Albemarle County Planning Commission
March 17, 2015

The Albemarle County Planning Commission held a regular meeting on Tuesday, March 17, 2015 at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Cal Morris, Chair; Karen Firehock, Richard Randolph, Thomas Loach, Bruce Dotson, Tim Keller, and Mac Lafferty, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present. Ms. Firehock left the meeting at 8:05 p.m.

Other officials present were Rachel Falkenstein, Senior Planner; Ron Higgins, Chief of Zoning; Glenn Brooks, County Engineer, Michelle Roberge, Civil Engineer, David Benish, Chief of Planning; Wayne Cilimberg, Director of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order

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 including consent agenda items. There being none, the meeting moved to the next item.

Jack Marshall, representing Advocates for a Sustainable Albemarle Population, (ASAP), distributed copies of the just published book "Overdevelopment, Overpopulation, Overshoot". The local distribution is part of an international campaign to raise awareness about the impacts of population growth to stimulate the search for solutions. As a result our distribution of the book is in conjunction with a network of organizations and individuals through the 2015 Global Population Speak Out Campaign, which is locally administrated by the Population Media Center and Population Institution. It aims to bring worldwide attention to the crisis proposed by overdevelopment and human population size. As they know ASAP's special focus is on local growth limits in the Charlottesville Albemarle community. Advanced copies of this globally oriented book were awarded to ASAP for our "strong history of population advocacy" in addition, in keeping with the old saying that they should all be thinking globally. They hope the beautiful but provocative pictures will stimulate your thinking about population growth and development issues at every level globally, nationally and here in Charlottesville Albemarle.

Neil Williamson, Free Enterprise Forum, recommended a book by Lisa Prevost called "Snob Zones" about exclusionary zoning. This series of stories illustrates the outrageous lengths to which some town leaders and reactionary residents will go to keep out higher density lower cost housing. This book links the exclusionary mindset to the pricing out of young families, sprawl and other societal woes and raises thought provoking questions about what it means to be a community. There is a balance to all of the decisions they make and exclusionary zoning is not a direction they want to go. He would tell them that he is not part of a national network distributing the book, but he is doing a fund raising campaign and he hopes to get the Commissioners a copy soon.

Review of Board of Supervisors Meetings – March 10, 2015 and March 11, 2015

Mr. Cilimberg reviewed the Board of Supervisors actions taken on March 10, 2015 & March 11, 2015. Last week the Board as they completed their work sessions set a public hearing on May 13 for Comp Plan Review. In addition, the Board said they would look at the priority strategies recommended by the Planning Commission several months ago at the end of the Comp Plan review process.

Consent Agenda:

a. **ZTA-2015-0000X Farm Distilleries** – Resolution of Intent (Mandy Burbage)
b. **ZTA-2015-0000X BZA/Variances** – Resolution of Intent (Amelia McCulley)

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

Mr. Randolph asked to make an observation. When the Commission looked at the proposal on farm breweries a year ago he commented at the time that the expectation would then be that the next foot to fall here would be in fact distilleries. Now they are positioning for that and he thinks that is a most unfortunate tread for the County and the Commonwealth.

Motion: Mr. Lafferty moved and Mr. Randolph seconded for approval of the consent agenda.

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

Mr. Morris said the consent agenda was approved unanimously.

RESOLUTION OF INTENT

WHEREAS, if Senate Bill 1272 is signed by the Governor, Virginia Code § 15.2-2288.3:2 will become effective July 1, 2015 and it will impose limitations on the extent to which localities, under their zoning powers, may regulate various uses and activities associated with limited distilleries; and

WHEREAS, this new legislation requires that any local restrictions on distillery-related activities be reasonable and take into account the economic impact of the restriction on the limited distillery, and the agricultural nature of the activity; and that the regulations allow those activities by right and without a special use permit, zoning clearance or any other administrative permit, unless the activity would cause a substantial impact on the health, safety, or general welfare of the public; and

WHEREAS, it is desired to amend the Albemarle County Zoning Ordinance to comply with Virginia Code § 15.2-2288.3:2 in order to promote the efficient and effective administration of the County's zoning regulations.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Planning Commission hereby adopts a resolution of intent to amend Albemarle County Code §§ 18-3.1, 18-5, 18-10.2.1, 18-10.2.2, and any other appropriate sections of the Albemarle County Zoning Ordinance to achieve the purposes described herein, provided that Senate Bill 1272 is signed by the Governor and Virginia Code § 15.2-2288.3 becomes effective July 1, 2015; and

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the zoning text amendment proposed by this resolution of intent, and make its recommendation to the Board of Supervisors, at the earliest possible date.

RESOLUTION OF INTENT

WHEREAS, if House Bill 1849 is signed by the Governor, Virginia Code §§ 15.2-2201, 15.2-2308, 15.2-2309 and 15.2-2314 will be significantly amended, and Virginia Code § 15.2-2308.1 will be added, effective July 1, 2015, and these amendments will revise the criteria relating to variances and appeals; and

WHEREAS, this new legislation also revises the regulations for proceedings before the Board of Zoning Appeals; and

WHEREAS, there is an efficiency to utilize this opportunity while amending the Zoning Ordinance to incorporate the requirements of new legislation to also clarify requirements, update references to other laws, standardize terminology, and make other minor technical changes, to promote the efficient and effective administration of the County's zoning regulations.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Planning Commission hereby adopts a resolution of intent to amend Albemarle County Code §§ 18-3.1, 18-31, 18-34, 18-34A, 18-36, and any other appropriate sections of the Albemarle County Zoning Ordinance to achieve the purposes described herein, provided that House Bill 1849 is signed by the Governor and the amended and added sections of the Virginia Code referenced above become effective July 1, 2015; and

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the zoning text amendment proposed by this resolution of intent, and make its recommendation to the Board of Supervisors, at the earliest possible date.

The meeting moved to the public hearing items.

Public Hearing Items

a. **ZMA-2014-00008 CMA Properties**
MAGISTERIAL DISTRICT: Rio
TAX MAP/PARCEL: 04500000017300
LOCATION: East side of Berkmar Drive (Route 1403), 400 feet northeast of intersection with Rio Road (Route 631)
PROPOSAL: Request to permit the expansion of Colonial Auto Center operations, parking and inventory onto adjacent parcel.
PETITION: Rezone 3.53 acres from R-6 Residential zoning district which allows residential uses at a density of 6 units per acre to HC Highway Commercial zoning district which allows commercial and service; residential by special use permit at a density of 15units/acre. No dwellings proposed.
ENTRANCE CORRIDOR: Yes
AIRPORT IMPACT OVERLAY: Yes
COMPREHENSIVE PLAN: CPA-2014-00002 pending request to amend Comprehensive Plan land use from Urban Density Residential which allows residential uses at 6.01-34

units /acre and supporting uses such as religious institutions, schools, commercial and office to Office/Research & Development/Flex/Light Industrial which allows commercial, professional office; research and development, design, testing of prototypes; manufacturing, assembly and packaging in Places 29 Development Area.

AND

b. **SP-2015-000005 CMA Properties - Outdoor Storage & Display**
MAGISTERIAL DISTRICT: Rio
TAX MAP/PARCEL: 04500000017300
LOCATION: East side of Berkmar Drive (Route 1403), 400 feet northeast of intersection with Rio Road (Route 631)
PROPOSAL: To allow outdoor storage and display of inventory vehicles on east side of property within Rio Road Entrance Corridor
PETITION: Outdoor storage, display and/or sales serving or associated with a permitted use within the Entrance Corridor Overlay under Section 30.6.3 of zoning ordinance. No dwelling units proposed.
ZONING: R-6 Residential zoning district which allows residential uses at a density of 6 units per acre. Concurrent with ZMA application ZMA-2014-0000.
ENTRANCE CORRIDOR: Yes
AIRPORT IMPACT OVERLAY: Yes
COMPREHENSIVE PLAN: Urban Density Residential which allows residential uses at 6.01-34 units /acre and supporting uses such as religious institutions, schools, commercial in Places29. Concurrent with CPA application CPA-2014-00002.

AND

c. **SP-2015-000006 CMA Properties – Stand Alone Parking**
MAGISTERIAL DISTRICT: Rio
TAX MAP/PARCEL: 04500000017300
LOCATION: East side of Berkmar Drive (Route 1403), 400 feet northeast of intersection with Rio Road (Route 631)
PROPOSAL: To allow stand alone parking to support adjacent Colonial Auto Center property.
PETITION: Stand alone parking and parking structures under Section 24.2.2 of zoning ordinance. No dwelling units proposed.
ZONING: R-6 Residential zoning district which allows residential uses at a density of 6 units per acre. Concurrent with ZMA application ZMA-2014-0000.
ENTRANCE CORRIDOR: Yes
AIRPORT IMPACT OVERLAY: Yes
COMPREHENSIVE PLAN: Urban Density Residential which allows residential uses at 6.01-34 units /acre and supporting uses such as religious institutions, schools, commercial in Places29. Concurrent with CPA application CPA-2014-00002.
(Rachel Falkenstein)

Mr. Morris asked staff to review all three items for CMA Properties, which includes a rezoning and two special use permit items. They will hold applicant and public comment afterwards. In that there are three items he would like to expand the applicant's time to 20 minutes.

Rachel Falkenstein reviewed the zoning map amendment and two special use permits for CMA Properties in a PowerPoint presentation.

Background

- 4/15/14 – Planning Commission pre-application work session, recommended applicant apply for a Comprehensive Plan Amendment (CPA).
- 12/16/2014 – Planning Commission recommended approval of CPA-2014-00002 for land use change from Urban Density Residential to Office/R&D/Flex/Light Industrial.
- 1/13/2015 – Board of Supervisors expressed approval of CPA-2014-00002 and will either include the land use change in the Comp Plan update or as a separate CPA along with the ZMA, whichever comes first.

The property is located on Tax Map 45 Parcel 173 and consists of 3.53 acres fronting on Berkmar Drive. It is the former site of Greenfield Mobile Home Park which has since closed and the site is now vacant. The property is located behind Colonial Auto Center, South of Rio Hill Shopping Center and Agnor Hurt Elementary School which is Northwest across Berkmar Drive

Purpose of Public Hearing

- **ZMA-2014-00008** CMA Properties
  Request to rezone from R-6 Residential to HC, Highway Commercial.
- **SP-2015-00005** CMA Properties Outdoor Storage & Display
  Special use permit for outdoor storage, display and/or sales within the Entrance Corridor Overlay.
- **SP-2015-00006** CMA Properties Stand Alone Parking
  Special Use Permit for Stand Alone Parking in HC, Highway Commercial zoning.

The current zoning is R-6. The applicant is looking to expand the HC, Highway Commercial zoning from their current Colonial Auto Center property onto the adjacent parcel. The applicant is proposing to develop the property in two phases:
Phase 1 – Construct access/entrance on Berkmar Drive and expand the current Colonial Auto Center parking area onto the adjacent parcel for inventory/employee/customer parking to replace parking area temporarily lost during the Rio/29 GSI.
Phase 2 - Proposed building and additional parking, sidewalk, and street trees along Berkmar Drive.
Notable features: The applicant is dedicating some future right of way for the future Berkmar Drive expansion (48' from center line, 20' additional right-of-way.) Second, there has been some discussion on Myers Drive potentially connecting through the property. The applicant has committed to keep this area free from impediments and proffered to keep it free for two years. However, as seen on the concept plan the applicant is not showing any buildings or structures that would block that if the small area plan would recommend a future connection. The applicant is not proposing an extension of Myers Drive at this time, but the plan does not foreclose on future possibility.

Regarding the special use permits:
SP-2015-05 Outdoor Storage and Display - The Entrance Corridor runs along the southern portion of the property. It is the Rio Road Entrance Corridor within 500' of the road. The applicant is asking to put some inventory vehicles and sales storage in this area which requires a special use permit.

SP-2015-06 Stand Alone Parking – Phase I parking area - Before they construct the building they will have some stand alone parking on this parcel. Even though it is contiguous with the existing parking it is a separate parcel so they will need the special use permit for stand alone parking.

Factors for Consideration for ZMA-2014-00008 CMA Properties

Factors Favorable:

1. The rezoning is consistent with the Comprehensive Plan land use change from CPA-2014-00002.
2. The rezoning is supportive of the County's economic development goals including the expansion of an existing business, infill development and the creation of new jobs.
3. The rezoning request does not impede the opportunity for the extension of Myers Drive should it be recommended by the Small Area Plan.
4. The proffers and concept plan provide area reserved for future right-of-way dedication for the expansion of Berkmar Drive.

Factors Unfavorable:

1. The proposed building envelope does not meet Neighborhood Model principles of relegated parking and buildings and spaces of human scale. This location would be appropriate for auto sales/service, but is not appropriate for other commercial/retail uses permitted in HC zoning.
2. The short term development of the site does not provide for pedestrian improvements along Berkmar Drive, which could leave a gap in the pedestrian network as adjacent parcels develop.
3. The proffers and concept plan are in need of substantive and technical revisions.

Staff Recommendation ZMA-2014-00008 CMA Properties

Staff recommends approval of ZMA-2014-00008 CMA Properties provided the following changes are made to the proffers and concept plan prior to the Board of Supervisors meeting:

1. The building envelope on the concept plan should be extended to the edge of the right of way. The applicant should commit to locating buildings for commercial uses other than automobile sales/service to address the street with relegated parking.
2. The sidewalks and street trees should be constructed upon demand of the County rather than during Phase 2. The intent of this would be if adjacent parcels develop with sidewalks staff would like to also see this parcel developed at that time to provide the pedestrian connectivity.
3. The landscaping/screening provided during the Phase 1 development should be enhanced to screen that parking. Staff recommends at minimum a 20' planting strip along Berkmar Drive.
4. The concept plan should clearly identify which elements of the site will be constructed during Phase 1 and Phase 2.
5. The proffer to keep Myers Drive free from impediments for a period of two years should be clarified (it may be determined that this proffer is not needed based on commitments provided in the concept plan).
6. Technical fixes should be made to proffers as recommended by staff.

Factors for Consideration SP-2015-00005 Outdoor Storage/Display

Factors Favorable:

1. The Architectural Review Board has reviewed the request for outdoor sales, storage and display and recommends approval with conditions.

Factors Unfavorable:

None

Staff Recommendation SP-2015-00005 Outdoor Storage/Display

Staff recommends approval of SP-2015-00005 CMA Properties - Outdoor Storage & Display with the following conditions:

1. Vehicles shall not be elevated anywhere on site.
2. Vehicles shall be displayed only in areas indicated as "inventory" on the plan entitled "CMA Properties Highway Commercial Concept Plan" by Collins Engineering with revision date of 1-30-2015. Inventory parking within the EC Overlay District shall be only in designated striped parking spaces, as identified on this plan.
3. Final site plan approval is subject to ARB approval of the lighting plan (submitted with the site plan). Maximum light levels shall not exceed 30 footcandles.
4. Final site plan approval is subject to ARB approval of the landscape plan (submitted with the site plan). Landscaping shown on the plan may be required to be in excess of the minimum requirements of ARB guidelines and/or the Zoning Ordinance to mitigate visual impacts of the proposed use.
5. Clarify on the plan all site elements to be included in Phase 1 and Phase 2. If the stormwater pond is constructed in Phase 1, indicate that the trees along the southern perimeter of the site will also be installed in Phase 1.

Factors for Consideration SP-2015-00006 Stand Alone Parking

Factors Favorable:

1. With staff's recommended changes to the proffers and concept plan, the parking will be adequately screened from Berkmar Drive and residential uses across Berkmar Drive

Factors Unfavorable:

None

Staff Recommendation SP-2015-00006 Stand Alone Parking

If the applicant addresses the landscaping issues or the screening along Berkmar Drive staff thinks this will be adequately screened. Staff recommends approval of SP-2015-00006 CMA Properties – Stand Alone Parking with no conditions.

Mr. Morris invited questions for staff.

Mr. Dotson asked for some clarifications. He was looking at page 8 of the staff report because most of the issues were summarized on that page. In terms of building envelope it is unclear. He thinks staff is saying if this is used for an auto dealership, then the building footprint as shown on the concept plan would be appropriate; but, if it was used for other retail purposes that it would be up to the right-of-way. He asked if staff was picturing two footprints being shown on the plan for options A and B, both of which would be approvable.

Ms. Falkenstein replied what staff was picturing was a larger building footprint that extends all the way to the street and then that commitment being made by the applicant was saying if the site is developed for other commercial and retail uses it will front on the street. If it is developed for auto commercial sales and service they would be allowed to have those two rows of parking.

Mr. Dotson said the net result would be to have the two options, and Ms. Falkenstein agreed that was correct.

Mr. Dotson said in terms of sidewalks and street trees the recommendation is to have these features installed on demand by the county. He asked would those be bonded or simply

expected that the applicant would be financially able to install those at the time they would be requested by the county.

Mr. Benish replied it would most likely be bonded.

Mr. Dotson noted on landscaping and screening the applicant has proposed 10' and staff has requested 20'. However, 10' would be okay in Phase 2. He was confused by those differences.

Ms. Falkenstein replied in Phase 2 they are proposing street trees. So they would have 10' of landscaping, then the sidewalk and street trees. There would essentially be two planting strips there. Before they build and put in street trees staff would like some additional screening to screen that parking area.

Mr. Dotson asked if the end result would be 20' and the sidewalk is within the 20'.

Ms. Falkenstein replied that would be the end result once the street trees and the sidewalks are constructed. Before that is constructed they would like to see at least 20' of landscaping or an alternative screening method.

Mr. Dotson said in terms of Myers Drive the staff report and the applicant have referred to keeping it clear of buildings. If the small area plan was completed and Myers Drive was seen as necessary would the applicant then be dedicating that land? That was part A. On Part B what would the applicant's obligation, if any, be to improving Myers Drive in the form of extending it. He asked this question back at the comp plan review and the answer was we will deal with it at the rezoning.

Ms. Falkenstein replied at this time the applicant would not be making any commitments. She understood it was something the county would have to negotiate with the applicant to get the right-of-way for the road and the county would probably be constructing it.

Mr. Benish noted if they had an improvement already identified in the plan that was recommended by VDOT and the county; they would have the ability to require it to be incorporated more specifically into the plan. However, they do not have an approved alignment for that, which is the difference right now at this stage in looking at this rezoning.

Mr. Kamptner pointed out the other part of Myers Drive is the eastern portion that already exists. If he recalls correctly part of it is actually owned by Rio Hills and it complicates that.

Mr. Benish agreed they don't have full ownership of it.

Mr. Dotson noted there is reference to keeping the land open for two years. The staff report is uneasy about that in terms of that being realistic in getting the planning studies, the RFP, the budget, etc. He believed they said a four or five year commitment would be more appropriate. However, the conditions still reference the 2 years. He asked staff to explain that.

Ms. Falkenstein explained that there were two things going on. The applicant has proffered to keep the area free for two years. Then they have the concept plan which shows the area free from any buildings or structures. If the applicant did want to put a building in that location it would likely be cause for an amendment to the rezoning, and they would have to come back in and amend that concept plan. At that time they would reevaluate it.

Mr. Dotson said what he is hearing implied is staff would be more comfortable with a longer time frame than two years, but they are not insisting on it.

Mr. Benish pointed out it appeared that the operation of the application plan pretty much precludes any development within that area in perpetuity. But, the applicant has also talked about limiting impediments. They are not clear what impediments mean because the building would be restricted to that envelope they are talking about which would leave that clear zone indefinitely until the plan is amended. So that is why they have a question about what impediments means because the applicant may have some thoughts that they are trying to clarify. They are getting the comments at the same time the Commission is so they have not had a chance to dialogue. However, he thinks they feel like the application plan in and of itself kind of protects that area.

Mr. Randolph said he would like to follow up on a point Mr. Dotson brought up about building envelopes. He asked does staff consider an auction to be part of automobile sales.

Ms. Falkenstein replied what they are going to have to do is sort of flush out the uses in Highway Commercial and determine which one would be appropriate to address the street and which ones would not. The proffer would have to specify that should this be their recommendation.

Mr. Randolph questioned on page 5 under buildings space of human scale if staff has any examples of other buildings. In the staff report it states that staff feels that if a building is used for automobile sales and service and the location of the building is appropriate it recommends a commitment be made by the applicant to have the building address the street if the site is developed for other commercial or retail uses. He asked have they done that before with another building in another situation.

Mr. Benish asked if he meant that they allowed for two different possibilities along the site, and Mr. Randolph agreed.

Mr. Benish said one of the unique circumstances related with auto dealerships is the display area along the frontage of the street that is important to that business. He cannot recall that they have done it this way before.

Mr. Randolph said that it did not come up when Crown or BMW expanded or with the Toyota Dealership on Pantops. He said it has not come up with another auto dealership before.

Mr. Benish pointed out all of those sites had already been zoned. What they were looking at during that time was the sales and display special use permits. However, many of those sites had already been developed in a pattern that they really did not have the opportunity to set this sort of standard for what the ARB look towards when they do try to minimize the amount of parking in front of the buildings. He thinks they are fortunate along 250 because those tight sites actually have something like this where across the front they usually have two or three rows and it is not very deep. However, those properties were already zoned and did not need a rezoning.

Mr. Randolph said that was very helpful. He asked Ms. Falkenstein on page 6 streets engineering staff has asked that left and right turn analysis be provided with a rezoning application to determine if changes are needed to the existing left turn lane on Berkmar Drive. However, this information has not been provided by the applicant. He asked if staff has received that since this went out to the Planning Commission.

Ms. Falkenstein replied no they have not.

Mr. Randolph asked to skip down two paragraphs to the applicant has made a proffer to keep the area between Myers Drive and Berkmar Drive free from impediments until the small area plan can be completed or for a period of two years whichever comes first. He said more clarification is needed and asked if staff has received additional clarification.

Ms. Falkenstein replied no, they have not.

Mr. Randolph asked to skip to page 7 under anticipated impact on nearby and surrounding properties in the second paragraph. Again, staff has requested the applicant provide clarifications as to what elements along the southern property line will be constructed in phasing 1 and 2. He asked if staff has that clarification this evening for the Commission.

Ms. Falkenstein replied she had spoken to the applicant about that. She thinks the applicant has redesigned the concept plan a little bit, but it has not been an official submittal for staff to have time to review. However, she thinks the applicant might be able to answer that question.

Mr. Morris noted the only concern that he had reading through this is do we have a firm enough idea as to what modifications if any will occur on Berkmar Drive that might affect any sidewalk construction along this area.

Ms. Falkenstein replied the comp plan does call for the widening of Berkmar Drive. Staff just does not have any idea of the timeframe at this point. She thinks the small area plan will provide more detail to the frontage of Berkmar Drive and the streetscape that is expected here. However, at this point they don't have a really clear view of when and what will happen.

Mr. Morris pointed out that a lot is going to hinge on that small area plan.

Mr. Benish agreed that is correct. In the Places29 Master Plan the widening of Berkmar Drive from 29 to Hilton Heights, or this section, was not called for the second ten years of that plan, which would start in 2023. So it was received as a longer term project because at the time they drafted the plan they thought Berkmar Drive would be a much longer term project. However, there is no programming for any widening of that roadway so it is likely a number of years off.

There being no further questions, Mr. Morris opened the public hearing for the applicant and public comment. He noted they have expanded the time to 20 minutes for the applicant.

Pete Borsches, President of CMA Properties, said he also represents Colonial Auto Center in this transaction. They are here talking about their rezoning, which is part of a bigger picture in the comp plan amendment process. They have spent some time with the Planning Commission and the Board of Supervisors in the past 12 months and appreciate the support on that movement. He really appreciates the way staff has been approaching this because they understand the urgency of our need. Rachael Falkenstein specifically has been great to work with in this case.

Mr. Borsches pointed out he would not run through the whole litany of things they do at Colonial Auto Center. However, he will remind them that they have been in business at this location since 1986 and employ 105 people full time. They have six automobile franchises, an automobile auction, a Ford quit claim and a lot of vendors that depend on our business here locally. The reaction to the construction on Route 29 is what has motivated him to be in front of

the Commission tonight. The comp plan change subsequent to the rezoning and everything else associated with it is the reason that they are going through this. He clarified that the depiction of a building is one that he was not ready to show because they don't have any plans. It was through working with staff that they determined that it was best for the process to show what might be. Phase 1 is really what is important to our business to mitigate the pending whatever it is going to be on 29. So that is really what they are here talking about. What they wanted to do was to show what could be used on the property. He thinks they have done a nice job of that.

Mr. Borsches said there were several questions the Commission was discussing about screening. In his presentation he referred to a picture taken this week noting without any leaves on the trees they can see the roof of Colonial Auto Center Service Building. All of the parking that is at the existing Colonial Auto Center and at the grade of the backside of this parcel is below that. He believes they have a solution for that and Valerie Long is going to go over some of that. He believes it involves a grass berm that could be seeded, which would allow us not to put in the 20' landscaping strip in at tremendous expense and then have to rip it up when they go back for Phase 2. It would be a more natural look. They would leave all of the existing trees in place and seed a berm, which would actually reduce the visibility of even a building back there. So he thinks that is even a better idea because it is a more natural idea and allows us a little bit of flexibility.

Mr. Borsches said it is in our best interest when they develop to put a sidewalk in. If they have a business there they absolutely want to have a sidewalk and be pedestrian friendly. They are reserving that space to do just that. They can see from the picture looking south there is no opportunity for a sidewalk here unless there is some significant redevelopment. There is a sidewalk on the west side of the street as it exists. They would be looking at a sidewalk to nowhere and he did not think that was in anyone's best interest. So if they could reword the on demand to upon neighboring development of the same or something along those lines he thinks they can get to what they want. From staff's side if they come in and develop this parcel and put a sidewalk in, then they would be happy to do that. Mr. Benish mentioned that there would be a bond. He thinks that might be a little restrictive if they are going to proffer it as part of this rezoning. He did not think they need to tie up $30,000 or $40,000 to do that. Bonds are not as easy as they sound and are not just another four letter word for us. He thinks that covers what he had and he would be available for questions. Ms. Long has a few more things to add to what they are doing. They have some technical answers for the Commission as far as the traffic turn lane analysis and some of the other things so they can get that done.

Valerie Long, representative for the applicant and land owner, said as Pete Borsches indicated she would cover a lot of issues with the current concept plan. They are happy to talk about the location of the building because she thinks the issue revolves around the row of parking. They very much appreciate staff's appreciation for the importance of having parking in the front for inventory and visibility of vehicles for an automobile related use. As Mr. Borsches indicated they were very hesitant to put together a concept plan for a project that they don't know what it will look like or what the user is. But, in order to rezone the property to Highway Commercial so that they could ask for a special use permit for standalone parking so they could use the property for the parking during the 29 road improvements construction they had to come up with a plan. They had to show what a building might look like and where it might be located. So it was a challenge to predict all of this in the future. They had to think through how big it would be, what would be appropriate, figure out how much parking is necessary, figure out all of the utilities, and all of those things.

Ms. Long explained that this plan represents a tremendous amount of thought, forward thinking, guessing, and estimating to the best of our abilities obviously with the good assistance of Scott Collins at Collins Engineering However, they don't have a definite use. So they tried to keep things very general and flexible, and staff has been great about that. However, the challenge is with combining that with having to keep the area free for the potential future extension of Myers Drive. By the way when they said impediments they did mean buildings so they can resolve that quickly. They just used the same word that had been suggested, but they are happy to clarify that to buildings. It creates a lot of uncertainty already with how this property will develop in the future. So they are asking to be allowed to just leave the plan as it is here given the combination of the uncertainty about when and if Berkmar Drive will ever be expanded. They are having to set aside a 20' strip of land already for the future expansion and are happy to do that. It will accommodate the street trees, the road widening, the right-of-way, sidewalks and additional landscaping. However, with the amount of uncertainty they are just asking to leave the plan at this level of flexibility to that so they can be sure that they don't tie our hands in the future given the uncertainty about those future plans and how it will develop.

Ms. Long said they also ask that relegated parking is not an all or nothing situation. Yes, there are two rows of parking there, but the vast majority of all of the other parking as they can see is relegated. It is to the side and or to the rear of this building. Much of it will be behind the building. But, to have no parking in front of the building for any type of retail use is a tremendous disadvantage to the success of any business located there. Referring back to the aerial shot of Colonial Auto from 29 there are four or five rows of parking by contrast. That is sort of the older design. Mr. Randolph mentioned other dealerships in town on Pantops with many more rows of parking between 250 and the dealership buildings. So they think that by contrast this is quite an improvement in just having a mere two rows of parking and the rest on the side. They would ask for the Commission's consideration of that.

Ms. Long pointed out they have also prepared an exhibit. They have discussed some of the concepts with staff. This is an effort to address some of the questions raised in the staff report in terms of what will be happening during various phases, which she would walk them though.

- The area in the palest yellow is everything that will be constructed as part of Phase 1. Again, Phase 1 is really just the creation of these new parking spaces to provide the additional parking for when the Route 29/Rio intersection work is ongoing. They will also include a storm water management facility that has been sized for both phases of the project. They are going to go ahead and build it the right size from the very beginning, which includes a lot of extra landscaping the Architectural Review Board requires to screen the views. The parking and entrance road will be put into place. The darker yellow area is the limits of the Phase 1 disturbance.

- There is a berm here, which Mr. Borsches described in the photographs. The height of the berm would range up to 3' to 6' to provide the screening of this new parking from Berkmar. They can see from the photos they already probably won't be able to see that building. The building they saw was only the very tip of it and that was through the winter. The combination of preserving those trees and constructing the berm they think will sufficiently screen the parking spaces that they will create behind it. During Phase 1 when there is no building anywhere in this area the goal is to screen the parking from Berkmar and they think this will achieve that. Right now the proffers say they will have at least 10' of landscaping on Berkmar. Staff indicated they wanted either 20' or some other alternative screen mechanism. This is what they had discussed with staff and would ask for consideration of that issue.

Ms. Long said with regard to the sidewalk, again, they are happy to agree to the concept of staff's suggestion, which is that it be on demand if this property is developed and the sidewalk put in such as a sidewalk would actually connect to something they will put it in at that time; likewise, if the property to the south were to redevelop. They would ask that they not be required to construct a sidewalk to nowhere during Phase 1 when there is not even going to be a use on the property other than parking especially because it would likely have to be torn up once Phase 2 is constructed. She believes that addresses all of the questions. She would be happy to answer questions. They also have Scott Collins from Collins Engineering here who can talk about some of the traffic questions that were raised. She believes they have worked everything else out with the staff.

Mr. Morris invited questions for the applicant.

Mr. Keller asked in Phase 1 will the curb cut and the drive into the former trailer court be removed.

Ms. Long replied the existing drive was roughly in the area. They are proposing to move it farther to the north, which will improve things from a sight distance perspective among other things.

Scott Collins, civil engineer with Collins Engineering, replied yes the existing drive will actually be relocated to be removed and cut off. The new entrance will actually be moved up to our permanent location, which is the entrance into the site proposed on the concept plan.

Mr. Morris invited further questions for the applicant.

Ms. Firehock asked if they looked at sight lines for turning for ingress and egress to the property for where they show that entrance.

Mr. Collins replied yes, they have been working with VDOT on both of those. There is also an existing left turn into the site where they propose it. Also, they have proposed a right turn in the concept plan as well. VDOT has done all of the analysis as well for our turning movements for both the right and left turn lanes, and they are satisfied.

Mr. Randolph said he thinks what he heard clearly this evening is that there is some ambiguity on the part of the organization as to how they intend to use the building. He asked if that is a correct statement.

Mr. Borsches replied that he would not classify it as an ambiguity, but simply undetermined at this point. Ambiguity would give the idea that they are searching for something and at this point they really are not. They are growing in other parts of the state and this is land that they purchased in 2008 and did not have an intermediate need for. Frankly, they would do Phase 1 and then it would be auto related, which is our intention. That is what our business is and what they do in all of their locations. They do not sublet property out. However, at this point he could not tell them what it is going to be.

Mr. Randolph asked if he would refer to it as uncertain.

Mr. Borsches replied that it was not considered. He said other than for putting a 1,300 square foot box on the plan they really have not factored that in. He would say there is a better than likely chance they would look at an automotive dealership. However, there are other factors that come into that. It is a much more detailed process. He is not trying to dodge the question,

but it is just not something that they have really thought about since they are really focused on Phase 1.

Mr. Randolph said even though for over a year they have been aware that they might want to do a CPA on this property that they have not really in a year thought through what they might like the building to be used for.

Mr. Borsches replied to be very honest in the last year they have bought two dealerships in Staunton, and have a new dealership going in Richmond. They are pretty spread out right now. They just have not had that discussion. That is as honest as he can tell him. He did not gain anything from hiding that. If he had to guess it will be an automotive dealership. He asked a question about an auction, which he thinks is a very fair question. That would be a fringe related auto related business. They do have an auto auction that currently exists at Central Virginia Auto Auction, which is very functional in that capacity in that space. He can't imagine they would use this high rent land for that type of business. The rent factor is too high.

Mr. Randolph pointed out part of the reason he is asking the question is because it is cited in here that he sees 20 to 30 additional jobs and yet he is trying to figure out how he gets 20 to 30 jobs out of a building that he is not really clear what it is going to be used for. In most dealerships these days 20 to 30 people working would be a pretty sizeable dealership assuming that a lot of the functions there such as the payroll, etc. are all centralized. They are not spread out between Nissan, Mitsubishi, Chevrolet, and Cadillac since they are all centralized.

Mr. Borsches replied it was a dream and if he can figure out a way to centralize some of the offices he would hire him. There is no question there that the economy was to scale and the opportunity to centralize some of that. He used the number 20 to 30 based on their Volvo store, which is their smallest store and staffs that number of about 25 employees on a parcel about this size. That is how he came up with that number. He did not think it was fair to say more and he did not think he was being fair to himself if he did not say that they would have jobs available.

Mr. Morris said just tying in with what Mr. Randolph was saying and what he gathered from the presentation that right now they are concentrating on Phase 1 which is really being proactive in meeting the requirements brought about by the construction on 29. He asked if that was correct.

Mr. Borsches replied yes, that has been fully motivated by that.

Ms. Long pointed out the other thing is they did not start out with a box for a building on the concept plan. They started out looking at the property and asking can they park cars on this property ideally right away. Unfortunately, the answer is no because it is zoned R-6 which does not allow standalone parking. So then they asked what needs to be done in order to be able to use this for standalone for this intermediate need that Mr. Morris mentioned. They had to kind of get there backwards. They needed to first rezone it. First they had to look at the comprehensive plan which was for residential and what they needed was the right to use it for standalone parking. So they had to back into where they are now, which required us to rezone the property. If they had their choice our concept plan would not have a building on it and nobody would require it. They would just rezone it Highway Commercial with no strings attached and be able to use it for parking and be able to develop it for a Highway Commercial use in the future when they get to that point. They really are not there. That is the same discussion they have been having in trying to figure out what they might use it for. But, the staff says well we can't just give you a blanket rezoning to Highway Commercial because you must have some kind of a concept plan since they have to regulate it. So at least they need to show

the basics of what they can commit to in terms of: landscaping, sidewalks and future right-of-way for the widening of Berkmar; demonstrate they can put a storm water facility on there and make that work; and show how they would orient the building. They don't even know what building they would put on there. However, they had to show something, which is why it is very general looking. They are not trying to be deceptive by saying that they don't know what they want because they really don't. They did not start out with a building and were just trying to get to the parking. She hoped that would provide a little bit more context.

Mr. Randolph agreed that helps. He thinks having that on a statement of actually how things evolved is very useful. He had another question that he posed earlier to staff. He was curious as to why the information has not been provided regarding the left and right turn analysis into this parking area.

Scott Collins pointed out that information was provided. They received that comment at the same time they got the last comments and sent that information in. VDOT actually ran the analysis for us for the right and left turn lane verifying that what they have on the plan is correct and they have accepted that.

Mr. Randolph asked if VDOT had accepted and they have not received it in the county as of yet.

Mr. Benish replied there are review options and schedules the applicant can ask for. One is to have a forum with the Commission and they will receive the comments at the same time they receive them and present them to you. So that is the schedule that they are on. It makes for a little bit more expedited process. So they are seeing some of these comments for the first time as they saw them in your report. That was just a more accelerated schedule that the applicant chose.

Mr. Randolph asked have you provided any additional clarification to keep the areas between Myers Drive and Berkmar Drive free from impediments until the small area plan can be completed. More clarification is needed and staff indicated that they still had not had their clarification. He asked when the clarification will be provided.

Ms. Long replied they are happy to coordinate with staff and clarify it in the proffers. They have not actually received any specific comments on the proffers yet. They expect they will after this meeting. So they would incorporate any revisions or clarifications with regards to impediments at the same time that they incorporate additional staff comments on the proffers. However, as she stated the reference to the word impediments was intended to mean buildings. So they are fully prepared to clarify that and are comfortable telling them that tonight. As staff noted, the concept plan does not show any buildings within the area where Myers Drive would be extended if the plan calls for that. So if they came back at some point and said they want to shift the building north and have it be in the way of Myers Drive that would be presumed to be inconsistent with the approved proffered plan and they could not do it. They would have to come back to the Commission and the Board and ask for permission to change the zoning concept plan. So she thinks staff is exactly right that it somewhat becomes a moot point. They have committed to keep it free of buildings for two years and our concept plan frankly goes further than that by keeping the buildings out of the way. So she thinks staff is right that they don't need to extend it any further because of the concept plan. They are actually getting more than two years by us proffering this plan with the building out of the way.

Mr. Dotson noted seeing the site plan was very helpful in terms of where are Phase 1 and Phase 2. The applicant said their preference would be not to show a building, but simply have

the words future building to be determined or something along those lines when there is more information. He asked is there something in our ordinance that would not allow that.

Mr. Benish noted he thinks that is what they are speaking to when they say a building envelope so that they are not stuck to a specific building that then has to be interpreted whether that building is consistent with the plan. So a box that would be the area where buildings could go is what they call the building envelope. What they would be looking at are just the features that are important for where that building is. That is to protect the clear area to make sure a road can be put in and has the boundaries that are important to other goals and objectives of the comp plan and the frontage conditions if you will. That is really it. So instead of having a footprint you have an area where a building footprint could go in the future.

Mr. Cilimberg noted they have worked to try to make sure they are reflecting Neighborhood Model principles as they had for rezoning. He thinks Mr. Benish mentioned earlier that for a number of the dealerships they did not really have rezoning to work towards the possibility of alternative commercial uses and making sure that buildings were a little more in keeping with the Neighborhood Model principles. So typically they have tried to get an identification of building locations or envelopes. He thinks the applicant has certainly given you their perspective as to what that really means for them right now. They are not sure. One thing he will say that would address the question of a building location is if the zoning text amendment before you tonight was ultimately passed by the Board it makes the question of a building location in a zoning like this somewhat less necessary because that decision can be made based on use at the time the site plan comes in.

Mr. Dotson said he would ask the question again. He asked would it pass muster or would it be actionable not to show what appears to be a hard edge on the building. The staff has asked that edge be moved up to the right-of-way if he understands it and if they can figure what people would interpret as a building could you substitute for it without any perimeter future area for development of a structure.

Mr. Benish replied that is exactly what they are asking for because that is what a building envelope is. It is just to say here is where the buildings can go or conversely where the buildings cannot go. It is a bubbled diagram as opposed to a representation or an illustration of a potential building, which is what a building envelope is. This looking like a building causes some interpretation as to what was meant five years down the line whereas it would be better just to have an area shown as the area where a building could go.

Mr. Dotson noted he said a bubble. He asked could that be a circle.

Mr. Benish replied yes, it could be text.

Mr. Dotson asked if it could be something that people would not interpret as a specific building.

Mr. Benish noted it could be a hatched area.

Mr. Cilimberg pointed out they would go back to the applicant's illustration of where in Phase 1 they would show the green space and the Phase 2 area where this building is now being shown. That area could simply be noted as a future development of the building and parking and then the zoning ordinance essentially takes care of how that building gets located.

Mr. Benish said if they are agreeable to the concepts staff laid out and the recommendations, then staff can go back to the applicant and try to get that clarified to represent those

recommendations to the Board. He also wanted to correct something. When he responded to the building permit he was not thinking through the phasing of development. They really would not have information for a bond if they were to call for a sidewalk to be constructed and they had done only Phase 1 as an example. He thinks it is more likely what that would wind up being is the requirement for the sidewalks would be a zoning requirement, a proffer requirement, which would be implemented through zoning as opposed to a bond. If they come in later on with an actual phase to develop the frontage, then they could get into an issue of whether they would need a bond or not.

Mr. Dotson said the Commission would need tonight to approve a concept plan, which is the plan that had been on the screen before that showed the phases and the green area. He asked is that acceptable as a concept plan or not.

Mr. Benish noted he was speaking for Ms. Falkenstein because it was her project. If it was something like the green he thinks it is representing the amount of trees that are not being cleared. However, if they looked at that box they would want something that would say that is the area where buildings can go; or, more importantly the area to the north is where buildings are not going to be built to preserve that area.

Mr. Dotson noted the reason he was pushing this point is a few months ago they had sort of a back and forth with the Board of Supervisors about whether they had done due diligence in getting into the important details. He thinks that if they sent this forward with too many things to be worked out in between the Board might send it back saying well you need to look at it. That is the reason he is pushing the point.

Mr. Randolph noted that is the reason he asked the questions he did. If they did not have the clarification within the Planning Commission and this then goes to the Board of Supervisors there may be Supervisors that say that did not get vetted at the planning stage and if it was not vetted, then they were going to see it back again. He thinks it is important for the Commission to be aware of that possibility.

Mr. Morris agreed that was a good point.

Mr. Loach asked about the two rows of parking while the building is conceptual.

Mr. Benish replied that he thinks they were going to address that as part of the flexibility that they were trying to build into the language of either the proffers or the notes to the application plan, which would allow for non-auto buildings to have a different orientation. He was not sure that they have thought through how they would do that. However, that would probably be flexible because that would fall into that general building envelope and there would be other notes that would guide that decision.

Mr. Keller said he had a background question for staff. However, it in some ways it does relate to the sidewalk portion of this. He asked when is our anticipated completion of Berkmar including the off road alternative circulation for bicycle and people walking. He asked the date they are looking at.

Mr. Benish replied that for the Berkmar Extended part it was the end of 2017.

Mr. Kamptner pointed out it was September, 2017.

Mr. Keller pointed out they know there is sidewalk across from this parcel on the west side. He asked do we have contiguous sidewalk the full length of the portion now that is going to meet up with the anticipated extension.

Mr. Benish replied there are sidewalks on the west side until the intersection of Hilton Heights Drive, which is part of the Sam's parking lot. They don't have sidewalks on the Sam's parking lot section of that intersection. But, up until where the public road ends now there is sidewalk continuously all the way to Hilton Heights Drive.

Mr. Keller said the school is on the west side. So if they are thinking big picture into the future and not that many years out they should have a continuous sidewalk or pedestrian biking alternative the full length without this portion right now that they are planning on having once Phase 2 goes in on the east side.

Mr. Benish noted when Berkmar Drive Extended is completed they will have sidewalks from Hollymead Town Center to Rio Road. But, they will be on the west side. From the river north sidewalks will be on both sides.

Ms. Monteith noted she had one comment since she was not advocating one direction or another. But, if they were to treat that green area as a redevelopment zone they don't have to designate whether it is parking or building envelope or anything else. It could be more generalized.

Ms. Firehock said she had a question on the berm that they are proposing to construct to screen the Phase 1 parking. Does that require removal of existing mature trees in order to construct this berm of earth?

Scott Collins replied for the most part no. From the picture they were looking at most of those trees that they saw would not be removed. This is sort of on the back side. Actually where that berm is shown is pretty close to the old alignment of the road for the trailer park and there were no trees in that area. Most of those trees they saw in the picture would remain.

Mr. Randolph said he would like the county engineer to come before us and indicate the potential sufficiency of the water storage area and also explain his reaction to a potential berm along Berkmar Drive.

Michelle Roberge, Albemarle County Civil Engineer, asked if the question was regarding the bio-filter for the storm water.

Mr. Randolph agreed it was about the storm water.

Ms. Roberge said the storm water management facility when this first plan came in was showing a bio-filter and an extended basin. They have also included porous pavers on the site. From her first look it did not appear that quality could be treated with just the bio-filter alone. It was a much smaller size than what was shown. So they came back and provided a much larger bio-filter and removed the extended detention basin. In addition, she had commented on some concerns that the bio-filter alone would not suffice to be adequate for quality control. The applicant then submitted additional calculations that indicated that porous pavers and a possibility of filterras would be necessary on the site. At this point it was not show on the plan, but the bio-filter plus additional BMP's would be necessary to address quality concerns.

Ms. Roberge said her original comment was to proffer porous pavers on site because at that time they did not submit calculations. But, in the interim from this submittal they did submit calculation that provided that. However, she did want to let them know that the bio-filter alone is not enough. If they were to increase that size within that section it just would not be enough because they removed the extended detention basin. She did discuss with the applicant that water quantity is still not addressed. So she has not seen any new plans that showed how water quantity will be handled on the site. Further downstream is a county basin. She mentioned that the condition of that basin is in poor shape. So she did make note of that to the applicant to make sure that all of the detention and the water quality should be addressed on site. As far as the berm what she recalled from her site visit is that area just along the edge of the existing parking lot has trees. It appears that the trees that are located there now would have to be cleared. She asked if that addressed all of his concerns.

Mr. Randolph noted when he thinks of a berm usually there is a certain degree of elevation of earth above the normal topography. He asked how high a berm she would see being necessary on this site.

Ms. Roberge replied that it is definitely manageable; but, they would have to clear. She can't recall how high that site is. This proposed location of the site is much higher so it is already at a higher location. They would have to clear a portion on the east side. But, there is a good height difference out there already. Right now as far as the elevation she would have to also consider what the ARB might have to say. She did not know exactly what the criteria are as far as the buffer. She would have to talk to them and see what makes sense as far as a concept plan for landscaping the parking, can they see the parking or what extent is adequate or sufficient.

Glen Brooks asked to step in. He noted they do not have enough information to tell if they are going to be blocking the view. They would have to do sections from the roadway over, which would tell you.

There being no further questions, Mr. Morris asked if the applicant would like to address any of the items that have come up before they open up for public comment.

Ms. Valeria Long said first thing she would point out recognizing the type face is very small, that this note does indicate the berm will range in height from 3' to 8'. As Scott Collins indicated the location of the berm largely tracks the existing driveway when this was a trailer park. She noted where the road came in, which is the reason that area was selected for the berm. The trees are in this area, which is why they have shown to protect those. Going back to the photographs in the presentation she noted they were taken obviously looking into the site. So they see the trees. They can see in the background the tip of the existing service building. It is not the building that is closest to Route 29, but the second row of buildings. She pointed out the preservation of the trees in the foreground and the gravel driveway there. She noted roughly where the berm will be, which is kind of already on the high point. She thinks again that they already can' see over that hill. By adding a few feet of berm in that area they think it will screen it sufficiently especially when you retain the vegetation in the foreground.

Ms. Long pointed out those trees would stay. They are also going to be adding landscaping along the southern boundary of the storm water facilities as required by the Architectural Review Board. That is where the ARB thought the screening was necessary from their perspective. She suggested pulling up Google Earth images. Obviously, when there were trailers on site they can see that location and that those are the trees they are referring to. There was thought that went into the location of the berm for screening, which they thought would be an alternative screening method. It may not be perfect, but they think it is adequate given they can't see those

cars that are already on the back side of that hill they can barely see. There is some elevation in that location, which help screen these vehicles from Berkmar. So they think that will be sufficient for the screening and are happy to discuss it more. Again, it is a matter of adding additional landscaping at an expense when they know it will need to be torn up later. Therefore, they tried to come up with an alternative and thought using the old driveway for this grassed berm would be a good solution. They are happy to discuss that more.

Ms. Long pointed out the final response is with regard to the concept plan. They are comfortable with the plan this way. They think this is a happy medium giving the county the level of comfort and assurances they need to know they won't block any future extension of Myers Drive. They are committing to landscaping future dedication for improvements, pedestrian connections, and lots of landscaping; but preserves and gives us the certainty of knowing they will have parking that is sufficient for future uses. Again, she thinks they can say 90 percent of the parking is relegated. They are just asking for some minimal flexibility along that frontage.

Scott Collins asked to add one additional item on the storm water management aspect of it. Much like the building envelopes that they were talking about for the rezoning in kind of showing general areas is the same concept they did for storm water management at the rezoning aspect of it. The final details of all the site is worked out at the site plan aspect. However, what they want you to do is show they actually have the ability to handle storm water management on your site. They have gone over that. They have shown the location of the storm water management, done the calculations, and are complying with the new storm water management regulations with this site. The whole basis behind the new storm water management regulations is they have to use a series of things. They have that ability on this site in order to do a series of things. They have a bio-filter at the bottom, which also does handle water quantity and quality of the site. They also have other items that they have the ability to implement up level of the site as that is finalized, such as impervious pavers being an option, some rain gardens with the islands when the parking is developed and even buying credits as far as storm water management. So there are plenty of things they can do. However, this site is more than adequately shown that storm water management can be handled on this site, and no, they are not relying on that basin downstream at all. They understand that it is not in great condition and they are not relying on this for the site at all.

Mr. Morris thanked the applicant and opened the public hearing for public comment. He invited public comment.

Morgan Butler, representing the Southern Environmental Law Center, said he wanted to raise a few questions based on some of the new information that has been presented tonight particularly as it relates to screening. He thinks the screening of this site is important. They have got an existing large parking lot that in Phase 1 will be expanded to be a larger parking lot. Then in Phase 2 it will be expanded yet again to add additional parking spots. So the screening is very important for this site. They were glad to see so much attention paid to it in the staff report. They agreed with staff's concern that a 10' landscaping buffer along Berkmar Drive during Phase 1 could be inadequate. The new information tonight suggests a berm will be built during Phase 1 to help shield the Phase 1 parking. One question he has as Ms. Long and Mr. Borsches explained would sort of be an alternative screening method instead of expanding that 10' buffer to, for example, 20'. One question he has is would that berm be graded down during Phase 2 to create some of the parking spaces for Phase 2. If it is they are losing the shielding effect that it would provide. So he thinks that is an important thing to keep in mind. They would lose the shielding for Phase one at that point. Also, he thinks they need to be thinking now about the shielding for Phase two. The staff report points out that between that 10' landscaped

buffer that is being proffered as well as street trees would be added in the 20' portion of right-of-way that the applicant is willing to dedicate, but that those two would be adequate. The question he had was the proffers don't necessarily make clear that 10' landscape buffer would have to be maintained through Phase 2. The language of the proffer just says during Phase one of the project the landscaping buffer shall be maintained in the area shown on the concept plan. He thinks it would be helpful to clarify that the 10' buffer will be maintained throughout the life of the project. There are two points really. One, clarification of what will happen to that berm and its screening impact on Phase 1 once Phase 2 begins. Two, let's make sure to get a commitment that at least a 10' landscaping, if that is all they are going to have, is going to be maintained during the life of the project.

Mr. Butler noted finally, Mr. Dotson brought this point out during his initial set of questions, but staff seemed to largely dismiss it. He thinks it is worth exploring with the applicant the idea of not just keeping the potential future Myers Drive connection clear of impediments, but also seeing if the applicant is willing to proffer the right-of-way for a portion of that road that would go across this particular parcel. He did not think they need to state a definite location at this time. He thinks they could just say the applicant proffers if it is determined through the small area plan that a connection is needed up to a maximum width of however many feet to dedicate to the county at that time if so requested. He thanked the Commission for the chance to comment.

Neil Williamson, with the Free Enterprise Forum, said they have no position on this application or any application and talk about policy. In this policy iteration they have a roadway that is not on a map. They want to have flexibility to put that roadway in. The applicant comes forward with some flexibility. They are trying to do engineering plans for storm water that are site plan specific, and they are dealing with a building envelope. These are details that he believes the Board of Supervisors has inaccurately pushed down to the Planning Commission at this level for this juncture. The idea of process and the level of detail that is needed in order to get through this step exceed the policy decision that they are making. Again, they have no position on this project but they believe that the policy implications were important enough to speak on.

There being no further public comment, Mr. Morris asked if the applicant would like to rebut any the items for five minutes.

Ms. Long asked to address the question about whether the berm would be graded away during the second phase of the project when there was a new building. As they can see from the concept plan the drive isle would remain, but that would become part of the building and part of the parking area behind the building. So the answer is yes, it would be. As staff indicated after or during Phase 2 it will have a combination of 20' of screening with 10' of landscaping and then a sidewalk and street trees. Their recommendation was that would be appropriate for Phase 2 of development, and so they will put all of that in. They think that will be the appropriate type and style of screening for the second phase of the project. They are happy to discuss that further.

Mr. Loach asked Ms. Long if she had a problem with Mr. Butler's comment as far as the condition about maintaining the 10' buffer into Phase 2.

Ms. Long replied no, there was no problem at all. That is one of those things they anticipate would be some of the wordsmithing they would work through with the County Attorney's Office prior to final proffers.

Mr. Loach asked if that would be the same for the Myers Drive.

Ms. Long replied they heard Mr. Benish's response with regard to the inability of the county to require that land be dedicated since it is not on the plan. As they can imagine it is a tremendous chunk of this parcel and a significant value. So it is a challenging question. She did not know if they were in the position to discuss it now, but it sounds like it may be from a legal perspective not something that can be done.

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

Mr. Keller noted he had a question for staff. Again, this is looking into the future, but he thinks this is important first of all to understand. Is there a possibility that Berkmar Drive at this parcel would be widened in the future?

Ms. Falkenstein replied yes, the current comp plan calls for the widening of Berkmar Drive to avenue street sections. It would be two lanes in both directions with bike lanes, sidewalks, and street trees on both sides.

Mr. Keller said when they are talking about this 10' or 20' planting strip is there the possibility that this planting strip could be lost to the expansion of the widening of Berkmar Drive.

Ms. Falkenstein replied yes, there is the potential that it could be lost during the construction with some grading that would need to happen. But, it would be replanted if that were to happen.

Mr. Benish pointed out they do not have a design yet to know where the widening would occur or on which side of the road. So it is hard to determine at this time.

Mr. Keller pointed out where he was going with this is whether 10' or 20' of landscape set aside now is ultimately going to be satisfactory for what they envision for this major new roadway that is going to have a major new section. He is looking at Google Earth and he is seeing it is wide enough at the intersection, but then it narrows down as they approach this parcel. He was looking at what is occurring on the west and he was seeing development very close to Berkmar both in parking and structures on the west side. So it would seem logical that widening might have to happen on the east side. He was wondering if this whole discussion of landscape is almost moot because it is going to be lost or whether they should be looking into the crystal ball and asking for more set aside.

Mr. Benish replied they don't have really a basis to know how much to ask for. As they move further up the street there is development on the east side that would constrain whether they widen on the east side or not. So it is just a tough question to answer. He thinks staff is trying to do their best estimate in setting aside and looking at the site as best they can predict at this point in time. It is tough to predict without a road cross section and enough engineering and scoping to know how the improvement would occur.

Mr. Keller said he would just like to follow what Mr. Randolph often says that this is a good case in many different arenas that they have seen played out with what is going on in 29 North and why the small area plans that they called for in the CIP that are not funded on a regular basis get us in a whole lot of trouble. They need to really be pushing the Supervisors to provide the support for these area plans. Here they have something that is going to be completed in 2017 in a short period of time and yet we have not thought though how the parcels are going to work on this end of this major connector. It is disappointing.

Mr. Morris noted just to piggyback on what he said that one of the things that he is concerned about is not only that planting strip of 20', but if they require a sidewalk is the sidewalk going to go if and when Berkmar is widened. There are many, many questions is all he is saying. He agreed with Mr. Keller on the small area plans.

Mr. Benish said he thinks Ms. Falkenstein was going to point out there is some space that is provided.

Ms. Falkenstein pointed out the applicant has measured 48' from the center line of the road, which is sufficient for two travel lanes, bike lanes, sidewalks, and street trees. So that translates into 20' across their property that they have reserved for a future widening of Berkmar.

Mr. Benish said they can't tell the Commission by the time they go to design that four lane section absolutely for sure there is not an impact to the site. However, it has been accommodated as best we can at this point in time.

Mr. Keller asked if he feels at this point that it has been accommodated as best you can.

Mr. Benish replied based on the information available it does now since they don't have a cross section with their design of the road to really pin point exactly where the edge of pavement is going to be.

Ms. Firehock said she has a minor technical question since she is still hung up on that berm. She asked the engineer if they are going to simply pile some soil on top of the existing asphalt to provide screening; or, are they jack hammering up the asphalt and then building the berm.

Pete Borsches replied that he did not know if they have thought that far. The location is where they kind of stopped the discussion in the height to be able to screen. He thinks the photos he supplied show that it is possible to do that there. With the storm water management facilities on this site it is really his intention to take care of everything that they can take care of on the first mess so that they don't have to make as big a mess down the road. That is one of the reasons they are building that facility so large down there. So if there is something they can do in an efficient manner, meaning ripping that road out to add the berm, it is our thought that they are going to have enough dirt from the Phase 1 project that they will be able to neatly pile that up there and potentially reuse it for Phase 2 if necessary. So that is really where they are right now. He does not have a definite answer for him, but if he had his preference he would rather get it done on the first phase.

Ms. Firehock noted that she asked because in the shallower parts of the berm the water could percolate through, hit the asphalt and not infiltrate. She was just trying to think about the design of that.

Mr. Collins pointed out from an engineering aspect the existing roadway would absolutely be removed. All of that asphalt would be taken up in order for slope instability for E & S control and everything else. Then the berm would be installed, matted and seeded to be established. That was the intent of that. So they would be establishing this nice grassed berm which would be stabilized from an erosion and sediment control standpoint as well.

Ms. Firehock said she would like to make a quick comment. If she had her preference she would rather see trees put there even though they would have to be removed in the future. In terms of a storm water benefit one tree can remove anywhere from 400 to 3,000 gallons of storm water per year depending on species and age. She understands that they were trying to

respond to this screening need, but she did not find a berm that attractive. If it was possible to simply plant trees there they would also be getting other benefits for reducing urban heat island effect, storm water filtration, creation of oxygen, protection of habitat and all kinds of other benefits that could be done relatively inexpensively even if, again, they came back and had to remove those trees in the future for construction.

Mr. Collins replied fair enough. However, they need to keep in mind that this berm is about 150' away from the existing roadway edge at this time. There are a number of trees there that will remain as they showed.

Ms. Firehock pointed out she was just being clear on what she prefers to see for screening between either a berm of earth or a tree.

Mr. Collins replied that was very true, but also the idea is that all of these trees provide a much better screening because they can actually screen everything. Whereas, if they just planted a couple of trees it would definitely provide that absorption that they are looking for. They are doing a whole lot of screening down below, which would do the same thing. However, it would not screen anything just having a couple of trees there. This would actually provide for complete screening, which is the intent of that berm.

Mr. Morris invited further discussion. There being none he noted staff has recommended approval for the rezoning and the two special use permits. He asked that the Commission handle these one after the other starting with ZMA-2014-000008 CMA Properties. He asked if there was a motion.

Mr. Dotson said he would like to build a motion with some feedback from staff. He would move approval of ZMA-2014-00008 CMA Properties with the conditions as outlined by staff with the following adjustments or modifications: On condition 2 where they are talking about sidewalks and street trees the applicant has indicated they are certainly willing to provide these when sidewalks are installed on adjacent properties. He asked if that was acceptable.

Ms. Falkenstein and Mr. Benish agreed that was acceptable.

Mr. Dotson said regarding the landscaping in the concept of the berm, notwithstanding Commissioner Firehock's comments, that the third condition might be something along the lines of providing screening by construction of a berm as shown on the Phase 1 concept plan grading exhibit. He asked does that address staff's concern for landscaping.

Ms. Falkenstein replied yes, she thinks that can be worked out with the applicant. Staff would like to look at the berm just to make sure it provides screening since they have not had the opportunity to do that yet. She suggested adding language that stand alone parking is properly screened from Berkmar Drive.

Mr. Dotson asked since they have seen the phasing plan tonight that staff had not seen before would condition 4 go away.

Ms. Falkenstein replied yes since she thinks that would clarify condition 4.

Mr. Dotson said under condition 5 they talked about a two-year time period. He thinks everyone has said the two years is not really relative because the generalized area for future construction shows both where that would take place and where it would not take place. So he was thinking that condition 5 simply gets modified to say as shown on the concept plan.

Ms. Falkenstein replied that she thinks that is acceptable.

Mr. Dotson pointed out those would be the adjustments he would make to the staff recommendations, and he would so move.

Motion: Mr. Dotson moved and Mr. Randolph seconded to recommend approval of ZMA-2014-00008, CMA Properties with the conditions as outlined by staff with the following adjustments or modifications.

1. The building envelope on the concept plan should be extended to the edge of the right of way. The applicant should commit to locating buildings for commercial uses other than automobile sales/service to address the street with relegated parking.
2. The sidewalks and street trees should be constructed when sidewalks are installed on adjacent property.
3. Screening shall be provided during Phase I in the form of a berm as shown on the Conceptual Plan Grading Exhibit.
4. The proffer to keep Myers Drive free from impediments shall refer to the alignment of Myers Drive as that shown on the Concept Plan.
5. Technical fixes should be made to proffers as recommended by staff.

Mr. Morris asked for a roll call.

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

Mr. Morris noted that ZMA-2014-00008, CMA Properties would be forwarded to the Board of Supervisors with a recommendation for approval provided technical revisions are made to the proffers, application plan and code of development as outlined in the staff report on a date to be determined.

Mr. Morris said the next item is SP-2015-00005 CMA Properties – Outdoor Storage and Display. He invited discussion.

Motion: Mr. Dotson moved and Mr. Randolph seconded to recommend approval of SP-2015-00005 CMA Properties – Outdoor Storage and Display with the conditions as recommended in the staff report.

1. Vehicles shall not be elevated anywhere on site.
2. Vehicles shall be displayed only in areas indicated as "inventory" on the plan entitled "CMA Properties Highway Commercial Concept Plan" by Collins Engineering with revision date of 1-30-2015. Inventory parking within the EC Overlay District shall be only in designated striped parking spaces, as identified on this plan.
3. Final site plan approval is subject to ARB approval of the lighting plan (submitted with the site plan). Maximum light levels shall not exceed 30 footcandles.
4. Final site plan approval is subject to ARB approval of the landscape plan (submitted with the site plan). Landscaping shown on the plan may be required to be in excess of the minimum requirements of ARB guidelines and/or the Zoning Ordinance to mitigate visual impacts of the proposed use.
5. Clarify on the plan all site elements to be included in Phase 1 and Phase 2. If the storm water pond is constructed in Phase 1, indicate that the trees along the southern perimeter of the site will also be installed in Phase 1.

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

Mr. Morris noted that SP-2015-00005 CMA Properties – Outdoor Storage & Display would be forwarded to the Board of Supervisors with a recommendation for approval with the conditions outlined in the staff report on a date to be determined. The next item is SP-2015-00005 CMA Properties – Stand Alone Parking.

Motion: Mr. Dotson moved and Mr. Randolph seconded to recommend approval of SP-2015-00006 CMA Properties – Stand Alone Parking.

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

Mr. Morris noted that SP-2015-00006 CMA Properties – Stand Alone Parking would be forwarded to the Board of Supervisors with a recommendation for approval.

The Planning Commission recessed at 7:42 p.m. and the meeting reconvened at 7:49 p.m.

Work Session

ZTA-2014-00003 Neighborhood Model Setbacks and Yards

The Planning Commission will hold a public hearing to receive comments on its intent to recommend adoption of an ordinance amending Secs. 18-3.1, Definitions, Sec. 13.3, Area and bulk regulations, Sec. 14.3, Area and bulk regulations, Sec. 15.3, Area and bulk regulations, Sec. 15.6, Building separation, Sec. 16.3, Area and bulk regulations, Sec. 16.6, Building separation, Sec. 17.3, Area and bulk regulations, Sec. 17.6, Building separation, Sec. 17.8, Height regulations, Sec. 18.3, Area and bulk regulations, Sec. 18.6, Building separation, Sec. 18.8, Height regulations, Sec. 19.7, Height regulations, Sec. 19.8, Building separation, Sec. 19.9, Setback and yard regulations, Sec. 20.8.4, Height regulations, Sec. 20.8.5, Building separation, Sec. 20.8.6, Setback and yard regulations, Sec. 21.4, Height regulations, Sec. 21.7, Minimum yard requirements, Sec. 21.9, Building separation, Sec. 26.4, Structure height and setback, Sec. 26.5, Minimum yards, and adding Sec. 4.11.5, Setbacks and stepbacks in residential districts, and Sec. 4.11.6, Setbacks and stepbacks in conventional commercial and industrial districts, to Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Sec. 18-3.1 by adding a definition of "infill," amend Secs. 13.3 through 26.5 identified above by establishing new minimum and maximum setbacks for front yards (street or sidewalk setbacks) and providing for different setbacks for front yards on streets qualifying as infill, adding a minimum garage setback in residential districts, amending minimum sideyard setbacks (building separation), continuing existing rear yard setbacks, adding new minimum stepback requirements for buildings more than 40 feet or 3 stories in height, and allowing various minimum and maximum standards to be modified by special exception. The new standards would be in new Secs. 4.11.5 and 4.11.6 referenced above. This ordinance also would make technical changes to sections being amended. A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Ron Higgins)

Ron Higgins presented a PowerPoint presentation to summarize the staff report regarding ZTA-2014-03 Neighborhood Model Setbacks and Yards.

As an abbreviated history, this has been going on for a number of years in our Neighborhood Model initiatives since 2001. In March of 2014, the Planning Commission adopted a Resolution

of Intent to bring up again Neighborhood Model form setback in the Development Areas in conventional districts. Since then they have had several work sessions, a number of roundtables, and that all lead to a refined ordinance they brought to the Planning Commission for a public hearing on November 11, 2014. The Commission asked a lot of questions, got information and heard from the public. At that meeting there were some specific concerns expressed from the development community about maximum setbacks and provisions for an offset for garage setbacks. Everything else they seemed to be comfortable with. The Planning Commission held the public hearing and deferred action on the amendments until staff could have another roundtable and dialogue with the development community to hear their concerns and make revisions as needed. This roundtable was held December 10, 2014. There were a lot of ideas floated and a lot of concerns expressed.

If he could categorize them they would be the maximum setback in general. In some areas in particular they were concerned about some of the commercial on some of the corridors (29 and 250). The garage offset was still an issue. When staff presented this to the Commission originally they presented all of these things with maximums and minimums and said they could do special exceptions for increased maximums or reduced minimums. They had some concern with that, too, because that added to their uncertainty. They thought that there were some things that would increase the maximum for instance that was so concrete that they were measureable. They could be standard instead of discretionary things that they took to the Board. Staff heard that and developed a whole series of things that could affect the setback, particularly the maximums, and created a number of them that were very measureable and made them automatic criteria. They had all of them that way. However, they have since learned that there are some in there that are just too discretionary. He would say that some of the ones were like parking and circulation options.

Staff ended up with three that includes universal design or target market design, which they could not quite quantify that. But, that was something the developers brought out. They were looking at a development scheme particularly in commercial areas. They were focused on that.

Next was low-impact design. Staff was not completely sure how to quantify that yet. So they have left those in the special exception provision. That was not very clear in the staff report because they just realized that they have to separate them. In the staff report he differentiated between the two. What he meant to do was to say not only in the residential areas, but that would be true in commercial and industrial also whenever they had a maximum or a minimum. It is not necessary to have maximum in some of these areas because they have also recommended removing the maximum in some of the areas. He would walk the Commission through what they ended up with.

After the discussions and hearing from the development community staff took the table from November and added a last column called options. That column addresses a number of things that they could do. The fourth thing that the developers brought up was what happens with all of the approved Planned Developments. When development comes into infill they are looking at a new setback, which he would address later.

They took the table and looked at all the options they discussed with the development community and among staff. They have gone the table and highlighted in yellow the recommended changes. These are particularly the changes since November. Some are modest changes to address concerns that the development roundtable brought up.

Number one on the table is grandfathering, of course, of all approved Planned Development. Because of the Neighborhood Model form being such a Planned Development kind of concept

there are some Planned Development Districts that don't have the same kind of automatic standards for their Codes of Development. They will continue to apply those to new Planned Development that are not Neighborhood Model, as an example.

If they go into the residential they did several things in the table. They removed the maximum for conventional infill residential. They looked at a number of options for just R-1 and R-2 looking at principle arterial and they did not get us anywhere. They looked at examples of that in the development areas and it made more sense just to eliminate the maximums because that was probably more compatible with the existing neighborhoods that would be considered infill. They started looking at extreme examples of what the infill definition might result in. They realized that they may have a parcel and then one parcel to either side of it and only one of the adjoining parcels would have a building. It would dictate all of the setbacks for the other parcels. That seemed kind of ludicrous. So they decided to put a new definition clarifier in there and say that the subject property in an infill situation can't be more than 120' in frontage. That starts to get you to a more typical infill situation. They looked at examples in our neighborhoods and that made sense. Otherwise, they are dealing with a large tract that is going to get redeveloped more likely than that. So there was no maximum and they further defined infill. Everything else stayed the same.

Lastly, there was a concern expressed by some of the surveyors that were at the roundtable development meeting that they were putting a cost on people because they are going to have to go out and figure out how far all of the houses are within 500'. They are going to have to go out and measure the closest one so they can come up with the minimum. They are doing a bunch of survey work on other people's property. Staff talked to other localities including the city that does it, too. What they would do is tell you if it meets the criteria for infill. Then they will also determine through our GIS what the minimum setback building is in that list. They could accept that or decide since it won't be very hard to determine that. However, if there is a real concern about the number staff gives you, which they will set at the time of the pre-app, they can go out and verify it. He did this for a while in the city and he did not think they had anybody verify it. They accepted what they were given. However, that may be different here. He pointed out they were talking about development areas and existing neighborhoods. It is a very varied type area.

Staff moved to non-infill. Our current maximum is 25'. They had the maximum at 20'. However, they thought at the very least if they are going to have non-infill open season residential and move towards a Neighborhood Model form look what the maximum would be with what our current minimum is of 25'. So that was a minor change. They did eliminate the maximum in R-1 and R-2 because our R-1 and R-2 neighborhoods don't lend themselves to that. They started to see that eliminating the maximum there did not really affect those neighborhoods that much. They would keep the minimums, of course, along any of our principle arterials. Principle arterials in Albemarle right now are basically 29 and 250. He also talked about increasing the maximums to 25'.

When they move to modifications he needs to point out something that he might have confused them on earlier. They had a simple special exception statement in our chart when they were meeting with the Commission in November. They said any maximum or minimum can be modified with a special exception. It is no big deal. Developers were concerned about that because then they would have to wait to get a staff report done and then go to the Board. They may not have anything on their agenda but have to go to the Board to get a slight modification for some very important reason. They started rattling off some great ones, which included existing utilities, existing significant vegetation, public plazas, steep slopes and all kinds of things that are there and they are often forced to not develop there. They said that really ought to be the reason that they just automatically grant an extension. Staff agreed.

He pointed out that it was not clear in the chart that they would also allow for a modification to minimums in our commercial districts. They would like the Commission to make sure they cover that in whatever action they take so staff can get that corrected by the time it gets to the Board. However, they do mean to have modifications allowed in maximums and minimums in our district.

The options highlighted in the chart on the right are just the ones they consider criteria that could be automatically granted. It is physically obvious to anyone who is reviewing it. However, the ones he did not highlight such as special parking circulation, unique target market design, low impact design and accommodations would still have come under the Sinclair case. Our attorneys have informed us that they would need to be special exceptions. But, that is a small number of them. Most of them they feel will be able to be done administratively.

Next, would be conventional commercial districts, abutting non-residential. Again, they are saying no maximum along the principle arterials. They are also saying the whole series of maximums and minimums can be modified using criteria. These criteria appear much more suited to modifying a maximum because of their physical existence. They will have to look at administrative and special exceptions for minimums also because that may be a factor regarding build the same prevailing development patterns and multiple dwellings on the lot. That can be pretty obvious when they are dealing with a contextual site plan.

In industrial it is the same thing with no maximum, eliminate maximum on principle arterial, modifications for a series of administrative maximum setback increases including modifications for minimums, and eliminating the maximum on principle arterials. Eliminating the maximum helps us on a lot of the major development areas.

They looked at all of our Industrial Districts again. They had them all mapped and were going out doing our photographs of what ideas might look like and what they might run into. They realized none of them were in a Neighborhood Model setting. Developers brought up something great at the Roundtable. They said industrial complexes have multiple buildings so every building has to be within a certain distance of the road. However, they can't. So why does it matter in an industrial complex. They asked to give them a minimum and then let the complex develop as it may unless it is a Planned Industrial Development. Then that will be dealt with differently anyway. So they just recommend eliminating the maximum in industrial districts. That is all the change they made from what was presented to the Commission in November.

At the very end of the table he summarized something that they talked about with the County Attorney, which was to try to list the three special exception discretionary items that they had and to try to list the types of things that are considered administrative automatic.

In summary all of this changes the way that they really do things routinely. What it is hoped to do is exactly what they say in our public goal to make it more possible for development to follow a Neighborhood Model form, which is something they have tried to achieve in our development area. He will stop here and open up for questions. He thinks they have done all the things except the modification they still need to make to make sure they cover the minimums.

Mr. Morris said it was good input and ideas. He asked Ms. Firehock if she had any questions since she had to leave.

Ms. Firehock complimented staff on a good job.

Mr. Morris invited further questions for staff.

Mr. Higgins said he was hoping to get it adopted. However, when they went back to the developers they had some terrific ideas. It made us rethink a number of the different kind of districts. So congratulations to the developers and the Commission.

Mr. Morris opened the work session and invited public comment.

Valerie Long thanked Mr. Higgins and his team for listening and taking our good suggestions into account. They really did have a very diverse group that day which included some surveyors and engineers. There was a lot of interesting input that day. They really appreciate staff taking a lot of it into consideration including the industrial setbacks. The industrial maximum setback was a great example. A suggestion she focused on a lot was an exemption for Planned Development Districts that have approved application plans that might have different setbacks. So having that grandfather provision included was absolutely an essential element.

Ms. Firehock left the meeting at 8:05 p.m.

Ms. Long suggested there be a similar grandfathering provision included for any property that is in a conventional district that has nevertheless proffered a plan or is the subject of a special use permit that has a plan that may show some other different setback. It is the same concept that if applicant landowners spend sometimes hundreds of thousands of dollars working on application plans, they get them approved as part of their zoning whether it is a rezoning or a special use permit, and then to have the site plan ordinance require something more stringent or something different that all of a sudden makes the project not work would be she believes an unintended consequence. She thinks an easy way to address that would be to add a similar grandfather provision in any conventional district. Generally, tonight was a good example at the Colonial Auto property. That is not a planned district; it is a conventional district. But, they are proffering a plan as part of that rezoning. So they would hope that subsequent regulations don't undo all of the hard work that goes into those plans. She has strong concerns about the remaining maximum setbacks that are in there. They were expanded which helps and they were eliminated from the major arterials and from the industrial districts. However, they are still in place in many situations. She still has some concerns with those maximum setbacks. So they will continue to talk about those. However, on the whole other than those comments it is very good work.

Mr. Loach asked should there be a time limit on the grandfathering back in the number of years. They have had some real old plans come forward, which were problematic because of the age of it, but they were still good. He was wondering if there should be a time span for that grandfathering.

Ms. Long replied if it was a valid plan and if it was otherwise valid it should continue to reap all the benefits of any other element of a valid plan. The whole point of having an application plan or proffered plan is a landowner is committing to those restrictions. They can only develop the property in conformance with that plan.

Mr. Loach said he understands what she is saying. However, they have had some come up that were 20 years old and because of that there were problems.

Ms. Long replied she thought there are fewer of those. Most of the ones that have been proffered have been proffered much more recently. So she thinks while there could be a few exceptions like he is mentioning, she thinks the vast majority of examples would be ones that

would benefit from the exemption because they have gone to the expense in time and commitment in proffering the plan. The only other issue is that it helps that they can get a special exception on some of these setbacks. But, just as they have talked about with wireless facilities that need a special exception and as Mr. Higgins' indicated it still requires staff reports to be written and lots of analysis to be done. They have to kind of beg and plead their way onto the Board of Supervisors agenda, which sometimes takes months for a special exception that would otherwise hold up a site plan approval. Those time delays become very, very significant with projects.

Neil Williamson, with the Free Enterprise Forum, said he spoke with the Commission on November 11 and asked that they convene the developer's roundtable. In doing so he thinks staff and the developers understood and worked together to come up with examples. He thinks as Mr. Higgins mentioned the ordinance or the language today reflects the purpose, which is really to make it easier to develop in the development areas while providing the setbacks that make sense. This project has really been in the works since 2003. The Commission has beaten it up pretty good. He appreciates the amount of time, the charts, the diagrams and all the different elements. He may not agree with every number on there, but he thinks this is as good as it gets right now and he encourages the Commission to move it forward.

Mr. Higgins requested the Chair to have Mr. Kamptner comment on something about proffered plans since they have to honor proffered plans.

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

Greg Kamptner explained for the conventional districts he was assuming they were probably talking about just conventionally zoned commercial projects where there is a concept plan or proffer that specifies a setback. He would like to look at a sampling of what they have out there. He was not recalling any specific applications where there were setbacks proffered. There may be some concept plans though that may show the relationship of buildings to the property lines. Then they could craft some language that would give the applicant the option of selecting either what was shown on the plans, or what is available now under the current regulations, or simply grandfather those prior proffered or conditioned plans so that they don't have nonconforming status. But, they can address those. Depending on what they find from a sampling they will take the best approach. He thinks that they will deal with this situation. Hopefully there are not that many of them. However, they don't want to put a previously approved plan into a nonconforming status, which may create some problems for a plan that was actually proffered.

Mr. Dotson said he was very comfortable with the commercial and the industrial. Therefore, his comments will generally reflect the residential. He had a conceptual question on the residential districts where they were saying or any district, not dealing with infill here but normal development, could have for instance a minimum setback of 5'. He starts to think about transect and concern about development in the rural area. When he thought about that he has said they need to figure out how they can offer in the development area a feel that might appeal to somebody who would otherwise be drawn to the rural area. So they can do that partly by offering urbanity with higher density, lots of variety and so forth. But, there are some people who are going to want a big front yard and so forth. If they have a uniform minimum 5' front setback often in zoning the minimum becomes the norm. If the developer said they can get a few more units on the parcel they just acquired by doing those sorts of setbacks he worries that they are losing diversity in our housing stock and the ability to appeal to different people. So that is sort of a general concern that he has as he thinks about transect and here they are setting a uniform standard. He remembers the debate was always is it "a" model or "the" model.

Well this starts to suggest "the" model although there is flexibility within it between the minimum and maximum. That is just his overall comment.

Mr. Dotson said he was getting down to more specific concerns in situations where they are talking about building separation. He is concerned that what person A does as they get very close to the property line then prohibits person B, who is the neighbor, from doing the same thing because the buildings have to be separated. That seems fine within an overall development that has been planned for certain building separations. However, when it is the edge of the development and they are up against a conventional R-1 development or whatever he is concerned that it is taking property rights away from those surrounding because of the separation. That gives him a little bit of bother.

Mr. Dotson noted the third thing is this new definition for infill, the 120' lot width. He asked is that as the property sits today? If it is a 4-acre piece and the developer intends to divide it and put 17 units on it, are we saying that because it is 4 acres it is more than 120' on a side so it is not infill. Or, are they saying that once he divides it into those 17 lots then some on the edge could be considered infill. He asked how they define lot. Is it the parent lot or after it is subdivided.

Mr. Cilimberg replied what they discussed is that it would be based on existing circumstances. So if you have frontage that is undeveloped any one of those lots should not be more than 120' for the determination of infill.

Mr. Dotson asked if a 4 acre parcel that has road frontage on 3 sides would be infill or not.

Mr. Cilimberg replied if it was 120' or less it would be infill.

Mr. Dotson said it probably is more than 120' and so would not be infill, and Mr. Cilimberg agreed.

Mr. Dotson said he thinks they need to be clear that is the initial measurement and not the once subdivided measurement. He is getting more detailed. However, in the Setbacks Article 2 on page 2 of Attachment A they say closest setback of an existing structure within 500'. He said this before, but would say it again. He thinks it needs to say residential structure because they could have other kinds of structures and they don't want to base residential setbacks on that.

Mr. Higgins agreed.

Mr. Cilimberg noted that was a miss on our part.

Mr. Dotson noted his last point was he thinks this is tricky business. There are so many different circumstances and specific situations that he would like to see us say we are going to review this maybe annually for the first two or three years just to see how it is working out. He cannot imagine all of the different situations and particulars so he would like to keep an eye on it and see how that works out.

Mr. Higgins asked if that would be a report back to the Planning Commission on how it is going, and Mr. Dotson agree.

Mr. Cilimberg pointed out they found previously with the Downtown Crozet District, which was a new idea and new district put on the ground so to speak that was not at the initiation of the owners but actually the county's initiation, that they needed to revisit that after a period of time

to deal with some unintended oddities. There was nothing big, but some things that needed to be adjusted later, which is not unusual when you are making significant zoning text changes that you want to go back and tweak later. He will note that they did in fact discuss the edge condition where you might have a 10' building separation. They did note that in actuality anything that gets built less than 10' from a property line within the new development has to get easements from the adjacent parcel in order to have a full 10' of maintenance area. So there will never actually be the potential of the new development imposing on the adjacent development artificial setbacks unless they are willing to accept it because they have to grant an easement.

Mr. Higgins pointed out they have to negotiate, which is a safeguard.

Mr. Cilimberg noted in the R-1 and R-2 case under the development where they are saying no maximum that was actually to address the larger lot size and the expectation that would be the type of lot more likely to be an alternative to a rural lot. So the R-1 and R-2 they decided that should be where there is no maximum setback because those may be lots where houses want to be further back due to the lot size somewhat for the reason mentioned by Mr. Dotson.

Mr. Dotson thanked staff for those comments.

Mr. Keller said he would like to follow up. He can't picture where they are in the county. However, there have been lots of issues in the city lately with R-2 and infill in R-2 areas. He asked if staff has really thought through all the permutations of the ramifications of this for infill.

Mr. Higgins asked if in R-2 and in what way.

Mr. Keller replied that it seems that it is providing an opportunity for less than ideal housing and increased densities. So there are questions about what the neighborhood makeup are in those. So he wonders if in this particular category if they are empowering some sorts of development that they might be sorry that they did.

Mr. Higgins replied that they did look at that as the context of what the city is going through simply because the city has a series of R-1, R-2 and multi-family. The county has R-1, R-2, R-4, R-6, R-10 and R-15. So our R-2 does not function that way. Another thing is they had thousands of R-2 properties develop as R-1 properties. The concern in the city back in the early 2000's is that was good, they like that, and those are great neighborhoods and how do they keep it from becoming a duplex and increasing the density. So the city downzoned all those parcels to a special R-1 district so that they prevented that. He did not know that the county has too much of that happening. Although, he could say there was R-2 zoning in Albemarle County that has single-family housing on it and some have an apartment in the basement. Staff did not dig deep into that. They were looking at the development areas because most of the R-2 stuff is a fair mix. However, once you get beyond R-2 it is apartment and townhouses.

Mr. Cilimberg said there is a density associated that is very incrementally defined in the county, which is not the same as in the city.

Mr. Higgins noted that helps, too.

Mr. Keller said when he thought about this before the meeting he was wondering about the grandfather idea. He was thinking about the discussions that the Supervisors have had and Mr. Lafferty has brought up about the older pre-1980, 1970 subdivisions that don't have a lot of infrastructure with them. Often that is the time period when there was more R-2. So the costs are lower and the people who are interested in developing more rental and lower cost rental

could end up packing into those neighborhoods. He was wondering whether this particular formula is going to create an uneven rhythm. If done properly it should give more latitude for keeping the design rhythm of the streetscape that is set up. But, it also provides flexibility to not have to meet that rhythm. He would like staff to look at some areas where there are concentrations of that. Again, this is from his vantage point more theoretical. He would like to look at or have staff look at some areas where there are concentrations of that. They may not even have to talk about the R-1 versus the R-2, but just the older neighborhoods. He knows that there are concerns among Supervisors who represent those neighborhoods and at least one Planning Commissioner from that area because they have spoken about it at length. He hoped that they are not providing too much flexibility.

Mr. Cilimberg noted that is one of the reasons why they wanted to make that distinction between infill and non-infill because those infill circumstances they wanted to make sure they are being treated the same as the existing conditions. There is no change, also, in minimum lot size or in density allowances. The way some of this is structured he thinks some of the concerns that have arisen in some of the existing neighborhoods have been about things like accessory apartments or multiple accessory apartments that are actually violations to the zoning ordinance. They are not actually a result of what the ordinance says can be done.

Mr. Higgins noted the county is not as liberal with the accessory apartments for instance as the city is. The city allows it in any structure on the property as long as the property owner lives somewhere on the property. The county allows it only in the home. So they have some built in standards. People do try to do garage apartments, cottages and things like that in conventional and those are violations. If they get complaints about them and the neighbors are concerned that it increases the density and changes the character then they have to pursue them. So there are a lot of permutations on that. However, he thinks what they see in Albemarle is that the more dense housing usually starts to move into the R-4 and R-6 districts.

Mr. Cilimberg said nothing in our amendments is proposing to change what is allowed in terms of things like accessory apartments.

Mr. Higgins agreed that they were not messing with uses.

Mr. Randolph asked why 40 yards and why not 50 yards for infill. He asked why it was 120' and how did staff come up with the 120'.

Mr. Cilimberg replied that was actually the maximum frontage in an R-1 lot.

Mr. Higgins noted they picked it from the ordinance. They decided to pick something they could defend in the ordinance.

Mr. Cilimberg noted that was a good question.

Mr. Higgins agreed it was a great question that they considered.

Mr. Cilimberg pointed out there was only a maximum frontage on a couple of districts and they used the largest of those maximum frontages which is in the R-1.

Mr. Dotson commented that he said it does not change the density and R-4 is still four units to the acre. What it may do is increase the effective density because if they are getting under building it may make it possible to get closer to what they actually plan on happening there. So that is a positive side of it.

Mr. Higgins agreed that was true.

Mr. Morris asked if they have a recommendation from the Commission. He believed staff's desire was the Planning Commission recommends approval of the zoning text amendment. He asked if that was correct.

Mr. Higgins said staff recommends the Planning Commission recommend approval of the zoning text amendment.

Mr. Cilimberg said they will note in the recommendation if they could include they would be addressing the question of the grandfathering of conventional and also that they will write in the provisions for special exception allowance for minimums to be reduced actually in circumstances that might warrant that.

Mr. Lafferty moved to recommend approval of ZTA-2014-00003 Neighborhood Model Setbacks and Yards.

Mr. Morris asked if Mr. Lafferty would like to amend his motion to include that.

Mr. Kamptner said there are a couple of other changes he wanted to not.

1. Address grandfathering of proffered conventional re-zonings;
2. Write in the provisions for reduction of minimum setbacks by special exception.
3. Clarify the definition of infill so the reference is to the lot as it exists at the time of proposed development.
4. Change references to "residential structure" to "dwelling unit" as that is a defined term in the zoning ordinance.
5. Address the numbering of Sections 4.11.5 and 4.11.6 as necessary.
6. Include a note in the tables that clarifies references back to yards and setbacks in the definition section (Section 3.1). The definition of setback is limited to the front setback. However, there is also a definition in that section of yard that refers to all fronts, back and side setbacks.

Mr. Lafferty agreed to accept the recommended modifications.

Mr. Dotson seconded the motion adding an amendment request for a periodic or perhaps annual review as they go forward.

The motion passed by a vote of (6:0). (Firehock absent)

Mr. Morris noted that ZTA-2014-00003 Neighborhood Model Setbacks and Yards would be forwarded to the Board of Supervisors for a work session on May 6, 2015 with a recommendation for approval with the modifications or conditions as outlined.

Old Business

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

New Business

Mr. Morris asked if there was any new business.

Mr. Cilimberg updated the Commission on sign posting after the application is made. Last week it was mentioned by several Commissioners the interest in making sure that they got signs out early so that people who may be interested in attending a community meeting would know where projects are occurring. In the earlier 2010's they had delayed putting signs out because they were finding that they had a shortage of signs to use. Some very honestly when they were out for long periods were disappearing. That kind of defects the purpose of having them. So they had made the posting much closer to a Planning Commission public hearing. They are going to go back and go to the process they used previously of posting the signs earlier so that they will be in advance of any community meeting that is held after an application is made with the knowledge that they are going to have to monitor how they keep maintained on the property. They seem to have plenty of signs now. At least the sign number is there to do that. Hopefully with a little emphasis with the applicant, who is actually responsible for making sure the signs are maintained on the site, they will get the signs out early, probably will be out a little longer than they have been, and they will stay in place.

- No PC Meeting March 24, 2015 or March 31, 2015.
- Next PC meeting on Tuesday, April 7, 2015.

There being no further new business, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 8:34 p.m. to the Tuesday, April 7, 2015 Albemarle County Planning Commission meeting at 6:00 p.m., Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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