Albemarle County Planning Commission
July 14, 2015

The Albemarle County Planning Commission held a public hearing on Tuesday, July 14, 2015, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Staff present was Rachel Falkenstein, Senior Planner; Megan Yaniglos, Principal Planner; Claudette Grant, Senior Planner; J.T. Newberry, Planner; David Benish, Chief of Planning; Sharon Taylor, Clerk to Planning Commission, Wayne Cilimberg, Director of Planning and Andy Herrick, Senior Assistant 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.

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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.

Jeff Werner, with Piedmont Environmental Council (PEC), spoke regarding information to consider as part of the Comp Plan amendment for the Development Area Boundary Adjustment at 29/I-64 intersection and provided a handout. He said there is some information that needs to be presented at the work session next Tuesday and certainly at the next community meeting. When he went to the meeting on July 7th very little information was offered as to what is being proposed. It was about 45 minutes of what economic development is and then 45 minutes of questions. In this list are very specific questions he thinks the community needs. What they have heard a lot is we will get in to that during the rezoning. Obviously, they are fast tracking this thing. They are fast tracking it during the summer in Albemarle County/Charlottesville, which just is not done. So he thinks the community has some questions that need to be answered now and not in September or October when they rush through the rezoning for this thing. What they are asking are some key questions. For example, they have heard the steep slopes there limit development. Or, they have heard that steep slopes at other sites in the county that are Light Industrial limit development. He has been looking at steep slope maps of other LI parcels in the county and he did not see them. So what exactly is going on with this? If this is added to the growth area and it has steep slopes on it, well then are those steep slopes protected or is that place going to be flattened. There are questions about infrastructure and traffic. He thinks a big question the community really wants to know is what Albemarle is going to put into this deal. He will tell them he knows what is going on – they know what the type of business is and they know that these are the type of businesses that are being lured by communities all up and down the east coast. The City of Richmond just threw 20 million dollars to get a brewery to come to Richmond. Down in Ashville, North Carolina they threw 18 million to get Fat Tire or New Belgian brewery to locate there. So what is it that we are going to be

expected or at least the residents of Albemarle County are expected to pony up? Like he said there are a lot of questions in there and he hopes the Commission will ask staff tonight to be prepared to answer them or respond to them at next Tuesday's meeting. (Attachment A – Draft submitted by Jeff Werner, PEC dated July 14, 2015 GA Expansion 29 South: Information necessary for public discussion)

Latha Masters, resident of Pavilion's at Pantops, requested a cross walk or other pedestrian crossings of Route 250 East. She said my husband and I have started a petition in support of a crossing which already has over 200 signatures. When we bought our home 5 years ago one appealing prospect was the idea of being able to walk to the grocery store and restaurants across the street. Having lived in Boston and Amsterdam we felt that being able to walk around in our neighborhood greatly increased our quality of life. After moving in, however, they were disappointed to see that there is no safe way of crossing 250, which clearly has lots of fast moving traffic. In the 5 years we was have lived in the neighborhood a number of businesses in the plaza have increased yet there remains no pedestrian crossing across 250. So while these businesses are less than a mile from us we are required to drive for our own safety. She knows that there are some residents who chose to cross the road on foot or bike, but she also knows that there have been fatal accidents or at least one of which was just last year. With 2 young kids they are not willing to take that risk. She thinks a pedestrian crossing would be a huge benefit to our community, which include the neighbors getting to know each other, reducing the amount of traffic in the area and supporting these businesses. It would also support the idea of a walkable neighborhood. It is a pretty straight forward idea with minimal drawbacks. Please consider this proposal and help our neighborhood. Thank you for your time.

Neil Williamson, Free Enterprise Forum, spoke regarding the nature of Comp Plan amendments. He appreciates Mr. Werner's comments. He thinks it is appropriate that those associated with planning recognize comprehensive plan amendments have different levels of integrity in terms of their demands than a rezoning. He has heard questions about where everything is going to be, what it is going to be and that is not an appropriate question for a comp plan amendment. They don't have a position for or against this. Two years ago this body had a short conversation that did not ever get to the full body – what would it take to expand the growth area and what would they look at. He did not know that this body knows what it is. He believed they have staff coming forward suggesting not only is there an opportunity, but there is a turf of land available for jobs. He may have missed a meeting or two, but he did not remember attending any public hearing that reduced the growth area when Biscuit Run came in as a state park. That did not happen. He thinks it is important to recognize what is the criteria that they are going to use to judge a comp plan amendment to change the comp plan designation, not the zoning. The question with regards to critical slopes, steep slopes are good questions and are valuable questions to have answers to. He thinks that is covered in the Code. He encourages the Commission regardless of how you vote on the comp plan amendment to make your deliberations clear what it would take for the development area boundaries, which originally were set in the mid '70's to be adjusted to recognize the realities of 2015. Thank you.

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

Committee Reports

Mr. Morris invited committee reports.

The following was noted by Commission members:

Mr. Keller reported the Fiscal Impact Advisory Committee report on cash proffers will be forwarded to the Planning Commission soon.

Mr. Randolph reported the following:

- The Solid Waste Committee met today (July 14th) and an executive summary will go to county staff tomorrow morning to be forwarded to BOS.
- The Rivanna River Basin Commission will have a conference regarding the Rivanna River on October 2nd and a celebration of the Rivanna River on October 3rd.

Ms. Firehock reported the Water Resources Advisory Committee met last Thursday (July 9th) and are preparing final recommendations for the Board of Supervisors. Next month's meeting will be held on the second Tuesday at 4:30 pm at the county.

Mr. Lafferty noted that PACC Tech meets this Thursday (July 16th).

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

Review of Board of Supervisors Meeting – July 1 & July 8, 2015

Mr. Cilimberg reviewed the actions taken on July 1 and July 8, 2015.

The meeting moved to the next agenda item.

Consent Agenda

a. **Approval of minutes**: February 24, 2015, April 21, 2015, May 19, 2015 and June 2, 2015

b. **Zoning Text Amendment – Signs** (Resolution of Intent)

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. Randolph moved and Mr. Loach seconded for approval of the consent agenda.

Mr. Morris asked for a roll call.

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

Mr. Morris said the consent agenda was approved.

APPROVED RESOLUTION OF INTENT

WHEREAS, County Code § 18-4.15, which is part of the Albemarle County Zoning Ordinance, establishes regulations pertaining to signs (the "Sign Regulations"); and

WHEREAS, the Sign Regulations are subject to the rights and protections guaranteed under the First Amendment to the United States Constitution, and under First Amendment jurisprudence, sign regulations must be content-neutral by regulating only their time, place, and manner, but not their content; and

WHEREAS, the Sign Regulations establish a number of sign classifications based on the subject of the sign's message without promoting or discouraging any particular viewpoint, an

approach previously upheld by the United States Court of Appeals for the Fourth Circuit, whose jurisdiction includes the Commonwealth of Virginia, as being content-neutral; and

WHEREAS, on June 18, 2015, the United States Supreme Court in *Reed v. Town of Gilbert, Arizona* held that the sign classifications based on the subject of the message are content-based because they differentiate signs and the regulations that apply to them by the subject of their message and, therefore, violate the First Amendment in the absence of a compelling governmental interest; and

WHEREAS, in order to ensure that the Sign Regulations adhere to the rights and protections of the First Amendment as settled by *Reed v. Town of Gilbert, Arizona*, it is desired to amend County Code § 18-4.15 and any other related sections of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Planning Commission hereby adopts a resolution of intent to consider amending County Code § 18-4.15 to achieve the purposes described herein, and to consider any other amendments to County Code § 18-4.15 and other related sections of the Zoning Ordinance to ensure the proper administration and implementation of the Sign Regulations; and

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

Deferred item

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)
DEFERRED FROM MAY 19, 2015 PLANNING COMMISSION MEETING.

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

Overview of Application Process

- December 15, 2014 – Pre-application meeting
- February 17, 2015 – Submitted ZMA
- April 3 and April 27, 2015 – Community meeting

- May 19, 2015 – PC public hearing (Deferred)
- June 23, 2015 – Joint City/County work session

Changes since May 19th Public Hearing

- County adopted update to the Comprehensive Plan, including Southern and Western Neighborhoods Master Plan (6-10-15), which this site is included in.
- Additional information provided at joint work session related to visibility from Monticello and percentages of steep slopes (6-23-15) that was requested at the May 19th public hearing.
- Just last week the applicant contacted staff and revised their application to match the staff recommendation. (7-10-15)

New Comp Plan Designation

- Green areas are designated for Parks and Green Systems. Since Green Systems may not readily be clear on what that is defined as staff included the following statement: "Green systems are the interconnected features of vegetated critical slopes, streams and stream buffers, wetlands, floodplains, parks, trails, and recreational amenities that provide a variety of benefits to residents and preserve the natural environment." (11.3, Introduction to Parks and Recreation, Greenways, Blueways, Green Systems)

Applicable Statements from Southern and Western Neighborhoods Master Plan that speak directly to steep slopes:

- Environmental features include streams, stream buffers, floodplains, wetlands and systems of steep slopes. Preservation of these features is expected. (A.8.50, Existing Parks and Green Systems)
- The stream buffers, systems of steep slopes, floodplain, and wetlands adjacent to the Rivanna River, Moore's Creek, and Biscuit Run should be preserved. (A.8.72, Natural Resource Protection Recommendation)

These are statements that are readily applicable to this application.

Questions from Public Hearing on May 19th

Precedence?
Monticello Viewshed?
Percentage of area?

One of the questions from the May 19th public hearing was visibility from Monticello. When staff contacted the Foundation they acknowledged that this site was potentially visible and just asked that the developer when they develop the site adhere to the voluntary design guidelines that they provide for people for developments within the potentially visible area. This would relate to things like the color of the roof and things like that.

Staff Analysis

Staff narrowly focused on the criteria found in "Characteristics of Steep Slopes" (Section 30.7.3). This is just a quick reminder of the areas that staff analyzed as a part of this proposal. Because the applicant has revised their application to just include Area "A" that is what staff will focus on.

One of the other things that came up at the May 19th public hearing was what the exact area is within Area "A" and within the other areas as well that were not technically steep slopes where

their grade was actually less than 25 percent. So for Area "A" that area is about 4,200 square feet or 15 percent of that area is actually not technically a steep slope.

Next he reviewed the tables that may remind the Commission of a staff report. The tables address each of the criteria for the characteristics of managed slopes and preserved slopes. For Area "A" nothing has changed for the number of characteristics that staff or the applicant feels meet those of managed slopes. Under the preserved category with the adoption of the new comp plan they have changed criteria in 4 and 5. The slopes are now identified as a resource designated for preservation and they are broadly identified as a resource in the adopted comp plan. This was not true when staff originally did the staff report under the old comp plan.

Recommendation:
Staff recommends approval of ZMA-2015-00002 with the application plan most recently provided by the applicant, which is the same application plan included in the original staff report but it lets Areas "B" and "C" remain preserved as they are currently and focuses only on Area "A" and asks that area be converted to managed slopes.

Since it was difficult to reach a recommendation on this application staff would ask as the recommendation moves forward to the Board that the Commission be very specific about the reasoning for making their recommendation. He has example slides that may help prompt some of the discussion for approval or denial. However, it would be helpful for the Board if the Planning Commission was very specific in its recommendation.

Mr. Morris reminded the Commission, again, that tonight they are looking at the question of the steep slopes in Section "A". He asked staff if that was correct.

Mr. Newberry agreed that was correct.

Mr. Morris invited questions for staff.

Mr. Lafferty asked if he read it correctly that to be a preserved slope it has to be greater than 10,000 square feet.

Mr. Newberry replied it does not necessarily have to be greater than 10,000 square feet. One of the characteristics of preserved slopes is that it be a contiguous area of 10,000 square feet or a close grouping greater than 10,000 square feet. So that is just one of the characteristics of preserved slopes.

Mr. Lafferty questioned if section "A" meets that.

Mr. Newberry replied that section "A" is approximately 28,000 square feet in total. Referring to the map he pointed out there is a portion at the top of the site that is designated to remain preserved. When they subtract the areas that are not steep slopes you are looking at about 20,000 square feet. Just to note the largest contiguous area above the yellow areas that show areas less than 25 percent is about 7,500 square feet.

Ms. Firehock said just going back to the list prepared on the characteristics of managed sloped on page 6 staff had the applicant's analysis compared with staff's analysis. At the last meeting she complimented staff on it since it was very useful to have the comparison in a chart. She was wondering if staff could tell us more about how you determined the contiguous area of steep slopes is limited or fragmented. It is a somewhat qualitative statement and she would like to know if he was using an actual equation to calculate that; and if so, what is that equation.

Mr. Newberry explained there is no scientific equation that we used. However, he thinks you can contrast the fragmentation of what staff originally believed based on the aerial topography to be completely comprehensive on a slope area of greater than 25 percent as shown on our GIS maps and shown in some of the figures in the staff report. The field run topography reveals there are integral areas that go the full length of the slope system that are actually less than 25 percent. He thinks the areas that sort of split the entire system indicated to us that it was more fragmented than staff originally believed.

Mr. Newberry pointed out the aerial would have you believe that this was all greater than 25 percent. However, the field run topography showed that actually was not true. Whereas, if you look at Areas "B" and "C" there are only some areas on the edges that fill run topography showed that was not greater than 25 percent. So for that characteristic it is a qualitative statement and staff feels like not only the amount of slope that was less than 25 percent, but its location throughout the system lead us to feel confident that it was fragmented and more limited than we originally believed.

Ms. Firehock said they are always thinking about precedence in decision making. She asked are you saying that if you find a sliver, whatever the width is, that runs the length through the middle of the slope which the slope rise over run is less than 25 percent that then negates the entire slope as being considered steep or that is now enough to be considered fragmented in which they get rid of the entire steep slope. She was trying to understand whatever the logic statement is that you would make.

Mr. Newberry said he did not think it could be considered as any kind of litmus test in and of itself.

Ms. Firehock pointed out she was not really asking for an equation. She was just wondering whether A + B = D or whatever.

Mr. Newberry explained it was just one fact among the list of characteristics of managed slopes. When it was looked at by staff it was a surprise to us based on what they thought the system to be. It was a factor in deciding whether or not it had more characteristics of managed or preserved, but just one out of the list available in the Code. So for the future that would not be a slam dunk or anything like that. That was just one factor.

Ms. Firehock noted she had one more question on another factor. On that same list he had under the slopes significantly disturbed prior to June 1, 2012 that the applicant had no comment and you said no they were not. How did you gather the historical data on that site? There are topos he can look back at over time. Just tell us a little bit more about how you came up with that historical analysis.

Mr. Newberry replied staff looked at aerial photos over the past 30 or 40 years. The members of the public have informed us extremely well as to the history of the property and some of the historical uses of the property. The USGS maps dating back to the 30's give us some indication of what the slope may have been like. Staff did not feel like they found any evidence of significantly disturbed slopes. There were certainly times where it looked like there were different paths and different areas that were being used on the slopes, but nothing like previously there was a commercial building there or something like that.

Ms. Firehock noted she had one more question, which she could save if other Commissioners would like to ask questions.

Mr. Loach commented that the field run technology is a more accurate methodology than what staff used. In just dealing with Area "A" if in fact he had used that methodology in the beginning your analysis would have been consistent in what was proposed by the applicant as far as preserved and managed.

Mr. Newberry pointed out he was not the staff person that went through each system like that. He thinks with this information it definitely would have gotten a much harder look as opposed to just making it all preserved. He can't answer that question right out, but thinks we would have had pause and it would have made us look at this much closer.

Ms. Firehock said the Commission received an email today from a resident in Woolen Mills, Jon Fink, and he showed two pictures of soil removal, grading or something that she could not really tell. She saw a lot of bare earth that was not there before. She asked if there was site disturbance going on that should not occur and asked staff to comment on that.

Mr. Newberry said he could put the picture on the slide for everyone to see in case they have not seen it. He suggested they could ask the applicant. However, his understanding was no one is really sure what this is related to. He called Mr. Fink after receipt of the forward of the email because he wanted to find out if there was any indication of who was there. Mr. Fink said he never saw any machinery or any people out there. He asked Mr. Fink if there was a bobcat or something on that portion of the property. Mr. Fink said he thought the tracks were much wider than that.

Mr. Morris pointed out they would get those comments later on from others.

Ms. Firehock said she would wait because it sounds like the citizens have some information for us.

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

Mark Mascotte, with McLean Faulconer, represented the applicant in the rezoning application. First, he would address the photographs, which were new to him. However, he thinks he knows what it is. My client recently gave the Rivanna Water and Sewer Authority easement access for some stuff that they are doing. It happens to be in that corner. Also, in that corner is the entrance into Moore's Creek. He cannot verify that because this was the first time he had seen the photos and he has not been to the site in a while. However, he certainly wants to know who if it is not them because it is trespassers and certainly we are not aware of it. He believes it would be related to Rivanna Water and Sewer Authority and some easements that they are doing on the site.

Ms. Firehock pointed out they drove over your signs.

Mr. Mascotte replied that he saw that, but he did not put the sign there and did not run over it either. He can look into that and let Mr. Newberry know. But, that is my opinion on that. He thanked Mr. Newberry and Mr. Fritz because they have been absolutely outstanding in terms of providing their access throughout this process with the combined public hearings, the Planning Commission hearing that was originally held, and then the joint session that was held between the county and the city. They certainly have exercised very good zoning practice. That is a part of the Code as they start to look at whether or not they move forward on this. So he certainly wanted to thank staff for their assistance.

Mr. Mascotte said at this stage, however, it is very imperative to stay focused on a specific rezoning that is being submitted before you. The subject property is zoned light industrial permitting a variety of by-right uses specified in the County Code. This position has nothing to do with the Light Industrial zoning and is not seeking any change or special use. The rezoning petition is not at all related to any development proposal for the site. In fact, the issue of whether the rezoning might ultimately increase or decrease the size of the developed portion of the site has no bearing and is not a factor to be used in qualifying the rezoning designation. The site is part of the steep slope's overlay district, which was created to delineate lands which have steep slopes and for which additional development design, care and consideration must be given prior to any permitted development.

Mr. Mascotte explained as noted the applicant is not presenting any site plans for development. The request is to change the zoning designation of approximately 24,000 square feet as Mr. Newberry shared on the map in section "A" only. They have amended their application just to that location because that is what staff has agreed and has recommended as well. The steep slopes district is not a growth management tool. Its purpose is to address environmental concerns in development areas of the county as delineated in the comprehensive plan. He thinks they have done that and certainly appreciates the opportunity again to be here this evening. If anyone has any questions about the pictures that were shared or the application, he certainly welcomes the opportunity to answer them.

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

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

He noted an engineer has performed a ground survey of the parcel before you tonight and has found that 85 percent of the slopes in section "A" because of the characteristics meet the parameters laid out in Code section 30.7.7 the steep slopes overlay district ordinance. To best conform with the purpose and intent delineated in the Code for the steep slopes overlay district the ground survey indicates that 85 percent of these slopes because of the characteristics should be preserved to the maximum extent practical. This goal of steep slopes preservation can be most closely obtained by entering the site at a point with less grade. Should the ultimate owner of this property wish to bisect the steep slopes in Area "A" they can minimize the damage done by pursuing a carefully crafted engineered solution. That would be an entrance required by special use permit designed to do as little damage to the hillside paralleling Franklin Street as possible. Additional design development, design care and consideration must be given prior to permitted development occurring.

This area has been called in the current master plan as being of particular value. The slopes are one of the pieces of this parcel's parks and green system designation. This parcel while zoned for industry because of its location and characteristics is an important resource. Area "A" of this parcel is perfectly described by 30.7.3.b of the steep slopes overlay district ordinance. Area "A" has the contiguous area required; it is part of a system of slopes; it is part of a hillside system; and the slopes are identified as a resource in the comprehensive plan and is something to preserve. He respectfully suggests the Planning Commission recommend denial of this applicant's rezoning application and direct them to pursue access by means of a special use permit or via an entry plan over slopes that are not designated as preserved. He wanted to point out that the little yellow strip seems to be very close to the power line right-of-way, which he believes is the reason why people were in there clearing as shown in the pictures they saw today. It was something that Mr. Lahendro pointed out at the joint session.

Morgan Butler, with the Southern Environmental Law Center, thanked the Commission for the chance to comment tonight. He made the following comments.

As they have stated before they are not opposed to the development of this parcel, but just feel it needs to be done in a way that respects the environmental sensitivity of this area. Rather than remove the protection for a large portion of the slopes on this site and set a precedent that encourages similar requests they would prefer an option be pursued that involved serving only the minimum amount of slopes needed to provide access to the site. That approach is exclusively allowed to preserve slopes by special use permit. It is the one they recommend be pursued here.

Looking at the characteristics of preserved that are listed in the ordinance we think the second is the key one here. It says slopes may be designated preserved if they are, "part of a system of slopes associated with or abutting a water feature". As they commented at the main work session when they step back from the circles labelled areas "A", "B", and "C" on the May staff report and look at the slopes on this parcel as a whole they emerge as part of one larger system that borders on and drains into Moore's Creek into the floodplain then Moore's Creek itself. Considering the badly impaired state of Moore's Creek in our view this characteristic alone justifies a preserved slopes designation made on this parcel including the Area "A" slopes. They also want to flag some new information that is relevant to characteristics 4 and 5 of preserved slopes since both relate to how the comprehensive plan identifies the slopes. But, staff did a great job in explaining those issues tonight and pointing to specific protective language in the new comprehensive plan. They think it is important to note that both of these points, the connection above the slopes to Moore's Creek and the comprehensive plan changes were also raised by members of the City's Planning Commission during last month's joint work session. Having attended that meeting he thinks it is safe to say that your counterparts in the City were less than enthusiastic about changing the designations here. They commend you for reaching out to them on this and their input, while only advisory of course, is worth keeping in mind.

Finally, they wanted to offer a recommendation tonight regarding the executive summary. Under the section labelled strategic plan the summary lists goal 3, which is labelled development areas and relates to attract new development to the growth areas while protecting the quality of neighborhoods. That goal is certainly relevant tonight. However, goal 6 of the strategic plan seems every bit as relevant and they would recommend that it be added to the summary that goes to the Board. Goal 6 of the strategic plan is labelled natural resources and it says, "Thoughtfully protect and manage Albemarle County's ecosystems and natural resources in both the rural and development areas to safeguard the quality of life for current and future generations. They think that is also relevant here. Thank you again for the chance to comment.

Julia Skare, with Draper Aden and Associates, said she also represents the applicant and has a couple of points to address. One, as Mr. Newberry had mentioned there is a large portion of this property that is in the floodplain. So a portion of the property or over 50 percent of the property actually will be preserved. It will be part of the green space. It will be part of maintaining the natural resources of the site. So the remaining part, again, less than 50 percent is the area that they are looking to change a portion of the preserved slopes to the managed slopes. The applicant is definitely taking into consideration the overall portion of the property and understands the value of preserving water features, preserving the floodplain and other features of the site. They just wanted to make sure that everyone understood that there is almost two sites with it being divided by the driveway to the treatment plant. The applicant absolutely is

going to take into consideration the preservation of that area per the county ordinances and future developers will need to do the same.

Susan Ray Johnson said she lived on East Market Street and can report as she was driving to work she noticed the bobcat. She immediately did a U-turn and talked to the person driving the bobcat. He told me he was instructed to clear a 15' corridor along that edge and Virginia Dominion has hired Asplundh tree service because some of the trees were growing up into the power lines. Then she spoke to the people that were driving the actual truck with the bucket and asked them if they would please be careful because after all one of the important elements, which they don't seem to focus on, is history. She feels they need to recognize there is a wall there that people labored to build, which is common at Riverview Cemetery. It is common at the corner of Franklin and Market and she thinks they need to have some respect for that. Furthermore, as she said at the joint meeting, she thinks it is important to respect the people that live in that neighborhood and not destroy that property for the applicant who does not know what they are going to do there. My guess is that they are going to make money. Everyone is entitled to do that. However, she thinks it is important to consider beyond the fact of managed or preserved. That is a very steep slope there and it borders on the city's development of an ecosystem along Moore's Creek. You can't say that it does not include that hillside; its relationship to the river; its relationship to the people and its relationship to the neighborhood.

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

Mr. Morris invited further discussion and comments.

Ms. Firehock said since she was not able to attend the work session due to her travel session she was not able to make comments. So she has a quick list of comments she would run through. My opinions is that staff have not made a convincing argument that the areas are significantly limited or fragmented with respect to the steep slope. The purpose of having steep slope ordinances is to prevent excessive runoff and protect natural topography. It is very close to Moore's Creek and the Rivanna River both of which are impaired. Showing one small sliver that is less than 25 percent is not an adequate rationale for overturning that whole area as a steep slope complex. She is not willing to consider a change to slopes based on the evidence presented. The comprehensive plan also addresses this area as parks and green spaces. She would like the applicant to come back at a later time with a site plan with a detailed plan for how they need to develop this site and ask for a special exception for what is actually needed rather than asking for a blanket exemption.

Mr. Morris asked if staff can have a copy, and Ms. Firehock replied yes that she would email it.

Mr. Loach supported staff's recommendation based on the methodology used as being a more accurate methodology. Staff said if they looked at it at the beginning using that method they would have taken a closer look and absolutely in the report staff did take a closer look and made a decision that they believe it can be managed. It was an excellent report. He does not think it sets any precedence because you were using the same criteria that you would have used regardless. Staff was just using a different methodology they thought was more accurate. For that he was going to go along with staff's recommendation.

Mr. Morris commended staff personally since he thought the report and methodology was excellent. He just has a very hard time of back pedaling and start looking at steep slopes the way they have looked at them for years and years and just almost automatically give a variance on these. So he was still undecided, but leaning towards disapproval.

Mr. Randolph made the following comments:

At our joint meeting Commissioner Lahendro, reading from the minutes, said he is having a hard time understanding how Area "A" could not be labelled a hillside from top to bottom. It looks to him that the portion that is not in 25 percent slopes is less than 10 percent and happens to be where the power lines have been put through so it looks like an incidental man-made occurrence. Looking at the 1930 topography this is a natural hill that has been here for quite some time. He agreed with Commissioner Lahendro that it is a hillside.

The fact of the matter having looked at the interceptor where the new access will be for the sewage treatment plant there is definitely stone all through that area. The possibility remains strong as they discussed at our meeting that there could well be stone in that hillside because they still do not have a soil analysis that tells us whether it is or isn't. He agrees with Mr. Butler in how can you separate "A" out from what clearly is a system of slopes in the entire region. So if they take "A" out they are isolating part of the slopes. But, it all is in a system so they are interrelated or intertwined.

Thirdly, in Attachment C, which they received when they first met on critical slopes, the statement was made in there as bullet 5, adapt development to the topography and natural setting of the county rather than modifying the topography and natural setting to accommodate development. Mr. Butler at our first meeting pointed out that development should be adapted to the landscape rather than the landscape adapting to the development. He reiterated the point that is in the critical slopes standards of the county so they should be looking at minimal disturbance of slopes here rather than their wholesale slaughter and removal.

Fourthly, he thought Ms. Johnson's comments were really instrumental. It was one of the things that he was looking for when we met with our counter parts in the city. One of the things that Ms. Johnson brought out I had been looking to try to get a clear indication as to what the city intended to do with the adjoining neighborhood across from Franklin Street in this location. Ms. Johnson pointed out that at the current time there is an actual natural symbiosis between these slopes, the trailer park there and the street that constitutes a habitat. It is a habitat of our fellow residents in the city who thrive on the fact that they are able to use that street for play for their children and to do so in a safe way which would be jeopardized if there was a truck exit and tractor trailers were coming and going in that location.

Finally, when Dave Benish asked for some suggested thoughts prior to our joint city and county meeting he wrote to him and asked how this Franklin Street edge could be best harmonized between the city and the county so as to avoid a jarring contrast in land uses. He has come to see that my question wasn't the best question because it does not need to be harmonized because it is already in harmony. It does not need to be changed because the slopes need to be there. The slopes deserve to be there and that is why I feel the same way as he did before that they should remain where they are.

Mr. Keeler agreed with his two colleagues and so does not think they need to be terribly redundant on this. He has been really pleased with the effort that staff put into this previously in their work and discussions at the joint Planning Commission meeting. He is a bit perplexed that with all the input that came from Commissioners and from the community that they did not see more response to that with a modified staff report. The staff report concentrated on trying to respond to a change that came from the applicant where there were so many interesting and thoughtful ideas put forward about how we might look at managed and preserved slopes a bit

more critically. He thinks staff has done an outstanding job in getting us to the first point, but they have not convinced me that this is really the thorough job that it needs to be for us to make a decision that warrants changing the status quo.

Mr. Morris asked if there were any other comments.

Mr. Lafferty said he would like to compliment staff, too, it is an excellent report. It concerns me quick a bit that we come up with a steep slope ordinance and then the first time it comes before us we change it. Therefore, he is inclined to deny it.

Mr. Morris asked if anyone would like to make a motion on this.

Motion: Mr. Randolph made a motion for non-approval of ZMA-2015-2 Franklin Street Steep Slopes, which was seconded by Mr. Keller.

Mr. Morris invited further discussion.

Mr. Benish suggested in the motion the Commission would want to identify the reasons for your denial. He pointed out Mr. Newberry has provided some language that might be helpful for that motion.

Restated Motion: Mr. Randolph moved and Mr. Keller seconded to recommend denial of ZMA-2015-00002 Franklin Street Steep Slopes based on the following factors as outlined:

- The slopes are a contiguous area of more than 10,000 square feet.
- The slopes are identified as a resource in the Comprehensive Plan and are designated for preservation.
- Slopes in Area "A" have characteristics of both managed slopes and preserved slopes, but on the whole, contain more characteristics of preserved slopes.

Mr. Morris invited further discussion.

Mr. Lafferty noted in the report there was something about us taking over land and it could make us have a law suit.

Mr. Newberry explained there was a reference to future access and whether or not keeping Area "A" in particular as preserved whether that would constitute a taking of the property by preventing an entrance.

Mr. Herrick pointed out that was on page 6.

Mr. Benish explained there were other options available to the applicant to provide that access.

Mr. Morris noted there were many options.

Mr. Lafferty said they could come in the back way.

Mr. Benish noted it was just an early observation about that potential issue.

Ms. Firehock said there is no site plan before us with a request for an entrance, which they are in fact denying because they don't have a site plan.

Mr. Morris asked for a roll call. He pointed out the wording of the motion was to deny the request.

The motion for denial passed by a vote of (5:1). (Mr. Loach nay) (Mr. Dotson absent)

Mr. Morris noted that ZMA-2015-00002 Franklin Street Steep Slopes would be forwarded to the Board of Supervisors with a recommendation for denial at a time to be determined.

Public Hearing Items

a. **SP-2015-00019 UVA Indoor Golf Practice Facility**
MAGISTERIAL DISTRICT: Samuel Miller
TAX MAP/PARCEL: 07500-00-00-06300; 06000-00-00-028B0; 06000-00-00-028C0
LOCATION: 470 Birdwood Drive, Charlottesville, VA
PROPOSAL: Amend SP96-53 to allow construction of 10,000 square foot indoor golf practice facility for University of Virginia golf teams.
PETITION: Swim, golf, tennis or similar athletic facilities under Section 13.2.2 of zoning ordinance. No dwellings proposed.
ZONING: R-1 Residential - 1 unit/acre.
ENTRANCE CORRIDOR: Yes
AIRPORT IMPACT AREA: Yes
COMPREHENSIVE PLAN: Institutional – schools, universities and colleges and ancillary facilities and public facilities and utilities.
(Rachel Falkenstein)

Ms. Falkenstein presented a PowerPoint presentation regarding SP-2015-19 UVA Indoor Golf Practice Facility.

Specifics of the Proposal
The purpose of the public hearing is a request to amend an existing special use permit SP1996-53 to allow construction of an indoor golf practice facility for the UVA golf teams. Special use permits are required for swim, golf, tennis or similar facilities within R-1 zoning.

Currently the parcel consists of 3 parcels of about 544 acres total. The applicant is in the process of a boundary lot adjustment to combine the 3 parcels into 1. The property is located on Ivy Road or Route 250 west between the neighborhoods of Bellair and Edman.

The property is on the National Register of Historic Places. The two parcels up front contain the Birdwood Mansion property. It consists of the mansion, which is located in the center and several outbuildings, four of which are currently rented for residential use. The proposed facility will require the demolition of one of the existing outbuildings, which is a noncontributing structure to the historic district.

There is a condition on the existing special use permit requiring an amendment for new construction or expansion. They are asking for an amendment to allow for the construction of a two-story, 10,000 square foot facility. It will include 8 indoor hitting bays that will open to the existing driving range as well as locker rooms, offices and meeting space for the golf teams. The proposed facility is located just north of the existing driving range so they will hit out onto the driving range. The users will include the men and women's UVA Golf Teams and club members for private lessons. Access to the facility will be via Golf Course Drive.

Staff reviewed the layout plan showing the proposed facility as well as provisions for access and parking. The applicant will be constructing a new access drive to the facility off of Golf Course Drive. Currently there is a gate at the entrance of Route 250 and Golf Course Drive. They will be relocating that gate just south of the access drive to allow team members access to the facility after hours. There will be a second gate constructed between the new parking area and Birdwood Drive and to make sure users of the facility use Golf Course Drive as an access.

The reason for restricting the entrance off of Birdwood Drive is the access is very narrow and it does not meet commercial entrance standards. There are two historic stone walls on either side of the entrance so the entrance cannot be widened. That entrance will remain for use by the residences and access to the Birdwood Mansion. But, the wider commercial entrance off of Golf Course Drive will be utilized for the facility. The structure to be demolished is 470 Birdwood Drive, which is currently being rented out as a residence. But, it is a noncontributing structure to the Historic District. The Department of Historical Resources has commented that the construction of the facility will not impact the status of the site and its historic status.

Visibility –
The new facility is anticipated to have very limited visibility from Birdwood Mansion historic property as well as from adjacent neighborhoods due to the topography and vegetation on site. It will not be visible from Ivy Road. It is not anticipated to be visible from Birdwood Mansion. In a picture from the back yard of Birdwood staff pointed out you can barely see the driving range and the existing house is not visible. There is limited visibility from adjacent neighborhoods.

Factors for Consideration -

Favorable Factors
1. The facility is not anticipated to be visible from Route 250 and will be well screened from adjacent residential neighborhoods.
2. Construction of the facility will not impact the status of the Birdwood Mansion on the National Register of Historic Places.
3. The facility is not anticipated to generate additional traffic because of the fact that it will be used by current users of the golf course. UVA Golf Team has currently used Birdwood Golf Course as their home facility and they practice there.

Unfavorable Factors
1. None identified.

Staff Recommendation
Staff recommends approval of SP2015-19 UVA Indoor Golf Practice Facility with the following four conditions:

1. Development shall be in general accord with the plan titled "UVA Golf Indoor Practice Facility, Site Plan Diagram" prepared by Dewberry dated April 30, 2015 (hereafter "Layout Plan") as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Layout Plan, development and use shall reflect the following major elements as shown on the plan:
   a. Building location, orientation and mass
   b. Access to the site via new road labeled "Access Drive"

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

2. Ingress and egress along Birdwood Drive shall be restricted, to the satisfaction of the Zoning Administrator, to only those residences served by Birdwood Drive and shall not be used as an access to the indoor golf practice facility.
3. Any new construction at the existing golf course facility and site other than the site improvements shown on the Layout Plan, except for minor changes (such as additional practice tees, modifications of greens and other changes that do not require a site plan), shall require an amended special use permit.
4. The owner shall continue to implement an Integrated Pest Management/Nutrient Management Plan to reduce adverse water quality impacts.

Staff pointed out that conditions 3 and 4 are carry over conditions from the previous special use permit that they are keeping. However, staff has updated them a little bit. If there were any questions, she would be happy to answer them.

Mr. Morris invited questions for staff

Mr. Keeler asked if there was archelogy proposed for any of the ground disturbance areas. He realized that the facility is on the footprint of the existing house, but the roadway changes.

Ms. Falkenstein replied she was not aware of any archeological studies.

Ms. Monteith said she would ask the applicant more about archelogy. She thinks there has been archelogy in this area, but she does not have specific information on that.

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

Fred Missel, Director of Design and Development for the UVA Foundation, thanked the Commission for their time tonight. He acknowledged two of his colleagues in the audience Tim Rose, Chief Executive Officer for UVA Foundation and Chris Schooley, Project Manager with the UVA Foundation. He also thanked Ms. Falkenstein and the other staff members for the great job they did. He really can't add much to staff's presentation, but said he would try.

In a PowerPoint presentation he started by giving a quick overview of the ownership. UVA Foundation has been the owner of the Birdwood Golf Course for some years 26 years to be exact. They did not own what he would call the center or hole in the donut, which is the Birdwood Mansion property and surrounding outbuildings. That was owned by the University until last July. So currently now it makes sense to have one owner that covers the entire area.

Part of the reason they were before the Commission this evening is because the special use permit did not apply to that hole in the donut and they are asking that it be extended to that this evening. The primary reason for the request is obviously the desire to locate UVA Golf Practice Facility on the parcel. Their primary effort is as stewards of the property for the University they have tried to really bring to the forefront the importance of the historic nature of this site. They based the building location on three studies. They hired a national firm called Hart Howerton and they commissioned the master plan. They used that master plan to direct the location of this site. Secondly, they commissioned a historic landscape plan, which actually focused the lens a little bit further and recommended the site in context with the landscape. Additionally, they reviewed the site, as Ms. Falkenstein has mentioned with the DHR and with the county to ensure that this would not in any way adversely impact the historic resource.

They were really focused on a couple of things one is viewshed and views from the main mansion looking out. Secondly, distance from the mansion to the actual property. They wanted to make sure that it was not too close to the property so that it could be perceived as impacting the historic character. The building is not visible from Route 250 as Ms. Falkenstein mentioned and it has extremely limited visibility from the adjoining neighborhoods.

He directed their attention to the next slide that is an image taken from our historic landscape plan. It identifies the location of the historic core. The historic core is shown here in the light red. The blue star represents the location of the project that they are discussing tonight. The two black arrows on either side are the preserved viewshed. It is a little bit misleading because it looks like the viewshed should come further to the right on this image, but in fact it is completely blocked by not only other structures but landscape.

The next slide is a little bit of an enlargement in a sense and showing the entire golf practice facility. He pointed out the actual location of the building and the viewshed cone that he referred on the previous slide, and the existing driving range. So they can see that the hitting facility will be directed facing south. Then, again, zooming further the same image that Ms. Falkenstein showed this illustrates the access off of Golf Course Drive and directly into the parking areas, some of the existing structures including a home, another rental, and again the historic core back in the area away from the actual facility itself.

Finally, the next slide is an image of the facility. They took special care in reviewing the actual design. These are concept drawings. The front elevation is the view that will be seen from the Birdwood Mansion side. Although saying that he would actually highlight the fact that it is highly unlikely that you will see much if any of the property of this project from the Birdwood Mansion side. They do want to minimize the actual scale of the building though from that side. It is a single story on the front elevation. The rear elevation takes advantage of the topography that slopes down naturally and they are able to carve out the basement level, which will include the eight hitting bays that they can see the golfers hitting in front of in that lower left image.

The project will also include coach offices, locker rooms, lobbies for student athletics to gather as well as club storage and other peripheral uses within the property. He thanked the Commission for their time and offered to address any questions.

Mr. Morris invited questions for the applicant.

Mr. Keller said he spoke to the reuse of the site so that there is not ground disturbance there and as he has shown us the studies that were done. So can they then take from that the archeological aspect of where the entry road will come into the site in the area around the mid-century house that is there that is going to be removed has been looked at.

Mr. Missel said that was a great question. From his knowledge, and he checked with his colleagues as well, they are not aware of an archeological study that has taken place in that site. They do have a lot of historic data. Actually they have a plan that goes all the way back to the 1800's of this area. They have some pretty good mapping and an understanding of what might have been there. They feel pretty certain that there was not anything specific in terms of the structure, for example. But, it is something they can look into for certain.

Mr. Loach noted in the staff report on page 3 it says staff has heard concerns from neighbors in Bellair about the proposed lighting in the parking area. He asked is there any thought to limiting the hours. If they are having the driving range at night unless the range is lit they don't know where the balls go.

Mr. Missel replied there is no plan to light the range. There is a plan because they obviously have to light the parking lot for student athlete safety and other public safety reasons.

Mr. Loach asked would there be a consideration of limiting hours to a maximum of say 10 p.m. in the building so that the light at least is only on for a certain time.

Mr. Missel replied they can certainly check into that with UVA.

Mr. Loach suggested or technology that you can turn it on when you need it for meetings.

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

Sally Brown, resident of 110 Shamrock Road in the city, said she goes to Birdwood a lot. She finds it a place of great beauty and fears that this project is a fait accompli. It has been well thought out. They have had pictures and interesting text. It would appear that there have been no stone left unturned. Having said that she would just like to make a public statement that she thinks Birdwood and its properties there are really very special. If they have not been out there recently or never been there do go and stand behind the mansion and look at the view. It is pretty special and has a lot of very interesting history all of which has been considered by the University of Virginia Foundation as they planned this project. She does not think she needs to say anymore except this Mr. Keller speaks a lot of archaeology and she thinks that is important as the project proceeds. She dare say that the University of Virginia will be very proud of this facility once it is built. But, go take a last look before this very beautiful place is disturbed.

Neil Williamson, with the Free Enterprise Forum, said as this body knows they don't take positions on projects. They are a policy based organization and as such they have to ask the question and sometimes they are uncomfortable questions. The UVA Foundation is before the Commission today with a project that benefits the University of Virginia. If you had a similar relationship in the private sector any Commissioner would recuse themselves. While UVA is a non-voting body on this body he questions whether there is a need for such a recusal when UVA Foundation or UVA materials are considered. He just asks you to consider that.

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

Mr. Loach said he appreciates the Foundation's consideration for the lighting and he thinks the technology is there to solve those problems. Again, he thanked staff for the staff report.

There being no further discussion, Mr. Morris asked for a motion.

Motion: Mr. Loach moved and Mr. Lafferty seconded to recommend approval of SP-2015-19 UVA Indoor Golf Practice Facility with conditions identified in the staff report.

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

Mr. Morris noted that SP-2015-19 UVA Indoor Golf Practice Facility would be forwarded to the Board of Supervisors with a recommendation for approval at a time to be determined.

The Planning Commission recessed at 7:19 p.m. and the meeting reconvened at 7:28 p.m.

b. **ZMA-2015-00005 Out of Bounds**
MAGISTERIAL DISTRICT: Jack Jouett
TAX MAP/PARCEL: 06000000006500
LOCATION: Located on Barracks Road (Route 654) across from its intersection with Georgetown Road (Route 656). 225 Out of Bounds Road, Charlottesville, Virginia 22901.
PROPOSAL: To amend the proffers, application plan, and code of development for approved ZMA201200003 Out of Bounds. Additionally, a sidewalk and planting strip modification is requested. No change to maximum allowed density is proposed.
PETITION: Request to amend proffers, application plan, and Code of Development for ZMA201200003 on property zoned Neighborhood Model District (NMD) which allows residential mixed with commercial, service and industrial uses at a density of 3-34 units/acre.
OVERLAY DISTRICT: Entrance Corridor (EC); Airport Impact Area (AIA)
PROFFERS: YES
COMPREHENSIVE PLAN: Neighborhood Density Residential – residential (3-6 units/acre); supporting uses such as places of worship, schools, public and institutional uses and small-scale neighborhood serving retail and commercial in Western Urban Neighborhoods.
(Megan Yaniglos)

Ms. Yaniglos presented a PowerPoint presentation regarding ZMA-2015-00005 Out of Bounds.

This is a request to amend the proffers and application plan for approved ZMA-2012-003. The applicant is also requesting a planting strip modification. The site is located on Barracks Road and Georgetown Road.

The applicant is requesting a change to the affordable housing proffer to allow for sale or for rent affordable townhouse units in lieu of for rent multi-family units. Referring to the previously approved application plan the prior multi-family affordable units were to be two stacked units within one structure. The applicant now prefers to construct single townhouse units each on their own lot and no additional units are proposed.

Minor revisions to the application plan and code of development are also requested as outlined in the staff report. These changes are necessary for the requested affordable housing change.

The applicant is also requesting a subdivision modification variation for the sidewalk and planting strip located along Georgetown Court. During the site construction it was found that the anticipated grading in this area was inaccurate and a 36" retaining wall is needed. The planting strip and street trees would be provided within an easement on the backside of the sidewalk. The Subdivision Ordinance requires the planting strip to be located between the curb and the sidewalk. So the applicant is just requesting to flip that location.

Factors Favorable:

- The rezoning amendment will not change the site layout or intent of the original rezoning.

Factors Unfavorable:
None Identified

Recommendation:

Staff recommends approval of ZMA-2015-00005 Out of Bounds, inclusive of revised proffers and application plan.

Staff also recommends approval of the planting strip variation request with the condition that a six (6) foot landscape easement be established on the back of the sidewalk.

If there were any questions, Ms. Yaniglos said she would be happy to answer them.

Mr. Morris invited questions for staff.

Mr. Randolph asked if staff is not concerned at all about the overall homeostasis of this site between the living quarters and the play area when as a result of a change in the kind of housing units to be used for affordable purposes that the play area shrunk 50 percent.

Ms. Yaniglos replied no, the zoning ordinance actually dictates the size of a tot lot that is required and it is 2,000 square feet. The applicants were providing extra space. However, staff did not have any concerns with them reducing it to what is normally required for this development.

Mr. Keeler asked do we have any sense of how many of the units that are being defined as affordable are actually being sold as affordable as opposed to passing the 90 days and going to the full market value.

Ms. Yaniglos replied she did not have that information. She was unsure if Mr. Benish or Mr. Cilimberg might.

Mr. Benish noted he did not have definite information for the Commission.

Mr. Cilimberg suggested the applicant may want to speak to their process from here. However, reality is until it is actually on the market meeting the requirements of the proffer you won't know. He did not think any of the units were produced with the intent of just waiting out the 60, 90 or whatever days. The units are produced to be marketable and the question is whether or not a qualifying buyer will materialize.

Mr. Keller agreed they have had discussions around this issue, and he understands they will have an opportunity to speak about housing in September. He was just using these projects that are coming up before that as an opportunity to ask questions and get them into the public record. He hoped they would be able to look back last year or the year before, for instance, and see of the ones we are bringing into the community as affordable units just how many of those are actually becoming affordable units. He also realized they are not necessarily going to be sold as affordable units the second time. In fact, most likely most of these will become fair market. However, there is this issue. They have police, fire personnel and teachers that are looking for affordable units, and he was just interested in how that would fit together. He knows that will be a September discussion.

Mr. Lafferty asked if with the affordable units there are 2 residents per lot.

Mr. Yaniglos replied no, that was how it was proposed originally. However, they are now proposing one unit on each lot

Mr. Lafferty asked if there was any possibility the county could buy the lots and then the people just pay for the structure.

Mr. Benish replied the county does not have a program in place for that at this time.

Mr. Loach noted that was a September question.

Mr. Cilimberg pointed out that was part of the discussion of those kinds of options for better assuring production and maintenance of stock in the affordable housing market. He thinks those are a couple of points that would be part of that September work session. Right now there is not a fund so that the county can buy lots. However, there are some newer approaches that are being explored including the use of an entity that Ms. Monteith and Mr. Lafferty have actually been involved with. So that is part of what will be discussed in September.

Mr. Loach pointed out the report says the Director of Housing has reviewed the request and has no objections. He wondered what it means if no objections versus if it is a recommendation. He thinks the language could have been clearer. The second thing he would have liked to have known, which he would not use as a judgement since it was not in the report, is when they are moving from for sale affordable to rental units, which is more in need in the future, it would be helpful to know if he was doing something good or bad.

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

Vito Cetta explained it was a project that was well underway. In slides of the project he pointed out the community consists of wide townhouses with about ten already sold. It is a very popular product. They sell for $750,000 to $800,000 and are very expensive. There is a real market for frankly people like me who live out in the country and want to downsize. Someone could walk to Barracks Road Shopping Center from this location. It is very much like Kenridge. People seem to prefer this one because the site plan is more compatible to their needs. So it is a successful project.

Mr. Cetta pointed out originally they had the townhouses for rental. However, they now want to have the ability to rent or sell them. He would suggest it is a product that is similar to what was built in Liberty Hall, which all were sold as affordable. That is the good news. The question you had is a very good question. He explained the price of the affordable units are controlled by the Housing Authority, which comes from the state. The current price is $243,000, which is the maximum charge. There are several pieces to it. One, if it does in fact get sold as a market rate unit it gets sold at $243,000 or something around that and there is no reason why it would not. It may be sold to a teacher who really did not qualify because they might make too much money if it is sold as a market rate unit. It may well happen that way.

Mr. Cetta noted these are offered as affordable and there is lots of time for people to show up. However, there are two or three problems they have. One is there is not money around to help with down payment assistance. Piedmont Housing Alliance is right in the middle of it and they have not delivered any potential buyers. They don't have first time buyer seminars or workshops and that market is slipping in the county. They need to do something about it. Also, $243,000 is quite a high number. Literally last year it was like $218,000. So it is a problem that the county needs to address. Again, these are going to be put on the market and offered. The units are in a very expensive neighborhood and are going to be offered as all affordable. However, if they are not sold we would sell them as a market rate unit. It remains on the market if something did not sell for very much anyway. So it may be a market rate unit that sells for $243,000 and be next to an $800,000 house. One of the goals they have in the community is to have a mixture of housing types. The reason for the picture is that a lot is going on here.

Mr. Cetta explained one thing they can learn here is that this project has lots of sidewalks. It has about a mile of sidewalks, which are almost all with a 6' green strip and a 5' sidewalk. They are pretty much all built now. They are looking just to change one portion. One sidewalk is on the parking area and another sidewalk they want to move to the curve. They built one road that has a narrow 2' sidewalk. He pointed out one green strip was 12' and another one is up to 20'. They obviously generally comply with the 6', but have a slope problem here and appreciate the help. In a slide he pointed out Bennington, which was a new road they built. He pointed out the retaining wall and the sidewalk, which is less than 6'. It is one of the few areas they have less than 6' and it works perfectly fine. He pointed out the area they were talking about moving the sidewalk with a short retaining wall.

Mr. Cetta said one other thing he could help with is this project contributes about $650,000 in cash proffers. It is something this project can afford because the lots and homes are expensive. That could be absorbed. If this were a townhouse project that was selling for $300,000 the $14,500 cash proffers would really be a burden. He realized that was not today's issue. However, they do have to remember that in the future. He knows they are addressing that at some level.

Mr. Morris invited questions.

Mr. Randolph asked Mr. Cetta for some help with this because they were wrestling with this as a Planning Commission and in other offices in the county. What Mr. Cetta is saying is that the market is really not there right now in the urban ring for new multi-family housing units. He asked Mr. Cetta if he is saying in his finding there is more demand for single-family units.

Mr. Cetta replied no, he did not say that. This is all townhouses here. The market always likes single-family homes and they are popular right now. Townhouses are not quite as popular. However, the market goes through cycles.

Mr. Keller invited Mr. Cetta to come back when they have the work session on the Fiscal Impact Advisory Committee that has been looking at proffers.

Mr. Cetta replied yes, he definitely will.

Mr. Keller noted they have a couple of developers who are quite involved in that. However, it would be really helpful to hear from more people in the development community about the pros and cons in working through that system.

Mr. Cetta explained as a bit of history they have done projects from about 1995 where there was no cash proffers. It was $800, $1,200 and $3,000 and topped out at $4,200. That was when the market was red hot in 2000. It then got moved to a gigantic number as they know, and then the crash came in 2008. He can't believe that hardly any projects have ever been built with those high proffers because they can't afford them. However, they can afford it here. He figured they would get a lot of resistance unfortunately from that.

Mr. Morris invited public comment. There being none, the public hearing was closed and the matter before the Commission for discussion and action.

Motion: Mr. Lafferty moved and Mr. Loach seconded to recommend approval of ZMA-2015-00005, Out of Bounds subject to the proffers as recommended by staff.

Mr. Morris invited further discussion.

Mr. Keller agreed with Mr. Loach in that he is not going to vote against these and hold one particular project hostage. However, he thinks they really need to be looking at this affordable housing issue and looks forwards to our opportunity to have that conversation in September.

Mr. Morris asked for a roll call.

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

Ms. Yaniglos pointed out a motion was also needed on the planting strip.

Motion: Mr. Lafferty moved and Mr. Loach seconded to approve the planting strip variation/modification associated with ZMA-2015-00005, Out of Bounds with the conditions and reasons listed by staff.

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

Mr. Morris noted that ZMA-2015-00005, Out of Bounds would be forwarded to the Board of Supervisors with a recommendation for approval at a time to be determined.

c. **ZMA-2015-00003 Riverside Village Neighborhood Model District**
MAGISTERIAL DISTRICT: Rivanna
TAX MAP/PARCEL: 07800-00-00-05800
LOCATION: Located on the west side of Stony Pointe Road/Route 20 and the east side of Free Bridge Lane/Route 1421, approximately 350 feet south of the intersection of Route 20/Elks Drive.
PROPOSAL: Request to amend proffers and code of development to allow affordable units in Block 5 and allow accessory apartments as affordable housing.
PETITION: Request to amend proffers, and amend code of development on property zoned NMD Neighborhood Model District which allows residential uses at a density of 3 – 34 units/acre, mixed with commercial uses, service and industrial uses. No increase of dwellings proposed.
ENTRANCE CORRIDOR: Yes
FLOOD HAZARD OVERYLAY: Yes
SCENIC BYWAYS OVERLAY: Yes
STEEP SLOPES MANAGED: Yes
STEEP SLOPES PRESERVED: Yes
PROFFERS: Yes
COMPREHENSIVE PLAN: Greenspace – undeveloped areas; Neighborhood Density Residential – residential (3-6 units/acre); supporting uses such as religious institutions, schools and other small-scale non-residential uses; and River Corridor – parks, golf courses, greenways, natural features and supporting commercial and recreational uses in Neighborhood 3 – Pantops Comp Plan Area.
(Claudette Grant)

Ms. Grant presented a PowerPoint presentation regarding ZMA-2015-00003 Riverside Village Neighborhood Model District.

Purpose of Hearing: The applicant is requesting to amend proffers and code of development to allow affordable units in Block 5 and allow accessory apartments as affordable rental housing.

Favorable Factors

- The rezoning request remains consistent with the Comprehensive Plan and the intent of the original rezoning.

Unfavorable Factors

No unfavorable factors

Staff Recommendation

Staff recommends approval of ZMA-2015-00003, Riverside Village Neighborhood Model District, with the revised proffers, and code of development that are attachments in the staff report.

Mr. Morris invited questions for staff.

Mr. Randolph asked are owners of any of these potential residences occupying a piece of property that is within a 100-year flood zone going to be advised in their bill of sale that their property is within such a flood zone. He asked if it is required by state law if you buy within a 100-year flood zone that you are so advised up front.

Mr. Benish replied that the homes will not be constructed in the flood zone ultimately. All building sites will be outside of the Flood Hazard Overlay District.

Mr. Randolph asked if we have a definition of what an accessory apartment is and how it is different from a carriage house.

Ms. Grant replied that it is in the zoning ordinance. When you think of a single-family house that has a basement apartment that might be what is considered an accessory unit. She believed the carriage house tends to be associated with a garage like an apartment within a garage.

Mr. Randolph asked if potentially some of these units could be basement units within a 100-year floodplain.

Mr. Benish replied they won't be in the floodplain. The applicant can explain the specific products that they might have in mind. But, there will be units within another unit essentially.

Mr. Randolph said as he looked at the lines it looked where Block 5 would be located would be exactly where the 100-year floodplain was.

Mr. Benish pointed out there are some lots that are near the fringe area and the applicant can explain that. He suggested that Mr. Randolph may be looking at the comp plan overlays that show the corridors, which go beyond the floodplain boundaries.

Mr. Morris asked if there were any other questions. When they were looking at this he recalled the only thing that was in the floodplain was a piece of the parking area. But, they will ask the applicant.

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

Justin Shimp, engineer for the project, said to address the floodplain question brought up that Mr. Randolph was probably reading the map correctly because the flood map in the county is actually outdated. The flood map has been updated over the last couple of years, but he did not

think the GIS reflects it yet. So there has been a map revision. The site never has been and never will be in the floodplain. But, the flood map incorrectly showed it there once upon a time. So that was a technical thing that was addressed a couple years ago during the rezoning process. However, all the buildings are required to be out of the floodplain and the county verifies that. The county won't grant a building permit until it is confirmed that the lot is out of the floodplain and the house, even the lowest level, is above the 100-year floodplain elevation. Related to our request it is sort of a clean-up bit because our original rezoning did not include the provision of Block 5 including affordable units. The developer who is here tonight, Chris Henry, wants to incorporate those units as integrated with the rest of the market rate units into that structure. So that is in the request to allow us to integrate those units into Block 5 rather than having them separate somewhere else. That really is the basis of it. He would be happy to answer any questions.

Mr. Morris invited questions.

Mr. Keeler asked if he believes these affordable housing units will actually become affordable housing units or if they will pass the 90 day test and not be.

Mr. Shimp replied he would give his honest opinion as a broad range of that because you can't answer what the market will actually do, of course. In my experience with these things what he has found is folks try to target a design that works in that range. As Vito Cetta was saying, part of the problem we have discovered is that qualified people don't come forward. There probably does need to be some work on that as far as integrating a rezoning, which requires affordable housing into the housing process which sells those units. They have observed some challenges in trying to get that and understand how that works if it is not sold at that lower rate. No one I have seen would build a $350,000 unit and then put it on the market for $243,000 and try to move it or try to keep it off the market or hide it for 90 days in an effort to make that profit. Maybe you would bump the price up to $250,000 or $260,000 and somebody who is qualified would come along and purchase it. That person may just make a little too much money to qualify for the 80 percent that is required by the housing policy. That is what we expect to happen in these scenarios. However, I have not personally known anyone who has tried to sort of create it, let the 90 days go by, and then create some higher profit. The goal that I have observed is always to create some product that fits within that range so it can be sold. He does not think anyone is making say money on these units, but they are not trying to sell them at a huge loss per say. So he thinks that the unit will be designed to fit that market, and we hope that people will come along and qualify to buy those units. But, they have not seen a lot of that action in our experience so far.

Mr. Keller asked if those units would have less square footage and less expensive finishes.

Mr. Shimp suggested letting Mr. Henry speak to that if he wants to. Mr. Henry's intentions, as he understands it, is to create the units identical in finishes and things. There may be some of them that are slightly smaller. Mr. Henry can answer that question specific to this case. However, when you are developing a building part of the advantage of integrating into this larger building like what we are doing is the units sort of want to be cohesive. People don't want to have a building with units that are of a lesser quality in some fashion. He thinks you would want to create an equal quality, but with other design constraints that make it fit into that affordable category.

Mr. Keller noted having said that and given there is not a requirement for this first purchaser to continue with it as affordable housing the likelihood is that the next round of these could be upgraded and go to the same market rate as the other units.

Mr. Shimp said he would suppose that is true because he was only speaking as a person who observes this sort of activity. But, he did not know if there was an intention from the proffer. If you qualify for an affordable unit, buy it and then two years from now sell it and make a little money that may not be a bad thing. It is not the developer making the money in that case it is the home buyer who purchased it originally as an affordable unit. He did not know if that was intentional as part of that program or not. However, that is all that he has observed.

Mr. Loach said just again in your experience you mentioned that category of people just above that threshold of income. Is there a lack of affordable housing in that range say from the $243,000 to the $300,000 range in getting people into those houses?

Mr. Shimp replied yes, he believes there is. He thinks that is a challenge of Albemarle and everywhere because asphalt is more expensive, concrete is more expensive and wood is more expensive. Everything is getting more expensive. It is really difficult to build a quality project in that price range. It has to be sort of thought out like maybe part of a big development like Riverside; but, just to go along and put that house in the ground is somewhat difficult in Albemarle County. However, he thinks there is a market but did not know if there are people who are aware that might qualify for that 80 percent. He was not sure they are even aware that some of this housing is out there. So that may be an issue as well. But, he thinks there is in that sub $300,000 range for a quality product there is a good demand that often fits the folks that are targeted, such as the county employees, teachers, etc. in that range that make a little too much money to qualify for the 80 percent, but still need a reasonable house at a reasonable price.

Mr. Morris invited public comment.

Neil Williamson, with the Free Enterprise Forum, said he appreciates Commissioner Keller's laser like focus on affordable housing this evening. He thinks it is important and it would be helpful to remember that there is an affordable housing proffer that requires a certain amount of housing to come forward. That housing has come forward and those developers have met that goal. The fact that the buyers have not arrived is he thinks is part of your question. When you have two teachers living together in a married situation they are over qualified and they can't get that house. The policy is kind of falling in on itself. The other thing the Free Enterprise Forum asks the Commission to look at is to please examine rental housing as a housing option. The mistake that was made ten years ago was home ownership is for everyone. Well there are some people that home ownership is not right for. He thinks that affordable housing needs to include purchase and rental housing when you consider that caveat. He encourages the Commission to examine some of the things that Mr. Lafferty and Ms. Monteith are working on with regard to land trusts rather than focusing on applications that come forward about will the folks that get these units be what he would call the lottery winners because they get the windfall and then the housing stock goes out. He asked the Commission to think about both sides of those solutions to find the buyers, find the users, and make the ordinance fit. The fact that developers after holding a product 60 days and building it have the ability to then sell it is not unfair. The fact that we can't get qualified people in there is the problem. Thank you.

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

Mr. Randolph said he would first like to note that he thinks it is terrific that this proposal would result in a wider range of locations within the development for the affordable units. He thinks one of the worse things possible this country has done has been concentrating affordable units.

He thinks this is the right approach. He wants to directly challenge the assertion that qualified people have not come forward. The issue that he has found in this county is the qualified people don't know about the program. Case in point, he spent an evening on a ride along with Officer Sam Thomas, Albemarle County Police Department. He is living with another male officer renting a facility on a piece of property in Western Albemarle. Mr. Thomas was completely unaware that the Planning Commission works to set aside affordable units for members of the Police Department in new housing projects. He thought this was an isolated case so he had an opportunity at the Albemarle County Police Foundation Annual Gala to be seated with Lieutenant Greg Jenkins, one of the two lieutenants for the Albemarle County Police Department and he was dumfounded to find out that the county has an affordable housing policy which would enable police officers within this county who predominantly live in Waynesboro and Lake Monticello to be able to live in the county. Since Lieutenant Greg Jenkins was not aware of the policy when he had an opportunity to ask Colonel Steve Sellers about it and he was also dumbfounded to find out that there is an affordable housing policy which seeks to set aside housing for county employees. Furthermore and finally he met with Pam Moran the Superintendent of Schools who happens to be the Virginia Superintendent of the Schools of the Year and she was also dumbfounded to find out there was an affordable housing policy that the Planning Commission takes seriously and that we try to carve out and ensure that affordable units are set aside for teachers. This directly challenges the assertion that qualified people do not come forward. The qualified people do not know about the program.

Mr. Morris asked if there were any other comments. There being none, he asked for a motion.

Motion: Mr. Morris moved and Mr. Loach seconded to recommend approval of ZMA 2015-00003, Riverside Village Neighborhood Model District as recommended by staff.

Mr. Morris invited further discussion. There being none, he asked for a roll call.

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

Mr. Morris noted that ZMA-2015-00003 Riverside Village Neighborhood Model District would be forwarded to the Board of Supervisors with a recommendation for approval at a time to be determined.

Mr. Morris thanked the applicant for being at the Pantops Advisory Council and explaining this because it helped.

Old Business

Mr. Morris asked if there was any old business.

Mr. Keller asked to follow up on Neil Williamson's comments. He just wants him to understand that the Fiscal Impact Advisory Committee and the efforts of this group to have the housing issue brought up is to examine all sides and all aspects of that. There is not a focus in one particular direction or another. Obviously, this is something that is not working well and we need to talk about different ways to fix it.

There being no further old business, the meeting proceeded.

New Business

Mr. Morris asked if there was any new business.

- Due to work occurring in the auditorium, the first two Planning Commission meetings in August will be held in room #241 and the third meeting will be held at COB Fifth Street, Meeting Room A.
- The next Planning Commission meeting will be held on Tuesday, July 21, 2015.

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

Adjournment

With no further items, the meeting adjourned at 8:09 p.m. to the Tuesday, July 21, 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)