoreline would be after the maximum requested 42' increase.

Major Issues:

1. Traffic impacts on Reservoir Road – increased traffic and road-surface impacts
   - Solutions:
     - Use of on-site materials for dam construction significantly reduces traffic compared to a concrete dam Road improvement plan subject to approval of VDOT and County Engineer
     - Maintenance-of-traffic plan that permits VDOT or the County Engineer to make adjustments to requirements as needed to maintain safe traffic flow
     - Maintenance plan, to include regular inspection and documentation, and prompt repair work
     - Requirement for all preparatory road work required in plans to be completed before construction begins

2. Forest clearing above dam
   - Solutions:
     - All site work will be subject to County erosion & sediment control regulation and inspection
     - Replanting plan requiring use of native tree and shrub species comparable to surrounding forest in Ragged Mountain Natural Area, at densities recommended for forest-buffer restoration

SUMMARY:

Staff has identified the following factors favorable to this application:

1. This approach to increasing public water supply is consistent with the RWSA Community Water Supply Plan and is recommended in the Public Utilities section of the Land Use Plan.
2. This proposal would use on-site soil and rock for dam construction, thereby significantly reducing work traffic compared to what would be needed for a concrete dam.

Staff has identified the following factors unfavorable to this application:

1. Construction traffic will significantly increase impacts on residents along Reservoir Road and on the road itself. To address this, staff recommends conditions of approval that would require traffic management and road maintenance during the project and final road repairs after construction is completed.
2. The new higher water level and excavation work above the dam would require clearing of forested areas of the Ragged Mountain Natural Area. To address this, staff recommends a condition of approval requiring replanting of any cleared areas that will remain above water with native forest vegetation.

Based on the findings contained in this staff report, staff recommends approval of SP 2008-00038 Ragged Mountain Dam subject to the conditions as outlined in the staff report.

1. Development and use shall be in general accord with the conceptual plan consisting of the two plan sheets titled "Proposed Site Plan – Dam Site" prepared by Schnabel Engineering, and dated 3-18-201, and "Reservoir Area Map Overall" prepared by Schnabel Engineering and dated 1-13-2011 (hereafter referred to as "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:

a. Approximate limits of disturbance;
b. General design and location of the new dam
c. Maximum normal-pool increase of 42 feet above the existing normal pool. While the plan titled "Proposed Site Plan – Dam Site" shows the dam design for a 30 foot increase, any increase up to 42 feet accomplished by adding height to the top of the new dam would be considered to be in general accord with the conceptual plan.

Minor modifications to the plan, which do not conflict with the elements above, may be made to ensure compliance with the Zoning Ordinance.

2. If the use, structure, or activity authorized by this special use permit is not commenced by [date 15 years from Board action], the special use permit shall be deemed abandoned and the authority granted hereunder shall terminate. For the purposes of this condition, the term "commenced" means starting the lawful physical construction of any structure shown on the Conceptual Plan referenced in Condition 1 above.

3. The applicant shall not begin work on the dam until:
    a. The Virginia Department of Transportation (VDOT) and the County Engineer (or his designee) have approved the following:
        i. A plan of improvements to Reservoir Road to safely transport construction vehicles to the site while maintaining access to private property, and minimizing erosion and impacts to the stream. This plan may include:
            - paved or gravel pull off areas at certain intervals;
            - widening of Reservoir Road at key locations;
            - grading and clearing for sight distance;
            - other improvements that are deemed safety issues by the County Engineer or VDOT;
            - erosion control measures;
            - pipe replacements or upgrades
            - other drainage improvements to reduce erosion or impacts to the streams and support heavy vehicles
        ii. A maintenance-of-traffic plan that includes flaggers and a communication plan with existing residents of the road "and that assures…" This plan shall also address any time of day restrictions including the daily peak hour restriction and weekend or holiday restrictions. The plan shall give VDOT or the County Engineer the authority to monitor the contractor and make adjustments when needed due to conflicts and unforeseen circumstances. A person who has a VDOT Work Zone Traffic Control Certification shall be required on site at any time there are activities on Reservoir Road that will restrict normal traffic operations.
        iii. A maintenance plan to include regular inspection and documentation, and prompt repair work
    b. VDOT has approved any embankment changes to I-64; and
    c. The applicant has completed any pre-construction work shown in the plans listed above

4. After the completion of construction and prior to the release of water protection ordinance bonds for the project, Reservoir Road shall be restored according to a plan approved by VDOT and the county engineer. At the discretion of VDOT and the county engineer, the plan may require final grading and the addition of stone for the gravel sections of the road and paving from Fontaine Ave to the last access to a single family residence.

5. Upon completion of earth-disturbing work in any above-water area upstream of the dam, the applicant shall replant each area in such a way as to restore and maintain a complete, contiguous wooded buffer around the reservoir. This planting shall be done according to a replanting plan subject to the approval of the Program Authority of the Water Protection Ordinance. This planting shall use native tree and shrub species listed in Appendix A of the *Riparian Buffers Modification & Mitigation Guidance Manual*, published by the Virginia Department of Conservation and Recreation; the brochure *Native Plants for Conservation, Restoration, and Landscaping*, published by the Virginia Department of Conservation and Recreation; and/or Appendix 7 of the *Chesapeake Bay Riparian Handbook*, published by the United States Department of and shall be designed to re-establish vegetation consistent with the existing forest vegetation of the Ragged Mountain Natural Area. Trees and shrubs shall be planted at the densities specified in Appendix D, Table A of the *Riparian Buffers Modification & Mitigation Guidance Manual*, published

by the Virginia Department of Conservation and Recreation, or to another established standard intended for non-commercial forest restoration, subject to the approval of the Director of Planning.

Mr. Loach invited questions for staff. There being none, he opened the public hearing and invited the applicant to address the Planning Commission.

Chris Webster and Randy Bass with Schnabel Engineering and Tom Frederick with Rivanna Water & Sewer & Authority were present to speak for the request.

Randy Bass noted that Mr. Clark did a very good job explaining the project. He did not have a whole lot more to add to it. In a PowerPoint presentation, he explained several issues raised and how they were going to address those during the construction process.

- The old dam is behind the earthen dam. The auxiliary spillway is put in to handle storms greater than a 500-year flood event, which would be an extreme event. The inlet/outlet tower has three water control gates. The water is diverted through a tunnel in hard rock about 100' below the ground. He would explain the significant of why they as the engineers and Rivanna Water and Sewer Authority choose this tunnel option.
- There is an access vault so the people on the downstream side can actually get into the tunnel to inspect the pipeline, the condition of the tunnel, and things of this nature. As Mr. Clark mentioned, when they were first obtained by Rivanna it was to design a road compacted concrete gravity dam basically in the same area of the proposed earthen dam. What they found when they were looking for the on-site aggregate source was plenty of soil for a earth filled dam. So that is when they made the recommendation to do the earth filled dam since it would be less expensive and just as safe as a concrete dam. That is how they progressed. The final design had been completed and submitted to DCR about a month ago for their permit.
- It is a regulated dam by DCR and is a high hazard dam. When built to it full height it is going to be 135 foot high. Because it is DCR regulated the design storm is what they call the probable maximum flood. It is the greatest flood event that can occur predicted by hydro-geological conditions for a 24-hour event. It is a very large flood event. It has happened a few time in the U.S., but only a few times. Many people say it is greater than a 1,000 year storm. Some people say it is greater than a 10,000 year storm. Therefore, it is an extreme event.
- The existing dam's problem was not only stability, but it had a very inadequate spillway and will only pass from 2% to 25% of the design storm requirement. It was undersized. The new dam will remove the safety issues associated with the existing dam. The reservoir and dam is part of the component of the community water supply plan that was approved several years ago and is not being revisited.
- As Mr. Clark mentioned, the design that was submitted to DCR is for an initial pool raise of 30' above the existing reservoir. The top of the dam is very wide or 80' wide. In the future if the community needs additional water, that dam could be raised to accommodate another 12' raise into the normal pool. They would not have to disturb the bottom of the dam or anything else since it is really just stacking more dirt on the top of the dam and making some slight modifications to the what they call the auxiliary spill. It is not very expensive. They would obviously have to clear the additional 12' in the pool area.
- The slides showed the existing conditions and the new earth filled dam. If they raised the elevation 30' to 671' the blue outlines the limits of what the new reservoir would look like. Part of it does go under I-64 so they have water on both sides of I-64. If they raise it the additional 12' because the area out there is fairly steep the lake does not get a whole lot bigger in terms of surface area. The reddish orange color would be the new boundary if the reservoir is raised a total of 42'.
- Part of this special use permit associated the impact on the 100-year floodplain. This reservoir and the tributary or the stream that goes down to Moore's Creek is not a studied FEMA Flood Plain Area. It is called an unstudied area. They approximate what the floodplain limits are. It is strictly on approximation. If they pull from the FEMA map this unstudied area, the blue is what they identify as the 100-year flood pool in the reservoir. Below the dam is the floodplain, which leaves the old lake and dam and goes on downstream towards Moore's Creek. If they raise the reservoir, the initial 30' the orange is the new 100' year flood plain within the reservoir. It is not only the additional 30', but it a couple of additional feet that would occur at the 100-year storm event that the reservoir actually goes up several feet in elevation. If they eventually raised to the full 42', then the 100-year for that 683 elevation is what is shown in the blue.
- He noted that the area below the dam does not change because they were filling in part of the flood plain. To be good stewards they don't want to increase the peak flows leaving the project. In the 671' and 683' pool, the flow rates for the 2 to 100 year are less than what is existing today. Basically, the new dam will actually serve somewhat

of a flood control structure and actually release less water for the 2 to 100 year storm than what is out there right now. What does not show up on here is when they get to the 500 year storm that is when the new dam provides a lot of flood protection downstream because that auxiliary spillway does not operate until it gets beyond the 500 year storm.

- The dam has to be kept as grass and kept mowed. But, areas where they are widening the access road where they are extracting soils from within the reservoir some of that is going to be above the normal pool. It is not much, but will be several acres. The plan is to grass and reseed those with the native vegetation trees. They will be small tree seedlings, but all that area will be replanted. As mentioned the dam itself will be planted with grass, mowed and maintained. It will be inspected as part of the normal inspection operation for any new dam. Borrow areas will be areas they get soil to build the dam. These areas will be reseeded with tree seedlings. The hatched areas will be underwater and part of the lake.
- There is an elaborate trail system around that area that is used quite frequently. Now with the expanded lake some of those trails won't allow one to get around the lake if they don't do something about it. Rivanna Water and Sewer Authority is working with the City Parks and Ivy Creek to help them reestablish those trails. They are actually looking at some type of bridge structure over the reservoir like a floating bridge so they can get across the reservoir. They are working very close with Ivy Creek and the Parks to try to reestablish the trail system once the dam is completed. As Mr. Clark mentioned, during construction nobody can use the trails. There will be a lot of heavy equipment going around. There will be about a two-year period the trail will not be utilized. However, after that the trails will be reestablished.
- Reservoir Road is a narrow rural road. The people living along the road and the Camp Holiday Trails wants to keep it as a rural road. There will be more traffic. The contractor will be required to develop a traffic control plan and an emergency vehicle access plan. If there is a need for an ambulance, all of that traffic can be removed from the road. There is going to be a very elaborate system to monitor the traffic on that road. The contractor will be responsible for maintaining the road. In addition, when it is done it is actually a resurfaced road. Employee parking will be provided to minimize that traffic. Right now parts of the road are paved. There is a gap in the middle that is not paved. They are going to pave the entire road to just past the driveway of the last house. There will be some little pull outs where cars and trucks can pass one another. The road will only be wide enough for one vehicle to get past the other one. There will be a maintenance plan and the road will be inspected daily by the Resident Engineer. The whole key is when the contractor is done it still looks like a rural road when it is all said and done.
- In summary, this is a large dam. There are many safety precautions that went into the design both in terms of the size and thickness of the dam. As mentioned about the tunnel, as with any dam, a pipe through a dam is the weakest point of the dam. They are actually not having any pipe through the dam, but a tunnel in hard rock. The Water Authority is going through the additional expense to make sure that usually the weakest point is not there. There is extensive grouting underneath the dam to minimize the leakage underneath the dam. Rivanna actually hired three very highly qualified engineers to serve as an independent panel to review their work. They had two workshops over the past eight months. When the dam is finished, there is some instrumentation to measure water pressure and see the flow rates. That will be measured in real time so that the operators at their observatory treatment plant if something strange occurs there will be an alert flashing on the screen. In real time monitoring, they can see if anything strange has happened with the dam itself. There are sensors, fortified gates, bollards, etc. to minimize someone wanting to get there and do harm to the dam. Rivanna has gone the extra mile to make sure it is a very safe dam and a very difficult access to that dam.

Mr. Loach invited questions for the applicant.

Mr. Smith asked where the state maintained road ended, and Mr. Bass replied that it stopped right at Camp Holiday Trails in the clearing.

Mr. Smith noted that VDOT would have jurisdiction to that point.

Mr. Bass replied yes, that VDOT would have the maintenance responsibility to that point.

Mr. Smith said on the emergency spill way he asked if it was set for the low dam.

Mr. Bass replied that was correct.

Mr. Smith asked how they control when they add 12'.

Mr. Bass replied that they would go back in and build a little concrete dam in that section so that it basically just plugs that spillway. It would be about a 8' to 9' high little concrete dam. The width of the spillway was 49' wide. They would build a small concrete section.

Mr. Smith asked if the clearing would be for the additional 12' in elevation plus a little extra.

Mr. Bass replied that the initial clearing would be for the 30' raise in the pool

Mr. Smith asked what happens if they raise it 12'.

Mr. Bass replied at that point they would have to go back in and raise it an additional 12'.

Mr. Smith noted that did not make sense since it would be cheaper to build the whole thing right now.

Mr. Bass said that it is not economically. If they do the math, it is obviously cheaper to build the whole thing right now.

Mr. Smith asked if the grading would be done for the dam and the additional 12'.

Mr. Bass replied that clearing that additional 12' may have to be done in all barges or something like that. It will be expensive if that is ever done.

Mr. Loach invited public comment.

Sam Freilich, resident of 505 Rookwood Place in Albemarle County, spoke. He pointed out he had heard this gentleman mention a couple of times that the approved site is 42' high. His understanding is that the height will be 30' and the additional 12' will kick in at a specific benchmark that would be approved between the City and the County and not until that is done. His concern is that if they approve this as he stated they are approving the 42' and they are not taking into consideration what has previously been discussed. He asked for a clarification of that.

Mr. Loach replied that the Commission would come back to that.

Sam Freilich respectfully asked that the Commission postpone its decision to approve the dam petition at this time for the following reasons that require further action and investigation.

- First, is I-64. The proposed expansion will require the reservoir to extend in both sides of I-64. Booker Engineering is studying how to control toxic spills that would compromise the expanded reservoir, a mitigation that will cost a lot of money. In the report, Booker states that the likelihood of a toxic spill is about one incident in every 110 years. That is in the underlying information they have. VDOT has documented that from the western Short Pump/Richmond area to Crozet there have been 63 toxic spills recorded on I-64 over the past 19 years. The distance covered here is about 71 miles, which is about one spill for each mile over a 19 year period. It is hardly non-consequential.
- The next is feasibility. As of now, there is no proof that the project has the feasibility to transport the 300 percent increase in water for the expanded dam. A pipeline approximately 9 miles long by 3' in diameter must be constructed with multiple pumping stations to raise the water over the 300' in its run. The area from the South Fork Reservoir to the Ragged Mountain Reservoir is one of the most topographically challenged in Albemarle County. Most of this area has major rock intrusions that would require blasting. What will the cost of the operation be when it is completed. Before this project goes forward it is absolutely prudent on the part of the County and the RWSA to a. specifically locate the tract of the pipe, and b. have its operational and financial feasibility determined by one or more companies that specialize in this type of pipeline and pumping station construction. If this is not done, they are beholden to whatever the cost may be in the future since this is an absolutely critical aspect of the proposed water dam and its expansion.
- Finally, the impact to an adjacent neighborhood. A coring operation to obtain approximately 600,000 cubic feet of rock and soil for the earth and dam along with the required blasting to allow for a new spillway will take place only about one-half mile from Ednam Forest, 133 unit subdivision. Once begun it is estimated that this noise producing activity will continue for 18 months to 2 years. The underlying documents make no mention of this. It is imperative

that the recipients of the affected area, as they have been notified, be advised of this proposed activity before the Commission takes any action on this petition.

Jody Lahendro, Camp Holiday Trails Board member, said he was the past President and Chair of the Dam Committee that the camp has formed to work with the Sewer Authority. He had not expected to speak because they were not here to take a position about the dam. They have all along been very careful to allow the process, the jurisdictions, and the professionals to do what is best for the community.

- Their primary concern is Camp Holiday Trails. Camp Holiday Trails is an 80 acre site that is just below the spillway and downstream from the dam. They are contiguous with the dam site. It us a non-profit organization that has been in existence for 37 years founded by the physicians at the University of Virginia. They provide camping experiences for medically impaired chronically ill children. Their program is focused in the summer, but they also run weekend and week camps about ten months out of the year as well as to rent out their facilities to help support the non-profit nature of their camp. They have been working very positively with the Rivanna Water and Sewer Authority since last fall. They have been having informational meetings with them. Just recently, they have started getting down to the actual impacts that the construction of the dam and the permanent nature of the dam will have upon the camp.
- The impacts are significant everything from needing to purchase some of the camp's property to do the dam as well as an easement for the spill way. They won't be able to have some of their sports programs. The horse program will not be able to go on during construction of this dam. That is a significant program that the campers enjoy. They won't be able to use some of their property during it. They are working through these issues. They have identified them. He is looking forward in coming up with negotiations' and agreement with the sewer authority in the next few weeks. That has not happened yet. One of the biggest impacts on the camp is Reservoir Road. Because they serve 300 to 400 campers with special needs and chronic illness, they need to have emergency access at all time for these children. The Sewer Authority is working very hard to satisfy their needs. He just wants to lay it out again that this is a critical aspect of their being able to operate the camp. They also have up to 40 volunteer physicians and medical personnel during the summer that are going between jobs and offices. If they know they will have to wait 30 or 40 minutes before they can go down Reservoir Road it is going to impact who they can attract for volunteers.

Neil Williamson, with Free Enterprise Forum, said they have been involved with the water supply issue since about 2002. One of the challenges to the water supply issue is the number of organizations that have very well delineated responsibilities in that supply issue. The Planning Commission has different responsibilities under a special use permit. He encouraged the Commission to be weary of mission creep and interests that are not really tied to the land use that they are discussing. While those might be interesting rabbit holes to chase down, they don't really go to the core of the question in front of them, which is the land use for this specific parcel at this specific time and how it compares with what the Comprehensive Plan says for this specific parcel at this specific time.

There being no further public comment, Mr. Loach closed the public hearing to bring the matter before the Planning Commission for further discussion and action.

Ms. Monteith requested to ask Jody Lahendro a question concerning the impacts during construction of their programs with the road access. In terms of their discussion with RWSA once the dam is complete, does he get his program back.

Mr. Lahendro replied yes, they see three different categories of impacts and how to address those. During construction the decibel levels of noise and dust levels, etc. will affect children with chronic illnesses and they will experience the noise from blasting. They have an administrative office that is in very close distance of where the construction will occur. The horse program would not be able to go on. They wanted to negotiate with the RWSA about enhancements and how might they be able to gain the trust of their users, campers and campers' parents in having an enhanced program and having them wait for three years while they don't have the horse program. They will be back to operating as they were before the dam. It is just the matter of losing rental income, and taking away the trust of the campers. They have campers coming from as far away as Philadelphia. If they lose them for a couple of years, they may find somewhere else. They need to show them that they will be complete again or even better after this.

Mr. Loach invited the applicant to come forward and respond to some of the statements. He asked how they plan to address Mr. Lahendro's concerns.

Tom Frederick, with Rivanna Water & Sewer & Authority, said that they have communicated with Camp Holiday Trails that they will review their proposal in a very fair manner. They are concerned about the things that Mr. Lahendro has just raised

in insuring that this does not do the detriment long term for Camp Holiday Trails. Interestingly they have been taking this very seriously. He understands they have retained a consultant to help them go through these questions, which they think is very good because that puts factual information on the table. That makes it easy to work with them. They did ask for an extension of time in getting their proposal to us. They now expect to see the proposal next week. They granted the extension requested. They obviously can't make a final decision on it until they have in front of them what their actual proposal is. Their intent and good faith is what has been represented this evening.

Mr. Loach asked him to respond to the question about toxic spills on I-64 and whose preview that would come under and how that would be addressed.

Mr. Frederick replied that interestingly they are actually making the water supply site safer than it is today. The existing reservoir is in the area where I-64 was built in the late '60's. For over 40 years, there has been a exposure to the potential for toxic spills. They have been fortunate that one has not occurred. The plan here is to provide an actual curtain associated with the walking trail bridge that would actually catch a spill should it occur in the future and keep it from getting from the water intake. That is a safety feature of protection they do not have today and have not had for the last 40 years. They believe they are making the situation safer and better, not worse.

Mr. Smith realized that it does not have anything to do with the land use, but he assumed they would have traffic control/radio control, which could also include connection with Camp Holiday Trails so that traffic could be stopped and coordinated with Camp Holiday Trails

Mr. Frederick replied yes, absolutely that could be coordinated with Camp Holiday Trails. They will enforce that. Their design team will make that a requirement of the contractor.

Mr. Smith noted that he did a rough count and there are at least 13 bridges that he knew crossed the Rivanna Water or streams intermediately feeding it. It would be easy for toxic materials to enter the existing reservoir at any of those points.

Mr. Frederick replied yes, it would. That is why they are taking measures as part of this project to provide mitigation for that.

Mr. Loach closed the public hearing to bring the matter before the Planning Commission and action.

Motion: Mr. Smith moved and Mr. Franco seconded to recommend approval of SP-1008-00038, Ragged Mountain Dam, with staff's recommended conditions.

Mr. Loach invited further discussion. He assumed for timing purposes that they are voting on this even though they have not finalized the negotiation with Camp Holiday Trails. He was sensitive to the camp and the services they provide, especially under the situation with their patient population.

Mr. Clark noted that the recommended conditions do include a maintenance of traffic plan. He would assume that the applicant would be coordinating both VDOT's requirements regarding maintenance of traffic and the camp's needs.

Mr. Loach noted that Mr. Smith brought it up about the radio. He suggested if staff could, to improve the language in the final special use permit as far as making sure there is emergency access for Camp Holiday Trails.

Mr. Franco said that he did not know that is really necessary from a land-use perspective. He thought that they were really voting on whether the expansion should take place and the details. He thought Camp Holiday Trails is probably in a strong enough position as he heard there has to be a land swap or a purchase of land from Camp Holiday Trails. He assumed as part of that negotiation they can work out the details of the traffic management.

Mr. Loach noted they brought up the road situation in their own discussion and were going to do it. Essentially, if it was something they brought up, it is something that he can address. He agreed with Mr. Franco on the other points that he made. He assumed that they would have further negotiation as far as mitigation, dust and those other things. He agreed since roads were brought up and how they are going to use them and improve them. All he was saying was if they could strengthen the language so that there is emergency access, if that is plausible, on the part of the County Attorney under the conditions.

Mr. Kamptner replied that it would be in condition 3.a.II, which would include assuring that emergency vehicle access is provided at all times.

Mr. Loach asked Mr. Franco if that was acceptable.

Mr. Kamptner said perhaps "undelayed" or some other correct term that emergency vehicle access would be available at all times.

Mr. Loach said he would like to see it included.

Mr. Smith amended the motion as such since he had no problem with it.

Mr. Franco agreed to the amendment.

Mr. Loach reiterated that the motion is amended to include the additional language.

The motion passed by a vote of 4:0.

Mr. Loach noted that SP-2008-00038, Ragged Mountain Dam would go to the Board of Supervisors on a date to be determined with a recommendation for approval subject to staff's recommended conditions, as amended, as follows.

Based on the findings contained in this staff report, the Planning Commission recommends approval of SP-2008-00038 Ragged Mountain Dam subject to the following conditions:

1. Development and use shall be in general accord with the conceptual plan consisting of the two plan sheets titled "Proposed Site Plan – Dam Site" prepared by Schnabel Engineering, and dated 3-18-201, and "Reservoir Area Map Overall" prepared by Schnabel Engineering and dated 1-13-2011 (hereafter referred to as "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
    a. Approximate limits of disturbance;
    b. General design and location of the new dam
    c. Maximum normal-pool increase of 42 feet above the existing normal pool. While the plan titled "Proposed Site Plan – Dam Site" shows the dam design for a 30 foot increase, any increase up to 42 feet accomplished by adding height to the top of the new dam would be considered to be in general accord with the conceptual plan.
    d. Minor modifications to the plan, which do not conflict with the elements above, may be made to ensure compliance with the Zoning Ordinance.
2. If the use, structure, or activity authorized by this special use permit is not commenced by [date 15 years from Board action], the special use permit shall be deemed abandoned and the authority granted hereunder shall terminate. For the purposes of this condition, the term "commenced" means starting the lawful physical construction of any structure shown on the Conceptual Plan referenced in Condition 1 above.
3. The applicant shall not begin work on the dam until:
    a. The Virginia Department of Transportation (VDOT) and the County Engineer (or his designee) have approved the following:
        i. A plan of improvements to Reservoir Road to safely transport construction vehicles to the site while maintaining access to private property, and minimizing erosion and impacts to the stream. This plan may include:
            a. paved or gravel pull off areas at certain intervals;
            b. widening of Reservoir Road at key locations;
            c. grading and clearing for sight distance;
        2. other improvements that are deemed safety issues by the County Engineer or VDOT;
        3. erosion control measures;
        4. pipe replacements or upgrades
        5. other drainage improvements to reduce erosion or impacts to the streams and support heavy vehicles

ii. A maintenance-of-traffic plan that includes flaggers and a communication plan with existing residents of the road to **"and that assures unimpeded emergency vehicle access at all times."** This plan shall also address any time of day restrictions including the daily peak hour restriction and weekend or holiday restrictions. The plan shall give VDOT or the County Engineer the authority to monitor the contractor and make adjustments when needed due to conflicts and unforeseen circumstances. A person who has a VDOT Work Zone Traffic Control Certification shall be required on site at any time there are activities on Reservoir Road that will restrict normal traffic operations.

iii. A maintenance plan to include regular inspection and documentation, and prompt repair work

b. VDOT has approved any embankment changes to I-64; and

c. The applicant has completed any pre-construction work shown in the plans listed above

4. After the completion of construction and prior to the release of water protection ordinance bonds for the project, Reservoir Road shall be restored according to a plan approved by VDOT and the county engineer. At the discretion of VDOT and the county engineer, the plan may require final grading and the addition of stone for the gravel sections of the road and paving from Fontaine Ave to the last access to a single family residence.
5. Upon completion of earth-disturbing work in any above-water area upstream of the dam, the applicant shall replant each area in such a way as to restore and maintain a complete, contiguous wooded buffer around the reservoir. This planting shall be done according to a replanting plan subject to the approval of the Program Authority of the Water Protection Ordinance. This planting shall use native tree and shrub species listed in Appendix A of the *Riparian Buffers Modification & Mitigation Guidance Manual*, published by the Virginia Department of Conservation and Recreation; the brochure *Native Plants for Conservation, Restoration, and Landscaping*, published by the Virginia Department of Conservation and Recreation; and/or Appendix 7 of the *Chesapeake Bay Riparian Handbook*, published by the United States Department of and shall be designed to re-establish vegetation consistent with the existing forest vegetation of the Ragged Mountain Natural Area. Trees and shrubs shall be planted at the densities specified in Appendix D, Table A of the *Riparian Buffers Modification & Mitigation Guidance Manual*, published by the Virginia Department of Conservation and Recreation, or to another established standard intended for non-commercial forest restoration, subject to the approval of the Director of Planning.

ZTA-2010-00002 Industrial Performance Standards – Amend Secs. 4.14, Performance standards, 4.14.1, Noise, 4.14.2, Vibration, 4.14.2.1, Method of measurement, 4.14.2.2, Meaning of terms, 4.14.3, Glare, 4.14.7, Electrical interference, 4.14.8, Certified engineer's report, 26.7, Performance standards, 30.4.3, Permit required, 30.4.14, Performance standards, 31.5, Zoning clearance; repeal 4.14.4, Air pollution, 4.14.5, Water pollution, 4.14.6, Radioactivity, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend the industrial performance standards in Sec. 4.14 and its subsections (Secs. 4.14.1 through 4.14.8) pertaining to noise, vibration, glare, and the certified engineer's report, add a standard for heat to Sec. 4.14.3, repeal the performance standards for air pollution, water pollution and radioactivity, and reorganize Sec. 4.14 and its subsections. This ordinance also would amend Sec. 26.7 to cross-reference Sec. 4.14 and its subsections, amend Sec. 30.4.3 to require a zoning clearance prior starting a natural resource extraction activity, identify the information to be submitted, and provide for periodic review, amend Sec. 30.4.14 to revise the performance standards for natural resource extraction activities, and amend Sec. 31.5 to require a zoning clearance prior to starting a natural resource extraction activity and clarify certain agricultural activities that are not commercial or industrial for the purpose of determining whether a zoning clearance is required. A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

Ms. McCulley presented a brief PowerPoint presentation. She noted that Glenn Brooks, County Engineer was present to answer questions. There is a color compare draft ordinance that staff asks the Commission to recommend approval of tonight as well as a copy of the packet used for the engineering report to confirm compliance with the performance standards. That is something Mr. Brooks is going to talk a little bit more about.

ZTA 2010 – 02 Industrial Performance Standards

Performance Standards

- ✖ Apply to uses of an industrial character and home occupations;
- ✖ Are utilized to control and limit the impacts generated by the use of land; and
- ✖ Address operations such as noise, water and air pollution, vibration, dust, electrical impulses. Limited local authority over environmental standards.

Introduction - Purpose of this ZTA:

1. More practically address impacts of industrial uses, especially since we are broadening permitted uses;
2. Update references. (This is the first comprehensive amendment since 1980); and
3. Improve clarity of regulations and procedures.

History of Zoning Text Amendment

- ✖ Resolution of Intent adopted by PC June 8, 2010;
- ✖ Work session on industrial performance standards on August 17, 2010;
- ✖ Public hearing by PC on April 19, 2011. Deferred for staff to provide further information, respond to questions and to have the County Engineer come speak to the Commission.

Proposed Revisions to Performance Standards SINCE LAST PUBLIC HEARING

- ✖ Revise the proposed ordinance to utilize current vibration standards rather than previously proposed less restrictive standards. Update the terms to properly reference the vibration measurement;

The Commission raised some logical questions on how this is going to impact the residential area and so forth. Based on the advice from the County Engineer the best way to go forward with something like that is to take some samples throughout the community to see what our community vibration levels are. Staff does not have the time, equipment, or ability to take that on right now. That may happen at some future date. Staff suggests instead to move this forward by keeping the current vibration standards there instead of updating the term. It is an apples-to-oranges type of comparison in updating the term to reference the vibration measurement properly.

Proposed Revisions to Performance Standards

- ✖ Codify the administrative practice allowing documents in lieu of a full-blown certified engineer's report, such as is done with home occupations.
- ✖ Items about which the Commission requested additional information. Mr. Brooks will address that.

Revision from Draft Ordinance In Report – Discussed at Last Public Hearing

- ✖ *Document in lieu of certified engineer's report.* In lieu of a certified engineer's report, the county engineer may allow a prospective occupant of a use of an industrial character to submit a document that describes the processes and activities of the proposed use and addresses the performance standards in sections 4.14 through 4.14.5. A document in lieu of a certified engineer's report: (i) is appropriate for those uses of an industrial character that are determined by the county engineer to be low impact; (ii) may be in the form of a letter, or in any other form acceptable to the county engineer, signed by the prospective occupant or its representative; and (iii) shall be reviewed by the county engineer, who shall inform the zoning administrator as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5.

One of the other things the Commission agreed to last time was taking the extra person, the Zoning Administrator, out of this whole process. It has been done through the County Engineer's judgment with an applicant both practically and functionally. Mr. Brooks will explain more about that.

Planning Commission Questions from last Public Hearing

- ✖ **Vibration standards – We decided to maintain existing standards rather than making them less restrictive.**
- ✖ **Use of Document in lieu of Certified Engineer's Report – Glenn Brooks, County Engineer, will address this.**

Recommendation

- ✖ **Approval of the zoning ordinance amendments relating to performance standards (handout).**

Glenn Brooks, County Engineer, presented a PowerPoint presentation to review some quick examples. The details are not important. What is important is they come away from this with a good idea of just what staff sees from applicants for Certified Engineering Reports and how it is handled.

They start with the existing ordinance language, which is different from what they are proposing now. The way he is going to show the Commission is the way it has been handled for at least 15 or 16 years or for as long as he has been here. He started doing the Certified Engineer Report review about 2 or 3 years ago. It was clear to him not to make any changes. Some of the concern last time was the ordinance because it specifically allowed for something less than a full Certified Engineer's Report by an engineer. It is something that the County has done in practice for as long as he has been here.

Summary information, which was included in the chart, was done by Jonathan Newberry of Zoning. He went through all of the data for the last 5 or 6 years to collect all the Certified Engineer's Reports they have received to get an idea of how many full reports have been received and how many letters in lieu of full reports. Most of them are letters. They average 15 (fifteen) per year by letter with a Zoning Clearance application. They average 1 (one) full Certified Engineer's Report per year. Almost all of the Certified Engineer's Reports are done with the Zoning Clearance application. He could count on one hand the ones he has dealt with in the last 15 years. Those include the quarry and Faulconer's Industrial Site in Ivy. During Mr. Franco's tenure with the County there was one for the amphitheater in the rural area.

The application documents that are handed to the applicant include the following: Clearance application (Example of Snow's Property) - Note the trigger for a Certified Engineer's Report. On the second page are some check boxes. He pointed out the one in the top left, which says this use is in the LI, HI, or PD-IP zoning and if so that triggers that person taking in the application to give them the Certified Engineer's Report information packet. That is the trigger of how they end up getting the Certified Engineer's Report.

The packet given to the applicant for the Certified Engineer's report was reviewed. There is some standard application information on the front. They give the applicant a copy of the description of what a Certified Engineer's Report is, which is straight out of the Design Manual. It goes into the levels of Type 1 and Type 2 that they look at. The applicant is given a copy of the ordinance sections so there is clarity in what the ordinance calls for. It goes through all of the performance measurements and things like that. At the bottom, it lists the Certified Engineer's Report requirement for 14.8. Then samples of letters are given to the applicant indicating how to write the letter to the County. Typically, that is what they get.

He quickly reviewed last year's worth of Certified Engineer's Reports in the PowerPoint presentation for the following.

Recent Example 1;
Rannigan – Snow's property
(contractor's office)

Recent Example 2;
Custom Ink
(screen printing)

Recent Example 3;
Gift Collector
(.com)

Recent Example 4;
Mitre Corp.
(custom sports equip.
office use)

Recent Example 5;
Moto Va
(Motorcycle dealer
and parts)

Recent Example 6;
Pro Build
(building materials)

Recent Example 7;

Signature Science
(training office)

Recent Example 8;
Tasc
(defense consulting
office)

Recent Example 9;
UVA Medical
Warehouse

Recent Example 10;
RockyDale Quarry
(Full Certified Engineer's Report)

Summary Discussion Points

A Certified Engineering Report is a zoning invention (?)
It is a zoning enforcement aid.

A Certified Engineer's Report really only serves to;
(1) explain what a business does,
(2) inform an owner about the standards, and
(3) obtain a sort of agreement to abide by them.

There is no threshold for requiring a Certified Engineering Report. Ms. McCulley noted that it is required for a use of industrial character.

In practice, Zoning requires a Certified Engineering Report when a business is applied for in LI or HI, and it seems as though it may be a concern. Most uses in Albemarle are on the scale of:

- office uses
- labs or physician offices
- home occupations
- contractors offices
- warehousing

The standards are handled by other agencies

air and water pollution – DEQ, EP
noise and vibration – OSHA, DMME, Fire-Rescue
radiation, electrical interference – DOE, NRC, DEQ, EPA, OSHA

Engineers are not always the answer

Not necessarily better information, often expensive.

Mr. Brooks concluded by offering to answer any questions.

Mr. Loach said what they are talking about is not doing away with the Engineering Report, but making it on an ad hoc basis based on when staff thinks it is going to be required.

Mr. Brooks said he asked for that section of the ordinance in this new proposal to be added because of the way they do business. He was not working on this initiative in the beginning. When he sees the zoning division making changes to something he works on his request is don't make it more difficult than it is now. That is why he said what they do now is talk directly with the owner to get the information they need in many times and not require them to hire an engineer to get a report. He would like that to be in the ordinance. It does happen right now on a practical level. They are just codifying it so that everybody will know what they do.

Ms. Porterfield clarified regarding the vibration standards, they are going back to what they have been using. She assumed that one of the questions that came up previously, which was how this affects the schools, is taken care of.

Mr. Brooks replied yes. That came about because when Rocky Dell came in to do their report the specialist that came in to do their readings complained that the units were not specified in our regulation. In addition, our regulation did not look like the ones they see up north. He thought that zoning was trying to make them clearer and accommodate that complaint. His response after they heard the concerns was they have had one complaint in 15 years so why change it. He suggested that they just add some units and keep it the way it is.

Ms. Porterfield asked on page 7 why are they are going from 129 to 133 decibels.

J.T. Newberry, of Zoning Division, replied that was changed as a result of our overall research in this whole process. They found that many of our standards were out of date. They seemed to be antiquated based on what they were seeing around the state. Mr. Kamptner brought up at the last meeting that although the decibels are increased the place where they measure them is much closer to the source. It is certainly something they could consider just like vibration keeping it the same considering that they have not had any complaints during the past 15 years. It was just a matter of trying to update.

Ms. Porterfield asked if it is making it louder.

Mr. Brooks replied that is not clear because it is closer. Usually sound dissipates with the square of the distance. Therefore, this may actually be a lesser standard.

Mr. Kamptner said the current standard is 133 decibels at any occupied structure not on the subject property of 129 decibels. The new standard is measured from the property line of any parcel abutting the NR District. What they were intending to do was to clarify the point of measurement. Because that point of measurement is further away that .4 decibel increase was not deemed to be a material change.

Ms. Porterfield said if the structure is close to the property line, it will be louder. If the structure were closer to the property line, they would get four decibels more.

Mr. Kamptner said they have situations where they might have a use in the NR District and the criteria for measuring is not based upon whether they are in or outside under the current regulations within the NR Overlay District, but if you are on a different parcel. If they had an extraction activity and just happened to have the office for the extraction activity on an adjoining parcel, at whatever distance, that would determine the decibel standards even though the closest house is 2,000 feet away. That is outside of the Overlay District. They were trying to make the decibel standard have relevance as to whether or not the measuring point is within or without the Overlay District.

Ms. McCulley said all of the properties she could think of adjoining quarries in Albemarle County are zoned rural areas with large acreage. Therefore, they have houses that are at a minimum 25' from the side property line and typically 75' from the front. More often, it is much further away than that from the property line.

Ms. Porterfield pointed out the school they were talking about is Stone Robinson, which is right on top of the quarry. That is the only reason she brings it up. She wonders if they really need to increase the decibels. They could measure it from somewhere else, but maybe it would be better not to increase the decibels.

Mr. Franco said essentially what they were doing is decreasing the decibels for every situation.

Ms. Porterfield noted that it talks about residential boundaries. She did not know if the schools are all within residential boundaries.

Mr. Loach asked where that decibel number came from.

Mr. Kamptner replied that number was fed to him. Therefore, he would defer to Mr. Newberry.

Mr. Newberry replied that the decibels came from other localities in the state.

Ms. Porterfield inquired that it is used by everybody else in the state, and have they had problems with heavy industrial uses like a quarry right next door to a school.

Mr. Newberry replied that staff did not find that in the research.

Ms. Porterfield asked what the two engineers on the Commission think about the proposal.

Mr. Franco replied that he thought it was okay.

Ms. Porterfield said in the section staff made the biggest changes on page 5 in b and c just above district regulations, on the review of the report in the third from the last line it reads, "Inform the Commission or the agent." She wondered if they meant the Commission and/or the agent. She supposed some of this comes to the Commission, but they would always inform the agent. She was trying to figure out if they get to pick one or the other or both.

Mr. Kamptner replied the way the site plan and subdivision regulations are set up there are certain site plans that are ultimately acted on by the Commission and some that are acted on by the agent. The reference there was simply to recognize it was to the decision maker.

Ms. Porterfield noted they had talked about if the property was not owned by the applicant that the owner of the property would also have to sign some of these documents. This would be so the owner would be aware of stipulations and findings. That came up when the Commission talked about home occupations in cases when the property is rented.

Mr. Brooks said that most of the properties in his examples are leased.

Ms. Porterfield asked if he hears from the actual owner.

Mr. Brooks replied that they don't hear from the University Real Estate Foundation, as an example.

Ms. Porterfield suggested it might be good to get a signature from an owner to insure the owner was aware.

Ms. McCulley said she did not remember it being something to address with the industrial performance standards.

Mr. Kamptner said that it really touches on the bigger picture whenever the Zoning Administrator reviews a zoning clearance. All of these types of by-right uses, commercial or industrial uses, are the type of things, if they already have the zoning, that before they can exist they have to get a zoning clearance. If that change were to be made that is where it would take place to capture all of those.

Ms. McCulley said they do not require the property owner to sign for any type of a zoning clearance. She assumes that is between the property owner and the tenant. Ultimately, the property owner is still responsible for what is happening on that property.

Mr. Newberry pointed out that the General Assembly passed bill this past session that requires owner notification for a land use application.

Mr. Kamptner said those are for official determinations that affect the property. Zoning clearances probably fall under a different umbrella. The land is already zoned for the use at the zoning clearance stage. It would already have any special use permit required and probably has a site plan. At that point, the owner knows what the zoning is and the range of uses permissible. The zoning clearance process is a way in which the County can make a determination before the use begins that it is going to comply with the zoning ordinance. If it does not, then they have the standards in place. This gives the County a check before the use actually begins to confirm that based upon all of the information provided it appears that this will satisfy all the performance standards, outdoor lighting, parking, and other types of things.

Mr. Franco said in the presentation he talked about the inconvenience to hire an engineer to do these things. He suggested that they should be calling it something different. Given the fact that this is really being used for compliance verification and for possible future confirmation, he asked if there is a different name to give this thing. It makes sense that a specific expert would come in. Instead of a Certified Engineer's Report, is it a compliance or conformance compliance agreement or something along those lines that a PE or a certified engineer could sign.

Mr. Brooks replied that they could have the applicant sign an affidavit or some sort of statement saying that they would abide by the report and buy machinery that exceeds the requirement.

Mr. Loach said they could go the other way by identifying what areas of expertise need to be returned instead of making it more general. It could have more specificity. This is what they need in areas for what they want to do rather than full certification. It may be just vibration and one entity opposed to a full report.

Mr. Franco pointed out that in his experience with this that a lot of it does not apply for the scale of operations that the County sees.

Mr. Loach said by requiring the Certified Engineer's Report there is a threshold staff determines when it needs to be done. Staff could tell the applicant what information they need.

Mr. Brooks said this does get tricky because this is a bit of a fishing expedition. Many businesses come in and staff has to be educated about their particular proposed use. Staff has no idea of what a particular business would do or what waste products they would have until meeting with the applicant. He would not know how to put some uses on a broiler plate.

Mr. Loach said he was worried with all the things staff has talked about and showed them that they were going to miss something detrimental. When asked about it the answer was going to be they did not know anything about it.

Mr. Franco said that he was kind of the reverse. His experience with the attorneys in the past has always been that if the standards exist the more he starts poking into some of this the question comes up of why didn't you go further or ask about that. The standards exist. Therefore, what they are really looking for is some kind of agreement that says this is how they are going to or some kind of a plan that says this is how they are going to address the standards. It may be as simple as saying they have no big mechanical equipment. He saw one that said a belt the size of a pizza oven. Just a quick description like that certified by the owner of the business that says this is our plan.

Mr. Loach said if they get into an area where they don't know it does not make one any less responsible as to go out and find out what that standard is versus saying they don't have a standard and therefore are not responsible for it.

Mr. Franco said they do have a standard for all of these. The question would be what is the equipment and how it is mounted, etc. In addition, can it be built in some fashion that keeps it compliant. They have standards for all of that. The ten things they look for have ten standards.

Mr. Brooks said that he was not worried about the invention of a new standard that they missed. If there was going to be a pollution by-product for a lab most of these are handled by medical waste provisions and regulations through DEQ and EPA. When he steps in and starts learning about their program and he asks questions such as what if there is a spill; what if someone flushes it down the drain. They have to educate him by telling him that is covered by EPA section number such as such. In the case of the quarry that is covered by the Fire/Rescue Division and the people who regulate explosives. He usually finds it is all regulated already. They are putting many obstacles in their way that they should not be.

Ms. McCulley said bottom line is that the standards exist. Whether they are operating the way they said they were going to in the letter Mr. Brooks gets in lieu of the Certified Engineer's Report, they still have to meet the standards.

Mr. Kamptner said to expand the scope of this. They do ask for people to submit site plans that show they meet the parking standard. They require that applicants submit lighting plans to show that their foot-candle levels meet the standards at the property line. These performance standards are really similar to those and just another set of standards. Rather than view the document in lieu of a Certified Engineer's Report as the exception they can just change the perspective that it is really just an alternative. What Mr. Brooks has shown is that the alternative is really the more common way in which these issues are dealt with.

Mr. Franco said that is why he is on the line of what he is saying in possibly looking at a lot of this information being certified by the owner. At the exception when the County Engineer deems that a certified person has to address something complicated, like blasting or vibration, he can require more.

Mr. Brooks said staff would ask applicants to take readings and bring in experts for machinery being run for a performance type that possibly exceeds the levels.

Mr. Smith said from a practical standpoint, regardless of what the engineer says, when a piece of machinery is installed until it is run they don't know what it is going to do.

Mr. Brooks noted that they did know, but within a range.

Mr. Smith said that it could be tweeted.

Mr. Brooks agreed that one could soup it up or take off the muffler.

Mr. Smith said that he was for having Mr. Brooks use his expertise in making those decisions.

Ms. McCulley said in terms of the types of issues that arise from the process they have been doing for the past 15 years that they are proposing to codify, she really can't think of cases that this has been a problem. It is working the way it is being handled by the County Engineer. Again, the standards exist. Whether they did what was listed in the letter or not, the standard still exists.

Motion: Ms. Porterfield moved and Mr. Franco seconded to recommend the adoption of ZTA-2010-00002 Industrial Performance Standards amendments as presented by staff in the comparison version dated 5/24/11.

The motion passed by a vote of 4:0.

Mr. Kamptner questioned if the Chair opened and closed the public hearing.

Mr. Loach opened the public hearing and invited public input. There being no public comment, the public hearing was closed and the matter before the Planning Commission. He asked for another roll call.

The motion passed by a vote of 4:0.

Mr. Loach noted that ZTA-2010-00002 Industrial Performance Standards would go to the Board of Supervisors on a date to be determined with a recommendation for approval subject to staff's recommended conditions.

Old Business:

Mr. Loach asked if there was any old business.

- Mr. Cilimberg asked tonight for comments regarding the draft memo staff had drafted that certain Commissioners asked be sent to the Board regarding Re Store N Station. There was interest in including in the memo the fact that a couple of Commissioners did not vote for the preliminary site plan and the reason why. In addition, the Commission might want to be more specific in asking the Board its intent in approving based on its understanding of the term that was used. He suggested that he would ask for their feedback regarding their understanding of the definition of the term building footprint as conditioned. The memo will be made from the five Commissioners who voted the night the matter was before the Commission. Staff will send those Commissioners one more draft to okay prior to forwarding it to the Board.
- Ms. Porterfield noted that it was clear from reading the Board minutes that it did not appear what the Board of Supervisors ended up voting on was what the Board was talking about. The community thought something else had been said by the BOS to them, and it just became a real problem. The perceived comments were not included in the motion.

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

New Business:

Mr. Loach invited any new business.

- Mr. Franco said on Route 29 just north of the Forest Lakes South entrance there is the rug place where there has been some clearing that took place along the creek that has tree stumps, which he has had questions about that. Mr. Brooks explained the situation and noted that it was a current zoning violation. Ms. McCulley noted that the complaint was under investigation.
- Mr. Franco said at the Towne Center Blvd. intersection with Dickerson the sight distance for a left hand turn off of Towne Center Road onto Dickerson southbound is very limited. Mr. Brooks replied that he would have VDOT check it.
- Ms. Porterfield asked for better signage to be put up regarding Shadwell Bridge vehicle size limitations until the repairs can be done. Mr. Brooks indicated that he would convey the message to VDOT.

- Currently there are two meetings in June – June 7 and June 21. Staff is looking at the possibility of having the workshop on June 21.
- No Meeting on May 31, 2011
- Next Meeting: June 7, 2011

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

Adjournment:

With no further items, the meeting adjourned at 7:59 p.m. to the June 7, 2011 meeting at 6:00 p.m. at the County Office Building, Room 241, Second Floor, 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)