Albemarle County Planning Commission
November 13, 2012

The Albemarle County Planning Commission held a public hearing on Tuesday, November 13, 2012, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Other officials present were Scott Clark, Senior Planner; Megan Yaniglos, Senior Planner; Christopher Perez, Senior Planner; Claudette Grant, Senior Planner, David Benish, Chief of Planning; Wayne Cilimberg, Director of Planning; Sharon Taylor, Clerk to Planning Commission; Ron Higgins, Chief of Zoning; and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

Other Matters Not Listed on the Agenda from the Public:

Mr. Morris invited comment from the public on other matters not listed on the agenda. There being no comments, the meeting moved to the next item.

Committee Reports

Mr. Morris invited committee reports.

Mr. Dotson reported that the ACE Committee met yesterday and has provided comments on the proposed text for some of the Rural Areas amendments which the Commission can consider at its November 20th Comp Plan work session.

Mr. Randolph reported the second meeting of the CIP Oversight Committee was held. The ACE Program was omitted for this year and the next four years. Several people are working hard to try to get funding put back into the CIP for ACE. The next meeting is on Monday and he would have a report next Tuesday as to whether that goal was achieved.

Mr. Loach reported that the Annual Meeting was held at the Crozet Community Association and Town Hall meeting with Supervisor Mallek. The library is well underway in Crozet. They are about to start the Streetscape projects to improve the Main Street. They have also finished up on most of the water management basins started last year. They had updates from the Police Department on new community policing effort and from the Fire Department about the new Ivy Fire Station.

Mr. Lafferty reported that CHART met but he could not attend. Once he gets the minutes he will report.

Mr. Randolph reported the Historic Preservation Committee received a list from Ed Lay at the University of Virginia of historic structures in the county. The Committee will start refining the list.

There being no other committee reports the meeting moved to the next item.

Review of Board of Supervisors Meeting – November 7, 2012

Mr. Cilimberg summarized the actions taken by the Board of Supervisors at its meeting on November 7, 2012.

- The most significant item discussed relates to the site plan before the Commission tonight for the firing range, the Public Safety Training Facility. The Board did get a presentation on that particular project. Of course, the Commission had seen that previously as a compliance with the Comprehensive Plan Review some months ago. The Board had received the Commission's action regarding the range when they had that review for compliance. Last week the Board got more of an update on the specifics of the projects and some information on some of the issues and concerns that had been raised regarding the project in that particular location. Some public actually also spoke during other matters last week about the firearms range. The result was that the Board reaffirmed their decisions regarding the project in the particular location they have before them tonight. So staff was prepared to delay the site plan if some other alternatives were going to be pursued. However, the Board reaffirmed its decision regarding the firearms range and did ask that county staff who were proceeding with the project to work with neighbors regarding noise attenuation. That is significant in terms of the Board reaffirming that last week as that certainly means that the site plan before them tonight is properly before them for review as to the conformance of the site plan with the regulations in the ordinance. Of course, the Commission will be reviewing that shortly.
- One other matter to make the Commission aware of is an upcoming zoning text amendment for critical slopes. It is something staff has been looking into at the Board's request for some time. There was a work session last week to present changes to how they address critical slopes in our review. It is really more about the approach to be taken. The Board generally supported the staff approach. There were some questions raised as to cost benefits of the approach to be investigated versus the current review process. He mentions all of that just so the Commission is aware that matter will be coming to them next year initially in a work session to review the particulars of how the critical slopes provisions might be changed. Certainly the Commission will have their chance to weigh in on the proposals and ultimately have a public hearing for that particular set of amendments at some point during the year.

Mr. Morris invited questions for staff.

Mr. Dotson noted he had a question on the action on the firing range. In the staff report for tonight in summarizing it indicates that the Board reaffirmed their support of the project as proposed and he just indicated in the location. He asked if that is what as proposed means.

Mr. Cilimberg replied it was as proposed both in location and design layout.

Mr. Dotson noted he indicated there was a request from the Board for staff to work with the neighbors to try to refine some of the noise abatement questions.

Mr. Cilimberg replied yes, generally. However, those don't affect the site plan but particularly additional measures that might be taken in terms of abating noise as the design has been proposed.

Mr. Dotson asked if something happens in that area, some agreement or some solution, would that go back to the Board then.

Mr. Cilimberg replied that he could not say it would or would not since it would depend on any cost associated with additional measures that the Board might need to authorize the additional expenditure to cover. Certainly if anything later were to happen in the layout of the facility that would be different than the site plan before them tonight, which would be an amendment that would have to come back through the process. However, that was not anticipated last week.

Mr. Morris asked about the final site plan.

Mr. Cilimberg replied that the final site plan will need to come to the Commission. However, if the preliminary site plan can't be undertaken for some reason, then any amendments would need to come back to the Commission.

Mr. Morris asked Mr. Kamptner to brief the Commission as to the legal nuisances when they are addressing a preliminary site plan.

Consent Agenda:

Approval of Minutes: 8-21-2012 and 9-25-2012

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

Motion: Mr. Franco moved and Mr. Smith 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.

Deferred Items:

SP-2010-00049 Howardsville Camping
PROPOSED: SP201000049 Howardsville Camping: Campground with 48 tent sites ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots);
FH Flood Hazard - Overlay to provide safety and protection from flooding
SECTION: SP201000049 Howardsville Camping: 10.2.2.20. Day camp, boarding camp (reference 5.1.05)
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre in development lots)
ENTRANCE CORRIDOR: No
LOCATION: Baber Lane, Howardsville, at the intersection of James River Road (Route 626) and Howardsville Turnpike (Route 602)
TAX MAP/PARCEL: 139A0000001600, 139A0000001700, 139A0000001900, 139A0000002000, 139A0000002100
MAGISTERIAL DISTRICT: Samuel Miller
DEFERRED FROM THE OCTOBER 23, 2012 PLANNING COMMISSION MEETING
(Scott Clark)

AND

SP-2010-00050 Howardsville Canoe Livery
PROPOSED: SP201000050 Howardsville Canoe Livery: Canoe-rental livery on site of campground (see SP201000049)
ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots);
FH Flood Hazard - Overlay to provide safety and protection from flooding
SECTION: SP201000050 Howardsville Canoe Livery: 30.3.05.2.1 (2): Water related uses such as boat docks, canoe liveries, bridges, ferries, culverts and river crossings of transmission lines of all types.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic
ENTRANCE CORRIDOR: No
LOCATION: Baber Lane, Howardsville, at the intersection of James River Road (Route 626) and Howardsville Turnpike (Route 602)
TAX MAP/PARCEL: 139A0000001600, 139A0000001700, 139A0000001900, 139A0000002000, 139A0000002100
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DEFERRED FROM THE OCTOBER 23, 2012 PLANNING COMMISSION MEETING
(Scott Clark)

Mr. Clark presented a PowerPoint presentation and summarized the staff report for both special use permits at the same time. He would correct and update a couple items from the staff report along the way.

- The proposal is for a campground with 48 camp sites for tent only camping. The previous proposal was for 24 tents and 24 RV's. It is no longer the case.
- The canoe-rental livery would have no structures of any sort. Staff would explain why in a few minutes.
- The property is located on the James River in Howardsville and lies entirely in the floodway of the James River. He pointed out the terrain and location of the property on an aerial map.

Proposal Summary
- 48 tent-camping spaces
- 8 portable toilets for campground (There are two more portable toilets around the parking area for the canoe livery.)
- All visitor vehicles to remain in parking area – for campers, campground staff will assist with moving equipment to sites
- 122 parking spaces for both campers and canoeists, 3 bus spaces
- Fence along railroad tracks

Staff reviewed the Conceptual Plan for the site. To address one question that has come up recently about the access to the site and to the boat ramp as best staff has been able to find out the 30' easement on old Route 602 is still in place and is controlled by the Virginia Department of Transportation. VDOT has not found there is any record of that having been abandoned. The boat ramp area is owned by the Game and Inland Fisheries Department. He talked to both of those agencies today to clarify the access situation. Game and Inland Fisheries still uses this site. They don't particularly advertise it. However, it is still there and accessible. They expect that it would remain accessible both to private users and commercial users as long as this right-of-way remains open. Again, there is no evidence that right-of-way has ever been abandoned. So while the campground and canoe livery, if they are approved, will be operating on the site there would also be public access to the existing boat ramp along old Route 602. The campsites can be seen on the northern end of the site. The common area north of the camp sites are designated to remain wooded. There is an open common area that is expected to be for any plantings that are required. Staff will go into more detail.

Major Issues

Public Safety
- This proposal has been reviewed by the Police Department, Fire/Rescue Department, and the Virginia Department of Transportation (VDOT).
- No changes recommended or denial of the application; guidance provided for applicants, particularly from the Police Department, who noted that there is poor cell phone service if any and it is quite a ways from any emergency service providers. Therefore, they could not expect a fast response here. However, the Police Department did not feel that was a reason to deny the permit, but they thought it was worth making sure that the applicant was aware of that. The Fire Rescue comments largely addressed the treatment of camp fires, which are standard State regulations that the operation would have to comply with anyway.
- The plan shows a fence along the railroad tracks to prevent access other than at existing entrance.

Flooding
- Conditions of approval require closure and removal of equipment/vehicles during flood warnings.
- Portable toilets would also have to be removed to keep waste from entering the river.
- No structures are permitted or proposed, which is why the proposal no longer contains any structures to be built on the property.

Stream Buffers
- Staff worked with applicants to reduce impacts of wooded portions of buffers
- Balancing buffer protection with desired campsite locations
- Conditions of approval recommended by County Engineer to prohibit tree removal within 50 feet of riverbank
- Conditions also define wooded areas to be protected. That would mean that the front row of camp sites would have to work around the existing trees. It also means that the access road closest to the river will be at least 50' back from the bank in order to keep that area closest to the river from being cut. Staff also worked with the applicants to remove sites that were along part of the property close to

the river back onto the edge of the open area just to limit the amount of river front woods that would be impacted by construction of the product.

- Re-plantings requirements for mitigation of stream-buffer impacts will be set during site plan review
- Conditions of approval require use of native riparian species for re-plantings
- If approved, the request will get more detailed review when the applicant comes back for a site plan or site plan waiver. The County Engineer has let the applicants know that at that point they will work in more detail on a mitigation plan for impacts to the stream buffer and replantings, which would again most likely occur in the open area that is currently labeled as common area.

Public Access to Boat Ramp

- Design of proposed facility does not block public access

SUMMARY AND ACTION (SP 2010-00049 Howardsville Campground)

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

Factors favorable to this request include:

1. Improvements to the site would be minimal and reversible.
2. Conditions of approval requiring quiet hours and prohibiting amplified sound systems would limit noise impacts on nearby properties.
3. The recommended requirement to remove portable toilets from the site before major flood events would keep waste from entering the river.
4. The recommended requirement to notify campers of flood events would benefit public safety. (The condition was changed to require closure of facility.)

Factors unfavorable to this request include:

1. The location of the campsites and access roads in the wooded portion of the site and close to the river bank impacts the wooded stream buffers on the site. However, in an attempt to balance these impacts with the desire of campers to be in shaded sites near the water rather than in the open, staff has worked with the applicants to limit these impacts and specify forest-protection areas.

RECOMMENDATION: Staff recommends approval of SP-2010-00049 Howardsville Campground based upon the analysis provided herein, with the conditions listed in the staff report with one change. It was a helpful suggestion staff received recently from the County Attorney's Office. The change was in condition 6 and 7 to simplify it so that now condition 6 would require removal of the portable toilets, removal of vehicles and equipment, and closure of the facility rather than saying prior to any flood event. It would make it more specific in saying during flood warnings issued by the National Weather Service so that they all know what the source of that information should be.

SUMMARY AND ACTION (SP-2010-00050 Howardsville Canoe Livery)

Staff has identified factors which are favorable and unfavorable to this proposal. The favorable factors are much the same. There is no actual development of the site other than the parking area. Again, because all of the equipment would have to leave during flood warnings it reduces the risk of equipment getting into the river and causing flood hazards.

Factors favorable to this request include:

1. Improvements to the site would be minimal and reversible, and have limited impact on the Flood Hazard Overlay (100 year floodplain) with the recommended conditions.
2. The recommended requirement to remove the canoe livery's vehicles and equipment from the site before major flood events would limit flood damage and prevent pollution.

No unfavorable factors were found.

Staff is recommending approval with conditions as listed in the staff report with changes to conditions 3 and 4 to a single condition requiring removal of toilets, vehicles, trailers, and other equipment and closure of the facility during those flood warnings from the National Weather Service.

Mr. Morris invited questions for staff.

Mr. Dotson asked if staff had any input from the railroad.

Mr. Clark replied the railroad was notified during the notification of adjacent owners. However, staff has not heard from them.

Mr. Dotson asked to clarify the easement for Route 602. He thought staff said the land is privately owned but there is an easement that has been granted to the state in order to maintain a roadway through the privately held land.

Mr. Clark replied that is correct. It has been there for quite some time. That was formerly the access to the bridge over the river. That bridge was destroyed by Camille in 1969.

Mr. Lafferty asked staff to clarify the use of the board ramp with private or public sources.

Mr. Clark replied that there was some concern that Game and Inland Fisheries might have some sort of regulations dealing with commercial use of their ramps. So he checked with Inland Fisheries today and they said the only situation in which they would have an issue with the use of their ramp by the applicant's private operation was if that VDOT right-of-way did not exist and there was no longer any public access to the boat ramp. They would not want an adjacent private owner using a state owned ramp that nobody else could get to. That does not appear to be the case as far as anybody can tell that access has gone away. So it does need to remain open to the public crossing the site.

Mr. Lafferty said it was probably a typo. However, on page 4 the times are from 9:30 to 7 quiet hours and then on page 7 it is 9 to 7:30.

Mr. Clark replied that is a typo and he was sure the applicants could tell us which one they intend to use.

Mr. Lafferty asked if amplified sounds included radios.

Mr. Clark replied the intention was to prevent the installation of address systems for the use. He did not know if that necessarily would cover individual personal radios. However, they could probably clarify the condition to require that if necessary.

Mr. Loach asked on the issue of flooding do they have any historic data on what the high level floods would be in that area.

Mr. Clark replied that he did not have data in tabular form that is easy and quick to read. The site has been inundated many times. The floods in 1969 and 1972 essentially destroyed what was left of the town of Howardsville. However, those were from very large tropical storms.

Mr. Loach asked to what depth the water would rise in this area.

Mr. Clark replied he did not know exactly.

Mr. Loach said since there was water on the site is there any other methodology to hold waste water in tanks versus if there is bad weather to have these things trucked in and out.

Mr. Clark replied that the portable toilets were really the only solution largely because the Flood Hazard Overlay Ordinance does not permit any structures. The Water Protection Ordinance does not permit septic treatment or storage in this area.

Mr. Loach said he was thinking possibly of having holding tanks versus portable toilets. He still has the same concerns he had with the soccer stadium. If the water comes up and it floods it is on a weekend and they can't get the trucks in to bring these things out, then they become floating contaminants.

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

Roger Nelson said he would be the Manager of the Howardsville Canoe Livery and Campground. He made the following comments.

- He graduated from James Madison University with a Bachelor of Science Degree in Geology. In addition to traditional geology curriculum he completed course work in soils, land use, environmental geology, and engineering geology. He participated in JMU's Honors Program. He completed a one year research project and Fluvial Terrace Development along the North River in the Shenandoah Valley. He presented his thesis to the Virginia Academy of Science.
- He owns and operates a small business, Air, Soil, and Water Environmental. He is certified by the Virginia Department of Health as an on-site soil evaluator. He is registered with the Department of Professional and Occupational Registration as an on-site soil evaluator number 1340. He is licensed to design conventional septic systems and advanced secondary treatment systems. He worked for VDOT as an Environmental Specialist. There he was certified as a combined administrator and Department of Conservation and Recreations Erosion and Sediment Control Program. That is the highest level of certification in the program. He functioned as a plan reviewer and a plan administrator over a three county area. He has worked for the Virginia Department of Health as an Environmental Health Specialist. He performed soil and site evaluations for on-site septic and well permits. He wrote permits, performed inspections, and investigated environmental complaints. He has worked as a project geologist in the private sector.
- He has worked under close scrutiny of the United States Environmental Protection Agency on superfund sites in New Jersey, Iowa and Virginia. He was the current President of the Virginia Canals and Navigation Society. They are committed to the preservation of our rivers and waterways all through the Commonwealth. He has participated in the James River Regional Clean Ups since the mid 1990's. He was a site captain in Powhatan and Goochland Counties and he brought these ideas to the middle James River. He has personally sponsored and funded river clean ups. In that area they have hauled literally tons of tires and household debris. He has photographs and waste tickets from the transfer station of the tonnage.
- When Mr. Cruz first asked him about a campground he told him that they need to attract a different clientele and other outfitters that have campgrounds along the James River. They did not want to put on scores of floaters who have a party as their primary agenda. They have taken a family oriented and environmental friendly approach to the campground. They embrace a leave no trace philosophy. When they first started this he looked at RV's, trailers, and tent camping for 64 sites. They met with Eric Meyers and Jeff McDaniel with the Thomas Jefferson Health District. After he worked with them for about a half an hour they agreed to cut it back to 48 sites. Once he filed the applications for special use permits with Albemarle County he discovered that the Water Protection Ordinance prohibited infrastructures. Therefore, he went back to the health department and revised the site plan to primitive camping. He based his model on the James River State Park and two private primitive campgrounds that are already permitted by the Virginia Department of Health. He was subsequently informed that since the Virginia Department of Health regulations contain no provisions for primitive campgrounds any permitting would require specific waivers to the regulations granted only by the State Health Commissioner, Dr. Karen Remley. He applied for these waivers. One waiver was for the use of a well that was constructed prior to the implementation of a 1994 well regulations. The other waiver was for the use of portable toilets in the floodplain. He has been granted waivers to both of these conditions by Dr. Karen Remley, a Virginia State Health Commissioner. Mr. Clark has copies of those letters in the file.
- He went back to Community Development and met with Scott Clark, Amelia McCulley, Glenn Brooks and Bill Fritz. He filed Watershed Protection Ordinance waivers, submitted mitigation plans, and resolved most of the issues related to the campground. He knows he has considerable opposition to this campground in the neighborhood. He understands their concerns when anything like this arises. However, he thinks they are founded on their fears and he truly believes that they can be dispelled. Their fears include and are not necessarily limited to the lack of community involvement, adverse environmental impact, public safety, noise, and future ownership. As far as community involvement goes, when this first started he went to Gwen Costner, who owns the Howardsville General Store, and discussed it with her a year and a half ago. She was very enthusiastic. His partner, Jimmy Crews discussed this with Kathy and Barney Groves who live directly across from the campground a year and half go. They approved. He introduced himself to Tim Lewis at the Schuyler Soapstone

Quarry a year and a half ago. His comment was totally against it. Since that time no one in the area has requested any dialogue with them concerning this campground until last week when Mr. Lewis requested dialogue with Jimmy Crews and requested that he not be present.

- There should be very little adverse environmental impact. He has stated all of the environmental possibilities in the report to Dr. Remley and she has granted those waivers. It is all spelled out in conditions from the Virginia Department of Health. As far as public safety is concerned this site was a disaster and an eyesore when Mr. Crews assumed ownership in 2003. The field was full of abandoned farm and industrial machinery and equipment. The parking area was often filled to capacity. The road was often blocked with theft, vandalism and aggressive personalities fueled by alcohol were not uncommon. Old buildings lined the road and were littered with empty beer cans, wine bottles, whiskey bottles, etc. Mr. Crews has removed all of that debris from that site. It is now a beautiful site. When he cleaned it up he did it without offers for help from the community.
- As far as noise, he contacted Sherry Fritz at 434-263-5696. Her parents own the KOA on Red Hill Road from 1972 to 1989. Ms. Fritz managed the site from 1985 to 1989. Her view on it was if there were no vehicles at the camp sites they would not have any noise or any problems. Mr. Lewis cited peace and quiet was his reason for not approving the campground. Mr. Lewis purchased a house that was 350' to 400' from the CSX mainline railroad from Clifton Forge, Virginia to Hampton Roads. He stood in his yard Saturday on a field trip trying to listen to a lecture when a train went by and he could not hear the lecturer over the train noise from a distance of 20' nor could he hear the person next to him while the train went by. Our camp ground will be 600' to 700' east of those tracks and 1,000' to 1,100' from Mr. Lewis' house.
- As far as benefits to the community, they will provide a safe environment for civic activities, church meetings, and community social gatherings. There have been baptisms there recently. They will have the potential for part time summer employment for high school students and college aged youth in the area. It will certainly stimulate economic possibility for Gwen Costner at Howardsville General Store. The public will continue to have safe access to the James River and continued safe parking. However, their main goal is to provide a safe clean environment for parents and their children to experience nature at its best on the James River. They are not planning on opening up a rodeo. It will be a family oriented environmentally friendly campground.

Mr. Morris invited questions for the applicant.

Mr. Lafferty asked how he plans to move the portable potties and equipment in the event there is a hurricane forecast and if a commercial vehicle will pick them up.

Mr. Nelson replied that is part of the contract that has to be on file with the Virginia Department of Health. An operator has to be on standby to pick up the equipment. The operator is the owner of the equipment and on standby to pick it up. Since the vendor owns the equipment he does not want to lose them. They have already spoken to their contractor about that. In addition to that Mr. Crews has a John Deere tractor with a lift on it that they can work with and remove any of these.

Mr. Lafferty asked if the vendor is from Charlottesville for the portable toilets.

Mr. Nelson replied no, that their vendor is from Nelson County.

Mr. Lafferty noted they have come up with this before and he could see if bad weather is in the forecast that they are going to real busy.

Mr. Nelson pointed out they have tried this vendor before.

Mr. Smith asked where he resides.

Mr. Nelson replied that he resides seven miles from the site at Wingina in Nelson County. Mr. Crews resides approximately two miles across the river from the site in Buckingham.

Mr. Randolph asked if he ever established a community meeting where they would meet with all of the neighbors collectively to listen to their concerns and try to address them.

Mr. Nelson replied no, sir. It is a small community and talk gets around real quick. He went to see Gwen Costner because she had the store and she has a vested interest there to help her business. They visited the people that live directly across from the site. He never anticipated this kind of opposition. He could not imagine that anybody in the community would not want to hear children laughing out there in the field. They are not going to run a wild campground. That is not our goal. They have means to make this happen.

Mr. Dotson said he was interested in what staff management presence will be on the site in what days, what hours and what their role will be.

Mr. Nelson replied some staff will probably be there all the time. As part of the conditions set forth management, being one of us or someone in charge, will have to be there all night long. He will be camping too. They will be there. There is cell phone reception there. It may not be over the entire parcel, but if they go to specific locations they can get a call out on a cell phone. One would have to know where those locations are. That is the advantage of living there. However, they can get out on a cell phone.

Mr. Smith asked the difference in elevation from the river up to the first line of camp sites.

Mr. Nelson replied some of the camp sites would be right along the river. It would be approximately 10 to 12 feet.

Mr. Smith noted it would take the river a while to rise 10 to 12 feet.

Mr. Nelson agreed and pointed out they plan to monitor NORA weather constantly.

Mr. Morris noted in looking at the schematic on the screen sites 19 to 26, which are the ones closest to the railroad track, just seem a bit troubling. The sites seem to be based on the schematic extremely close to the railroad track.

Mr. Nelson said site 21 was 100' to 150' from the railroad tracks. As they get up to site 26 that is probably 250' to 300' from the tracks.

Mr. Morris asked about site 20.

Mr. Nelson replied judging from the scale he would say it is right on the railroad tracks, which might be an oversight on our planner's part.

Mr. Morris pointed out based on the schematic that is why he found it to be troubling.

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

Tim Lewis, Coordinator of the Howardsville Historical Society, said that he lives in the old bank in Howardsville. He made the following comments.

- The community is unanimous in its opposition to this camp site and most are in opposition to the livery as well. He was not expecting to have to refute much of Mr. Nelson's comments. However, basically everything he said about meetings with us is not true. Neither Mr. Crews nor Mr. Nelson made any attempt to consult with the community in the two years. In fact, they went out of their way to avoid us, to confuse us, to belittle the site and say that it is going to be a nice quiet little site with maybe 10 to 20 tents. They did not mention their original RV's, the 48 tent site, the 16 teepees, and the 125 parking spaces. He felt the 125 parking spaces are outrageous. They made no attempt to consult with us. They had to in the end go to them and ask for a consultation last Friday. It was the most hostile meeting. Mr. Crews was standing over him shouting and making threats. He was pointing his finger and threatening him. He said if they go ahead with this you will all be sorry.
- Mr. Crew's idea was that this road was his own personal private property and the boat ramp as well. They have had to alert Scott Clark about this issue. They had to contact VDOT and the Department

of Game and Inland Fisheries to ensure that Mr. Crews keeps the road open. Mr. Crews repeatedly closes this road against the community and treated it as his own. VDOT has had to force him to open this road because he puts a gate across it.

- Tom Loach asked the question about how many floods and how high these floods rise. There have been 39 major floods in the last 30 years. These floods can rise 30 or 40 feet. Mr. Nelson said that these camp sites along the river are 10' to 12' above. However, they are 5' to 6' above. The river rises extremely quickly. If they are there in the night time you have no warning. A river surge comes down.
- There are three major concerns: First, the rail line. Secondly, the fact that it is the confluence of two rivers. It is probably one of the most dangerous sites on the entire James River. It is highly likely to flood because of the two rivers coming together. They have a very busy freight line right there with tents abutting right up to the rail line.

Danielle Fuentes Johnson spoke in opposition to the request on behalf of herself and husband, Sam Johnson. She presented her notes and a petition signed by the majority of members that are directly affected by the special use permits. (**Attachment 1** – Letter dated November 13, 2012 to Albemarle County Planning Commissioners and staff from Sam Johnson and Danielle Fuentes Johnson, 10889 Howardsville Turnpike, Esmont, VA 22937) (**Attachment 2** – Petition to Albemarle County Regarding SP2010000049 Howardsville Camping and SP2010000050 Howardsville Canoe Livery for the Nov. 13 Planning Commission Public Hearing) (**Attachment 3** – Letters from concerned residents responses opposing: SP-2010-00049 Howardsville Camping and SP-2010-00050 Howardsville Canoe Livery – see index of letters at end of minutes for item – **Attachments are on file with the printed minutes**)

- For the past three years they have been residents and homeowners in Howardsville. In the past 20 years they have lived in Washington, DC, Boston, New York City, Las Vegas, San Diego, and Phoenix, but we chose to purchase our forever home and hopefully raise a family in Howardsville, Virginia. We chose Howardsville due to its history, privacy, serenity and incomparable access to the magnificent James River. Our home is in part somewhere between 125-225 years old. Their home is very special and they have spent close to $100,000 in restoring the home. They are concerned that the campground and livery plans that the applicant has for his property, next to the James River will drastically and irreparably alter all that is unique and valuable to this small, historic community.
- Safety concerns for the campers include placing a campground next to a river that routinely floods, an active train track and a busy, high speed road is a tragedy waiting to happen. It is her strong opinion that the safety of the campers and current residents of Howardsville have not been considered in these plans. Neither of the applicants live on the property or within visual monitoring of the camp site nor does there seem to be any enforceable mandate that they mandate a 24-hour security staff to ensure the safety of the campers and the community members.
- She is a resident of Howardsville. There is no cell signal in Howardsville, no pay phone, and emergency response time is at a minimum, 20-30 minutes. There is a possibility of increased crime, violence, and vandalism and fire damage from unwatched camp and cook fires to the adjacent residents and members of the campground. Crossing the railroad tracks is a safety concern.
- "I implore you to carefully and thoughtfully consider my concerns and those of my fellow community members and come to the conclusion that there is no place for the campground and livery proposed by the applicant in Howardsville."

Sherri Fitzgerald said that she owns and has lived the past three years in an 1830 historic home in Howardsville. Her property abuts the James River, which is great for fishing. She made the following comments in opposition to the requests:

- Around the bend of the river towards the confluence where the James and Rockfish River meet is where the proposed site is. It is a huge flood zone. They have seen the water level come up on their property at least 20'. That area is in the floodplain and nobody builds there. The idea of having 45 camp sites which means there will be 45 camp fires, 120 people, food, trash, and portable to toilets. There is only one spigot of portable water in the whole site. She could not imagine these families waiting in line for water. They are going to do what comes naturally, which is to go into the river and dump out their bacon grease or whatever because there is where else to go.
- Other concerns include the train tracks. Other persons will show the Commission some of the train disasters that have been in that area. There have been three disasters in that same spot over the last 30 years. There is an environmental impact and safety impact. It does not make any sense at

all. There is also a financial aspect to this. When individuals come to a natural disaster that comes their way there is no cell or phone service. The depreciation of their homes outweighs the value of tax revenue of camp sites. Please consider rejecting this plan.

A.J. Goode said his only concern is a safety issue. It is an awful lot of camp sites.

Mr. Dotson asked if there is land line service in Howardsville.

Tom Schlesinger, owner of the old Howardsville school house and resident since 2005, spoke in opposition to the request. In response to Mr. Dotson's question he noted there is no land line or pay phone service in Howardsville. He echoed what their neighbors have said about their concerns regarding the impact of this project on public safety, the environment, quality of life in Howardsville, and on property values as well as on other considerations. He made the following comments.

- One of the most troubling features of this proposal is the proximity of the project to the railroad tracks. They can't see it from the map, but this is an extremely busy freight track. It is not unusual for several trains, many of them consisting of dozens of cars, to go through Howardsville in a course of an hour. Over a course of a day they have many trains barreling through at full speed. There are no crossing barriers where State Road 602 crosses the tracks. There are not warnings lights. They don't have to have a very active imagination to think that there might be problems putting this sizeable camp site directly adjacent to a rail line of this proportion. If an accident does happen then these other factors that they have enumerated come into play. Emergency response time for emergency services is very considerable. They can get a cell phone service signal in Howardsville if they have Verizon as the provider and if they go to one place on the bridge spanning the Albemarle/Buckingham sides. Cell phone reception other than that is either non-existent or real spotty. Those are some of the factors that make it very expensive to get property insurance such as standard average property insurance for residences in Howardsville. It seems that it would be extraordinarily difficult and expensive to get liability coverage that applies to an enterprise like this. If that is the case, then they have to think about who the next deep pockets are in the event that there is some kind of an accident or incident where liability occurs. It is probably the county that has those deep pockets.
- In conclusion, with all the risks that they have been discussing that vastly outweigh the possible benefit to the intermediate community and to the broader public, he asked that the Commission reject this application as it is drawn up right now.

Leighten Turner said he had been a resident of Howardsville since 1983 when he retired. His and his sister really loves this area since their ancestors have been here all generations. They feel that having that many people so close to their residence would really destroy the character of Howardsville. They would like to see it as it is. They earnestly ask the Commission to reject this application. He lives on Route 602, which is Howardsville Turnpike, just behind the old Methodist Church. He has a picture of his house that he passed around and also some of the results of the train accident that they had about 20 years ago, which was all over that road. Those wheels that came off the train were real hot and could not be touched. It was something that he had never seen and it looked like a war zone. (**Attachment 4** – Photographs and articles on train wrecks – **Attachments are on file with the printed minutes**)

Mr. Randolph asked if that was in the area of the application for the campground.

Mr. Turner replied yes, it was right there on James River Road or Route 626.

Marvin Ripley, resident of Howardsville since 1948, spoke against the proposal for the camp site. There are just too many negative. In Howardsville 125 parking spaces are too many. He passed around some photographs and made the following comments about safety issues.

- There was a train wreck in Howardsville in 1989. Two trains ran together with 23 cars involved and several engines. The derail was at the site they are talking about. Old Route 602 that goes down to the river was closed for about two days. In 1991 there was a single train derailment at the same location. In 1993 there was a single train derailment a quarter mile east of Howardsville and 28 cars of shelled corn were dumped.
- The other thing he wanted to talk about is flooding. In 1969 Camille came through and washed away about one-half of Howardsville. In 1972 there was another flood there, which was 4' higher than

Camille. In 1985 there was another flood there that was the same height as Camille. It does not take a hurricane to get the rivers up, especially a small river. He just wanted to mention those.

- One of the other things the applicant mentioned that they thought they are going to control people's behavior there – well he visited some sites on the James River where people have activities and it is more than an eat out it is party time. They talk about they will be able to control that. Well good luck to them. He could tell them at Foxfield they don't control it too well. At the University of Virginia Scott Stadium they don't do very well. Putting up road signs that says no littering does not work very well. Furthermore, every county high school in this county has a police officer or some other name for it. However, it goes to show you can't control people's behavior.

Karen Firehock, a resident of 10955 Howardsville Turnpike, spoke in opposition to the request. She asked to address a couple of comments that were already made, as follows.

- First, she wanted to talk about public notice. When she moved there over a year ago she did hear that there had been some talk about having some sort of canoe facilities and some sort of campground. She did contact the county. All she found out about was that they were waiting to hear on the health department application for a variance. She contacted the Planning Commissioner for her area, the Board of Supervisor member and Scott Clark several times. She never got any information from staff except the application. So the fact that they made no inquiries is incorrect.
- The applicant talked about contacting Ms. Kathy Groves who lives across the street. Her husband, Bryant Groves, is currently deceased and is not involved at this point. She has signed the petition that the Commission received earlier this evening against this.
- She moved to Howardsville for two reasons, the historic quiet solitude of the area as well as river access. She is very glad that through their own neighborhood's diligence in contacting VDOT and the Department of Inland Fisheries that the actual staff report has been corrected. In the staff report she picked up on the table it said that this road and the ramp were owned by the applicant. She was very concerned about questions of honesty here.
- She held up her brand new Verizon Blackberry. It does not work in Howardsville. There is apparently one spot on the James River that one can walk to and stand in a specific spot and perhaps get a signal. In the event of a flood or other emergency situation it was ridiculous to think that a camper would be able to walk out onto a bridge to make a call.
- The viewshed of this area is impacted. Right now they were looking at a field. They would have helped to clean up the site if asked since currently she and her husband clean up the roads.
- Regarding buffer impacts, she noted that they have an ordinance to protect the James River. A 100' wooded buffer is required to be maintained. The applicant has put all the tents along the floodway fringe, which is the highest risk area for them. She reminded them that in hurricane Camille they had the same sort of ability to notify people at that time and people were caught off guard. The Rockfish River actually jumped its banks and flooded across and destroyed homes in Howardsville. So they do not have perfect weather forecasting. When it rains 6", 8" or 10" inches in Nelson County they get that flood the next day even though it is not raining in Howardsville. Thank you for your consideration.

There being no further public comment, Mr. Morris closed the public hearing to bring the matter before the Planning Commission for discussion. He noted that the applicant would be given the opportunity for rebuttal.

Mr. Morris noted as a matter of record that Mr. Smith and he drove out there and were on the site on Route 602 at the top of the ramp actually going down where the camp sites on the river would be. Mr. Smith tried to contact an associate in Crozet and his communication was grabbled. He tried to contact his wife on the east end of Charlottesville and it was loud and clear. They both have Verizon. He was just simply saying at that particular time of day once they got cell phone service. Therefore, if they were looking to make a phone call at 10 a.m. in that area it was possible.

Mr. Morris invited comments.

Mr. Franco said there was a reference in the applicant's earlier presentation about an on-site manager as one of the conditions. He was having a hard time finding that.

Mr. Clark replied that he believed meant that was a condition of the Health Department permit. There is not such a condition on our proposal. However, they could add such a condition if the Commission thought it was necessary.

Mr. Morris invited the applicant to make a five minute rebuttal.

Mr. Nelson made the following comments as a rebuttal.

- There was frequent reference to Camille. After the Camille tragedy the United States Geologist Survey referred to this as a 100-year flood. Since that time similar events have occurred in Greene and Madison County. After a lot of extensive research it has been closely examined and they now wonder if that was more like a 1,000-year or 10,000-year event.
- The opposition comes up and tells him they moved to Howardsville for the peace, quiet and the serenity. They purchased places next to a CSX Railroad line that has coal trains powered by two 5,200 horse powered diesel locomotives going down the river. When they come back up the river they are three or four locomotives pulling an empty train and they are even noisier. There is nothing quiet and peaceful down there when the trains go through. He would say on an average 8 to 12 trains go through every day and at night.
- He hears talk about 125 parking spaces. There are already 61 parking spaces that exist. DGIF may have part of a boat ramp there, but they don't have any parking. All of that parking is on Mr. Crews' property that he maintains. He pays for the insurance, picks up the trash, keeps the grass mowed, and pays for the portable toilet. It is at his expense.
- They are proposing 48 camp sites. However, they don't ever anticipate operating at capacity. Probably the only time when they will operate at capacity is Memorial Weekend, Fourth of July, and Labor Day. He really expects to operate at about 50 percent capacity on weekends and he does not anticipate any more than 6 to a dozen camp sites during the week. Nobody is going to get rich off of this. It is not going to be a problem for the community.
- As far as access to the boat ramp goes, that has always been a contentious topic. DGIF was there two years ago. They surveyed the site. They argued with Mr. Crews. Their top people were there. They packed up and went home and said that they are taking this. What they typically do is go to the Attorney General's Office. That was three years ago. They have never been back. What does that tell you? He has a copy of the Virginia Wildlife Publication produced from the Department of Game and Inland Fisheries. This was printed in 1992 from a reprint from 1983. It states in there that access to the boat ramp was by a private road and to pay fee at the General Store. He did not know how clearer it could be when that is printed in their document.
- There is already a camp ground on the Rockfish River right across from them on the point. It is operated by James River Runners. It is permitted by the Virginia Department of Health. He did not hear anyone complaining about those people being there. However, they have been there for 20 years. Down river there is James River Runners and James River Running and Rafting. They both have camp grounds and access their camp grounds over the railroad tracks. There have never been any instances with trains there. It sounds like there have been a lot of problems with trains. So maybe they should focus their attention on CSX and not undermining a campground that will provide some benefit to the local economy.
- He followed all of the Virginia Department of Health Guidelines and all of Albemarle County's Guidelines. He realized it is in a floodplain and there is a Watershed Protection Ordinance. However, there is a provision for a waiver and he has gone through that process. He asking the Planning Commission to seriously consider this campground. Thank you very much. He pointed out that they were not charging for the board ramp.

Mr. Morris invited questions.

Mr. Franco noted the question came up regarding the earlier reference to an on-site manager. He asked if that was a health department requirement.

Mr. Nelson replied that was something he discussed with Community Development that somebody would be there 24 hours a day and overnight.

Mr. Franco asked if it was overnight or 24 hours a day.

Mr. Nelson replied that they would be there managing the camp ground. However, somebody would be required to be there overnight. They are going to be at the campground and the canoe livery. Also, his Verizon cell phone works there.

Mr. Loach suggested that they add it as a condition.

Mr. Smith said the parking lot as you go down Route 602, which they are referring to as a state road, that is a by fee parking lot.

Mr. Nelson replied that was correct.

Mr. Smith asked how much is it for a day,

Mr. Nelson replied that it was $6.00 per vehicle per day. That money is used for the insurance policy and for the mowing, the trash and portable toilet. If they look at the volume of traffic there no income is being generated there.

Mr. Randolph asked if the on-site person would be Red Cross Certified in water safety will they also be qualified to provide first aid in an emergency.

Mr. Nelson replied that they can provide first aid in an emergency. He has been certified as an Emergency Medical Tech. He was not certified in water safety. He was not required to by our insurance other than having to be CPR and First Responder.

Mr. Smith said according to staff Route 602 has not been abandoned by the State Highway Department.

Mr. Nelson replied that there was an argument there with the DGIF folks.

Mr. Smith noted they were talking about the Highway Department.

Mr. Nelson replied that they never came to the site.

Mr. Clark pointed out that he talked with the resident administrator today. He said he has looked into this for several years and never found any record of abandonment of this right-of-way. So in VDOT's minds this is still an active right-of-way.

Jim Crews asked to clarify that. The road when it crosses the tracks down to the top of the hill where it goes down to the boat ramp is VDOT property completely. From down there it is DGIF and I down below.

Mr. Smith reiterated he was saying DGIF does share ownership of the ramp with him.

Mr. Crews agreed they both own ownership in the ramp.

Mr. Smith asked if that includes the turnaround area.

Mr. Crews replied yes, sir.

Mr. Smith said he is not showing the turnaround area as his property.

Mr. Crews replied no, sir. He has a 15 foot right-of-way retained by his grandfather inside of that circle and he also has a 15 foot right-of-way down the side of the ramp. The boat ramp was built on the Rockfish. So they came in after the flood of 1969 and built it over on his grandfather's property is what actually happened. Since then he was with the county for 12 years. When their lease ended he tried to get back with the Inland Game and Fisheries and they came down and resurveyed it. It did not come out the way they wanted it to come out. So they just abandoned it and would not sign a lease with him. He furnished the land for the parking area and they furnish the ramp. However, they could not come to an

agreement with him and just closed it down. In the meantime he has been taking care of it himself personally.

Mr. Smith asked what he means by they closed it down. The sign is still up.

Mr. Crews pointed out on the internet on the list of open and closed ramps it is officially closed.

Mr. Smith asked if the ramp is where the bridge used to be.

Mr. Crews replied that yes that it was approximately where it use to be.

Mr. Smith said that it is probably in the original right-of-way.

Mr. Crews replied yes, if they give and take a little because the board ramp used to be on the Rockfish. That is where it was supposed to be. Then it was built and then washed out. When they came back it got over bounds a little bit. It is no big issue with him anymore. He opens it for the public. He does not charge anybody anything to go down the ramp since it is not his position to do that.

Mr. Dotson said he had a question for Mr. Nelson. He was curious about the number of parking places. He said there were 61 parking spaces on the site now.

Mr. Nelson replied since Mr. Crews cleaned that site up and started charging people to park vehicles he would say that an unsavory element that hung out down there does not come down there anymore. In the past it was overflowing and the roads were blocked. It was not a pretty scene.

Mr. Dotson said when he thinks about 40 some camp sites for tents family oriented like he was saying he was thinking many families would come together in one vehicle and may occasionally a teenage child would join them later and in a second vehicle. That seems like a lot less than 120 spaces. He was just wondering why 120 spaces. Has the county required that many.

Mr. Nelson replied when he was working with Community Development their concern was that there was parking there and they could put 61 cars in there. They asked what they are going to do with the campground parking. They asked for 48 parking spaces since they have 48 camp sites. However, they need to have a few more spaces just for the circumstances as just mentioned of a few additional. That was all that was. They needed to keep that entire parking area open that already exists strictly for the boat ramp for people accessing the river. In addition they need 48 spaces plus a few extra for the campground. They are willing to alter the site plan in any way that would make everyone happy.

Mr. Dotson said the scale of the parking and the number of spaces basically came from the county. He asked if that was what he was saying.

Mr. Nelson replied yes.

Mr. Dotson noted the second question was asked before about land line availability in Howardsville and the gentleman who responded said there are no pay phones. Are there private land lines in the homes? Can they get a regular old fashion telephone in their home?

Mr. Nelson replied no, that he did not live in Howardsville. They said there was no trunk there. Mr. Cruz has already investigated that and it would cost $7,000 to have one run under the railroad.

Mr. Dotson noted he had one other question. He was familiar with the other campgrounds. He said the others are between the railroad track and the river the way his proposed area is. What is the scale of those compared to yours in terms of number of cars and number of camping spots?

Mr. Nelson replied that he did not know because he tries not to venture into their arena. He just knows they are out of control on big weekends. They have a lot of tubing activities. James River Runners is probably very similar to ours. They have portable toilets right on the river bank. They have parking right

in their camp sites. So they sort of have a recipe for disaster there already. They are permitted by the Virginia Department of Health. It still flies. He commented on the concerns about future ownership. If Mr. Crews should sell the place a future owner may have complete disregard for the neighborhood. He thought he had all of those stops in place. If they don't meet the environmental conditions set forth by the Virginia Department of Health they pull the plug on us. If they don't meet the noise, the light and all of the other conditions set forth by Albemarle County Zoning the county pulls the plug on us. It is that simple. He feels that all of the stops are in place.

Mr. Morris closed the public hearing to bring the matter before the Planning Commission for discussion and action.

Mr. Smith noted that James River Runners does not have the houses right directly across from them that this proposal has.

Mr. Morris said that they were worried about this application and not them.

Mr. Lafferty said it seems that most of the hazards that have been cited exist right now without the campground. He would be discouraged to go into an enterprise like this if the flooding is as frequent as they are saying. However, that is not my decision. He was most concerned for the present residents of Howardsville when they say things are so bad that trains are derailing and the places are flooding all the time.

Mr. Morris stated his concern for campsites 19 through 26. He asked that they please just take a look at those again, especially the ones that close to the railroad. The pictures that they have seen of the derailments and so on seem to spew off almost to 100 yards on either side.

Mr. Clark asked to address Mr. Loach's question about flood levels on the site. He could not find that there is a stream gauge in Howardsville. The closest he could find was in Scottsville. So it cannot be a direct comparison. However, going back as far as 1871 the flood levels each year have maxed out anywhere from 10' to 34'. There is about a 24' difference the bottom of the river bank and the top of the railroad tracks. It is entirely possible that a major flood event would inundate this site essentially to the level of the tracks and possibly beyond.

Mr. Loach pointed out he was not sure they can make the case from what they have heard. He can certainly make the case against what the campground may be and what effects it might have when, in fact, it seems that the applicant has made what he would see at least in the application as a good faith effort with the significant amount of conditions they would have to live with due to the constraints of the situation. That said he was going to be consistent in his opposition as he was with SOCCA where they had the same situation of portable toilets in flood areas. Floods and fecal materials don't mix and match, which was his concern. After reading the application it is certainly a significant application with a significant amount of conditions to try and control the situation.

Mr. Lafferty noted one of the benefits of having the campground there is the traffic. They will police it and keep it clean so they won't have the drug and drinking problems that they have because the campground won't go if they have that. So it should in fact help clean up the area.

Mr. Randolph supported the request with the following three conditions. 1. Both day and night the responsible manager on duty and on the premises is trained as a Water Safety person, has a first aid background, and trained in CPR. Given the distance from the nearest hospital he thought those three things are absolutely crucial. 2. The riparian buffer needs to be 100'. The design needs to be redrawn in light of a 100' riparian buffer. 3. He totally agreed with Mr. Morris that the sites 19 through 26 are too close to the railroad tracks. They cannot predict where the train would fall over. Sites 19 through 26 needs to be moved away from the railroad tracks. On the basis of those three items he would be inclined to support the application.

Mr. Morris asked if he would like to put that in the form of a motion.

Motion: Mr. Randolph moved to recommend approval of SP-2010-00049 Howardsville Camping with conditions as recommended by staff, as amended to include the following:

1. Addition of a 100' riparian buffer;
2. The elimination in proximity to the railroad line of camp sites 19 through 26.
3. Assurance that both day and night 24 hours a day there will be staff trained as water safety instructors, in first aid and in CPR.

Mr. Smith said he feels for the people of the community. However, he thinks this gentleman has a right. He disagrees with one thing in the motion about the 100' riparian buffer. He looked at it and it was 12' up to that level. He knows that he spent his fair share of time in a tent and when my feet get wet he is going to get up and get out. So he did not think it is not the danger that some are trying to implicate from flooding. He thought that people were going to know that the river is coming up because it is going to get loud and people are going to move out. But that is the only addition he would make to adjust the motion.

Mr. Morris seconded the motion so they could move ahead.

Mr. Franco said he would like to see the number of parking spaces reduced. The quick math they went through earlier was there are 61 spaces on site now. The campground is adding 48 so they are up to 109 and then up to 120 with some extra reasoning. Since those 61 spaces serve the landing itself he thought that could be reduced. He would be in favor of seeing that reduced from the 120 to something lower. He suggested that they make provision for another 50 percent off the filled lot, which would be 72 spaces. That does not provide anything for the landing. Therefore, he thought it needs to be above 72 spaces. He would pick 100 spaces as a round number just again trying to reduce that down.

Mr. Smith requested to ask the applicant a question. He asked what is the most number that he can remember having in the livery parking space.

Mr. Crews replied 35 to 40.

Mr. Smith asked how often.

Mr. Crews replied that it would be holiday weekends such as Memorial Day or Labor Day.

Mr. Morris asked if 100 spaces would more than do it.

Mr. Franco agreed that it sounded like 100 spaces would work.

Mr. Randolph amended the motion to add condition #4 The reduction of parking spaces from 120 spaces down to 100.

Mr. Morris noted one of the things they saw on site was once they came up to the current place where the river front sites are going to be right in back of that there is a berm. When they look at it and stand at the base of that berm and look back towards the town they can't see anything but the very top of the roofs. So if they have that 100' setback then they are going to put them on top of the berm. So again it adds to it. The people along the road are going to be able to see everything. Right now they have the berm that is going to cover almost 50 percent.

Mr. Lafferty added plus they are talking about camp sites. They are not clearing the site. People want to pitch their tents in the trees. Most of the state parks that have camp sites are in the trees.

Mr. Morris pointed out that a lot of the sites that are along the river are going to be out of the direct view or the line of sight of the people that are along the road. He was talking about Route 626. However, for the second tiers that are parallel to the railroad track and so on most of those are going to be out in the open.

Mr. Nelson noted that there are no trees. That area will be reforested as part of the mitigation plan. All those campers will be in that forest and they won't be visible from Route 626.

Mr. Morris thanked the applicant for that additional information since he did not see that.

Mr. Franco said since they are treating this as a friendly amendment he would also add that in the staff's presentation they revised a couple of the conditions. He wanted to make sure that was part of the condition.

Mr. Randolph agreed with Mr. Franco. He asked to withdraw the second point about the 100' riparian buffer will go with 50' especially in the interest of time.

Mr. Kamptner said with respect to the reduction in the parking he thinks between now and the Board staff is going to have to calculate whether or not they can at least satisfy the minimum requirements for parking and there is some flexibility within the parking regulations. Staff now has some additional information from the applicant about the maximum usage. That may play a role in that determination. So zoning will need to look at that. Therefore, that can be a recommended condition. However, staff will need to look at it to make sure it will work.

Mr. Dotson asked for two things.

- First, is the addition of a condition requiring that there be a weather radio with an auto alert feature on the premises. Otherwise, he did not know how they would get the information that is key to some of the decisions.
- A second question is when they have had situations where there were strong differences and special use permit they issue that regardless of the owner. Mr. Nelson gave us a lot on his background, credibility and his intentions. However, the special use permit is not issued to him. It is issued to the site. Unless otherwise specified it is limitless in terms of its time. He wondered if this is one of those situations that they ought to entertain the idea of maybe a two year time period with it coming back for further consideration at that point in time. That might give the applicant and the neighbors a chance to heal some of their relationships. It would also give a chance to see how it is working. As he understands the proposal it is not going to be huge investments on the part of the applicant because of being in the flood plain. Therefore, having a two-year assurance might be okay economically. He was curious from other Commissioners whether there would be interest in such an approach.

Mr. Morris asked for an opinion from Mr. Kamptner if that would be possible.

Mr. Kamptner said they have recommended similar conditions for unique types of uses in the past.

Mr. Dotson pointed out he was thinking about two years.

Mr. Lafferty said he would go along with that. He had a problem with the requirements that he was putting on the resident person. Why wouldn't they make him a neuro surgeon? It seems unreasonable to have all of these requirements for a manager such as they are certified in water safety and by who are they certified and can give a CPR. Those are desirable type things. However, they are almost requiring them to have a mini rescue square there. He thinks that is a bit unreasonable.

Mr. Cilimberg noted realistically that could be difficult from a zoning enforcement standpoint. They have zoning enforcers going out periodically to ask for these credentials and he was not sure how easy that would be.

Mr. Morris questioned having all staff WSI qualified.

Mr. Franco encouraged that it be removed from the motion.

Mr. Randolph withdrew the conditions regarding certification and the 100' riparian buffer. Therefore the recommendation is as staff has recommended with

1. Relocating the camp spaces #19 through #26 and relocating.
2. Reduce the parking spaces from 120 down to 100 spaces or a number staff recommends to reduce the imprint.
3. Ensure that there is a NOA radio monitor on the facility and on at all times in case of an approaching storm.
4. Day and night responsible manager on duty and on premise.

Mr. Franco said that begs the question that was asked earlier just in moving forward for clarification that amplified music would not prohibit the NOA radio from being on site.

Mr. Kamptner noted that staff would clarify that condition. He questioned about the condition requiring the manager on site.

Mr. Morris asked if he included the two year limitation.

Mr. Randolph noted this would be for two years and then it would come back to the Planning Commission.

Mr. Cilimberg asked if staff should gather from that 2013 and 2014 so that it is by the end of the calendar year of 2014.

Mr. Morris said that was a good idea.

Mr. Randolph agreed. He hoped the applicant has heard our concern about safety. That is a concern from the neighbors. It has come across very loudly and clearly. He thought the applicant and owner would definitely follow through on that and assure a quality of safety for not only on the site but also for the neighborhood as a result of that.

Mr. Kamptner asked if the motion still includes the condition for a manager, but without the certification.

Mr. Randolph replied that was correct for 24 hours a day.

Mr. Morris asked Mr. Cruz and Mr. Nelson if these are agreeable.

Mr. Nelson and Mr. Cruz replied yes.

Amended Motion: Mr. Randolph moved and Mr. Dotson seconded to recommend approval of SP-2010-00049, Howardsville Campground with the conditions recommended by staff, as amended.

The motion passed by a vote of 7:0.

Mr. Morris noted that SP-2010-49, Howardsville Camping would be forwarded to the Board of Supervisors with a recommendation for approval subject to the following conditions, as amended, at a date to be determined.

1. Development and use shall be in general accord with the conceptual plan titled "Howardsville Canoe Livery and Campground$_{\pm}$" prepared by Gregory A. Watson, and dated August 27, 2012 (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:

    - location of campsites
    - location of parking areas

- location of the access roads for the campsite (no less than 50 feet from the river bank)
- absence of structures

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

2. The area north of campsites 16 through 20 and that part of the "Common Area" shown on the Conceptual Plan that is within the existing tree line shall remain forested. No cutting or removal of trees shall be permitted, except for dead or broken trees that pose a direct threat to a campsite or as permitted by Zoning Ordinance Section 4.3c. Gathering of downed wood for firewood is permitted.
3. The portion of the "Common Area" shown on the Conceptual Plan that is outside the existing tree line may be re-forested. All plantings shall use native tree and shrub species listed in Appendix A of the *Riparian Buffers Modification & Mitigation Guidance Manual,* published by the Virginia Department of Conservation and Recreation; the brochure *Native Plants for Conservation, Restoration, and Landscaping: Virginia Riparian Buffer Zones*, published by the Virginia Department of Conservation and Recreation; and/or Appendix 7 of the *Chesapeake Bay Riparian Handbook,* published by the United States Department of Agriculture.
4. There shall be no temporary or permanent amplified sound system permitted for this use.
5. Quiet hours from 9 p.m. to 7:30 a.m. shall be posted and maintained by the applicant.
6. The campground shall be closed and all portable toilets and vehicles shall be removed while a flood warning or flash-flood warning issued by the National Weather Service is in effect for the portion of the James River adjoining the site.
7. Consumption of alcoholic beverages shall be prohibited in the campground.
8. No trees located 50 feet or closer to the river bank shall be removed. Trees felled or broken by wind, lightning, or other natural event may be removed if they pose a threat to a campsite.
9. Compliance with the Virginia State Department of Health regarding water supply shall be verified by the Health Department prior to issuance of a zoning clearance and the commencement of the special use.
10. The use shall not commence before the subject properties are combined into a single parcel.
11. The number of parking spaces shall not exceed 100 or the number determined by the Zoning Administrator to be necessary, under County Code § 18-4.12,whichever is greater.
12. A weather radio equipped with an automatic alert system shall be present on the site and in operation at any time the campground is open.
13. Special use permit SP 2011-00049 shall be valid from January 1, 2013 through December 31, 2014.
14. A campground manager shall be on the premises 24 hours a day when the campground is open.

- In moving forward clarify that amplified music would not prohibit the NOA radio from being on site.
- ~~**Relocating the camp spaces #19 through #26.**~~ [note: this needs to be done on the plan, rather than by condition]

Mr. Morris said the next request is SP-2010-00059 Howardsville Canoe Livery. He asked if there was any discussion. There being none, he invited a motion.

Mr. Dotson suggested staff to clarify since they have added a series of conditions to the one special use permit whether any of those need to be restated or the livery modified in light of what they have done on the first action.

Mr. Clark replied that they could add the requirement for the 24-hour manager. However, it does not seem necessary because it is only a daytime operation. The parking requirement would also apply to the canoe livery operation. If they desire they could also apply the two-year limit to that.

Motion: Mr. Randolph moved and Mr. Smith seconded to recommend approval of SP-2010-00050 Howardsville Canoe Livery with conditions recommended by staff, as amended.

1. Development and use shall be in general accord with the conceptual plan titled "Howardsville Canoe Livery and Campground" prepared by Gregory A. Watson, and dated August 27, 2012 (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:
   • location of parking areas
   • location of boat launch
   • absence of structures
   Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.
2. There shall be no temporary or permanent amplified sound system permitted for this use.
3. The canoe livery shall be closed and all portable toilets, vehicles, trailers and other canoe livery equipment shall be removed while a flood warning or flash-flood warning issued by the National Weather Service is in effect for the portion of the James River adjoining the site.
4. The use shall not commence before the subject properties are combined into a single parcel.
5. The number of parking spaces shall not exceed 100 or the number determined by the Zoning Administrator to be necessary, under County Code § 18-4.12, whichever is greater.
6. Special use permit SP 2011-00050 shall be valid from January 1, 2013 through December 31, 2014.

The motion passed by a vote of 7:0.

Mr. Morris noted that SP-2010-00050 Howardsville Canoe Livery would be forwarded to the Board with a recommendation for approval at time to be determined with conditions as recommended by staff, as amended.

Note: To view Attachments referred to in minutes - Attachments are on file with the printed minutes.

Index to Attachment #3 – submitted by Ms. Johnson Re: Concerned Residents Responses Special Use Permit Applications

Letter dated November 13, 2012 from Karen E. Firehock, 10955 Howardsville Turnpike, Howardsville, VA 22937

Letter to Supervisor Snow from Cara Eisenberg, The EISENBERG LAW FIRM, 509 South Beverly Drive, Beverly Hills, CA 90212

Letter dated Saturday 10th November 2012 to Members of the Albemarle County Planning Commission from Marvin and Maxine Ripley, 10789 Howardsville Turnpike, Howardsville, VA 24562

Letter dated Friday 9th November 2012 to Albemarle County Planning Commissioners and Staff from Sam Johnson, 10889 Howardsville Turnpike

Letter dated Friday, November 9, 2012 to Albemarle County Planning Commissioners and Staff from Danielle E. Fuentes Johnson, 10889 Howardsville Turnpike, Howardsville, 22937

Letter dated November 8th 2012 to Members and Staff of the Albemarle County Planning Commission from Charlotte Brody, 10937 Howardsville Lane, Howardsville, VA 22937

Letter dated Thursday 8th November 2012 to Planning Commission from Katherine C. Groves, 3354 James River Rd., Howardsville, VA 24562

Letter dated Nov. 7th 2012 to Commissioners from Karen Firehock, 10955 Howardsville Turnpike, Howardsville, VA 22937

Letter dated Nov. 7th, 2012 to Mr. Clark from Tim Lewis, Howardsville resident opposite the proposed campsite, 10955 Howardsville Turnpike, Howardsville, VA 22937

The Planning Commission took a break at 7:49 p.m. and the meeting reconvened at 8:02 pm

Regular Items:

SDP-2012-00053 Albemarle County Public Safety Training Facility (Firearms Range)
PROPOSAL: Preliminary site plan for the construction of the Albemarle County Public Safety Training Facility: Firearms Range to be located on approximately 171.96 acre site, the project will disturb 14.25 acres of the site. The proposal includes firing range, associated parking and access drive.
ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: Chapter 18 Section 32 and Chapter 18 Section 10.2.1(9) of the Albemarle County Code, which allows for public uses which are owned and operated by the County.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Area 4 - 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: NO
LOCATION: Southern terminus of Fortune Lane/Route 704, approx. 1.4 miles south of intersection of Route 704/Riding Club Rd.
TAX MAP/PARCEL: 12900-00-00-002A0 & 12100-00-00-05700
MAGISTERIAL DISTRICT: Samuel Miller (Christopher Perez)

Mr. Morris noted that the next item is SDP-2012-00053 Albemarle County Public Safety Training Facility (Firearms Range). Before they go into the staff report he asked Mr. Kamptner, the Deputy County Attorney, to please explain precisely what the Planning Commission is going to be focusing on and only this.

Mr. Kamptner explained that unlike the last two applications, which were special use permits, the issue for the Commission tonight is a preliminary site plan for the Firearms Range in Keene. The site plan is a schematic drawing that shows how the site will be developed. It shows what improvements will be put onto the property. The role of the Planning Commission is simply to decide whether or not the site plan meets all the minimum requirements of the county's regulations with respect to site plans and the improvements. Staff has analyzed the site plan and their recommendation is that the site plan satisfies those requirements. That is the role of the Commission tonight. That is the decision that they have to make. The Commission has the final decision on this particular item.

Assuming that the site plan does meet all of the requirements their role is ministerial in nature meaning that they are obligated to approve the site plan if it satisfies those requirements of the ordinance. They realize and understand that many are here to speak about use the use itself, the noise, and some of the other impacts. Feel free to go ahead and speak to those issues, but the Commission does not have a say as far as whether or not the use is appropriate at this site. That has already been decided by the zoning decision that was actually made 32 years ago, but just last week the Board of Supervisors reaffirming their decision asking staff to continue working on this project. Ultimately that decision lies with the Board of Supervisors.

Mr. Morris asked if what he just said would also apply to the item on the agenda a little later for Estes Park Preliminary Site Plan.

Mr. Kamptner replied that the preliminary site plan item is on Estes Park. To complete the thought for the Firearms Range item on the agenda tonight he noted it is a preliminary site plan. The county will have to return with a final site plan. Those are typically approved administratively by staff. That is merely just looking at the final engineering details to make sure that all of the requirements for a final site plan have been satisfied.

Mr. Morris asked staff to give the staff report.

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

- This is a request for approval of a preliminary site plan for the Albemarle County Public Safety Training Facility. The reason the Commission is reviewing this today is because abutting owners had requested the Planning Commission review this item. The use is permitted by right as a public use.

Planning History

- CCP-2012-00001 – On April 3, 2012 the Planning Commission found that the location, character and extent of the proposed Firearms Training Facility at the Keene Landfill Site is in substantial accord with the County's adopted Comprehensive Plan.

- On November 7, 2012 the Board of Supervisors discussed the Firearms Training Facility at Keene Landfill Site in great detail. Following discussion and questions, the Board reaffirmed their support of the project as proposed. The motion passed 5-0 (Mr. Dumler abstained).

Request for approval of preliminary site plan for:
- County owned & operated firearms training facility
- Associated classroom building, which will be temporary
- Toilet facilities
- Access road and parking area

It is a 176 acre parcel which the county owns. It is the former Keene Landfill currently zoned RA.

Staff has found the following favorable and unfavorable factors for the review of the preliminary site plan:

Factors Favorable:

1. Site plan matches the approved proposal, which was discussed during the CCP-2012-00001 review.
2. No conditions were required during the CCP review.
3. Submittal meets preliminary site plan requirements.

Factors Unfavorable: None

Mr. Morris asked that everyone understand what they are looking at, which is the preliminary site plan only.

Mr. Perez noted there are associated waivers with this proposal. The waivers are not for the Commission to review right now. The waivers will go to the Board of Supervisors in their December meeting for them to take action on. Staff provided this for the Commission's informational purposes only so they knew what other things were going on with this preliminary site plan. Specifically, there are four waivers requested for the site plan as proposed.

Waiver of Design Standards
1. Section 4.12.15a Access and Parking Lot Surface Material (Instead of being concrete they are proposing to do gravel.)
2. Section 4.12.15g Curb and Gutter in Parking Lot and Access (Curb and gutter would be required for the parking lot and the access drive. They are seeking a waiver to not have curb and gutter.)

Waiver of Parking Lot Landscaping
3. Section 32.7.9.7(b) Interior Parking Lot Landscaping (The landscaping for the interior parking lot as well as the screening of the parking lot they are seeking a waiver of.)
4. Section 32.7.9.8(c)2 Screening of the Parking Lot

Again, these are not for the Planning Commission to take action on today. These waivers need to be approved by the Board of Supervisors per Section 18-31.8 Special Exceptions of the Zoning Ordinance.

Staff is recommending approval of these waivers, and is providing this to the Planning Commission for informational purposes only.

RECOMMENDATION: Staff recommends approval of the preliminary site plan with the conditions listed in the staff report, which will be addressed during final site plan.

The preliminary site plan was called up by an adjacent owner for review and action. The preliminary site plan was reviewed by all members of the Site Review Committee, including the Department of Environmental Quality (DEQ). All comments have been addressed.

There being no questions for staff, Mr. Morris opened the public hearing and invited the applicant, who is Albemarle County, to address the request.

Major John Parrent, with the Albemarle County Police Department, said the last time they were before the Planning Commission was on April 3rd for the Comp Plan review. Since that time they have continued outreach to the community. As they remember from that meeting they explained a little of where they were at that time. Back in January they had reached out to the community around the landfill area and did some door to door. The Public Safety Chiefs were down there. Since that time they have attended several Town Hall Meetings and invited some of the residents to the Police Department to meet with them and hear their concerns. Last week they did a fairly lengthy presentation to the Board of Supervisors. He thought all of the Commissioners have seen that or have access to that. It was fairly detailed. He knew the Commission's scope tonight was fairly narrow. However, that is some of the background that is available of this project. He can assure them that they have worked hard to mitigate the noise the best they can at this facility. They are very safety conscious as law enforcement officers. They are very concerned about the community down there and are doing everything possible to make sure this is a safe facility and a safely run facility. Our engineer, Brian Peters, with Kimberly Horn and Associates, is here and can answer most of the technical questions. Colonel Sellers from the Police Department is also here.

Mr. Morris invited questions for the applicant. He has one question. He understands the narrowness of our task this evening. However, he is definitely going to invite the public to make comment. He would assume just knowing the department that they will continue to with the community and try to do everything that they can as we move forward.

Mr. Parrent replied yes, they are committed to that. Once this facility is built it does not stop that day. They will continue to work with the community from that day on to work on any issues of safety or mitigating the noise the best they can.

Mr. Morris invited public comment.

Steven W. Blaine, attorney with LeClair Ryan, represented a number of residents and property owners in the Keene area, including the Van Clief family, Mr. and Mrs. Beazley, and others. **(Attachment 1 – Letter addressed to Planning Commission dated November 13, 2012 from Steven W. Blaine - Attachments are on file with the printed minutes)** Our clients have requested the Police Department to defer your consideration of the site plan to address concerns that they have. They have heard the Board of Supervisors commend the Police Department to work with the neighborhood. They have heard a commitment from the Police Department to do so. However, there has been no binding conditions or agreement. They know if this were a special use permit the Commission could impose those conditions. If it were a rezoning they would be seeking proffers. The site plan is the only legally binding planning tool remaining. If they approve this tonight then that vehicle for enforcing conditions that may be worked out among reasonable folks is not there. So they are asking the Commission to defer. They have asked the Police Department and they prefer to move forward. So my clients and others here are better prepared to talk about the health, safety, and welfare concerns that they have and how they may be addressed.

He was here to talk about procedural flaws that he thinks need to be addressed and why he thinks if they can't get the Police Department to voluntarily defer he believes this application is not properly before the Commission. First of all the determination back in April was not legal and they were asking that it be reconsidered because among the factors cited in the determination was specifically the location of the

range on the site. Normally a substantial accord determination would just be to the general character in nature of the use. But their action because they cited that in their determination boxed them in. The specific location on the site plan is not where it was when it was presented to them. In fact, the noise findings presented in the Tang Report were done from a location a quarter of a mile from where the site is shown in the site plan. So that should be reconsidered. He did not believe it was legally before them because the substantial accord is not correct. Also, in their determination was based on the erroneous assumption that the proposed shooting range is exempt from the Noise Ordinance. But, it would appear that is not correct. Zoning Code Section 4.18 applies to all sound generated from any use within the County unless there is an expressed exemption. Section 4.18.05 exempts sounds generated from lawful firearms discharge, which they would expect for hunting and occasional use. But, Section 4.18.05 specifically says that this does not apply to a shooting range. So this would reveal that the intent of the ordinance is that it does not exempt shooting ranges. Since he was speaking for a number of folks he would ask for another minute or two.

Mr. Morris replied yes, that he could have one minute.

Mr. Blaine said the staff report refers to the exemption for public facilities. As those are defined in the sound ordinance those are structures or uses that are "generally open to the public." The proposed firearms range will most certainly not be open to the public. So it is clear that exemption applies to public buildings such as schools, parks, libraries, and so forth. There is no specific exemption for governmental agencies shooting range. He would say that an official determination has not been made for which his clients if it did not go their way would have the right to appeal. That determination has not been made and another reason why the site plan was not properly before the Commission. As he said they have asked the Police Department to voluntarily defer so these issues are fairly easily resolved on the procedural matter. The issues that they will hear about tonight expressed by the neighbors they may not be able to address them all, but they should have the opportunity to address those in a legally binding way. Now there is nobody here that would argue the importance of the general well being to the county and city residents of having effective training for a police force and safety officers. However, they think importance warrants a transparent and a process of integrity. That is what they are asking for.

Vic Pena noted it was the first time he had appeared before the Commission and appreciated the opportunity. He presented a PowerPoint presentation noting the following comments. **(Attachment 2 – PowerPoint Presentation entitled Safety, Risks and Threats to Neighboring Community from Proposed Albemarle County Police Firing Range – 2 pages - Attachments are on file with the printed minutes)**

- He noted the gentlemen of the Police Force have no stronger supporter than him. He was a retired army colonel ordinance core and most of his career when he was with troops was with infantry divisions. That means that they trained with our infantry comrades the same as they with regard for qualifying on shooting ranges. He started his career in the 24th Infantry Division as a platoon leader as do most lieutenants. He became a company commander. Thereafter, he was assigned to a variety of ordinance schools. He was an instructor at the missal ammunition center and school at Redstone Arsenal. Further, he went to Vietnam and was given command of an ammunition company. They maneuvered with the First Calvary Division. They went through a lot of ammo. Upon return he went through a series of advanced schooling in the Army. He then was assigned to the First Infantry Division where he commanded a battalion. Upon leaving his command he commanded a brigade in the Second Infantry Division.
- He would like to call their attention to some concerns, which are highlighted in the slide presentation. They are all familiar with them. What he wants to emphasis is noise and then finally errant rounds. Errant rounds can occur from just human error and ricochets. Furthermore, he was of the understanding that there is going to be a shooting range that is going to be scenario based. That means that they shoot based on an event happening usually a pop up target or something like that. Those are big opportunities for mistakes.
- The second slide shows the maximum ranges, not maximum effective range, of some of the caliper of weapons that may be used in this shooting range. He outlines the decibel noise level. If they are going to mitigate this they are going to have to berm all around and build baffles, which is an extremely expensive undertaking. This needs to be thoroughly thought out. The range is not large enough to accommodate these calipers of weapons.

Marshall Pryor, resident of 1496 Riding Club Road, said he was approximately 1.2 miles from the shooting range. There are about 45 plus homes within 1.5 miles of the shooting range from the direction it is now facing, which is different from what the Commission approved. It is stupid to have this so close to so many people. As the Colonel said there are errant shots and automated weapons are used. When you fire an automatic weapon it automatically rises unless you hold it down. There are lots of chances for error there and ricochets. Sound abatement, yes, the Colonel is absolutely right that they have to put baffles up there. They proposed in the past that they build an inside range. The Police Colonel said that a 50 yard firing range is not long enough. He would really like to know when the last time one of our police officers took a shot of over 50 yards. Usually it is probably a whole lot closer than 25 feet. He felt the Board of Supervisors totally disregarded the safety factor for us. It is appalling what they have done and the way and manner in which they have approved this. He had one more question about the decreased value in their properties. They are all working people and their property is their biggest investment. They are going to see a tremendous decrease in the value of their property. He happens to have his property on the market right now. He has had just to the point of being at sale and the buyer found about the firing range and backed off. He did not blame them.

Helen Paranzino said there are many reasons to oppose this firing range. However, she was going to stick to the zoning issues. She noted the following.

- They are zoned rural agricultural, the definition of which is preservation of agricultural and forestall land activities. The firing range does not conform to that. The firing range does not conform to water supply protection. Totier Creek runs through there, which services Scottsville's water supply. The firing range does not conform to the conservation of natural scenic and historic resources. It certainly does not conform to noise levels.
- They say it fits the Comprehensive Plan but they choose to ignore the zoning ordinances. This firing range will not preserve or facilitate agricultural activities. It will hinder them. If they want to argue that the landfill did not preserve or facilitate the area let me remind you that two wrongs do not make a right. The county must also consider that since they are a rural farming area they do not leave home to go to work. Our work is on our farms and primarily outdoors for 6 to 8 hours or more a day. They do not leave home at 8 a.m. and return at 6 p.m. This would be an exceptional burden on us to have no escape from noise generated by the firing range. The effect on our life style will also be extraordinary.
- If there ever comes a time when they must sell our farm no one with life stock would ever consider it because of the closeness of the firing range. They are at a little over a mile from the firing range. Our quality of life and land value will certainly be diminished. A realtor has stated that land value in the area will fall by 25 to 30 percent. They came to this part of the county for peace and tranquility it offered us. Please do not deny us the ability to do our work on our farms in the peace and tranquility that brought us here to begin with.

D.G. Van Clief, a resident of southern Albemarle County, said he lived at the intersection of Routes 627 and 715. He noted the following comments.

- He absolutely supports our police officers receiving the training they need. However, he and his neighbors, approximately 300 of whom have signed a petition indicating their concern. They are deeply concerned about what they believe is a clear danger to our health, quality of life, and property if the firing range for the Keene landfill is constructed as it is now designed. He noted the following concerns.
- The discharge of weapons our police officers use, the 40 caliper pistol, 223 and 308 rifles, generate explosive noise. Sound travels according to the NRA approximately 5 miles. There are health care facilities, historic rural communities, churches, school, senior center, family homes, and family farms all within 2 miles of the site. The county's computer modeling indicates that the shooting in the facility would generate noise outside the range well in excess of that allowed by the existing ordinance. It is debilitating and obnoxious for six hours a day. Not only will this evasive noise threaten the character of one of the county's most tranquil and historic rural corridors. If it is not properly mitigated it will pose a very real health risk and will without question damage homes, livestock, wildlife, and property values perhaps irreparable. A number of the area's most experienced real estate experts have now indicated that they believe values will be reduced significantly. The most recent one he saw this afternoon was 30 to 35 percent on

average. There is some opinion that some properties may not be salable at all in the future if the issues are not addressed. They are talking about destroying millions of dollars of home and farm equity.

- Residents in one part of the county in our belief should not be made to suffer such pervasive destruction of property and environment. They do not think the county needs to contradict its own tradition and record of rural preservation in order to provide the best training for our officers. If alternatives to the Keene site will not be considered, and it looks like they won't, then at least let's build this facility properly so our community is not degraded. Please consider this evening to defer their decision on this site plan for 60 to 90 days so they can work with Chief Sellers and county officers on the design elements and the operating policy to protect our county and our neighbors while at the same time providing for our law enforcement agencies and officers the best facility for their training needs.

Ken Leap said his wife and he live in southern Albemarle County. He thinks this shooting range should not go forward. He can't quote any kind of rules or regulations whether it is water flow or whether it crosses over common sense. There is a number they should all remember when they leave here of 1.4. Yancey School is 1.4 miles from the impact area on this range. Yancey School has about 300 children who will hear that shooting in the morning at 9 a.m. They will hear it at 5 p.m. when they get home and maybe 10 p.m. at night. They say errant bullets never happen. A Plainfield Township police officer was injured on a range by an errant bullet. These bullets go 2 to 2.5 miles. He could not imagine a school teacher during recess with a student outside hearing all of this shooting going on wondering maybe one of them will become inbound. Anybody in the military knows what an inbound is. You hit the dirt. He thinks that this was overlooked. He has a copy of the study dated April 3rd. Nowhere in there when it talks about items that are negative to put the range in does it say there is a public school 1.4 miles away. He thought this was an error and that this range should be anywhere in Albemarle County. He would like to encourage everyone to get on line in your computer and look up Nottaway Shooting Range and see what the state police have done in Nottaway County. They have spoken to them. They would be more than happy to have us come down and shoot on their range. There would be no upfront money and very little cost to shoot because most of the forfeiture money for the state police will go towards maintaining it. He thinks that is where they should be. They should stop this shooting range now.

Robert Srini said that his wife and he live at Plain Dealing Farm in Scottsville. A rural county family says that they were terrified after stray bullets from a nearby shooting range damaged their home. One bullet crashed through a window and into a bedroom wall where their teenage son was sleeping. The home is near a shooting range in Green Garden Township in Monroe, Illinois. Surrounded by corn fields the Gaston family moved to the county so that their four boys would have room to play. He feels that is what the majority of us have done. They have moved to the country for that reason. One of the bullets pierced our windows said Mr. Gaston. It went through the wall and lodged in a closet. The Gaston family says that such firing events should never be allowed so close to a subdivision. This is exactly what the Police Department is planning to build in the Keene area. It is a shooting range outside and not protected located 1.5 miles from a school where children play. It is very hard for him to even stand up and talk about that because it sounds so ridiculous that they are going to put a shooting range outside with this type of weaponry 1.5 miles from a school. He has raised two children so knows what he was talking about. More planning and research should be done before a decision is made. An option is an indoor firing range. It is a no brainer. The lead can be saved and the weapons kept from stray bullets going out and hitting someone. There would be more concern for public safety and the environment. Please grant them a 60 to 90 day extension before a final decision. The site plan fails in regards to safety and also the sound qualification. To be real it could be indoors. For some reason the police do not like this idea. He supports the police 100 percent. He was not saying that they don't need a facility. He was just saying that where it is planned it has a lot of flaws.

Linda Wachtmeister, resident of Plain Dealing Farm near Keene, said that Plain Dealing is an historic home built in 1780. She plans to live there for the rest of her life. It is a short time for the life of this farm. However, her job is to protect the farm. On this farm there are 30 horses that they breed, train and compete. In 2004, they represented the United States at the Olympics and brought home a silver and a bronze metal. Southern Albemarle County represents the ideal location for such a business. They will hear tonight many concerns for the safety of the people that live near the firing range site. However, one

of her biggest concerns is the welfare of the animals, the wildlife, the agricultural animals, and the pets they live with. Because of its rural nature there are many working farms in this area and any health risks that are known to affect people the same can be said for the animals that they depend on for our livelihood and for our companionship. Southern Albemarle County is the most rural part of Albemarle County. So she hoped they will realize that this is a treasure. The rural way of life can change from development as it has in other parts of the county where it can change by the quality of the water from lead poisoning or the sounds of guns firing constantly. They may hear tonight people that assume that they do not want the police to be well trained. But, that is not true. They want them to be able to protect us. Their facility needs to be planned properly so that the people, the animals, and the land are also protected. By the way on the beautiful emblem above them there is a horse running in a galloping field. That is our home and lifestyle that she is asking them to help us protect.

Laurel Davis said she had lived on Esmont Road for 17 years. She was speaking tonight because she just recently heard about this firing range. It seems to have moved along quite rapidly and there did not seem to be much public awareness. She hears people talking about the neighbors were notified. She lives probably about a mile from the site and she never heard anything about it until a month ago. It really does not seem fair. The fact that most of the people who live near there are a working class community and to have a public meeting at 10 a.m. seems too unkind and perhaps even underhanded. To put a firing range on top of an old landfill, which probably would more appropriately be an EPA superfund site seems foolhardy. But, to have an open firing range seems beyond foolhardy. It seems really dangerous and ill advised. Living in the woods is really important to her family. She wants her daughter to be able to walk and play in the woods. The thought of this specter of errant bullets is terrifying. They cringe and hide in the house all the way through hunting season as it is. To imagine hearing bullets and being afraid of bullets year round is a horror. The fact that she is only being given voice now where it seems so late in the day seems really well hopefully illegal. She hoped that something can be done to halt this steam rolling of this plan because of the danger to my child and to everybody's children and to their quality of life in southern Albemarle. They did all move there for the peace and quiet. She begged and implored them to reconsider an open firing range on this site. A firing range at all seems silly and building on an old landfill seems like a bad idea. An open firing range seems insane.

Sophia Davis said she lived on Esmont Road. She did not want to be scared to go out and play or have her mom and dog out there because of bullets. Thank you. She did not want them to get hurt.

Bill Tunner, a retired MD and GU surgeon living in Esmont, said he felt an obligation to review the absolute health threats that apparently they are not aware of posed by this outdoor Police gun range to the lives of little children, infirm seniors, home schoolers, Yancey school yard children, night shift workers, and the rest of us. **(Attachment 3 – Letter with references from Bill Tunner - Attachments are on file with the printed minutes)**

- This very busy, loud Police gun range can drive us nuts, poison us with heavy metals, or kill us with a wayward bullet or a ricochet – brother what a choice. There are two very real major threats from the constant very loud, staccato, hi-volume shooting. They are noise pollution and heavy metal toxicity, mainly lead. Regarding noise pollution, the repetitive noise can be subliminal low frequency at a distance and quite audible close by. The noise pollution for children can cause attention deficit, learning disabilities, cognitive disorders, diminished IQ, and even autism. Noise causes stress and the release of adrenalin and catecholamines predisposing one to angina, heart attack, stroke, stress ulcers, colon problems, and even death! Hardly a silent killer! The second major threat is heavy metal toxicity from fired bullets of any kind. The toxins are primarily lead but also Copper, CR, Ni, Bi, and even good old Arsenic – these soluble compounds will leach into the soil, watershed, and Scottsville reservoir. Minute amounts of ingested lead can kill children. Inhaled dust containing microscopic particles of lead from fired bullets is even more dangerous, as it quickly enters the blood stream through the lungs and heads for solid organs and the brain!
- Now, your solution to this mess is simple: - delete the gun range at Keene; you know the other less expensive more cost effective options. – The tire plant in Scottsville or the basically free state police facility at Blackstone. OR, totally enclose and sound proof the range to squelch noise and allow complete heavy metal recovery, do the outdoor "scenario training" with weapon silencers like our military does! He implored you good people to take the time to study and understand the

medical concerns. Is one small human life worth the risk? The liability for the southern Albemarle community and for you is enormous!!

Jeanne Morris said she lived at the very last house on Fortune Lane at the very end. She made the following comments.

- They can't come before the Commission feeling like that everything that can be said has been said with their answer always being the same that we own the land. In your eyes and others that is the thing that matters the most and at this point in time it really is not to us. Everywhere you turn today everyone is asking what in the world is happening to our country, our government, and our county. This county was not built by people with brains, money, wit and integrity alone, but with heart and love for our country and the beauty and people that abide here. Thomas Jefferson spoke of it often in his writings. In a county as vast as Albemarle County she can't believe they are still insisting on moving forward with this firing range in one of the smallest areas of Albemarle County where the effects will be devastating in so many ways.
- She sat on her deck last Sunday and could hear the cars on Esmont Road and Route 20 south because the leaves are off the trees. If she can hear the cars and their motors she can't imagine eventually what it is going to be hearing a firing range in the fall and winter. Not only that they speak of money and the cost effectiveness of everything but there is no amount of money that is going to cover a life. There is money that will cover a wall, a window or a house that is hit by a ricochet or bullets. But, there is no amount of money that will ever replace a life. They need to go a little bit further to make sure they have exhausted every possible means to find out this is the only place they can put it. If it is the only place they can put the firing range, then it needs to go under roof. It needs to be made safe for everyone that is around it and not only to be beneficial to the Police Department. She agrees that they need their training. However, at the same time she agreed that they should be heard and that our needs should be as high on the list as theirs and Albemarle County's.

Paula Beasley said she was speaking on behalf of more than 300 owners with 3 or 4 that numbers in their households who will be impacted by the gun range. She made the following comments.

- They disagree that this firing range at Keene is in substantial accord with the comprehensive plan for all of the reasons they have spoken about. This is agricultural and rural land. It is land that they are obligated to preserve. That said they note that the preliminary site plan in front of them is totally devoid of any health, safety, or other considerations that should be in front of them. There is one fence around the firing range. There is multiple and very detailed drawings of the road, which they understand is more than 50 percent of the cost. However, there are no measures in there for the public safety. While the county owns the land and this is for police use that is distinguishable from a public facility or from a public use as defined in the ordinances. Therefore, it does not permit you to delegate applicable regulations.
- They believe that the relocation of the range to the northern more populated areas has substantially increased public safety risks and that there was no additional notification to the people impacted by that move. The range now has the Porters Road people to the left and southwest of it. Emery Lane is to the northwest of it. Fortune Lane is in the front and Riding Club Road. All of those are within 1 to 1.5 miles. The calipers of weapons that will be used at the range have a total range of 3.5 miles.
- They also note that in the new location two of the perennial streams that flow directly into the Totier Creek watershed are at that location. The lack of definitive measures to mitigate noise is another issue. They believe that if they are to consider the preliminary site plan today they request that they include conditions that they themselves said were important to their considerations as to whether this was in substantial accord. That is that they said that the police would only use this with 8 to 10 persons would be firing at any point in time. No more than 15 to 20 persons on the site. The usage would be limited from 9 a.m. to 5 p.m. for 3 to 4 days per week. No usage on weekends or holidays. Shooting during winter hours at night 4 times per quarter.
- Therefore, they would prefer that they give them 60 days to try to work out reasonable mitigation measures. They have had lots of representations in the course of this. They have had the police and in their presentation to the Board of Supervisors last Wednesday they said that they would include baffles, eyebrows, and acoustic panels or other health, safety and mitigation measures.

None of those appear on the preliminary site plan in front of the Commission. In addition, they were there and the Board based its reaffirmation to move forward on two conditions. The first was that there would be additional noise mitigation measures taken and that the use of the facility would be limited to the county and city police and sheriff officers with no rental or other uses at the facility. These should be on the preliminary site plan. They request that they include also lead or other toxic mitigation measures that would provide some insurance about that on the site.

Jeff Werner, with the Piedmont Environment Council, said that PEC has several concerns about the siting of the shooting range, particularly the concerns that have been expressed by the nearby residents and also given the sites location within a state and nationally registered historic district.

- One reason this site seems to be getting pursued is because the rural area seems to be losing its value for its unique character. It is a character worth fighting for. Now the rural area is where things go when they are unwanted elsewhere. Neighbors at this site should accept the daily pop, pop, pop of gunshots. Otherwise, local police will not be properly trained. Neighbors at wineries should accept late night noise because quiet rural evenings are not conducive to economic development. Tonight is about a site plan and a waiver request. They suggest that the information is incomplete.
- 1) The Commission has an opportunity to ask a lot of questions tonight and request additional conditions. Among them the site is in an historic district. The shooting range involves state agencies who must consult with the Department of Historic Resources. DHR may require mitigation and that should be discussed and referenced in this site plan.
- 2) Staff states that 165 acres of this site will be preserved open space and a large expanse of trees will buffer neighbors. However, there is nothing on how this open space will be permanently protected or how the existing forest will be maintained.
- 3) Last Wednesday the Board of Supervisors was again told that the shooting range is just phase one of a much larger facility. When expanded uses come what happens to the preserved open space and to the forest buffer.
- 4) Activity at the site is described as limited yet the April staff report said this facility might be made available to other local governments, federal agencies, and private companies. This site plan and waiver intentionally and he would admit legally address only the shooting range phase. PEC suggests that it is only fair that the county admit that this site plan will put into motion for far more than just this particular use. It should admit that the conditions presented in this waiver will last only until the facility is expanded. That is until phase 2, 3 and 4. The Board is not likely to deny this. They all know that. So it is safe to assume that they will not oppose the future uses that are planned for this site. So he thinks the folks here have some very legitimate questions. He realized that the box in which they can operate is extremely tight. But, he thinks that the Planning Commission is the place to have that discussion. He hoped they could find a way to get the county and the police to answer a lot more questions about this facility.
- In response to the lady present tonight with her daughter he has two kids and he about cried over there thinking about that. Nothing is more important than our kids. He appreciates what she said tonight.

Richard Sipes said that he had 1,800 acres within a mile of the facility with 14 homes. Three of the rental home renters have already indicated they have no interest in renewing leases. Supervisor Boyd said it best he believed when he said well everybody is going to complain if it is in their back yard. He understands that comment. He made the following comments.

- His did not think Albemarle County has space for such a facility. They all said tonight that they want to support the police. They are our guardians of public safety and certainly they know the movement going on in the United States of consolidated firing ranges far outside of a developed area. Most recently Phoenix is servicing a number of cities out there well outside of places that are going to be developed. They have a facility an hour and 15 minutes away. This is not a day and age for us to have our own firing range. He questioned why they would spend 20 million dollars when there is a facility available outside the county.
- They are going to opt for not knowing what they are going to do. This is stage one and maybe stage two. He did not hear about it until a month ago. He was sure they gave legal public notice. They sure did not give moral notice. He questioned if they reached out to the community when

he did not know receive notice when he owned 1,800 acres a mile away with 13 homes with not one of the residents having been spoken to. That ladies and gentlemen is not reach out.

- Albemarle County, in his opinion, does not have the kind of space to have a safe facility. There are homes everywhere. He asked how they are going to protect it. He understands their limited scope here tonight. However, if they find based on what their attorney has presented that this site plan is deficient that he implores them to look at options and look at the movement around the United States to have consolidated facilities for multi cities well outside residential areas.

Kathleen Mathews said she manages five farms for her family that are located a mile away from the site. They just became aware of this a few months ago. They did not receive any notice. They have been really excited about the front part of their farm. They have leased out space to the local food hub. It is an educational farm. Many children come out there. They are trying to encourage agricultural use in that space. They have a grass fed cattle business. They have big dreams to encourage more use. They ask the Commission to pause again and think about an enclosed rifle range.

There being no further public comment, Mr. Morris closed the public hearing to bring the matter before the Planning Commission for discussion prior to offering a rebuttal.

Mr. Loach asked Mr. Kamptner to take a look at the points Mr. Blaine brought up as far as in his letter.

Mr. Kamptner said that Mr. Blaine raised three issues, as follows.

- One was the validity of the Commission's determination back in April regarding the substantial accord with the comprehensive plan. The Commission did take an action that night. What they do is communicate their findings to the Board of Supervisors. So that issue now lies with the Board of Supervisors. They have the ability to overrule the Commission's decision. However, seven months have passed and they have elected not to do so. There was also a comment with respect to that to the Board's action regarding the Commission's determination. One of the factors cited was the location of the range on the site. That was one of several factors noted by the Commission. However, the Commission's action itself was that it found the location, the character, and the extent of the facility was in substantial accord with the comprehensive plan. That was the key thing. That determination itself if they go back to the language in the Virginia Code it really speaks to the general or approximate location of the site. It does not necessarily even have to be parcel specific when they are looking at a 2232 review. They refer to it as 2232 Review, which is a reference to a particular section of the Virginia Code.

- The second issue regarding the applicability of the noise regulations to the firearms range. Zoning looked at this question months ago and concluded that it is a public use and there is an exemption for public facilities and public uses under the noise regulation. The zoning administrator to his knowledge may not have issued an official determination that is appealable. But the zoning administrator and her staff make probably 10 or 15 types of decisions everyday that are not necessarily official determinations where somebody has requested that determination and has gone through that process. But the exemption applies not just to public facilities, which the definition does state that our public facilities are generally left open to the public, but it also applies to public uses. That was the decision that the zoning administrator made.

- The third point was with respect to the preliminary site plan that is in front of the Commission tonight. Mr. Blaine and some of the speakers have asked the Commission to impose conditions as part of the approval of the preliminary site plan. Conditions are appropriate where they are requiring the applicant to do something that is required by either county regulation or other regulation. For example, to satisfy all health department requirements or things like that. He thinks the Commission would be within its bounds to at least make some suggestions. If they have heard a lot of public input tonight they can certainly request that the County's Office of Facility Development, which is the applicant in this case, consider certain things when they proceed and the Commission approves the preliminary when they proceed to the final site plan.

Mr. Loach noted for the record that he serves as an unpaid volunteer for the Albemarle County Sheriff's Office. On the advice of counsel he can take part in the discussion. He would reference some of the

issues of the site. He thinks one of the benefits in the county is that they have another firing range that they can compare to. He had asked staff to look at the siting of the range in reference to the closest homes to the range in each of the cases. He wanted to take a look at that data and see what was there. The second question he had for staff is again the police have been practicing at the Rivanna Rifle Range and have been using the same calipers and same weapons that they would be using at the new range. He asked staff if there has there been any history of problems with rounds leaving the range or to any history of noise problems in and around the Rivanna Rifle Range.

Mr. Perez replied that he did not have any knowledge of such things. The Office of Facilities Development or the Police Department might have some information on that. But, they are going into the use questions again.

Mr. Benish pointed out the Police Department might be best to answer that. They are not aware of any. However, he did not know if the zoning representative here knows of any. They are not aware of any, but not to say that it has not happened. He did not know if they could read the scale on this, but the map shows the comparisons. At the Rivanna Range there are distances of 1,300, 1,400 and 1,900 feet.

Mr. Loach said the other question is he would assume in the planning and sighting the range would essentially meet or exceed or exceed all of the same specifications that are in place at Rivanna and they have had no problems.

Brian Peters, with Kimberly Horn and Associates, said he was the engineer of record for the preliminary site plan working with the Police Department and the Office of Facilities Development. In regards to the design criteria for the firing range site plan that is before the Commission it is being designed either greater than or to the level of the NRA Range Source Manual. That is kind of the Bible so to speak of range design. In the rebuttal he would go into a few things that they were doing more than that manual requirement to directly respond to some of the comments here tonight in the design. He has limited knowledge of the Rivanna Rifle and Pistol Range Facility. There are a few major differences. Our berms will be 20' tall. The Rivanna Rifle Range does not have berms that enclose all of the sides at that height. That is a definite fact from the training unit at the Police Department. That is where they are at with this site plan that is before the Commission. In regards to what issues there are at that particular facility he would not have that information. He asked if anyone else wanted to make a comment in regards to that.

Mr. Randolph asked to follow up on Mr. Loach's question. He believed they had a discussion about this when he first came before the Commission. The question was posed to you because of the two Marines that sit to his left. The question was whether the berms being constructed here were of a nature similar to what they would find at Quantico for both Marine and FBI training. He asked if that is correct. He asked if that was within the range of precaution and safety that is going into this facility.

Mr. Peters replied generally that is true since he did not know the specifics on the design of the Quantico ranges. He will say that DOD has their own set of standards that vary in some ways from the NRA. In regards to the design before them the berms would be 20' tall and it would 20' to the firing line to the top of the berm an elevation difference. Those berms will have 4' of clean fill that is purposely sat there so they don't have ricochet leave the firing range. The NRA Range Source Manual would only require 18" to 24" of that clean fill material. That will only be on the impact areas of the backstop, which is the berm that will be the back side where the rounds go down range and then some part of the side berms. The NRA Range Source Manual would recommend a minimum height of 8'. Those are the berms that they don't shoot into that are there for noise mitigation. The berms on this particular site plan are 20' tall. So safety has already been deployed in that sense. The Police Department has already shared that they are the protectors of the public safety and are going to design a range that operates safety. His mission and goal as the engineer of this site is to give them a site plan that meets their safety goals that they set.

Mr. Smith asked how they build these berms on a one to one slope.

Mr. Peters replied that building the berms on a one to one slope will not be the hard part. They obviously will erode over time and have to be maintained as part of the site maintenance. The eyebrows mentioned are not shown on the site plan. They need to keep in mind they are talking about a preliminary site plan.

The eyebrows will be a covered wooden structure that will cover the impact area berm and the backstop. The whole purpose of the eyebrow is to prevent that ricochet or particularly the rolling round, which was the round that would hit the berm, and then would want to roll up. It also has that added benefit of holding the rain off of the one to one slope because that would be where the erosion problem would become. Obviously they would not build a one to one slope that they would want to have on a site plan say at a commercial site because it would not hold up to erosion. Based on public information that was given at the Board on the 7th the Police Department said it would be approximately a 3 to 4 year window where the backstop would have to be completely reconstructed not just due to erosion and the bullet impacting the backstop, but that would be because of the lead reclamation to take them out of the backstop.

Mr. Smith pointed out that he had not answered his question. How do they build a slope one to one physically?

Mr. Peters replied they would build the one to one slope with one foot horizontal and one foot vertical.

Mr. Smith noted that he did not know how they could build a one to one slope physically. They can draw it.

Mr. Peters said that he would fully agree. All firing ranges typically have a one to one slope only on the impact side. All of our berms on the back side will meet County Code and will be two to one. He agreed with Mr. Smith that it would not be easy, but it can be done. If not, it is something on a simplified drawing and there are cases that he was sure could be attested by those who have seen them on other firing ranges. The reason for the one to one slope just so they are clear it is not something the engineer dreamed up that is designed to prevent the round from ricocheting and leaving the range.

Mr. Smith asked if there would be no baffles behind the targets. They are only going to have the impact area of the dirt. There won't be any baffles to put the shells or projectiles in a pit.

Mr. Peters replied that is correct. At this time the baffles not a part of the design of this range.

There being no further questions, Mr. Morris asked if the applicant would like to avail themselves for a five minute rebuttal.

Brian Peters said they obviously heard a lot of comments. As an engineer who really enjoys dialoguing with the public he really does appreciates the comments and respect them and understand what they are saying. He thinks here before them tonight is the question of the site plan. Therefore, he is going to address just the three things that he picked out from those comments to deal with the site plan itself and the design that is before the Commission

1. First is the potential for lead and how that is affecting the site plan design and how they manage it. They as the consultant for the project will be developing an environmental stewardship plan. They will be using an accepted technical expert to develop that plan. He actually teaches at the NRA Range Source Manuals. That environmental stewardship plan will be developed in coordination with the final aspects of the design of the site plan. It will also address the operational considerations that the Police Department will use as they operate the range. That will include reclaiming lead from the backstop. With lead, just so they are clear, they have two major concerns. They have obviously the lead rounds that everybody thinks about. Those will be in the backstop and will be reclaimed on a rolling three to four year window based on what the ESP comes up with. Then they have lead particulate that comes out of the round when it is fired from the weapon. That lead particulate will fall onto the range floor. They will use lime in the operation to bind to the lead particulate. Then the storm water management plan in the site plan has already been preliminarily designed to account for that lead particulate to transport its way to a detention basis that is located on the site much like sediment is treated on a normal site plan in dealing with Virginia water quality requirements. That detention basin will have a liner that will prevent the lead particulate from making its way into the groundwater. Then downstream of that will be a biofilter that will also provide any downstream mitigation of the lead. That will also be reclaimed and cleaned out by a lead contractor or a certified contractor in the environmental stewardship plan.

2. Also, in dealing with the location of the firing range on the site it is important to note that it is a closed landfill. There is an area of the closed landfill where the trash was placed that is under the closure panel. They refer to that as the cap. This range site plan does not impact the cap. It does not cut into it. The firing range is not located on top of the cap. It is located off of the site where the cap actually existed.
3. From a noise standpoint already on the site plan they will be developing lots of details in the final design in the final site plan process that will address things like they talked about the eyebrows. Eyebrows are a wooden structure that go on top of the impact area of the berms and the backstop that prevent lead rounds from ricocheting out and leaving the range. They are not shown on the site plan, but will be on the final site plan. That is a NRA Range Source Manual requirement. He mentioned already that based on the desire for safety all of the berms, backstop and side berms, will be designed to a height of 20'. Also the impact areas of the berms and the backstop will not just have an 18" to 24" depth of clean fill. It will have a 4' depth of clean fill. Clean fill by definition is not anything, no rocks or nothing that would require or cause a ricochet of the round to leave the source.

Also from a safety aspect in closing he pointed out the Police Department as the range develops and they prepare to open it they will have a Range Safety Plan they develop in how they operate including a range safety officer that will be the safety means of how they work to take the prudent steps to make sure that they can do everything they can to ensure an errant round does not leave the range.

Mr. Morris asked the Chief and the Major that every step along the way they are going to address all of these issues and that they invite members of the residents to share in their plans. They really need to get the residents involved if they choose to get involved. From what he heard tonight they very much would like to do that. He asked that they just keep them in the loop so they would know where they are going.

Mr. Morris closed the public hearing to bring the matter before the Commission. .

Mr. Lafferty asked if it would make any sense to pass a paper around for people to put their name and address on it so that the Police Department can get in touch with them. Some of the people have said that they did not even know about this until a month ago. So they were probably not contiguous to the property.

Mr. Morris said that they could do that. However, they already have the names and addresses. This might be the beginning of a committee that they might want to create. However, that is left up to them. He invited further discussion.

Mr. Smith asked to clarify one thing. If he was looking at the map correctly they are not shooting towards Yancey School. They are firing in a northerly direction as opposed to a southwesterly direction.

Mr. Dotson said he had a question for staff. The applicant's engineer just spoke to several issues lead mitigation, safety, noise, eyebrows and berms, and things like that. When he looks at the conditions he was trying to figure out which condition would cause them to follow up on that and actually address those. It seems like most of the conditions are for a very conventional development and this is an unusual development. So he was not sure because these seem like standard conditions and this is an unusual project. He asked are there conditions that would cause the applicant to address lead mitigation, safety, noise, eyebrows, or the very things that were just described.

Mr. Benish replied what is established here are the requirements to meet the site plan ordinance requirements. He believed the county attorney did identify that the Commission could provide for direction essentially to the county because they are the owner of this site as the county as to what the expectations are for the next steps in the final site plan process consistent with the Board's direction. Those items are not required by our site plan ordinance. He would leave it to the county attorney to disagree. However, they may be able to provide that condition. He thinks it might be better just to provide that general direction in their action for the next steps to be cognitive of the Board's directions for those items in the final site plan.

Mr. Kamptner said that some of the things that he was referring to are items that the Commission could certainly recommend to assure that they are included as part of the final site plan. He thinks these issues have all been discussed with the Board of Supervisors as well during work sessions with the Board. So the Board is expecting these features to be included in the final plan to be part of the operation of the facility.

Mr. Loach said that they can make as a condition then that the applicant has to submit by the time it goes to the Board a report that includes all of the additional modifications that will be made prior to the final site plan.

Mr. Kamptner said that they could make it a recommendation request.

Mr. Cilimberg pointed out it might be worth noting that the Board may at some point ask for another presentation as to the status of the project. However, the Board will not be taking an action on the final site plan. This will be the action of the Planning Commission tonight, which will then provide conditions that are to be met before a final site plan can be signed.

Mr. Dotson said that staff will make that determination.

Mr. Cilimberg said if there are recommendations that as Mr. Kamptner mentioned they would want the county essentially to address with that final site plan, it can't be required as a condition of the preliminary, but certainly could be a direction the Commission feels needs to be taken. Then they could include that as part of their motion in addition to the conditions staff has recommended.

Mr. Loach noted the applicant has said they are going to be included. They could make it as a condition. Now they are saying they can make it as a recommendation. He would take either one at this point. But, he thought it should be in the Commission's motion that what they have said they would do so there is some stipulation what they know will be in the final site plan.

Mr. Morris asked if all Commissioners were in agreement.

Mr. Dotson said he had a follow up question. He asked would it be legit to have a condition that the final site plan come back to the Planning Commission.

Mr. Kamptner said that is an interesting question because the Board adopted the site plan process ordinance last month. A final site plan submitted after January 1st when the ordinance becomes effective will be reviewed will be reviewed under the rules in effect at that time. The ability for the Commission to call up or to review a final site plan will no longer exist unless it is appealed to the Planning Commission by the denied developer.

Mr. Dotson asked if only the developer can appeal that whereas here neighbors and others could request it.

Mr. Kamptner replied no. Under the current rules only the Commission could request that the final site plan come to the Planning Commission for review.

Mr. Dotson said so the people who have requested that this come to us tonight cannot make a similar request on the final.

Mr. Kamptner replied that is correct. That did not exist under the current regulations. It was only the preliminary under the current regulations in effect until the end of the year where a preliminary site plan could be called up to the Planning Commission.

Mr. Dotson said what he thought he said is that the Commission could if they chose tonight make a condition that the final site plan come back.

Mr. Kamptner replied no, not if the final site plan is submitted after January 1st because then the final site plan will be subject to review only under the new regulations.

Mr. Dotson said therefore our action on the preliminary site plan becomes very important in terms of the Commission's look at it. He asked is there anything in the ordinance way back hours ago somebody requested a 60 to 90 day continuance for further work with the community, the Police Department, and so forth. Are there time limits in the ordinance?

Mr. Kamptner replied yes. The site plan needs to be acted on by the Commission or by the agent if it is reviewed by the agent within 60 days. That 60 day period can be extended if there is state agency review and that can extend it to a maximum of 90 days. It depends upon when the state agency provided their comments. He did not know where they are in the process. They are probably close to having to have action unless the applicant is willing to request a deferral.

Mr. Dotson said that the clock is running.

Mr. Benish noted that they would have to figure out the clock. However, they have all of their comments from state agencies.

Mr. Cilimberg pointed out that it was probably very close to the 60 days. The clock stops when there is a deferral and starts back up when there is a resubmittal. So the applicant could agree for the deferral. But he thought that is probably on the clock all that can be done now.

Mr. Dotson said if the Commission was not satisfied that sufficient information had been provided they could not continue it beyond whatever the clock said without the applicant's agreement.

Mr. Cilimberg noted the Commission needs to take an action either to approve or deny.

Mr. Dotson said the Commission would conceivably disapprove because of the pressures of the clock.

Mr. Cilimberg noted that the Commission would have to cite the reasons.

Mr. Dotson said that they would have to cite the information that they did not have.

Mr. Cilimberg said the applicant would then have the opportunity to appeal that decision to the Board of Supervisors.

Mr. Dotson said procedurally he thought it was good to get some of those clarifications. He had some specific concerns. His feeling is that the preliminary site plan application is incomplete without some of the things that he would mention and perhaps some others that other Commissioners would mention.

- For instance, he could not find where the firing line was. The berms are only effective if the firing line is within the zone of the berm. If they are looking for a 60 yard range and the berm is 60 yards deep, then the firing line is right at the edge of it so the berm does not surround the firing line. That is an answerable question of where it will be. However, the site plan does not show it.
- It is indicated that a landscape plan will be forthcoming. From some reading he has done and some best practices on firing ranges the kind of intermittent noise as opposed to continuous industrial noise that a firing range presents can be addressed through landscaping, but it takes very special and knowledgeable attention to the kinds of things that are needed. They don't yet have a landscape plan.
- The firing line design is a concern because this is the place from which the sound comes where the muzzle is or where the sound originates. From what he has read on best practices there are a number of things that can be done at the firing line to both mitigate noise and to increase the unlikelihood that a stray bullet would go over the berm by the way they construct and configure the firing line. To me all of those are very physical site plan kinds of things and he did not find them in the preliminary plan. Perhaps they could be stated as conditions for the final site plan. But, something in his nature makes him want to see them to make sure. He would leave it there and see what others reactions are. He did not have a motion at this point.

Mr. Franco said he had a couple of process questions. There was some discussion early on about the noise ordinance. He heard their explanation before, but as he understands there was not a written determination at that point. He asked what the process is if someone wants to.

Mr. Kamptner replied that someone can ask the zoning administrator to prepare an official determination and pay the fee for an official determination. Just to confirm his understanding is that there was no written official determination.

Mr. Cilimberg asked Ron Higgins to speak to that.

Mr. Benish pointed out there are comments that were provided as review comments for the compliance with the plan review.

Ron Higgins, Chief of Zoning, said that there was no new written determination. However, there was a written determination done. He did know the exact date, but wanted to say probably a year or two ago that determined that this kind of facility is in fact a public use. Your distinction between public facility and public use was important. A public use is anything owned, operated or funded by federal, state, or local government. So it meets that description.

Mr. Kamptner pointed out that there is a written determination. He would assume the 30 days have passed to appeal that determination.

Mr. Franco said that if 30 days has passed, then that is it. There is no appeal to that.

Mr. Kamptner said under the State law it is referred to as a thing decided because a lot of these decisions have to be made quickly and rights have to be protected very quickly. Not all of these kinds of determinations and decisions that are made on a daily require notice to the public. It is just part of the zoning staff's process of keeping things moving along.

Mr. Franco noted his other question is for the applicant. He asked what is the process moving forward and how do they plan on reengaging the public. Do they plan on making some of this information public prior to the final approval, like the Environmental Stewardship Plan and the Range Safety Plan?

Major John Parrent said that is a good question. Number one, he has sort of a kick off meeting with Mr. Van Clief on Thursday. The purpose of that meeting is to come together to discuss how they might assemble a representative group of the community throughout the various areas around this range. That is number one. Number two, yesterday morning at the Citizens Advisory Committee, which is an oversight body appointed by the Board of Supervisors that provides guidance and some oversight to the Police Department, he asked that they have a representative from that committee to help sort of be a facilitator between the community and the Police Department. He wants somebody who can speak on behalf of the Board. The Board gave us some very clear direction on Wednesday. He plans on following up with that. So that is some of the initial stages. He has continued Town Hall Meetings planned throughout the year and plans to keep the dialogue going.

Mr. Dotson asked the Police officers whether a continuance for some number of days is something that they would entertain to allow those plans he just described to come to fruition and be able to be reported back to the Planning Commission as part of their judgment about the site plan.

Major John Parrent replied that he did not want to entertain that, but thank you for asking.

Mr. Franco said they are in a pretty tough spot. A lot of stuff he heard tonight was really talking about the use. Even some of the things that Mr. Dotson is talking about are things that are not requirements of the site plan process. Given the tight box that they are in he would like to recommend approval of SDP-2012-53 Albemarle County Public Safety Training Facility (Firearms Range). With that he would also like to recommend that the applicant consider bringing the final plat back before the Planning Commission as an consent agenda item as an opportunity to get the information on some of the things asking for out to the

public. It sounds like a lot of the steps that they are taking are above and beyond the minimal requirements. That still does not tell him exactly how they are going to handle things. Again, he thinks that is outside of the Site Plan Ordinance or even some of the requirements of the county. It would be nice for us to understand that as the owner of it and as the residents adjacent to it.

Mr. Lafferty seconded the motion.

Mr. Kamptner asked to clarify that is actually a motion to approve with staff's recommended conditions.

Mr. Franco clarified that the motion was for approval with staff's recommended conditions and another one asking the questions raised by Mr. Dotson to be addressed by staff and the applicant.

Mr. Lafferty seconded the motion.

Mr. Morris suggested that all of the questions raised be addressed.

Mr. Franco said that he did not think they could get all of the questions addressed because they were not part of the Site Plan Ordinance.

Mr. Cilimberg said that they would be he was assuming in some way addressed to reflect on the final site plan potentially. Mr. Franco said he would like to have it on the consent agenda so they can see how that final site plan ends up being constructed.

Mr. Franco agreed noting that he did not think they could require it, but he would ask the applicant to consider that.

Mr. Kamptner pointed out that the Commission would not be taking action on it for approval or denial, but it would be on their consent agenda and they can look at it.

Mr. Franco noted that it makes the documents public at that point, too.

Mr. Loach pointed out it was said that they could include in the recommendations that the applicant include the changes that would be available to the staff so that they have it prior to the final site plan.

Mr. Cilimberg pointed procedurally what they would want to put on the consent agenda is the final site plan as it is signed. Literally, that is what they have to do. Therefore, the Planning Commission would be seeing a final site plan.

Mr. Franco said that satisfies him because there is not much they can do. He thought by making it part of the consent agenda it makes the documents available to the public and gives them an opportunity to understand that.

Mr. Cilimberg pointed out it was very likely that they would have already seen that because of the Chief's plan for the public's outreach.

Major John Parrent pointed out that while they would just assume not to go with the extension, they are essentially doing that themselves. They have a website up with facts about where the range is in the status. They will publish any agreements that they work with on the community and any updates through that site. So essentially they are going that route. They just don't want to slow the project down if they can avoid it.

Mr. Franco noted what his proposal would do is just augment his website. It does not slow down the process because staff would be bringing the final site plan before the Commission on the consent agenda as information.

Major John Parrent asked to clarify the chart. Rob Heide, our Project Manager, did speak of one incident at the Rivanna Range during the Board meeting. He did not know the specifics of that incident or the

details. He just wanted to let them know about that. Lastly, he wanted to emphasize that a big part of the safety is the design that our engineer talked about. The other part is the people on the range, which include the safety officers on the range with one officer per four shooters. They do want this to be a safe facility. They all have children, also. They are doing our best to keep it safe.

Mr. Loach suggested as they start again looking for implementation that there should be rural advisory committees to build their own master plans. They heard a lot tonight about people not being informed. In Crozet it has worked well so people know what was is going to go where and the potential for development in those areas.

Mr. Dotson said he would not be supporting the motion. He felt that key information is not a part of this site plan. The site plan does show storage bins, 5' asphalt walk, a 24' X 50' trailer, and a vault toilet. Surely if they can show those things they can show the all important mitigation measures as well. Therefore, he would not support the motion.

Summary Motion: Mr. Franco moved and Mr. Lafferty seconded to approve SDP-2012-00053, Albemarle County Public Safety Training Facility (Firearms Range) subject to the conditions as recommended by staff with the request the applicant consider bringing the final plat back before the Planning Commission as a consent agenda item as an opportunity to get the information on some of the things asked for out to the public. These are steps above and beyond the minimal requirements.

Planning approval to include:

- ❑ Approval of required waivers by the Board of Supervisors
- ❑ Meet all the requirements in Chapter 18 Section 32 for final site plans, including landscape plans, and lighting plans.
- ❑ Virginia Department of Transportation approval of final plans.
- ❑ Approval by all required departments and agencies.

- ❑ [32.5.6b] Revise the parking study to meet the requirements of this section; revise to simply state the number of spaces required/needed for the proposed use. By saying "up to 20 people per use" and providing 30 spaces this exceeds the 120% of parking maximum. Please provide some additional parking need data to justify/account for a need for at least 25 spaces in order for the 30 space to comply.
- ❑ [32.5.6k] On the plan provide a note which indicates the source of water (for drinking and sanitation) for the mobile office trailer.
- ❑ [32.5.6n] On the plan extend the prepared, wheelchair accessible travel-way to the vault toilet as these must be handicap accessible.

Engineering approval to include:

- ❑ The plan must meet all engineering requirements of the Water Protection, Subdivision, and Zoning Ordinances in addition to all engineering standards detailed in the County's Design Manual.

Health Department approval to include:

- ❑ Approval of Vault Toilets

Fire & Rescue approval to include:

- ❑ Must comply with the Virginia Statewide Fire Prevention Code. Final approval is subject to field inspection and verification.

The motion passed by a vote of 5:2. (Smith and Dotson voted nay)

Mr. Morris noted that SDP-2012-00053, Albemarle County Public Safety Training Facility (Firearms Range) was passed by a vote of 5:2 and goes to the staff for further work.

Index Attachment for SDP-2012-00053, Albemarle County Public Safety Training Facility (Firearms Range) – Attachments are on file with the printed minutes

Attachment 1 Letter dated November 13, 2012 from Steven W. Blaine to Albemarle County Planning Commission in re: CCP-2012-00001 Firearms Training Facility; SDP201200053 Public Safety Facility – Firearms Range

Cc: Firm Clients
Mr. and Mrs. Jerome Beazley
Mr. Barry Van Clief
Ms. Debra Kara
Mr. and Mrs. D.G. Van Clief
Mr. Courtland Van Clief
Mr. Alan Van Clief
Mr. and Mrs. Paul Coleman
Mr. Richard Sipes
Mr. Bill Tunner

Attachment 2 Submitted to Planning Commission information entitled "Safety, Risks and Threats to Neighboring Community From Proposed Albemarle County Police Firing Range (Note: Conclusion: Any of these calibers can exceed boundaries of the range and hearing health standards from Chart of Maximum Range of Selected calibers of commonly used police weapons)

Attachment 3 Letter submitted to Planning Commission from Bill Tunner, retired MD, GU surgeon, living in Esmont with references

Attachment 4 Packet of Letters "Save Rural Albemarle Letters – total of 16 letters from the following individuals in opposition to firing range:

1. Helen and Dennis Paranzino

2. Jim Bonner.com (Letter dated October 1, 2012)
Homes and Land of Charlottesville
Roy Wheeler Realty Co.

3. Richard Sipes (Letter dated October 4, 2012)
Liberty Farms

4. Lisa Anne Otto (Letter dated October 27, 2012)
2370 Irish Road
Esmont, VA 22937

5. Hal and Barb West (Letter dated November 1, 2012)
3619 Esmont Road
Keene, VA 22946

6. Wesley Leach (Letter dated November 5, 2012)
7036 Fortune Lane
Keene, VA

7. Jim Bonner.com (Letter dated November 6, 2012 – follow up)
Homes and Land of Charlottesville
Roy Wheeler Realty Co.

8. Letter from Helen C. Paranzino and Dennis H. Paranzion dated November 7, 2012 addressed to Mr. Christopher J. Dumler, Board of Supervisors

9. Letter from Sara Wallace, 8920 Potomac Forest Drive, Great Fall, 22066 dated November 7, 2012 addressed to Planning Commission and Board of Supervisors

10. Letter from Chris Roelofs, 6416 Esmont Rd., Keene, VA 22946 dated November 7, 2012 to Planning Commission and Board of Supervisors

11. Letter from Carol Jackson, 109 Manning St., Great Falls, 22066 dated November 7, 2012 to Planning Commission and Board of Supervisors

12. Letter from Justin Wiley, Frank hardy, Inc. dated November 7, 2012 to Planning Commission and Board of Supervisors

13. Letter from Laurel Davis, 6689 Esmont Road, Esmont, VA 22937 dated November 7, 2012 to Planning Commission and Board of Supervisors

14. Letter from John F. (Jack) Thigpen III, 4700 Joseph Michael Ct., Raleigh, NC 27606 dated November 8, 2012 to Planning Commission and Board of Supervisors

15. Letter from John Homyk, 710 Village Road, Charlottsville, VA 22903 dated November 9, 2012 to Planning Commission and Board of Supervisors

16. Letter from Karlen Layne, 8038 Langhorne Road, Scottsville, VA 24590 dated November 10, 2012 to Planning Commission and Board of Supervisors

SUB-2012-00073 - The Preserve at Glenmore – Preliminary Plat

PROPOSED: Request for a proposed private street on 144.779 acres. Associated with this request is preliminary plat approval of 13 single family residential lots.
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: 14-216; 14-217; 14-232 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: No FLOOD HAZARD OVERLAY: Yes; FH Flood Hazard – Overlay to provide safety and protection from flooding
PROFFERS: No
LOCATION: South End of Running Deer Drive [State Route 808]
TAX MAP/PARCEL: 09400-00-00-01500, 09400-00-00-015B1, 09400-00-00-015B2, 09400-00-00-015B3, 09400-00-00-015B4
MAGISTERIAL DISTRICT: Scottsville (Megan Yaniglos)

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

SUB-2012-00073 The Preserve at Glenmore - Preliminary Plat and Private Road Request

Proposal:

- Request for approval of preliminary plat and modification to allow a private street in the rural areas. The streets will provide access for 8 of the 13 proposed lots.

Location:

- The intersection of the eastern terminus of Farringdon Road [private] and Carroll Creek Road [private].

The aerial map shows the lots outlined in red, which are being proposed with boundary line adjustments. The parcel outlined in green is being divided.

1. Applicant provided justification for the approval of the private street under Section 14-232 (A)(3)-General Welfare.
2. The PC made a positive finding in 2010 that the private street did not simply serve the proprietary interests of the subdivider. This is before the Planning Commission because an additional lot was added so they need reapproval of the private street.
3. Although it has been the policy of the County to discourage private streets in the rural areas, given the current economic climate, the maintenance and cost being endured by the developer and residents of the development, and the fact that no additional lots are being created than could be created with a public street, Staff believes that the General Welfare is better served by allowing the public street.

Factors Favorable and Unfavorable

- Favorable:
    1. Engineering staff has no objections to the authorization of a private street.
    2. Streets associated with the Glenmore subdivision are primarily private and Grey Heron Road would tie into a mainly private street network.
    3. A private street in a similar alignment was previously approved by the Planning Commission, including a finding that the private street would serve the general welfare.
- Unfavorable:
    1. None.

Staff recommended approval with the conditions listed in the staff report.

1. The plat shall be subject to the requirements of Section 14-303 (Contents of final plat), as identified on the "Final Subdivision Checklist" which is available from the Community Development Department;
2. The final plat shall address all minimum requirements from Sections 14-410 (Standards for all street and alleys) and 14-412 (Standards for private streets only).
3. Health director approval of individual private wells and/or septic systems.

Mr. Morris invited questions.

Mr. Randolph asked if there was another example in the county where they will have a RA within a PRD.

Ms. Yaniglos replied that it is outside the PRD.

Mr. Randolph noted that it can be accessed only through the PRD. So it is outside of the PRD, but it is adjacent or contiguous.

Mr. Benish said that it is not within the PRD.

Mr. Cilimberg said that it was within the Glenmore holdings and responsibility, but not part of the Planned Residential Development.

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

Scott Collins, representative for the applicant, said they don't have any problems with it. He would be happy to answer any questions.

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

Ms. Yaniglos noted that there would be two motions, one on the private street requests and one on the plat.

Motion: Mr. Randolph moved and Mr. Dotson seconded to approve SUB-2012-73 The Preserve at Glenmore subject to the conditions as recommended by staff.

1. The plat shall be subject to the requirements of Section 14-303 (Contents of final plat), as identified on the "Final Subdivision Checklist" which is available from the Community Development Department;
2. The final plat shall address all minimum requirements from Sections 14-410 (Standards for all street and alleys) and 14-412 (Standards for private streets only).
3. Health director approval of individual private wells and/or septic systems.

The motion passed by a vote of 7:0.

Mr. Morris noted that SUB-2012-00073 The Preserve at Glenmore does not need to go to the Board.

Motion: Mr. Randolph moved and Mr. Smith seconded to approve the private street request associated with SUB-2012-73 subject to conditions as recommended by staff.

1. The plat shall be subject to the requirements of Section 14-303 (Contents of final plat), as identified on the "Final Subdivision Checklist" which is available from the Community Development Department;
2. The final plat shall address all minimum requirements from Sections 14-410 (Standards for all street and alleys) and 14-412 (Standards for private streets only).
3. Health director approval of individual private wells and/or septic systems.

The motion passed by a vote of 7:0.

Mr. Morris said that the request is approved and does not require Board approval.

The Planning Commission took a break at 9:48 p.m. and the meeting reconvened at 9:58 p.m.

Public Hearing Items:

ZMA-2012-00008, Estes Park- Proffer Amendment
PROPOSAL: Amend proffer #2 of approved ZMA201000011 to now include cash amount for single family detached/attached residential units. Proposed unit type now includes detached and/or attached single family, which is allowed in approved ZMA. Number of units remains the same.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses.
ENTRANCE CORRIDOR: No
LOCATION: In the southeast quadrant of the intersection of Proffit Road (Rt 649) and Worth Crossing, approximately 800 feet south of Proffit Road in the Community of Hollymead.
TAX MAP/PARCEL: TMP 03200000003300, TMP 03200000003400, 046B4000000500 and TMP 046B40000005A0
MAGISTERIAL DISTRICT: Rivanna (Megan Yaniglos)

AND

SDP-2012-00030 Estes Park – Preliminary Site Plan
PROPOSAL: Request for approval of preliminary site plan for 68 single family attached units on 12.75 acres.
PROFFERS: Yes
ZONING: PRD- Planned Residential Development- residential (3-34 units/acre) with limited commercial uses per ZMA2010-011
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses.
ENTRANCE CORRIDOR: No

LOCATION: In the southeast quadrant of the intersection of Proffit Road (Rt 649) and Worth Crossing, approximately 800 feet south of Proffit Road in the Community of Hollymead.
TAX MAP/PARCEL: TMP 03200000003300; TMP 03200000003400
MAGISTERIAL DISTRICT: Rivanna
(Megan Yaniglos)

Ms. Yaniglos presented a PowerPoint Presentation and summarized the staff report.

Proposal:

- Request to amend proffer #2 of approved ZMA-2010-011 to now include cash amount for single family detached and attached units.
- Revise the application plan to show single family detached units.

The updated plan was included in the staff report.

Proffer Language Changes

The effect of this change is to provide enough flexibility to allow for both single family detached units and single family attached units while assuring that the property cash amount is paid and contributed for Capital Improvements for each unit type.

Original Proffer
Cash Proffer for Capital Improvement Projects.
"The cash contributions shall be $13,000 cash for each attached dwelling unit, other than a constructed affordable dwelling unit within the Project qualifying as such under Proffer 3. The Owner's total cash contribution to Albemarle County to address impacts upon the identified public facilities may be up to $754,000 (58 dwelling units x $13,000)."
Portion revised to: "The cash contributions shall be $19,200 cash for each single family detached dwelling unit, other than a constructed affordable dwelling unit within the Project qualifying as such under Proffer 3. The Owner's total cash contribution to Albemarle County to address impacts upon the identified public facilities may be up to $1, 113,600 if all dwelling units are single family detached (58 dwelling units x $19,200). The cash contributions shall be $13,000 cash for each single family attached dwelling unit, other than a constructed affordable dwelling unit within the Project qualifying as such under Proffer 3."
NOTE: The cash proffer amount shown in the staff report will need to be updated before the Board meeting to reflect the correct amounts- $19,753.68 for SFD and $13,432.49 for SFA.
The applicant has been made aware of this change.

Favorable:

1. The amendment updates the proffer to more accurately reflect the cash proffer amount based on the unit types being constructed.
2. This rezoning request will not change the site layout or the intent of the original rezoning.

Unfavorable:
None Identified.

Staff recommends approval.

Mr. Morris invited questions for staff.

Mr. Randolph asked has permission been secured from the adjacent property owners to build the public access road to the development for Bright Beginnings.

Mr. Yaniglos replied they did not secure that easement with the original property owner and they have the rights to have that access that they did not need the additional property owners' permission.

Mr. Randolph noted that he wanted to double check because previously there was a question about that. On the proffers on page 4 the language is missing from the requested amendment, which is the last sentence of the original proffer. It stated that the cash contribution be paid at the issuance of the building

permit for each new unit and what is the timing of the payment as otherwise specified by state laws. He asked if there is any reason why that language did not roll over into the requested amendment and thereby be included in that.

Mr. Kamptner replied it is in the proffer statement on page 9.

Ms. Yaniglos noted that it was just a summary.

Mr. Franco pointed out that the only the changes were noted in yellow.

Ms. Yaniglos noted on page 18 in Attachment D is the full language of the revised language. The other was just showing the differences of the portions changed.

Mr. Lafferty asked if this affects the affordable housing aspect, and Ms. Yaniglos replied no.

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

Scott Collins, representative for the applicant on this project, said there was no change to this project. It was just because of some changes in market demand. Instead of all of the single-families being attached they are all detached. Because of that change it has changed the proffer because the original proffers did not allow that distinction. It changed the proffer and actually it is more cash proffers because of the single-family detached aspect of it. It is pretty much as simple as that.

Mr. Randolph asked if they still are planning on two phases one west and one east.

Mr. Collins replied that is correct.

Mr. Randolph asked if they are looking at putting the same type of housing in each phase.

Mr. Collins replied yes, the same type of housing will be in both phases.

Mr. Morris invited public comment.

Jill Mulligan spoke on behalf of her mother who is an adjacent property owner. As she has sat here tonight watching and listening she noted as a taxpayer of Albemarle County she was very appreciative of all the work they do. She could not do this job just because the decisions to be made were too hard. She understands since her mother did not join in the various community zoning applications that pretty much what they have here with Estes Park is a done deal. However, her particular lot is not only adjacent to the cul-de-sac but also to the boundary where units 24 and 25 come to the end there. There is sort of a small triangle of land which right now is a mini forest. It is hardwoods, Beeches, Oaks and Pine Trees, which were very tall and about 50'. It provides a little mini forest around her home on the one side. It is really regrettable that there is no way that the developer can keep from eliminating all of that. She understands that legally that there is nothing that they can say, do or mandate that they do put up a fence and perhaps some Leyland Cyprus. As a forester's daughter she had to say that she was really sorry that they could not preserve those trees, particularly not just for her mother's privacy in her old age, but because it seems that from selling the homes it would have been even more of a sales pitch to be able to say there are these lovely trees. Moubry Lane was not known for Forest Ridge for nothing. As they develop more and more it seems that they have fewer and fewer of these lovely shade provoking autumn colors. She hoped in their future dealings with others they will be asking as people come to the Commission with their plans about tree mitigation and the keeping of the privacy that the trees afford.

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

Mr. Dotson asked if the applicant would like to respond to the last comment.

Scott Collins said they were concerned about providing as much of a landscape buffer that they can. In order to do that they have taken measures to install a privacy fence along that boundary line. They have actually inlaid the privacy fence onto their property to plant a number of trees between that 6' property line boundary and the fence. In essence they are almost giving up 6 extra feet as a buffer as protection to the adjacent property owners along that area in an effort to help mitigate and buffer our project from their project as well to do what they can to preserve the characteristics of the existing trees right there.

Mr. Smith asked if that is only on that one lot or the ones on the other side of the cul-de-sac also.

Mr. Collins replied that it was up and down the entire property line.

Mr. Randolph asked if those trees are a mix of coniferous as well as deciduous.

Mr. Collins replied yes, what they will do is actually have a landscape architect come in and put together a good sizeable buffer with a mixture of the trees.

Motion: Mr. Dotson moved and Mr. Franco seconded to recommend approval of ZMA-2012-008 subject to the proffers dated October 2012 updated to reflect the correct amounts as recommended by staff.

Original Proffer
Cash Proffer for Capital Improvement Projects.
"The cash contributions shall be $13,000 cash for each attached dwelling unit, other than a constructed affordable dwelling unit within the Project qualifying as such under Proffer 3. The Owner's total cash contribution to Albemarle County to address impacts upon the identified public facilities may be up to $754,000 (58 dwelling units x $13,000)."
Portion revised to: "The cash contributions shall be $19,200 cash for each single family detached dwelling unit, other than a constructed affordable dwelling unit within the Project qualifying as such under Proffer 3. The Owner's total cash contribution to Albemarle County to address impacts upon the identified public facilities may be up to $1, 113,600 if all dwelling units are single family detached (58 dwelling units x $19,200). The cash contributions shall be $13,000 cash for each single family attached dwelling unit, other than a constructed affordable dwelling unit within the Project qualifying as such under Proffer 3."
NOTE: The cash proffer amount shown in the staff report will need to be updated before the Board meeting to reflect the correct amounts- $19,753.68 for SFD and $13,432.49 for SFA.

The motion passed by a vote of 7:0.

Mr. Morris noted they would go on to review SDP-2012-00030 Estes Park – Preliminary Site Plan.

Ms. Yaniglos presented a PowerPoint Presentation and summarized the staff report.

Proposal: This is a request for approval of a preliminary site plan approval for 68 single family detached units.
Location: In the southeast quadrant of the intersection of Proffit Road and Worth Crossing, approximately 800 feet south of Proffit Road in the Community of Hollymead.

Discussion:
- The application has been called up for review by Ms. Mulligan, an adjacent property owner. Some of the concerns include loss of privacy, tree cover and vegetative buffer, and property resale value.
- The applicant has proposed to add fencing and additional landscaping along the boundary of the development, which is above and beyond the requirements of the ordinance. The ordinance does not require a buffer between residential uses.
- The preliminary site plan was reviewed by all members of the Site Review Committee and found that the plan meets the requirements of the zoning ordinance and approved Zoning Map Amendment in regards to the landscaping and buffer of the site from adjacent parcels.

Additional Buffer Proposed:

- Proposed 8 foot wooden fence to be installed along rear property line of the lots along the boundary line of the Forest Ridge neighborhood. Between the fence and the property line, a staggered row of Leyland cypress will be installed 6 to 8 feet in height at planting.

Factors Favorable and Unfavorable

Favorable:
1. Site Plan matches the approved rezoning application plan.
2. Submittal meets the preliminary site plan requirements.
3. No conditions were required during the rezoning for additional landscaping.
4. No ordinance requirement for screening between residential uses; applicant is providing some screening along adjacent residential area.

Unfavorable:
None Identified.

Recommendation:
Staff recommends approval with conditions listed in the staff report.

Mr. Morris invited questions for staff.

Mr. Lafferty questioned who the owner of the property was since on the proffer it lists the owner as Estes Park LLC, but on the preliminary it lists Cliff Fox.

Ms. Yaniglos replied that she would let Scott Collins answer that question since that is how the applications came in.

Scott Collins pointed out there was a change in ownership between the original rezoning and now through the site plan process. They will clean that up.

Ms. Yaniglos noted that the site plan came in four months ago and the rezoning application just came in.

Mr. Collins pointed out regarding the note about the tree plantings they will change from it from being all just Leyland Cyprus to what they talked about kind of a mixture. That is not a problem.

Mr. Franco pointed out the note that is sitting behind lots 32 and 33 talks about leaving a 10' buffer or establishing. So that note needs to be cleaned up as well. The applicant was saying they were definitely putting up a fence and trees. Therefore, he needs to eliminate the 10' buffer alternative.

Mr. Collins agreed.

Mr. Randolph pointed out the reason he brought that up was Ms. Mulligan's reference to trying to have colors preserved for her mother. Therefore, he was looking for a variety of both deciduous and coniferous.

Mr. Collins agreed to do that.

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

Scott Collins, applicant, noted he had nothing to add.

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

Motion: Mr. Dotson moved and Mr. Lafferty seconded to approve SDP-2012-30 Estes Park Preliminary Site Plan subject to the conditions listed in the staff report.

Planning approval to include:

- ❑ Meet all the requirements in Chapter 18 Section 32 for final site plans, including landscape plans, and lighting plans.
- ❑ Virginia Department of Transportation approval of final plans.
- ❑ Approval of variations and Zoning Map Amendment (ZMA2012-008) by the Board of Supervisors

Engineering approval to include:

- ❑ Applicant to provide documentation and agreements for the use of offsite stormwater management at Forest Lakes Pond. If no documentation or agreement can be given, and approved the satisfaction of the County Attorney's Office, all stormwater management must be contained on site.
- ❑ The plan must meet all engineering requirements of the Water Protection, Subdivision, and Zoning Ordinances in addition to all engineering standards detailed in the County's Design Manual.

Virginia Department of Transportation approval to include:

- ❑ Show sight distances and sight line profiles at the proposed street connection to Worth Crossing. The minimum intersection sight distance for a 35 mph design speed is 390 feet.
- ❑ Include road profiles and traffic projections.
- ❑ The minimum spacing of tangent curb between entrances is 50 feet.
- ❑ The entrance off of Worth Crossing needs to meet VDOT Road Design Manual Appendix F standards.
- ❑ The minimum width of entrance on a local road is 24 feet between curbs for a minimum throat length of 35 feet or more.

Albemarle County Service Authority approval to include:

- ❑ Final water and sewer construction plans will be required for review for final site plan.

Fire & Rescue approval to include:

- ❑ Must comply with the Virginia Statewide Fire Prevention Code. Final approval is subject to field inspection and verification.
- ❑ Hydrant spacing shall be 500 feet per travelway
- ❑ Streets less than 32 ft in width shall be marked on one side "Fire lane No Parking" per Albemarle County Code.
- ❑ Turning radii need to be marked on the final site plan.

E911 approval to include:

- ❑ The applicant should contact the property owners of TMP 046B4-00-00-00500 and TMP 046B4-00-00-005A to discuss the road labeled as 'Public Road D'. As the adjacent property owners that are currently addressed off of Worth Crossing will need to be re-addressed to reflect the new proposed road. A letter signed by both owners confirming a road name has been agreed upon will need to be submitted from all property owners that will be affected by the new road.
- ❑ The applicant will need to contact this office with a list of three (3) potential road names for approval. The following road names are listed: 'Road A', 'Road B', 'Road C'

- Note for Site Plan: The applicant agreed to change the tree plantings along the fence to a mixture of evergreen and deciduous trees. In addition, the applicant agreed to change the note behind lots 32 and 33 as they definitely plan to put up a fence and trees.

The motion passed by a vote of 7:0.

Mr. Morris noted ZMA-2012-8 Estes Park – Proffer Amendment will be forwarded to the Board of Supervisors with a recommendation for approval at a date to be determined. The site plan does not need Board approval.

SP-2012-00026 Ntelos Wireless at CV829 Keene "Flatwood Land Trust" - Tier III
PROPOSED: Special use permit request for a personal wireless service facility including a 144-foot steel monopole with flush-mount antennae consisting of three (3) panel antennas. The proposed ground equipment will be located on a 40X40 foot leased compound area. A 6' tall wooden privacy fence is also proposed to surround the base of the 40X40 compound. Access to the site is proposed through an access road off Scottsville Rd already approved under SP-2011-26 for an AT&T Tower.
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 Tier III personal wireless facilities
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 4 - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots)
ENTRANCE CORRIDOR: YES
HISTORIC DISTRICT: YES
LOCATION: At the northwest side of the intersection of Scottsville Road (Route 20), Esmont Road (Route 715), and Coles Rolling Road (Route 712).
TAX MAP/PARCEL: 11200-00-00-030G0
MAGISTERIAL DISTRICT: Scottsville (Scott Clark)

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

The request is for a personal wireless service facility including a 144-foot steel monopole with flush-mount antennae consisting of three (3) panel antennas. The proposed ground equipment will be located on a 40X40 foot leased compound area. A 6' tall wooden privacy fence is also proposed to surround the base of the 40X40 compound. Access to the site is proposed through an access road off Scottsville Rd already approved under SP-2011-26 for an AT&T Tower.

The tower is located over 400' from Route 20. Staff attended a balloon test and found it is extremely difficult to find the balloon at that distance through the trees. The conceptual plan shows the tower is 412' from the highway. The access road is the same one that was approved with the previous special use permit.

The previously proposed reference tree has turned out to be a potential hazard to the facility and needs to be removed. The applicants have selected another nearby reference tree. They are still requesting the height of 30' or the reference tree as was approved with the previous facility. However, because the new reference tree is shorter the proposed pole height is 133.5' instead of 144'.

Staff has identified factors which are favorable and unfavorable to this proposal:
Factors favorable to this request include:
- The facility will not be visible from the Virginia Byway (Route 20).
- The Architectural Review Board staff has recommended approval based on minimal visibility from Route 20, which is an Entrance Corridor.

Factors unfavorable to this request:
- none

RECOMMENDATION: Staff recommends approval of SP-2012-00026 Flatwoods Land Trust with the conditions listed in the staff report, and of the requested modification to Section 5.1.40(d)(6) (to permit the facility to extend 30 feet above the reference tree), based on the analysis provided in the staff report.. The only change in the staff report is the change of date for the conceptual plan to allow the update to the

version as shown in the presentation.

Zoning Ordinance Modifications:
Section 5.1.40(d)(6)- Modification of requirement that facility extend no more than 7 feet above the reference tree, to permit it to extend 30 feet above the reference tree.

Mr. Morris invited questions for staff. There being none, the public hearing was opened and the applicant invited to address the Commission.

Preston Lloyd, attorney with Williams Mullen, was present on behalf of the applicant Ntelos to speak in support of this request that runs north/south towards Scottsville for improvement. This site is over 421 acres as staff mentioned. It is far removed from the right-of-way. There is little to no visibility thanks to the topography and the heavily forested nature of this site. They are confident that they will agree that the site is one that meets the spirit and the intent of the Wireless Facility Ordinance and they submit it to the Commission for approval.

Mr. Morris invited questions for the applicant.

Mr. Randolph noted they had heard this evening an excellent reason to look for expansion of coverage down in Howardsville, but making sure that they don't put it close to the river.

Mr. Lloyd said they would take it under due consideration.

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

Mr. Lafferty noted clearly their criterion was now the visibility of the antennas and not height above the reference tree.

Mr. Morris agreed.

Mr. Franco noted that it was a good thing.

Motion: Mr. Franco moved and Mr. Loach seconded to recommend approval of the special exception for modification to Section 5.1.40 (d)(6) for the reasons outlined in the staff report, as amended.

Mr. Randolph said the pole height was based on the height of the tree.

Mr. Clark pointed out they are still requesting the height of 30' even though the height of the reference tree is shorter.

Mr. Franco agreed it was still at 30'.

The motion passed by a vote of 7:0.

Motion: Mr. Franco moved and Mr. Loach seconded to recommend approval of SP-2012-0026 Flatwoods Land Trust with the conditions outlined in the staff report.

The motion passed by a vote of 7:0.

Mr. Morris noted that SP-2012-00025 Flatwoods Land Trust and the special exception for modification would go to the Board of Supervisors on December 5, 2012 with a recommendation for approval.

In summary, the Planning Commission recommends approval of SP-2012-00026 Flatwoods Land Trust with the conditions listed below, and of the requested special exception for modification to Section 5.1.40(d)(6) (to permit the facility to extend 30 feet above the reference tree), based on the analysis provided herein.

CONDITIONS OF APPROVAL:

1. Development and use shall be in general accord with the conceptual plan titled "Keene (Flatwoods Land Trust) CV829" prepared by Brian V. Crutchfield., and dated 8/17/12 11-8-12 (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:

    - Height
    - Mounting type
    - Antenna type
    - Number of antennae
    - Distance above reference tree
    - Color
    - Location of ground equipment

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

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

Zoning Ordinance Modifications:
Section 5.1.40 (d)(6)- Modification of requirement that facility extend no more than 7 feet above the reference tree, to permit it to extend 30 feet above the reference tree.

SP-2012-00027 – Verizon Wireless-Old Lynchburg, Tier III
PROPOSED: Request for modification of the existing Tier I installation to a Tier III Personal Wireless Service Facility to include (9) panel antennas.
ZONING CATEGORY/GENERAL USAGE: R-15 Residential - 15 units/acre.
ENTRANCE CORRIDOR OVERLAY DISTRICT to protect properties of historic, architectural, or cultural significance from visual impacts of development along routes of tourist access: Yes
SECTION: 18.2.2.18 COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential – residential (6.01-34 units/acre);supporting uses such as religious institutions, schools, commercial, office, and service uses.
LOCATION: 925 Sunset Avenue, Ext.
TAX MAP/PARCEL: 076000000046C0
MAGISTERIAL DISTRICT: Scottsville (Claudette Grant)

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

Purpose of Hearing: The applicant is requesting the modification of the existing Tier I installation to a Tier III Personal Wireless Service Facility to include installation of 6 additional panel antennas (total of 9) and the extension of the mount/towers from 112 feet to 122 feet. The property is zoned R-15 and is located in the Entrance Corridor.

The site is primarily wooded with large utility poles on it. The reason for the request is Virginia Dominion Power has changed their policy to no longer allow antennas to be mounted below any of the lines on their high tension transmission towers. Currently some of the panel antennas are located below the static line. As a result the pole must be retrofit with an extension mount that will allow both the existing and proposed antennas to be mounted above the static line. These changes will provide improved personal wireless service to this portion of the county including a portion of Interstate 64. Staff reviewed photos of the current facility and what the proposed facility will look like.

Factors favorable to this request include:

1. The ARB finds that the proposed location of the facility will minimize visibility such that no significant negative impact on the Entrance Corridor will be created.

2. Due to the height and scale of the existing structure, the size difference from the additional height and antenna array size will not have a significant impact to the structure on its visibility.

3. This facility will provide advanced technology service and high speed 4G services that are more advanced than those currently available in this marked, therefore contributing to the general health, safety, and welfare of the public.

4. No objection has been received from the adjacent property owners, which is where the structure is visible.

Mr. Dotson asked if it was literally the ARB or the ARB staff, and Ms. Grant replied that it was the ARB staff.

Factors unfavorable to this request include:

1. The Personal Wireless Service Facilities Policy looks unfavorably on mitigating visual impact by creating more visual impact.

2. The height of the pole relative to the surrounding trees increases its visibility, primarily on site and from the adjacent property.

Zoning Ordinance Waivers and Recommendations:
Modifications for Sections 5.1.40(c)(3), (c)(4), (c)(5), (d)(5), (d)(6) and (d)(7) are included. Based on findings presented in the staff report, staff recommends approval of SP-2012-00027 and all modifications (special exception) requests with the conditions as described in the staff report.

1. Section 5.1.40(c)(3)-no antenna to project more than 12 inches from a structure.
2. Section 5.1.40(c)(4)-tree conservation plan to be submitted prior to building permit.
3. Section5.1.40(c)(5)-installation, operation and maintenance, to be in accordance with tree conservation plan.
4. Section 5.1.40(d)(5)-Maximum size of base and diameter of tower.
5. Section 5.1.40(d)(6)-height of the structure in relation to the reference tree.
6. Section 5.1.40(d)(7)-color of pole with all attached equipment.

Mr. Morris invited questions for staff.

Mr. Lafferty asked does this mean that any existing tower that is mounted on a power line below the lighting protector will come up before the Planning Commission and if these antennas would be grandfathered.

Mr. Benish suggested that the applicant can speak to that. They had to go through this similar situation near Colthurst. They did the same approval and he knows for an expansion they were required to move them. He did not know if they have to go back and retrofit the existing ones or not. However, the applicant can respond to that question.

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

Laurie Schweller, an attorney with LeClair Ryan, represented Verizon Wireless. Also present tonight is Julian Cadence who is a consultant with NB&C Consultant for Verizon Wireless. They are requesting a recommendation of approval for a special use permit for a Tier III. The purpose of the modification to this facility is to bring 4G to this area. To answer Mr. Lafferty's question she did not believe that Dominion would require them to move existing antennas unless they were requesting to do an upgrade to do a change. So they are requesting to keep the height at a minimum. They are requesting to do a triangular do a triangular array in each direction as opposed to what did on Garth Road pretty recently where they

recommended and the Board approved an extension of almost 20' to do 2 flush mounted arrays. This particular power tower is much shorter than that one. The total height once it is raised to 122' will be the same as the Garth Road one was before they amended it. This is a shorter tower and it is closer to I-64. It will serve a number of neighborhoods in that area. There are a number of multi-family and single-family developments in the area as well as I-64 that would be served by this site. Again, the Dominion Policy, the safety orienting policy, is that they put our antennas above the static line or the line that directs the lighting down to the ground.

Mr. Morris invited questions for the applicant.

Mr. Lafferty noted that this makes a power line pole more attractive.

Mr. Dotson said he was curious about the flat panels or the flush mounted panels versus an array since there is a preference for the flush mounted panels. From a provider's standpoint are there significant cost differences and effectiveness differences.

Ms. Schweller replied there is a significant effectiveness difference. It would not seem so to the lay person. There are differences for a number of reasons. One is that when you have the full array there an antenna or may be more than one in some sites for each of the technologies. So in each of the three directions there is an antenna that provides that technology whether it is LTE, Cell, or 4G. When you use the flush mounted antennas typically there are two sets of flush mounted antennas. One is a dual set, which means that both cell and PCS is in that same antenna. Then above that there is the LTE antenna. Those are flush-mounted and not able to shoot a full 360. The antenna is only able to shoot in the direction in which they are facing. What he is told by their engineers is that there is a significant difference in the type of coverage you can get. Therefore, they much prefer the full arrays. The reason they are going with that here is that it allows us to keep the increase in height in 10', whereas, ordinarily it would be 20' to 30' so that they would have that needed space between the two sets of antennas.

Mr. Dotson said he was just hoping that they were not going because of that very rationale to see lots of applications from lots of different providers now wanting to have the array since there is a preference for the flat panel. However, in this case it is so ugly already - why not.

Ms. Schweller pointed out they would normally only see these on power towers. It is not something that they would normally apply for on a monopole.

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

Motion: Mr. Randolph moved and Mr. Smith seconded to recommend approval of SP 2012-00027 Verizon Wireless – Old Lynchburg Road, Tier III with the conditions outlined in the staff report.

- Development and use shall be in general accord with what is described in the applicant's request and site plans, entitled "Old Lynchburg Road LTE (4G) Upgrade," with a final submittal date of 9/10/12 (hereafter "Enlarged Site Plan"), as determined by the Director of Planning and Zoning Administrator. To be in accord with the Enlarged Site Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Enlarged Site Plan:
  - Height
  - Mounting height
  - Antenna type
  - Number of antenna
  - Color
  - Location of ground equipment
- Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

The motion passed by a vote of 7:0.

Motion: Mr. Randolph moved and Mr. Smith seconded to recommend approval of the special exception for the modifications associated with SP-2012-00027 - Verizon Wireless – Old Lynchburg Road, Tier III for the reasons outlined in the staff report.

1. Section 5.1.40(c)(3)-no antenna to project more than 12 inches from a structure.
2. Section 5.1.40(c)(4)-tree conservation plan to be submitted prior to building permit.
3. Section5.1.40(c)(5)-installation, operation and maintenance, to be in accordance with tree conservation plan.
4. Section 5.1.40(d)(5)-Maximum size of base and diameter of tower.
5. Section 5.1.40(d)(6)-height of the structure in relation to the reference tree.
6. Section 5.1.40(d)(7)-color of pole with all attached equipment.

The motion passed by a vote of 7:0.

Mr. Morris noted that SP-2012-00027 – Verizon Wireless – Old Lynchburg Road and the special exception for modification requests would go to the Board of Supervisors on December 5, 2012 with a recommendation for approval.

Old Business

Mr. Morris asked if there was any old business. There being none, the meeting proceeded.

New Business

Mr. Morris asked if there was any new business.

- Next Meeting – November 20, 2012.

Adjournment

With no further items, the meeting adjourned at 10:37 p.m. to the Tuesday, November 20, 2012 meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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