Albemarle County Planning Commission
July 17, 2012

The Albemarle County Planning Commission held a public hearing on Tuesday, July 17, 2012, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Staff present was Sarah Baldwin, Senior Planner; Christopher Perez, Senior Planner; Claudette Grant, Senior Planner; Bill Fritz, Chief of Current Development; Wayne Cilimberg, Director of Planning; Mark Graham, Director of Community Development; and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Morris, Chair, 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.

Neil Williamson, with Free Enterprise Forum, spoke regarding the Fauquier County Board of Supervisors recent adoption of new winery regulations which he believes are "draconian". He noted his belief that Albemarle County's Winery Ordinance balances the needs of neighbors and agri-businesses. He discouraged Albemarle County from following Fauquier's lead.

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

Committee Reports

Mr. Morris asked for committee reports from the Commissioners.

- Mr. Franco reported the Affordable Housing Group met to look at the policy and are likely on track to have something for the PC in August.
- Mr. Lafferty reported the CHART Citizen Transportation Committee met to primarily discuss the changes in Map21and the Federal Transportation Budget amendments and what those changes will mean to communities for the next two years. He noted that there was also considerable discussion of the Eastern Bypass (Eastern Avenue) concepts.
- Mr. Randolph reported the Historic Preservation Meeting discussed the possibility of meeting with the Planning Commission about historic preservation and would hope to do so in the next six to nine months out.

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

Review of Board of Supervisors Meeting – July 11, 2012

Mr. Cilimberg reviewed the actions taken by the Board of Supervisors at its meeting on July 11, 2012.

Mr. Cilimberg noted the Board of Supervisors discussed the possibility of a joint meeting with the Planning Commission for the Comprehensive Plan. They did not reach any consensus to have such a meeting. There is none scheduled. The Board did indicate though that they expect the Commission would continue their work and would be making their recommendations and they certainly will act based on those recommendations they make. He asked if there was anything in the Commission's prior direction that they are thinking differently about. Staff certainly would want to know about that.

Mr. Morris asked to bring everybody's memory back up to date on this issue. The reason for the Commission requesting this joint meeting was that he was approached by let's take another look at bringing in at least one parcel into the development area that is currently in the rural area. He believed that it was an unanimous recommendation of this board if they do anything let's sit down and talk with the Board of Supervisors and get their reading on what they are looking at prior to doing any of these because the Commission recommended that they have enough land right now and let's leave it the way it is. From what he understands, they will sit and wait.

Mr. Cilimberg pointed out that the Commission would be working on the Comp Plan, but the Board of Supervisors will be waiting.

Mr. Franco said the discussion they had he thought it was unanimous that they don't need an expansion of the growth area. From his perspective he was seeing the discussion that they are having at the Board level and he felt good about asking staff to look at the additional parcels and give the Commission some feedback that they could review to have the information in front of the Board should they chose to add a piece. Right now they will be going forward and if they have the discussion it will be without the Commission's input.

Mr. Cilimberg noted the Board would look for the Commission's recommendation. Staff will include as part of what moves forward and what gets to public hearing and such all the work they have done with the Commission and the direction they have given and the recommendations wherever they end up on any of the areas that were reviewed previously.

Mr. Loach asked for one correction. They did on three occasions take a position on the Yancey, which was against that.

Mr. Cilimberg pointed out to refresh the Commission's memory; they have actually directed staff to this point not to consider any of the requested expansion areas except for Shadwell which they will be bringing back to them.

Mr. Morris agreed that was correct.

Consent Agenda:

Approval of Minutes: February 8, 2012 & May 15, 2012

Mr. Morris asked if any Commissioner wanted to pull any item from the consent agenda.

Motion: Mr. Franco moved and Mr. Lafferty seconded for acceptance of the consent agenda.

The motion carried by a vote of 5:0. (Smith, Dotson absent)

Mr. Morris noted the consent agenda items were approved,

Item Requesting Indefinite Deferral

SP-2012-00017 Ntelos Wireless - Llandaft Property - Tier III PWSF (Sign # 90). PROPOSAL: Tier III personal wireless service facility on 19.8 acres. No dwellings proposed. ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots). SECTION: Chapter 18 Section 10.2.2(48) of the Albemarle County Code, which allows for Tier III personal wireless service facilities (reference 5.1.40). ENTRANCE CORRIDOR OVERLAY DISTRICT to protect properties of historic, architectural, or cultural significance from visual impacts of development along routes of tourist access: Yes. COMPREHENSIVE PLAN: Rural Areas – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots). LOCATION: 4319 Scottsville Rd (Route 20).TAX MAP/PARCEL: 11200-00-00-00900. MAGISTERIAL DISTRICT: Scottsville (Brent Nelson)
APPLICANT REQUESTS INDEFINITE DEFERRAL.

Mr. Morris noted the applicant has requested an indefinite deferral. The request does not need to be opened to the public. He asked if there was any discussion.

Mr. Lafferty asked why the applicant asked for the deferral.

Mr. Benish pointed out Valerie Long, the applicant's representative, was present. There was a critical slope waiver request that was part of the application and they are revisiting that concept and wanted some more time.

Mr. Kamptner clarified for the record this is SP-2012-00017.

Motion: Mr. Franco moved and Mr. Loach seconded for acceptance of the applicant's request for an indefinite deferral of SP-2012-000017 Ntelos Wireless – Llandaft Property – Tier III PWSF.

The motion passed by a vote of 5:0. (Smith, Dotson absent)

Mr. Morris noted that SP-2012-000017 Ntelos Wireless – Llandaft Property – Tier III PWSF was indefinitely deferred at the request of the applicant.

Deferral Request

SDP-2012-00030 Estes Park - Preliminary Site Plan
PROPOSAL: Request for approval of preliminary site plan for 68 single family attached units on 12.75 acres.
PROFFERS: Yes
ZONING: PRD- Planned Residential Development- residential (3-34 units/acre) with limited commercial uses per ZMA2010-011
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 Profit Road (Rt. 649) and Worth Crossing, approximately 800 feet south of Profit Road in the Community of Hollymead.
TAX MAP/PARCEL: TMP 03200000003300; TMP 03200000003400
MAGISTERIAL DISTRICT: Rivanna
(Megan Yaniglos)

Mr. Morris noted the applicant is requesting indefinite deferral of SDP-2012-00030 Estes Park - Preliminary Site Plan. He opened the public hearing and invited the public comment.

Mr. Cilimberg noted that staff contacted the representative who requested this come before the Planning Commission to let them know of the deferral. They were fine with that, which was why they were not present.

Mr. Kamptner clarified that there is a discrepancy in the site plan number. The agenda ends with 30 and the staff report ends with 33. For clarification this is the Estes Park Preliminary Site Plan.

Staff clarified that the actual site plan is SDP-2012-00030.

There being no public comment, the public hearing was closed, and the matter before the Planning Commission for further comment and action.

Motion: Mr. Lafferty and Mr. Loach seconded for acceptance of the applicant's request for an indefinite deferral of SDP-2012-000030 Estes Park – Preliminary Site Plan.

The motion passed by a vote of 5:0. (Smith, Dotson absent)

Mr. Morris noted that SDP-2012-000030 Estes Park – Preliminary Site Plan was indefinitely deferred at the request of the applicant.

Public Hearing Items

SP-2012-00015 Verizon Wireless Colthurst-Ingleridge LLC., Tier III Personal Wireless Service Facility (Signs # 20 & 21)
PROPOSED: Request for installation of a three new flush-mounted antennas on an existing tower which will involve retrofitting an extension mount to a new height of 139 feet, relocation of the existing antenna array and changes to associated ground equipment.
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); FH Flood Hazard – Overlay to provide safety and protection from flooding; AIA Airport Impact Area-Overlay to minimize adverse impacts to both the airport and the surrounding land.
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 1 -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: 1575 Ingleridge Farm.
TAX MAP/PARCEL: 06000-00-00-002A0
MAGISTERIAL DISTRICT: Jack Jouett. (Sarah Baldwin)

Ms. Baldwin presented a PowerPoint presentation and summarized the staff report.

This is a special use permit request for a Tier III Personal Wireless Service Facility, as follows:

- Request to install six new flush mounted antennas on two arrays on an existing transmission tower.
- This will involve an extension mount to support the new arrays which will bring the height of the tower to 139 feet.
- Associated ground equipment changes.

The applicant is also requesting special exceptions for the following waivers to the Zoning Ordinance:

- Section 5.1.40(c)(3)(i)-Size of antenna.
- Section 5.1.40(c)(4)-Submittal of a tree conservation plan.
- Section 5.1.40(c)(5)-Site to be in accordance with a tree conservation plan.
- Section 5.1.40(d)(5)-Maximum size of base and diameter of tower.
- Section 5.1.40(d)(6)-Height of tower in relation to tallest tree.

Discussion:

- Existing transmission tower.
- A special permit is only necessary to accommodate the height increase.
- The height change is necessary due to changes in Dominion's policy.

This submitted site plan shows the existing and proposed changes to the tower. The tower is currently at 120 feet, the proposed height increase will bring the tower to 139 feet. Staff reviewed the photo simulation submitted of the existing and proposed changes.

Based upon the existing and proposed changes and the analysis of the requirements of the ordinance staff found the following factors favorable and unfavorable to this application:

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. Due to the height and scale of the existing structure, the size difference will not have a significant

impact to the structure.

3. The Architectural Review Board staff has recommended approval since the height increase and antennas will not significantly increase the negative visibility from Barracks Road or the Entrance Corridor.

Factors unfavorable:

1. This is an existing tower among a line of other transmission towers with this line, which creates a significant visual impact to the area.

Recommendation:

- Staff recommends approval of the height increase to 139 feet, additional antenna arrays and associated ground equipment and modifications provided herein.
- Should the Planning Commission choose to recommend approval of this application to the Board of Supervisors, staff recommends the condition as outlined in the staff report.

Mr. Morris invited questions for staff.

Mr. Randolph asked if there was an existing transmission tower and Verizon through the property owner were to receive permission to build a tower which tower would staff say would have a greater significant impact. Would it be the stand alone or the extension of this antenna on top of an existing tower transmission line. He sees the existing tower transmission line as having a significant impact already and this request as a minor extension vertically of an existing significant visual impact. He was trying to get an idea comparatively which is a greater significant impact.

Ms. Baldwin replied that she could not speak to a proposed tower since they don't have that proposal in front of them. However, certainly the transmission lines are a significant impact already. She felt obliged to point out that it would be an extension of something that existed that already was significant.

Mr. Franco said the current ordinance would require that the extension be java brown.
In the photo simulation it jumped out that the tower is not brown. He asked if it was just going to be the extension that is brown.

Ms. Baldwin replied it is going to be sky blue. However, the applicant can elaborate on that.

Mr. Franco noted that if it was anything except java brown the applicant needs a modification and ought to do it tonight as opposed to when everybody else figures this out.

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

Laurie Schweller, attorney with LeClair Ryan representing Verizon Wireless, said they were proposing a change to this existing Verizon Wireless site because of Dominion Power's new policy. There cannot be wireless antennas below the level of the transmission lines on these tall towers. What they are proposing is roughly a 19' extension. They are doing two sets of flush mounted antennas to provide three services at this site. It would be painted a light bluish gray to match the existing tower. All of the ground equipment will be java brown to blend in, which will be screened by landscaping. They are requesting a Tier III special use permit and all of the items outlined in the application as part of that special use permit. So she tends not to look at that as exceptions from the Tier II, but simply a potential condition for a special use permit. The plan is to paint that light blue gray to blend in.

Mr. Kamptner pointed out that would be allowed under the regulations without a special exception.

Mr. Morris invited questions for the applicant.

Mr. Lafferty asked if she had any idea why the change of the rules on the location.

Ms. Schweller replied that she did not. She was just told that the rules were changed. However, it may have something to do with safety. This particular extension will have to be done 100 percent by Dominion Power personnel and they won't be involved.

Mr. Lafferty noted he felt it would be safer to put it underneath and not crawl up through the high tension lines. If they are doing it, then that is probably the reason.

Stephen Waller, consultant for Verizon Wireless, said it is basically a safety issue that was discussed at a conference in Richmond back in March. It would be a very rare occasion for them to allow someone to direct mount to those structures. Even in trying to replace existing antennas it is Dominion's policy to try to make them move up and above that top static line. Whenever they do the work on the structure they have to schedule a power outage just along that part of the line. They reroute power from that part of the grid to another part. It is just an outage along the lines while they do the work and not an outage for the neighboring properties or anything like that. It is just an outage of that high tension line.

Mr. Randolph asked if their transmission devices at on top of Dominion Power's line how do they feel about them servicing that unit given the fact that their people are not necessarily trained to be going up on a tower transmission line.

Mr. Waller replied that Dominion Power will do all the service. If an antenna malfunctions and has to be replaced they do the service. No one from Verizon Wireless, contractors or employees, is allowed to touch anything but the base station equipment. They tightly regulate that.

Mr. Loach asked if they were going to be seeing more of these because of changes.

Mr. Waller replied that there will be some more requests. They have to be creative. They have a site that they wanted to add the 4G antennas to and because they can't add them below the static line and also because AT&T is attempting to add some antennas it had to be extended above the static line. They are going to have 4G antennas that are going to have to be separated may be by a quarter of a mile from where the other antennas are on another line. They have been told they can direct mount to the existing structure just for a temporary amount of time until they replace the structure. The structure also has to be replaced because it does not even have the structural capacity to add the extension above it. What happened with that part of the line is they allowed fiber to be run along that line. Some of the towers in that area don't have the structural capacity to direct mount antennas. There is a temporary solution on that particular site. They are going to allow them to direct mount just the LTE antennas and then come back later and try to do something like this where they add the antennas to a new tower. However, it is a very rare occasion. Again, if they wanted to replace all the antennas on one of their towers they would try to make you replace them up above. It puts them in a situation where they go from something they could have done in the past by right by having flush mounted antennas directly mounted to where they have to come and get a special use permit.

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

Mr. Kamptner noted they would need to make two motions. He suggested a minor change if the Commission is inclined to recommend approval of the modifications, which is the first action listed. The first line would be revised to state "I move to recommend approval of the special exceptions for the modifications for SP-2012 -00015" and the remainder of the condition would be as it is written.

Motion on Special Exception:
Mr. Lafferty moved and Mr. Loach seconded to recommend approval of the special exceptions for the modifications for SP-2012-00015 Verizon Wireless Colthurst-Ingleridge LLC., Tier III PWSF with the conditions outlined in the staff report.

The motion passed by a vote of 5:0

Motion on SP-2012-00015:

Mr. Lafferty moved Mr. Loach seconded to recommend approval SP-2012-00015 Verizon Wireless Colthurst-Ingleridge LLC., Tier III PWSF with the conditions outlined in the staff report.

The motion passed by a vote of 5:0

Mr. Morris noted that SP-2012 -00015 Verizon Wireless Colthurst-Ingleridge LLC., Tier III PWSF would go to the Board of Supervisors on August 1 with a recommendation for approval of the following.

- The special exceptions for the modifications for SP-2012 -00015 Verizon Wireless Colthurst-Ingleridge LLC., Tier III PWSF with the conditions outlined in the staff report, as amended, for Sections 5.1.40(c)(3)(i),(c)(4), (c)(5), (d)(5), and (d)(6) under the special exception criteria of Section 31.8. The recommendation would allow the height increase to 139 feet, additional antenna arrays and associated ground equipment and modifications provided in the staff report, as follows:

    1. Section 5.1.40(c)(3)(i)-Size of antenna.
    2. Section 5.1.40(c)(4)-Submittal of a tree conservation plan.
    3. Section 5.1.40(c)(5)-Site to be in accordance with a tree conservation plan.
    4. Section 5.1.40(d)(5)-Maximum size of base and diameter of tower.
    5. Section 5.1.40(d)(6)-Height of tower in relation to tallest tree.

- SP-2012 -00015 Verizon Wireless Colthurst-Ingleridge LLC., Tier III PWSF with the conditions outlined in the staff report, as follows:

    1. Development and use shall be in general accord with what is described in the applicant's request and site plans, entitled “Colthurst LTE 4G Upgrade”, with a final zoning drawing submittal date of 6/25/12 (hereafter “Conceptual Plan”), as determined by the Director of Planning and Zoning Administrator.

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

SP-2012-00016 NTELOS WIRELESS – CV825 Cedar Hill- Tier III Personal Wireless Service Facility (Sign # 91 & 94)
PROPOSED: A one hundred and fifteen (115) foot tall steel monopole tower painted brown with a flush-mounted antenna array consisting of three (3) panel antennas and associated ground equipment which will be located within a twenty (20) foot by thirty (30) foot leased compound area. The access road to the proposed facility is an existing paved road.
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 service facilities in the RA Zoning District.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas 4 – Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots).
ENTRANCE CORRIDOR: NO.
AGRICULTURAL FORESTAL DISTRICT: YES
LOCATION: David Road, Marshall Manor Subdivision, East Side of Rte 20.
TAX MAP/PARCEL: 090B0-00-0A-01100.
MAGISTERIAL DISTRICT: Scottsville (Christopher Perez)

Mr. Perez presented a PowerPoint presentation and summarized the staff report

This is a proposal to install a Tier III personal wireless service treetop facility. The proposed tower is a Tier III personal wireless facility because it is located within an Agricultural Forestal District which is an avoidance area. If this property was not located within the Lanark Agricultural Forestal District, this personal wireless service facility application would have been processed as a Tier II facility. Thus the facility qualifies for a Tier III review at this time.

The proposal is a 115' monopole steel tower that will be painted brown. The top antenna array is being added. The two underneath it are proposed for future expansion. There is going to be a 600' lease area with the equipment at the base of the tower. The tower will be served by an existing gravel road, which goes along the perimeter of the property.

Special Exception to the Zoning Ordinance:
Section 5.1.40(d)(6) – The approved height shall not be more than seven (7) feet taller than the tallest tree within twenty-five (25) feet of the monopole… The applicant is proposing to go 10' above the reference tree.

Also associated with this request is a special exception to disturb critical slopes.

Staff reviewed the photo simulation and the balloon test. The applicant pointed out after the storm there was some tree damage to the property. They lost around 24 trees towards the left hand portion of the balloon. He reviewed photographs taken after the storm, which did not have any effect on the visibility based on the back drop of the mountain and the existing tree cover around it.

Favorable Factors for Tier III PWSF:

1. The monopole is located so that it is not skylighted, and there is a substantial backdrop for the facility due to the mountainside and existing dense tree cover.
2. The monopole is minimally visible to almost invisible from Scottsville Road (Route 20).
3. The Agricultural Forestal District Committee finds the use will not cause substantial impacts to agriculture, forestry, or land conservation in the district.

Unfavorable Factors for Tier III PWSF:

1. The proposal is within the Lanark Agricultural Forestal District.

Staff recommends that the Planning Commission approve the request at the height of ten (10) feet above the reference tree with staff's recommended conditions, as amended deleting condition one. The County Attorney deemed that condition one was not appropriate to have that special exception as a criterion. Therefore, staff took condition one out of the staff report.

The date on the site plan is 6-25-12. The applicant will be providing a revised portion of the trees on site before it goes to the Board of Supervisors. Therefore, that date is likely to change although the request will stay the same.

There being no questions for staff, Mr. Morris opened the public hearing and invited the applicant to address the Commission.

Valerie Long, representative for the applicant Ntelos, presented a PowerPoint presentation.

- This proposal is on property owned by the UVA Foundation. Others present are Jesse Wilmer, with Ntelos; and Paula Figgett, with the UVA Foundation. They think this is a wonderful site for a wireless facility since the site is up against the base of the mountain. The cleared area is actually the ridge top and part of the Trump Winery. It is an existing parcel with an existing access road, which makes it particularly useful and minimizes the need for much tree clearing or construction of a new access road.
- The aerial photos show the wooded nature of the entire area including the subdivision lots. There is heavy tree cover around all of the equipment, which is another good reason for a wireless facility. The best reason is it is up on the mountain and really out of sight. There is a lot of tree coverage around all of the residences as well. It is both within and adjacent to an existing agricultural forestal district. It was recommended by the Agricultural Forestal Committee. It is also adjacent to but not actually within the Southern Albemarle Rural Historic District.
- The reference tree is at a slightly higher ground elevation, but is just 10' higher than the reference tree. The balloon test photographs were reviewed. They think it is an excellent location for a facility. As staff indicated, the site did take quite a hit from the storm. The good news is that although they did lose at least 27 trees, the reference tree is fine. The storm literally blew the

trees up the mountain. The photo showed despite the loss of 26 trees there is still a lot of trees there on site. The reference tree and backdrop of trees remain and are fine.

- They ask for the Commission's support for the special exception for critical slopes. The map shows the entire mountainside is one giant critical slope. There is an existing cleared area at the end of the existing driveway. The cleared area was created when the road was put in place. They are disturbing a very small area of it. It is 324 square feet. They will use an existing access road. This will provide coverage along Route 20. Ntelos is working to build out the entire Route 20 corridor to provide service. This is the first of a number of applications they will see from Ntelos over the coming months. Ultimately, they will have seamless in car coverage and some in building coverage along Route 20 south.

Mr. Morris invited questions for the applicant.

Mr. Lafferty asked if this was for 4G service, and Ms. Long replied that is correct for their version of it.

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

Mr. Kamptner pointed out there would be three motions for the special use permit for the use, the special exception to allow up to 10' above the reference tree, and the special exception for the critical slopes disturbance.

Mr. Lafferty noted it would be interesting to see how many antennas they pass in singularity along any one of these routes. It is too bad that the companies can't get together and put up one antenna. It also occurs to him that all of the new antennas are basically requiring 10' above the tree height and they characteristically grant that. He realized that the federal government is stepping in and will probably take all of the powers they have now by recommendation away. However, they are continually faced with this where they are granting the same thing. It bothers him that they have to go through the expense. It also bothers him that they see each individual company having to seek out land and put up individual towers, individual fees, and the whole thing. He did not know there was anything they could do about it, but it certainly is of concern.

Motion on Special Use Permit:
Mr. Franco moved and Mr. Loach seconded to recommend approval of SP-2012-00016 Ntelos Wireless – CV825 Cedar Hill – Tier III Personal Wireless Service Facility with conditions outlined in the staff report, as revised eliminating condition 1.

~~1. The Special Use Permit cannot be approved until the Board approves the Special Exception to disturb the Critical Slopes on the site.~~

2. Development and use shall be in general accord with the conceptual plan titled "Cedar Hill (UVA Foundation Property) CV825" prepared by Brian Crutchfield and dated 6-25-12 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general 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 antenna
    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.

The motion passed by a vote of 5:0.

Motion on Special Exception for Critical Slopes:
Mr. Franco moved and Mr. Loach seconded to recommend approval of the special exception for the granting of the modification from Section 5.1.40(d)(6) to allow the facility to be up to 10' above the reference tree for reasons outlined in the staff report.

The motion passed by a vote of 5:0.

Motion on Special Exception for Modification:
Mr. Franco moved and Mr. Loach seconded to recommend approval of the special exception to allow the disturbance of critical slopes associated with of SP-2012-00016 Ntelos Wireless – CV825 Cedar Hill – Tier III Personal Wireless Service Facility.

The motion passed by a vote of 5:0.

Mr. Morris noted that SP-2012 -00016 Ntelos Wireless – CV825 Cedar Hill – Tier III Personal Wireless Service Facility and associated special exceptions would go to the Board of Supervisors on August 1 with a recommendation for approval.

ZMA-2011-00010 Albrecht Place (Sign #101)
PROPOSAL: Request to include a required application plan on 3.398 acres for property zoned PDSC which allows shopping centers, retail sales and service uses; residential by special use permit at a density of (15 units/acre). No dwellings proposed. No change in zoning district proposed.
ENTRANCE CORRIDOR: Yes
PROFFERS No
COMPREHENSIVE PLAN: Urban Mixed Use (in Centers) – retail, residential, commercial, employment, office, institutional, and open space in Neighborhood 1 in Places 29.
LOCATION: Directly behind the north section of Shoppers World Shopping Center and directly behind 2111 & 2115 Berkmar Drive.
TAX MAP/PARCEL: 061M00012001E0
MAGISTERIAL DISTRICT: Rio (Claudette Grant)

Claudette Grant presented a PowerPoint presentation and summarized the staff report.

Proposal: The applicant is requesting approval of an application plan on 3.398 acres for property zoned PD-SC Planned Development Shopping Center zoning district. The proposed uses include 6,000 square feet of office, 4,500 square feet of wholesale that would be open to the public, 13,000 square feet of wholesale that would be for storage use, and 16,600 square feet of indoor recreation. No dwellings are proposed.

Staff reviewed the proposed application plan, proposed buildings, renderings and photographs of the existing area and access to the site.

Factors Favorable
- The rezoning request would be consistent with the Comprehensive Plan.
- The uses are consistent with those permitted under the existing PD-SC zoning district.
- This rezoning request would validate the existing zoning district with an appropriate application plan.
- This rezoning request would provide employment opportunities, additional services and expand the tax base in the local community.

Factors Unfavorable
- Transportation impacts are anticipated, but the extent of impacts have not been studied.
- Additional requested transportation information has not been provided and is needed to determine traffic impacts from the proposal.
- No proffers have been submitted to alleviate potential transportation impacts.

- The scale of the building is larger than recommended for an office/R&D/flex use, but is consistent with existing adjacent buildings.

The unfavorable factors really point to the main issue of concern with this particular rezoning request. It really has to do with transportation. The site is a planned development designation. This requires that it meet Section 8.5 of the zoning ordinance. The applicant has met all the requirements of this section with the exception of Section 8.5.1.d which requires a traffic impact statement. The staff report gets into some of the details of this.

Joel DeNunzio has said around the beginning of the year that this site does not meet the threshold for traffic to require a Chapter 527 Traffic Impact Study. But the site will generate a volume of traffic that will impact surrounding intersections on Route 29 and other side roads. Mr. DeNunzio went on to say that the county should require some type of traffic impact analysis for this proposed use. The county agreed with VDOT and requested that this traffic impact analysis be completed by the applicant and submitted in lieu of the 527. Submission of traffic impact analysis will provide necessary information that will help us determine what impacts if any this development could have on the surrounding roads. Staff wanted to give a little bit of background before focusing on the factors that are unfavorable.

The transportation impacts are anticipated. However, the extent of impacts has not been studied. Additional requested transportation information has not been provided and is needed to determine the traffic impacts from the proposal. No proffers have been submitted to alleviate potential transportation impacts. The scale of the building is larger than recommended for an office or a research and development flex use. But it is consistent with the existing adjacent buildings. With that it is located directly behind a very large building.

Recommendation
Staff cannot recommend approval at this time, as the proposal does not adequately address the potential transportation impacts. Should the applicant provide additional traffic information for staff analysis, or at a minimum provide proffers that adequately address the traffic generated by the development, staff could support the project and the special exception to allow the disturbance of critical slopes.

Mr. Morris invited questions for staff.

Mr. Lafferty said that this building is a little bit smaller than a football field to put it in perspective.

Ms. Grant agreed.

Mr. Lafferty pointed out there are five roads that potentially serve this with two that go out onto Route 29 north, one that goes out to Rio Road, and then one that goes by the old Whole Foods and connects. However, all of the roads are very small and only one road would allow one to go north on Route 29 directly.

Ms. Grant agreed.

There being no further questions for staff, Mr. Morris opened the public hearing and invited the applicant to address the Planning Commission.

Woody Parrish, architect on the project, represented Susan Albrecht who was present. He presented a visual aid which would be helpful in visualizing this project. He thanked Sharon Taylor and IT folks for loading the appropriate software for Google Earth on the computer so they could make this presentation.

- The proposal was on about 3.5 acres right behind Shopper's World, also behind two buildings on Berkmar Drive, and abutting seven (7) residential lots in the Berkley Subdivision from which they are separated by a 20' buffer. This land was cleared and graded back when Shopper's World

was built. However, very little has happened with it since then. Trees and brush have moved back in. The more recent history of this – this project has been in development in some form or other for the past 16 years. He has been involved off and on since 2006. The Planning Commission has seen two previous versions of this project. Mr. Morris is the only Commissioner here when they did that in 2007.

- The first one was a fairly ambitious project based on the Neighborhood Model and the Places29 Study. It comprised this parcel and four additional parcels. It included a sizeable residential component and considerably more commercial square footage than what they are now proposing. It also had a vehicular connection down to Dominion Drive. The Planning Commission felt the proposal was too much development for the site. The application was withdrawn. A scaled back version was reviewed at a work session about six months later. The staff report addresses that. The current application fully implements those recommendations with the exception that they are still requesting a critical slopes waiver. That was also adequately addressed in the staff report.
- The other little issue is a recommendation that they see what the neighbors thought about the existing footpath that connects the end of Williamsburg Road and runs down through the site. They have not been successful in getting a lot of input from the neighbors. But what they have heard both at this time and at the time of their previous application lead them to conclude that pedestrian connection is not desired. They are not inclined strongly one way or the other on it. In deference to what they believe are the wishes of the neighbors they have not shown any formalized pedestrian connection there.
- He disagreed with the staff's recommendations. However, he would like to say staff has been very patience in dealing with them on issues about this application generally and with the traffic issues in particular. The staff report does acknowledge that this is expected to have fairly light traffic impacts. There is some underlying concern that those might somehow increase in the future. He was thinking that was a very unlikely event. What they have brought is the most traffic intensive thing they could come up with, but with the exception of a multi-story building or structured parking. He had only been able to get 183 parking spaces. If they do the math the ordinance actually severely limits the types of uses they can put in this building. Although they have not formerly proffered out any uses the available parking effectively eliminates any of the high traffic uses that would be by right in PD-SC. The actual number is not entirely accurate so they have not studied this tract.
- They have had a traffic consultant look at this. They have come up with estimated trip generation. That number turns out to be less than one percent of the traffic that is currently using this section of US 29. It is considerably lower than if this were occupied for a typical shopping center use. There was also a concern that perhaps excess parking on Shoppers World could be leveraged in the future sometime to support more intense use on our parcel. He has counted the parking spaces and they are maxed out. So short of some kind of redevelopment of this site or unless the county decides to rewrite the ordinance they are stuck at their level of trip generation that they have estimated.
- The other question had to do with truck circulation on the site. They have a diagram of that in the packets. There was a question about the source of that information. He followed a truck one afternoon that was making a delivery to Staples. He has also spoken with the inventory manager at Staples who is in charge of deliveries and he seemed to have a detailed knowledge of how that works. He confirmed that entering trucks do come in off Berkmar and they do not use the main Shoppers World entrance off 29. So north bound trucks would go up to Rio Road and turn at the light and come around Berkmar and enter the site. Trucks serving the former Whole Foods will come around and exist. One thing that he did not get in the packets but have since known is that the Staples trucks are more likely to leave their loading dock and maneuver back in the corner so that they are then able to make a U turn and exit the way they came in on Berkmar Drive. That option would obviously be available to Albrecht Place trucks as well. He was not sure there was anything else he could say about truck traffic. Their trucks will do the same as other trucks have been doing there for years.
- They are submitting this information in lieu of the more intensive study staff has asked us for not out of stubbornness but having spent well in excess of $100,000 to get to this point and still not being at preliminary site plan stage. Recognizing too that this property is already zoned PD-SC

they are just having a hard time spending another $15,000 to basically quantify information that he thinks they understand well enough to affirm an existing zoning designation for an infill parcel in the development area that is very consistent with the goals of the Comprehensive Plan.

Mr. Morris invited questions for the applicant.

Mr. Lafferty asked if the traffic consultant that he had would he be willing to write a letter or put his name to it.

Mr. Parrish replied certainly. They were negotiating with him to do a more extensive study and in the end sort of balked at the price. Certainly the information that the traffic consultant furnished he was sure he would put in a letter.

Mr. Lafferty noted that this seemed to be the major holdup in the project.

Mr. Randolph asked Mr. Parrish to explain the 16,600 square feet of indoor recreation.

Mr. Parrish replied that this was a little speculative because they really don't know how this place is going to lease out. The typical tenant they expect will be a business very much like Design Environs, which Ms. Albrecht owns. That is more in keeping with the wholesale with a little bit of showroom and office. They have had some discussion with a gym who thought they might take some space in here. So that was what they were regarding as their parking maximum traffic scenario if they were able to attract that tenant or someone similar. It is actually likely that they would end up with four tenants in here more similar to Design Environs in which case the traffic impacts would be even lower than they are currently reporting.

Mr. Lafferty said he was curious as to why the driveway on the western end appears to direct the traffic behind the building instead of going out to Berkmar Drive or the curvature of that.

Mr. Parrish replied that it is to give a little more turning radius for a left turn here. It is located where it is because of the bio-filter. There may be some details that get refined at site plan.

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

Mr. Franco asked staff to explain this. This is really just an application plan. So it is a rezoning to add an application plan that was not with the original zoning.

Mr. Kamptner replied what the Planned Development regulations provide for is that before a site plan or subdivision plat can be approved for a lot with Planned Development zoning on it that was approved without an application plan they have to get approval of an application plan and approval of all the other documents that are required to be submitted from Section 8.5. Ms. Grant has already gone through what the applicant has submitted and so far it satisfies everything but the requirement under Section 8.5.1.d, which is the traffic impact statement that satisfies state law. The uses have already been approved by the Board in 1980 when the original Planned Development zoning was established and then again when the 1980 Zoning Ordinance was adopted it was given this particular zoning district designation. So the uses have already been established. For these types of projects that are in this condition this is the second step. It is the approval of the application plan and the other documents that are required. So the traffic impact statement is the sole thing that is still in need of resolution at this point.

Mr. Franco said despite the fact that the land uses have been determined or set they have the ability to go back and access the impacts for existing zoning because of the lack of the application plan.

Mr. Kamptner replied in some applications. This one only the uses were established. There was no prior site plan or anything else that established the intensity of the use. So that has not yet been resolved. This one is a little bit different from some of the others they have had in the past.

Mr. Morris asked would the letter from the traffic consultant suffice, as Mr. Lafferty brought up.

Mr. Kamptner replied that it might. Zoning would need to determine whether or not that satisfies and probably in consultant with VDOT, Joel DeNunzio, as to whether or not the information that was provided was sufficient to satisfy that provision.

Mr. Cilimberg noted that they would have to see what that letter included and the information.

Mr. Loach asked if he had seen the data that was presented tonight and if he disagrees with those numbers presented tonight or it was not extensive enough a study was needed regardless of what numbers they presented.

Ms. Grant replied without Mr. Brooks present it is safe to say the information that was shared with the Commission from the consultant that Mr. Brooks feels that he needs additional information.

Mr. Randolph added that they have the letter from Joel DeNunzio where he says his main concern is the north bound left turns onto Route 29. Mr. Lafferty has already raised that point and they don't have that information. They have everything else. He did not have any issue with critical slopes in here given the historical nature of how those critical slopes were developed in the past. His difficulties are the lack of thorough transportation information in here. It is unfortunate that they don't have that at this point. With that information he would feel very positive towards this application.

Mr. Franco asked if they have any discretion here anyway if it is a requirement that information be submitted. Do they have the ability to act on this any way?

Mr. Kamptner said the Commission is making a recommendation to the Board. They determined several years ago that this particular process is legislative in nature. So there is some discretion ultimately with the Board as to whether to approve or not approve the application plan and the other documents.

Mr. Morris asked if that could be made a part of a condition or a stipulation.

Mr. Kamptner replied that it could be a recommendation from the Commission that issues a) and b) be addressed before this goes to the Board of Supervisors.

Mr. Morris said then it could be moved up anyway.

Mr. Kamptner replied yes. The other thing is that it is possible some of these issues such as whether or not VDOT will grant an entrance permit that VDOT may need this information anyway.

Mr. Cilimberg noted the entrances exist. So the question would be in a site plan process would VDOT require improvements at the entrances to the site.

Mr. Kamptner agreed. At site plan stage the entrance issues and also the internal circulation issues would have to be addressed anyway.

Mr. Cilimberg noted what would not be addressable at a site plan stage would be anything related to use or impacts off site that may be alleviated through some proffers. Proffers are the only way to really

address that. They can't do that in a site plan, of course, without the traffic information. They don't know if those proffers are necessary.

Mr. Loach said the practicality of this is if there is difficulty in getting out Route 29, but they actually are not going to use 29 and go out the other route as pointed out by the applicant as the preferred route.

Mr. Franco said he was torn because if the 527 Study is not required because it does not meet the threshold then he tends to buy into the information the applicant supplied us tonight as being satisfactory. He was just concerned if they move it forward that engineering may not accept that.

Mr. Loach noted that it would go to the Board. They would see the same thing from engineering. He asked if there would be enough time for VDOT to make a determination.

Mr. Morris said the visit to the Board is to be determined

Mr. Cilimberg said that there is not a date set. Staff would not set a date until whatever the Commission has included in their action has been addressed or the applicant says that he is not going to do it and he wants to go to public hearing with the Board. It is the applicant's choice.

Mr. Morris said they could as Mr. Kamptner said that these must be addressed and it could be addressed with the applicant, Ms. Grant and Joel DeNunzio.

Mr. Cilimberg pointed out that a deferral is at the discretion of the applicant. The applicant can request you take action tonight and send it on and go from there with the Board.

Mr. Franco said he was comfortable that the site plan process will address the intermediate adjacent impacts. It may not address the left turns onto 29 or some of the other 29 related impacts. That is where he leans back to the 527 Study requirements. If it is not meeting that threshold he was not sure if he was that concerned about it, especially given the fact that it has the zoning now and it is really just the application plan. His tendency would be to move it forward without conditions. He thinks the explanation that they have supplied the 1 percent or what they heard earlier about what the traffic impacts would be.

Mr. Loach said they would move it forward with the letter as part of the packet going forward to the Board from the applicant.

Mr. Franco agreed that letter formalizes what was said here tonight and not to provide additional information.

Motion on ZMA-2011-00010

Motion: Mr. Franco moved and Mr. Loach seconded to recommend approval of ZMA-2011-00010 Albrecht Place with the following condition:

1. The applicant to provide letter from the traffic consultant reiterating what was said at the July 17 meeting about the traffic impacts when this moves forward to the Board.

The motion passed by a vote of 5:0. (Smith, Dotson absent)

Mr. Morris noted that ZMA-2011-00010 Albrecht Place would be forwarded to the Board of Supervisors with a recommendation for approval with conditions at a time to be determined.

Motion on Special Exception/Critical Slopes

Motion: Mr. Franco moved and Mr. Randolph seconded to recommend approval of the special exception to allow disturbance of critical slopes associated with ZMA-2011-00010.

The motion passed by a vote of 5:0. (Smith, Dotson absent)

Mr. Morris noted that ZMA-2011-00010 Albrecht Place would be forwarded to the Board of Supervisors on a date to be determined with a recommendation for approval.

Mr. Cilimberg noted for staff in getting that to the Board they will take the action tonight to mean that they accept what was provided verbally tonight as satisfactorily addressing the concern of transportation and traffic and that their letter is just to document that.

Mr. Morris and Mr. Franco agreed that was correct.

Mr. Lafferty noted it was a letter from the traffic consultant.

Mr. Morris noted that ZMA-2011-00010 Albrecht Place and the special exception for the disturbance of critical slopes would be forwarded to the Board of Supervisors with a recommendation for approval on a date to be determined.

The Planning Commission took a ten minute break at 7:20 p.m. and the meeting reconvened at 7:30 p.m.

ZTA-2012-00006 Ministerial Review Process

Amend Secs. 3.1, Definitions, 32, Site Plans, 35.1, Fees, and 35.2, Calculation of fees in special circumstances, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would add and delete definitions (3.1), repeal existing site plan regulations (32.1 through 32.7.10.2) and add new site plan regulations in Sec. 32 pertaining to general provisions (32.1 *et seq.*), applicability (32.2 *et seq.*), administration (32.3 *et seq.*), procedures for submittal, review and action on site plans (32.4 *et seq.*), the form and content of initial site plans (32.5 *et seq.*), the form and content of final site plans (32.6 *et seq.*), minimum standards for improvements (32.7 *et seq.*), and the completion of on-site improvements and surety (32.8 *et seq.*). This ordinance also would amend Sec. 35.1 to add a $500 fee for preapplication plans but which would also be applied toward the initial site plan fee, add a $240 fee for resubmitting a final site plan within 15 days after it has been disapproved for being incomplete, change references to fees for "preliminary" site plans to "initial" site plans, change cross-references to revised section numbers to which fees pertain. This ordinance also would amend Sec. 35.2 to change references to "preliminary" site plans to "initial" site plans. The proposed fees are authorized by Virginia Code §§ 15.2-2241(9) and 15.2-2286(A)(6). A copy of the full text of the ordinance, and documentation pertaining to the proposed fees, are on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Bill Fritz)

Mr. Fritz presented a PowerPoint presentation and summarized the request for ZTA-2012-06 Ministerial Review Process. Staff has done a lot of work on this. A lot of the slides the Commission have seen previously. It is a demonstration that this has been a process that has been ongoing and staff has been fine tuning the proposal.

Clarifying the Goals

- Shorten Approval Times and Cost of Development Review
- Avoid Unnecessary and Burdensome Regulations
- Maintain Opportunities for Public Info / Input
- Maintain Community Quality

Guiding Concepts (principles)

- Predictable for applicants and citizens
- Maintains opportunity for public input

- Maintains quality development
- Reduces approval time

At the five work sessions and the two roundtables they kept coming back to the guiding concepts/principles.

Key Elements in Proposed Ordinance

- Preapplication submittal with review in 10 days to determine main issues and required waivers
- Allow the issuance of grading permits with the approval of the initial (preliminary) site plan
- Establish clearer submittal requirements for the final site plan
- Allows for significant reduction in level of detail required for minor site plan amendments.
- Provides for a purely administrative review process.
- Incorporates the Architectural Review Board review earlier in the process.
- Establish that any comment not responded to within 6 months deems the project withdrawn
- Improves organization which makes interpretation and administration easier for both applicants and staff.
- Uses language similar to that contained in the Subdivision Ordinance.
- Updates language to match current state code language and court decisions.
- Minor changes to fees.

These items were taken directly from the staff report. There are some things that were not done significantly. One of the things was a reduction in plan content. It was one of the things they wanted to try to do. They did include a text amendment that will allow for rather significant reductions in the level of detail that needs to be included on minor site plan amendments so they can focus the review into the specific area where the change is occurring. Staff believes that will make it easier for the applicant, staff, and the public who is interested in the change. However, they felt if they were reducing the plan content for other plans, the initial plan and the final plan, that there could be a loss in the quality of the product.

During the work sessions and roundtable discussions many comments were received. At the Roundtable many of the comments were directed at issues not impacted by the proposed ordinance amendment, specifically, the quality of the tracking system on the web, staff training, attendance of senior staff in preapplication meetings, digital submittal of applications, length of review for Water Protection Ordinance applications, fees for Erosion and Sediment Control plan review and the Architectural Review Board. Staff took those comments and will work on those separate from the zoning text amendment. Some of the comments regarding the Architectural Review Board were relevant to the proposed ordinance amendments and staff will discuss those comments. However, many of the comments regarding the Architectural Review Board were directed at the design standards and decision making process of that body and are beyond the scope of this ordinance amendment.

Roundtable Comments

- Public Involvement
- Grading Permits Prior to Final Plan Approval
- Recommendations verses Requirements
- Architectural Review Board

Public Involvement

Maintains public notification of the Site Review Committee Meeting and maintains the public's ability to provide comment on site plans

One of the things they are going to do as part of the implementation of this zoning text amendment is that staff is going to develop new notices that go out to the public. Key elements of the notice will include what the project is, where plans may be viewed, who to contact at the County, when decisions will be made, how to provide comments and that the project will be reviewed to insure compliance with the ordinance and if the project meets the minimum regulations that the project will be approved. The notice also will state that recommendations for changes to the plan may be made and will be presented to the applicant. If those changes can be required they may be included as required revisions to the plan. If

they cannot be required they will be presented as recommendations to the applicant who may or may not include the changes in the plan

Grading Permits Prior to Final Approval
After the approval of the initial plan a grading permit *may* be issued.

The ordinance does not need to be amended because County Code § 17-204(E). However, because the absence of express language in the site plan regulations was a concern raised by some at the most recent roundtable, staff has added Section 32.4.2.8 to expressly provide that, except within the entrance corridor overlay district, a grading permit may be issued upon approval of the initial site plan. During the most recent roundtable, concern was expressed about the types of conditions that may be imposed in conjunction with the approval of the initial site plan prior to the issuance of a grading permit, especially conditions requested by the Architectural Review Board for those developments within the entrance corridor overlay district. One concern was that a condition may be made that a grading permit may not be issued until a Certificate of Appropriateness is issued. This type of condition could occur. Staff would point out that the current entrance corridor regulations in County Code § 18-30.6.4 provides that a grading permit may not be issued until a Certificate of Appropriateness is issued and the final site plan is approved. The new processes would permit the issuance of grading permits earlier than may currently occur. At worst, the limits on obtaining a grading permit under the new process would be that the permit cannot be issued until the final site plan is signed which is the current standard for issuance**.** The proposed language of the ordinance opens the opportunity for grading permits to be issued earlier. There is no way they could be issued later than they currently are.

Mr. Lafferty asked if he read that they need ARB approval to get a grading permit.

Mr. Fritz replied that it is not that they need ARB approval to get a grading permit. What they need is approval of the initial plan. Staff is recommending that the Site Review Committee would approve the initial plan and state a grading permit may be issued once X, Y and Z are done.

Mr. Lafferty asked if that was the whole committee.

Mr. Fritz replied that was the whole committee. Staff is recommending that the Architectural Review Board be a member of that committee. If they have a condition they think needs to be met prior to the issuance of a grading permit they would say what their condition is and that would be placed on there. If they did not feel that a condition was necessary they would simply be silent on it and a grading permit could then be issued. Obviously, one routine condition will be approval of an erosion and sediment control plan.

Mr. Lafferty said in the worse case it would revert back to the present requirement.

Mr. Fritz agreed it would revert back to what they have right now. It would say the Architectural Review Board, Planning staff or Engineering staff needed more information before they thought a grading permit could be issued because utilities in the area were very shallow; gas lines; or they needed to get the site plan finalized. Therefore, they could not do it until they have the final plan and they would be right where they are right now.

Mr. Kamptner asked Mr. Fritz to look at Section 32.4.2.8.b while they are on that point. He asked if they need to strike the opening clause and leave the discretion to the Architectural Review Board or to the Site Review Committee to impose a condition as to whether or not grading on a parcel within the Entrance Corridor can be allowed or prohibited only by a condition.

Mr. Fritz asked that the question be restated.

Mr. Kamptner asked should the first clause of Section 32.4.2.8.b that accepts the Entrance Corridor Overlay District from those situations where the initial site plan is the approved site plan for purposes of a grading permit. The way it was just described to the Commission was at the initial site plan review stage

they could simply impose a condition that would require approval of the final site plan before the grading permit is issued.

Mr. Fritz replied that was correct. However, he believed the language of Section 17.2.04.e has the language contained in it that the erosion sediment control plan will not be issued if found to be inconsistent with the approval of the plan or a feature of the plan. So by referencing that he thinks they are okay. He continued the PowerPoint presentation.

Recommendations vs. Requirements
There are instances where the ordinance does not allow the Site Review Committee to require changes to achieve improved site design or achieve a goal of the Comprehensive Plan. Therefore, recommendations will continue to be made.

During the roundtable discussions and work sessions it has been emphasized that staff will continue to require and recommend changes. The difference between requirements and recommendations will be stated. All requirements will have to be supported by specific ordinance provisions. The applicant is not required to modify any plan to address recommendations. Staff will work on making a clear distinction. It is not envisioned that staff's level of review is going down at all or interest in the good quality product is going down.

Architectural Review Board
- The proposed ordinance amendments do not alter in any way the authority of the Architectural Review Board.
- No changes in the regulations or design standards of the Entrance Corridor District or the Architectural Review Board are proposed.
- The ordinance amendments only incorporate the Architectural Review Board into the site review process earlier than currently occurs.

Significant discussion at the Roundtable occurred regarding the role of the Architectural Review Board. Many of the concerns stated at the Roundtable about the Architectural Review Board are beyond the scope of this text amendment. It really dealt with how the ARB does it own work, which staff believes is a separate and distinct conversation from this zoning text amendment. What this text amendment does and what it does not do is:
- It does not alter in any way the authority of the Architectural Review Board.
- It does not change the regulations or Design Standards of the Entrance Corridor District or the Architectural Review Board.
- The ordinance amendments only incorporate the Architectural Review Board into the site review process earlier than currently occurs.

The ARB will review all site plans that are within the Entrance Corridor Overlay District and they will make recommendations and requirements until they issue their Certificate of Appropriateness and a grading permit and plan cannot be approved until the ARB is satisfied and a Certificate of Appropriateness is issued.

The Architectural Review Board's authority to regulate a site is not being modified in any way. The new action by the Architectural Review Board will be review the site plan earlier in the review process and to authorize the issuance of a grading permit earlier than currently occurs. The current requirement is that a project must receive a Certificate of Appropriateness and have the final site plan approved prior to the issuance of a grading permit. During the review of the initial site plan the Architectural Review Board may make recommendations they believe would improve the development. For example the Architectural Review Board may *recommend* that a buildings orientation be altered or additional landscaping be provided so that building design is less of an issue in meeting the standards of the Entrance Corridor. The applicant is not required to follow this recommendation but has the advantage of knowing earlier in the review process what will be of concern to the Architectural Review Board during the review of the building design and the issuance of a Certificate of Appropriateness. Another example of a condition may be that for a site with severely restricted area for landscaping due to utility easements that a landscape plan be approved prior to the issuance of a grading permit in order to verify that the minimum

requirements of the ordinance will be met. During a work session with the Architectural Review Board it was determined that the entire Board will not be reviewing and acting on the initial plan. Staff will be reviewing and acting on the initial plan with some coordination with the Architectural Review Board.

Mr. Morris asked if that would be limited to the Entrance Corridor.

Mr. Fritz replied that the Architectural Review Board would only be a Site Review Committee Member and only making comments for projects that are in the Entrance Corridor District. It is also important to note that during the work session that the Architectural Review Board had is that the Architectural Review Board as a body will not be reviewing these projects. They will be relying on staff. They are going to incorporate their own method of communicating back and forth, but it will be a staff person that is the committee member representing the Architectural Review Board. That is not unusual that they would say the Architectural Review Board. For example, they say VDOT is a member of the Site Review Committee, and obviously there is one representative of VDOT. There is one representative from the Albemarle County Service Authority. It is not the board that does it, but is one member. The Architectural Review Board is going to follow the same sort of process that those other organizations use.

Mr. Lafferty asked how many of the committee members have to say yes before it goes through or the process goes forward because there are a lot of people on that committee.

Mr. Fritz replied for the initial plan it was none. It would just be the staff person that is working with the Architectural Review Board. During a work session with the Architectural Review Board it was determined that the entire Board will not be reviewing and acting on the initial plan. Staff will be reviewing and acting/making comments on the initial plan with some coordination with the Architectural Review Board.

Mr. Lafferty asked what happens if the project was outside of the Entrance Corridor.

Mr. Fritz replied that the Architectural Review Board would not be involved.

Mr. Lafferty asked how many members of the committee have to be present in the review process of the Site Review Committee.

Mr. Fritz replied that process would not change from what they have now. Staff sends the plans to all the members of the Site Review Committee. Every member of the Site Review Committee needs to review the proposal to determine if it meets their minimum requirements for granting approval. If it does not they need to cite what it does not meet. That would continue. If one member, such as VDOT, says this does not meet the minimum site distance requirements and it can't be approved, then it cannot be approved. They have to look at how the ordinance relates and do they make it a condition or deny the initial. Typically what they do now is make it a condition instead of denying because typically it can be altered.

Mr. Kamptner said Sections 32.4.2.2 and 32.4.2.8 on pages 42 and 45 both have subsections that deal with the role of the Architectural Review Board. As described this draft language does not refer to the representative of Architectural Review Board, it refers to the board itself. What they really want to be saying here is the representative of the Architectural Review Board.

Mr. Fritz said they had this conversation before and he would welcome any comments. They don't say representative of the Albemarle County Service Authority. However, they are a member of the Site Review Committee. Obviously, it is a member of that Authority that they have routinely accepted. The United States Department of Agriculture has one person they talk to. They don't say their designee unless they think that because it is a County board they need to do something different. However, he did not see the need to do that since it is a day to day practice.

Mr. Kamptner noted one thing they are trying to accomplish in these two sections is to define what is taking place at the initial site plan stage with respect to the architectural review. They are also trying to bring some closure to the issues that will be associated with the Certificate of Appropriateness. So Section 32.4.2.8 after discussing with some members of the public he realized that section requires

further refinement. They are trying to narrow the issues that will be considered by the ARB as a Board once the final goes to the ARB so the issues are not completely reopened if they have done what was either required or recommended by the ARB or the ARB's representative at the initial site plan stage.

Mr. Fritz said they can certainly change it. He had no problem with writing into the ordinance to make it very clear that it is the representative of the Architectural Review Board. The ARB based on their work session would not be opposed to that either.

Mr. Lafferty pointed out he would be more comfortable with that.

Mr. Kamptner said staff will do that. They realize that those two sections just referred to need some further refinement and clarification and better linkage between the two.

Mr. Fritz noted that was the end of the formal presentation. Staff recommends that the Planning Commission support this amendment and forward it to the Board of Supervisors.

Mr. Morris invited questions for staff. There being none, he opened the public hearing and invited public comment.

Valerie Long, attorney, thanked the Commission for suggesting that staff hold the roundtable discussion with the development community and others who are interested in it. As Mr. Morris can attest they had a lively discussion and she thought it was very productive. It was Mr. Randolph's suggestion initially to seek out opinions from Chamber of Commerce and others. Generally speaking she thinks the ordinance really goes in the right direction. She certainly applauds the initiative and effort on the staff's part to improve the process which is a goal they all share to make it more efficient for everyone and better serve the goals of the county. She had two comments.

- It looks like the draft ordinance has been changed and updated since the Roundtable discussion, which has a date of July 10 on it. She was not able to figure out what changes were made from the prior draft because it looks like it just shows all the changes compared against the existing ordinance. It would be helpful to understand what those changes were at some point. It sounds like they incorporated comments from the Roundtable discussion, but yet she was not able with any ease to parse those out.
- The other issue has to do with the grading permits. The way she understands the ordinance works now and she just reread it – there is a section in the current ordinance that if one has a planned zoning district one can actually get their grading permit before getting any site plan approval, including any ARB approvals, as long as the application plan that was approved with the rezoning showed enough detail with regard to grading and so forth that the county staff can review the erosion and sediment control grading plan for conformance with the application plan. That is a significant benefit, especially to large projects that require a lot of site work, to be able to get that grading permit on the front end while the site plan is being drawn by the engineers, reviewed by the county staff and ultimately approved. Especially for a long project the site plan process, even just the preliminary process, can take a year. It is an incredible benefit to a project to be able to go in and go ahead and get the grading permit. If she is reading this properly it sounds like that process is going to be altered such that they may have to wait until they have at least preliminary site plan approval before getting the grading plan. If that was the case and she was reading that correctly, she would caution that is a major change for a Planned District Development projects that should take a little more work
- It was said the process was not going to be any worse and actually they think it is going to get better. She thinks it all fits together very correctly.

Morgan Butler, with the Southern Environmental Law Center, thanked staff primarily for separating tonight's ordinance amendments from the legislative ordinance amendments and allowing ministerial changes to be reviewed separately. Both issues are complex and it is helpful to separate them. Having followed this effort since its outset he did want to say there are several things in this large packet of proposed amendments that make sense. It includes filling out clear submittal requirements and reducing the level of detail required for minor site plan amendments. However, when he read the draft carefully and also looked at the staff report and read it carefully there are other suggested changes in here that

jump out as being very problematic. Most of these were late to the effort to make it permissible to strip and grade the land as soon as a preliminary site plan is approved. He made the following comments.

- His understanding based on the staff reports is that the current default rule is that a grading permit cannot be issued until a final site plan is approved. He thinks that was reiterated tonight although there is an exception for Planned Developments. Also, if the site is in an Entrance Corridor a grading permit cannot be issued until the ARB determines that the overall layout is consistent with Design Guidelines with natural features that would serve as good screens or buffers will be preserved. This makes sense as a default rule. It ensures that a site is not stripped and flattened based solely on a preliminary plan and it allows the ARB to make sure that those natural buffers and streams are not destroyed during grading.
- There are circumstances where it makes sense to allow grading to occur sooner and before final site plan approval. The Water Protection Ordinance already recognizes this listing several instances in which a grading permit can be issued early. If that list in the Water Protection Ordinance is incomplete then let's focus on what additional exceptions need to be added to it rather than turning our current default rule on early grading inside out and making early grading the rule rather than the exception. Further, by trying to make early grading the default rule the draft runs into a number of problems.
- First, the staff report suggests that whenever early grading would not be appropriate there can be protective conditions put on the issuance at the initial site plan to limit early grading. The staff report points to Section 2.04.e of the Water Protection Ordinance as staff's authority to impose those conditions. Having read that provision several times he thinks it is a very questionable interpretation of it. If they are being asked to rely on staff's authority to impose conditions to limit the damage from early grading it needs to be clear in the ordinance that authority actually exists.
- A related problem and one he discussed with Mr. Kamptner earlier tonight is caused by the attempt to pull the ARB into the process earlier and have it review initial site plans for issues related to site layout and landscaping. The staff report indicates that any ARB input on those items would merely be recommendations. The developer could ignore those and still get the initial site plan approved. Yet the first section 32.4.2.8 makes clear that once the initial site plan is approved the ARB cannot then revisit the issues related to site layout and landscaping as part of its review of a Certificate of Appropriateness. So in effect when the ARB does its earlier review apparently the only thing it can do is offer recommendations and yet it has been precluded by this later section from revisiting those items and making them requirements as part of the Certificate of Appropriateness. In effect the ARB's current authority to require items related to site layout and landscaping would be reduced to only the ability to recommend if he was reading the staff report correctly. They also heard tonight that the ARB won't actually be sitting on the Site Review Committee. It is only going to be minimally involved in this initial site plan review and will primarily be a staff person deciding what these important conditions relating to layout and landscaping are.
- In short there are definitely some good ideas in this complex package of proposed amendments, but there are others that clearly require more thought and work. They don't think this is ready for a vote tonight. They urge staff to work with the public to address the problematic pieces before they decide whether to recommend it to the Board of Supervisors.

Neil Williamson, with the Free Enterprise Forum, said Mr. Butler stated clearly some of the concerns that he had. In looking at the key elements contained in the attached zoning text amendment #6 incorporates the Architectural Review Board earlier in the process. When he was growing up his mother told him if they were going to be trying to catch that bee – catch it or be done with it because all you are going to have is an angry bee. He cannot imagine what an applicant when they receive comments, which will only be recommendations, because the ARB does not have statutory authority that it can point to say this is where a building goes. Then because of other concerns be it utilities, topography, or the Neighborhood Model they are forced to put the buildings somewhere the ARB did not recommend and then as someone who attends most of the ARB hearings they come before the ARB and the ARB says our staff person told you what we thought you needed to do – you did not do it. Now they are really in a mix here. He thinks the ARB does not belong in this process.

- He firmly believes the ARB is in many respects can't balance the requirements that the other entities on the review committee have compared to the recommendations. The ARB inclusion in the site review process is a problem and needs to be addressed.

- He also highlighted the same section as Mr. Butler with regard to a Certificate of Appropriateness. Really what the ARB would be doing is advocating the right for a Certificate of appropriateness to a staff member who is dealing with only the site plan issues. There is a lot more to the site plan issues. The balance needs to stay with the regulatory agencies that have codified powers rather than the recommendations.
- In addition, there is a little bit of a tone throughout the ordinance that strikes a little bit of a balance that blames the applicant. There is a lot of good in here about streamlining the application process and a pre-application process that actually is longer on the calendar, which makes it shorter than the current process. He was willing to give this a try, but did not believe that the ARB sections should be included.

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

Mr. Fritz noted the one thing he wanted to be very clear on Ms. Long brought up is there is no change whatsoever in Section 8, which is the Planned Development sections. It would not affect in any way the ability to get a grading permit within a planned development prior to submitting either a site plan or a subdivision plat. Therefore, there is no change there.

Mr. Lafferty said he would be remiss in saying they are requiring more of staff and they have less staff. It seems like every time they get a proposal it is indicating staff is taking on more and more responsibilities. They are understaffed now. It should be noted by the Board of Supervisors that there are things they have requested they have been told that is just not on the agenda because there is not enough staff to do. That is always of concern to him when he sees something like this. He had some specific questions. He asked the difference between streets, travel ways and bicycle ways, which are on pages 56 and 57 in section 32.7.2.3.c.

Mr. Randolph said he takes exception to that since bicycling is not a pedestrian activity but a vehicular activity.

Mr. Fritz said on section C they would want bicycle ways separated out from pathways and pedestrian ways.

Mr. Lafferty said in 32.7.2.2 it refers to travel ways as vehicular access to site and later on talks about sidewalks, paths and bikeways. Since bicycles are defined as vehicles it looks like they are putting bike ways in separate category from streets and travel ways. He questioned why and asked staff to compare it to bike ways.

Mr. Fritz replied travel ways are generally within the parking areas and streets are connecting parcels to each other. It is typical way they are using them.

Mr. Lafferty said on 32.7.2.3.c when they talk about interconnectivity they specify connect to existing sidewalks, walkways and bicycle ways.

Mr. Fritz pointed out he understood what he was saying about separating those.

Mr. Lafferty said one concern was they have sidewalks and other pedestrian ways and travel ways and he would like to see the county get more proactive in getting multi-modal transportation and bicycles incorporated in our planning process

Mr. Fritz said that should be in the prior section and dealt with there in a more forceful way. He noted that streets are defined as a public or private thoroughfare which affords access to abutting property.

Mr. Loach congratulated staff for the public notification since it important. In the end he thinks it will make their jobs easier because when staff gets calls those calls will be based on the contents of the letter. It will be more direct rather have staff explain all of that up front and then get to the questions. Grading was brought up by Mr. Butler and Ms. Long. His only question was by allowing early grading if they were

setting themselves up to situations like Hollymead. He heard Ms. Long say it takes up to a year to get approval and he questioned if this change will make it more difficult.

Mr. Fritz replied that they now can't leave sites open as long and have to stabilize the site. That was not the way the ordinance was when Hollymead was built.

Mr. Loach noted that when listening to Mr. Butler's and Ms. Long's comments about the ARB it sounds like they are putting the ARB in a catch 22 position where they make a recommendation and can't be revisited. Staff said the ARB was a separate issue. However, he wonders if the issue Mr. Williamson brought up that the authority should be worked in the final language in this document as to what role the ARB is going to take in the process. He was not sure they have gotten to that point yet.

Mr. Franco asked if in the example they were given is it a recommendation or requirement that the ARB says to rearrange the buildings despite the Neighborhood Model. That may never happen, but something they read in the newspaper recently. How is that resolved – is that a recommendation or requirement?

Mr. Fritz replied the issue is the ARB or he in reviewing a project what he stressed to the Architectural Review Board is that if they are going to make it a requirement they need to be able to cite the provision or ordinance section that authorizes them to do that. If they can cite the provision that says under the authority of this section they can require this thing to occur, then it is a requirement. If there is no section number they can refer to, then it is a recommendation. That is the same as staff as to do right now.

Mr. Kamptner noted in two of the three subsections that are referenced in those sections there are actual requirements that the ARB is authorized to impose related to two of those three issues under 30.6.4.

Mr. Loach asked what stage that takes place. How can they make a recommendation on something they don't have the information and then can't do it afterward. It was the timing. He did not want to be in the position if he was the ARB to essentially make a recommendation based on something that he had not established the section and then not be able to be brought up later when he has the information to make his requirement based on his authority. It sounds like a Catch-22. It is a good idea the ARB to be brought in early, but it is nebulous on the authority and when they can cite their authority.

Mr. Randolph said on page 57 in section 37.7.2.3 sidewalks and pedestrian ways shall be provided as follows – once again interconnectivity shows up in bicycle ways on abutting parcels. The more they get bicycles out of sidewalks and pedestrian ways and keep them in vehicular access the better on that. Flipping over on the other side to parking, there is no mention in here as they look at on-site parking about the impact of parking on traffic. Repeatedly now one of the issues they have been dealing with, even today, was about the impact of parking for a business on the traffic flow in the county. He was wondering if there was some way they can begin to formalize a process by which applicants really do begin to access in a meaningful way without getting in to detailed quantitative studies, but some meaningful way they can begin to access the impact of their project on traffic.

Mr. Fritz replied that staff sees what is happening here as the first step in what he is talking about amongst other things. By making it administrative process for site plans the Planning Commission won't be involved in that and won't be hearing site plans any more. That means the Planning Commission will have more opportunity to spend time on those other ordinance amendments. All the parking issues are dealt with in another section, section 4, which are the design standards. What they are trying to do is set up a process where they would administer plans to ensure they met the minimum standards of ordinance and as a separate process go through and look at what the minimum design standards that the county wants. Then this process would simply implement those. That is a good comment and something they would want to bring forward to the Commission at a later date.

Mr. Franco echoed Mr. Loach's concern about the ARB earlier in the process. He understands the statements made about requiring the ARB to cite a section of the ordinance. He was still unclear do they have the right to say rearrange the buildings when it may be contrary to the Neighborhood Model as a requirement. He asked if the ARB may require that under their current authority. Bringing them earlier in

the process enables it to be thought longer. He thought that was Mr. Williamson's point that he was going to be wrestling that bee for a lot longer.

Mr. Fritz replied that was part of his comment that much of the comments received deal really with how the ARB does its review and how it implements those things versus when and where it is doing those. They see that as a broader issue between the Architectural Review Board and potentially the Board of Supervisors.

Mr. Kamptner said to also answer the question when in the process that part of the concerns that they have heard was they get the preliminary site plan approved and then go to the ARB and the ARB completely overturns the orientations of the buildings because they are now looking at the design guidelines. So where is the applicant at that point. They were trying perhaps unsuccessfully based on the language they have right now to have the big picture. They only chose the three issues that are the big picture issues that the ARB looks at to have those addressed up front at this stage. That is what they were trying to accomplish with these two sections. Staff will work on it some more to see if they can make it work.

Mr. Franco said that he did not know if he loses standing if he did not have a preliminary plan that then goes to the ARB and they try to move things around. He asked if there are competing interests between the Neighborhood Model and the ARB then who decides. What is difficulty in here is that the ARB's ability to require something If they don't have that ability is very subjective. The concern is while it brings their comments sooner and he would know what their concerns are sooner he did not know that it was giving him any stronger ability to say yes but the Neighborhood Model requires me to do this.

Mr. Cilimberg noted they have to remember that right now the Neighborhood Model is policy and it is not actually codified in a rezoning district. It is only codified for the Planned Development District that is called the Neighborhood Model District. So those rezonings and other development plan rezonings can stipulate locations of buildings in accordance with the Neighborhood Model which the ARB could not change. Beyond that any location of building is really up to the applicant in the site plan process not stipulated under the general provisions.

Mr. Franco noted it was not any longer up to the applicant it is going to be up to the ARB.

Mr. Cilimberg said he was saying where they locate buildings today and still can locate buildings under this proposed process for conventional zoning districts is what is allowed under the provisions of that conventional zoning district. They could choose to put a building up on a street, but actually they can't put the building as close as the parking can be to the street under our conventional zoning.

Mr. Franco said he knew that was one of the things they have been working on. But can the ARB then come back through and even though he is in the envelope that is available to him per the zoning district and say no he wants that building in the back left corner instead.

Mr. Cilimberg noted his question really was about what the ARB can require versus what they can recommend.

Mr. Franco agreed.

Mr. Fritz noted that is not changing at all.

Mr. Graham said that was an excellent point. Right now they could have a preliminary plan approved with the buildings in a certain orientation and the ARB might not like that. But the ARB does not have the authority to require a different orientation. That does not change. That is still what is there. Maybe the ARB does not like that orientation. He thought what Mr. Cilimberg was saying and maybe what is needed here is a review of the distinctions between what the ARB may require versus what they may recommend. As far as what the ARB can require nothing has changed. The things the ARB can require today they will be able to require under this ordinance.

Mr. Franco said he can understand that. However, it would be helpful to better understand what the ARB can require.

Mr. Graham noted that was why he was saying perhaps a review with the Planning Commission of what specifically the ARB can require would help engage the comfort.

Mr. Franco said he thought it was great if they involve the ARB earlier in the process and if they are able to provide recommendations that they think will enhance the plan. It would be left to the owner to make a decision whether they want to accept that or not. If he was going to wrestle that pig on recommendations only he would rather just do it once.

Mr. Graham said they already see a lot of applicants who submit early specifically for that because they know they are going to have to deal with the recommendations of the ARB and they would just assume to find out early and determine what they can work with and what they can't work with and try to move forward with that information. This is simply formalizing getting that type of information early.

Mr. Loach asked how many members of the ARB will be at these early meetings and if it will be the full ARB or just one person.

Mr. Fritz replied that it would only be staff at the meeting and no ARB members.

Mr. Franco pointed out staff was going to get the plan similar to the way VDOT gets it 30 days in advance or something and they will circulate it potentially to work out their own process by which the board as a whole might be able to see it.

Mr. Fritz noted the format he believed the ARB is going to go with is the ARB is notified of all the projects that come in within the Entrance Corridor District. What they discussed at their work session is the staff person would develop their comments and forward them to the members of the ARB sometime prior to the Site Review Meeting. So if ARB members wanted to provide comment or feedback to the staff person they could. If they don't, then they don't. They would let the staff person do it. That was how the staff and the ARB members were going to work together and know what the comments were that was going out. However, it was not a meeting that they are holding.

Mr. Morris said he did not want to beat a dead horse, but he completely agrees with Mr. Loach and Mr. Franco. He had a real hard time with the ARB representative being in so early. However, he also could surely see advantages to it as long as our recommendations were clear and then they don't come back and say well we recommended and you should have done it. It needs to be clarified.

Mr. Franco said his experience from the past is with the creation of Mr. Fritz's position years ago that a lot of it has been separated. A lot of Mr. Fritz's efforts have been in separating recommendations from requirements. Therefore, he could see that as potentially the way this is going in helping to improve that process. He just wants to voice his concern about it. One of the other points raised was the idea of the early grading permit so to speak being the standard now as opposed to the exception. He thought Mr. Butler raised the point about looking at the Water Protection Ordinance and seeing where it is allowed there.

Mr. Fritz pointed out he believed Mr. Butler had some conversations with Mr. Kamptner. He talked with Mr. Kamptner about that just before the meeting and there are a few things that do need to be touched on there to ensure that through the site plan in Section 32 that there is sufficient language within the ordinance that would allow for conditions to be put in place or limitations to be put in place to ensure that whatever needed to be protected could be protected above and beyond what the Water Protection Ordinance has. He thought that was a valid comment and needs to be incorporated into ordinance.

Mr. Franco noted his question to end things would be are they close enough with the comments they have for a recommendation. He asked what action staff is looking for.

Mr. Lafferty said in summary if they are trying to stream line this process it might be helpful to provide the applicant if they are going to be in the Entrance Corridor with a sheet or whatever it takes saying that the ARB has these requirements and recommendations if they are going to be building in the Entrance Corridor. This would enable them to have some guidelines to go by. They heard the term subjectivity and he thought what Mr. Franco is trying to do and what he heard is to sort of codify this so there are fewer obstacles to overcome that may be subjective.

Mr. Fritz said he hears a very clear statement by the Planning Commission that the ARB's role in applying the provisions of the Entrance Corridor District via it initially or as it is now at the end needs to be better clarified. That needs and should be done as part of this zoning text amendment. He asked if that was what he was hearing.

The Planning Commission agreed.

Mr. Randolph asked to add a point. As he went through this he was looking for a flow chart or a heuristic model that he could look at to try to understand the stages of the approval process. He is a visual person and it was very hard to find that in here. He thought that would enhance Ms. Long's point. Having such a chart for the applicant would make things much easier for them. Under the current process it goes to the ARB for a Certificate of Appropriate to be issued. Then it goes to the Planning Department, the site plan approval and then they get the Planning Department for the grading permit. Having the proposed process that is in here clarified visually he thought would be immensely helpful for the applicants and the Commissioners.

Mr. Fritz pointed out that he was working on that today, but did not like the way it looked. He should have included it.

Mr. Randolph said that a synopsis of just those powers versus recommendation capabilities in bullets would be helpful so they are generally known. There may be really detailed situations where the ARB can recommend something. That probably is not so important. However, just knowing generally speaking what the power to require is and what is the power to recommend for the ARB on one page would be really useful if that is possible.

Mr. Morris asked getting back to what Mr. Franco came up with he asked if staff has enough information and feedback.

Mr. Franco asked if this was a work session.

Mr. Fritz pointed out this was a public hearing. His opinion based on what he heard the Commission saying is they may be comfortable in forwarding this on to the Board of Supervisors knowing that staff was going to take a look at this and present that to the Board of Supervisors. The Board would more information about how the ARB will be doing its work and involved with the review of the initial plan. The Commission's desire is that it be clear what the recommendations and the requirements are and if the Board is comfortable that they have given them the information that outlined that based on a report or a presentation focusing on the ARB.

Mr. Morris asked if the Commission feels comfortable with forwarding this on knowing that they are going to make the changes.

Mr. Franco replied yes, but wanted to make sure since it was going to be in a motion that the issues that are going to be looked at by staff and resolved before it goes to the Board so to speak will be dealing with:

1. Dealing with the Architectural Review Board's process in how they do that.
2. The arrangement in the Code itself in the discussion on what a bike path/bike way is.
3. The early grading permit, so to speak, in trying to bring in the Water Protection Ordinance into that process a little bit better.

Mr. Fritz noted in addition it was also clarifying that it is the ARB staff and not the full ARB.

Mr. Franco agreed and that he was comfortable recommending approval and moving it on to the Board.

Motion: Mr. Franco moved and Mr. Randolph seconded to recommend approval of ZTA-2012-00009 Ministerial Review Process (site plan process improvement) as outlined in Attachment A of the staff report with the four conditions as mentioned previously.

1. Address the Architectural Review Board's authority to require changes to the layout of the site.
2. Address bike paths separately from sidewalks and other pedestrian ways. Incorporate bike paths as transportation.
3. Insure that the ordinance allows for the placement of conditions on the issuance of a grading permit as part of initial approval.
4. The ARB staff and not the full ARB is on Site Review Committee

Mr. Cilimberg clarified that this is the Planning Commission's recommendation with the things that need to be addressed.

Mr. Morris agreed.

The motion passed by a vote of 5:0. (Dotson, Smith absent)

Mr. Lafferty thanked staff for their efforts.

Mr. Fritz noted that Mr. Kamptner deserved much of the credit since he is the one who has really spent the time making sure they have not duplicated sections and they all refer back and forth to each other in the proper order.

ZTA-2012-00009 Ministerial Review Process Improvements (site plans) would be forwarded to the Board of Supervisors with a recommendation for adoption with conditions as outlined.

Old Business:

Mr. Morris asked if there was any old business. There being no old business, the meeting moved to the next item.

New Business:

Mr. Morris asked if there was any new business.

- Tentative future meeting schedules will be periodically included in the agenda.
- The next Planning Commission meeting will be held on Tuesday, July 24, 2012.

Adjournment:

With no further items, the meeting adjourned at 8:34 p.m. to the Tuesday, July 24, 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)