Albemarle County Planning Commission
August 21, 2012

The Albemarle County Planning Commission held a regular meeting on Tuesday, August 21, 2012, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Other officials present were Joanne Tu Purtsezova, Planner; Christopher Perez, Senior Planner; Ron Higgins, Chief of Zoning; Francis MacCall, Senior Planner; Wayne Cilimberg, Director of Planning; Sharon Taylor, Clerk to Planning Commission & Planning Boards; David Benish, Chief of Planner; Mark Graham, Director of Community Development; and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish

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

Consent Agenda

Approval of Minutes: June 19, 2012
SDP-2012-00013 Dunlora Forest- Final Site Plan
PROPOSED: Request for final site plan approval of 99 units, including townhouses, single family, and duplexes at a density of 4.46 units per acre.
ZONING CATEGORY/GENERAL USAGE: R4- Residential- 4 units per acre standard level, and 6 units per acre bonus level; R6- Residential- 6 units per acre standard level, 9 units per acre bonus level.
SECTION: Section 32 Site Plan; Section 16 R-6 Residential; Section 15 R-4 Residential; Section 4.2.5 Modification or waiver of Critical Slopes
COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential- residential (3-6 units/acre); supporting uses such as religious institutions, schools, and other small-scale non-residential uses in Neighborhood 2
ENTRANCE CORRIDOR: No
LOCATION: Rio Road East at the intersection with Pen Park Road
TAX MAP/PARCEL: 062F00000000A0; 062D00100000A0; 06100000016600
MAGISTERIAL DISTRICT: Rio
(Megan Yaniglos)

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

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

The motion carried by a vote of (7:0).

Mr. Morris noted the consent agenda items were approved.

Public Hearing Items:

SP-2012-00020 NTELOS (CV830) Glendower/Schmidt Property Tier III Personal Wireless Service Facility
PROPOSAL: A 91.3 foot steel monopole, painted brown, with a flush-mounted antenna array of three panel antennas and associated ground equipment. The proposed monopole is approximately 20 feet above the reference tree and is located in an avoidance area (Southern Albemarle Rural Historic District).
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: 10.2.2 (48) which allows for Tier III personal wireless facilities in the RA Zoning District
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 4 - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/acre in development lots)
ENTRANCE CORRIDOR: YES
LOCATION: east side of Rt. 20, just north of Glendower Road at 6507 Scottsville Road
TAX MAP/PARCEL: 12100-00-00-082H0/12100-00-00-08200 (access)
MAGISTERIAL DISTRICT: Scottsville (Joanne Tu Purtsezova)

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

Proposal: Request for a special use permit to allow a new 91.3 foot steel monopole, painted brown, with a flush-mounted antenna array of three panel antennas and associated ground equipment including a 6' tall fence chain link with barb wire also painted brown. The proposed monopole is approximately 20 feet above the reference tree.

The reason this proposal is before the Commission is because it is located in an historic district, the Southern Albemarle Rural Historic District. There are also conservation easements adjacent but not immediately on the property.

The site contains an existing AT&T facility, which was approved in 2011. Staff noted the existing ground equipment and the existing AT&T monopole. The reference tree from the previous project is also used for this proposal. It is about 23' away from the proposed monopole. During the balloon test in June the balloon was visible and little bit sky lit at the intersection with Riding Club Road. However, it was not visible along the majority of Route 20. It was minimally visible through the break in the trees on the curb approaching Riding Club Road along Scottsville Road.

A letter of opposition was received from an adjoining owner at 6773 Lady Slipper Path. Staff went back out to check what the conditions were. A picture from Lady Slipper Path was reviewed. The entire area is heavily wooded. Staff noted the view from Lady Slipper Path towards approximately the location of the proposed facility. From Lady Slipper Path there is a road that winds around towards Route 20. Staff worked with geographic data services to look at the viewshed of where the balloon was visible and where the proposed facility is anticipated to be visible. Staff reviewed the maps, which only takes into account elevation and vegetation. When forest cover is added most areas become not visible. However, this is also taking into account forest cover at a uniform height.

SUMMARY:

Staff has identified factors which are favorable and unfavorable to this proposal:

FAVORABLE FACTORS	UNFAVORABLE FACTORS
1. The Architectural Review Board staff has no objections, based on limited visibility from Route 20, an Entrance Corridor.	1. The proposed facility is located within the Route 20 Entrance Corridor.
2. The facility is heavily shielded from Glendower Road by tall, dense tree coverage.	2. The proposed facility is located within the Southern Albemarle Rural Historic District.

3. No adverse impacts to the nearby Agricultural/Forestal Districts are anticipated.	3. The parcel adjoins the Carter's Bridge and Totier Creek Agricultural/Forestal Districts.
4. The existing facility is well-sited along Scottsville Road and the proposed facility is immediately next to the existing facility.	4. The proposed facility is anticipated to be skylit directly in front of the site, at the intersection of Scottsville Road and Riding Club Road.
5. Screening due to the elevation of the lease area above Scottsville Road mitigates most of the visibility from Scottsville Road.	5. The facility is momentarily visible at a second location along Scottsville Road through the trees.
6. The proposed facility is not expected to be visible from Ladyslipper Path.	6. A letter of opposition from an adjoining owner located on Ladyslipper Path has been submitted.
7. An existing access road will serve both the existing facility and the proposed facility and result in less land disturbance.	7. The proposed height is greater than seven (7) feet above the reference tree. Approval of a special exception to modify monopole height is requested.

Staff recommends approval with staff's recommended conditions as listed in the staff report.

Mr. Morris invited questions.

Mr. Loach asked if the letter of objections based on the visual appearance of the tower or was it based on other factors.

Ms. Tu Purtsezova replied it was based on two things. One factor was that they thought it was visible. However, they did not say where it was visible from. She imagined they would probably see it as they drive out of their neighborhood. The second concern was the tower sprawl. So they wanted a condition to require a co-location with other applicants should that be requested. That is not a typical standard condition.

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

Valerie Long, with the law firm of Williams Mullins, represented the applicant Ntelos. Others present included Jesse Wilmer with Ntelos also present. She presented a PowerPoint presentation.

- To clarify Mr. Loach's question she confirmed that the email received was from an adjacent owner who said he could see it. She pointed out on a slide that it was the only place they could see the tower. The adjacent owner also commented that did not think it was appropriate to have a second tower right next to it that Ntelos should put its antennas on the existing AT&T facility. From their years of service they know that most of the time carriers can't make what they call vertical co-location work on these treetop style poles. There are exceptions. Actually Ntelos has a facility in the same chain of facilities on Route 20. There was an application brought forward at a Catholic Church on Route 20. That site actually works very well for Ntelos and they are going to co-locate and put their antennas on that tower instead of having to build a second one. That parcel just happens to be at a nice high elevation. So it works. It is a case by case situation. It works there. Ntelos and really all the carriers always try to co-locate on an existing structure whenever they can. The zoning ordinance actually encourages that by making it a Tier I facility,

which is a much faster zoning approval. So that is their preference. However, it rarely works. When it does they do it. If it does not and it is a good property like this one they propose to put a second pole right next to it. That was just to help clarify that issue.

- In aerial views showing the location using Google maps she pointed out the proposed location and the property on Lady Slipper Lane. Those lots are wooded. She noted their visibility assumption is that the adjacent owner viewed the existing AT&T facility from one location. It really is the only location it is visible. If they are sitting there to turn north or south on Route 20 it can be seen. However, immediately when you turn it is really gone. This parcel is within the Southern Albemarle Rural Historic District. The vast majority of the land in question is pretty flat. The areas of critical slopes are man-made slopes form when Route 20 was built
- One of the things that make this a nice location for wireless facilities is the fairly high elevation of the ground above the Route 20 road bed. So that combined with the heavy vegetation is helpful in screening the pole even during the winter months. The existing access road, which was constructed for the AT&T facility, will be used by Ntelos to access their pole as well. It has an added benefit of using the existing road. The existing access road extends back to the existing AT&T facility. There will be a short spur constructed to serve the Ntelos facility. Ntelos does not use a larger cabinet like AT&T, but a smaller cabinet. The poles are located very close together to minimize any tree disturbance or removal and to use the existing access road. In this location Ntelos originally proposed the pole to be 10' above the reference tree. However, when they flew the balloon and had their engineers test the site it did not work at 10' above the trees because the trees are really taller there. So they worked to raise the balloon a little bit. They felt that because it was had very limited visibility that perhaps the Commission and Board would be willing to support it at a higher height so that it would actually work and reach the proposed towers that would be on either side of it, thus providing seamless coverage along Route 20.
- In photo simulations prepared from the balloon test she reviewed the site conditions. They can see the top of the AT&T facility that gives them an idea of how visible the Ntelos pole will be. Again, this is a very static view. If you turn and drive 10' north or south you can no longer see the pole. In a photo taken internally from inside the land owner's property it shows the relative difference in height. They can see that the tree is tall and why the antennas needed to be up above that height. There may have been an error with the tree surveys since the AT&T facility was really not tall enough to function well enough.
- There was one location on Route 20 driving south that they could see the balloon. Staff indicated in the report that it was a very short view. They literally had to pull the car over and get out of the car to look. So there was only one spot they could see it from. It was a very distant view and you blink and it was gone. There was an evergreen tree behind there which will help blend that in a little bit more.
- Ms. Long reviewed a map showing the coverage Ntelos is proposing along this corridor. Much like AT&T they do not have coverage there now or it is weak and not to their current standards. So they are proposing a network of facilities along the Route 20 corridor in an effort to provide seamless coverage to their customers. They are working their way south to provide coverage all the way to Scottsville and beyond. She pointed out what the coverage would look like if this facility were approved and activated and then if all of the facilities around it were activated. Their goal is to have it at a minimum of in car coverage along the entire corridor. The distance between this site and the one proposed just to the north is a little bit longer than the engineers would like. That is why when they tried it at 10' above it did not work very well. That is why they are hoping that they will be willing to recommend approval at 20' above the reference tree so they can ensure that connection between those facilities is met.

Mr. Morris invited questions.

Mr. Randolph asked what Ntelos would do if they permitted the tower to only be at 10' above.

Ms. Long replied that she would have to check with Ntelos and they would probably have to check with their engineers. They would probably build it but they would probably not be able to provide the coverage that their customers are asking for. Their testing data is showing that it will result in dropped calls, inability to initiate calls and otherwise poor service. These facilities cost about $250,000 to $300,000

each just in the equipment. For them to spend that amount of money and then have a tower not work very well for them to go 10' higher and have it work well makes sense especially based on the demonstration of minimal visibility. That is the difference between the two. They might build it. She did not know. She could check with Ntelos. However, they are asking for the 20' above given the limited amount of visibility.

Mr. Smith said he assumed AT&T has not objection.

Ms. Long replied that is correct.

Mr. Smith asked if they have any kind of joint agreement because they are in each other's fall zone.

Ms. Long replied that they have agreements and requirements that they can't interfere with each other's signals under their license agreements. However, she did not believe they do. Most of these poles, especially now that they are allowed to build them in steel instead of wood, are designed and engineered to collapse within a fairly small defined area. They don't fall over like a tree. They are engineered to collapse at the base and the top of it breaks off and then it collapses. They can actually engineer them to fall within a 25' area. She thinks they feel so comfortable that does not happen that they don't do that. It is very common particularly in Albemarle County to have locations with more than one pole. It is so difficult to find a location that works well to hide these poles that once the carriers finds one that works they tend to all go there. That is how it has happened in her experience.

Mr. Morris asked Mr. Kamptner if he has any information about that. It is a very interesting question.

Mr. Kamptner replied no, the county does not regulate or require anything for facilities to fall on one other. They require the fall zone easements when the pole could fall onto someone else's property.

Ms. Long pointed out there was a one to one setback in the ordinance that a pole has to be set back from an adjacent property line a distance equal to the height of the pole. So a 100' pole has to be 100' from the property line.

Mr. Loach asked if this tower is big enough. They have been having a lot of carriers come in for a second tower to co-locate. He asked if this pole was big enough for the 4G.

Ms. Long replied that Ntelos plans show three sets of antennas for a couple of reasons. One, they don't have the need at this point to add a second set of antennas. She did not think they expect that in the future unlike Verizon that she thinks has come in with most of those. AT&T is putting on two sets of antennas as well. But that is also to make it easier for potential future co-locations. So if say Verizon or US Cellular came along and it worked for them to co-locate on the pole by showing it already on the plans that helps make it easier for the next carrier to come through the zoning process. But at this point it works for Ntelos needs at 20' above the pole as requested. They don't have any plans in the future to add a second set of panel antennas.

Mr. Lafferty asked if they anticipate that the antenna technology will get that much better that they will have future antennas.

Ms. Long replied that they really were not so much for Ntelos. Those future antennas are really for any other future carrier who might be interested in co-locating their antennas on the pole. Again, it is more a matter of making it clear for zoning purposes that if this special use permit is approved that there is no question that the county can permit additional antennas to be located on there if another carrier comes along. They had an issue where there was a question about that. So the staff suggested that they go ahead and show all their new poles with additional future carriers just in the event that it is necessary. For now it will just be one set of antennas at the top. That may be all that there ever is.

Mr. Loach questioned asked the question if they should not have worked with AT&T to increase theirs and then co-located on that.

Ms. Long said it was a very good question. She was not sure because before Verizon came along and started asking for permission to raise all of their poles that was something that was frowned upon. The direction that they have always been given was don't raise the poles above 10 – just put a second one next to it. When AT&T was going through that they felt that the height 10' above the trees was all they would ever be able to get approved. So they stuck with 10'. In hindsight they wished they had done it taller. There is the ability administratively the way the ordinance is written that the approval says they can be 10' above the reference tree. In theory as trees grow applicants and owners of sites can come in and upon providing evidence to the county staff that the reference tree has grown 10', they can raise the height of the pole an equivalent distance. So that option is out there. It is an expensive option. The carriers don't use it until it gets pretty bad because they have to replace almost all of the equipment in order to do that. She assumed it made economic sense for Verizon to do that, which enabled them to put their 4G antennas on. Some of their poles were approved ten years ago and the trees had grown enough that it made a big difference, which was worth the investment on their part.

Mr. Smith said he understood that they would not put the full array of antennas as shown on the tower.

Ms. Long replied no, not at this time. At this time it was just the panels at the very top.

Mr. Smith asked if the technology between companies so that they use the same type of antenna or not.

Ms. Long replied not necessarily the same antennas. He was getting a little bit more technical beyond her knowledge. Generally, they don't all use the exact same model antennas necessarily. She thought they use similar ones. They all still use slightly different frequencies. But they all can general use the same basic dimensions of antennas.

Mr. Randolph asked if they have received any communication from AT&T about this tower of this facility and an interest on their part to actually utilize it if approved.

Ms. Long no, not for AT&T to co-locate on this tower if this one is 10' above the reference tree. They are using the same reference tree so she believed the middle set of antennas, which is where AT&T would have to go if they were on the Ntelos pole, would be essentially the same height where they are now.

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. Loach said to some degree on the practical side is with they get the worst of both as they get 20' in two towers whereas if they looked at it from the beginning and they had the 20' maybe they would have one with a co-location. With that said he thinks this is somewhat of a learning lesson, too, is that 10' might have been a good metric and maybe visibility should have been a higher standard. The service is important for the people on Route 20. The ARB has already approved this. Therefore, it has already been looked at from that perspective. Again, he thought they should use this as a learning lesson because he did not think this is the end.

Mr. Lafferty asked Mr. Kamptner if he had any feeling with what the federal government will do as far as regulations go. He assumed they would step in on this.

Mr. Kamptner replied that long term they see the FCC and Congress moving in the direction of encouraging the further rapid deployment of wireless facilities. The actions they have seen over the last three years or so he thinks they see their local zoning authority being chipped away.

Mr. Lafferty agreed with Mr. Loach. He thinks their concern is they are not trying to limit communication within the county. They are trying to preserve the beauty of it and make it look so they don't have antenna farms everywhere. In this case he wonders why they did not ask for 50' above so they could have accommodated everything. With the ARB thinking it is okay he certainly thinks it is alright. They have exceeded the 10' limit in other cases. Therefore, he thought they can make an exception of it now.

Mr. Dotson noted he had a question for staff. Twice Commissioners have said the ARB approved it. He asked if that is accurate wording.

Mr. Benish replied that ARB staff has evaluated it and provided comments. The ARB does not look at it directly. If there are issues that the staff sees they may approach the ARB. The ARB staff has been pretty reliable in providing information that the ARB would support from a guidance standpoint. They looked at this from a co-location encouraging the existing pole to go higher. The existing pole is practically invisible. So the net effect of the second pole is one pole is visible in one location. So again, this really boils down to the extent of visibility. The second pole does not result in a high level of visibility of two poles. He thought that was the situation here that staff focused in on.

Mr. Randolph noted his only concern was about the precedent just so they are all clear that they are stepping over this line. Once they have breached that 10' and they are into 20' who knows what else comes up. However, they have been there before.

Mr. Lafferty pointed out again that it is on a case by case basis.

Mr. Randolph noted he had not been there before and just wanted to point out his concern.

Mr. Dotson said he was comfortable moving for approval with a preamble to the recommended wording, which would be "because of the unusual topography, vegetation, and resulting lack of visibility and other potential impacts of this particular tower…..". He would add that so as to try to minimize any precedential effect.

Motion on SP-2012-00020:
Motion: Mr. Dotson moved and Mr. Loach seconded to recommend approval of SP-2012-00020 NTELOS (CV830) Glendower/Schmidt Property Tier III Personal Wireless Service Facility with the conditions outlined in the staff report, as amended adding the preamble to the recommended wording which would be "because of the unusual topography, vegetation, and resulting lack of visibility and other potential impacts of this particular tower….".

The motion passed by a vote of 7:0.

Mr. Kamptner noted the Commission also needs to make a recommendation on the special exception to allow the facility more than 7' above the tallest tree.

Motion on Special Exception:
Motion: Mr. Dotson moved and Mr. Randolph seconded to recommend approval of the special exception for the granting of the modification to allow the facility to be more than 7' above the tallest tree (reference tree) for reasons outlined in the staff report.

The motion passed by a vote of 7:0.

Mr. Morris noted that SP-2012-00020 Ntelos (CV830) Glendower/Schmidt Property Tier III PWSF and the special exception would be forwarded to the Board of Supervisors with a recommendation for approval with the conditions outlined by staff to October 3, 2012, as follows.

- SP-2012-00020 Ntelos (Glendower) Schmidt Property, CV830 Tier III PWSF adding the preamble to the recommended wording, "because of the unusual topography, vegetation, and resulting lack of visibility and other potential impacts of this particular tower…." with the conditions outlined in the staff report, as follows.

Recommended Conditions of Approval for SP-2012-20:

1. All work shall be done in general accord with what is described in the applicant's request and site construction plans, entitled “Ntelos Glendower (Schmidt Family Limited Partnership Property) CV830”, with a final zoning drawing submittal date of 7/30/12.

2. Development and use shall be in general accord with the conceptual plan titled “Ntelos Glendower (Schmidt Family Limited Partnership Property) CV830” prepared by Brian Crutchfield and dated 7-18-12 (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 and monopole

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

- The special exceptions for the modifications for SP-2012-00020 Ntelos (Glendower) Schmidt Property, CV830 Tier III PWSF as outlined in the staff report to allow the facility to be up to 20’ above the reference tree for reasons outlined in the staff report for Section 5.1.40(d)(6) under the special exception criteria of Section 31.8. The recommendation would allow the height increase up to 20

SP-2012-00012 Regents School of Charlottesville
PROPOSAL: School of Special Instruction. Utilize existing structure, no additional buildings proposed.
ZONING CATEGORY/GENERAL USAGE: CO Commercial Office – offices, supporting commercial and service; residential by special use permit (15 units/acre)
SECTION: Chapter 18 Section 23.2.2(6) of the Albemarle County Code, which allows for School of Special Instruction.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Area 1 - Rural Areas – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots)
ENTRANCE CORRIDOR: Yes
LOCATION: 3045 Ivy Road Charlottesville VA
TAX MAP/PARCEL: 05900-00-00-023G1
MAGISTERIAL DISTRICT: Samuel Miller (Christopher Perez)

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

This is a special use permit for a school of special instruction on an existing property that is 12.5 acres in size and currently zoned CO, Commercial Office. The proposal is for 60 students and 9 staff members for grades K through 8.

The vicinity map shows the surrounding properties are zoned C-1 as well as Highway Commercial. Rural Area surrounds it. The property is bordered by Route 250 as well as the railroad tracks are behind it.

The Christian Aid Mission Complex has four buildings on the property. The proposed building is an old administrative building, which is a two-story building with a basement. Currently the basement is used by the Charlottesville Korean Church on Sundays. The above ground floors are mostly vacant except for

two small offices, which are used by the Business of Prayer on the first floor. The applicant's concept plan shows the A1 building proposed to be used. This proposal met all of our regulations and staff is in favor of approving it.

Factors Favorable:

1. The use is consistent with the Land Use Plan and current zoning.
2. Provides an alternative school option for people who live and work in the area.
3. The use is being located in an existing underutilized/ semi vacant building. No new structures are being built.
4. There are no anticipated detrimental impacts on adjacent property resulting from the proposed use.

Staff finds no unfavorable factors to this request.

Staff recommends approval of SP-2012-00012, Regents School of Charlottesville with the conditions listed in the staff report.

Mr. Morris invited questions for staff from the Commission.

Mr. Dotson asked staff to go back to the proposed conditions. He was curious about the reasoning for #3 and #5.

Mr. Perez replied that the zoning department could answer the question pertaining to condition #3. However, he would point out if they go below age 2.5 then they would be a daycare facility. This is strictly a school. The school age children would be from K through 8th grade, which is the requirement for #3. Regarding condition #5 - this facility is proposing not to have food preparation on site. They have a septic system and they are not on sewer. They are only on public water. That is why the health department pushed that. However, the school is okay with that and will have bagged lunches and their kids bringing their own lunches.

Mr. Morris asked if the normal age for kindergarten was 5 years of age.

Mr. Perez replied that was correct. The school had said the minimum age would be 5 years old for kindergarten through 8th grade.

Mr. Morris questioned condition #3 and noted he would ask the applicant.

Mr. Benish pointed out condition #3 was a recommendation from zoning that creates that distinction between daycare and private school. Even though they are proposing kindergarten he thinks the age cut off helped zoning interpret what type of use and what age children could be on the site.

Mr. Loach asked if there is a left turn lane on 250 to get into the site.

Mr. Perez replied that was correct. VDOT has reviewed this and they approved it for the existing entrance as well as the left turn lane and right turn lane, which were upgraded for the Christian Aid Mission School before.

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

Jared Christophel, board member and representative for Regents School of Charlottesville, said Regents School is a classical Christian school in Charlottesville and the only classical school in the surrounding area. The nearest classical school is in Harrisonburg and Richmond. The school started in August, 2010 with one teacher and 7 students. This most recent year the school had 5 teachers and 20 students. Partially because of it being the only classical school this current school year they have 55 enrolled pupils and 9 teachers. The school is currently located at the Jefferson Park Baptist Church in the basement,

which is on JPA Extended in the Fry Spring neighborhood, and is quickly outgrowing that space. For the past year they have been looking for another facility to house the school. They came upon the Christian Aid Mission site that has a vacant office building since they moved to the Fifth Street Extended office some years ago. The old administration Christian Aid building fits their needs for space, number of rooms, and access. This proposal uses an existing facility that would prevent them from having to build another facility in the county. They thank the Commission for their consideration.

Mr. Morris invited questions for the applicant.

Mr. Lafferty said he was curious as to what a classical school is.

Mr. Christophel replied as opposed to the more modern yet traditional method of education the classical method uses the trivium to educate students, which consists of introducing them to a subject in three phases. They undergo the grammatical phase of learning followed by the logical phase of learning and ending with the rhetorical phase.

Mr. Randolph asked if they have given any consideration to fencing along the back side of this property where the train tracks are. There seems to be a fair amount of confidence in the written materials that there is a heavily wooded buffer. However, he knows from his experience with young people as a principle that heavily wooded buffers are very enticing areas to go exploring. They have a significant amount of train travel on the back end. What steps will the school take to safe guard its students to the train tracks?

Mr. Christophel asked Courtney Palumbo how close the train tracks are to the school. He asked that they go back to the concept plan.

Courtney Palumbo, Head of Regents School, replied the railroad tracks actually border the back of the property. However, she did not believe it was easily accessible. Obviously, if a child were to try to leave the formal school premises they obviously could. She believed it was probably a few hundred yards away. They have not given thought yet to putting up any fences. That would have to be with the permission of Christian Aid who owns the facilities. However, that is something they would want to consider.

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

Ms. Monteith asked how the traffic analysis was completed since the use did not exist on the site and the volume of traffic is concentrated in terms of when students will be coming and leaving.

Mr. Perez replied that VDOT had conducted the traffic numbers. They said it would be 57 during the a.m. peak hours and he asked if that was going to be a problem. VDOT said no this site has the entrance as well as the turn lanes to accommodate this use. Staff received VDOT's approval.

Mr. Benish pointed out this use was replacing what is right now a vacant building so it is not added to the site as well. He thinks that played into it.

Mr. Smith questioned if there was an entrance on the other state road.

Mr. Perez replied there was not another entrance on the other state road on this current one.

Mr. Lafferty noted there was another entrance to the property at one time, but not now.

Mr. Smith pointed out the traffic would come off of Route 250.

Motion: Mr. Randolph moved and Mr. Lafferty seconded to recommend approval of SP-2012-00012 Regents School of Charlottesville with the conditions recommended in the staff report.

1. The school is limited to the existing administrative building and grounds, as shown on the concept plan (Attachment A). All parking for the facility shall be located in spaces designated on the concept plan as P1, P2, and P3. Any additional buildings or other site changes beyond those shown on the approved site plan for SDP1992-052 titled "Christian Aid Mission Administration Building" prepared by William W. Finley and date approved July 14, 1994 require an amendment to this Special Use Permit.
2. Maximum enrollment shall be 60 students.
3. All students shall be over the age of 2 ½ years old.
4. Hours of operation for the school shall be between 7:45 a.m. to 4:00 p.m., except that occasional school-related events may occur after 4:00 p.m.
5. No food preparation is permitted onsite without an amendment to this Special Use Permit.

The motion was passed by a vote of 7:0.

Mr. Morris noted that SP-2012-00012 Regents School of Charlottesville would be forward to the Board of Supervisors with a recommendation for approval with conditions at a date to be determined.

ZTA-2012-00011 Highway Commercial Wall Signs – Amend Sec. 4.15.12, Regulations applicable in the C-1, CO and HC zoning districts, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Sec. 4.15.12 to increase the maximum area allowed for wall signs in the Highway Commercial zoning district from 100 square feet to 200 square feet, which was the maximum area allowed for such signs prior to a recent text amendment. The full text of the ordinance is available for examination by the public in the offices of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Amelia McCulley)

Ron Higgins presented a PowerPoint presentation and summarized the executive summary.

Proposal/Request/Subject: Amendment to Sec. 4.15.12, Regulations applicable in the C-1, CO and HC zoning districts to correct the maximum wall sign size permitted in the HC, Highway Commercial zoning district.

This is kind of a repeat of a little piece of something the Commission was dealing with last year. They did a lot of sign ordinance amendments. The Board of Supervisors adopted ZTA 2010-05 on March 14, 2012. This Sign Ordinance ZTA amended a number of sign regulations including those for Planned Developments and shopping centers, freestanding and monument sign setbacks, temporary sign regulations, window sign regulations, and wall signs in commercial districts. Throughout that whole process one of things they dealt with was to make consistent the sign area allowance in commercial districts of 1.5 square feet per linear foot of building wall. Virtually all the districts except C-1 and CO, which were more concentrated smaller scale commercial districts, they allow that figure except with a cap of 200 square feet on a wall sign on a much larger wall. In C-1 and CO it is 100 square feet. In staff's movement of things around from one chart to another they actually put HC in the chart with C-1 and CO and simply inadvertently limited the maximum in HC to 100 square feet. Staff did not intend that. None of the Roundtables, proposals or discussions anticipated that. Therefore, staff is correcting the inadvertent change that resulted in reduced maximum wall sign area permitted in the HC, Highway Commercial District (Code § 18-4.15.12). The Planning Commission adopted a Resolution of Intent to correct this. The proposed zoning text amendment will correct that change in the HC district maximum wall sign area.

Staff recommends approval of the Zoning Text Amendment to the Board of Supervisors as shown in Attachment A of the executive summary. It is scheduled for public hearing with the Board on September 12th.

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

Motion: Mr. Loach moved and Mr. Franco seconded to recommend approval of ZTA-2012-00011 Highway Commercial Wall Signs as recommended by staff and shown in Attachment A of the staff report.

The motion was passed by a vote of 7:0.

Mr. Morris noted that ZTA-2012-00011 Highway Commercial Signs would be forwarded to the Board of Supervisors with a recommendation for approval as outlined by staff and shown in Attachment A of the staff report, as follows.

(Attachment A in staff report)

ORDINANCE NO. 12-18( )

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article II, Basic Regulations, is hereby amended and reordained as follows:

By Amending:

Sec. 4.15.12 Regulations applicable in the C-1, CO and HC zoning districts

Chapter 18. Zoning

Article II. Basic Regulations

Sec. 4.15.12 Regulations applicable in the C-1, CO and HC zoning districts

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Commercial (C-1), Commercial Office (CO) and Highway Commercial (HC) zoning districts:

Sign Type	**Number of Signs Allowed**	**Sign Area (Maximum)**	**Sign Height (Maximum)**	**Sign Setback (Minimum)**
Directory	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
Freestanding	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	32 square feet, aggregated, plus bonus tenant panels as provided in section 4.15.16(b); if more than 1 sign at an entrance, no single sign shall exceed 16 square feet	12 feet	5 feet
Projecting*	1 per street frontage	32 square feet	30 feet, but not to exceed the	Not applicable

			top of the fascia or mansard	
Temporary	1 per street frontage per establishment	32 square feet	12 feet, if freestanding sign; 30 feet if wall sign, but not to exceed the cornice line	5 feet
Wall*	As calculated pursuant to section 4.15.20	In the C-1 and CO zoning districts,1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 100 square feet; in the HC zoning district, 1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 200 square feet	Not to exceed the cornice line	Same as that applicable to structure

*Each establishment may have both a projecting sign and a wall sign. If the establishment has both such signs, the allowed sign area of the wall sign shall be reduced by the sign area of the projecting sign (which may not exceed thirty-two (32) square feet).

(12-10-80; 7-8-92, § 4.15.12.5; Ord. 01-18(3), 5-9-01; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code § 15.2-2280.

I, Ella W. Jordan, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of _____ to _____, as recorded below, at a regular meeting held on _____.

_____
Clerk, Board of County Supervisors

	Aye	Nay
Mr. Boyd	____	____
Mr. Dumler	____	____
Ms. Mallek	____	____
Mr. Rooker	____	____
Mr. Snow	____	____

Mr. Thomas ____ ____

The Planning Commission took a break at 6:53 p.m. and the meeting reconvened at 7:01.

ZTA-2012-00006 Legislative Review Process Improvements – Amend Secs. 1.7, Official zoning map, 3.1, Definitions, 4.8.1, Determinations concerning unspecified uses, 4.15.5, Signs authorized by special use permit, 10.5.2, Where permitted by special use permit, 20.1, Intent, where permitted, 20.2, Application, 30.1.2, Application, 30.5.5, Permitted uses by right and special permit, 31.1, Designation of zoning administrator, authority, 34.4, Application for variances, 35.1, Fees; and repeal Secs. 1.9, Application for land use permit; payment of delinquent taxes, 8.5.1, Applications and documents to be submitted, 8.5.2, Preapplication conferences, 8.5.3, Review and recommendation by the planning commission, 8.5.4, Review and action by the board of supervisors; effect of approval, 8.6, Amendments to planned development districts, 20A.3, Application requirements; required documents and information, 20A.4, Application plans, 31.6, Special use permits, 31.6.1, Reserved to board of supervisors, 31.6.2, Application, 31.6.3, Conditions, 31.6.4, Revocation, 31.8, Special exceptions, and 33 (and its subsections), Amendments; and adding Secs. 33.1, Purpose and intent, 33.2, Uniform requirements for the initiation of zoning text amendments and zoning map amendments, 33.3, Uniform procedures for zoning text amendments and county-initiated zoning map amendments, 33.4, Uniform procedures for owner-initiated zoning map amendments and special use permits, 33.5, Uniform procedures for special exceptions, 33.6, Zoning text amendments and zoning map amendments; relevant factors to be considered; effect of approval, 33.7, Owner-initiated zoning map amendments; authority to accept proffers, 33.8, Special use permits; relevant factors to be considered; conditions; revocation, 33.9, Special exceptions; relevant factors to be considered; conditions; of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend the regulations pertaining to the zoning map and its interpretation (1.7); relocate the obligation to pay delinquent taxes as a condition of applying for a land use permit but add and update that obligation (from 1.9 to 33.4 and 34.4); add definitions (3.1); update cross-references to related sections (4.8.1, 4.15.5, 10.5.2, 20.1, 20.2, 30.1.2, 30.5.5); relocate the application requirements, procedures and relevant considerations for planned developments (from 8.5.1 through 8.5.4 and 8.5.6), the neighborhood model district (from 20A.3 and 20A.4), special use permits (from 31.6.1 through 31.6.4) and special exceptions (from 31.8), to section 33 and its subsections; add express authority for the zoning administrator to administer and enforce proffers and to keep and make available a conditional zoning index (31.1), and allow application fees for zoning map amendments and special use permits to be paid when the application is determined to be complete instead of at the time the application is first submitted (35.1). In repealing the existing regulations for zoning map and zoning text amendments in Sec. 33(current 33.0 through 33.10), this ordinance would consolidate all legislative zoning actions of the board of supervisors in new subsections in Sec. 33 applicable to zoning map amendments, zoning text amendments, special use permits and special exceptions and these subsections would pertain to purpose and intent (33.1), uniform requirements for the initiation of zoning text amendments and zoning map amendments (33.2), uniform procedures for zoning text amendments and county-initiated zoning map amendments (33.3), uniform procedures for owner-initiated zoning map amendments and special use permits (33.4), uniform procedures for special exceptions (33.5), relevant factors to be considered for zoning text amendments and zoning map amendments and the effect of approval (33.6), authority to accept proffers in conjunction with owner-initiated zoning map amendments (33.7), relevant factors to be considered for special use permits and authority to impose conditions and revoke permit (33.8), and relevant factors to be considered for special exceptions and authority to impose conditions (33.9). 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. (Wayne Cilimberg)

Wayne Cilimberg presented a PowerPoint presentation and explained the proposal.

LEGISLATIVE REVIEW

August 21, 2012 PC Public Hearing

"…reducing unnecessary and burdensome regulations and shortening approval times".

"…streamline the process…"

Clarifying the Goal

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

Specific Goals

- Create a value-added process
- Provide clear expectations
- Reduce iterations of re-submittal
- Get decisions made

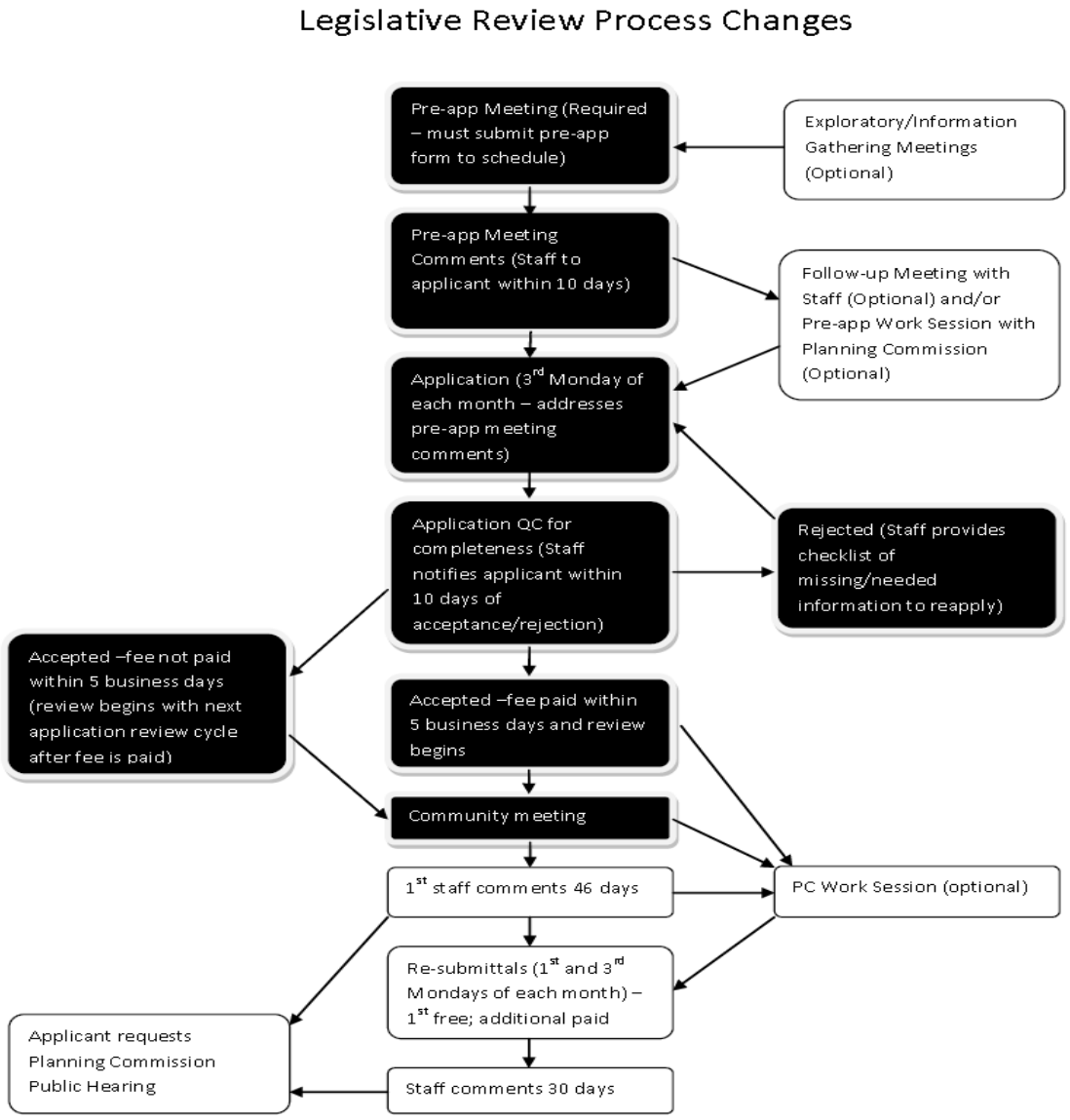
Staff Recommendations Concurred with by BOS – 9/1/10

- **Codify Expectations** - Application requirements should reflect the issues the Board wants routinely considered with each application.
- **Require Pre-application Conference** – Verify the application is complete and give early notice of potential issues / concerns
- **Provide a Community Meeting Process** – Get the neighbor's concerns on the table as early as possible
- **Maintain Dates for Public Hearings** – Avoid indefinite deferrals that confuse neighbors and used in complaints about the time to approval

Staff Follow-up After 9/1/10

- **Consulted with several of Albemarle's peer counties –**
    - Visited Fauquier and Hanover
- **Common Theme -**
    - Pre-application preparation with prospective applicants
    - QC for application acceptance
    - Community awareness regarding application proposals
- **Drafted Recommendations -**
    - Reviewed with BOS members June and July, 2011
    - Roundtable meeting 7/19/11
    - Joint BOS/PC/ARB Meeting 8/3/11
    - PC Resolution of Intent 11/29/11

- PC Work Session 5/15/12
- Roundtable meeting 6/20/12



Roundtable Feedback

- **7/19/11 Comments re: concepts -**
    - Support mandatory pre-application conference – comments should be valid until application
    - Community meeting "one more hurdle" – flexibility for when and how; not mandatory

- Standardize staff review time for all applications (re-zonings, special use permits, site plans, subdivision plats)

Roundtable Feedback

6/20/12 Comments re: proposed ordinance –

- Pre-app Forms and Meetings add work and time for applicant; need for knowledgeable staff; discretion to not require pre-app forms and meetings
- Community meetings not stipulated as mandatory; concern regarding requirement, timing, how conducted, who to contact and applicant and staff the burden
- Repeated deferrals limit community awareness; deferrals not desired by applicants, but can yield better projects
- More flexibility in the review schedule; integrate the Architectural Review Board (ARB)
- Reach out to the small business owners
- Lower fees for simpler applications/reviews; lower requirements for redevelopment of sites that address County development goals
- Requirement for application plans and expected content

Proposed Ordinance Changes (See Staff Report Attachment B and C)

- Authorizes Director to require pre-application meeting/procedures; provides for waiver
- Authorizes Director to schedule community meeting as determined appropriate
- Authorizes Director to establish application requirements, including supplemental information; all supplemental information only required for planned development
- Establishes determination of completeness, timing of determination, payment of fees when complete, timing of re-submittal if incomplete and timing for PC & BoS decision

One of the things the flowchart notes is that when an application is made the fee is not paid. That is a concept staff has been working with for quite some time. The application would be reviewed by staff and within ten days would notify the applicant as to whether not the application has been accepted or rejected. If it has met all of the requirements it would be accepted. It would be in those cases where application requirements were not met that it would be rejected. It is only at that time that the fee actually is paid by the applicant.

Recommendations

- **Approval of ZTA-2012-00006**
- **Effective January 1, 2013 – allows development of administrative process to enact the ordinance and provide for exceptions; consult with small business applicants and engage the development community**

Questions/Comments?

Mr. Morris invited questions for staff.

Mr. Randolph noted he was concerned about the fact that the initial meeting could in any way be interpreted as a substitute for an official meeting later in the process. He asked if the exploratory

information gathering meeting was the same meeting described under mandatory community meetings.

Mr. Cilimberg replied no, the exploratory information gathering is really for the applicant to come in and talk to staff in the early stages of considering a project. They may be considering a project in looking at sites and want to talk to staff about specific sites. That is a very early meeting and would not involve the community. Typically staff encourages applicants once they have settled on what they want to do with the project and the location to meet with the community. They do that today. That particular meeting would truly be more valuable after they have decided they are proceeding with the project and they have a location for that project.

Mr. Randolph said that was really the basis of his concern. He wants to be clear that one meeting is not going to pre-empt in this flowchart the occurrence of a second meeting.

Mr. Cilimberg said the flowchart was the concept that they developed much earlier in the process and went to the public for their comment. The flowchart indicated a community meeting that could be mandatory. The ordinance provides for the community meeting to be established by the director based on a determination that it is needed in a particular case. Therefore, he can't say that in every case they would need to have that community meeting. Someone might simply be asking for a change in a proffered set of uses or they may have an application like tonight where they might have talked to the community even before applying. The community meeting is not going to add value to the public's information. The discretion intended in the ordinance is that they would not have to require a community meeting in every case.

Mr. Randolph noted that he wanted to be clear that if an application had some degree of controversy that the pre-meeting prior to application would not pre-exempt in any way the necessity of a meeting later on in the process.

Ms. Monteith asked if the definition of a community meeting is the people within a certain geographic relationship or an open community meeting.

Mr. Cilimberg replied that is part of what staff wants to work on in preparing to enact the ordinance, which is why they need the few months before January 1st to really define community meeting. There are a lot of different options to have people meaningful attend. They will be working on that. The notification process right now is for all abutting owners, which are the owners immediately surrounding the project. At a minimum he would think they would want in a community meeting where necessary to have those people informed and invited.

Mr. Loach agreed that they need to have criteria on the threshold for those meetings particularly if at the first meeting the citizens are not satisfied. He questioned if staff has data on the percentage of deferrals to the number of applications. It seems in his experience that the number of deferrals is directly proportionate to the scope and size of the project. It seems the larger the project almost inevitably he is going to see a higher incidence of deferrals. It may be the nature of the beast. He would like to see some verbiage in that criteria where there is an advisory board set up by the board under the master plan and that the advisory committee be involved in that process.

Mr. Cilimberg said that might actually be a setting for the community meeting, which has been mentioned and would be one of those things that they would want to look at. He wanted to be clear that the community meetings are not intended to rectify differences. They are intended to get all of the information on a project out for the community to understand. It is hoped if an applicant meets before applying that they will hear community concerns and try to address them as best they can. However, once an application is made it is not intended that a community meeting is going to make the applicant go back to the drawing board. That was not the intent from the beginning. Mr. Graham has done a lot of analysis on our timing and deferrals of projects and found the bigger the project they have tended to have more deferrals. Sometimes that is the nature of the project itself. The project goes through some evolution from the day the application is made to actually coming before the Commission and ultimately before the Board for approval.

Mr. Cilimberg noted most recently they saw Fifth Street Avon project, which had been deferred previously. It was a different project in terms of the applicants being able to commit and lay out the things they wanted to do when it came to the Commission than it was when they originally received that application. By having more of a rigorous pre-app process where the applicants are providing information they can then review with the applicant and talk about and provide an official response to say what is needed in the application. They are hopeful resubmittals and deferrals will be reduced because more will have been addressed up front.

Mr. Loach raised concern with the Planning Commission spending time trying to resolve financial proffers, which is the Board's responsibility. The Commission should discuss the main issues and then have the proffers resolved before they go to the Board. The Board could resolve the proffers.

Mr. Cilimberg replied that on proffers staff has tried to really define what the substantive issues are. The nature of proffers is they are at the applicant's discretion as to how they submit those. They have some proffers that are fairly well established in terms of how they can be written to meet certain policies they have in the Comprehensive Plan. However, whether or not certain proffers are made would be the applicant's decision. What staff tries to call out is where they feel like a particular impact may not have been adequately addressed by what they got. It probably does end up being best for the Commission to decide whether or not they feel like the substance of the proffer is meeting the impact or not in making a recommendation to the Board and not try to wordsmith the language.

Mr. Smith asked if the first community meeting they are talking about would strictly be at the free will of the applicant and the county has no jurisdiction or input.

Mr. Cilimberg replied that was not in the flowchart and not something they showed as a part of the process. That is something staff encourages the applicants to do today on their own before they make applications. That is not a requirement anywhere.

Mr. Franco made the following comments:

- It would be important to add some lines about the purpose and intent of these meetings, such as the pre app and community meeting. Just from tonight's discussion they are probably coming at it from different views. Staff's point was that basically the pre-app meeting was to inform the public about the details of the project being proposed.
- It is important to have the county at those meetings and as part of that purpose have the county explain to the public what is allowed and what is called for in the Comp Plan. He knew they were going to follow this up with policies, but it seems like this is a good place to make sure that purpose and intent is understood clearly.
- The same thing with the pre-app meeting – there were a lot of comments in the Roundtable about wanting to get senior staff there and making it valuable. It is really important to make sure there is a commitment to making that meeting valuable.

Mr. Cilimberg said that is what they want to do now. In every case they are not going to have the opportunity to have senior staff there. However, they want to make sure they have staff knowledgeable about that project's location and what it proposes. Staff wants to have a form that can be submitted by the applicants for the pre-app meetings so they can prepare and be able to respond to the applicants with better knowledge of circumstances on the property, the Comprehensive Plan recommendations, and to make the pre-apps work for the applicant and staff.

Mr. Franco noted that right now they have an optional pre-app meeting. He asked if there was anything that prevents initiating some of those forms and procedures that he just talked about now and not making the pre-app meeting a requirement but trying to improve the process that they have.

Mr. Cilimberg replied they can certainly have forms for pre-applications, but just can't require them to be submitted. They also can schedule pre-app meetings based on receiving the information up front. But again they cannot require that it be submitted.

Mr. Franco said he was not asking that it be required. He was saying if they had the forms and improved

the process along the lines he was talking about would they even have to change the Code to make it mandatory. He asked if the applicant would see the value in it and start using it.

Mr. Cilimberg replied that he could not answer that for the applicant. This is going to be somewhat of an administrative call based on the nature of the project. There are some projects where before an application is made they really need to be able to advise the applicant on what needs to be submitted. Staff needs to know something about the project's details so they can provide comment to the applicant out of a pre app meeting so they will submit that information needed. Part of what is included here is the idea that these submittal requirements would be set out of the pre app meeting.

Mr. Franco noted that he was not sure how that works. If they look at the Fifth Street project that came before the Commission a couple of weeks ago there was a lot of controversy. There was a lot of back and forth between the applicant and staff about what was required and if there was enough information. They heard it particularly on critical slopes and some of the other items. He asked how this is going to improve it. He assumed staff had given information to the applicant before saying they wanted more definition on the project and the applicant simply said they were not able to provide that at this point in time. He was not sure how the extra steps are improving the process.

Mr. Cilimberg noted what they want to try to define for the applicant is the things that need to be submitted. There are also things that are at the applicant's choice. As an example, he knows for that particular project there are special use permits that are going to be necessary. Staff cannot require that they submit the special use permit under anything that is proposed here. They can mention that out of the pre app meeting. However, staff can ask that the applicant submit information that is relevant to the application they are making. That really is what it is trying to hone in on. It is those things that are necessary for the application they are making.

Mr. Franco noted that he was not sure how that helped because he heard staff say on critical slopes that they just did not have enough information to make that judgment.

Mr. Cilimberg said they would not accept a critical slopes application if it did not have that information. So the request would not be before the Commission.

Ms. Monteith said as a follow up to that she would say that in the time she has been serving on the Commission the issues that they have gotten really tangled up on are the ones that require inter-agency activity where maybe it is not all in the purview of the county. For instance it may include DEQ, VDOT or Service Authority interaction and they get a little bit confused about exactly who they should be listening to when they don't know who the ultimate authority is in a case. So she did not have a specific suggestion on this. However, what she is suggesting is that be thought about and there is something in this chart that reflects what should happen in that kind of situation.

Mr. Cilimberg noted the concept at least is that as an applicant is pulling the project together and anticipating making application for the pre app meeting that they will get the basic information that is necessary to determine not only what kinds of submittal requirements may be necessary, but also who is going to need to be part of that review and even participate in the pre app meeting. There are going to be some unusual circumstances in any case. They don't have projects that repeatedly come in proposed to build on a piece of land that has environmental issues. That will not always be the case. However, there will be some cases where they will see based on that location that they should be consulting and trying to include in the pre app discussion the agency that might have a responsibility for that plan.

Ms. Monteith agreed that these are always exceptions and she was just trying to allow for the exceptions.

Mr. Cilimberg pointed out in response to Mr. Franco's comment, as an example, that until there has actually been an application staff accepts made for a critical slopes waiver that would not be before the Commission to make a decision on.

Mr. Franco said that he was trying to understand the process when there are disagreements on the level of information that is required to review the plan. In his experience that is what creates a lot of the deferrals versus other things. Either the applicant is trying to gather more information or they are in

disagreement with staff on what is required. He was not sure if knowing that sooner helps. He thinks getting resolution to that sooner helps.

Mr. Cilimberg said that is what pre app meetings are intended to do. It is to identify those things and say they will be needed and must be submitted. That is part of what they would look at when the submittal is made in accepting the application to move forward.

Mr. Franco said it would be assuming it is one of the items that it is something that the applicant says they don't need or it is not required by the ordinance how does that work.

Mr. Cilimberg replied if it is not required by the ordinance they can't ask for it.

Mr. Dotson said he had several things concerning public input. Other Commissioners have had that concern. There were some other items that needed to be cleaned up with a little bit of housekeeping. In terms of community meetings attachment B describes some of the things that would be in written guidelines that would be established in the future. It includes the following:

- Regarding which applications should have community meetings - He would restate the text to say they should have community meetings unless waived.

- The staff report says the Planning Director shall establish written guidelines. Will those come before the Commission and would they have an opportunity to have input on those? Would that be by the January 1st effective date of the ZTA?

Mr. Cilimberg said if the Commission wants review of the guidelines in what they are setting up they would bring those to them.

Mr. Morris noted that it would be very helpful.

Mr. Dotson noted the second thing on public notice was the posting of signs on property that is going to be rezoned. He thinks that is a very effective way of notifying people. What the regulations say is 15 days before the public hearing. He suggested why not 15 days after the completed application is filed? That would give the public more time to get information.

Mr. Cilimberg said the minimum they have to provide for now is 15 days. However, they do post public notice signs earlier now. However, it is not codified to be that.

Mr. Kamptner noted the posting of signs is something the county does in addition to what is required by state law. State law does not require the signs be posted. Fifteen days is the deadline that the county imposed on itself when they first started doing sign posting. Zoning actually gets the signs up well in advance.

Mr. Cilimberg noted what was being suggested is the possibility of having a much earlier posting in the ordinance.

Mr. Dotson noted that there seems to be an inconsistency between the flow chart/narrative and the proposed text. In the flowchart and narrative it says about pre app meetings that these are intended to be required. Attachment D, page 86 says required prior to application submittal whether or not an exploratory meeting has been held. If that is the intent it is not what the draft ordinance language says. He has the same concern about community meetings that the flow chart shows as required meetings after submittal. Again, he did not think the language of the draft ordinance says that. The language he reads says the director of planning is authorized to require. That puts the burden on the director to say they need one rather than one is required and the director is authorized to waive it. On community meetings when the staff develops those guidelines they would address under which circumstances they would waive it.

Mr. Randolph noted on page 3 under small projects and businesses it is stated that small business owners need a consultant to make it through the process. He was assuming they may hear from Ms.

Long or Mr. Williamson about that point this evening. He hopes so. However, he did have a question that it is stated in here with some assurance that the staff will meet with small business applicants who are going through the process in the last year to provide input on their process experiences and recommendations. It should be noted that the Community Development Office and the Office of Community and Business Partnerships are also prepared to provide special assistance. Given the limitations already on staff time and resources how much time is the staff really prepared to provide and how effective from a small business standpoint especially will that support be to meeting these objectives.

Mr. Cilimberg replied that they are working with the other office mentioned to actually begin a test program of assistance assigning one of our staff to a project for more direct assistance with a small business when they come in for an application. That is not going to be initially for every application. That is really a test that they want to start having. The Commission said they would like staff to have a roundtable with the small businesses that have applied and get their input on what were some of the stumbling blocks for them. What were some of the things that they may have been able to do better as they actually develop the guidelines? They don't want to put it in the County Code because if they change a little bit they have to amend the whole zoning text. Instead they would want to hear one on one from them about those experiences and be able to reflect improvements in how they assist applicants. Different cases may need different assistance. Some persons, such as churches, are not going through our process on a regular basis. That was the intent there.

Mr. Smith did not think that a pre app meeting should be required for everyone.

Mr. Cilimberg noted that staff feels that there will be some cases where they should not require them due to the nature of the application. That is why they would want to have the waiver provision. In the pre app process they want to identify if a traffic study is needed.

Mr. Franco said that he believed in the pre app meeting, but felt it can be improved under its current form without making it mandatory. He suggested that they improve what they have now that is optional because he felt they would find that more people would use it if it is more beneficial. He uses the pre app meeting not only for his benefit but to educate the staff on what is coming in so they are better prepared to receive it and make comments back during that period of time.

Mr. Morris said what he sees in this entire process is moving towards ensuring that they get a completed application before the applicant actually moves forward. In talking with zoning inspectors the things that they just beat themselves up about are projects that have to be halted and corrected because of incomplete applications. It seems that it is moving towards ensuring that they have a completed application before they move forward.

Mr. Cilimberg agreed that it is certainly the intent. In fact, that is why they felt the pre app process was so important for many of the applications so that after the pre app meeting staff could say this is what they need to submit.

Mr. Loach said he hoped in the future they could go back to the community planner where each community knew who their planner would be. It worked very well in Crozet since that planner knew the community's reaction on the project and worked closely with the community and advisory committee on the educational process for the community. He would hope there would be a role for the work session in this process since it is a valuable one.

Mr. Kamptner noted that work sessions are recognized as part of the process.

Mr. Cilimberg pointed out it was in Section 33.3.b on page 21.

Ms. Monteith noted that it was also on the chart.

Mr. Lafferty agreed that the process should be mandatory at the discretion of the director. It can take cases of where people come in with a good knowledge of what is required. Then they can waive the mandatory meeting. He liked Mr. Dotson's idea after January 1st, assuming this goes through, to have some types of workshops or seminars to let the community know since staff has all this time available to

them, then they can go ahead and make that recommendation.

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

Charlie Armstrong, resident of Baymont Court, generally applauds the Commission's efforts to continue trying to make this process more streamlined. There have been a lot of concerns from applicants that it may not streamline as much as it hoped to. There are added steps that detract from the benefits that could be had by removing other steps. Hopefully, this Commission and staff continue to improve the draft ordinance before it goes to the Board and can keep an eye to that.

- There is one specific concern with language he wants to bring to their attention, which he hopes he is interpreting incorrectly. On page 4 of attachment C of the draft ordinance, there is a new definition for density permitted by right that is a new term. He is no lawyer, but the way he reads this is that density permitted by right would be affected essentially by what is called the developable area of the property in question at which would have a particularly negative impact on development area projects. Dunlora Forest, which was just passed on tonight's consent agenda, they did a brief analysis on what this definition as he and others in the development community have interpreted it by reading it would have lost 30 percent of its by-right density if that definition changes the density regulation as they read it.
- Specifically the words "upon complying with the applicable regulations pertaining to critical slopes" to him means that they have to take those areas out of the area calculations. If he is interpreting that incorrectly at least it would be good to get something on the record now asking for an interpretation of it.

Valerie Long, attorney, echoed the comment from Charlie Armstrong. She shares his concerns precisely for the same exact reasons and she interprets it exactly the way he does. She thinks that could have a very detrimental impact on proposed projects both in the development areas and the rural areas. It would be a dramatic changing of the rules that at a minimum requires far greater discussion and community engagement if that is the direction they are going.

- Generally as stated last time this was considered they obviously applaud the efforts of the staff to hold the Roundtable discussions and provide an opportunity for input from the development community and honor the intentions that this zoning text amendment goals serves to achieve. However, she wanted to express the same concerns about the process changes. Mr. Franco articulated very well that really the place to start rather than requiring things to be mandatory was to start with trying to fix the process. She uses the pre-application process regularly, but she would not say that it is working well at all. She knows how it works because this is what she does.
- There is nowhere on the web site that she was aware of where someone who does not do this regularly can go and understand the process. One suggestion she had last time would be to put together a simple one or two page flyer saying here is how our process works. The City has a flyer that is pretty simple, which she still goes back and refers to as a reminder sometimes in the city. That would be an important step. First thing they say we highly recommend you have a pre-application conference. Here is when they are scheduled. There is nowhere on the County's website that lists where pre-application meetings are scheduled. She knows that the meetings are Monday afternoons, but she did not know that the folks she works with otherwise know that. The process could be much better. It is unclear who you call actually to schedule a pre-application meeting. She calls different people depending on the project.
- She is concerned with the laundry list of things the applicant is required to bring to a pre-application meeting. It looks a lot like an application itself to have to bring all of the things to the pre-app meeting when the goal is to try to learn early on about what is going to be needed. It will require a lot more work on the front end. The whole point is to shift some of this analysis to the front end so they can ideally have fewer delays on the back end. That is an honorable goal. However, it requires so much more leg work on the front end before they even have a clue what the reaction from the staff is going to be. Her concern is getting trapped in adding new procedures that are well intentioned that end up back firing usually on the development community at the end of the day. Her suggestion would be to try to improve the pre-application process infrastructure first; make sure there are forms on the website that are available that the

public can find; and that the guidance is there.

- If they are going to require a community meeting make sure that the staff is prepared to help facilitate those community meetings. Sometimes depending on the area it is easy to identify a homeowner association point of contact. However, sometimes it is nearly impossible. Sometimes there is none. Sometimes she struggles with who she reaches out to host a community meeting and has had to write letters to 100 people. She has never had the staff be able to help advise her on who to reach out to. So her concern is they are requiring this significant change, but there is not really the infrastructure in place in terms of points of contact and how they reach out. As a point of comparison, in the City they like neighborhood meetings; too, the City has a site on their website that lists the point of contact for every one of their neighborhoods. So they know where to go and it is a little bit easier. The website is not always up to date, but at least it is there. That is what she meant by infrastructure.
- She has a number of other comments if anyone is interested. She would be happy to send the comments in writing. There are a number of other substantive changes here that she has a lot of concerns with that have not been discussed.

Mr. Morris pointed out the Commission would love to see the additional comments in writing.

Neil Williamson, with the Free Enterprise Forum, said first and foremost he believed that Mr. Cilimberg cited that there were a lot of good things that are in the procedures and policies. Currently according to the staff report the ARB staff reviews Entrance Corridor proposals. He sees no reason to put that into Code. Right now it is working and it is working fine so leave that be and pull it out of this ordinance.

- Second, with all due respect to the Commission and staff he was concerned a little bit that they are turning the tables on the very folks that are paying the fees and putting forth the applications blaming the victim. A property owner came in with a bridge proposal last week and David Wyant was presenting for him. He had someone walk him through the process instructing him which way to go. He remembers a few years back a rural area church came in to put a shed in their back yard. He thought it took three years because they were a nonconforming use for a 150 year old church to have the ability to put a shed in their back yard. He asked if that special use permit because it had to come up to date required a community meeting. He was worried that they were not focusing on what he thought the real problem is.
- He thinks Mr. Lafferty has said again and again there are some issues with staffing and whether or not staff has the resources to appropriately push through these things. If they don't, they need to hear that. That needs to come from this Commission coming forward. If this is part of the Board of Supervisor's economic vitality plan to move things forward and to make sure the community is engaged perhaps they need to dedicate resources to it. Is there a lack of resources or are resources not being applied efficiently. He thinks there is more to this than simply blaming the victim saying they are not bringing in enough with their application. Only in government can they add additional time to a process and call it streamlining.

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

Mr. Dotson requested to hear comments from legal staff regarding the gross density and density permitted by right comment just to understand it.

Mr. Cilimberg said it might be better if he first answers it because he had to interpret it when Mr. Kamptner wrote it. He would first answer it and then Mr. Kamptner can chime in. This is not at all being critical because actually he thought it was a very effective way to deal with some questions that arise out of the State Code. The way it is written in the ordinance is to determine the number of units that can be achieved on a piece of property based on its true gross density. In other words, if it is a R-4 property of 10 acres it gets 40 units. That is the starting point. The units they can effectively develop is ultimately not based on what their gross density is but how many units they can put on the property once they take out critical slopes unless they can get a waiver, take out floodplain unless they get a special use permit, and that type of thing.. However, if they can put all 40 units in the area that remains after those areas are taken away they get the 40 units. It is not changing. That is actually the way it has always worked and

the way it works today and will continue. This just defines basically how the process works. It is differentiating between where they start and where they finish as he sees it. That is the practical explanation of what he read.

Mr. Kamptner said Mr. Cilimberg had explained it very well. What he was trying to do was address a couple of issues that stem from an unpublished Supreme Court decision that came out about three months ago.

- In the development of the Town of Occoquan, where about a quarter of the property of a proposed residential development was on critical slopes, the town required a critical slopes waiver for the development to extend into the critical slopes. The developer did not want to pursue the critical slopes waiver. There is a section in the Virginia Code that says that for residential developments localities cannot require any special use permits in order to obtain the density allowed by right. Therefore, the court said that the applicant was not required to obtain the critical slopes waiver in that case because of that particular statute.
- They had that case which caught a number of localities by surprise because the particular type of special use permit that is not allowed by this statute is one that pertains to use, height of buildings and a couple of other provisions. The court characterized the critical slopes waiver as a use permit and not as an area permit or anything else. So they greatly expanded what a use means, which means in any of our residential developments right now if their area is 80 percent critical slopes but they are zoned R-4 and are 10 acres they are entitled to 40 development lots. That is a problem.
- Our zoning ordinance does not create density permitted by right. It establishes a gross density. Each conventional zoning district has a set gross density. The definition that they came up with is trying to capture what that means. It is the theoretical density that you could get without conforming to setbacks. The prohibition for critical slopes in Albemarle County you have to get the special exception in order to disturb the critical slopes. All of the other regulations that come into play as to what your actual density will ultimately be. So they added the two definitions to clarify what gross density is. It is the existing standard in all of our zoning districts, but also to address the Town of Occoquan case. That is the density permitted by right because that is what the statute says that prohibited special use permits in these cases

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The Planning Commission noted there were a lot of questions. They voiced concern with their difficulty in understanding the proposed definitions and other legal verbiage along with the other points of contention expressed by Ms. Long. If they are talking about things at this level the Commission did not have the knowledge to make this decision at this point. The question was about making sure two new definitions cited tonight are allowing what they are saying they are allowing.

Mr. Morris said he would like to see the results of the small business roundtable along with answers to some of the questions raised.

Mr. Cilimberg acknowledged that he heard the Commission wanted to see the results of the small business roundtable and had a question about how the two new definitions work that were cited tonight and making sure that they allowing what they say they allow. He asked what else they wanted so staff could make sure it was worked on.

Mr. Lafferty said he would like to see whatever was on Ms. Long's list addressed before they go forward.

Mr. Cilimberg noted that staff had not seen the list. He questioned if he meant by addressed in other words a response to what she is proposing or the ordinance changed to.

Mr. Morris invited Ms. Long to come forward and address Mr. Lafferty's question.

Ms. Long pointed out the following additional concerns for the Commission's consideration:

1. Section 33.4 is a repeat comment from the last time she was here. There is a new section that says that even with special use permits or rezoning that are not in a planned district, such as HC

or R4, that there is now discretion to require the applicant to submit a laundry list of so called supplemental materials, which does include an application plan. Right now under a special use permit or a non planned district rezoning one is not required to submit an application plan. That is a change. In some cases she could appreciate why that is a reasonable thing and most of the time applicants bring something like an application plan together with all rezonings and with many special use permits. But this is a big change to go from saying they are not required to saying we can require them. That has not been mentioned in any of the staff reports as part of this proposal. That is a change she would deal with quite a bit.

2. Another is the authority to require a work session. As someone mentioned work sessions can be an extremely helpful tool. She uses them often. However, that is a change to require a work session. How does that affect the timing for when the Planning Commission public hearing would be held? Does that string out the timeline? What if they are in a disagreement with the staff and staff thinks you need a work session. What if you ask to go to the Planning Commission because they will support their request because they don't have time to wait for a work session? A work session will easily add two to four months to the process. Those are the kinds of things that need to be talked about more at a minimum in a staff report and discussed.
3. Time frame – It talks about the review on a project does not really start until the 16th day after it is submitted. She did not have a chance to process how the deadlines are working. It looks like it is adding even more time to the review process than was originally discussed. She was not sure why they were phrased that way.

Mr. Franco suggested putting some language in the Code describing the purpose of the pre app and community meetings is important and some language about who might be required to attend the pre-app from the county's perspective.

The Planning Commission took a straw poll to see if they wanted to support a recommendation to go back to drawing board and then bring it back as soon as possible. The Commission supported giving staff direction tonight to respond to the questions raised tonight and hold the small business roundtable and then bring it back to the Commission. The Planning Commission supported the continuance of the public hearing to a date certain so the public can provide additional input and staff can respond to the questions raised.

Ms. Monteith noted that everything in the report is not in the chart. In the chart work sessions are optional. She thinks the process constructed is a good one and makes a lot of sense. What they are trying to do is to have applications more complete and have everybody more informed in the process. She did not see any large problems with what was being proposed. It could be improved with some refinement. However, applications always get refined before they go to the Board.

Mr. Cilimberg noted a couple of things, as follows:

- The work session is not a requirement of the ordinance. The language says the director can schedule work sessions. It is always treated with the applicant's agreement. If staff needs to massage that language, they certainly can.
- It was mentioned about the 16 day start up. They have not changed anything in the clock of how they review today. They start the review 16 days after the application is made. The actual first comments go to the applicant 46 days after the application is made. That is to keep them on a 90 day schedule for their action. None of that is changing, but was noted.
- The fundamental questions staff needs the Commission's direction on are whether or not they feel pre apps should be mandatory with the ability that they be waived. Whether they feel community meetings are mandatory with the ability to be waived. What he has heard tonight from the public is against that. That is the fundamental changes in the ordinance. Staff wants the proposed ordinance to reflect what the Planning Commission wants when it is sent on to the Board.

Mr. Lafferty felt the pre app meeting should be mandatory with the discretion to waive it or in other words waive it with knowledgeable applicants. The traffic study is an example of something that needs to be identified earlier in the process.

Mr. Randolph suggested that the staff report address the issues discussed.

Motion: Mr. Franco moved and Mr. Randolph seconded to defer ZTA-2012-00006 Legislative Review Process Improvements to October 23, 2012 to continue the public hearing so staff can address the concerns heard from the Commission and the public.

The motion passed by a vote of 7:0

Mr. Cilimberg said he appreciated input from the Commission and public. Staff will focus on further defining and describing the pre app meeting and the community meeting and work with the definitions on density to make sure they are clear. They will talk about what kind of supporting mechanisms the county needs to develop to make sure the public and the applicants are able to understand the pre app process. They will have the small business roundtable meeting. They will make sure they are not applying the work session as a requirement established by the planning director. Also, to include what Mr. Randolph mentioned which is to give them why they are doing a couple of these big changes.

Mr. Franco added that they were going to get clarification on whether the intent was to extend the need for the application plan to R-4 and others - not PUD zonings. That was one of Ms. Long's points.

Mr. Cilimberg said the application plan is not a requirement in those districts. It could be an application plan or a concept plan, something less than a full blown application plan, could in the pre app process be requested information for the application that gets made. It is not a requirement for every case.

Mr. Franco said this does not make it a requirement.

Mr. Kamptner said the regulations require the application plan only for planned developments. The alternative type of plan that might be required as determined by the director is called a plan of development. Staff will further clarify that because they want people to be comfortable that application plans will only be required for PUD's.

Mr. Cilimberg said it would not be a requirement in each case, but there would be some big conventional rezonings where staff may say they need to have that as part of an application. The Commission can decide whether that is something they feel is appropriate to do or not. That is the way the ordinance has been intended to establish that requirement.

Mr. Franco noted one of the comments they have heard consistently through here has been ARB involvement. Again, just sort of the same way they address some of the items of the Roundtable just addressing what the benefits are of bringing the ARB.

Mr. Cilimberg said he was hearing that the comment was not to include ARB in the ordinance that the level of input now being provided by the staff was fine and they did not need to put them in the ordinance as a participant in the legislative process. He thought that was what he was hearing. Actually he did not believe they have listed the ARB.

Mr. Kamptner said the ARB's role in this ordinance is minimal. They are referenced a couple of times there for both the county initiated and the owner initiated zoning map amendments. Applications can be referred to the ARB for work sessions. There is one other reference in this ordinance to the ARB. Their role for the legislative process remains defined under the ARB regulations.

Mr. Franco said he was not looking to debate it, but just wanted to understand a little bit better.

Mr. Cilimberg said he thought what he mentioned about including the participants in the pre app process, the ARB staff would be one of those participants.

In summary, the Planning Commission deferred ZTA-2012-00006 Legislative Review Process to **October 23, 2012** to continue the public hearing with direction to staff to come back with revisions to the staff

report to address and respond to the comments raised by the public and Commissioners, as follows:

- Define purpose and intent for and further describe the pre app meeting and the community meeting;
- Work with the definitions on density to make sure they do not change what we currently allow;
- Address what kind of supporting mechanisms the county needs to develop to make sure the public and the applicants are able to understand the pre app process;
- Further address the numbers of days before the PC meeting that signs are posted.
- Elaborate on the role of the work session.
- Hold small business roundtable meeting;
- Further clarify the intent to make application plans a requirement only for PUDs and further clarify the requirements for plans of development;
- Elaborate on the role of the ARB in the process.
- Staff asked the Commission to hold onto tonight's staff report for the next meeting.

Old Business

Mr. Morris invited old business.

- The Commission hoped by taking a little more time now on ZTA-2012-00006 that it will actually save time later and maybe they will still make their January 1 effective date.

Mr. Cilimberg noted that they may be able to do that. That is a good comment.

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

New Business:

Mr. Morris asked if there was any new business. There being none, the meeting moved to the next item.

Adjournment:

With no further items, the meeting adjourned at 8:40 p.m. to the Tuesday, August 28, 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)