Albemarle County Planning Commission
March 6, 2012

The Albemarle County Planning Commission held a regular meeting on Tuesday, March 6, 2012, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Bruce Dotson, Ed Smith, Thomas Loach, Richard Randolph, Don Franco, and Calvin Morris, Chairman. Absent was Russell (Mac) Lafferty, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Other officials present were David Benish, Chief of Planning; Wayne Cilimberg, Director of Planning and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

Other Matters Not Listed on the Agenda from the Public:

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

Committee Reports:

Mr. Morris asked for committee reports from the Commissioners.

- Mr. Morris reported that the Pantops Community Advisory Council was beginning work on the trail system that is in and around the Pantops area.
- Mr. Smith reported that the University of Virginia Master Planning Council met last Thursday and there was a presentation on the University's new bike share program. Ms. Monteith provided a brief overview of the program.

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

Public Hearing Items:

ZMA-2010-00011, Estes Park (Sign # 88 & 89)
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 and rezone 1.8910 on Tax Map 046B40000005A0 from R-1 Residential zoning district to R-1 Residential zoning district with proffers. Proposed number of units is 68 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, 046B4000000500 and TMP 046B40000005A0
MAGISTERIAL DISTRICT: Rivanna
(David Benish)
DEFERRED FROM THE JANUARY 24, 2012 PLANNING COMMISSION MEETING

Mr. Benish presented a Power-Point presentation and summarized the staff report. This proposal is to construct a development consisting of 68 single-family attached units, in a pedestrian-friendly layout, with a street network, with access to Worth Crossing, and with 25% open space that includes the stream on the property.

The Planning Commission initially heard this request on August 23, 2011. The applicant at that time requested deferral to address issues that were identified by the Commission, which he would briefly go over. There was also an issue with an adjacent property owner that provided at the time a proposed second point of access to Worth Crossing. That applicant withdrew his willingness to participate in providing for that access. Over the intervening period from August to now the applicant had to work towards that issue as well, which contributed to some of the delays.

The Planning Commission issues that were identified at the August 23, 2012 meeting were:

1. Inadequate commitment to affordable housing. There was general consensus from the Commission that the cash proffer amount for affordable housing should be based on the total number of dwelling units consistent with the County's cash proffer policy. It was based on the additional units above the by right number.
2. The applicant should insure that there is adequate protection of downstream properties, including Arbor Lake, from erosion and sedimentation issues during development.
3. Provide for a tot lot or another recreational amenity in the 25% open space.
4. Improve temporary and long-term protection of the historic cemetery on-site during construction and after completion of the project.
5. One of the main issues was to provide adequate road widths to accommodate parking on both sides of all roads. The initial road plan only allowed for parking on one side.
6. The biggest issue was that access was to be provided to Moubry Lane with a second access to Worth Crossing. The applicant should evaluate options for another point of vehicular access instead of the Moubry Lane interconnection. It was the general consensus of the Commission not to make a vehicular connection to Moubry Lane. The applicant was asked to pursue an alternative connection and to seek a second means of access.

The applicant has responded to the Commission's concerns through changes to both the proposed application plan and proffers. The revised plan essentially addresses all of the major conditions at least in concept. Major changes to the application plan since the version reviewed in August are:

- The unit type has been changed from single-family detached homes to single-family attached homes.
- A pedestrian, bicycle and emergency access only connection has been provided to Moubry Lane.
- The configuration for the roads have changed somewhat. However, the areas of development are essentially the same. The sole access to the site is now through a proposed public road to Worth Crossing through adjacent parcels on the north side of the site. No second means of access to the site is feasible at this time (except from Moubry Lane). Three road stub-outs to adjacent properties have been provided for on the application plan as possible future interconnections.

Most of the issues have been addressed. In terms of the status of the project the proposed plan is generally consistent with our Comprehensive Plan, except for the interconnectivity with existing public streets, Moubry Lane. However, this proposal is consistent with the direction that the Planning Commission had provided and does not provide for that connection. There is no second means of access to a public road because there is not another option for that given this development location. However, the applicant has provided for three other stub-outs to adjacent properties, which would allow for future connections but for the development over the long term.

The applicant in the revised proffers is requesting flexibility to address the affordable housing policy to provide either affordable units or cash in lieu of units or some combination. The prior request had been to provide simple cash in lieu. Staff believes this is acceptable. It has been done in other development proposals in concept to allow the option to do either/or or some combination.

Outstanding issues:

- Public road access located on two separate parcels. Property owners not party to this application have not yet provided a written agreement to provide access. The development as proposed will not have access to a public road and will not be developable without this agreement. However, staff has had letters from both property owners and they are in negotiations with the applicant. They are working towards that and they have expressed a willingness to allow this roadway. However, they have not put this in writing as yet.

They are positively working towards that agreement, but staff cannot say it is in place at this time.

- Proposed cash proffer amount for Capital Improvements are not based on the total market units that might be built in this development proposal as per Cash Proffer Policy (Proffer 1). Now that the applicant is requesting flexibility to provide for in kind constructed affordable units or cash in lieu the way that the proffers are currently structured creates an issue because the total cash proffer amount is based on ten affordable housing units being provided. There is a credit that is typically provided for affordable units that reduces the cash proffer amount to 58. However, with the flexibility that they are requesting there may actually be more market units built than 58. Staff has suggested that the cash proffer amount should be based on the total number of market rate units that are ultimately built. Staff believes that the number of market units can be tracked and corrections to the affordable housing proffer can be made. He believed the applicant is basically offering a cash proffer amount based on 58 units.
- Modifications are needed to the Erosion/Sediment Control Proffer to reflect the applicant's proposal/memo (Proffer 4). The applicant has provided a memo outlining the enhanced measures that they would provide to address erosion and sedimentation in an enhanced way with the development of this site. The County Engineer has reviewed that memo and is generally agreeable to those methods. However, the proffer at this point in time does not specifically reference the memo and it does not reference who makes the decision on which improvements need to be made. There is some clean up to that proffer that needs to be worked out.
- There are also other technical corrections to the form of the proffer document that need to be addressed.

Those are the primary issues with this development proposal. Otherwise, staff feels that it is consistent with the Comprehensive Plan and is generally a good proposal. Staff cannot recommend approval at this time due to the outstanding issues. However, if the Commission is comfortable and decides to recommend approval to the Board of Supervisors staff would recommend that approval be conditioned on addressing these issues prior to Board approval as identified.

Mr. Morris invited questions.

Ms. Monteith said as she understands phasing one and two in this project is not typically how they handle phasing. In other words, phase one is 2012 and phase two is 2014. It has more to do with the way that the site is going to get built out. She noticed there is only a storm water facility in the phase two areas. She had two questions. One, what is the time lag between phase one and two. There is an existing wetland and stream to remain that is in phase one. She just wondered what the buffering was on that.

Mr. Benish suggested the questions be left to the applicant to respond.

Mr. Randolph requested since several Commissioners were not here on August 23 an explanation of the thinking of the Commission at that point as to why Moubry Lane would not be a viable second means of egress and ingress to this proposed development.

Mr. Morris offered to answer the question since both lots are in his area. If you go out to Moubry Lane you can see that it was planned that there would be a connection if another unit of Estes Park was ever built. However, due to the way that community has gelled that cul-de-sac has become the community area where people get together to talk, children learn how to ride bikes, etc. It has really turned into a community meeting place. As he recalled the residents requested very respectfully that they not take that away from them. Having gone out to the site and seen the way that neighborhood gels out there he was very much in favor of leaving it the way it was. However, he favored putting in a bicycle/pedestrian emergency area to connect the two. The county has allowed that in other areas such as Cascadia.

Mr. Dotson asked if the concern was with creating through traffic in either direction, or that street was a community adopted space.

Mr. Morris said that was an excellent point because that was a major factor also. If that was a secondary way of getting out it would lead right to Profit Road. It would be very advantageous to a lot of people and would probably greatly increase the traffic on that particular road.

Mr. Franco pointed out he was torn because the Comp Plan calls for interconnectivity. However, the traffic and the cul-de-sac were the two big issues. At the meeting the public spoke strongly about the interconnection. With the

Chair's lead he basically followed along. Since this is one of the last pieces up there that he could see continuing to develop it with cul-de-sacs and not having that interconnection. However, he was still torn because it was something in the Comp Plan.

Mr. Morris pointed out that stretch of road from the cul-de-sac to Profit Road is the greatest straight away that they have coming out of Estes Park. They could just see the 25 mile an hour speed limit going by the wayside.

Mr. Randolph asked if recreation space is the community concern would it be possible where lots 28 and 27 are currently located which is directly southwest of Moubry Lane, to designate those areas as a recreational space. If Moubry Lane is taking on a social recreational function he was thinking about the objective of trying to ensure that there is twin access into this new phase of Estes Park. He suggested that perhaps lots 28 and 27 could be designated as a recreational area. He was struck by the amount of development in the space and the lack of recreational space. He would love to hear from members of the community how they would feel about that with 27 and 28 or perhaps lots 29 and 28. There should be some way that an exit to the east side of Estes Park could be made into more of a recreational area to meet the objective of the residents and thereby ensure that the traffic would be coming through. If both communities are using the space it is not an either/or proposition and it becomes a collective proposition where the people in Estes Park and on Moubry Lane have a stake in ensuring that the speed limits are observed. Anyone speeding could be kindly informed that they need to slow down in the future by a member of the homeowner association. He would like to see some deliberation on that. He was concerned about only having one way into this community. Given the level of development and the number of people in there he was struck by the fact that there is only one road.

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

Scott Collins, representative for the applicant, Riverbend Management, on this project, said Mr. Benish did a great job of summarizing where they are at this point and where they have been coming from the August meeting to now. He would touch on a couple of items, as follows. He had no formal presentation because he thought it has been well done.

- Regarding the access agreement by Worth Crossing and the property owners, they are wrapping up negotiations with both of those parcel owners that will be secured before the Board of Supervisors meeting. It will probably be secured by the end of this week. That is all going very well. They understand that mechanism needs to be in place in order for the rezoning to go forth. That will all be taken care of.
- The same goes as far as the erosion and sediment control proffer that they have been working on with Forest Lakes to ensure protection of Arbor Lake. That has all been worked out with the support of Forest Lakes to date and with the county. It is just a matter of making the adjustments to the actual proffer language, which they could not do before this meeting. However, that will all be finalized between now and the Board of Supervisors meeting to incorporate the couple of sentences that will link the memo to the proffer. They are all in agreement on that at this time. That should be taken care of as well.
- Regarding the affordability proffer, the way everything is written there is some ambiguity to how that proffer is actually implemented. That is what they have been faced with as early as Friday of last week. Up until that point they were with the understanding that this project achieved the 15 percent affordability rate by them proffering ten affordable units. That is achieved either by building those units and selling them at the affordable rate or making a contribution into the Affordability Housing fund so they can help with the down payments or help with future affordable housing needs. With that contribution that should count against what they were providing. Therefore, in the way they look at it they don't really consider that point as a market rate based on that contribution to achieve affordable housing. The way everything is written it is a little bit unclear as to how that is interpreted. He knew the Commission was going to be talking a little more this month about the affordable housing policy. He was sure that would come up as well.
- In addition, he wanted to touch base on the cash proffers and the ability to get credit on the cash proffers when they are not increasing the density in a rezoning much more than they could already do on the existing zoning. This property is R-1 zoning. They could actually do 18 lots by right. They are increasing that to 68 units. The Comp Plan for this area calls for the density to be between 6 units an acres up to 34 units an acre. They are developing at a density of 5.3 units an acre, which is far less than what they could actually achieve. If they tie all that in together they can see that is somewhat fair not to have to pay the proffers on these additional 10 units. In addition, the fact that on the 18 units they can achieve by right, they have been paying taxes for county services for almost 25 to 30 years because it has been zoned land

for that long. He hoped the Commission could take all of that into account in their recommendation tonight as to whether the cash proffer for market rate should be based on 58 units and not the 68 units.

- Regarding the comments about the phasing, the storm management pond is shown in phase two. However, for phase one development there will be a sediment basin and storm management pond that will function. Where they currently show lots 18, 19 and 20 the erosion and sediment control plan will show a basin that will be functional and operational in the area where all of phase one will go in drainage to that facility. It will be piped over from that facility over to the new storm water management facility once they start phase two. This will be over protected. The basin will be oversized 50 percent for the wet volume and 50 percent for dry volume to ensure adequate erosion controls. There will be different compartments in that basin as well to help with the sedimentation of soils in the water and help address their additional erosion control measures. In phase one, they will have a basin protecting the downstream lake and streams. As far as the stream, they will keep the stream buffer around the existing stream through the property. They will have trees on the back sides of those lots to help protect that stream corridor as well.
- Regarding the access question over to Moubry Lane between their developments, they worked on that many months since the last meeting in August. It seems based on the Planning Commission comment that connection is better suited as pedestrian access and emergency connection. There are a couple of bollards that can be lifted. If the access is blocked up on Worth Crossing, there is the access there. There is also additional access to the property from the north coming down Profit Road that goes right between the existing church property and the existing commercial property. That access will still remain to that commercial property. There is a third access point that could be used for emergency access if Worth Crossing is blocked.
- As far as the recreational aspect of the cul-de-sac on Moubry Lane to Estes, they took the cul-de-sac and said that was the recreational space for Forest Ridge. Then they planned their recreational space at the intersection where they showed the tot lot and recreational facility. They connected them with the pedestrian pathway, which ties the two recreational spaces together. That creates continuity between the two neighborhoods and the recreational facility. They hope that these two neighborhoods will overlap with their community programming and amenities and have activities together that incorporate both developments in the end. That was the reasoning for adjusting the design of the development and having some recreational space right there at that intersection with the access connection between the two recreational spaces.

Mr. Morris invited questions.

Ms. Monteith asked as a follow up what is the time frame between phase one and phase two. The applicant said they are going to be retaining the buffers around the existing wetland, but they don't know what those are. She asked what the buffers are.

Mr. Collins replied that it was the existing trees right now.

Ms. Monteith noted that it was not a typical stream buffer. It is not 50' on either side of the midsection of the stream.

Mr. Collins replied no, it was not.

Mr. Monteith asked if his definition of buffer is trees that happen to exist.

Mr. Collins replied that is correct.

Ms. Monteith asked what the time frame is between the two phases.

Mr. Collins replied right now the timing was going to be market driven. First they are going to develop phase one. Another reason for developing the project in two phases is again addressing concerns of erosion and sediment control. Obviously, this is not a 200 acre development that would be undisturbed for two or three years at a time. It is good to phase projects in order to complete one phase before going on to the next. If they did this all at one time it would be 12 acres of disturbed area open at one time. They have proffered in their erosion and sediment control additional implementation of sediment control measures, which is to develop in phases down to 6 to 8 acres at one

time to help cut down on the amount of disturbed area. The timing will probably be in a manner of a couple years or 18 months.

Ms. Monteith pointed out she saw that in the storm water proffers. She asked for a clearer definition of what is in phase one and two. She asked if he could give unit numbers.

Mr. Collins replied that everything west of the creek is basically phase one and everything to the east is phase two. The creek splits the two phases. Phase one is basically lots 1 through 13, 61-68, and 56-60. Lots 14, 15, 16, 17, 18, 19 and 20 would be in phase two because that would be the temporary storm water management facility location for phase one.

Mr. Randolph asked what the estimated value or range would be for these units.

Mr. Collins referred the question to the developer, Alan Taylor.

Alan Taylor, with Riverbend Management, said they were the developer of the property and would develop the lots and sell the lots to a home builder. He can't speak to the terms of what the overall value of the home is going to be. He would anticipate in the $300,000 range, but probably starting in the high $200,000 range.

Mr. Randolph asked if it would be condominiums or town homes.

Mr. Taylor replied that they would be fee simple attached units or technically a duplex. Regarding the market rate versus affordable rate proffers, he questioned if the policy has been changed. In the developments he has been involved with historically the way they have done it there was 85 percent of the units at market rate and 15 percent of the units at the affordable rate. Therefore, they would pay market rate proffer on the market rate units and then an affordability proffer on the affordable units. As Mr. Collins was saying, what has happened in the last week or so is that there was a market rate proffer on all the units and then an affordability proffer on 15 percent of the units. Essentially, there would be cash proffers on 115 percent of the units. He was interested in knowing if there was a new policy in affordable housing.

Mr. Morris noted the Commission would bring that back for discussion and ask the staff.

Mr. Taylor said to further expand on the access issue, he noted it was an issue they had been dealing with for months and hope to have a signed agreement this week. The final draft was circulated today.

Mr. Morris said one of the items brought to the Commission in the August meeting was an agreement with the Forest Lakes residents.

Mr. Taylor replied that they had been meeting with the Forest Lakes residents, which was where the erosion and sediment memo circulated by Glenn Brooks had come from. Mr. Collins met with Mr. Brooks a number of times to implement above and beyond measures to make sure that the siltation events that have happened to Forest Lakes historically don't happen with this development.

There being no further questions, Mr. Morris invited public comment.

Peter Walpole, resident of Moubry Lane for 11 years, said he was here at the August meeting and wanted to thank the Commission. He brought his son, Max, who spoke at that meeting. They all understood about the pre-existing idea of there being an access road through Moubry Lane. Moubry Lane has evolved into a very special place. The cul-de-sac has very little traffic and the residents use that area as a recreational and meeting place. Therefore, the residents would like to preserve that area. They were very positive to the possibility of the melding of the communities over time. They were very open to the emergency access for the vehicles. The idea of losing the cul-de-sac and having cars running up and down the road makes him very sad. That is why they came to the August meeting and why they were here tonight to try to protect what is a very special place for the community. He renewed their plea from August to save Moubry Lane the way it is.

Ms. Mappi, on the Board of Directors for the Forest Ridge Homeowner Association, agreed with Mr. Walpole about how they all feel about Moubry Lane. When developed it really was not developed properly for connectivity. They

have no sidewalks, which they have been back and forth on. The problem is the children walk to the school bus at Profit and Moubry and there are no sidewalks. People try to cut through and don't pay attention to the 25 mile per hour speed limit. Therefore, she worries about the safety of the children if they change Moubry Lane since it would destroy the area. She asked that they keep Moubry Lane as it is.

Stenala Preston, resident of Moubry Lane, agreed with the previous speakers and asked that Moubry Lane be left as it is. A direct connection would jeopardize the community by the danger of the cars coming through. She supported having the emergency access and merging the communities together. Having direct drive through would jeopardize lives at Moubry Lane.

Jim Frye, retired CEO for Worrall, said in August during their discussion they came up with a wonderful idea that protected the cul-de-sac. The cul-de-sac has become the center of the community. He compliments the Commission and Estes Park in coming up with a wonderful solution that saved and protected their community and the ability of America to live and the people to grow.

Neil Williamson, with the Free Enterprise Forum, said they have no position on the project. However, they are concerned with some of the questions that have come up in recent weeks from the Commission. It seems that they are looking at a plan for land use and questions of pricing and timing beyond the questions that have been proffered with regard to phase one and two. These are market decisions. They are looking at a land use plan. The cost and timing of the units beyond the affordable units are not in the Commission's purview. Those are the very few things that government does not control in the development process.

Mr. Morris closed the public comment to bring the matter before the Planning Commission for discussion.

Ms. Monteith noted in response to Mr. Williamson's comment that the question she asked was a land use question. She asked about the phasing specifically as it related to storm water. She questioned when that is not a land use issue.

Mr. Franco asked that the Commission get an answer from staff regarding the confusion about the affordable proffer and how it overlaps with the cash proffer. It has been his experience in the past that there were two separate proffers that have been applied at 85 percent and 15 percent. He asked if this is a change in the policy

Mr. Cilimberg replied that it was actually not. To be clear on the distinction, only market rate units are under the policy to be covered by the cash proffer policy application. Where that has been differentiated is when the affordable unit is not being constructed but instead cash is being given in lieu of the affordable units. The only application of the cash proffer policy is to market rate units. If they build 15 percent affordable units those would not be subject to the cash proffer policy the way the policy has worked. However, if they don't build and instead give cash then those units will be market rate units and would be subject to the cash proffer policy the way the process has worked.

Mr. Franco said he did not think it has worked that way in the past.

Mr. Cilimberg said that he believed that it has. He remembered this coming up with the Rivanna Village at Glenmore. That was discussed because there was some question of whether or not there was going to be units produced or cash in lieu of units. That has been his recollection as to how the policy has worked. However, when the units are being built as affordable they don't apply the cash proffer policy.

Mr. Franco said that his memory has been the opposite. It seems like it is a change in policy. He was a little confused on how it would work if they take that approach. One of his complaints about the affordable housing policy is the 90-day buy out since he thought they were losing opportunities. If the builder/developer builds a unit and puts it out there and they can't fill it after 90 days would they be released from the $21,000, but then be subject to the other proffer. He asked how that would work.

Mr. Cilimberg said it was based on the intent to sell the unit as an affordable unit.

Mr. Franco said their intent was to sell it so they put it up there and so it would not be subject to it.

Mr. Cilimberg said they made the unit available. As he understands the way that policy has worked it would not be subject to that.

Mr. Morris said there is an element of confusion. However, hopefully they can address it when they talk with Ron White.

Mr. Cilimberg noted that Ron White is not really in that part of the policy. He has made the choice in some proffers whether or not they get the cash or have units produced. That has been an option that has been built in to proffers previously.

Mr. Kamptner pointed out the cash proffer policy was adopted by the Board in October, 2007. It lays out what dwelling units are to be counted when determining the cash proffers that are designed to address the county wide impacts to schools, to public safety, and to parks and recreation. It provides that dwelling units qualifying as affordable housing under the county's definition of affordable housing are excluded from that totally. It does not reference cash in lieu of affordable units. At that time in 2007, the Board had approved a number of rezonings where the applicant had proffered cash in lieu of or the option of either building or the cash in lieu of. So he thinks if this particular policy for excluding built affordable units had intended to include cash in lieu the Board would have used that language in the policy. But, it did not. It refers to the units themselves.

Mr. Cilimberg noted that was the clarity he hopes to also provide. He thought Mr. Kamptner did a good job of describing it. However, that is the way they have used the cash proffer policies application since it was adopted. They have to remember that actually a relatively small number of projects have been through the process under the cash proffer policy. Many of the projects that were reviewed during the 2000's were before the cash proffer policy was put into place when there was not a specific policy as to how to deal with the amount of cash per unit. Back then there were some affordable housing provisions made as well. What Mr. Kamptner read was what they understand the application has been. If they produce the unit they are not subject to the cash proffer policy. Otherwise, if there is cash in lieu of the unit, then that unit was not produced. So it is going to be a market unit and will be subject to it.

Mr. Morris asked if they have that policy in writing so that the applicant can look at.

Mr. Cilimberg pointed out the Board can decide to vary from that policy.

Mr. Kamptner agreed since this is a policy and not an ordinance. Ultimately, the Board can decide whether or not they want to strictly adhere to that policy or vary from it. The Commission is free to make a recommendation on that particular question as part of their action.

Mr. Cilimberg asked to also note that Ron White is not involved in the policy aspect. He is involved in the receipt of the benefits from the policy and how they actually are used.

Mr. Morris said he understands, but would think that he would be keenly aware of exactly what the policy is.

Mr. Cilimberg agreed that he is.

Mr. Benish said just to be clear in terms of meeting the affordable housing policy, they have. Their proffer is very consistent in concept and they are providing 15 percent. They are offering to do that in kind or through the cash in lieu. What they see as the deficiency to the policy is just a measurement of what was the cash amount based on market rate units, which they feel can be easily adjusted. It just depends on the total amount that the Commission and the Board wish for in this case.

Mr. Cilimberg pointed out they are actually covered by two separate policy areas. It is two separate proffers. The affordable housing and how that is provided is one proffer. The cash proffer for capital improvement needs is another proffer. They are addressing two separate needs identified by the county.

Mr. Randolph said if they just say theoretically these units were to sell for $300,000 what would be the affordable housing costs of these units. He asked if there is a formula that it would be two-thirds or three quarters. He was trying to get a handle here of what affordable means if hypothetically they were looking at units of $300,000.

Mr. Morris said that as he understands it is based upon the average wage and is not on the cost of the house itself.

Mr. Cilimberg said there is a purchase price that qualifies as affordable, which was previously $180,000.

Mr. Kamptner agreed. However, he was probably rusty on what that exact dollar amount is right now. In 2007 or 2008 it was in the low 200's. However, as Mr. Cilimberg said it is probably lower than that now. It is probably around $190,000.

Mr. Cilimberg said that is one thing they confirm with Mr. White on as the units are coming on the market to be actually produced. Ultimately, it is as the applicant mentioned they may be two years out in some form of the development. So the affordable rate at the time that they would produce a unit might be different than today.

Mr. Randolph said therefore if again hypothetically these units were to be sold for $300,000 and for affordable purposes they would be $190,000, then they are talking about a significant incentive for somebody who is a county employee or whatever they are profiled to if they are eligible for affordable housing to be in these units. They are getting a new unit at a very good competitive market rate compared to what the rest of the units within the community will be going for. That is all he was trying to work out in his own mind. That is one of the reasons why he was requesting just a hypothetical figure as to what the units will cost because they needed to talk about affordable housing. He was also interested in contrasting what the value of these units were compared to the existing units in Mourbry Lane. He wanted to find out if there was a differential in terms of the housing value between the two. He did not see a differential at all. That was the basis of his earlier question just to go on the record.

Mr. Dotson asked staff what the status was concerning something he heard several years ago about VDOT requiring two points of access if streets were to be public.

Mr. Benish said the state policy right now has softened from where it previously was to require that all adjacent properties be provided with potential connections in the future. In VDOT's review of this alternative plan there are stub outs that provide access to multiple locations. So VDOT has determined this is consistent enough with their current policies.

Ms. Monteith said the other issue is they are providing a secondary emergency access route, which is usually a major driver of these kinds of issues.

Mr. Cilimberg said there was an interconnectivity index he believed that VDOT has developed and was putting into place. That has been scaled back basically and has been modified to no longer be applied.

Mr. Dotson requested to ask a question of the developer.

Mr. Morris asked Scott Collins to come forward.

Mr. Dotson asked about the little cemetery in the corner where the proposal is to put some fencing, he was curious what kind of fencing, how tall and whether it would have a locked gate.

Scott Collins replied that basically they were talking about a wrought iron fence around it about 4' in height. It is more of an amenity to the development as opposed to locking it away and protecting it from anybody. There is a cemetery in Old Trail where he lives. Every weekend his children want to ride bikes and the first thing they want to do is stop at the cemetery and walk around the cemetery. It is a little bigger than this one and is enclosed by a 3' stone wall. Cemeteries can be an amenity. There will be a little walking path over to the facility. There will be a gate.

Mr. Dotson said he was trying to figure out how the cemetery plays out in the future and if there are members of the Estes family still living locally. In reading the staff report there is talk of an access easement. In Shenandoah National Park, for instance, there are cemeteries where families are allowed to go back and visit. He asked if that is what is in mind here.

Mr. Collins replied certainly. This is an open space and will be maintained by the HOA. There is an access easement that provides access to the cemetery for the public. Anybody could essentially go down the public street and get on the public access to go visit the cemetery.

Mr. Dotson said in looking at the site the cemetery looked like it was pretty well grown over. It did not look like a mowed cemetery. It looked like a forest that probably had some fallen over stones and maybe some other places of missing stones.

Mr. Collins replied that is correct. That is one of the things that will be done when the fence is put around the cemetery and it is maintained by the HOA. It will be cleaned up and taken care of with the landscape contract for the development.

Mr. Dotson said his concern is with vandals. Is there any thought about making certain that the homeowners on adjacent properties are notified through their deed or some other mechanism that this is a cemetery.

Mr. Collins replied that it was not part of their property and it would show up on the subdivision plat for the entire development. Since this is an open space, it is deeded and owned by the HOA. There won't be any confusion that the homeowners adjacent to the cemetery would think the cemetery is their property and would push anything over to that area.

Mr. Dotson said he was a little torn about the amenity versus the attractive nuisance and vandalism aspects of this.

Mr. Collins suggested that he check out the cemetery at Old Trail.

Mr. Smith said that by definition it now is a grave yard. It will become a cemetery when it is maintained

Mr. Morris noted that was the request by a person who is on the historical society that they were hoping that this would be taken under the wing of the developer and the developer agreed to it. It was not part of the plan originally. The developer has agreed to take that on.

Mr. Randolph asked how the perimeter of the grave yard has been established. He asked how they know where graveyard ends.

Mr. Collins replied that the cemetery has been field surveyed. They went out there with county staff. They all met one day and established the limits of the cemetery. Everybody put stakes in around there. Then they came back and surveyed it. They also had some tests performed to make sure there were no graveyards outside of that location. That has all been confirmed.

Mr. Loach said as far as the affordable housing goes his policy is 15 percent. He was glad to hear the developer say he was committed to building the affordable units. It sounded like last time that the county was saying that they did not want the units, but they wanted the money. He felt that is not the way the county should be acting. They have the 15 percent to increase the number of affordable housing units. If in fact they have reached that threshold, then there should be no other need especially to ask the developers to pay for 15 percent if in fact that is what the county is saying. Again, he was glad to hear that commitment tonight. As far as the road he agreed with Mr. Franco that it was touch and go as far as the connectivity. He could live with what has been agreed to. When this gets to the Board it might be more problematic if it is anything like the high end apartment up on Rio where the walking path was to connect to that one other subdivision. That got into a fairly heated discussion with the Board of Supervisors on the connectivity. Now it is just a walking path. He congratulated the developer on committing to the units.

Mr. Kamptner noted that was Arden Place.

Ms. Monteith said she was impressed that the neighbors have come out for a second time.

Mr. Randolph suggested that this should be remanded back to staff. He was struck by the fact that the drainage issues remain on 18, 19 and 20. They need to be finalized and be in writing so that they see what has been finalized. He thought there should be a recreational space for both Forest Ridge and Estes Park. He asked if there was some way of incorporating that with Moubry Lane that it would be wonderful. The right way is not finalized. It is not a

done deal. He was very uncomfortable going ahead with an application where it remains not finalized. Along with what Mr. Loach said the affordable housing issue units are not optional, but are a necessity. If the county keeps taking money in lieu of affordable housing the total availability of affordable housing will continue to decline. Unit 68 needs to be moved and repositioned so instead of facing the street it needs to be at a creative angle. That was an issue earlier that staff brought up in terms of lot 68's proximity to the stream. He just feels that there are still a lot of nuts and bolts issues, or mechanical issues that need to be worked out. He was not comfortable voting on this application at this point until they are. That does not mean that he is prejudiced against the application. He thinks the developer has shown a real commitment to reworking it. He appreciates the community for coming out in number and having eloquent presentations about their concern for the cul-de-sac. He has learned from that and therefore certainly will withdraw his feeling that a second point of access should be through Moubry Lane. He remains concerned, however, that there is only one means of access at this time into this project. He worries about the precedent of that and how that could come back to haunt us in the future. At this point he cannot really vote to move this application forward.

Mr. Morris asked if he had looked at the conditions and if a lot of his concerns were covered in the conditions.

Mr. Loach asked staff if after hearing from the developer and the Commission tonight if his recommendation was still for denial.

Mr. Benish replied that in essence either action will give staff proper direction. If the Commission could cite the specific issues they have that are concerns to the Board of Supervisors, then they can engage with the applicant to address those issues. He thought ideally they would like to have those issues as straight as possible with the Commission's recommendation to the Board. Given the time it has taken to get this project to this point he thought conditions giving clear direction on what the expectations the Commission has for what goes to the Board is a reasonable approach.

Mr. Morris said that was his primary concern.

Mr. Loach noted that they could add additional conditions if they wanted to.

Mr. Franco said he would like to react to one of the comments about the recreational space. It is important to note that these are two different developments and they are not talking about public parks. So the idea of requiring the applicant to build recreational spaces to serve adjacent communities while laudable may not be practical from that sense. If the county were willing to take it over and maintain it, then that would be another story. However, if they are asking a group of the private citizens to maintain a public park for the rest of the community he did not think that was fair.

Mr. Dotson commented back to Mr. Franco. They also have public land that is being used essentially as private recreation, the cul-de-sac. So it is both ways. The issue that primarily concerns him is if not here, when, where will they require interconnectivity. They are potentially adding this Estes Park development with three stub outs. So what does that stub out into? It is going into some vacant land that somebody is going to develop. They will attempt to connect to those stubs. Then the residents of Estes Park will come to us. He thought it was one of those situations where if he lived on Moubry Lane he would not like it if the connection was contemplated or was going to be made. Then in the next breath he would think he would say well there is a reason for it and it is not necessarily his preference, but there is a reason for it. Therefore, he needs to accept it. He comes back again to the question of if not here, where. They are not talking about a large number of units. Quite frankly, in driving and looking at the area it seems that the people on Moubry Lane would use the streets of Estes Park more likely than the people of Estes Park would use Mobry Lane because he did not think that area of Profit is very much a destination. He did not know what they would be going to. Instead, he thought what they would do is go up to the major street behind the shopping center if they wanted to get up to the medical facilities on Profit. He did not think they would go back down Moubry Lane. He did not see the traffic going back down that way. He sees the traffic going up through Estes Park. That is a concern.

Mr. Morris said that he thought interconnectivity has been a problem ever since they really started looking at the Comprehensive Plan and putting in interconnections. Mr. Dotson was absolutely right that they were looking at Estes Park and needed to focus on it for a moderate amount of housing. When they were faced with the same thing with another subdivision that had 365 units it was eventually approved with a stub out leading into another place. It

has been a contentious issue right from the start. Mr. Dotson was absolutely right and his question was well put - If not here, where, when because there is always going to be a fight.

Mr. Loach said if in fact the land itself had not been designed with the infrastructure to support that, then it would have felt more comfortable saying well the design was there for the connectivity so if and when traffic did increase there was the infrastructure of sidewalks to take care of it. However, that was not the case.

Mr. Franco said that he remained torn. In the original proposal the applicant did propose to provide sidewalks along Moubry. But the thing that pushed him over the edge to say let's not have the connection was that not at the cul-de-sac but one-half way between the cul-de-sac and Profit Road it is a fairly straight road. The sidewalk was going to have to cross there and short of putting in speed bumps or something like that, which they don't want on public roads. Therefore, maintaining slower speeds through there was going to be difficult. If there had been other interconnections or something that gave it that grid feeling he probably would have been more adamant. However, he agreed that they have this policy and they bend it constantly. At what point do they say that they are going to live with it.

Mr. Smith said that it is a cul-de-sac and it is not designed for stubbing. He agreed with Mr. Franco that he would hate to see the traffic go through the straight stretch. They would possibly double the number of houses that way. In thinking green they could ask the people on Moubry Lane if they would want to ride their bicycle.

Ms. Monteith noted she did pay some attention to the storm water issues on this development. The memo, which is attachment C, is fairly lengthy in terms of what type of improvements they are looking at. One of the things she paid attention to was there was quite a few things that they were tracking through the construction. However, there are also quite a few things that are built into the long term improvements of this site. Both of those are important to mitigate. However, she thought they have gotten more detail on some of the storm water issues and watershed issues here than they do in some other cases.

Mr. Franco agreed that they have an applicant that has gone well above what is required of them to meet the adjacent neighbors concerns.

Motion for ZMA:

Motion: Mr. Franco moved and Mr. Smith seconded to recommend approval of ZMA-2010-00011, Estes Park, based on the findings in the staff report with the conditions identified by staff in the presentation being addressed prior to approval by the Board of Supervisors.

1. Right of access has been secured from the adjacent parcels TMP 46B4-5 and TMP46B4-5A for the construction (and right of way dedication) of a public road on these properties to serve the proposed Estes Park development.
2. The Cash Proffer for Capital Improvements (#1) is changed so that the total cash proffer amount is based on the total number of market value units built.
3. Revision to the Affordable Housing Proffer (#2) is to the satisfaction of the Housing Director, and the Erosion and Sediment Control Proffer (#5) to the satisfaction of the County Engineer.

The motion was approved by a vote of 5:1. (Mr. Randolph voted nay.)

Mr. Morris noted that a recommendation for approval of ZMA-2010-00011 would be forwarded to the Board of Supervisors to a date to be determined.

Mr. Dotson asked to restate the obvious. The concerns expressed by various members will be reflected in the minutes that go forward to the Board of Supervisors.

Mr. Morris replied absolutely in a verbatim format.

Mr. Kamptner noted there was also an action needed on a critical slopes waiver, which would be recommended for approval or disapproval as a special exception to the Board.

Action on Critical Slopes Waiver

Motion: Mr. Franco moved and Mr. Dotson seconded to recommend approval of the Critical Slopes Waiver for ZMA-2010-00011, Estes Park, as recommended by staff.

The motion passed by a vote of 6:0.

Mr. Morris noted that the Critical Slopes Waiver for ZMA-2010-00011, Estes Park would be forwarded to the Board of Supervisors with a recommendation for approval.

Old Business

Mr. Morris invited old business.

- Mr. Morris noted the Commissioners' evaluation distributed last week and submitted tonight will be reviewed and a report given at the next Commission meeting under new business.
- Certified Planning Commissioner's Program – Mr. Randolph and Mr. Dotson intend to enroll in the fall program

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

New Business

Mr. Morris invited new business.

- General discussion was held on affordable housing and what the Planning Commission wants Ron White to discuss. The Commission asked for a general profile of affordable housing program from Ron White.
    - Mr. Franco noted the types of questions he would have for Ron White at the next meeting are really to try to understand how successful the affordable housing proffer has been. He asked the following questions:
        - How many units have been built under that and how many were built and lost under that via the 90 days.
        - How many have been bought out and what the money has been used for.
        - How many people have been helped with that fund and what is the balance.
        - He would like a profile of the program.
- The PC cancelled its next scheduled meeting on March 13th and moved those agenda items to the March 20th agenda.
- The next meeting will be held on March 20th.

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

Adjournment:

With no further items, the meeting adjourned at 7:27 p.m. to the Tuesday, March 20, 2012 meeting at 6:00 p.m. at the County Office Building, Second Floor, Room #241, 401 McIntire Road, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

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