Albemarle County Planning Commission
May 19, 2015

The Albemarle County Planning Commission held a public hearing on Tuesday, May 19, 2015, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Bruce Dotson, Karen Firehock, Tim Keller, Thomas Loach, Cal Morris, Chair; and Richard Randolph. Absent was Mac Lafferty, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Staff present was J.T. Newberry, Planner; Elaine Echols, Principal Planner; David Benish, Chief of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Morris invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved to the next agenda item.

Review of Board of Supervisors Meeting – May 13, 2015

Mr. Benish reviewed the actions taken on May 13, 2015.

- The Planning Commission held a work session for discussion of the comprehensive plan update to provide staff some final guidance in completing the draft of the comprehensive plan that is going to public hearing. The Board did accept recommendations from the Historic Preservation Committee for some modifications to the recommendations found in the prior draft plan. If there are questions, Mr. Randolph can answer them.

- The Board also agreed to advertise an expansion of the development area boundary in the southwest quadrant of the I-64/29 interchange, which was an area the Planning Commission had looked at before. That quadrant is where the old Sieg site used to be. There is a portion of that property that is within the Albemarle County Service Authority Jurisdictional Area. The Board agreed to go to public hearing with that area identified as a possible expansion. However, there was no action, but just to have that advertised in that way. Again, that is an area the Planning Commission has looked at for possible expansion of the growth area.

- The Board of Supervisors held a work session on the Capital Improvements Program to review the processes and procedures for developing and reviewing the overall and individual CIP projects submitted. There was no specific direction, but just their understanding of how they develop the projects and how that review process takes place.

Mr. Morris invited questions or comments.

Mr. Randolph reported the following:

- The Solid Waste Committee will hold the second Stakeholder's Meeting for feedback on June 4th from 6:30 – 8:30 p.m. at the County Office Building South on Fifth Street in Room A. Scenarios of potential recommendations on solid waste will be presented.
- The Board approved the Historic Preservation Committee's recommended language for the comp plan. Therefore, when the comp plan is adopted that change will be in there.

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

Consent Agenda

a. **SUB-2015-069 Hill Brook - Private Street Request**: Request to allow a private street to serve these six lots (TMP 061-126) (Ellie Ray)
b. **Approval of minutes**: October 28, 2014, March 10, 2015 and April 7, 2015

Mr. Morris asked if any Commissioner would like to pull an item from the consent agenda for further review. There being none, he asked for a motion.

Motion: Mr. Dotson moved and Ms. Firehock seconded for approval of the consent agenda.

Mr. Morris invited discussion.

Mr. Randolph noted the new site plan for this community is much more appropriate than the original site plan they saw. The new site plan seems by scale to be something that clearly the neighborhood is supportive of.

Mr. Morris asked for a roll call.

The motion carried by a vote of (6:0). (Lafferty absent)

Mr. Morris said the consent agenda was approved.

Public Hearing Items

a. **SP-2015-00009 Olivet Presbyterian Church Preschool**
MAGISTERIAL DISTRICT: Samuel Miller
TAX MAP/PARCEL: 04300-00-00-00800
LOCATION: 2575 Garth Road
PROPOSAL: Day care/preschool for up to 24 students within the existing church.
PETITION: Day care center, as permitted under section 10.2.2.7 of the Zoning Ordinance (reference 5.1.06)
ZONING: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
COMPREHENSIVE PLAN: Rural Areas – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots)
(Megan Yaniglos)

Mr. Benish presented the proposal for SP-2015-00009 Olivet Presbyterian Church Preschool in a PowerPoint presentation.

Proposal:
- This is a request for a special use permit amendment to allow a daycare/preschool in an existing church for up to 24 students within the existing church.
- Two classrooms with up to 12 students in each; one for three year olds and one for four year olds. There is also an extra room that might be used for meetings and general activities.
- The three year old classroom would operate from 9 a.m. to 12 noon three days a week
- The four year old classroom would operate from 9 a.m. to 12 noon five days a week

The site is located on Garth Road in the Samuel Miller Magisterial District just west of the intersection of Garth Road and Owensville Road. There is no expansion or change to the actual buildings or grounds other than the possible small pork chop at one of the entrances. He believes the classrooms are in the basement and the access is from the west side of the building. However, the applicant can clarify that.

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

Factors favorable to this request include:

1. No significant impacts would be created by the proposed addition

No unfavorable factors have been identified.

RECOMMENDED ACTION:
Based on the findings contained in this staff report, staff recommends approval of Special Use Permit 2015-0009 Olivet Presbyterian Church Preschool with the conditions recommended by staff.

The conditions limit the activity to their proposal and VDOT approval of an entrance. There was information provided in the staff report that VDOT would prefer to have a small "pork chop" established to eliminate left turns out to address some sight distance issues. He thinks there is an amendable design with the applicant and VDOT. This condition of approval allows generally for what is necessary for VDOT to approve the request and provide for some flexibility. In addition, a community meeting was held with two attendees, both nearby residents and members of the church.

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

Ashley Buford and Betsy Dishman were present representing Olivet Presbyterian Church Preschool.

Ms. Buford pointed out the Mission Committee at Olivet has been around for a while as a means to support neighbors from having to go into town to go to a preschool because there are not many options out near the church. A few years ago they had a donation from a family with the hopes to start a children's program after a family member was killed in a plane crash. They had been coming to our church and their parents gave a substantial amount of money saying they would like to see it used for all the children in the area. With that in mind it became a possibility. That is kind of what happened along the way. There are also people in the area who don't want to drive into town to a preschool and are happy to stay where they are. There would be a paying population and then some scholarships. They had a conversation with a member of the church who teaches a Bright Star Program who informed them they have accepted 38 students for the fall and turned away over 100 applicants. She has assured them that there would be a number of families who would be able to afford transportation out to the church, and they are looking forward to working with them. There has also been a conversation with United Way about acquiring some funding to help support and offset some of the costs of offering scholarships. The church itself wants to dedicate some funds to a scholarship fund as well. Therefore, they see it as two-fold. One is to offer a preschool experience for children in the intermediate community; and, two to invite children and families who maybe could not afford private preschool experience to come and be a part of that. So that has been the vision they are looking for.

Mr. Morris asked would this be a 12-month operation, and Ms. Buford replied it would be a 9-month program operating on the Albemarle school schedule.

Mr. Morris invited questions for the applicants. There being none, he invited public comment.

Mr. Edward Smith said he was not representing the church. However, he was a member of the church and had several questions to ask. The first one related to Mr. Benish's discussion of two classrooms in the basement. He asked if it was imperative that the classrooms be in the basement.

Mr. Benish replied no.

Mr. Smith reiterated that the classrooms can be anywhere, which answered the question.

Mr. Morris pointed out the Commission would take the questions and then they will address them later on.

Mr. Smith pointed out Mr. Benish said the use was not to exceed 24 students. But, one suggestion he would make was not to restrict them if the health department agreed. However, he did not know if they want it or not. Regarding the hours from 8 a.m. to 1 p.m. he would suggest that it would be 30 minutes

after school even though they are not intending to be in business that long during the day. However, there is a possibility that parents could pick up children if they had younger children there, which is a suggestion he would like to make.

There being no further public comment, Mr. Morris invited the applicant to address any of those items on rebuttal as far as the number of students or the times.

Ms. Buford agreed the flexibility of having 30 minutes before or 30 minutes after to say it is from 8:30 a.m. to 12:30 a.m. or 8 a.m. to 1 p.m. would be great. It is never going to have an aftercare component to it. However, if everyone was amendable to put that in, then it gives us flexibility in the future.

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

Mr. Loach asked if the number of 24 students preclude the applicants from coming back and asking for an additional expansion, and Mr. Benish replied it does not.

Mr. Loach suggested the 30 minutes after school is a legitimate change to the condition.

Mr. Benish agreed noting the zoning administrator takes sort of a liberal view for the opening and closing because of that drop off time. However, a little time on either side would not change staff's recommendations on this proposal.

Mr. Loach asked if he did not think it was necessary to change the verbiage in the condition.

Mr. Benish replied he was not sure if it was necessary because if they want to give the applicants an hour window on either side that would not change staff's recommendation regarding this proposal.

Mr. Morris said personally he would like to see it changed before it goes to the Board of Supervisors so they see it.

Mr. Dotson agreed because he would assume where the proposed condition on the hours came from was 8 a.m. is an hour before 9 a.m. when they begin and 1 p.m. is an hour after noon so actually that condition being offered was more than a half hour. However, he did not see why they have an interest in the hours of operation. He proposed the Commission simply strike that condition since the site and the building can accommodate it. There is no issue with this being a noisy activity for the nearby neighbors. He thinks staff included that because it was part of the applicant's description and sometimes it is important to regulate hours. However, he did not see why they need to do that at all in this case.

Mr. Loach agreed, especially as mentioned if in the future they wanted to do a before or after school program.

Mr. Benish said he did not think in this case given this proposal that is a significant issue with staff. As a practice staff generally mirrors what it is that they reviewed. In many cases that is important. The limiting of 24 children is probably the most significant limitation for this site.

Mr. Morris agreed and asked if there was a motion.

Motion: Mr. Dotson moved and Mr. Randolph seconded to recommend approval of SP-2015-00009 Olivet Presbyterian Church Preschool with the conditions outlined in the staff report, as amended striking condition #3.

1. The maximum number of children shall not exceed twenty-four (24) or the number of students as approved by the Health Department or the Department of Social Services; whichever is less; and
2. VDOT approval of the entrance improvements;
3. ~~Hours of operation for the day care shall be between 8am and 1pm Monday thru Friday.~~

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

Mr. Morris noted that SP-2015-00009 Olivet Presbyterian Church Preschool would be forwarded to the Board of Supervisors with a recommendation for approval on a date to be determined.

b. **SP-2014-00019 Virginia Asphalt Services, Inc.**
MAGISTERIAL DISTRICT: Scottsville
TAX MAP/PARCEL: 07700-00-00-00800
LOCATION: 1536 Avon Street Extended
PROPOSAL: Request for special use permit under Zoning Ordinance Section 30.6.3.a(2) for outdoor storage, display and/or sales for an equipment storage yard associated with a contractor's office for an asphalt paving company. (No dwellings proposed.) A special exception to 5.1.52 Outdoor Storage in Industrial Districts is also requested to allow landscape screening in place of solid fencing around the storage area. (An Initial Site Plan is being processed simultaneously with this request under SDP201400073.)
ZONING: Light Industrial – industrial, office, and limited commercial uses (no residential use); Flood Hazard – overlay to provide safety and protection from flooding; Entrance Corridor – overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access; Airport Impact Area – overlay to minimize adverse impacts to both the airport and the surrounding land.
COMPREHENSIVE PLAN: Industrial Service – warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in Neighborhood Four. (Margaret Maliszewski)

Mr. Benish presented a PowerPoint presentation regarding SP-2014-00019 Virginia Asphalt Services, Inc.

This is a Special Use Permit for outdoor storage, display and/or sales for an equipment storage yard associated with a contractor's office for an asphalt paving plant 30.6.3.a(2). There is also a related request for a special exception for a modification of screening requirements for Outdoor Storage in Industrial Districts to allow landscape screening in place of solid fencing as it relates to the rear of the site (5.1.52). That part of the site is not within the Entrance Corridor and not subject to this special use permit. The modification does not require Planning Commission action, but the screening issue is related to the special use permit request, so the presentation does address the modification.

The subject parcel is located on Avon Street Extended, across from the City's CTS operations center and just south of Edgecomb's Auto. It is located across Moore's Creek from the Willoughby subdivision.

The applicant proposes to construct a building for equipment storage and maintenance and an outdoor equipment storage area. The outdoor storage area is subject to the special use permit. The equipment that would be stored in the storage area is equipment used in the daily operations of a residential asphalt paving business, such as a dump truck, bobcat, asphalt roller, and a paver. The equipment would have a maximum height of 12'. The 12' maximum includes the combined height of smaller equipment that is typically stored on larger vehicles. The equipment would be taken off the property during regular business hours for use at job sites, and it would be returned to the Avon Street site for overnight and other off-hours storage.

Avon Street Extended Entrance Corridor
- The special use permit is required specifically because the site falls within the Entrance Corridor Overlay District.
- The purpose of the requirement is to allow for review of the potential visual impacts of the outdoor storage on the Entrance Corridor. It is not to review the use itself, but just for the outdoor storage.
- The intent of the Entrance Corridor Overlay District is to ensure quality development that is compatible with the County's important scenic, historic, architectural and cultural resources.
- The Architectural Review Board has applied the County's Entrance Corridor Design Guidelines to the review of this request.

- The Architectural Review Board had no objection to the request for the Special Use Permit with the conditions outlined in the report.
- Those conditions are related primarily to the method of screening.

Screening of storage areas is typically accomplished either by some type of fence or by landscaping. Because of the topography here, where this site sits approximately 10' below the elevation of the street, a fence would have to be so tall to accomplish the required screening that it would not have an appropriate appearance for the Entrance Corridor. The Architectural Review Board has determined that landscaping could provide the required screening and have a more appropriate appearance from the Entrance Corridor than fencing.

The Architectural Review Board's recommended conditions of approval would revise the landscaping shown in this concept plan to:
- Increase the size of shade trees.
- Provide a staggered row of evergreens to screen both ends (north and south) of the storage area, and
- Provide evergreen screening trees at a minimum of 8' - 10' at planting.

(The substance of the recommendation is in lieu of fencing.)

Regarding the waiver, the supplementary regulations for industrial sites also requires a fence in this area. This is not the purview of the Architectural Review Board (ARB). The applicant did hold a community meeting in this area. That gave staff an opportunity to get community input not only on the Entrance Corridor views, but also the views from Willoughby. The residents that attended were in support of using vegetation in lieu of fencing that also creates a consistent type of landscaping all around the site, which is consistent with the ARB recommendation. The landscaping around the building site has some general acceptance from the community input that staff has heard.

View of Moore's Creek and Willoughby Development from the rear of the site:
- The proposed storage area would be visible from the Willoughby neighborhood, located across Moore's Creek, particularly during the winter months when the leaves are off the trees.
- The ARB only reviews for views from the Entrance Corridors, so the ARB review did not address the view from Willoughby.
- Section 5.1.52 of the ordinance requires that storage areas in industrial districts be screened on all sides by a solid wall or fence.
- A solid fence could accomplish the required screening from the neighborhood, but it would be very noticeable in the landscape, and more landscaping would provide for a more consistent appearance both on site and along the creek.
- Also, Willoughby residents that attended the community meeting in April stated a preference for landscape screening over a solid fence or wall.
- So, another recommended condition of approval is a staggered row of evergreens along the side of the storage area that faces the Willoughby residential development.

Staff recommends approval of SP-2014-00019 Virginia Asphalt to allow outdoor sales, storage and display with the following conditions as outlined in the staff report:

1. The development of the site shall be in general accord with the plan entitled "Virginia Asphalt Services Landscape/Screening Plan" revised 2-17-2014 and prepared by Terra Concepts, PC/Alan Franklin PE, LLC, (hereafter referred to as the Concept Plan) as determined by the Director of Planning and the Zoning Administrator, and subject to the following conditions. To be in general accord with the Concept Plan, development and use shall reflect the following major elements within the development essential to the use, as shown on the Concept Plan:
    a. Building location
    b. Sales, storage and display area size and location
2. Minor modifications to the plan that do not conflict with the elements listed above may be made to ensure compliance with the Zoning Ordinance and ARB requirements.
3. Equipment shall be sold, stored or displayed only in areas indicated for sales, storage or display on the Concept Plan.
4. The site shall be landscaped in general accord with the Concept Plan, except that:

a. Evergreen screening tree height shall be 8' - 10' minimum at planting.
b. Shade trees along Avon Street Extended shall be 3½" caliper minimum at planting.
c. Shade trees along the entrance drive shall be 2½" caliper minimum at planting.
d. A staggered row of evergreens shall be provided along the south side of the sales/storage/display area or the south side of the parcel.
e. A staggered row of evergreens shall be provided along the north and west sides of the entrance drive and asphalt paved area.
f. The ARB may require landscaping that is in excess of its design guidelines, Albemarle County Code § 18-32.7.9, or both, in order to mitigate the visual impacts of the proposed use on the Entrance Corridor.

5. Maximum height of equipment to be sold, stored or displayed shall not exceed 12'. This height includes equipment sold, stored or displayed on parked vehicles. Other than equipment sold, stored or displayed on parked vehicles, equipment shall not be elevated.

As a reminder, the Commission only needs to act on the special use permit. The Board will act on the special exception related to screening in industrial areas. The applicant may have a display or revised site plan that shows how the conditioned landscaping would look on the site.

Mr. Morris invited questions for staff.

Mr. Dotson pointed out the conditions of approval proposed, like the Architectural Review Board conditions, are about 90% to 95%. However, the difference he notes is in the planning staff recommendation there is no height, the 8' to 10' on the evergreens, and the fencing is not addressed. However, it is in the ARB action. He wondered if staff could comment on those two conditions.

Mr. Benish replied since the site is within the Entrance Corridor the Architectural Review Board will control that level of detail through their certificate of appropriateness. Margaret Maliszewski, Design Planner, did both reports for the Planning Commission and the Architectural Review Board and he was not sure why she did not include those specifics. However, those specific expectations will be required as part of the certificate of appropriateness.

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

Allan Franklin, civil engineer doing the site plan, said Bryan Heilman, owner of Virginia Asphalt Services, Inc. was present. Mr. Franklin said he did not have anything to add, but would answer questions. He had the plans if anyone wanted to see them. However, they have already made the revisions to address all of these comments and anything that was not on this list they have already agreed to in order to move forward as soon as possible. He pointed out Mr. Benish mentioned it was an asphalt plant, which makes it sound worse than it is. However, it is a maintenance office and a parking lot for equipment overnight or between jobs.

Mr. Morris invited questions for the applicant. There being none, he invited public comment. There being no public comment, Mr. Morris closed the public hearing to bring the matter before the Commission for discussion and action.

Mr. Randolph said first he would like to cite Ms. Maliszewski for her thoroughness of her report and including the details of the community meeting that he attended along with Supervisor Dittmar. It was very clear in that community meeting that the applicant was very willing to make the adjustments that VDOT had suggested on the entrance way. The Architectural Review Board's recommendation is to not have fencing, but instead utilize evergreens was something that was overwhelmingly and enthusiastically endorsed by residents who were concerned about this application somewhat at the outset. However, he thinks once they realized the height of the trees were going to more than obscure any vehicles that were there they were all very enthusiastic for it. It was a community meeting where there were no major differences. There were slight concerns that were addressed at that time, which were all incorporated in this application. Therefore, he can be very enthusiastic in endorsing this special use permit.

Mr. Morris thanked Mr. Randolph for the input. There being no further discussion, he asked for a motion.

Motion: Mr. Randolph moved and Ms. Firehock seconded to recommend approval of SP-2014-00019 Virginia Asphalt Services, Inc. to allow for outdoor sales, storage and display with the conditions outlined in the staff report.

1. The development of the site shall be in general accord with the plan entitled "Virginia Asphalt Services Landscape/Screening Plan" revised 2-17-2014 and prepared by Terra Concepts, PC/Alan Franklin PE, LLC, (hereafter referred to as the Concept Plan) as determined by the Director of Planning and the Zoning Administrator, and subject to the following conditions. To be in general accord with the Concept Plan, development and use shall reflect the following major elements within the development essential to the use, as shown on the Concept Plan:
    a. Building location
    b. Sales, storage and display area size and location

    Minor modifications to the plan that do not conflict with the elements listed above may be made to ensure compliance with the Zoning Ordinance and ARB requirements.
2. Equipment shall be sold, stored or displayed only in areas indicated for sales, storage or display on the Concept Plan.
3. The site shall be landscaped in general accord with the Concept Plan, except that:
    a. Evergreen screening tree height shall be 8' - 10' minimum at planting.
    b. Shade trees along Avon Street Extended shall be 3½" caliper minimum at planting.
    c. Shade trees along the entrance drive shall be 2½" caliper minimum at planting.
    d. A staggered row of evergreens shall be provided along the south side of the sales/storage/display area or the south side of the parcel.
    e. A staggered row of evergreens shall be provided along the north and west sides of the entrance drive and asphalt paved area.
    f. The ARB may require landscaping that is in excess of its design guidelines, Albemarle County Code § 18-32.7.9, or both, in order to mitigate the visual impacts of the proposed use on the Entrance Corridor.
4. Maximum height of equipment to be sold, stored or displayed shall not exceed 12'. This height includes equipment sold, stored or displayed on parked vehicles. Other than equipment sold, stored or displayed on parked vehicles, equipment shall not be elevated.

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

Mr. Morris noted that SP-2014-00019 Virginia Asphalt Services, Inc. would be forwarded to the Board of Supervisors with a recommendation for approval on a date to be determined.

c. **ZMA-2015-00002 Franklin Street Steep Slopes**
MAGISTERIAL DISTRICT: Scottsville
TAX MAP/PARCEL: 077000000040B0
LOCATION: Property is located in the southeast corner of the intersection of Franklin Street and Broadway Street
PROPOSAL: Request to change the zoning designation of 37, 918 square feet from preserved slopes to managed slopes which would allow the slopes to be disturbed
PETITION: Rezone 0.87 acres from Steep Slopes Overlay District (preserved) which allows uses under Section 30.7.4(b) to Steep Slopes Overlay District (managed) which allows uses under Section 30.7.4(a). No dwellings proposed.
OVERLAY DISTRICT: Steep Slopes (SS); Flood Hazard (FH)
PROFFERS: No
COMPREHENSIVE PLAN: Industrial Service – warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in Neighborhood 4 (JT Newberry)

J.T. Newberry presented a PowerPoint presentation regarding ZMA-2015-00002 Franklin Street Steep Slopes. (See PowerPoint Presentation for maps referred to in summary.)

Because this is the very first rezoning application we've received related to the Steep Slopes overlay district, I'll do a quick overview of the ordinance. It was adopted by the Board of Supervisors on March 5, 2014. As you probably recall, within our development areas, it placed what used to be called "critical slopes" into two different categories – "preserved slopes" and "managed slopes" – and incorporated them into the zoning of each property as an overlay district. Disturbance within preserved slopes is prohibited, except for limited circumstances (see Section 30.7.4 in Attachment D of the staff report), such as trails, necessary public facilities, etc. For managed slopes, disturbance is permitted for uses in the same way it is permitted in the underlying district, but it must follow the design standards. (Section 30.7.5 in Attachment D of staff report)

See area map of the subject property in the PowerPoint Presentation.

To the west of the site is the City of Charlottesville (Franklin Street is City/County line): Carlton Mobile Home Court, old H.T. Ferron concrete plant (now has Blue Ridge PACE on part of it). Note: There is an inaccuracy on the cover sheet of the staff report. It is actually zoned MI and not M1.

To the north and east of the site are: Various industrial uses along Broadway Street and Moore's Creek Wastewater Treatment Plant. To the south: There are other areas associated with the treatment plant and Carter's Bread, a warehouse for a wholesale bakery.

Overview of the Proposal
We can use the location of the bakery to orient ourselves under the existing map from the County's GIS. Our map shows all of the steep slopes as being greater than 25% grade and all of them as preserved slopes (in green) except for two small areas (in yellow) in the bottom, southeastern corner of the site that are managed.

The proposed map is the application plan provided by the applicant. It contains red and yellow areas of slopes based on field run topography, which is more accurate than the County's topo (based on aerial photography). The red areas show slopes that are greater than 25% grade and the yellow areas show slopes that are less than 25% grade. The applicant is requesting to rezone all of the preserved slopes to managed slopes, except for the two areas of this site outlined in black. The total square footage of the area requesting to be rezoned – that is, the red areas outside of the portions outlined in black - is 31,894 square feet.

To analyze the site, staff broke down the areas of slopes into three sections lettered "A," "B" and "C." Each area was compared to the list of characteristics for managed slopes and preserved slopes found in Section 30.7.3. Ultimately, the question staff answered within each area was "Do these slopes exhibit more characteristics of preserved slopes or more characteristics of managed slopes?" I'll give a quick overview of the analysis, starting with Sections "B" and "C."

Staff found that the slopes in areas "B" and "C" have more characteristics of preserved slopes than managed slopes. Although the application plan did show some small portions on the periphery of areas "B" and "C" to be less than 25% grade, the majority of the characteristics supported keeping their current designation as preserved slopes. In the picture on the right, you can see how these slopes meet the preserved characteristics of (1) a contiguous area of more than 10,000 square feet; (2) being part of a hillside system; and (3) being associated with a water feature. It is easier to see the connection of slopes in area B to the broader network in Figure 5 on page 8 of the staff report

Next is the table from the staff report that summarized the analysis of area "B." Staff listed all of the characteristics for preserved slopes and noted how our analysis compared to the applicant's. The only difference in the table for area "C" was that staff did not find them to be abutting a water feature under characteristic (ii) as we did with area "B."

Within area "A", staff found more characteristics of managed slopes. The areas of slope with less than 25% grade are found throughout the system, resulting in fragmentation that's characteristic of managed slopes. Staff also found (that although this area has historically been a point of high elevation) the

establishment of these slopes as "steep" slopes (greater than 25% grade) is likely associated with the construction of Broadway Street and Franklin Street - - making them likely to be manufactured (and not natural). Grading associated with the approved site plans for the adjacent property, Yves Delorme, supports this finding. This grading is all associated within an approved site plan and a critical slopes waiver for one day putting a road around the site. These slopes are also not abutting or associated with a water feature. With these characteristics, staff recommends rezoning all of area "A" from preserved to managed slopes.

Here again is one of the tables from the staff report that summarized the analysis for area "A" to each of the six characteristics of managed slopes.

Summary of Analysis and Recommendation for Each Area

- The slopes in area "A" have more characteristics of managed slopes than preserved slopes. As a result, all of the preserved slopes in area "A" it should become managed slopes on the application plan.
- The slopes in areas "B" and "C" have more characteristics of preserved slopes than managed slopes. Therefore, all of the preserved slopes in areas "B" and "C" should remain preserved slopes on the application plan.

SUMMARY

In evaluating this rezoning request, staff has evaluated three areas of steep slopes. Staff is recommending no change to the zoning map for areas "B" and "C." Staff is recommending to change the Steep Slopes Overlay District zoning map in area "A" from preserved slopes to managed slopes. Staff has identified the following factors as favorable to the rezoning requested:

1. Slopes in area "A" better meet the criteria for designation as managed slopes.

2. Design standards for managed slopes will protect the integrity of the steep slope areas and protect downstream lands and waterways from the adverse effects of unregulated disturbance.

Staff has identified no factors unfavorable to this request.

RECOMMENDATION

Staff recommends approval of ZMA-2015-00002, Franklin Street, to amend the Steep Slope Overlay District zoning map of area "A" from preserved slopes to managed slopes as identified in Attachment B and shown in Figure 2 of the staff report.

Mr. Morris invited questions for staff.

Ms. Monteith thanked Mr. Newberry for the good summary and suggested it might be helpful to share the email he sent the Commission this afternoon.

Mr. Newberry agreed and explained that he sent an email to the Planning Commission just noting that although there had been a variety of really excellent points brought up and discussed that the focus of today's discussion and the question before the Planning Commission tonight is whether or not these slopes meet the characteristics of preserved or managed slopes. There is a lot of speculation about how the site will develop one day and where site access could or could not be granted. Those are all excellent questions if a site plan is ever submitted. However, tonight they are focusing exclusively on the slopes.

Mr. Morris thanked Mr. Newberry. He invited other questions.

Mr. Randolph said he did not have a question. However, he wanted to commend Mr. Newberry for the maps provided and the analysis of each of the three areas. He thought that his discussion of the preserved slopes and the comparison between the staff analysis and the applicant analysis was also excellent. So he thought it was very thorough and extremely well done. However, the only thing that was missing was the percentage in Areas A, B and C of the slopes that thereby would be defined as managed. Unless his math is failing, he had 67.5 percent in Area A be managed and therefore eligible for

destruction or alteration. Area B was 25.5 percent managed. Area C was 87.6 percent managed. So having those figures he had 87.6 percent of preserved slopes would be eliminated in Area C, which would mean that those would be defined as managed. They could be eliminated. What that does is really identify where the slopes are that are proposed to be eliminated here. That would just be his observation. He thinks just having that extra degree of math would have been helpful. But, again, commendations for the work that he did and the detailing. It was really excellent.

Mr. Dotson said that one of the emails that the Commissioners received indicated that on the comp plan the southern area master plan that this area was shown in green was some variety of open space. Throughout the report it stated that it was shown for light industrial. He asked him to clarify that.

Mr. Newberry explained that the existing comp plan designates this area for industrial service. There is a portion adjacent to Moore's Creek within the floodplain that is designated to hopefully one day be a green way. The draft southern and western neighborhood's master plan because it is not a formerly adopted document was not relied upon for staff's analysis. Mr. Benish may have more to add. But, they looked at that when they received it as well. He could let Mr. Benish add more to that.

Mr. Benish said he did not have much more to add except that Elaine Echols is here if they need to get more into the details of the draft master plan. However, he thinks that master plan did try to look at the larger systems, which did pick up the floodplain and these associated slopes and showed those areas generally as a green space area that is not recommended. However, that area is now recommended for open space in that draft plan. To what precision they looked at individual sites and the developability in the existing zoning he thinks they just captured this site having these steep slopes on them, which are under the current overlay district both managed and preserved, mostly preserved but some managed.

Ms. Firehock agreed with her colleagues that a lot of excellent work had been done on this. It was especially helpful being able to compare staff's understanding of the slopes to how the applicant judged them. She just wanted to be clear and careful on one point that she thinks is a pretty major one. For Area "A" staff was saying that because the road was constructed there it took what should under our current ordinance be a managed slope and changed it to a preserved slope, and that is why staff suggested that it would be more appropriate to be a managed slope.

Mr. Benish pointed out that it was actually the opposite.

Mr. Randolph noted that it currently was preserved.

Ms. Firehock said she understands that it is currently judged as preserved. However, Mr. Newberry is suggesting it be more appropriate as a managed slope because of the road having been constructed. So that in every case in the county where they have a road that has changed the steepness of a slope if it was preserved it should then therefore be changed to managed. Is that what staff is saying and is that the rule of thumb that he thinks the Planning Commission should be going by.

Mr. Newberry replied "no". Due to the totality of the circumstances in this scenario for this site as they have examined how these slopes became critical slopes and then preserved, staff felt when provided with additional information showing that there is fragmentation of the area that they thought was totally contiguous, it was just one large block. When provided with field run topography and seeing the location within that existing block and getting further feedback on what was likely the impact of the road construction looking at the characteristics in the ordinance they felt it best converted to managed slopes.

Ms. Firehock said so it was just this unique set of characteristics including the contiguousness of the topography.

Mr. Newberry replied absolutely.

Ms. Firehock said she just wanted to be careful that they are not setting up some rule of thumb here.

Mr. Benish pointed out there are preserved slopes that were designated that were clearly acknowledged that were graded slopes. Most of those are along the Entrance Corridor because there was a value to the Entrance Corridor besides environmental purposes there is that aspect. So there are preserved slopes that were graded slopes that were intentionally designated that way. So this was just looking at various pieces and trying to put together what the sum of the parts are.

Ms. Firehock pointed out that was very helpful. However, she just wanted to be careful.

Ms. Monteith pointed out they looked at this long and hard at UVA and really studied it carefully. It is a little tricky. However, she was not going to go and say it is a slippery slope. But, basically what they want to look for is something that was integrated and preserved. In other words, it is historic in its current state and that is designated as preserved and something that has already been disturbed becomes managed. However, as Mr. Benish said there are some cases that fall between the two, which makes it complex.

Mr. Loach noted the differences in the methodology that were used between when they first designated them as preserved and now with additional information and data that if they would have had the data they would have called them managed at the time.

Mr. Newberry agreed that was correct.

Mr. Benish said it was worth noting that these are very debatable because they certainly have characteristics of both. So it has been a very good dialogue and good input from the public on issues. So this is not a slam dunk. However, coming back and looking at it in a more site specific manner he thinks it is staff's recommendation at this point.

Mr. Keller noted it was a very interesting presentation of the information. He had a question about the characteristics of preserved slopes. In the Characteristics of Preserved Slopes table, the slopes are identified as a resource in the comprehensive plan. Is the Monticello viewshed identified as a resource in the comprehensive plan?

Mr. Benish asked if his question is the Monticello viewshed identified.

Mr. Keller replied yes. He pointed out his understanding is that it is.

Mr. Benish replied generally the Monticello viewshed in the current plan is not defined. However, the approach to protect the Monticello viewshed to the extent that it is not defined in the plan is a goal. They do not have documentation for where that boundary is in the current comprehensive plan.

Mr. Keller noted that if that was the case, as you talk about these areas, one could look at it either way. If #5 under Characteristics of Preserved Slopes the slopes are identified as a resource in the comp plan, then it would seem that the staff's analysis should be "yes" as opposed to "no".

Mr. Kamptner pointed out #5 is going to the slopes and not the viewshed in using his example. So it is speaking only to the specific slopes. That is a carryover from the existing Critical Slopes regulations as they have in the rural areas that speak to whether or not those slopes are identified in the Open Space Plan. There may be some other resources in the comp plan that also identify that it may have been critical slopes.

Mr. Keller said that he would guess it depends on how one would interpret that. He would interpret that if something was shown within the viewshed as a resource then the slope that is identified that way had those characteristics as well.

Mr. Benish said he was not sure if this site is visible and they don't have the viewshed defined in the comprehensive plan. He asked Mr. Newberry if he looked at the viewshed.

Mr. Newberry replied no. However, he has been told that many people there feel that it is strongly viewable.

Mr. Randolph asked if they have established how long there has been a road called Franklin Street in this location. He asked "do they know when that road was first constructed?"

Mr. Newberry replied there may be members of the public here that can answer that question better than he can. If they look at the historical maps there was at least some travelway there in the 30's and maybe even before then. But, Franklin was there according to a 1935 topo map and Broadway did not come until much later. But, Franklin has been there.

Mr. Randolph asked if they have a date for the train tracks because that would be determinative of an approximate date of Franklin because there is the tunnel through the train tracks. He asked "do we have a date on that and wouldn't that be closer to the turn of the century?"

Mr. Newberry pointed out the train tracks are also shown on those maps. He would note that this small parcel in between the subject parcel and Yves Delorme use to be owned by the railroad. It was a place for them to turn off according to an old deed. But, ultimately Yves Delorme purchased it he believed in the 70's.

Mr. Randolph said they were looking at potentially a road that is at least dating from the 1930's. Thereby they are saying because it was constructed by humans at that time period that justifies now indicating that the slopes that are there because they were altered and they do not know the extent of the alteration. They have not done soil analysis or archeological analysis. They are hypothesizing that there was some degree of disturbance. They are saying that human activity somehow or other obviates the historical significance of that road and thereby justifies today altering the slopes along that road. He asked is that a correct or reasonable statement.

Mr. Newberry pointed out the parcel has not remained unused since the construction of the road. There have been other activities on and disturbances to the site. It has not remained in its original condition since then. However, he thinks for the portions intermediately adjacent to Franklin what he said may be true. But, certainly at the northern edge of the site for these slopes that are connected to Broadway those would have been much later than the construction of Franklin.

Mr. Benish said it is not a point of emphasis but to note that it is not something that has been in a pristine state. So it is a factor that is weighed. How significant it is in combination with other factors is what they weighed.

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

Mark Mascotte, with McLean Faulconer, Inc., said he had the property currently listed for sale and was representing the applicant. He thanked Mr. Newberry and Mr. Fritz who were responsible for writing and drafting these criteria that they now discussing. He attended both of the public meetings that they had. It was very engaging with Mr. Randolph and Ms. Dittmar attending. Mr. Fritz weighed in and this is what happened. So they certainly were appreciative of that. They support the recommendation that has been submitted by Mr. Newberry's office.

Julia Skare, site civil engineer with Draper Aden Associates, said her office prepared the exhibits in association with the additional ones that Mr. Newberry has provided. The only thing that she would ask is for consideration for the areas in Area "B" that were field surveyed and were less than 25% slope to be considered as managed slopes, especially the one area that is closest to the intersection of Moore's Creek and Franklin Street. But, otherwise they were in support of staff's recommendation. She would be happy to answer any questions.

Mr. Morris invited questions for the applicant. There being none, Mr. Morris invited public comment.

Bill Emory, resident of 1604 East Market Street, made the following comments:

In 1922, The Woolen Mills stock paid a dividend of 22% of its par value to shareholders and that the Mill employed 100 Albemarle County residents who lived to the east and south within walking distance of the Mill's 13 acre core campus. That same year, Monticello was an old house with an uncertain future.

We strive to plan for the best use, to build a sustainable future for the area between the Southern Albemarle Rural Historic District and the Southwest Mountains Rural Historic District to the north. You know this area as neighborhood four.

Historically we are self-identified as The Place. Nowadays we are the Woolen Mills Neighborhood. On April 12, 2010 the Woolen Mills Village district was listed on the National Register of Historic Places. The district is cross jurisdictional, an old growth residential community with its functional and geographic root at the confluence of Moore's Creek and the Rivanna River, historically contiguous with Monticello. From that root the centenarian neighborhood grew west, with Three Notched Road as its spine, six tenths of a mile toward the Albemarle County Courthouse. Before the Mill, before Jefferson, indigenous people had lived here for thousands of years.

The National Historic Preservation Act, passed in 1966, recognized that "the historical and cultural foundations of the nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people." Recognizing and cooperating with the historic landscape and built architectural fabric provides a sense of orientation, additionally it is a significant economic driver in our region. This district is significant, as well as being an identifiable entity, it is important for historical, architectural, archeological, and cultural values.

The Rivanna Corridor and the Woolen Mills Village district unite your historic districts to the north and south. Development will occur within the geographic confines of this link. Confer with your colleagues on the Charlottesville Planning Commission, confer with the Thomas Jefferson Foundation, and plan for smart development which is a credit to this venerable region. Should it be a 40,000 square foot steel building? Use all tools at your disposal to work with the historic topography. Landscapes are more than the sum of their parts, they are interaction between nature and culture, between people and the places where they live and play and work and visit. Landscapes matter because people, nature and cultural heritage matter, design matters. People have the inclination to despoil and exploit the landscape and move on. Please, do all in your power to arrive at the best future possible.

Mr. Emory asked to answer the question asked about the date the road was built, and Mr. Morris replied that yes, please go ahead.

Mr. Emory pointed out the railroad came to Charlottesville in 1850, but engraved on the trestle there is the date 1878. The access for the road was deeded in 1886 to so called Brennan Land on the south side of the tracks. That is the only thing that he really wanted to provide an answer for. One more clarification, which he did not know if he was technically correct is, the MI's owned the land on Carlton Avenue that is cattycorner to the parcel in question. It also has a SUP for 102 residents with 30 % of which are affordable and the rest with a preference given to the elderly.

John Frazee, resident of 1404 East Market Street, said he was also the Woolen Mills Neighborhood Association Chair. As you know we have a number of folks in our neighborhood that live in the county and are members of our board as well. He wanted to express his appreciation to the work that they are doing. He understands that they are directed, constrained or otherwise under the preview of the rules that determine what it is they are here to decide tonight. He certainly is not here to try to argue that is correct or incorrect. However, what he would like to express is that given the location, the historic characteristics that Mr. Emory just talked about, and the overall development that is occurring in that area, which is highly directed towards preservation, he would like the Commission to consider that and things like that are part of the county's comp plan,.. The slope itself is a part of an overall neighborhood and he would like the Commission to consider that. As a resident of the Woolen Mills and as a neighbor to the folks in Carlton and to the businesses that are on Broadway, he feels that it is important to look at it from a slightly larger viewpoint than simply whether this grade is of a particular percentage and is it disturbed or undisturbed. He would like the Commission to take a look at it a little bit more broadly and

historically. He thinks that will be an overall benefit. Whatever future plans there are for the area he thinks it will be of great benefit. He really does appreciate being able to address the Commission tonight.

Morgan Butler, with the Southern Environmental Law Center, said this is an important request before the Commission tonight. It is bigger than the slopes that are at issue and those slopes are already pretty important in their own right. This is the first request for someone that is seeking to remove a designation of preserved slopes in order to facilitate development. As such the approach taken to this, staff's approach, the Planning Commission's approach and ultimately the Board of Supervisors' approach will set the precedent. They appreciate all the work staff has done to analyze this request and the many different resources they have tapped into to bring the relevant factors into the picture. They are concerned with how they have segregated the slopes on this parcel into three areas though and categorized them as separate groups each getting its own analysis. He would try to explain.

Mr. Butler explained as he was reading through the staff analysis, he, of course, read the section on Area A first. When he got to the end of it he was quite surprised not to see any mention of the proximity of the slopes to Moore's Creek. Moore's Creek, as they know, is an impaired water for failing to adequately support aquatic life. It largely owes that impairment to runoff from urban development roads and rooftops taking place in its watershed. In our view the proximity of this parcel and all of the slopes on it to Moore's Creek and the Moore's Creek floodplain is the number one reason under the ordinance why these slopes should remain preserved. It is sufficient by itself to warrant the preserved slopes designation. In short disturbing these slopes will increase the threat to what staff describes as the most impaired water in the entire county.

Mr. Butler noted as he then made it into the section of the staff report on Area B, there was Moore's Creek and its floodplain mentioned. They did make it into the analysis and cited as a key reason why the slopes grouped in Area B should be preserved. They were glad to see it cited as such a strong reason to preserve the Area B's slopes, but it should apply to all the other slopes on this parcel as well. Yes, when viewed through the lens of being three separate sub-areas the slopes in Area B they are closest to the floodplain. But, the slopes in the other two circles reach within just a stone's throw of it and like Area B they slope down towards it. When you take a step back and look at the slopes on this parcel as a whole they emerge as part of one larger system that drains down into the floodplain and disturbing any of them threatens Moore's Creek. In other words, if any of the steep slopes on this parcel are associated with Moore's Creek and its floodplain they all should be. The micro level analysis that separated them into three different areas misses that important consideration. They urge the Commission to take that broader view. Finally, please consider how approving this rezoning could encourage requests that change or preserve slope designation whenever it has the effect of limiting the development potential of a site. Part of the choice of words, and he is not the first one to use this phrasing tonight, but it is a very steep and slippery slope from here to the complete undoing of the preserved slopes designation. Thank you for the chance to comment.

Robin Haines, resident of Woolen Mills, said she lived across the street from the subject property. Having been to a couple of meetings on this, she has not really heard why this property was designated preserved slope. But, it is one and just as a neighbor she really hopes the Commission will consider keeping it that way.

There being no further public comment, Mr. Morris closed the public hearing and invited the applicant up for rebuttal.

Mark Mascotte, the applicant's representative, said he wanted to address a couple of issues that were raised by Mr. Butler. First, the comments that it will set a precedent. He thinks that comment was raised by Ms. Firehock and he thinks they got an adequate response that we are not setting a precedent here tonight. Mr. Butler mentioned the potential risk that you might be making by setting this precedent. Again, he thinks this is a zoning application that is very specific to the site. Then to address finally Mr. Butler's concerns about storm water management and waste water runoff. This is not an application for a site plan. Ultimately, the developer whoever develops this site will have to go through this process. They are going to have to do so with those storm water and waste water regulations in mind, and Virginia and the

county have very strict regulations on what you can do. So he thinks that needs to be kept in mind as well.

Mr. Morris said he would now bring it back to the Planning Commission for discussion and action.

Mr. Benish asked to address the question about whether the site is within the Monticello View Shed. Ms. Echols looked at some maps she had available and it is identified in an area that is potentially visible. Under our process what we would do is contact the Monticello representatives from the Foundation and have them let us know whether they felt that site was visible. So if that becomes important information he just wanted to let the Commission know and give them the answer to the question.

Mr. Randolph noted the Commissioners have received an unusually high volume of communications from city residents concerned about the decision that this body, which is not the controlling body for their community, would be reaching concerning slopes that they view as being significant and important in their community and their community life. He was not comfortable making a decision this evening because he feels very strongly that the next and most appropriate step for us is on June 23rd when they meet with our peers from the city that they have a discussion of exactly this issue. Here they have a situation where the city and the county are at a boundary and they have critical slopes; they have an historic area; they have a precedent setting decision in terms of what may happen in terms of these slopes in an historical zone across from city owned property. He did not think this is the county's decision alone to make. He thinks they are not the "lone ranger" here. He thinks we need to be working collaboratively with the city with whom they have worked energetically through the whole process of One Community. He feels if he was asked to make a decision here tonight on this basis that he is forfeiting the good will that they established with our peers from the City Planning Commission by making the decision unilaterally. It really ought to be a collaborate decision. So he would like to see this deferred until after they have had an opportunity to discuss this with the Planning Commission of the City of Charlottesville.

Mr. Morris asked if this issue has been vetted with the city staff.

Mr. Newberry replied that the planner for this area from Neighborhood Development Services, Kerry Rainey, provided some comments to me back at the end of April. He could quickly summarize the comments. To quote, "removing this parcel from preserved overlay does seem concerning." She goes on to say that, "She would like to see extra buffering from the residences across Franklin." She talks about traffic counts along Franklin Street and city utilities that may extend into the parcel and that the developer should contact them early on if they are interested in doing that.

Mr. Morris thanked staff for the information.

Mr. Loach pointed out those are issues that would be handled by the developer and your staff regardless of the managed slopes and preserved slopes.

Mr. Newberry replied yes, other than saying that Ms. Rainey wrote in her email that rezoning the slopes would be concerning and that the southern section appears to have small streams running through it. There is not much comment here that is difference than anything they have heard.

Mr. Loach said obviously the issue is: "does this set a precedent?" One of the things he would say, though, is that in the future as a result of this would it then be advisable for the county to use the more specific methodology that was presented if somebody comes and asks for a change from preserved to managed. Essentially there would be a higher degree of analysis used for staff to make that decision than the methodology used here.

Mr. Newberry asked: "are you suggesting that they require field run topography?"

Mr. Loach replied obviously as he told him tonight that is how they made a decision if not to set a precedent the one way to do it would be to set a higher level of standard if that standard technically exists and apparently it does. Therefore, that would be his one recommendation out of this at least.

Mr. Kamptner pointed out the overlay district regulations do require field run topography to be presented if the applicant is requesting to remove land from the overlay district entirely. But, they have to make their case. So if they don't provide convincing evidence, then they will not get the re-designation they are seeking.

Mr. Loach said he was just saying he would like to give the staff the ability to require it if they felt it necessary to make the analysis.

Mr. Benish pointed out this is the first time they have gone through this sort of exercise. Therefore, the Commission's decisions help set some guidance for us. He understands that a high bar is an important concept. However, he thinks that each case is going to be unique and staff is going to evaluate the specifics of that case. What is crucial and important to you is to focus in on those features and assessment that the staff took in creating the map, and then re-assessing them with more specific information at that site if there are other issues or a higher level of issues, to form a more in-depth assessment of broader comprehensive plan issues. They did not touch too much on the Economic Development Policy and the things that were mentioned about the overlay district that might be the case in other sites. However, the Monticello viewshed direction helps inform us for the next review.

Mr. Keller pointed out there are other approaches in science that could weigh into this. He complimented staff on this effort. However, he thinks it could be broadened. Since this is the first, he knows that there are members of the Commission who have experience in different aspects of the topic and would most likely enjoy the opportunity to sit down and talk with staff about things that might warrant consideration for future evaluations. This is something he thinks Mr. Kamptner could discuss because this was just ending as Mr. Keller came onto the Commission. That is the issue of doing amendments when there aren't specific proposals in place. He thinks when they have a specific site plan, then it allows us to think more holistically about a situation like this just as Mr. Butler pointed out. Certainly in my life's work on the theory and practice of cultural landscapes we try to look holistically at areas rather than break it down into a series of parts.

Mr. Kamptner replied like he said this is the first application they have had dealing with this overlay district. He thinks the Commission's and the Board's expectations for a regular zoning map amendment is that there be a specific proposal. The county typically looks for at least a conceptual plan and certainly for any planned district they have to submit an application plan, so the county just knows what is coming. This one is a little different. However, it is similar in that it is a zoning map amendment. Certainly the Commission and the Board can further explore their expectations. With this one what they are really doing is seeking to change the designation that was done at the time that the overlay district was established. Because they are presenting evidence and are not dealing with a specific development proposal they are just simply looking at the specific field site conditions and saying that the methodology that the county used when they created the district, which was reasonable and practical under the circumstances, left room open for the very site specific kind of analysis. The regulations leave the door open for somebody to come in for their particular parcel to say what the overlay district map says is incorrect because the field run topography or the other data that they are going to submit shows that these slopes are managed, less than 25%, and therefore the District's boundary designations should be.

Mr. Keller thanked Mr. Kamptner. With that explanation he does not feel that staff has done a significant job in convincing him. However, he shares Mr. Randolph's desire that they sit down with the city for discussions about this and other topics that warrant a joint planning commission discussion leading to recommendations to our elected officers. At this point he would recommend denying this request.

Ms. Firehock asked to comment on his comments. On the first comment where he was talking about whether they should have at least a concept plan or some sort of site plan to judge us on. She has some sympathy for the applicant in that it is hard to know even what is possible at this site because the slope is so restricted that it would dramatically alter what one can propose. You sort of need to know which of the slopes would be because the slopes are considered as "A", "B" and "C". She can think of many different configurations of the site depending on what the answer to the slope question was. So in this strange case she is a little more sympathetic to the applicant in terms of not having that level of information tonight. That does not mean she does not want to see that next time for another application. In terms of

what Mr. Keller was talking about in remaining unconvinced that they have made a good case for making this change, she was in agreement. She has not been convinced tonight that the entire slope is caused by the road. She does not have enough historic information on how this site was originally configured. He was correct that there are lots of ways to determine what was disturbed and what was not disturbed. They have not done that level of analysis and she was not sure they should expect that. However, she was not convinced that this really is appropriate to consider each of these little triangles as different parts as if they are not part of a contiguous system.

Ms. Monteith said she would just relate that they did study these managed and preserved slopes pretty carefully regarding their concerns around them. They found the analysis to be pretty accurate. That does not mean that it could be accurate for every site. But, in general since this was just established and there was a lot of work around this, she would not like to see the first one change in terms of precedent. She also thinks the City has done a tremendous amount of work around critical slopes and that waiting and having a conversation with the City around this item is a good idea. She also would not want to establish a precedent of having to have a conversation with the city for every single item of this nature either. But, given the context that might be appropriate.

Mr. Morris said what the Commission has before us is a request for critical slope. Unfortunately, this body historically has been all too apt to approve disturbance of critical slopes. They came up with a new system of preserved and managed slopes. He just has a hard time now saying well let's forget about that and they will do it this way. It is the first one and he really agrees with Mr. Keller that this is the county's responsibility for this question. The property as a whole, however, needs to be brought up with our counterparts in the City. Mr. Keller is absolutely right. However, as it stands right now changing the critical slopes to "managed" from "preserved" he cannot support at this particular time.

Mr. Dotson said he had three comments. He agreed with the staff analysis that the tables are very thorough. The staff concluded that the slopes are part of a hillside system in Area "A". Something to underlie that and support it if they were to drive down Moore's Creek Lane onto the property of the sewage treatment plant you will see that the top soil has been removed and there is a massive outcrop of bedrock there. He was not convinced that what they see as the slope in the hills there are not simply the bedrock. There seems to be a very thin mantle overlaying that of soil. So he suggests that there is maybe not only a hillside system but a bedrock system that unifies that whole area. So that is comment one.

Mr. Dotson noted comment 2 in looking at the staff report it is pointed out that there is the option of a special use permit "to evaluate the impacts of an entrance across preserved slopes." That is an option that he favors. It goes on to say the county would risk a regulatory taking for that by denying an entrance, and perhaps that should read any entrance to the property. They are not at that point. The applicant has not exhausted its avenues and the special use permit he thinks would be an appropriate avenue.

Mr. Dotson noted comment 3 goes to the part in the staff report referring to the Economic Vitality Action plan. It says the proposed amendment would support the plan by providing a larger area for development of the site. It does not say allow development of the site. It says a larger area. So he thinks what they need to be looking at here is how the site might develop in light of the conditions that have been on it. So given that he does not favor recommending revision to a managed slope because he thinks it should be through the special use permit route.

Mr. Randolph said one of the things that he thinks is missing in here is that the Planning Commission needs much more specific criteria to justify alteration from preserved to managed. He would not advocate that they must have a bull dozer treads test, i.e. that they see the bull dozer treads in the ground and say it proves that there has been disturbance; thereby, it is managed and no longer needs to be preserved. He really thinks they need to spend some time in thinking about what is the package of criteria that may involve some soil analysis to determine whether in fact there is bedrock there or not. However, they need more than they have right here. Otherwise, he thinks they all become accessories to an open season on slopes, which is to say they sanction slope slaughter as just a process and establish here that they will be accessories to having this occur. If they don't have very specific criteria to help guide us, then in the future this decision would be precedential. It would be determinative in the future

because it would be cited we did this in this case; thereby, it is not reasonable for you not to repeat it in another case. They are setting ourselves up. So he thinks it is really important that they look at greater criteria. He was trying to buy the applicant some time rather than turning them down tonight to say let's give ourselves some more time for staff to think about criteria, meet with our counterparts in the city and talk about this in other locations. He strongly suspects this will not be an isolated case and it will not stand alone. This will be the start of what will be other cases that may well be also in the Scottsville District and the Woolen Mills area.

There being no further comments, Mr. Morris asked if there was a motion.

Mr. Randolph made a motion to defer making a decision until such time that the Albemarle County Planning Commission has an opportunity to discuss this issue with the City of Charlottesville Planning Commission.

Mr. Benish noted this was an applicant request and not a staff rezoning.

Mr. Kamptner said he would assume they are reaching the 90-day limit for the Commission to make its recommendation to the Board. Usually by the time they come to the Board they are approaching that so they would look for a request for a deferral from the applicant.

Mr. Morris said the applicant has heard our discussion. He asked the applicant if they would like to entertain requesting a deferral on this so it remains at least alive or they can vote on it depending upon what they would like.

Mr. Mark Mascotte said he had a date of June 23rd for discussion with peers with the City. He asked what would take place on June 23rd.

Mr. Morris replied June 23rd is a joint meeting between the Albemarle County Planning Commission and the City of Charlottesville Planning Commissions. He pointed out his request would not be coming up before that meeting.

Mr. Mascotte recommended that if we can vote on a deferral for after that opportunity and they can present this again before the Planning Commission for approval that would be acceptable to the applicant.

Mr. Morris noted the applicant is requesting a deferral. He asked if it was an indefinite deferral request.

Mr. Mascotte replied it was a request for deferral until after the June 23rd meeting.

Mr. Benish noted he was not as involved in that June 23rd work session. He knows there is a bike study presentation and he did not know if the Commissions have time for other things.

Mr. Morris replied there are two items that are going to be coming up. One is the Rivanna River Consortium as well as the bicycle multi-modal.

Mr. Benish pointed out that three Commissioners are not going to be present at that meeting. If they want to engage in that conversation the Commission might be deferring to a date that they won't be present. He was not sure but thought it included Mr. Dotson.

Mr. Morris noted the Commissioners that would be absent were Mr. Dotson, Ms. Firehock and Ms. Monteith.

Mr. Benish said he just wanted to remind the Commission of that point. He suggested that an indefinite deferral might allow us to plan with the City about the agenda and topic time available for this. He asked after the motion that the Commission provide some direction for staff or at least he had a question or two for them to make sure that staff was focused in on the question that they want to ask the City Planning Commission. He wants to be clear on whether it is a question about our critical slope criteria or about a

broader discussion on the future disposition of the property including the critical slopes. Staff needs to be sure that they understand.

Mr. Morris pointed out the motion right now is for deferral.

Mr. Mascotte said a postponement is not fair. He would request that they set the date for a July meeting. If the joint meeting takes place on June 23rd they would like to get on the next July docket to be in front of the Planning Commission. He thinks that is reasonable.

Mr. Morris agreed that was what he would like to see. It would be whenever possible in the July/August time frame.

Mr. Benish suggested that the Commission defer to a specific date that is available.

Mr. Morris said it would be as soon as possible after the June 23rd meeting. However, that date would be in July.

Motion: Mr. Randolph moved and Mr. Keller seconded to approve the applicant's request for deferral of ZMA-2015-00002 Franklin Street Steep Slopes to July as soon after the July 23rd meeting as possible.

Mr. Kamptner pointed out if the request was deferred to a specific date it does not have to be re-advertised.

Ms. Firehock asked if the Commission was meeting on July 14th.

Mr. Benish replied if there were items scheduled. He was trying to look at the schedule.

Ms. Firehock noted that she had that date on her calendar from the original calendar at the beginning of the year.

Mr. Benish asked if the Commission was okay with coming for a single item on July 14.

Mr. Morris agreed.

Mr. Randolph agreed that they should aim for July 14th.

Amended Motion: Mr. Randolph moved and Mr. Keller seconded to approve the applicant's request for deferral of ZMA-2015-00002 Franklin Street Steep Slopes to July 14th.

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

Mr. Morris noted that ZMA-2015-00002, Franklin Street was deferred to July 14th as requested by the applicant.

Mr. Benish asked for a clarification of what is expected for that discussion of this site with the City Planning Commission. He asked if it is a particular assessment of our critical slope provisions in how they designate the critical slopes as they affect this site or if it is a broader issue about the development of this parcel.

Mr. Randolph replied he would like to have a broader discussion with our counterparts in the City about that.

Mr. Morris said just speaking for himself he thought the broader discussion was more appropriate and our methodology for determining preserved and managed slopes is something that the county is responsible for.

Ms. Firehock said when you are reading the comments from the staff person when she was in the City what she was imaging is that they are just commenting directly to you. It is not as if they had a community meeting about this. The residents who testified from Charlottesville tonight did not have a chance to share their concerns with that planner. So that planner was not necessarily reflective of the broad suite of issues that were raised to us in the comments. So she did not feel like what they got back from the City was really reflective of the issues at hand. She was sure now that they have talked about this as a joint discussion that the residents in attendance and they will share with their neighbors they will talk to that planner, she will do more investigation and then they will have a much more fruitful exchange of ideas than what they had tonight.

Ms. Monteith said although Mr. Benish if it is not really obvious, it seems like they should present the criteria of how we came to the preserved versus the managed in 2014. If he was not aware the City Planning Commission has spent a ton of time on this. So she thinks they should at least establish our criteria when it was established, the fact that this is the first item that is coming up; it is asking for a change; and that this property is right on the line of the City and the County and that is why the County Planning Commission is bringing it for discussion.

Mr. Morris agreed.

Mr. Benish pointed out what Mr. Dotson raised is an important point. There is another avenue to evaluate this site for its develop-ability and its impacts for the critical slopes through the special use permit process. So discussing whether these are preserved or managed slopes has an impact on how the site develops, but there are other avenues by which the site could potentially develop into an industrial use. So if the question is a little bit broader than just how these slopes on the site are managed and it is about what the County's comprehensive plan designation and zoning is on the site, it is useful for us to put that background in the context, too.

Mr. Keller agreed with that and to build on Ms. Monteith's comment, he thinks that just as there is a presentation about ours they should have a presentation about the City's because here is a place where two slope ordinances meet right across the property line and a series of property lines in that area. The City and County have ongoing work with the Rivanna River Commission that relates to this area. They have the Monticello View Shed and adjacency issues. It seems that just as in our last meeting they had an opportunity to have a free flow discussion this should not be several talking heads from the staffs filling up the whole meeting with giving us a presentation. But, it should be an opportunity for us to have dialogue among members of the City and the County Planning Commissions about what are the possibilities for this area. They have talked about the traffic and the different ways that this site could be accessed for instance, which is under the City's purview. So they need to have this almost like an opportunity for a brainstorming session about how to deal with some of these difficult areas that fit together.

Mr. Benish said he would get with the Chairman because what he thinks they will need to do is contact the City to make sure that they are meeting all the expectations of that work session in the time that is permitted.

Mr. Morris noted that he would like to go down and talk with Missy Creasy on the whole thing. He asked if there was further comment.

Mr. Randolph said he would like to make one observation. He noted failure to do this at this point would spawn exactly the kind of friction between the City and the County that they are working energetically to try to reduce. He thinks it is an obligation for us to take the step with them and open the door for that dialogue as Mr. Keller has pointed out.

Mr. Morris agreed with having a dialogue.

Mr. Keller said a possible other very short presentation would be the mutual goals that the City and the County set forth as they relate to an area like that. So they have the common ground over a year long

process to develop those and pieces of that are in both comprehensive plans. So that would be a positive point.

Ms. Firehock left the meeting at 7:40 p.m.

The Planning Commission recessed at 7:40 p. m. and the meeting reconvened at 7:48 p.m.

PUBLIC HEARING

SUBJECT/PROPOSAL/REQUEST:
Public Hearing on Planning Commission Recommended Comprehensive Plan Draft dated January 23, 2014

d. CPA-2013-00001 Comprehensive Plan
Amend the Albemarle County Comprehensive Plan in its entirety by restating the County's values and vision which guide the Plan, and its policies, goals, objectives, and strategies for growth management, natural resources, historic, cultural, and scenic resources, economic development, the Rural Area, the Development Areas, housing, transportation, parks and recreation, greenways, blueways, and green systems, and community facilities and services; adopt a corrected Village of Rivanna land use map; amend the Pantops Master Plan by removing two planned streets shown on the master plan; amend the Development Areas' and Rural Area's boundaries by adding the Mosby Mountain and Whittington areas to the Development Areas within one of the Plan's Southern neighborhoods (Neighborhood 5), to be designated as Neighborhood Density Residential and Parks and Green Systems, to create a master plan for the Southern and Western Neighborhoods, and to change the variety of plan designations in that area; and to change the comprehensive plan designation of the Forest Spring Park area west of Hollymead Town Center from Light Industrial to Residential – Urban Density. Copies of the full text and maps of the Comprehensive Plan are on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia and may be viewed at the County's website at www.albemarle.org. (Elaine Echols)

Ms. Echols summarized the executive summary for CPA-2013-00001 Comprehensive Plan. She noted that Mr. Cilimberg had talked to the Commission several weeks ago about an advertising error and the need for the Commission to hold an additional public hearing and make a recommendation so that the Board could move forward with its public hearing and adoption of the Plan. Ms. Echols showed the Commission the notebook containing the January 23, 2014 version of the Comprehensive Plan draft that the Commission recommended in July and August of 2013. Staff said it had no additional information to offer the Commission, other than a resolution in front of them that was prepared for this hearing.

Should the Commission move to approve this resolution, they would be recommending to the Board of Supervisors the plan the Commission previously recommended. Staff noted that the Board has made some changes to the Commission's recommended Plan, which staff reviewed with the Commission several months ago.

Mr. Morris asked Ms. Echols if the Charlottesville-Albemarle Airport and the Rivanna Station installation has been officially notified of this session.

Ms. Echols replied "yes." "They have been notified multiple times in multiple ways to make sure that they received the notice 30 days in advance. Staff has not heard from either group about anything in the Plan that should be done any differently."

Mr. Morris asked if they were told that they were the honored guests at this party, and, if so, it appeared they chose not to come.

Mr. Echols replied "yes." She was a little surprised actually that the Rivanna Station installation representatives were not in attendance, but they may be planning on coming to the Board meeting.

Mr. Morris opened the public hearing and invited public comment. There being no one, the public hearing was closed to bring the matter before the Commission for a recommendation.

Mr. Randolph commended Ms. Echols for all of the hours and hours of effort she had invested in this.

Ms. Echols pointed out the draft is going to public hearing before the Board of Supervisors on June 10th.

Motion: Mr. Randolph moved and Mr. Loach seconded for approval of the Resolution recommending approval of CPA-2013-00001, Comprehensive Plan Update/Amendment. (See Attachment A – Resolution Recommending Approval of CPA-2013-00001)

The motion passed by a vote of 5:0. (Lafferty, Firehock absent)

Mr. Morris noted that CPA-2013-00001 Comprehensive Plan would be forwarded to the Board of Supervisors with a recommendation for approval on June 10, 2015.

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.

- Faith McClintic, new County Economic Development Director, was introduced. Ms. McClintic said she looks forward to working together with the Planning Commission for the benefit of the overall community.
- The next Planning Commission meeting will be held on Tuesday, June 2, 2015.

There being no further new business, the meeting moved to adjournment.

Adjournment

With no further items, the meeting adjourned at 7:56 p.m. to the Tuesday, June 2, 2015 meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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

RESOLUTION RECOMMENDING APPROVAL OF CPA 2013-00001

WHEREAS, Virginia Code § 15.2-2230 requires that the Albemarle County Comprehensive Plan be reviewed by the Albemarle County Planning Commission (the "Planning Commission") at least once every five years to determine whether it is advisable to amend the Plan; and

WHEREAS, the Planning Commission conducted such a review and, in doing so, held numerous work sessions and public hearings at which comments from members of the public were received and considered; and

WHEREAS, on May 19, 2015, the Planning Commission held a duly noticed public hearing as required by Virginia Code §§ 15.2-2204 and 15.2-2225; and

WHEREAS, the Planning Commission has determined that it is advisable to amend the Comprehensive Plan.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the Planning Commission hereby recommends approval of the final draft of the Comprehensive Plan Update, dated January 23, 2014, incorporating the Commission's recommendations at its July 23, July 30, and August 27, 2013 meetings as reflected in the action memoranda and minutes of those meetings.

I, Sharon C. Taylor, do hereby certify that the foregoing writing is a true, correct copy of a Resolution duly adopted by the Planning Commission of Albemarle County, Virginia, by a vote of 5 to 0, as recorded below, at a regular meeting held on May 19, 2015.

Sharon C. Taylor
Clerk and Recording Secretary

	Aye	Nay
Mr. Dotson	X	
Ms. Firehock	Absent	
Mr. Keller	X	
Mr. Lafferty	Absent	
Mr. Loach	X	
Mr. Morris	X	
Mr. Randolph	X	