Albemarle County Planning Commission
January 24, 2012

The Albemarle County Planning Commission held a regular meeting on Tuesday, January 24, 2012, 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, Richard Randolph, Don Franco, Calvin Morris and Russell (Mac) Lafferty. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Other officials present were Sarah Baldwin, Senior Planner; Claudette Grant, Senior Planner; Ron Higgins, Chief of Zoning; Scott Clark, Senior Planner, Wayne Cilimberg, Director of Planning and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Cilimberg, serving as temporary chair, called the regular meeting to order at 6:00 p.m. and established a quorum. He noted several items:

- Typically at their first meeting they elect the officers, have the Planning Commission confirm their schedule and act on the rules of procedure for the calendar year. They are going to delay all but the election of the chair for this evening to the first February meeting in hopes that they will have our full Commission in place by that time. They still have the at large position to be selected to bring us to our full membership for the start of the year.
- Mr. Kamptner will be covering tonight the developments from over the last week and a half regarding how they review certain projects based on a Supreme Court of Virginia ruling. It affects two of the items on the agenda tonight. Mr. Kamptner will speak to those shortly. The Commission received some preliminary information today to help prepare them for tonight's meeting as regards the actions they will be taking on the first two regular items on the agenda.
- Staff received a call today very late from the applicant's representative, David Wyant, on the David Brown Auto Detailing and Repair, SP-2010-00042, which is a public hearing on the agenda tonight. The applicant has requested deferral. Staff is going to recommend that the Commission take action to defer that until February 28 to allow staff to get back with the applicant and determine exactly what his longer term interest is regarding this particular special use permit. It may be a withdrawal ultimately. That is something once the meeting is started that the Commission take action on along with the other item already on the agenda requesting deferral, which is the Estes Park rezoning.

Election of Chairman for this meeting:

Mr. Cilimberg opened nominations for the election of Chair for tonight's meeting.

Mr. Smith nominated Calvin Morris to be Chair for tonight's meeting.

Mr. Lafferty 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 motion passed by a vote of 5:0:1. (Mr. Morris abstained)

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

Mr. Morris welcomed Richard Randolph as a new Commissioner and Tom Loach's return.

Other Matters Not Listed on the Agenda from the Public:

Mr. Morris 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: December 6, 2011, December 13, 2011, April 19, 2011 and April 5, 2011

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

Motion: Mr. Franco moved and Mr. Loach seconded for approval of the consent agenda.

The motion carried by a vote of 6:0.

Mr. Morris noted the consent agenda was approved as submitted.

Review of Board of Supervisors meeting – December 14, 2011, January 4, 2012 & January 11, 2012

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on January 5, 2011.

Addition of Agenda Item:

Mr. Kamptner requested before the Commission moves on to its regular agenda he would like to ensure that the proposed resolution of intent for the special exemptions is added to the agenda. It can be placed at the end of the Commission's agenda.

Mr. Morris noted that the resolution of intent for special exemptions would be added to the agenda to be heard at the end of the meeting.

Items Requesting Deferral:

ZMA-2010-00011 Estes Park
PROPOSAL: Rezone 12.75 acres on Tax Map/Parcel 03200000003300 and TMP 03200000003400 from R-1, Residential zoning district which allows 1 unit/acre to PRD, Planned Residential Development zoning district which allows residential (3 – 34 units/acre) with limited commercial uses and to rezone 0.56 acres on Tax Map/Parcel 046B4000000500 from R-1 Residential zoning district to R-1 Residential zoning district with proffers. Proposed number of units is 66 for a density of 5.33 units/acre.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses.
ENTRANCE CORRIDOR: No LOCATION: in the southeast quadrant of the intersection of Proffit Road (Rt 649) and Worth Crossing, approximately 800 feet south of Proffit Road in the Community of Hollymead.
TAX MAP/PARCEL: TMP 03200000003300, TMP 03200000003400, and TMP 046B4000000500
MAGISTERIAL DISTRICT: Rivanna (David Benish)
DEFERRED FROM THE DECEMBER 13, 2011 PLANNING COMMISSION MEETING.
APPLICANT REQUESTING INDEFINITE DEFERRAL.

Mr. Morris noted the applicant requests indefinite deferral of ZMA-2010-00011, Estes Park.

Motion: Mr. Franco moved and Mr. Loach seconded to approve the applicant's request for indefinite deferral of ZMA-2010-00011 Estes Park.

The motion was passed by a vote of 6:0.

Mr. Morris noted that ZMA-2010-00011, Estes Park was indefinitely deferred.

SP-2010-00042 David Brown Auto Detailing and Repair
PROPOSED: Special Use Permit for a public garage with auto detailing and repair
ZONING CATEGORY/GENERAL USAGE: Rural Areas (RA) - agricultural, forestal and fishery uses
SECTION: 10.2.2 (37) Public garage
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources / density .5 units / acre of development lots
ENTRANCE CORRIDOR: No
LOCATION: 599 Rocky Hollow Rd. (Rt. 769); east of Stony Point Rd. (Rt. 20)
TAX MAP/PARCEL: 062000000076A1
MAGISTERIAL DISTRICT: Rivanna (Scott Clark)

Mr. Morris noted the applicant requests deferral of SP-2010-00042 David Brown Auto Detailing and Repair.

Mr. Cilimberg suggested the Commission open the hearing for public comment and then take an action to defer to February 28.

Mr. Morris opened the public hearing and invited public comment. There being no public comment, the public hearing was closed to bring the matter before the Planning Commission.

Motion: Mr. Franco moved and Mr. Loach seconded to approve the applicant's request for deferral of SP-2010-00042 David Brown Auto Detailing and Repair to February 28.

The motion was passed by a vote of 6:0.

Mr. Morris noted that SP-2010-00042, David Brown Auto Detailing and Repair was deferred to February 28.

Regular Items

SDP-2011-00072 Verizon Wireless Monopole Extension "Moores Creek" Final Site Plan
PROPOSED: Request for an extension of an existing steel monopole in order to support the attachment of a new set of antennas mounted on a second array. The new proposed height of the monopole will be approximately 96 feet, a 7 foot extension from the top of the existing antennas which will slightly clear the surrounding tree tops. ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots), EC-Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access. SECTION: 10.2.1 (48) which allows for Tier III personal wireless facilities in the RA Zoning District COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 4- 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: U.S. 29, approximately 3¼ miles south of the I-64 Interchange on the east side of road across from Eltzroth/Thompson Nursery. TAX MAP/PARCEL: 08900-00-00-00400 MAGISTERIAL DISTRICT: Samuel Miller (Sarah Baldwin)

SDP-2011-00074 Verizon Wireless Monopole Extension "Turner Mtn." Final Site Plan
PROPOSED: Request for an extension of an existing steel monopole in order to support the attachment of a new set of antennas mounted on a second array. The new proposed height of the monopole will be approximately 108 feet, an 8.5 foot extension from the top of the existing antennas, and will be 2.2 feet below the reference tree.
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots).
SECTION: 10.2.1 (48) which allows for Tier III personal wireless facilities in the RA Zoning District

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas 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: No
LOCATION: Tilman Rd. (Rt. 676), approximately 1/3 mile north of the intersection with Ivy Rd. (Rt. 250).
TAX MAP/PARCEL: 05800-00-00-061A0
MAGISTERIAL DISTRICT: Samuel Miller (Sarah Baldwin)

Mr. Morris noted that the next two items SDP-2011-00072 Verizon Wireless Monopole Extension "Moores Creek" Final Site Plan and SDP-2011-00074 Verizon Wireless Monopole Extension "Turner Mtn." Final Site Plan would be taken together. He invited Mr. Kamptner to address the requests.

Mr. Kamptner noted because of the St. Clair decision and the breath of the St. Clair decision they have concluded that the Commission does not have the authority to act on Tier II Wireless applications. Therefore, he recommends the Commission simply move that the application be denied because it does not have the authority to approve the application. That will set the stage that would allow the applicant to appeal it to the Board of Supervisors, which does have the authority. He recommended a motion if a Commissioner was inclined to read it, which also has an additional statement. He noted that staff recommends approval of both this Tier II facility and the next one. He thinks it is fine for the Commission to make a recommendation based upon staff's analysis in the staff report.

Motion:
Mr. Franco moved and Mr. Randolph seconded that the Planning Commission deny SDP-2011-00072 Verizon Wireless Monopole Extension "Moores Creek" Final Site Plan on the grounds that the Planning Commission does not have the authority to approve a Tier II Wireless application. Also, having considered the staff report and staff's recommendation Mr. Franco moved and Mr. Randolph seconded that the Planning Commission recommend approval of SDP-2011-00072 Verizon Wireless Monopole Extension "Moores Creek" Final Site Plan if this matter is appealed to the Board of Supervisors.

Mr. Loach asked if they were recommending denial, but recommending approval without any discussion.

Mr. Kamptner replied the Commission is recommending denial solely because it does not have the authority to approve it and not on the merits of the application itself. Therefore, the second part of the motion deals with the merits of the application and it is only a recommendation to the Board.

Mr. Morris noted the Commission was recommending to the Board if the applicant so chooses to appeal this matter that they approve this.

Mr. Loach said this is not a recommendation for approval from the Commission on the matter.

Mr. Morris replied no, it was just the opposite. He asked if everyone was clear on what they were doing.

Mr. Franco said he thought that it was a recommendation.

Mr. Morris noted this is a motion for denial, and requested that the question be called.

The motion passed by a vote of 6:0.

Mr. Morris noted the motion is denied. They would shave to wait to see what happens from this point. He noted the Commission would move to the next request, SDP-2011-00074 Verizon Wireless Monopole Extension "Turner Mtn." Final Site Plan
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Motion for SDP-2011-00074 Verizon Wireless Monopole Extension "Turner Mtn" Final Site Plan:
Mr. Franco moved and Mr. Loach seconded that the Planning Commission deny SDP-2011-00074 Verizon Wireless Monopole Extension "Turner Mtn." Final Site Plan on the grounds that the Planning Commission does not have the authority to approve a Tier II Wireless application. Also, having considered the staff report and staff's recommendation, Mr. Franco moved and Mr. Loach seconded that the Planning Commission recommend approval of SDP-2011-00074 Verizon Wireless Monopole

Extension “Turner Mtn.” Final Site Plan if this matter is appealed to the Board of Supervisors.

Mr. Morris said before he asked for a vote on this matter he assumed that the applicant would like to address the Commission. He opened the public hearing and invited the applicant to address the Commission.

Steve Blaine, representing Verizon Wireless, said he thought they could support this solution. He did not think the St. Clair case frankly gave them a lot of good options. He thinks Mr. Kamptner has been very thoughtful in his recommendations. He wanted to go on the record that if the Supreme Court decision stands for the proposition that the Commission does not have the authority, then it really should not be taking any action whether it is a denial or an approval. But, he did not think they were left with any other options than having the matter decided by the Board. So he just wanted to go on record that he did not think it really changes their position. They would ask it to be clarified if they can support the staff’s recommendation. He thought that would help the Board that as a staff recommending approval on the merits. He thought that goes to Mr. Loach’s question. He just wanted to make sure they were clear on that because he thought the resolution does imply that they were passing on the recommendation of the staff, which is a recommendation for approval. He has not done enough research to know whether St. Clair would preclude the Commission from recommending something. However, he thinks they can always do that as public servants and officers on the Planning Commission. They would ask for that part since they want to be clear that is what they are doing. They are here to give a presentation if the Commission would like one and would feel better getting a presentation. However, if it is a statement on the record based upon the staff’s recommendation, then perhaps they do not need a presentation. But, if the Commission would like a presentation in order to pass along their thoughts and observations they would support based upon hearing a report or further consideration of the staff report, they are here to do that.

Mr. Loach said he had no problem moving this to the Board and forwarding it based on the staff recommendation. However, he did not want that to be misconstrued as the permission. All he was saying was they are denying the request because they have no authority. They are recommending that it go to the Board based on staff’s recommendation. He did not want that misconstrued that they have discussed this thoroughly and came to a decision on the board based on the merits.

Mr. Franco pointed out the motion did include a recommendation of approval. Personally, he was comfortable with staff’s report. Since the Commission was not making the final decision he was inclined to support that and recommend approval of the items to the Board. He was happy to readdress the motion if that is the will of the Commission at large. However, the motion as made is a recommendation of approval.

Mr. Morris said he was completely happy with the staff’s report and supported it completely. However, the Commission does not have the authority to approve it. He thinks the motion as stands does the trick.

Mr. Franco agreed the motion does the trick, but it goes a step further to say they are recommending approval.

Mr. Morris agreed that was what he heard in the motion.

Mr. Lafferty pointed out what Mr. Loach is saying was without discussion that pushing it forward recommending it might be a little premature.

Mr. Loach said the motion is a paradox.

Mr. Blaine pointed out they could understand the dilemma for the applicant because they were going to the Board and certainly the Board would give more weight to the overall matter if it had a recommendation on the merits from the Planning Commission.

Mr. Loach said the question is does the motion itself need a second part to go to the Board.

Mr. Franco replied that it does not need it, but that is what they chose to move. If it is the will of the Commission to hear a presentation and have some debate before they move it forward, let's defeat this motion and pursue it that way.

Mr. Loach said he would take the recommendation of the rest of the members.

Mr. Smith said he would rather go to the Board with them saying that they liked the idea whether they can approve it or not.

Mr. Morris asked if that was based upon a presentation by the applicant.

Mr. Smith replied that was the only way they could honestly do it is to have a presentation.

Mr. Randolph said his feeling is St. Clair should not change our feeling about the merits of the application. They need to make a decision based on the merits. There does not seem to be anything that has been brought here in the record from the staff that would warrant us to question that this application should move forward. They are faced with a constitutional predicament and they are trying very neatly to wade through that constitutional predicament in a way that does not prejudice the applicant and assures that they have a recommendation that will have some bearing with the Board of Supervisors and facilitate their quite appropriate final decisions. He was very comfortable with the motion that Mr. Franco has read so far and sees no reason not to proceed with approval notwithstanding Mr. Loach's concern.

Mr. Lafferty asked Mr. Loach if he had any specific concerns about these two applications.

Mr. Loach replied no.

Mr. Morris noted he hear Mr. Loach's concerns were primary a matter of process.

Mr. Lafferty said he was comfortable leaving it where it stands with these two applications.

Mr. Morris agreed. Since there was no further discussion he asked for a roll call.

The motion was approved by a vote of 6:0.

Mr. Morris noted that the motion had been approved. Hopefully, the applicant will see fit to take this to the Board.

Public Hearing Item:

SP-2011-00022 Verizon Wireless/Southwest Mountain Tier III Personal Wireless Service Facility
PROPOSED: Request for installation of a second flush-mounted antenna array replacing recently removed whip antennas in order to support the attachment of a new antenna array in a second vertical array below the company's existing antennas. This is an amendment of SP 2003-45 #2C to allow more than 5 antenna arrays.
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 (48) which allows for Tier III personal wireless facilities in the RA Zoning District
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 2 -preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots)
ENTRANCE CORRIDOR: NO LOCATION: 119 Lego Drive
TAX MAP/PARCEL: 07800-00-00-051C0
MAGISTERIAL DISTRICT: Rivanna (Sarah Baldwin)

Sarah Baldwin presented a Power-Point presentation and summarized the staff report.

This is an amendment to an existing Special Use Permit and to Section 10.2.2(48), which allows for a Tier III Personal Wireless Service Facility in the Rural Areas (RA). The existing facility is located on Tax Map 78, parcel 51C. Surrounding areas are rural to include single-family residential and PRD and is located in a wooded area with existing mature trees and vegetation.

Proposal:

- This is a request to install a second flush mounted antenna array to support the attachment of a new antenna array on an existing PWSF.
- This request will amend condition 2C of SP2003-45 to allow more than 5 antenna arrays.

For clarification under the Tier I and Tier II ordinance requirements up to 3 antennas are permitted. Since this request exceeds 3 antennas it is considered a Tier III facility.

This tower has been in existence for over 40 years. There are not other changes proposed to the tower except to allow for the addition of the antenna array. The applicant has submitted plans and photo simulations to show the location of the additional antenna array and additional photo simulations of the existing and proposed tower changes.

Factors favorable:

1. The proposal is on an existing facility and the additional antenna will not increase or cause any new impacts to adjacent properties or important resources.
2. The proposal meets most of the requirements of 5.1.40 except for the current SP conditions which limit the number of antenna arrays to five.

Staff found no unfavorable factors to this amendment.

Recommendation:

- Staff recommends approval of the additional antenna array and modifications provided herein.
- Should the Planning Commission choose to recommend approval of this application to the Board of Supervisors, Staff recommends the conditions as outlined in the presentation and staff report.

Mr. Morris invited questions for staff.

Mr. Lafferty asked if this would allow the applicant to put one more antenna up without having to come back.

Ms. Baldwin replied that was correct.

Mr. Randolph requested to ask a question of consistency. He noted with interest that the first two applications, which they have just denied for obvious constitutional reasons, specified in exactitude the manufacturer and color of the paint that was to be used. In this application the applicant states on page 7 the wording of staff's report the applicant states that the proposed antenna array will be painted with a light blue gray hue to match the existing color. He was intrigued as a new member of the Commission why they were so exacting as to the supplier and the exact color of the paint that is to be used in the other two towers and here they just came up with a general remark about light blue gray hue.

Ms. Baldwin replied that it is a requirement of the ordinance to have similar colors. To the extent they were not in the first two is because they were consistent with the existing facilities.

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

Lori Schweller, with Leclair Ryan, represented Verizon Wireless. She requested the Commission's recommendation of approval of an amendment to a special use permit. This special use permit was granted before the current ordinance. That may help to answer Mr. Randolph's question about why the array is proposed to be painted light blue gray. The special use permit only permits 5 flush mounted antennae arrays and they are requesting a recommendation of approval for one additional antennae

array. There would be six antennae arrays and not antennas. She wanted to make that clear for the record. That is depicted in the concept plan. There are no other changes to the site proposed. Any ground equipment will be installed within an existing equipment shelter.

Mr. Morris invited public comment. There being no public comment, the public hearing was closed and the matter before the Planning Commission.

Motion: Mr. Loach moved and Mr. Lafferty seconded to recommend approval of SP-2011-00022 Verizon Wireless/Southwest Mountain Tier III Personal Wireless Service Facility with staff's recommended conditions.

1. Development and use shall be in general accord with what is described in the applicant's request and site plans, entitled "Southwest Mountain LTE 4G Upgrade", with a final zoning drawing submittal date of 11/10/11 (hereafter "Conceptual Plan"), as determined by the Director of Planning and 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:
   - Height
   - Mounting type
   - Antenna type
   - Number of antennajj
   - Color
   - Location of ground equipment and fencing

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

2 The monopole shall not be increased in height above the existing 260 feet above ground level (AGL).

3. Equipment shall be attached to the exterior of a structure only as follows:
   (i) The total number of arrays of antennas attached to the existing structure shall not exceed six (6), and each antenna proposed to be attached under the pending application shall not exceed the size shown on the application, which size shall not exceed one thousand one hundred fifty two (1152) square inches.

4. Prior to issuance of a building permit, the owner of the facility shall submit an updated report to the agent identifying each user of the tower to be updated annually between May 1 and July 1 in accordance with the requirements of Section 5.1.40(c)(7).

The motion passed by a vote of 6:0.

Mr. Morris said the request would be forwarded to the Board of Supervisors with a recommendation for approval at a time to be determined.

Motion for Recommendation on Modifications:

Mr. Loach moved and Mr. Lafferty seconded to recommend approval for modifications of Sections 5.1.40(c)(3)(i),(c)(4) and (c)(5) for SP-2011-00022 Verizon Wireless/Southwest Mountain Tier III Personal Wireless Service Facility for the reasons delineated by the staff report.

The motion passed by a vote of 6:0.

Mr. Morris noted that SP-2011-00022 Verizon Wireless/Southwest Mountain Tier III Personal Wireless Service Facility and modifications will go to the Board of Supervisors on a date to be determined with a recommendation for approval.

SP-2011-00026 Flatwoods Land Trust AT&T-CV429-Tier III
PROPOSED: Special use permit request for a personal wireless service facility including a 119-foot metal monopole with flush-mount antennae. Proposal includes requested waiver of section 5.1.40(d)(6) of the Zoning Ordinance (to allow a pole height 30 feet above the reference tree, over the normal maximum of seven to ten feet).
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 (48) which allows for Tier III personal wireless facilities in the RA Zoning District
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 4 - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots)
ENTRANCE CORRIDOR: YES
LOCATION: At the northwest side of the Intersection of Scottsville Road (Route 20), Esmont Road (Route 715), and Coles Rolling Road (Route 712).
TAX MAP/PARCEL: 11200-00-00-030G0
MAGISTERIAL DISTRICT: Scottsville
(Scott Clark)

Scott Clark presented a Power-Point presentation and summarized the staff report.

This is a special use permit request for a new personal wireless service facility located on Route 20. This is a Tier III facility, which requires a special use permit. It would require Board approval of a modification of Section 5.1.40.(d)(6) of the zoning ordinance because there is a request to have the facility be 30 feet above the reference tree instead of the usual 10 feet maximum.

The property is 420 acres and located at the intersection of Plank Road and Route 20 in the Esmont area. The proposed tower would be approximately 387 feet back from Route 20. It is also approximately 900 feet from the nearest property boundary. The tower would be 30 feet above the top of the reference tree. Having visited the site found that even with the 30 foot extension the facility was not visible. During the balloon test the balloon was not visible from any location publicly accessible. There is steep terrain by the road that flattens out where the tower is back from the road. Between that topographic formation and the vegetation anything that is any distance back from the road becomes very hard to see.

Factors Favorable:
1. The facility will not be visible from the Virginia Byway (Route 20).
2. The Architectural Review Board staff has recommended approval based on minimal visibility from Route 20, which is an Entrance Corridor.

Factors Unfavorable:
None

Staff recommends approval of SP-2011-00026 Flatwoods Land Trust with the conditions listed in the staff report, and of the requested modification to Section 5.1.40(d)(6) (to permit the facility to extend 30 feet above the reference tree), based on the analysis provided in the staff report.

Mr. Morris invited questions for staff. He was just curious again why the recommendation for approval of something 30' in height. The rule clearly says 7' to 10'.

Mr. Clark replied it was largely because the tower was not visible.

Mr. Loach asked if that was the only criteria staff was using. He asked if there no criteria quid pro quo if they adjust this to 30' they can save "N" number of 7' to 10' poles that make things more efficient.

Mr. Clark replied no. There are no other applications on this site to work that out with. The criterion staff is going by is the fact that even with that large extension over the trees it was very difficult to see the facility, which was only when they were standing still on the side of the road looking for it.

Mr. Lafferty asked if staff knows the status of the review of the antenna section of the Wireless Policy.

Mr. Cilimberg replied that the work on the possible zoning changes is being handled by some others in the department. He could not tell them what the schedule is. However, it is moving forward in terms of the analysis. The Board had agreed to have some contract assistance provided in working towards that. He noted that Mr. Loach's question was a good one as to what kind of provisions are considered as appropriate. Nothing in the ordinance actually speaks to even going beyond the 10' to some much higher height in lieu of other towers. There is nothing that provides guidance for that type of analysis in the ordinance.

Mr. Randolph asked if they had provided any information with the zone of transmission that is provided with this height in if in fact the tower was 3' above the neighboring trees. Was there any difference in terms of their service capability for the additional height.

Mr. Clark replied the applicant said the 30' extension was necessary to serve that section of Route 20 and still be out of view. However, as far as more details and specifics they would have to ask the applicant.

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

Preston Lloyd, an attorney with Williams and Mullins, was present on behalf of AT&T, the applicant.

- As they heard from staff this is an application for a special use permit. Because staff has recommended approval he would not belabor things too much. He had a few answers to a number of the questions that have been raised so far. As anyone who drives down Route 20 on a regular basis knows cellular coverage is spotty and is an area that is a high priority for AT&T. This facility would certainly improve helping to maintain continuous coverage whether in a car, within buildings or on the street in the vicinity around this location.
- In a Power-Point presentation he explained the proposal noting that cellular coverage is certainly not complete within this area. The County's Wireless Policy balances the rural nature of the land that the subject parcel lies on against the goal of minimizing the impacts of the facilities that support the wireless telecommunications. This site is the perfect example of balancing an improvement in the wireless coverage in this vicinity while also reflecting the impacts that can be minimized through appropriate site selection. So they are confident that they will find that this is the appropriate site and that the site supports the 30' height difference which they acknowledge certainly is unusual but is very much supported by the facts and the circumstance. The slides reinforced the heavily forested nature of the site as pointed out by staff.
- In response to Mr. Randolph's question about what the impact on the actual coverage would be, he noted on the propagation map three tower locations. The one to the south exists and the center one is being proposed this evening. Prior to those being on line there is no cellular coverage within the entire vicinity. In every other way this would be a normal application that would be appropriate for the Tier II facility process in the sense that they have a reference tree that is then with a monopole construction of the facility itself. There is adequate screening of the shelter shown in the site plan. The color of the monopole will be the brown color. All these things match the Tier II requirements.
- Two things are unique about the proposal that kick it into the Tier III analysis – 1. The height issue and 2. This facility is located in the historic district that makes up the eastern portion of the county. Any facility constructed within the historic area would necessarily be considered under the Tier III process. That means there is a special use permit considered by the Planning Commission and ultimately the Board of Supervisors. It is appropriate in this circumstance because it provides a lot more flexibility than the Tier II process. As a result it allows them to consider whether 10' above the reference tree is an appropriate height or perhaps the impacts are just as negligible at 20' or 30'. In fact, that is what they discovered when they visited the site. They flew the balloon at 10' above being the standard height. They flew it 10' higher and walked around to find there was no impact with the visibility negligible. Even at 30' it was the same. Because this is a special use permit it takes advantage of the flexibility that is inherent in the ordinance and allows them to proceed with that flexibility and that option. There are minimal impacts on the visibility with no impact on the Entrance Corridor or anything else that the ordinance is designed to guard against.

- For those reasons they feel this is appropriate given the flexibility inherent in the special use permit application process because it is a Tier III application. They thank the Commission for their consideration.

Mr. Morris invited public comment. There being no public comment, the public hearing was closed and the matter before the Planning Commission. He noted that there were two actions for the Commission to take.

Motion for Recommendation on Modifications:

Mr. Franco moved and Mr. Loach seconded to recommend approval of the modification of Section 5.1.40(d)(6) of the Zoning Ordinance for SP-2011-00026 Flatwoods Land Trust AT&T-CV429-Tier III for the reasons outlined in the staff report.

Mr. Morris invited further discussion. He would have to go back on record and say that he did not recommend approval of going beyond the 10' pole.

The motion passed by a vote of 5:1. (Morris nay)

Mr. Morris said the request would be forwarded to the Board of Supervisors with a recommendation for approval at a time to be determined.

Motion for Recommendation on Special Use Permit:

Motion: Mr. Franco moved and Mr. Loach seconded to recommend approval of SP-2011-00026 Flatwoods Land Trust AT&T-CV429-Tier III with the conditions outlined in the staff report.

1. Development and use shall be in general accord with the conceptual plan titled "CV429" prepared by O. Warren Williams, Jr., and dated 10-10-11 (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 elements within the development essential to the design of the development, as shown on the Conceptual Plan:

a) Height
b) Mounting type
c) Antenna type
d) Number of antennae
e) Distance above reference tree
f) Color
g) Location of ground equipment

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

2. Entrance design and location must be approved by the Virginia Department of Transportation before construction of the access road for this use may commence.

The motion passed by a vote of 6:0.

Mr. Morris noted that SP-2011-00026 Flatwoods Land Trust AT&T-CV429-Tier III and modifications will go to the Board of Supervisors on a date to be determined with a recommendation for approval.

ZMA-2011-00007/Albemarle Place Proffer Amendment

PROPOSAL: Request to amend proffers on property zoned NMD which allows residential (3 – 34 units/acre) mixed with commercial, service and industrial uses. No new dwellings or change in residential density proposed.
ENTRANCE CORRIDOR: Yes
PROFFERS: Yes

COMPREHENSIVE PLAN: Designated Urban Mixed Use (in Destination Center) – retail, residential, commercial, employment, office, institutional, and open space; Urban Mixed Use (in areas around Centers) – commercial and retail uses that are not accommodated in Centers; and Commercial Mixed Use – commercial, retail, employment uses, with supporting residential, office, or institutional uses.
LOCATION: Northwest corner Hydraulic Road (Rt. 743) and Seminole Trail (US 29) in Neighborhood 1.
TAX MAP/PARCEL: 061W0-03-00-019A0, 061W0-03-00-019B0, 061W0-03-00-02300, 061W0-03-00-02400, 061W0-03-00-02500
MAGISTERIAL DISTRICT: Jack Jouett (Claudette Grant)

Ms. Grant presented a Power-Point presentation and summarized the staff report.

The purpose of the hearing is to amend proffers for property zoned Neighborhood Model (NMD) zoning district. No new dwellings or change in residential density is proposed.

The phasing plan shows District Avenue, which use to be called Albemarle Place Boulevard. District Avenue is the main subject for the proffer change. The applicant proposes to change two proffers.

1. Proffer 1a, which relates to phase one of the development, would be amended to allow construction of the first phase of District Avenue to be complete when it is constructed in conformance with the plans approved by Albemarle County or by VDOT.
2. Proffer 1b, which relates to phase two of the development, would be amended to allow the construction of the second phase of District Avenue to be complete when it is constructed in conformance with the plans approved by Albemarle County or by VDOT and in any event the County Engineer has approved it for vehicular travel.

In general, revisions have also been made to the proffers to update the rezoning project numbers and also revise for clarification the street names and the project name. The applicant would like the flexibility for District Avenue to be a private or public road. The applicant wishes to provide the following design elements to District Avenue.

- They would like street trees to be next to the road;
- Include additional utilities in the roadway; and
- Have a four way stop at a particular intersection.

Currently the design elements the applicant would like are not supported by VDOT, however, are allowed with a private road. Furthermore, the design elements that the applicant is seeking are elements that are consistent with the Neighborhood Model District. It is important to mention that the Places29 Master Plan shows District Avenue as part of a roadway network serving this area and potentially extending to Greenbrier Drive and further north. If District Avenue provides the roadway network recommended in the Places29 Master Plan it would be important for this road to be public for ownership of a public facility and maintenance reasons. For this reason the County would like the provision for a reservation of the road right-of-way for future dedication to the County. This has not been provided at this time.

Favors favorable -

- The rezoning request proposes District Avenue to be a road design that would be consistent with the Comprehensive Plan and the Neighborhood Model District.
- This rezoning request will not change the site layout or intent of the original rezoning.

Unfavorable factors -

- The County would prefer a public road to better assure long-term maintenance and better accommodate potential road interconnections and extensions north of Greenbrier Road.
- There are other outstanding technical items relating to the proffers that should be addressed prior to a public hearing with the Board of Supervisors.

Staff's recommendation- Provided the applicant agrees and can address the outstanding proffer issues and provides reservation for future dedication of District Avenue right-of-way, staff recommends approval of ZMA-2011-00007 inclusive of revised proffers.

Mr. Morris invited questions for staff.

Mr. Loach said what they were talking about seems very reasonable regarding putting the street trees and utilities where they want. However, they are also saying VDOT does not approve of this. Therefore, it is going to be a private road. That is great. However, staff is saying later since this is part of a road network that VDOT will be involved. He questioned what is going to be the outcome if VDOT gets involved. He questioned if the private road can then become public with the modifications that were made that VDOT does not like.

Ms. Monteith asked how a private road would convert into a public road when the reason why it could not be a public road to start with is because it did not align with their standards.

Mr. Cilimberg replied that those are the standards of today. What they are really talking about is leaving open the opportunity if there are future extensions from this road that are part of the public road way network so that it can be part of the public system. Very honestly VDOT standards may change. They have not stopped their fight with VDOT over the possibility of having roads such as this road, which is very consistent with the Neighborhood Model, become part of the public road system. This is all about VDOT requirements for clear zones, which essentially favor the automobile over pedestrians. That is not a matter that he would say has had its final argument. What Ms. Grant has recommended here is that this can be and probably needs to be a private road for the time being, but to have the right-of-way available for public dedication when and if the county is able to convince VDOT that it should be public, or that additions or extensions to this road occur that are part of the public system that VDOT will maintain. That also is with the understanding that they don't know the future of VDOT actually maintaining roads such as this in counties in Virginia. There is the possibility that sometime down the road they may be responsible for these roads as a county and they would want it in the public system. They would then work by our own standards and not VDOT's.

Ms. Monteith asked how that would address the extension and interconnection with Greenbrier Road, which is one of the unfavorable items.

Mr. Cilimberg replied that the reservation of the right-of-way then allows us to make sure that extension takes place and they get the public right-of-way in this road section for that to be part of the overall public street.

Mr. Randolph asked the question of precedent and consistency. He asked staff to clarify whether normally utilities are included to the side of the road or within the roadway in the Neighborhood Model as established in Crozet and as projected for the Village of Rivanna.

Mr. Cilimberg replied ideally they want to accommodate the utilities in the best way they can to assure they also get the road design in proper context for the road. That may mean utilities in the road; it may be utilities outside of the road, but in the right-of-way; or it could be utilities behind buildings. It can vary. They run into issues with VDOT when the utilities start getting into the street.

Mr. Loach asked if there is no worst case scenario where VDOT would refuse to connect to the private road.

Mr. Cilimberg replied to begin with they don't have any anticipation of this road being finished through as a public road right now because they don't have VDOT funds or any new development. When and if that happens, then they have a new opportunity to make sure if that can be a public road that this will be part of that road.

Mr. Smith asked if the road was going to be built to state standards other than the utilities.

Mr. Cilimberg replied no, it was not just the utilities. There is a clear zone issue where they would have to back the sidewalks, the buildings, and the trees way out of the road. That does not create proper context for urban design.

Mr. Morris said he had two questions. On page 7, it says the county is agreeing to the following changes in the design of the road. In 3 and 5, it says elimination of concrete gutter north of Houston Street and removal of some of the drains under the pavement. He asked if this is going against the curb and gutter or storm water removal.

Mr. Randolph noted that it was also repeated on pages 2 and 3

Ms. Grant asked if his question was whether these are going against the Neighborhood Model.

Mr. Morris replied yes. However, they have been stressing curb and gutter and good solid drainage in the Neighborhood Model and so on. He questioned why they are now recommending this.

Mr. Franco suggested letting the applicant chime in.

Ms. Grant pointed out with regards to the street trees and sidewalks this does speak to the applicant's wishes to make the streets narrower and to make it more pedestrian friendly. She thought they wanted to have it closer. However, by VDOT standards they would want those items to be 10' away.

Mr. Morris asked if the concrete gutters would impede upon this 10'.

Mr. Cilimberg suggested letting the applicant speak to this more particularly. However, this is not removing curb. It is just saying a concrete gutter would be eliminated. However, that would be eliminated only with the understanding that the necessary drainage is occurring. A curb and gutter in an urban setting are not needed in all cases for the drainage to be taken care of. Therefore, they have a possibility with proper engineering of having a curb without a gutter. He thought that is what this is speaking to. However, the applicant should probably speak to that.

Mr. Morris noted the reason he addressed it to staff is the county is agreeing.

Mr. Randolph said what they are looking at is a road that is mentioned as having the potential of being an arterial alternative to Route 29 at some future point in the Places29 design scheme. This road could be part of that. Before the Commission is a discussion as to whether in essence they are going to narrow and constrict the road for traffic calming to be consistent with the Neighborhood Model District or other rationale. If approved are they jeopardizing in the future the potential of coming back and really utilizing this road as a alternative in Places29 as an arterial north/south road to reduce congestion on 29. He did not see anything in here that links this application to its potential impact to a Places29 destination of this road in the future as an arterial road north/south.

Mr. Cilimberg questioned if they said this road was going to be an arterial since he did not think Places29 identified this as an arterial route. It was identified as a parallel street among many in which they were trying to disperse the traffic. He did not think they were talking about constricting what would have otherwise been a bigger and wider road. It is actually very consistent with the road they would expect to have in that location in an urban setting. One of the hurdles they have to get over with VDOT is they will sometimes consider these streets functionally as roads maybe of a higher function than what they are actually needing to serve. That is why they run into some of these design issues. He was actually involved in a state committee, Virginia Department of Rails and Public Transportation, which is looking to revamp how urban area streets are being addressed in terms of their context. It actually involves VDOT, which is why he says there could be some big changes coming in the future.

Mr. Franco said affirming the Neighborhood Model is the issue because this is the form of development or the street pattern they are looking for. They are trying to provide the applicant the flexibility to execute what they want. They are giving up VDOT acceptance of that at this point in time, but reserving that potential in the future. They are saying the form they are trying to create is more important than the VDOT acceptance right now.

Ms. Monteith said her question still stands that if they get right-of-way set aside she did not see the guarantee that this would at some point move from a private to a public street.

Mr. Cilimberg agreed there is no guarantee. They may not be able to do that based on VDOT requirements. However, they would be keeping that option or opportunity and in the mean time get context sensitive design.

Mr. Franco noted the key point is that form is more important and to push the utilities outside, widen the roads and push the trees outside they don't have the road they are trying to create that they have asked for.

Ms. Monteith said if it is private they don't ultimately have control.

Mr. Franco said they were back to the question of is the form more important than the ownership. In this case, they are saying yes if they affirm this.

Mr. Cilimberg noted without the agreement of the county they would not be able to restrict the utilization of these roads. This is not the only private road in Stonefield. There are still roads for public use. They are just privately maintained. They would have to come back and ask for gates and what have you to actually restrict. He did not think that was something they want for their businesses and residents.

Mr. Morris opened the public hearing for applicant and public comment. He invited the applicant to address the Planning Commission.

Valerie Long, attorney with Williams Mullins, represented the applicant. Also present were Tom Gallagher, with Edens and Avant the project developer. She presented a Power-Point presentation, which included some history of the prior amendments for the benefit of the new Commissioner.

Project Overview:

- Rezoned in 2003 to Neighborhood Model District
  - Application Plan
  - Proffers
  - Code of Development
- Proffer Amendment approved August, 2010
- Proffer Amendment approved September, 2011

They have amended the proffers twice just in the last few years for some technicalities. This is the last time they hope to come before the Commission with proffer amendments. Ms. Grant showed the application plan earlier as was approved in 2003. This plan is showing what is now being called District Boulevard, which was originally Albemarle Place Boulevard in the original proffers and the original application plan. The first portion of the project was underway. They hope to have it finished before the end of the year. The yellow portion of the road will be built first. The second portion to be built in phase 2 will be temporary pursuant to the proffers approved last fall. Ultimately, District Avenue will connect with Route 29. She noted that some of the road names have been changed to comply with the regulations.

She noted an example of the types of design elements that they are requesting to implement in the project. The VDOT guidelines include a requirement for the 10' clear zone, which is a fairly new requirement they all have been struggling with. As Mr. Cilimberg indicated it really is contrary to the Neighborhood Model principles of having narrow streets, parallel parking, street trees up next to the road, and things like that. It just makes it very challenging, especially in projects like this, which are very dense and compact. When they throw in 10' on either side of the road, and they can't have utilities in the clear zone or utilities under the pavement, it makes it very challenging to incorporate and implement the design elements of a project like Stonefield. She pointed out on the slide what had been approved with the clear zone. On the next page, as a frame of reference, she noted the curb and gutter with no clear zone. Therefore, the street trees are much closer, which was the difference. It may seem like a minor detail, but it is very important to implement the feel and the quality of the design that they are really working for in Albemarle Place. They are also working with physical limitations on real estate. That is the main issues.

Mr. Cilimberg did a great job of answering all of the questions that she would have answered in terms of those challenges. Mr. Franco did a great job of explaining in this case they agree form is more important than ownership. Ultimately, they would like it to be a public road. They would love it if they would maintain it. They always have the flexibility to accept the road as it is built. As Mr. Cilimberg indicated, they hope that in the future through his committee he can convince them that in certain areas, like urban areas, it is okay to have slightly different standards. If they do accept and change their standards for these areas they could come back and request acceptance. However, right now the connection to Greenbrier Drive could not be possible anyway. The former Comdial Building was probably in the way. That was what was meant when he said there was no new development being planned. If that building was proposed for demolition and all new development was contemplated there, the county would probably require that connection to be built and maybe VDOT would take another look at it. But until then this enables us to build the road to the standards that the county wants that are consistent with the Neighborhood Model in a way that keeps things flexible for the future. Mr. Gallagher will answer Mr. Morris' questions about the gutter, drain and the drainage issues. She would be happy to answer any further questions anyone may have.

Tom Gallagher, with Edens and Avant, reiterated that this is all design driven. So in terms of whether it is the ownership regarding the right-of-way or the clear zone, what they are trying to accomplish is all design driven. So it is the street trees and utilities.

- The one comment he would make in respect to one of the members is that it is water and sewer utilities. However, there are other utilities that would also benefit from being located in the area, like gas, electric and duct banks, etc.
- With respect to the notes about the curb sections, when they move away from a gutter section they are not going to a rural section or changing the drainage along the parallel route. It is really what they call a header curb. If in an urban environment you will notice when you step off the curb you actually step off onto asphalt. So there is not a gutter pan, per say, but it still drains according to all of the standards that are in place. That is one element.
- The comment with respect to drains and drainage has to do with VDOT standards. They quite often will require overkill in terms of under-drains, which are drains that actually take the water from under the curb section back towards the sidewalk. So there are certain sections where they are trying to move away from that. Again, that would be subject to the approval of the county engineer and the rest of staff.
- In terms of the design he thought Mr. Randolph asked about whether the arterial is an issue. The design as approved by VDOT right now is 25 miles per hour design and 25 miles per hour posted. They are not changing that at all. The flexibility in terms of the urban design would allow them to be able to get the street trees up and create the kind of aesthetic environment design that they want that is more pedestrian friendly. Then it also gives the flexibility to also bring buildings in ultimately closer. They are not changing these, per say, because they are already further along in terms of the final site plan. But, it allows them to create the street wall and the street presence for buildings along the street, which is consistent with the Neighborhood Model District.

Mr. Cilimberg noted on the cross section on the screen it is identified as "urban collector". That may have been the classification that was being used in VDOT's review of this.

Mr. Gallagher agreed that was correct. They are agreeable to reserving the road as designed and constructed for future dedication. They have no problem with that. There has never been any question that they have to own it or not own it. From a maintenance standpoint they are happy for VDOT or the county whomever to take it over in the future. They are agreeable to reserving District Avenue for a future dedication. Consistent with that they also have to reserve the connection points on the periphery specifically to the north for a future interconnection to Greenbrier should Comdial ever redevelop.

Mr. Morris invited questions.

Ms. Monteith asked since they don't have drawings that show this, what is happening in this space that would have previously been part of the roadway that is presumably back of the sidewalk now.

Mr. Gallagher replied that on some of the sections when they moved the trees in so the sidewalks will basically move in a little bit closer and then on some sections it will be more green space on the perimeter. In some sections the buildings that are not yet at final site plan or building they may be able to move those up a little bit closer and create more of that street wall. There is a benefit.

Ms. Monteith asked how they keep the right-of-way if they move the buildings in.

Mr. Gallagher noted this has been the challenge for them along District Avenue. The right-of-way they require is based on the clear zone. They wanted 10' clear as their preference with the 25 miles per hour zone speed limit. If they design it according to what they proposed, then the right-of-way will be at the edge of curb. The right-of-way is basically going to be determined by road is constructed. Basically they would have road, which will have a narrower right-of-way. However, it will still include all of the road improvements themselves.

Mr. Cilimberg pointed out that typically VDOT's right-of-way in urban sections will be to a point behind the sidewalk. So the width is going to be driven as Mr. Gallagher mentioned by the width of the road, planting strip, and sidewalk and then the right-of-way falls on the outside of the sidewalk.

Mr. Randolph said with a private road how are they proposing to set aside funds to cover the repair and maintenance of this private road.

Mr. Gallagher replied that there are a lot of other roads within the project that will have public access easements on them. Everything actually is controlled under a master declaration, which includes all of the various owners. They will be selling some properties, which are subject to the master declaration. There is a community association that is responsible for the actual maintenance of the road, which is a requirement of the county that declaration be put in place to ensure exactly what he was voicing a concern about. Then it varies whether it is on the commercial tenants or for the hotel. They all make annual contributions. There is a master association responsible for the maintenance and they collect the funds from the various operators of the property owners within the district.

Mr. Smith noted the plan shows two 12' lanes. If they eliminate the gutter pans are they going to have a 2' of pavement.

Mr. Cilimberg noted the gutter pan was being eliminated on one of the side streets and not on this street.

Mr. Gallagher said the on the proposed cross section reviewed from Hydraulic Road they would lose some width from the gutter pan but it was not inconsistent with the road designs. The county standards in terms of road design their default is the VDOT standards. If they went from 12' to 11' that would still be consistent with previous county design standards.

Mr. Smith asked who will do the inspections, and Mr. Cilimberg replied it would be the inspectors from the county engineer office.

Mr. Morris invited public comment. There being no public comment, the public hearing was closed and the matter before the Planning Commission.

Mr. Franco asked if the applicant was comfortable with the proffer changes that are being proposed and was comfortable working that out between now and the Board meeting.

Mr. Gallagher agreed.

Motion: Mr. Franco moved and Mr. Loach seconded to recommend approval of ZMA-2011-00007 Albemarle Place Proffer Amendment subject to the proffers dated December 5, 2011 as recommended by staff.

Mr. Cilimberg suggested adding as recommended by staff with the amendments as necessary as recommended by staff.

Mr. Franco agreed to amend the motion as suggested.

Mr. Loach agreed to the amended motion.

The motion passed by a vote of 6:0.

Mr. Morris said that ZMA-2011-00007 Albemarle Place Proffer Amendment would be forwarded to the Board on a date to be determined with the following recommendation:

The Planning Commission recommends approval of ZMA-2011-00007 Albemarle Place Proffer Amendment subject to the proffers dated December 5, 2011 as recommended by staff with the amendments as necessary as recommended by staff.

- If the applicant agrees and can address the outstanding proffer issues and provides reservation for future dedication of District Avenue right-of-way, staff recommends approval of ZMA-2011-00007 inclusive of revised proffers.

- There are other outstanding technical items relating to the proffers that should be addressed prior to a public hearing with the Board of Supervisors.

Resolution of Intent for special exemptions:

Mr. Morris asked Mr. Kamptner to provide a background on the proposed resolution of intent.

Mr. Kamptner pointed out the resolution of intent is the first step in addressing the St. Clair decision. It is what they think will likely be a short term fix. What it does is create or add a new section to the zoning ordinance by which the Board of Supervisors would have the authority to act on all what are now labeled as waivers, modifications, variations, and substitutions. It would also have the Board of Supervisors act on all matters such as Tier II wireless applications that are under the current regulations delegated to the Planning Commission. This has been scheduled because of time and the need to keep applications moving along to be considered at the Planning Commission's joint meeting on February 8 for public hearing. Staff recommends that this resolution of intent be adopted so that they can proceed with the zoning text amendment. When the Commission does have an opportunity to read his memorandum in the last part it outlines the other solutions they will be pursuing both at the state level and throughout the zoning ordinance to get them back on track.

Mr. Morris invited questions for Mr. Kamptner.

Motion: Mr. Franco moved and Mr. Loach seconded for approval of the resolution of intent as drafted by staff.

The motion passed by a vote of 6:0.

Mr. Morris noted the Resolution of Intent for Special Exceptions, was adopted by a vote of 6:0, as drafted by staff, as follows. The Joint Public Hearing of the Planning Commission and Board of Supervisors is scheduled for February 8, 2012.

SPECIAL EXCEPTIONS
ADOPTED RESOLUTION OF INTENT

WHEREAS, the Zoning Ordinance currently authorizes the Albemarle County Planning Commission and certain administrative officers to consider and act on requests for waivers, modifications, variations and substitutions; and

WHEREAS, the Zoning Ordinance currently authorizes the Planning Commission to make certain decisions under the Zoning Ordinance; and

WHEREAS, it is desired to amend the Zoning Ordinance to provide that all of the actions described hereinabove be made by the Albemarle County Board of Supervisors as special exceptions, which are expressly enabled under Virginia Code § 15.2-2286(A)(3).

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Planning Commission hereby adopts a resolution of intent to amend the Zoning Ordinance to authorize the Albemarle County Board of Supervisors to consider and act on special exceptions to achieve the purposes described herein; and

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the zoning text amendment proposed pursuant to this resolution of intent, and return its recommendations to the Board of Supervisors at the earliest possible date.

* * * * *

Old Business

Mr. Morris invited old business. There being none, the meeting moved to the next item.

New Business

Mr. Morris invited new business.

- Discussion held about why the UVA Representative is not a voting member of PC. Mr. Morris suggested that it be looked at again.
- Mr. Franco noted that it was not just VDOT standards, but also the utility companies' desire not to be in the right of way because of future cost obligations for repairs that make the design of the Neighborhood Model challenging.

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

Adjournment:

With no further items, the meeting adjourned at 7:33 p.m. to the Tuesday, January 31, 2012 Planning Commission meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 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)