Albemarle County Planning Commission
March 19, 2013

The Albemarle County Planning Commission held a regular hearing on Tuesday, March 19, 2013, 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, Don Franco, Richard Randolph, Thomas Loach, Russell (Mac) Lafferty, Vice Chair, and Calvin Morris, Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Other officials present were Claudette Grant, Senior Planner; Megan Yaniglos, Senior Planner; Wayne Cilimberg, Director of Planning; Sharon Taylor, Clerk to Planning Commission; 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.

The following individual spoke:

- Tom Olivier spoke regarding recommendations for the biodiversity section of the comp plan. He proposed the biodiversity section of the comp plan include 1) a call for immediate finalization and implementation of a biodiversity section of the comp plan and 2) dedication of half-time of one planner to biodiversity protection. (Submitted Comments - See Attachment A available in Clerk's Office with written minutes or online attachment to final action memo)

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

Committee Reports

Mr. Morris invited committee reports.

The following committee reports were given:

Mr. Dotson reported on the MPO Tech Committee meeting. A memo received from Steve Williams was distributed regarding the status of Long Range Transportation Plan Update Process highlighting some key dates and topics including the development of performance measures. (See Attachment B – three pages available in office of Clerk with written minutes). He requested input from the PC regarding this on-going work.

Mr. Lafferty reported on the CHART committee meeting and noted they discussed the information that Mr. Dotson has provided from MPO Tech.

Mr. Morris noted the Pantops Community Advisory Committee meeting was canceled due to the guest speaker being called out of town. That speaker was to speak regarding use of the Rivanna River around the Pantops area and the Woolen Mills area.

Mr. Randolph noted he had met with the Rivanna Village development team on revisions to incorporate the Army Corps of Engineers concerns about the resources and the wetlands streams that lie there. He indicated revisions will be before the PC in the future.

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

Review of Board of Supervisors Meeting – March 13, 2013

Mr. Cilimberg reviewed the actions taken by the Board of Supervisors on March 13, 2013.

Consent Agenda:

Approval of Minutes: December 18, 2012, January 22, 2013, and January 29, 2013.

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

Motion: Mr. Loach moved and Mr. Dotson seconded to approve the consent agenda.

The motion carried by a vote of 7:0.

Mr. Morris noted the consent agenda item was approved.

Item Requesting Deferral:

SP-2012-00032 Bellair CSA Barn
PROPOSED: Special events in and around existing barn
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: 10.2.2.50, which allows for Special events (reference 5.1.43)
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: No
LOCATION: 5363 Bellair Farm
TAX MAP/PARCEL: 11300-00-00-01000, 11300-00-00-003A0, 11300-00-00-00800
MAGISTERIAL DISTRICT: Scottsville
(Scott Clark)
APPLICANT REQUESTING DEFERRAL TO APRIL 23, 2013

Mr. Morris noted the first item is a request for deferral of SP-2012-00032 Bellair CSA Barn. The applicant is requesting deferral to April 23, 2013 meeting. He opened the public hearing and invited public comment. There being no public comment, the public hearing was closed and the matter brought before the Commission.

Motion: Mr. Loach moved and Mr. Lafferty seconded to defer SP-2012-00032 Bellair CSA Barn to April 23, 2012 as requested by the applicant.

The motion passed by a vote of 7:0.

Mr. Morris noted that SP-2012-32 was deferred to April 23, 2013.

Public Hearing Items:

SP-2012-00030 The Peabody School
PROPOSED: Amend Special Use Permit (SP1996-046) to expand enrollment of a private school, to increase maximum number of children in facility from 140 to 210 (70 additional students) within Peabody School. No residential units proposed.
ZONING CATEGORY/GENERAL USAGE: PUD- Planned Unit Development-residential (3-34 units per acre), mixed with commercial, service and industrial uses.
SECTION: 20.4.2 and 23.2.2 School of Special Instruction
COMPREHENSIVE PLAN LAND USE/DENSITY: Industrial Service- warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre)

ENTRANCE CORRIDOR: No
LOCATION: 1232 Stony Ridge Road, at the intersection of Stony Ridge Road and Southern Parkway
TAX MAP/PARCEL: 076M1000001500
MAGISTERIAL DISTRICT: Scottsville
(Megan Yaniglos)

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

Proposal:

- This is a request for a special use permit amendment to increase the maximum number of students from 140 to 210 within the existing Peabody School
- A multi-purpose building and additional parking are proposed with the request.

Background: The property is located on the corner of the Southern Parkway and Stony Ridge Road next to Fox Croft to the west. Bright Beginnings and Fed X are along Stony Ridge Road. It is north of Mill Creek Subdivision.

Staff reviewed existing site photographs and the proposal. Concerns about parking on the site were found. The plan was updated to add an additional parking lot along with the multi-purpose building. Staff has found that adequate to resolve the parking concerns. VDOT and engineering staff reviewed the traffic along Stony Ridge Road and the Southern Parkway and found that no parking analysis was needed.

The photographs show the location of the proposed addition just past the red barn. There is a large vegetative buffer with some currently within the right-of-way and on the Peabody's property. Staff recommends screening to be provided along the parking lot, which is required by the ordinance. It would also screen the proposed multi-purpose building.

Staff's Recommendation:

Favorable Factors:

1. The proposal provides more educational opportunities for children in the community.
2. No detrimental impacts to adjoining properties are anticipated.

Staff did not hear from any adjacent owners with big concerns. However, staff did hear from Bright Beginnings about the students and parking concerns they had along Stony Ridge Road. However, they seemed to be resolved with this plan.

The applicant contacted staff and pointed out they will be showing a plan that moves the multi-purpose building closer. The applicant will request a reduction in setback, which can be a variation that is approved by the Board. Staff thinks conceptually this will work, but has not analyzed it because the plan was just received this afternoon. Staff wanted to make the Commission aware of it. If the Commission is comfortable recommending approval with the change and the building, staff is recommending approval.

One error in the conditions listed in the staff report was the revision date should have been listed as March 7, 2013, which may also change between now and the Board meeting depending on the revised plan that is anticipated to be submitted. Staff recommends approval of SP-2012-030 Peabody School with the conditions as amended.

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

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

Valerie Long, with the law firm of Williams Mullen, represented the applicant, Peabody School. There are a number of representatives of the school present tonight that she will introduce who will talk a little bit

more about the specifics and the building concept plan. First is Renee Henslee, Head of Peabody School. Diane Crameyer and Charles Lunsford, parent volunteers, have been working very closely with the applicant over the last year preparing the application and working through some of the issues they have been discussing. She presented a brief PowerPoint presentation, which would serve as a visual aid.

Renee Hensley, Head of School, provided more details on Peabody School, as follows:

- Peabody School was basically founded to serve the often overlooked needs of academically advanced children. They do this through different curriculum and maintaining small class sizes. Currently, they serve more than 155 students in pre-K through 8th grade. They were founded in1994 and moved to the current Stony Ridge location in 1997. Since that time they have added a middle school wing, a lower school wing, and most recently they added a pre-K program in 2008.
- They are here tonight because they would like to add a multi-purpose space. In her opinion, this space is desperately needed. When they want a whole school gathering they either meet in the foyer or outside in the parking lot, neither of which is ideal. Our students are what make Peabody School so special. Basically these are students that often will struggle when in traditional educational settings. When students struggle this will often lead to them shutting down or it could lead to social and or an emotional issues.
- Research shows that 25 percent of academically advanced children, particularly those of lower social economic status, wash out of main street education, Peabody School was founded to prevent that and to provide a foundation for these children to have a successful future beyond Peabody School. Our make-up of our school is 33 percent of our families receive financial aid. They believe strongly in economic diversity and think it makes sense that they are. Many of our parents, whether they are paying full tuition or reduced tuition, struggle to make ends meet. If you were to ask them she thinks many of them would say for them Peabody School is not a choice but rather it is a necessity. We serve Charlottesville, Albemarle, and the surrounding areas. In her opinion, Peabody School is a local solution to a national problem.

Diane Crameyer pointed out on the screen is their current multi-purpose space. It is a trailer and approximately 15 years old. It is about 20' X 50'. Anything that they could imagine that would happen at a school that requires a gathering, whether that is a play, a musical performance, an athletic event, graduation, or speakers, has to occur in this space. The only other options are to be outside at the mercy of the weather; or they could be in a hallway which is actually a smaller space; or they have to transport the children off site to a rental location. The slides show their vision to where they want to be. The architect's rendering shows their multiple story gymnasium and multi-purpose space, which is running flush with the rest of the school. The picture shows the approximate location of the space. They currently have an outdoor basket board space, which they basically would be building on top of that. This is their vision and what they hope to have for their students. She thanked the Commission for giving them the opportunity to present their request tonight. If there were no questions, she would pass it over to Ms. Long.

Ms. Long noted the proposed plan is very similar to the one in their packet. As Ms. Yaniglos indicated they have gone a little bit back and forth on the building location. She explained the location of the purposed building addition and the entrance. The proposal is to add the new parking area with 29 spaces and also the new multi-purpose addition. There is a playground and existing soccer field. The goal is to preserve as much of the soccer field as possible. There is a large area of the parcel that is off limits to development. It is the shaded area, which is designated open space. There are utility easements, steep slopes that basically run down to a creek that roughly corresponds with the property line. Therefore, this entire area is off limits to development. They are very limited in the areas where they can build their addition. That is why this area works well. She explained the history of the site and the specifics of the proposal, as follows.

- Prior history indicates that long before the school was envisioned to locate here this was part of the industrial park. There was a 60' vegetated undisturbed buffer in this area. They spent a lot of time researching the purpose of that buffer and why it was there. It was ultimately determined that it was voluntarily put on the subdivision plat by the industrial park developer because the residential subdivisions in this area as best they could tell was to buffer the future industrial park from the residential developments nearby. Then the school decided to locate here. It worked

very well and they built as close as they could to that buffer line. But now that they have their addition to build they originally came forward and asked for the ability to encroach into that buffer by about 40' and reduce it 20' so they could preserve as much of this area for the soccer field as possible.

- As the school representatives have worked with their architects, engineers, and others on the design of the addition they realized that it would be very helpful to have this be a detached building. It opened up the area a little bit for some court yard space. It just made it a better space. Frankly, it was easier for them to build the building while school was in session when it is not attached to the existing school building. That caused us to look at our plan a little bit more to see if they had a little bit more flexibility in terms of the location of the building relative to the property lines.
- Continuing, Ms. Long pointed out that there was a very wide VDOT right-of-way here. They are maintaining a 10' landscape buffer. She noted the original 60' buffer. They don't know exactly where the building will be in relation to the property line. It will be somewhere between 10' and 20'. The engineer working on the site plan is still looking at that. There are some easements along the way. They may or may not be able to encroach into that utility easement. But, they think about 20', which is right now shown as 15' back, will be pretty close. They would like the flexibility to have the Commission, if they are inclined to support the plan tonight, to bless that concept. She has hard copies if the Commission would like to see them. However, the plans are essentially what they have in their packet, which is just 15' closer to the property line. That is the main issue and really the only area of confusion.
- The second slide was the same slide showing the building setback 30' from the property line. It encroaches into the green space. This is the plan they have in their packet. It may not look like a big difference, but basically the one corner of the building encroaches into their current soccer field. It has to be a certain distance from the soccer field to make it work. The revised plan moves it such that it is 15' from the property line and maintains the green space just enough for the soccer field. It is still going to be very tight back there, but they will have enough room.
- The Commission has already heard a little bit about the school's space needs and how they have their Physical Education classes in the trailers and they want to have a better gym. Some of the things they are proposing as part of the building components includes community gathering places and additional classroom space to support the additional enrollment, They discussed a little bit that they added the additional parking spaces to address the need for additional parking that would be generated by the increased enrollment. Safety is always a concern. The goal, if possible, is to commence construction early in the summer so that as much as possible can begin while the students are not there.

Mr. Morris invited questions for applicant.

Mr. Randolph asked what was on the site prior to the school.

Ms. Long replied that it was vacant. The site was platted as part of the industrial park in roughly the late '80's or early '90's. There may have been something there long before that, but essentially the industrial park was created with some of the first buildings in the park built. This was added in 1997.

Mr. Randolph asked if the existing berm preceded the arrival of the school.

Ms. Long replied so long as she knows. However, she could not speak specifically about the berm.

Mr. Randolph asked what the approximate angle is of the Southern Parkway as it descends in front of the school. It has to be at least 12 percent, and sections of it look like at least 15 percent. He was a cyclist and asked if that seemed to be a reasonable estimate.

Ms. Long asked if he meant the grade of the road.

Mr. Randolph replied yes, the elevation or the grade of the road.

Ms. Long replied that she did not know. She asked to look at staff's aerial photo shown at the very beginning. That was really helpful. She noted that she did not know the grade of that. It is a VDOT public road. So she would expect that it would conform to their standards with regard to grade, which she was not an expert on. She suggested that maybe one of the planners could help. She believed that typically they don't want their public roads to exceed 10 percent.

Mr. Cilimberg pointed out it depends on the classification of the road. However, he did not think it would be as much as 12 to 15 percent. That is really steep and not likely in this case.

Mr. Smith pointed out what he thought Mr. Randolph was talking about is from the intersection going up to Avon Road and not down by the school.

Mr. Randolph agreed he was talking about the intersection up to Avon Road Extended.

Ms. Long noted as you turn off of Avon onto Southern Parkway it certainly does go downhill.

Mr. Randolph felt it has to be somewhere around 15 percent in there.

Mr. Cilimberg noted it was probably more on the order of 8 percent.

Mr. Franco pointed out basically there is going to be a landing area as you turn on to Avon Street. So it is going to be 4 percent or flatter for about the first 40'. He believed that the maximum slope or grade on the road would be 10 percent. However, 12 percent and 16 percent is allowed on private roads, with exceptions. He was not really aware of any exceptions to the public roads that have been made to allow it to be steeper in those areas.

Mr. Cilimberg pointed out those kinds of grades are mountainous terrain standards, which they don't typically have here. They are an exception.

Mr. Franco said they have been allowed in some places. But, it is very exceptional that it allowed.

Mr. Randolph said if it is 10 percent he was feeling a little bit more confident. As he expressed last week, his concern was that if there was a runaway truck and the brakes failed that it would put students and staff in danger with this gym facility located as it is much closer to the road. He would certainly feel that anxiety on his part is perhaps somewhat alleviated. He would feel a little more comfortable, however, if there was a bit more of a wrap of the trees that are shown here in the plan from Collins Engineering for the special use permit. He thinks the likelihood for a vehicle with the brakes failing and coming down that grade posing the threat is very low, but since some of the berm would be coming out as discussed he would feel more comfortable if the tree design wrapped a little bit more to that side of the building. It is just a suggestion.

Ms. Long said she did not know if they have gotten that far yet. She would expect there would be some landscaping proposed there as part of the site plan perhaps under the site plan regulations. But, certainly they can look into that and factor that suggestion into the site plan design, which is underway right now. It is proceeding on a consecutive track with the special use permit. So they certainly appreciate that input. Certainly the school shares your concerns for the safety of the children. That is partly why, as she mentioned, they want to commence construction during the summer and get as much done during the summer time. That is also part of why they decided to have this building be detached from the existing building so there is minimized risk with any conflicts with the students. There is some of that vegetation existing in the VDOT right-of-way as Ms. Yaniglos mentioned, that is still quite wide. So they are only encroaching in the buffer on the property side of the line. She is not sure exactly how much of the existing vegetation is in the right-of-way, but it should help as well.

Mr. Randolph said if they were dealing with wet conditions or during the summer the earth itself would slow a vehicle down. His concern was that they would have wintery conditions and a vehicle could lose its brakes, go out of control and just continue to slide right across. So the more there is a natural buffer there to prevent that and any potential injury to students, faculty and staff is all to the better.

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

Lisa Martin said her family has been a part of the Peabody community for the past 9 years and counting with two boys attending Peabody School. It would be hard to overstate how much Peabody means to them and how much impact it has had on their family. It has helped by teaching them how to learn, setting up our children for a lifetime of learning, loving to learn, and really loving school. Sometimes it is hard to get them to stay home for a sick day since they love to go to school. Of course, the beauty and uniqueness of Peabody School is driven and manifested everyday by the teachers, their creativity and tenacity, experience and wisdom, which makes it just an incredible place. They feel so lucky to have found it. They are really sad that they have to go off to high school at some point.

Ms. Martin continued that there have been many times around the dinner table that they have talked about the kind of opportunities that an expansion like this could provide. Her youngest is a lover of drama and he is has always dreamt of having the play where everyone could come see it at one time and bring in people from the outside. Her oldest has been part of the student government and they have always talked about inviting other middle schools when it is time to have a school dance. However, they have never had the capacity or ability of a facility to be able to do that. They both play on the basketball team. There really is a home court advantage that would be a joy to have. She herself has coordinated large all school events where they can make it work throughout the halls. However, having a large place to meet would be so wonderful in terms of interaction and community. Then they are starting to expand the events where they invite the public in a lot of whom have gifted children and questions that the knowledge base in the school can really address. Therefore, she feels that an addition like this would help our students and parents connect to each other and to the larger community in a way that they have not really been able to before. So it makes them larger in square footage, but also in spirit.

Hunter McCardle, parent at Peabody School, said he was a landscape architect. He would speak to Mr. Randolph's point by noting he was on the building committee as well and has been working closely with Scott Collins on the landscaping. He assured them that the grade separation is such that it would be almost nearly impossible for a rig to get into the school facility site along with the existing trees that will remain. However, they could not underestimate his point in maintaining the safety for the children. He thanked him for the comment noting that they certainly will take it into consideration. However, to the board in general they would definitely appreciate the flexibility to be able to maneuver this building closer to the property line. As they can see through Ms. Long's presentation they are very hemmed in and could use as much green space for the children to explore and play soccer and to utilize the site to its fullest potential. He thanked the Commission for their consideration this evening.

Lisa Colton, parent at Peabody School with a kindergartener and third grader, said they have been a part of the Peabody community for a few years. One of the things that she appreciates most about this school is its deep sense of values and community. Very intentionally in the curriculum the children are engaging with one another and have a shared sense of responsibility as an extended family. She thinks it is really a powerful value and experience for young children to learn that also extends to the parent community. Many of her co-parents are here tonight. She really feels like the Peabody community is an extended family in a very powerful way. These values also extend outside of those who are part of Peabody School. The children are very engaged in society learning about our community, doing community service and getting outside of the building to connect throughout Charlottesville and Albemarle. She thinks this home base in the multi-purpose building proposed is not only functional space. It is about values and an extended family feeling giving these children a very powerful foundation that when they grow up they might be involved in community service in representing their community in the way that many of the Commissioners are doing today. This is very much one of the reasons why she chose Peabody School. She knows her kids will learn how to read, write and do arithmetic in elementary school and anywhere that they go. But, it is really this feeling and being part of something greater than themselves, our family, and the school. It is very important. This building represents that and gives us the opportunity to live out those values in a much more grand way.

Sarah Daniel, a parent at Peabody School, said she also has done some substitute teaching and helping in the aftercare program. She is approaching it from a very practical standpoint of just having

experienced some of the discomforts of packing children into their Physical Education box, which is what they call it. When those middle school bodies are in there it is difficult having kids run around in such a small enclosed space. It is the same for the aftercare in having to separate the ages so much and not have a space for them to really move during the cold wintery months. She was ecstatic when hearing about the plans for expanding the building and having a space for their performances and music concerns. It would attract great arts to Peabody School and give the art teacher, the drama teacher and the music teacher the space to really let the kids shine. It is going to be thrilling. She thanked the Commission for their consideration.

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

Mr. Franco asked to simply react to the suggestion about the landscaping. As long as they keep it with the suggestion he was happy with that. However, in looking at the plan it is still going to be something like 67' from the edge of the existing roadway. He was really not concerned about that. Unless somebody wants to discuss that further he would make the following motion.

Motion: Mr. Franco moved and Mr. Smith seconded to recommend approval of SP-2012-00030, Peabody School, with the conditions as stated in the staff report, as amended, for condition 1 to say March 7, 2013 or as amended between now and the Board of Supervisors meeting and also to note that the location of the school can be adjusted to be no closer than 10 feet to the property line.

The motion passed by a vote of 7:0.

Mr. Morris noted that a recommendation for approval would be forwarded to the Board of Supervisors for SP-2012-00030, Peabody School, at a time to be determined with the following conditions.

1. Development of the use shall be in general accord with the conceptual plan titled "Peabody School Application Plan for Special Use Permit," prepared by Collins Engineering, with the latest revision date of **March, 7, 2013 (or as amended between now and the Board of Supervisors meeting)**, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development shall reflect the following major elements within the development essential to the design of the development:

- Location of parking areas and turn arounds
- Open Space
- Landscape Buffer
- Location of multi-purpose building addition
  as shown on the plan.

  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 maximum enrollment shall not exceed 210 children.
3. Landscape buffer adjacent to the Southern Parkway shall include screening in accordance with Section 32.7.9 of the Zoning Ordinance for the parking, turn around, and the multi-purpose building.

***Note**: As part of the motion the Commission recommended the school can be adjusted to be no closer than 10 feet to the property line.*

ZMA-2012-00006 Church of our Saviour
PROPOSAL: Rezone 0.487 acres from R-2 zoning district for which allows residential uses at a density of two units per acre to C-1 zoning district which allows commercial - retail sales and service; residential by special use permit uses at a density of 15 units/acre to accommodate building and meet 50-foot setback. No dwellings proposed.
ENTRANCE CORRIDOR: Yes

AIRPORT IMPACT AREA: Yes
PROFFERS: Yes
COMPREHENSIVE PLAN: Neighborhood Density Residential – residential (3 – 6 units/acre) supporting uses such as religious institutions, schools and other small-scale non-residential uses and
Urban Mixed Use (in areas around Centers) – commercial and retail uses that are not accommodated in Centers in Neighborhood 2 - Places 29.
LOCATION: 1165 Rio Road East and 2412 Huntington Road
TAX MAP/PARCEL: 06100000014400 and 061000000146D0
MAGISTERIAL DISTRICT: Rio
(Claudette Grant)

Mr. Dotson acknowledged that he was a member of the Church of Our Saviour and while he does not have as what is legally defined as a conflict of interest he will abstain from the discussion and voting because he feels that is what he should do. He did not leave the room.

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

Purpose of Request: The applicant is requesting to rezone 0.487 acres from R-2 zoning district to C-1 zoning district to accommodate a building and meet a 50-foot setback. No dwellings are proposed with this request.

The application plan shows the area being requested to be rezoned. The existing building in question is not meeting the current setbacks that are needed.

Favorable Factors:

- The rezoning request would be consistent with the Comprehensive Plan.
- The uses are consistent with the uses permitted under the existing C-1 zoning district.
- This rezoning request would correct the issue of the non-conforming use being in the required 50 foot buffer required from the R-2 district.
- This rezoning request would allow the church to continue to provide a service in the local community.

Unfavorable Factors: None

Staff Recommendation:
Staff recommends approval of rezoning ZMA-2012-00006, Church of Our Saviour with proffers.

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

Jeff Kilmer, member of the Church of Our Saviour and Co-Chair of the Renovation Committee overseeing this project, pointed out the church bought a lot next door that is zoned C-1. It is the old Associated Steel property. The Associated Steel building does not conform to current setback requirements from the R-2. Their plan is to demolish the building and put up a building of a very similar size in the same place and keep its relative location to the church because they are building a covered walkway connecting them. There will be Sunday school rooms, youth group rooms, a multi-purpose room, and an outreach facility for maintaining the food closet. It turned out to be the simplest way to keep the building in its same place and conform to Codes. They have actually joined the lots. The property line has been removed, but the zoning line remains the same. This is actually in a commercial district separating it from the residential district. The Church of Our Saviour was approved in a special use permit for its operation. A chunk of this rezoning tips into the cemetery. They included a proffer to say that they are not going to do any more commercial use of the cemetery than they are doing right now.

Mr. Morris invited questions for the applicant.

Mr. Franco said he was unaware that two parcels have been combined at this point.

Mr. Kilmer replied that is in the plan and may not have been facilitated yet.

Ms. Grant pointed out that it had not been done yet.

Mr. Kilmer pointed out the site plan is moving beside the rezoning request. It is their intent to combine the parcels and what they are showing on the site plan being worked on right now. The site plan has not been approved.

Mr. Franco asked if the access to this building will continue to be through the existing gravel road.

Mr. Kilmer replied the gravel road is another complication with the site plan they really did not want to get involved with in the zoning hearing. The gravel road, Rio School Lane, is required to be brought up to VDOT standards. It does not meet VDOT's standards right now. They are working on engineering the gravel road and working a way through to be able to do that. However, the actual access to the lot has been approved from another site plan amendment on the church property about two years ago when they started using the building. They have been using the building for over two years for Sunday school. The primary access is from Huntington Road behind the church and will remain the primarily access to this lot. This building and lot is an accessory use to the church facility and parking.

Mr. Morris asked does that road go between the church and the house.

Mr. Kilmer replied no, it was on the other side of the house and goes between the Rio School House Thrift Shop and the DeButts' strip center next door. It runs in between that area. It services the old Associated Steel lot, which is now the church's lot, as well as another lot in the back and the DeButts' strip center. The access services three lots. However, it is non-conforming. On the original site the building was put up in the early 60's and never had a site plan on it. This is first site plan. Therefore, they are doing bio-filters and everything that is needed to bring the site up to current standards.

Mr. Franco pointed out he was contacted by the adjacent property owner and there is some concern about access to his parcel as well. His access is through the shared easement and also comes through a portion of the church property. He really remains a little concerned because the Comprehensive Plan calls for some kind of coordinated development taking place in there. He did not have the advantage of having seen the site plan, but hopefully they are working that out with the adjacent property owners.

Mr. Kilmer said he was in communication with both of the property owners, Mr. DeButts and Mr. VanderLinde who has been before this Commission four or five years ago about this specific problem. He essentially has a landlocked lot back there because the entrance is nonconforming and the turning radius is non-conforming. He has no way out and no way to access the lot. It is like a dead-end lot back there right now. It is the church's intent to work with him in order to help to fund this improved entrance. He is in conversation with him about that right now.

Mr. Morris agreed that was a problem. He invited further comments. There being no further comments, he invited public comment.

Bud Treakle, an attorney that practices law in this town, was present on behalf of Bill DeButts who owns the strip center on Rio Road. The DeButts could not attend tonight and asked him to attend on their behalf. He wanted to compliment everything that the church has tried to do. He also complimented Ms. Grant. The church has a nonconforming use with the existing Associated Steel Building being too close to the property line. This is simply an adjustment of the property lines so that they can rebuild on the same site and utilize the site. On behalf of the DeButts they are happy to see what they are doing at the site. They have also spoken with them about the improvements necessary to School Lane. He was certain they will continue to work with them on that. However, the DeButts encourages the Commission to approve this because they think it is an appropriate decision for the Board to make.

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

Motion: Mr. Randolph moved and Mr. Loach seconded to recommend approval of ZMA-2012-00006 Church of Our Saviour as recommended by staff with proffers.

Mr. Morris invited further discussion.

Mr. Franco said his only concern is there are three parcels that share this under designed or nonconforming road to the back. If that land is going to continue to be developed back there, then there needs to be improvements to bring that road up to standards. It is the same as three residential lots sharing a road and he wanted to make sure that is useable. He is not necessarily saying that is an addendum because he has not seen the site plan. However, he wanted to stress that should be part of the site plan process to make sure that cleans up that road to make it something that is useable.

Mr. Morris agreed that was a good point.

The motion passed by a vote of 6:0. (Mr. Dotson abstained)

Mr. Morris noted ZMA-2012-00006 Church of Our Saviour would go to the Board of Supervisors at a time to be determined with a recommendation for approval.

Public Hearing Items:

ZMA-2012-00004 Avon Park II
PROPOSAL: Rezone 5.262 acres from R-6 zoning district for which allows residential uses at a density of 6 units per acre to PRD zoning district which allows residential uses with limited commercial uses at a density of 3 - 34 units/acre. 32 maximum units proposed for a density of 6 units/acre.
ENTRANCE CORRIDOR: Yes
PROFFERS: Yes
COMPREHENSIVE PLAN: Neighborhood Density Residential– residential (3-6 units/acre); supporting uses such as religious institutions, schools, and other small-scale non-residential uses.
LOCATION: 1960 Avon Street Extended. Approximately 1000 feet north of the intersection of Avon Street Extended and Route 20, south of existing Avon Court.
TAX MAP/PARCEL: 09000000003100
MAGISTERIAL DISTRICT: Scottsville
(Claudette Grant)

Ms. Grant presented a PowerPoint presentation to summarize the staff report.

The applicant is requesting to rezone 5.262 acres from R-6, residential zoning district to PRD, Planned Residential Development District. In order to explain the proposal staff provided the following background. Avon Park II was originally rezoned and approved in 2007 for 31 residential units inclusive of 7 single family detached units and 24 condominiums/ townhouse units. The applicant is now proposing 32 residential units, which are inclusive of 20 single-family detached units and 6 condominium/ townhouses that will also have 6 apartments within them. Without going into too much detail, which is provided in the staff report, the applicant has had some difficulty completing the currently approved project. They anticipate a better outcome with the proposed changes.

The proposed application plan, as shown in the presentation, proposes single-family residential units in a section. The six (6) townhouses with the apartments would be in the middle along with additional single-family detached units. There are a couple more single-family detached units at the rear. The area close to Avon Street Extended is described as an open space somewhat like a park area.

Staff reviewed the approved application plan noting some of the differences and similarities of the two plans. In one plan the townhouse units were more at the rear of the property with a few in the middle. The single-family detached units were in the area closer to Avon Street Extended. The park area and open space are still the same. The plans have not changed significantly.

As described in the staff report, the changes proposed are not very different than what was approved in 2007. However, one of the major issues for staff with this proposal has to do with the incomplete Arden Drive, which is proposed to be the only access for this development. The applicant has provided a proffer that conditions the resolution of Arden Drive on the first Certificate of Occupancy. Staff recommends proffer 5 to be revised to prohibit the applicant from applying to subdivide the property. In its current state Arden Drive does not comply with the County Code. Staff notes there are some additional revisions that are needed to the proffers that were not mentioned in the staff report, but recently have been found as issues that need to get corrected as well.

Staff has identified the following favorable factors:

1. The rezoning request would be consistent with the Comprehensive Plan.
2. The use is consistent with the uses permitted under the existing PRD zoning district and the prior zoning approved on this site.
3. This rezoning request would provide additional residential opportunities for residents in this portion of the County.

Staff has identified the following unfavorable factors:

1. Arden Drive, the only road access for this proposed development, is not completed, has not been constructed adequately, and cannot be accepted into the state secondary system at this time.
2. The proffers need to be technically revised.

RECOMMENDATION

If the proffers can be adequately and technically revised as recommended by staff, staff can recommend approval of ZMA-2012-00004 for Avon Park II with the revised proffers.

Mr. Morris invited questions for staff.

Mr. Loach noted some confusion on his part. On page 5 staff's recommendation is that no further development be approved on or served by Arden Drive until the matter is satisfactorily resolved. He assumed that refers to the proffers. However, staff has stated the proffers need to be technically revised. He asked are the proffers in the report and the ones referred to in the motion acceptable or do they still need to be worked on.

Ms. Grant replied the proffers still need to be worked on.

Mr. Dotson asked in what way is Arden Drive substandard; and, therefore not acceptable to go into the state system. It seemed like any other street when he drove on it. He asked in what ways it was substandard.

Ms. Grant pointed out she was not an engineer. Therefore, the engineers could speak more eloquently to the issues. She noted there are some storm water issues. Several residents who live out there have said when it rains there is a huge puddle of water at the end of the road. Also, staff has had several complaints in conversations with the property owner across the street because of the deterioration and damage caused by the water running onto his property. It is her understanding there are several engineering type items that have not been completed to the road that need to happen. The county has an outstanding bond on the road.

Mr. Dotson said as a follow up question, which he expects the applicant will answer, is if this development were to go forward would that worsen the drainage issue on Arden Drive itself.

Ms. Grant replied without the road being improved she would assume they would be bringing more traffic onto the road.

Mr. Dotson said he could see that it would have more traffic. However, he was trying to figure out if it would make the drainage problem any worse.

Mr. Randolph noted it would be the run off in the road from the impervious surface.

Ms. Grant pointed out it would be hard to say whether that would make a difference or not.

Mr. Dotson said it does not seem that it would. However, he would wait to hear from the applicant.

Mr. Kamptner asked to add a couple more pieces of information. There is a road bond that has been called. If the numbers are correct, he believed it was around $422,000.

Ms. Grant agreed that was the correct amount.

Mr. Kamptner commented the last he knew the inspection and the punch list had not been developed in order for staff to determine whether or not the bond proceeds will be sufficient to complete all of the improvements so that the existing part of Arden Drive can be reconstructed or improved to meet VDOT standards. That is still unknown. The County has not received the bond proceeds yet. The insurance company is pretty slow in releasing funds. The bonds were called in May of 2012.

Ms. Grant noted that it was last year.

Mr. Kamptner said the length of time that has passed is not out of the ordinary for the insurance company. However, that is still an unknown. The condition of Arden Drive in and of itself is not necessarily a reason for the Commission not to recommend the rezoning for approval. But, the way the Subdivision Ordinance is written the condition of Arden Drive may prevent the applicant from getting an approved subdivision plat. One of the provisions of the Subdivision Ordinance requires the principle means of access be either a public street or a private street. A public street, as defined in the Subdivision Ordinance, has to be designed and constructed to VDOT standards. If the bond proceeds are sufficient to address what needs to be done that should not be a hindrance. But, if the bond proceeds are deficient, then there will be a problem with satisfying that requirement.

Mr. Cilimberg said if he understands correctly that would be the case even under the current zoning, which would allow for 31 units. That circumstance is not changed by the new zoning.

Mr. Kamptner agreed.

Mr. Loach asked how the motion would need to be adjusted since the proffers are not acceptable.

Mr. Kamptner replied the Commission can make a recommendation that identifies what the Commission believes need to be revised in the proffers and make the recommendation conditional upon the proffers being revised to address a, b, and c.

Mr. Cilimberg agreed that has been fairly typical in the past for rezonings where the Commission has made recommendations to the Board with the expectation that certain things have to be addressed before the Board took its action. However, it is up to the Commission if they feel comfortable in moving the rezoning request forward.

Mr. Randolph said he liked the paragraph that staff put in under the proffer section in conclusion because it is very clear. He appreciates staff spelling that out so specifically. Regarding Mr. Loach's point in terms of the proffers, it is very clear as to what is expected out of the developer. Specifically, the applicant has offered a proffer that states no certificate of occupancy will be issued until the drainage issues related to Arden Drive have been resolved. So they can build it, but they can't sell it and people can't live in it until they address the drainage issue.

Mr. Loach said if there are additional conditions to be worked out by staff he wanted to make sure it was part of the final motion.

Mr. Morris said it specifically states that prior to any certificate of occupancy these changes have to be made and staff recommends prior to the issuance of any building permit.

Mr. Cilimberg noted actually what Ms. Grant had mentioned in lieu of the certificate of occupancy was there would be no subdivision plat.

Mr. Franco asked if what Mr. Cilimberg was saying is a requirement now.

Mr. Kamptner replied it is in one of the sections in the Subdivision Ordinance.

Mr. Franco asked if they are proffering to follow the ordinance with this condition.

Mr. Kamptner replied yes and that it also solidifies everybody's expectations. Certainly the building permit or even the certificate of occupancy creates an expectation that they can do everything up to there, but if they cannot satisfy this particular section of the Subdivision Ordinance they cannot even subdivide the property in order to get the units built.

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

Vito Cetta, developer and architect for the project, agreed with the staff report. They seemed to have gotten stuck in the middle of the issue about the entry road and they don't contribute at all to the water problem. There is a ton of money, $430,000, to fix the problem. They will do whatever is necessary to get the rezoning approved. However, it seems like a lot of money and he did not know why the road problems are not getting resolved. He would like the entry road not to be there; however, if it has to be there then it has to be there. They did meet with the neighbor who lived across the street, who is the one suffering from the water overflow. However, it seemed that with $430,000 that problem should be able to be solved. He wrote a letter to the property manager of Avon Park explaining the project. He can only assume the property manager forwarded his letter to all the residents, which said it is not open to a hearing, but he would answer their questions if they have any. He had not heard from them. So he certainly does not know their attitude about this. However, the new proposal is very similar to what has already been approved many years ago.

Mr. Cetta pointed out he had developed about 8 or 10 projects in the County with most of them being Neighborhood Model. He thinks the County should be very pleased with what has happened over the last 15 years with the Neighborhood Model. The main goal was to try to avoid building subdivisions like they had in the past. However, the Neighborhood Model has certainly worked. If they look at Garth Road starting at Georgetown Road or look at Route 250 starting at Boar's Head and drive west on both of those roads, those streets look the same as they did 20 years ago. There is no development along those streets. It is primarily because of the Neighborhood Model. They are country roads and look wonderful. They are going to be wonderful for a long time. He pointed out that Route 250 west goes to Crozet, which is a different story because it is part of the growth area. They should be proud of the communities in Crozet, such as Old Trail and Wickert Pond, which were built using Neighborhood Model principles. The affordable housing was provided. They now have 104 families living on land that 30 years ago would have had 5 families, which would have been eating into our country side. The property across the street from Wickert Pond is not in the growth area and has big farms. The contrast makes it looks super. He was proud of it and the Commission should be very proud of what they have done.

Mr. Morris invited questions for the applicant.

Mr. Kamptner pointed out he had advised Mr. Pohl, who is an employee of the County, that he has a conflict of interest. Therefore, he is disqualified.

Frank Pohl explained that he prepared the plans for Mr. Cetta before he joined the County; and, therefore was going to comment on the plans. However, he would not speak due to the conflict of interest.

Mr. Morris invited public comment.

Ric Barrick, resident of 1932 Tudor Court in Avon Park, said he appreciates having the opportunity to speak on the proposed Avon Park II project that directly affects the community. As they know, the

existing entrance to Avon Park I will serve as the only entrance to the new development. He is on the Board of Directors of the Homeowner's Association and was here on their behalf. The plan for this dense development calls for an entrance within the original Avon Park community, but by an entirely different developer, which they certainly understand that.

- Their community was built and opened in the 2006 to 2008 time period. As they can imagine it has been through a great deal of price adjustment. With the bankruptcy of the developer, Barry Meade, many issues have come up. However, they are happy to stand here today in 2013 and say they are a complete community. The last house was built last year. Unfortunately, the roads are not acceptable yet. Therefore, that is a challenge they are dealing with. They are still battling with the insurance company to receive crucial bond monies to complete several needed infrastructure projects, which have safety and environmental implications for our community. He thanked Mark Graham and his department, as well as Ms. Grant, who have been really upfront and have kept them in touch with the developer. He met with them earlier this month and they explained a lot of the process.
- They have some serious concerns about the development of a separate community that is accessed through Avon Park I without the ability for them to have serious input into the infrastructure implications, the scope, and the makeup of the new community. The challenges they currently have, and most importantly if not planned appropriately, will threaten the safety of their community. There are a significant number of children and pets who have become accustomed to using our streets and green spaces to play safety.

Mr. Barrick noted the main concerns of the neighborhood as discussed in a community meeting are, as follows.

- The connectivity is a major concern for the County. They do have a concern that the entrance off of Hathaway will be the only one into Avon Park II. As he indicated it would affect not only the noise level but also the safety of the neighborhood with so many families. They would like to ask that the intersection of Arden and Hathaway be a three-way stop.
- They currently have many challenges with erosion caused by the way the community was built using faulty design and insufficient landscaping. The main retaining wall coming into the community was not built to County standards and they believe was not inspected properly during construction. They feel this new community would contribute to the erosion problems.
- Given the evasiveness of this development and the proposed zoning changes they are considering tonight to increase the density they are respectfully asking the Commission to carefully consider the application as originally approved in the community. Lastly, since there are a lot of folks here tonight he would ask everyone in Avon Park to raise their hands to show their concern. (There were approximately 20+ persons.) They look forward to working with the county to make it a site for a nice community.

Linda O'Connor, a homeowner at Avon Park I, said she had a couple of issues about the proposal, as follows.

- The old plan approved in 2007 had fewer single-family homes to be built or occupied at that time. There certainly were fewer voices to be able to talk about that particular plan at the time. As Mr. Barrick said, they currently have some safety issues with the children playing on Arden Drive, which will even get worse with the traffic to Avon Park II. As a result she would prefer that Stafford Way connect directly with Avon Street Extension so there would be two entrances to avoid the congestion and increase in traffic.
- With the new zoning they are allowing churches, schools, and small non-residential facilities. Although not currently planned it would be a minor planning change to add a church. She certainly has no problem with a church. She was concerned that such a facility won't have direct access to Stratford Way from Avon; and, therefore would create extra traffic along with safety and noise issues. The safety issues would involve all of the children. Also, the new zoning allows less setbacks for denser single-family homes that are planned. So the homes at the top of Arden Drive, in particular, will have much less privacy. The new setbacks on the plan don't appear to allow for trees. One large fir tree will not provide any kind of privacy.
- A particular concern is the placement of the single multi-family homes or the townhouses with the apartments underneath, which is actually on a rise. Behind 1165 would actually be on a hill. This particular structure would tower over most of Avon I and block the view to Carter Mountain for all

the homes on the other side as proposed today. Therefore, it would be somewhat of an eyesore plus the fact that it is less of a setback. The other issue is that the previous plan proposed apartments. Now it is 3 townhouses and 3 apartments, which she thinks is fine. However, it is many more people since 10 houses will allow more families. It is a higher noise level and will affect all the single-family homes at the top of Arden Drive as well as some of the townhouses. She would prefer to move it down further on Stratford Way.

Terra de Cardenas, resident of 1159 Arden Drive, said her house backs up to the proposed developed and she had the following concerns.

- Like many others in her community, she is concerned about Arden Drive having to sustain more traffic. She is already concerned about the children who play on Arden Drive and in the alley between the town homes and the single-family detached homes on the north side of Arden Drive. There is a lot of traffic that comes in through that one block. The children play in that area and she constantly has to go outside and ask them to be careful because the cars cannot see them coming up that curve. To have a lot more residences built off of that road is just going to take away from her whole day. Adding any more residences off of this road does not make it comparable to any of the situations she sees in the neighboring subdivisions off of Avon Extended and south of I-64. Nowhere is there one single block that has an entrance to so many homes in such close proximity to one another. They feel this added traffic jeopardizes the safety of the community. While an additional road off of Avon Extended would be expensive our community's safety is priceless.
- She voiced opposition to the rezoning of this area because it would allow for non residential buildings. While that is not on the table at the moment it certainly could be considered in the future and would create major traffic issues on Arden Drive. They already have parking issues and continually have people parking right in front of their house. In the information received from Ms. Grant there are several references to the concept that this new plan is in keeping with what is already there. She did not believe that the development being proposed behind their neighborhood is at all comparable. The original plan is more comparable to the Avon Park I development and with some changes would be much more palatable than the development being proposed at this time. Understanding the developer wants to build more single-family homes, she suggested an optimal plan would be to have single-family detached homes that are similar in size and lot size to what they are backing up to.
- The space in which there are now 15 homes in Avon Park is almost exactly the same as the area in which the new homes will be built. If there were 16 homes built on this proposed area instead of 32 it would be more comparable to the single-family homes that back up to this development. They purchased their home under the assumption there would be one house behind them and there would be more distance between the two houses. In the new plan there will be two houses located behind them bordering their property line. There will also be the three townhomes and three separate apartments. That means they will have eight families kind of feeding into their back yard, which was not the way they envisioned it when they bought the house. The houses will also be built closer and there will be a lot more congestion. She has some health issues in her family, which she has explained in a submitted handout. (Attachment C – on file with the printed minutes in the office of the clerk) When they moved into this house there were a lot of issues to deal with because the house was standing for two years. Due to health issues they will have to move out of this home when the construction starts. Therefore, she was asking not to have the additional density so they are able to sell their home and it is comparable to what their home value would be.

Corinne Lauer agreed with everything Linda O'Connor and Ms. Terra de Cardenas said. She was really concerned about the children because Arden Drive comes right around on Hathaway. There is a severe curve where they cannot see the children playing. They are enjoying the community they are living in. It would be terrible to see extra traffic going down Arden Drive since it would ruin the community.

Dennis O'Connor, resident of 1165 Arden Drive, asked to reiterate three of the points his neighbors brought up. First, he thought it was more appropriate to have the multi-family units at the end of Stratford Way for the new road rather than in back of single-family homes. Given that the new development is intended to be very similar to the existing development he suggests having the single-family units

adjacent and the multi-family, which the community does not have now, all the way at the end of the road. Secondly, he would ask the setbacks be no smaller than the original plan. As he sees the new plan it appears the setbacks are less. Given that he would back up against one of these homes he would like it to be at least what it was originally planned to be. Third, for the issue of traffic and safety he would like to at least consider the possibility of extending the new road down to Avon so there are two entrances and exits into the community.

Gary Brooks said he was one of the three property owners that own the entire south side of Avon Park II. They don't have real discrepancies about the revised plan other than the old plan had a privacy barn type fence all the way down to provide privacy. They don't have traffic using their driveway, which runs right beside this property. They would like to see the fence go into the revised plan. They had a waterline in case it was disturbed because they have a very small amount of water in the wells out there. So anytime they see drainage on a property they have concerns with their well. Therefore, they wanted to see a waterline extended over to their property. At one time there was going to be a waterline on Hathaway and one down below there. However, there was a question about Hathaway. They would like to see that continued. They did not have a clear view of where the drainage would be. However, they could not stand any more drainage coming by their driveway. They are already taking water off of that property and the road, which was contributing just as much. The drainage was washing out their driveway and sometimes it cuts a path along the state road. He understands from the sheet he got from the County that the contractor would be willing to put this over on it. However, it has never been confirmed to move what he just brought up over on the revised plan. They would surely like to see that stay on this plan.

John Brooks said his house is the old school property that faces Avon. He would like to go a little farther with the storm water problem because anybody can come out and look to really see what it has done. It has already ruined the drain going under the driveway. He has picked up so much debris that it has filled that up, which he cannot clean. He heard talk about a road going into Avon there, which he would be against. If they are going to have a park there they cannot have a road going up there. It is going to end up being a place to drink beer, take your drugs and all of this stuff at night time. There will be nothing down there to stop it. If they are going to have a park at Avon Street the road needs to stop there. Nobody needs to come off Avon Street into the park because it would be a disaster. They are having trouble with people coming on site now with the lot being empty. The applicant said they would put shrubbery along the fence beside our property that would reach a height of 10'. It would give them some privacy and a blocked view. He wanted some privacy from the park just like he had now. He did not have any problem with what they are doing there, but just wanted to keep some of his own privacy so they still feel they are living in a little country area.

Candace Besherse, resident of Avon Park I, agreed with the sentiments previously expressed by fellow residents this evening to the Commission. Her primary concern was Arden Drive. The safety concerns have already been expressed. There is a bus stop at the corner of Avon and Arden. She envisioned construction vehicles coming through with the children there. Arden Drive is a steep and curvy road. She has never been near construction where the road has not been closed down at any portion of the day to allow for the large construction vehicles to navigate into a construction site. It is the only road into their community. Earlier this evening it was mentioned that any future development road conformity would be conditioned upon certificates of occupancy. She respectfully submits to the Commission that is ineffective in order to enforce conformity because it transfers the burden from the developer or the builder to that potential buyer. When buying a house getting of the keys and the signing the documents is the last and final step. There has already been for most purchasers an extensive process involved before that. The person that is in the best position to ensure conformity is the builder and the developer. She would respectfully request that if any building should go forward that the building permit is conditioned upon the conformity of Arden Road.

Robert Spauls, resident of 1940 Avon Street, said that Avon Park I is essentially an L shaped piece of property. Avon Park II forms a U with the L shaped piece of property. He owns the piece of property in the middle of the U with the bottom of the U being Avon Street. He made the following points:

- According to the current site plan there is a storm retention pond to be built on the east side of Avon Park II. He would like to think that would be built much better than the one that exists on

the north side of his property on Avon Park I, which is essentially a hole in the ground that is not maintained in any fashion.

- There is a last line of evergreen trees on the south side of his property, which is on the property line with Avon Park II. He would like to assure that those are not disturbed.
- There is another line of hard wood trees that are to the west of that up on the hill. The whole piece of property is just a big hill. That is why there are storm retention problems, drainage problems and mud in addition to just water flowing down that property. His property has been flooded out three times by mud from Avon Park I. Barry Meade did an incredible job of trying to solve that problem. But, he was afraid they might be developing more because he would like to see more detailed plans on how this storm retention pond is going to be built on the east side of the property next to Avon Street.
- He would not like to see another entry into Avon Park II as that would create two entries to the north and south of his property. He would not like to see that hardwood stand that is on the south side of his property on the north side of Avon Park II disturbed. It was not going to be disturbed in the first site plan. But, the current site plan has a note that says trees can be taken down at discretion of the property owner, which in his mind is they can take them all out if they want to. Those are his concerns. According to the first site plan there was to be a pipe line of County water built to his property line in case he had a problem with his well. As Mr. Brooks pointed out the wells they rely on for water are not in the best of shape and certainly Avon Park I and Avon Park II have not done anything to improve that and certainly has been very detrimental to it. He would like to ensure that remains there.

Mr. Smith asked Mr. Spauls if the trees are on his property.

Mr. Spauls replied the trees were right on the property line. He had lived on the property for 28 years. When Mr. Thomas bought the property he wanted a line of trees. He planted the trees there and thought they were on his property line. However, he found out they were right on the property line. It is a matter of dispute. They are not going to pay the money to have a survey done to decide if one-half of the trees are on his property. They just want the trees to stay there.

Avery Cedar, resident of Arden Drive, said he and Mary Lewis had concerns about the request. He said the speakers tonight have done a great job of describing what is wrong, particularly the traffic problems on the road when doubling the number of people living right behind them. There is an element of this story that has been left out, which is the aesthetics of living there. If they want to see the mountains in Albemarle County where do you go to see them? It is Free Union. What does it cost to live out there? Millions. If they want to see pretty landscape one would go to Keswick. What does it cost? Millions. If you want to see the mountains as an ordinary person where do you go? It is Tiptop at Pantops. The developers open the view. Inside all of these areas there is one more area that the developers opened and it is this little neighborhood. This little neighborhood looks over at Carter's Mountain, which is a completely undeveloped little valley. It is the last corner in the whole County where you can look at a mountain. In Charlottesville one cannot see the mountains unless you go look for them. In our neighborhood you can see the mountains.

Mr. Cedar noted they can also see the drainage pond incomplete. It is not a pretty little water place. It is just a hole in the ground filled with mud, which is the first thing you look at. The next thing is a tip top plateau of land up in the townhouses, which is just a rough patch of grass. The next development is coming in while the first one is not finished. The first one has these little eye sores that include rain water rushing down the road and the drainage ditch behind it. It will soon include heavy trucks riding up the hillside, clamoring, pounding, bulldozing, knocking everything down, and cutting down trees. What will they achieve but to thicken up the view and crowd everyone? It will create noise and traffic. There has to be a way to alleviate that. If one-half a million dollars is a great deal of money to fix Arden Drive, then why not just build another road. Biscuit Run is coming in behind them. Perhaps there is a way to bridge these properties and take advantage of the state building an entrance to Biscuit Run. Certainly the value of life is the intangible that you can't put a price on. But, it is what brought everybody there. He hoped the Commission would help protect the integrity of the last great view in Charlottesville.

James St. Hill, of 1130 Arden Drive, pointed out the beautiful Mountain View was what drove him to live here. He loved that view. His two primary issues of concern were linked to the safety issue. There was some talk earlier with regards to the drainage issue. It is going to be the same whether Avon Park II continues on as proposed or whether it does not. That may be true, but if the drainage issue is not taken care of there is extra vehicle traffic that is still driving through that standing water. Therefore, they still need to address the additional traffic from a safety context. There are many families in the development with young children. He has spent some time telling children to slow down when there is a car coming around that corner. Children don't see what adults do. They need to be concerned as they look at this planning process to be diligent and vigilant stewards of the children. He hoped they keep in mind this safety issue that the residents of Avon Park I are extremely concerned about. He asked the Commission to take it under advisement as they consider the request.

There being no further public comment, Mr. Morris invited the applicant for rebuttal.

Vito Cetta said this land is in the growth area and has been designated for this. The growth area stops a couple hundred feet south of this property. It is obvious when you live in Avon Park the last thing they want is more homes being built. It is the same as when Avon Park was built initially. The people around it did not want to see new homes. There is very little to be gained by a resident to have more homes built. But that is the nature of growth. There is really only one way to get to the site, which is coming through Avon Park because it is quite steep. Avon Park was built with two interconnected roads and one goes to us. In fact, our property also has a road continuing to the south in case that gets developed. They can absolutely be assured the engineering department is not going to solve all the drainage problems. However, they know what they are and they have to be engineered properly. The pond that was built as part of Avon Park initially was never completed. The builder went bankrupt, as they know, and the work needs to be completed, which might be part of the bond.

Mr. Cetta said there is a fence that goes along the south property line that the neighbor has suggested. They are offering two parks. They offer about a third of the property as a big park. There is an existing park in Avon Park as well. These are high density projects. They are going to have children. This is an urban area and not 5 acre or 3 acre sites. They are very small lots. People just have to be careful with their children. He can appreciate that, of course. The detention will certainly be resolved. They know that. They have some hardwoods and their note on the plan says they will do the best they can to preserve them. He thinks they will meet with that neighbor to make sure those are preserved because they are not grading in that area that he had mentioned. They are going to extend the water line to the property to the south. The views really are to the east on that site and they are not blocking the views. They get the same views that they get. There may be some interference with that, but he thinks very little. The views are not looking across our property, but are looking out towards Avon. He thinks the proffer that Ms. Grant was talking about changing is this issue of when they can pull a building permit or when they can have occupancy. He asked if that was the only issue she was talking about.

Ms. Grant replied there were some technical issues on some of the other proffers, which were other type of things.

Mr. Cetta said they were generally willing to do whatever is needed on the access.

Mr. Morris invited questions.

Mr. Dotson said as he was listening he jotted down a few notes. Several people had concern over the construction vehicles. He asked if Mr. Cetta had any response to that.

Mr. Cetta replied there is just one road and he was sorry to say they can't do much about that. He appreciates their concerns, but there was nothing they could do. There are regulations about keeping the road clean and washing the tires, etc. But, there is going to be traffic unfortunately.

Mr. Dotson asked if it was not feasible during construction to come off Avon.

Mr. Cetta replied no, it was too steep.

Mr. Dotson said somebody else commented about original setbacks. He asked if he could explain the change in setbacks.

Mr. Cetta replied frankly he did not know. He did not know if the setbacks were any different. Mr. Poole may know, but he did not have the answer to that.

Mr. Randolph said he heard him say that he viewed the property as being in an urban area; and, therefore has urban features.

Mr. Cetta replied yes, that he said that.

Mr. Randolph noted in an urban area usually there is interconnectivity of streets. He did not see any interconnectivity of streets. He sees a dead end that branches off in two different directions. If Mr. Cetta was preaching that this project is in an urban area and it is an urban related project shouldn't it have better interconnectivity than just coming in through Arden Drive?

Mr. Cetta replied if they see the plan in Avon Park you climb up the hill on Arden Drive. Then there is a spine that parallels Avon, which is probably 35' or 40' above it. It climbs a hill and runs south to our property, which is the interconnected road. On Avon Park it also connects to the north if that property ever gets developed. So it is interconnected. There really are no other possibilities for interconnectivity.

Mr. Randolph said unless the road goes out to Avon Road Extended there would not be interconnectivity.

Mr. Cetta said that was possible. However, it is just too steep. The grading is much too steep to get another road in.

Mr. Randolph said currently there is a driveway that goes back and climbs about 80' to 90' as shown on attachment 8, page 8. The road would only need to go 30' more to cover all the way to the top. So it seems that there is a road there and the only thing missing is the connection of that road to Avon Street Extended.

Mr. Cetta asked if he was suggesting this road extend down to Avon.

Mr. Randolph replied yes, he was looking at about 20' of a drop off to connect it to Avon Extended.

Mr. Cetta said he was not sure what he was looking at, but he would be happy to look at it with him. They would be happy to extend the road down to Avon. However, the engineering department won't allow that for sure. If it can be done they would be happy to do it. However, he did not think it works because the grade is simply too steep. He would have to look at it more carefully.

Mr. Franco noted that he would be careful about confusing driveway grades with road grades. There is a driveway there and driveways are allowed to be up to 20 or 16 percent in the County. Since this was done prior to that Code it might be steeper. A state road is 10 percent. He said it is not as simple as saying connect the dots.

Mr. Smith said he would be willing to bet that these driveways were built before there were any restrictions whatsoever.

Mr. Randolph agreed.

Mr. Cilimberg said they don't have the width of the property to do what was done in Avon Park, which is to actually bring the road in and curve it up the hill to use the grade. They just don't have that width in this property. So he did not think they were going to get a road that meets any standard acceptable to VDOT between their developed area and Avon Street. It is just not going to be feasibly available.

Mr. Randolph asked even if the road was to snake.

Mr. Cilimberg replied that the road does not have enough room to snake because they are going to run into horizontal curvature issues. If they had more land north and south they could potentially put something in. However, that is not under their control and restricts their ability.

Mr. Smith asked if he had already addressed the hardwood tree issue.

Mr. Cetta replied yes. They are going to meet with the neighbor. Our note already says they are going to be careful on what they selectively prune from that area. The problem with trees is if they grade around them they will kill the tree. That happens to be an area they are not grading.

Mr. Smith said that it does not look to be an area where they have to do any grading, and Mr. Cetta agreed.

Mr. Smith noted on the uphill side it says double sided vertical board fencing. It comes down from the back of the property to the street, and then it switches to a three board farm fence according to plan. That does not give the neighbors the protection that they may want.

Mr. Cetta replied he believed where there was no three board fence there were no homes. There is a park there. Where there are homes they have a solid fence.

Mr. Smith pointed out when there was noise in the park it comes next door.

Mr. Cetta said he did not think that would be necessary, but they can certainly do that if it is required.

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

Mr. Loach said some of the neighbors talked about swapping the multi-family to the upper part versus the lower part.

Mr. Franco asked staff to put up the original application plan

Mr. Cetta noted the left half of the plan is all attached housing and the right half a few single-family houses. The view is toward Avon and he did not understand what someone's concern is frankly since their view is to the right and not necessarily towards this development. He thinks the buildings are in the right place.

Mr. Morris commended Mr. Cetta to continue to work with the neighbors and discuss things if this moves along. However, he has done a lot of that already.

Mr. Cetta noted they would have the community meeting, and Mr. Morris replied that would be wonderful so the residents can see how it is going to actually be if it goes ahead.

Mr. Morris invited further questions for the applicant.

Mr. Dotson asked, in summary, what are the reasons he wants to change from the current zoning to the proposed zoning. It is gaining one unit, which he understands. However, what are the other motivations?

Mr. Cetta replied it was because there was not a market for townhouses here. Avinity is a large community up the street that is all townhouses. They certainly hear from builders there is clearly a need for single-family detached and there are not any in this area. One other minor thing is if you look at new communities with single-family detached units with back yards it is surprising how little backyards get used. When they were kids backyards were a big deal. However, backyards don't get used now. As a result the lots are smaller and smaller and perhaps the communities rely more on the open space for their recreation. So these lots are quite small, but the houses are kind of cute with big front porches.

Mr. Morris said the rebuttal period has ended as is the public hearing public comment. The matter was before the Commission for discussion and action.

Mr. Franco said he was still puzzled on some things. He asked on this application plan how many units are shown.

Ms. Grant replied 31 units.

Mr. Franco said on the original application plan he was trying to understand the original density and the proposed density. The original approval was for 31 units and they were going to 32 units. He noted he could not count 31 units on the original plan.

Mr. Cilimberg noted there were 16 units on the left side of the road coming through. There were more townhouses on the right and from there possibly some duplexes and then single-families. It totals 31 units.

Mr. Lafferty asked if the technical issues are just typographically errors and things like that, and Ms. Grant replied yes.

Mr. Cilimberg said with the exception of the one suggestion regarding the proffer that it would be referencing no subdivision plats versus a certificate of occupancy.

Mr. Franco noted that is the one that gives him the most concern. There is a process that includes the bonding, which he understands they are in that process. But, he was not sure why they have not resolved this yet. He understands there are some difficulties. However, if he was a resident in phase one he would be as concerned about that as the new development coming in. They were promised public roads and they don't have them yet and that was what the bond was supposed to do. He was not sure when the original developer went out of business, but it has been a number of years and they are still dealing with this. He noted that it has been four or six years.

Mr. Cilimberg pointed out the bond was called in May of last year. He suggested that Mr. Kamptner might want to speak to that process.

Mr. Kamptner said that was about all he knows with respect to that. He did not know what the punch list says and that the county engineer has not done an estimate of the cost of the improvements yet. He must have some idea, but he did not know. He asked if staff checked with Glenn Brooks today.

Ms. Grant replied yes, that she spoke with Mr. Brooks. He has a list that he just recently submitted that says all the various things that are still waiting to be done. There is not an estimate in terms of the cost.

Mr. Franco said he was concerned about adding that as a condition in here regardless of whether it is too expensive or more than the bond amount or anything like that. It has to get done and the public guarantee of that being done is the bonding process. He hates to see the adjacent property owner dragged into that situation and held hostage or to have to contribute to the original issue financially when that is the process that we guarantee. He did have concerns about that aspect of it.

Mr. Loach asked would that depend on whether the bond was predicated on both or just the first one parcel.

Mr. Franco said his understanding is that bond would be for the improvement to the one road, Arden Road, and it does not really matter because it was supposed to be a public road. This development is attaching to a public road. So it should have covered all the improvements associated with that as well as the storm water basin and some of the others things that were brought up. The development can move forward the way the developer wants to. But, he would be concerned that it is an opportunity to push it off and sort of get somebody else involved. He really wants to see this resolved quickly because that is what they promised to the residents.

Mr. Loach said his point was this section was not part of the total development plan in the beginning. Now it has been separated out because of the bankruptcy.

Mr. Cilimberg commented there was a different developer for Avon Park II than the original Avon Park.

Mr. Kamptner noted they are not suggesting that this applicant is going to be responsible for completing Arden Drive. They are just saying that the subdivision ordinance, if there are insufficient funds and the road cannot be designed and constructed to VDOT standards, the subdivision plat for this particular project can't be approved under the language of the subdivision ordinance. A proffer is not really required in that case because the ordinance does speak for itself.

Mr. Dotson said a note to the effect that the subdivision ordinance will apply would be sufficient and it does not have to be a proffer.

Mr. Kamptner said this is not the first project where this issue has come up. So they are dealing with it. They found a solution with the other one with a different point of access. The proffer in this case is not essential.

Mr. Smith said what he was saying is if the current developer does everything right he is not being held hostage by phase I.

Mr. Franco said that is not what he is saying.

Mr. Kamptner commented the subdivision plat for phase II will not likely be approved if Arden Drive is not meeting the requirements of a public street.

Mr. Cilimberg said that would be with or without this rezoning. They already have zoning for 31 units and if a plat were to be submitted for that without this rezoning for the current zoned area, it could not be approved.

Mr. Smith said that he is being held hostage until phase I is satisfied. He thought that was a county responsibility in his way of thinking.

Mr. Kamptner pointed out the subdivision ordinance and State law both say the completion of these improvements is not the obligation of the County. It really is the obligation of the developer. In this case because the developer is no longer here it is going to be the bond. If the bond funds are insufficient to cover the cost of whatever work needs to be done to complete it, then they will have to figure out another solution.

Mr. Smith said they don't know about the bond funds because they have not gotten the estimate yet to do the repairs.

Mr. Lafferty noted they just have a punch list. However, the applicant is not being held hostage because it is a risk that he seems to be willing to take.

Mr. Dotson noted this was a slightly different point. Again, listening to the testimony from the residents, a couple of people said that they were concerned this would open the door to non-residential uses. He asked if he was correct that the only uses that would be allowed are those shown on the plan.

Mr. Cilimberg replied the uses have not been either proffered out or proffered in as to what they could do under the planned residential development. The buildings that could be built are those shown in this plan. The uses that could occur in those buildings if these buildings are not stipulated for a particular use may be some of the other uses available. In reality the use of these buildings is going to be somewhat determined by the type of building built. Whether there needs to be a proffering of uses in this case depends on whether they feel the units that could be built have the potential of being used for something other than single-family and townhouse with the extra affordable units. The affordable units are actually

specified and proffered. There is not a building here that could accommodate what they would normally consider to be a church, as an example.

Mr. Morris said what he gathered as the concern was the open area and the use of that recreational area at night and not the residential units itself.

Mr. Franco replied that he heard separate issues. One is that the uses that could go into the lots that are shown could be non-residential in nature. Secondly, there was a concern about the control of the park and activities within that park.

Mr. Smith asked if that was any different from what they have in section one right now. He asked if they could turn one of those into a church.

Mr. Cilimberg replied that they could.

Mr. Franco said realistically any non-residential use would need to have parking and other things that are shown on this.

Mr. Cilimberg commented that is why he said realistically the possibility for other uses is pretty much limited by the lot size. The open area shown for recreational purposes could not turn into another use. That is being specified in the application plan.

Mr. Franco said it would be simpler if there was some kind of proffer to eliminate any concern for the others, but it is really not necessary because in all practicality it cannot occur. He asked about the setbacks and if the separation between the units in phase I and II changes between application plans. Was there fencing that was changed in any way?

Mr. Cilimberg said he was asking about the relationship of the units under the current approval to the adjacent units in Avon Park II.

Mr. Franco said he knew the units got arguably smaller and that some of the density got rearranged. But, did the units get closer?

Mr. Cilimberg replied there was a building setback line now of 20' for the rear side of the single-family lots and 15' for the side of the townhouse lots closest to Avon Park. That is on the current plan that has been submitted. It is showing a 20' building setback line for lots 1 through 4 and 21 through 24 next to Avon Park and a 15' building setback line adjacent to lot 9 and 10 where the townhouse is.

Mr. Franco said potentially the townhouses have moved 5' closer to the existing residences because it is a side yard.

Ms. Grant replied the setbacks in the approved plan was not really that much different than what they have currently. She believed the setbacks were 20'.

Mr. Franco said that they were probably the same setbacks, but simply because they have a side yard now it is potentially moved a little closer. He asked was there any fencing or anything like that as part of the original plan. He did not see a proffer to that.

Ms. Grant replied there are some notes on the approved plan that refer to fencing on the south side of the property, but not the north.

Mr. Smith said the fence issue comes back again to bother him because if he was Mr. Brooks and lived next door to the park and they build a three board fence that does not stop any children from investigating next door. So it is not a privacy fence. It does not protect the neighbors.

Mr. Loach pointed out the applicant said he would provide fencing as required.

Mr. Smith noted they have good fencing to the west. The applicant did not totally commit to the providing the fence towards the park.

Mr. Cilimberg suggested if the Commission was recommending approval, they could recommend that the double-sided vertical board fencing be extended all the way to Avon Park as part of their recommendation.

Mr. Smith said that he would so recommend.

Mr. Franco said in general he did not think it is appropriate to buffer similar uses. They are both residential. However, he understands about the privacy. He felt personally if they are going to try to screen and hide it he would prefer that landscaping be put in because they don't really have to maintain trees as much as fencing. However, again with residential to residential they are buffering the same use.

Mr. Smith pointed out it was small lot residential to large lot residential.

Mr. Cilimberg noted actually in that area it is the recreation area next to residential. He thinks the lots are bordered by the double-sided vertical board fencing.

Mr. Smith said it was up at the top, but not down at the bottom where the park is located.

Mr. Cilimberg agreed it was not on the park side.

Mr. Loach asked if it could be proffered to be worked out between the neighbors and the applicant before getting to the Board. The applicant said he was going to meet with the neighbors. He also heard residents say they would prefer trees.

Mr. Cilimberg said there are trees shown on the plan, too, as they will see. There is some planting.

Mr. Smith noted the trees don't keep the children out.

Ms. Grant pointed out the fence was noted in the approved plan as well.

Mr. Franco asked if the fence was in the same location, and Ms. Grant replied yes.

Mr. Morris invited further discussion.

Mr. Franco said he wanted to make sure he understands the issues they have talked about that are on the table right now. He asked if the three issues they have really talked about are as follows.

1) Potentially it is the use and trying to eliminate some of the uses that legally could be placed in there.
2) There is still the question about the bond and the existing improvements.
3) The fencing and the landscaping is the third question before the Commission.

Mr. Loach said the bond was a non issue because it would not matter under what condition at this point.

Mr. Franco said those are the three issues they really talked about.

Mr. Loach agreed with Mr. Franco on the bonding. As Mr. Cilimberg pointed out it would not matter if they were using the old or new plan since the bond condition would be the same. However, he agreed with Mr. Smith on the fencing. He asked if they want something specific on the uses.

Mr. Franco pointed out Mr. Cetta indicated he would be willing to continue the fence as a boarded fence. He would like to ask him to come back up and make sure he understands what he would proffer at this point.

Mr. Morris invited Mr. Cetta to address that question.

Mr. Cetta said they were prepared to do whatever the neighbors feel comfortable with. He agreed with Mr. Franco that a three-board fence along that park is really a nice look. If the neighbors feel that needs to be adjusted, they are wide open to it.

Mr. Franco said he was just trying to figure out how to commit that. He asked does that have to be decided today or is everybody comfortable with that being something that is left hanging.

Mr. Morris pointed out the request would be taken before the Board of Supervisors.

Mr. Franco suggested that it be resolved before the Board of Supervisors meeting. If the Commission feels strongly about the fencing needing to be a privacy fence, then now would be the time to express it.

Mr. Loach suggested they could put it in as a recommendation. However, since it is only a recommendation when he meets with the neighbors he can change it.

Mr. Franco asked if he needs to meet with the neighbors between now and the Board meeting.

Mr. Morris replied absolutely because the Planning Commission's action is only a recommendation to the Board.

Mr. Franco said he understands since it is a proffer to eliminate uses they can make the recommendation that only residential uses be allowed here.

Mr. Morris said he would be comfortable with that simply because of the size of the lots and so forth.

Mr. Franco asked if the applicant wants to verify that is his intent.

Mr. Randolph asked if he is talking about only residential uses in the open space.

Mr. Franco replied no, it was in the development.

Mr. Morris said he was assuming the applicant agreed because he was nodding.

Mr. Franco said he thought they could consider that as a proffer.

Mr. Cilimberg said he would also ask that it would be subject to staff's work with the applicant between now and the Board hearing to make sure that unintentionally there is no use being proffered out that ends up needing to be there for public purposes.

Mr. Morris said that would be great.

Mr. Franco said at this point he would like to make a recommendation. He asked if there were conditions.

Mr. Cilimberg replied that there are only proffers. He did not know if this is what he wanted his motion to reflect. However, what he has heard mentioned is that the 5th proffer regarding Certificate of Occupancy or replacement proffer regarding plats that they don't feel is necessary because the platting is already a requirement of our Subdivision Ordinance. He was thinking they don't feel the need for that fifth proffer. That is what he is hearing. In addition to that they are asking that beyond the technical fixes to the proffers that the applicant work with the adjacent neighbors regarding the fence type and that the applicant also provide a proffer restricting uses to those that are residential plus what staff feels is necessary to continue to have for the PRD district as part of the work to be done between now and the Board of Supervisors hearing.

Mr. Franco agreed that is the motion. He would also like to stress that the County needs to accelerate their efforts in getting that road accepted into the state system.

Motion: Mr. Franco moved and Mr. Smith seconded to recommend approval of ZMA-2012-00004 Avon Park II as recommended by staff with proffers, as revised and amended.

1. The 5th proffer regarding Certificate of Occupancy or replacement proffer regarding plats is not necessary because the platting is already a requirement of the Subdivision Ordinance. Eliminate the 5th proffer.
2. In addition, beyond the technical fixes to the proffer the applicant should work with the adjacent neighbors regarding the fence type; and
3. The applicant provide a proffer restricting uses to those that are residential plus what staff feels is necessary to continue to have for the PRD district as part of the work to be done between now and the Board of Supervisors hearing.

The motion passed by a vote of 6:1. (Mr. Randolph voted nay)

Mr. Morris noted ZMA-2012-00004 Avon Park II would go to the Board of Supervisors on a date to be determined with a recommendation for approval with staff's recommended proffers, as amended, to be worked out between the applicant and staff before the Board of Supervisors hearing.

Old Business:

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

New Business:

Mr. Morris asked if there was any new business.

- Copies of the Comprehensive Plan distributed to the Commissioners for the public hearing on April 2. Any follow-up necessary beyond that hearing will have to be scheduled during April.
- Suggestion made that issues that came up tonight regarding setbacks and buffers potentially could be addressed with amendments to the conventional zoning. Staff noted that guidance for setbacks is being addressed in the updated Comprehensive Plan.
- Suggestion made that the Commission be clear in its motions and any conditions pertaining to the reasons for its action.
- Noted that a Comprehensive Plan open house will be held on Thursday, March 21, 2013 in the 2nd floor lobby, County Office Building, 401 McIntire Road, from 9:30 a.m. to 7:00 p.m.
- Noted that while not required it has been customary for a Commissioner voting in the negative to state the reason for their vote.
- No meeting on March 26, 2013.
- THE NEXT PLANNING COMMISSION MEETING WILL BE HELD ON TUESDAY, APRIL 2, 2013 AT 6:00 p.m.

Adjournment:

With no further items, the meeting adjourned at 8:38 p.m. to the Tuesday, April 2, 2013 meeting at 6:00 p.m. at the County Office Building, Second Floor, Room #241, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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