Albemarle County Planning Commission
November 17, 2015

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

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

Other officials present were Stewart Wright, Permits Planner; Ron Higgins, Chief of Zoning; Scott Clark, Senior Planner; Bill Fritz, Manager of Special Projects; David Benish, Acting Chief of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order

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

Other Matters Not Listed on the Agenda from the Public:

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

Review of Board of Supervisors Meeting – November 11, 2015

Mr. Benish reviewed the actions taken on November 11, 2015.

- The Board approved SP-2015-23 5th Street Station – Drive-Through Windows as recommended by the Planning Commission. Staff will be taking back a resolution of intent to the Board on December 2 for a zoning text amendment to incorporate those standard conditions into our ordinance so special use permit drive throughs can be eliminated and can be a by right effort standard conditions as the guidelines for review.

- The Board denied ZTA-2015-00007. Wireless – Public Notice as recommended by the Planning Commission. The Board directed staff to prepare a voluntary courtesy letter that we could encourage the wireless companies to use in notifying neighbors and adjacent property owners. They also asked that building permits be posted more clearly on the property so they are more visible by the general public with a contact number for someone from the company. That is the approach the Board is taking in lieu of adoption of that zoning text amendment for Wireless notices.

Mr. Benish noted there was a discussion about stale zoning proffers that will be useful to inform the Commission of, which Mr. Kamptner will explain.

Mr. Kamptner explained the state wide procedure that gives localities the option to have a simplified procedure to consider applications to amend proffers when use or density is not being affected. The county's regulations have a slightly simplified process, but the application requirements and some of the steps in the process are unchanged from the regular complete application process. The Board is interested in having this alternative procedure more fully developed in situations where there are simple proffer amendments that don't affect use or density. So staff will be preparing a resolution of intent to deal with that and start the zoning text amendment process.

The meeting moved to the next agenda item.

Consent Agenda:

Approval of Minutes: October 6, 2015

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

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

The motion carried by a vote of (5:0). (Dotson, Firehock absent)

Mr. Morris said the consent agenda was approved unanimously.

The meeting moved to the first agenda item.

Public Hearing Items

a. **SP-2015-00021 Tandem School**
MAGISTERIAL DISTRICT: Scottsville
TAX MAP/PARCEL: 09100-00-00-002A0
LOCATION: 279, 285, 295 and 305 Tandem Lane
PROPOSAL: Addition of a middle-school building to an existing private school PETITION: Private schools under section 13.2.2.5 of the Zoning Ordinance. No dwelling units proposed.
ZONING: R-1 Residential – (1 unit/acre)
ENTRANCE CORRIDOR: 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; Urban Area 4.
(Scott Clark)

Scott Clark presented a PowerPoint presentation regarding SP-2015-00012 Tandem School.

This is a special use permit amendment request for an existing private school to add a new middle-school building to the Tandem Friend School at Tandem Lane. The school is located on Mill Creek Drive across from Monticello High School.

Route 20 is the boundary between the development area where the school is and the rural areas. There have been several special use permit requests and amendments over the years. Most recently approved during 2014 was a request to replace the school's gym building with a larger field house and to increase student enrollment to 250. The Commission recommended approval on that request and the Board approved it last year.

This new request would add a new two-story middle school building to the campus to provide more space for those existing students. It would not increase enrollment. The new building's footprint would occupy up to 15,000 square feet and be two-stories. The proposed construction area is currently partly open grass and partly wooded, with a section of an un-needed access road that would be built over. Approximately half an acre of wooded area would be cleared for construction and storm water management. The conceptual plan for the whole site shows the location of the footprint for the new building, which is located next to the existing basketball court and parking area. The impacts of the use would be entirely on site since there is no increase in enrollment or activity on the site. Therefore, it would not affect neighboring properties or the public roads.

As far as the Comprehensive Plan this is a "Neighborhood Density Residential" site, which includes supporting uses such as schools. So this use continues to be appropriate under the Comprehensive Plan.

Staff recommends approval of SP-2015-21 Tandem Friends School –Middle School Expansion with the three conditions that were adapted from the previous approval, SP-2013-19.

- Condition #1 requires development in accord with the conceptual plan.
- Condition #2 essentially is that additional buildings or increases in enrollment would require a further special use permit, which is the reason we are here tonight.

- There is a slight change to the wording of recommended condition #3, which again limits the student enrollment to 250, to change the words "shall be limited to" to "shall not exceed". If there are questions, he would be happy to answer them.

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.

Dustin Realm, with Dominion Engineering and Design representing Tandem Friends School, said he did not really see too many complications with this new development. The storm water management will be dealt with in the final development for the middle school. There will be an increase in pervious area. They will have to deal with that with the Virginia Pollutant Discharge Elimination System and will work with the County Engineer and Community Development to get it done.

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

Thomas Culbert, Director of Finance and Operations at Tandem Friends School, offered to be a resource if the Planning Commission has any questions since he is an employee and a parent.

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

Motion: Mr. Randolph moved to recommend approval of SP-2015-00021 Tandem Friends School – Middle School Expansion with the conditions outlined in the staff report.

Mr. Kamptner asked to clarify that the motion was with the one correction to condition #3 as shown on the screen.

Mr. Randolph noted for clarification that his motion included the correction to condition #3 to not exceed 250.

Mr. Lafferty seconded the motion.

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

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

Mr. Morris noted that SP-2015-00021 Tandem School would be forwarded to the Board of Supervisors with a recommendation for approval at a time to be determined with the conditions as amended.

1. The development of the use shall be in general accord with the concept plan entitled "Special Use Permit Plan for Tandem Friends School," prepared by Dominion Engineering, and dated 07/20/15, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the specified plan, development and use shall reflect the following major elements as shown on the plan:

   - building orientation
   - building size
   - location of the buildings
   - limits of disturbance
   - parking - lot layout and landscaping

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

2. Additional buildings or increase in total enrollment/ staffing may only be authorized by a new special use permit; and

3. Total school enrollment shall **not exceed** ~~**be limited to**~~ two hundred and fifty (250).

The meeting moved to the next agenda item.

Public Hearing Item

b. ZTA-2015-00010 Sign amendments to address Reed Supreme Court Ruling

The Planning Commission will hold a public hearing to receive comments on its intent to recommend adoption of an ordinance that would comprehensively amend Sec. 4.15, Signs, including therein Secs. 4.15.1 through 4.15.24, of Chapter 18, Zoning, of the Albemarle County Code in order to address the United States Supreme Court's decision in *Reed v. Town of Gilbert*. The primary purposes of this ordinance are: (1) to eliminate content based, even though viewpoint neutral, classifications for noncommercial signs (*e.g.*, political signs, protest signs, and other signs that are not advertise an economic interest) and commercial signs in the absence of a compelling governmental interest and, as a result, to establish limits on the number of signs allowed for these broader classifications; and (2) to reorganize and clarify the sign regulations and, in doing so, several sections or subsections in the current regulations pertaining to related subject matter are consolidated, sections are renamed and renumbered, and terminology and cross-references are updated. In the proposed ordinance, Sec. 4.15.1, Purpose and Intent, states the purpose and intent for regulating signs, Sec. 4.15.2, Applicability, is added to state the circumstances in which the sign regulations apply, Sec. 4.15.3, Definitions and Qualifications, amends, adds, and deletes definitions and incorporates qualifications for certain sign classifications, Sec. 4.15.4, Administration, requires compliance with all regulations, states that noncommercial copy may be substituted for commercial copy, adds a severability clause specific to Sec. 4.15, Sec. 4.15.5, Permanent signs for which a sign permit is required; signs exempt from obtaining a sign permit, clarifies current permitting requirements and incorporates a list of those signs exempt from the sign permit requirement, Sec. 4.15.6, Signs for which temporary sign permit is required; temporary signs exempt from obtaining temporary sign permit, clarifies current permitting requirements and incorporates a list of those signs exempt from the temporary sign permit requirement, Sec. 4.15.7, Signs authorized by special use permit; off-site directional signs, off-site bundle signs; signs in a public right-of-way; electric message signs, adds and restates the current eligibility and location standards for off-site signs allowed by special use permit, Sec. 4.15.8, Prohibited signs and sign characteristics, updates and restates those signs and sign characteristics that are prohibited, Secs. 4.15.9, 4.15.10, and 4.15.11, Maximum sign number, area, height, and setback in the [County's base zoning] districts, consolidate and state the number, size, and location requirements for signs in the County's various zoning districts, including those for signs for which a permit is and is not required (Sec. 4.15.9 would increase the maximum height of freestanding signs temporary signs in the RA, MHD, VR, R-1, R-2, R-4, and R-6 districts from 10 to 12 feet as allowed in all other districts and increase the wall sign square footage allowed in all agricultural and residential districts from 20 or 32 SF to 40 SF; Secs. 4.15.9, 4.15.10, and 4.15.11 would allow an increase in the maximum height of temporary wall signs from either 20 or 30 feet to the top of the fascia or mansard, or the cornice line), Sec. 4.15.12, Maximum freestanding sign size; sign face; measuring sign area, states the maximum allowed size of a freestanding sign and sign face, and how sign area is measured, Sec. 4.15.13, Measuring sign height, states how sign height is measured, Sec. 4.15.14, Measuring sight distance triangle; signs prohibited therein, states how a sight distance triangle is measured and prohibits signs therein, Sec. 4.15.15, Measuring permitted wall signage based on structure frontage, states how the allowed amount of wall signage is measured, Sec. 4.15.17, Sign illumination, is added to consolidate existing requirements for sign illumination, Sec. 4.15.18, Sign maintenance, states the requirements for maintaining a sign, Sec. 4.15.19, Sign alteration, repair, or removal; when required, states the applicable requirements when a sign is altered, repaired or removed, and when such actions may be required, Sec. 4.15.20, Nonconforming signs, states the requirements for nonconforming signs. The following current sections would be repealed, the substance of which is consolidated into other sections: Sec. 4.15.5Electric message signs; authorized by special use permit, Sec. 4.15.5A, Off-site signs; authorized by right and by special use permit, Sec. 4.15.6, Signs exempt from the sign permit requirement, Sec. 4.15.8, Regulations applicable in the MHD, RA, VR, R-1 and R-2 zoning districts, Sec. 4.15.9, Regulations applicable in R-4 and R-6 zoning districts, Sec. 4.15.13, Regulations applicable in the PD-SC and PD-MC zoning districts, Sec. 4.15.14, Regulations applicable in the HI, LI and PD-IP zoning districts, Sec. 4.15.15, Regulations applicable in the entrance corridor overlay district, and Sec. 4.15.16, Regulations applicable to certain sign types. A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Ron Higgins)

Mr. Ron Higgins presented a PowerPoint presentation regarding ZTA-2015-00010 Sign Ordinance ZTA to comply with U.S. Supreme Court Decision of June 18, 2015 in Reed v. Town of Gilbert, Arizona.

This is the fourth time he had been before the Planning Commission on ZTA-2015-00010. A resolution was done in July when the Commission was introduced to the entire Supreme Court Case of Reed vs. The Town of Gilbert. There was a paper done by the County Attorney's Office that explained what took place. Since then a lot of work has been done by a team consisting of Greg Kamptner, Stewart Wright, Francis MacCall and myself. The team has been working on this for several months. They brought it to the Commission in an introductory work session in October to show some of the ideas in the draft ordinance; and tonight in a public hearing.

Before and After Reed

Before Reed:

- Signs that were ***viewpoint neutral*** were deemed to be ***content neutral***.

After Reed:

- Sign regulations pertaining to **noncommercial signs** are ***content based*** if the laws that apply to particular signs depend on the topic discussed or the idea or message expressed
- Viewpoint neutrality is no longer the relevant consideration

What will not change:

- Requirements for sign permits.
- Most regulations pertaining to "time, place, and manner" (size, number, height, location). (1) Those should stay the same, but there are some exceptions to that. As they pulled the sign ordinance apart we stayed away from doing too much with commercial signs except that there was a class of commercial 4 sq. ft. exempt signs. They just took that out entirely. They have a class of small signs that are allowed without a sign permit and that will remain a broader class. They have added some minimum numbers of signs, which he will get to later.
- Special Permits for certain signs by BZA (off-site signs, electronic message signs).
- ARB review of signs in the Entrance Corridors.
- Regulation of commercial signs. (2) The only exception is they pulled some of the small 4 sq. ft. commercial signs and taken some commercial type exempt signs and lumped them together.

When they pulled the sign ordinance apart in order to get at the Reed issues we recognized that there are some strange little combinations that are either not necessary or not critical. An example is they have different sign heights for freestanding signs. Unless it is a real estate sign, a construction sign or something like that which stays up for the duration of that activity, temporary signs with a permit have 15 days with 4 per year or a total of 60 days per year. Some temporary signs can be 10' and others 12'. They rarely are that tall. Staff decided to take one number and make them all 12' signs. Some temporary signs do not fall in the 15 day rule because it is there waiting for a permanent sign to be designed to replace it. The ordinance allows temporary signs to remain up while waiting for the permanent sign. Examples were provided in the presentation.

Proposed Reed Changes

- Primary objective is to remove content-based elements from the current sign ordinance.

When you are pulling the ordinance apart to examine it more fully some things will be revealed that could be improved upon. Staff did not want to get into huge standard changes, but they did do some. They acknowledge that and staff knows that will be a concern for some folks.

- Secondary objective is to reorganize and simplify the sign ordinance in order to make it easier to understand and use.

Staff did a number of things as noted in the table. Staff took the content based definitions out and removed and changed them so they were not content based; consolidated a bunch of sign types into small signs or exempt signs; grouped them by sign type and made them content neutral. There are 7 or 8 tables in our current ordinance. Staff realized they were almost saying the same thing and decided to consolidate the tables, ending up with 3 tables.

CURRENT	PROPOSED
Definitions include many "content-based" types.	"Content-based" definitions have been removed or changed.
Sign types listed individually in several sections.	Sign types have been consolidated.
Sec 4.15.6 Signs Exempt from sign permit, list many content-based sign types with separate standards.	Sign types have been grouped by size and made content neutral.
There are six regulations tables in 4.15.8 – 4.15.14 with notes at several.	Reduced to three tables with notes at each.
Sec 4.15.16. Regulations by sign types list different standards for different signs.	Sec. 4.15.16 has been deleted and standards are captured where appropriate in definitions.
Temporary sign heights are 10 feet in some districts and 12 feet in others.	Temporary sign heights have been standardized to 12 feet for ease of administration and clarity for public.
Temporary wall sign heights are 20 ft. or 30ft.	Temporary wall sign heights go to "not to exceed cornice" in C-1 districts or beyond to be consistent with permanent wall signs in those districts.
Wall signs can be 40 sq. ft. in RA & MHD, 20 sq. ft. or 32 sq. ft. in other residential districts.	Make all wall signs 40 sq. ft. max in RA, MHD and Res. Districts for consistency.

They made a little error in our draft ordinance. When you go through the new tables we had changed some of

the heights for wall signs. Some wall signs are 20', 32' or 40' in square footage and then the heights of them vary. They are 30', 20' or "not to exceed the cornice line". Staff meant "not to exceed the cornice line" to be the same for everything in the C-1 District and above. Our draft actually showed that happening in the first table that they consolidated, which had all of the residential districts. That is supposed to still be 20' in a residential district not to exceed roof or a mansard. Staff will fix that and will be something, if the Commission acts tonight, that we would want them to correct as one of the things in the set of conditions. That will be fixed.

The 40 square foot wall sign is another thing where they saw 3 or 4 different sizes for wall signs. They were not hugely different. You could look at some 20 square foot maxes in low density districts and say they are doubling it because RA and Monticello Historic Districts allow 40 square feet. He provided an example of a rural area non-residential use that is limited to 40 square feet of wall sign. That is all the wall signage. In other words, no matter how many signs they are allowed they have to total 40 square feet. He provided an example of a 30 square foot sign and a 14 or 15 square foot sign on one store, which are old nonconforming signs. Today they would have had to total no more than 40 square feet. They use that as an example to say that they could not think of a permit for a wall sign in a residential or a rural area for a residential use. In other words, those wall signs are almost always for some kind of a non-residential use. Uses that might use wall signs in a residential district would be for a public garage repair places, schools, churches, public buildings, or libraries. Again, most of these uses don't push too far on that 40 square feet. But, they just chose 40 square feet because it was the larger of them and he did not think it was a huge difference. When you think of some districts with 20 square feet remember it is not likely a wall sign on a house; but, it is more likely to be a non-residential sign.

Next steps in this schedule

- **TONIGHT- Planning Commission public hearing on ZTA-2015-00010.**
- **December 9, 2015 – Board of Supervisors Public Hearing.**

Staff recommends approval of ZTA-2015-00010 as presented or with the following revisions:
-Correction to Section 4.15.9 to leave Temporary wall sign height maximum at 20 feet in the residential districts.

Mr. Morris invited questions for staff. There being none, the public hearing was opened for public comment. He asked if anyone would like to address this.

Travis Pietila, with the Southern Environmental Law Center, said he hoped everyone received the letter submitted by email yesterday. He would briefly recap those comments. (Attachment – Letter to Planning Commission members dated November 16, 2015 from Travis Pietila, Staff Attorney with the Southern Environmental Council – Available with the written minutes in the clerk's office)

- As we noted Albemarle's sign ordinance itself acknowledges the many important functions the county's sign regulations serve including improving public safety and enhancing the appearance of our streets and public spaces to the benefits of the county's residents, businesses and visitors alike. As you know the Reed decision requires the county to review its non-commercial sign regulations and revise many provisions that currently regulate these types of signs differently based on their content. We appreciate staff's considerable efforts in this task.
- We believe the proposed changes for these non-commercial signs are appropriate. However, as we stated in our comments we remain concerned about the extent to which the proposed changes go beyond the initial focus of bringing the county into compliance with Reed. These additional changes fall into two main categories: (1) changes to commercial rather than non-commercial sign regulations, which we believe may create new loopholes. (2) Changes that would expand the allowable size and height of signs in various zoning districts in some cases quite significantly and with little apparent justification. We don't believe that either of these types of changes is required by Reed and we urge you to remove them from the draft given the potential to unnecessarily weaken the current ordinance.
- Lastly, in the letter we also urge the removal of the awkward Board of Supervisors "acknowledgement" paragraph in Section 4.15.1. We believe this new paragraph creates more confusion than clarity and we see no compelling reason to include it in this draft. But, again we appreciate the considerable time and

energy that staff and the Commission have devoted to this important topic. We thank you again for consideration of our comments.

Neil Williamson, with the Free Enterprise Forum, said we have reviewed the ordinance and have a couple of questions. We believe signs are critically important to businesses and for people trying to find their way with way finding signs. While we understand and appreciate that folks are driving around with little machines that tell them where to go, the idea of signs remains a critical part. He did not believe the ordinance addresses one part of the reality of signs. It may be a loophole as Travis Pietila described it or it may be a purposeful omission about temporary directional signs, which Reed was really all about. The concept of a temporary directional sign for a church service, an auction, or an open house are real things for the parade of homes. Those are real things that are really happening out there.

Mr. Williamson said as he reviews the ordinance he did not see how they are allowed under this ordinance. He would assume that if it is not permitted in the ordinance, it would be an illegal sign. So each time you have the MS walk and they have signs up or the directional signs for the Alzheimer walk those would be illegal signs. Is that the intent of the Planning Commission or is there perhaps a regulatory relief for a temporary directional sign that is not content based that allows for 12 or 24 hours for the signs to be up prior to and during an event. He thinks that the intent of Reed is to allow for such things and not make them content based. He had no idea how to do that in the legal framework to call a directional sign something else. But, perhaps it could be a 24-hour sign with no permit required to allow folks to put up garage sale signs. That is the reality and it is out there. Stewart Wright sees it all the time and sometimes it is abused immensely. However, if you wish to ignore it that is fine. But, he thinks that it puts staff in a hard place for enforcement if you choose to ignore the reality on the road.

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 asked Mr. Higgins to address what Mr. Williamson brought up.

Mr. Higgins explained as a specific sign type, temporary directional signs have been taken out. But, he believes that the incidental sign, the small signs, the 4 square foot signs and all of those exempt categories could allow that. Our big issue with the temporary directional signs are the ones that go in the right-of-way because they are prohibited on every level. They are prohibited locally and by the state. Staff does sign sweeps to clean up any signs in the right-of-way that are not public VDOT approved signs. So there is a difference. He asked if Mr. Kamptner wanted to comment about a directional sign on private property, which he would think that would fit under some of our small exempt signs.

Mr. Kamptner noted that he was searching for it right now.

Mr. Lafferty said while he was looking for it he would ask about events like the MS 150 Bike Ride. For the bike ride they have to put up directional signs, which have to be in the right-of-way because the person has to be able to see it on the bicycle. Do they require permits now?

Mr. Higgins replied none of the directional signs requires permits. He would ask Stewart Wright to speak to special event type permits because that is a clearance item. When we have a run they will mark the pavement, do the arrows and all kinds of stuff. Being on a complaint basis we never hear about that because the signs go up the morning of or the day before and they are down the afternoon of the event. So it is not like these signs have been put up for a period of time that get noted by anybody other than the people participating or supporting the event. The short answer to that is if you have a bunch of signs in the right-of-way yes they would be illegal right-of-way signs. However, they don't get noticed given the one reason he gave plus the fact that we don't get complaints about them.

Mr. Kamptner noted that for on-site directional signs they changed the terminology. But, the on-site directional signs are allowed in all the zoning districts. One or more per establishment is authorized by the zoning administrator. So essentially on-site directional signs are allowed on an as needed basis to direct pedestrians and traffic. As Mr. Higgins was alluding to there are two type of off-site directional signs. There is a class of off-site directional signs that are allowed by special use permit. That was part of the big off-site sign zoning text

amendment last year. Then there are the other signs that are placed in the right-of-way and those are prohibited.

Mr. Randolph said he had a question for Mr. Kamptner. The Parade of Homes frequently occurs in Glenmore and they put a sign out on 250, which is not on the site per say. So under the language here, given Mr. Williamson's point, it is not on-site but it is critical in terms of people driving around looking for the Parade of Homes to know that they turn there in the public right-of-way onto Glenmore Way. Then they come in and are guided by the gatehouse and that is all thereby on private property within Glenmore. But, that first sign is a pretty critical sign to alert people. So if the wording is such that it states that it has to be on the site, then Mr. Williamson's point is well taken since the change in the sign language for this one could argue is this inherently a commercial purpose if the Parade of Homes are not selling homes so much as selling what homebuilders do in constructing their homes. Is this, therefore, subject to tighter regulation under the proposed language and based on what he just said it appears that it might be.

Mr. Kamptner noted that he would keep looking because this may be one of the groups of signs that was consolidated with a number of other types.

Mr. Higgins pointed out that Francis MacCall could talk about one of the things in the notes after the tables.

Mr. Francis MacCall said he thinks what takes care of this for the RA and MHD, and all the residential districts is a.6, which says temporary non-commercial signs are permitted as provided in subsection b5 below. It says in addition to signs in the table the following signs may be erected. So b.5 says non-commercial signs. It allows up to two signs per lot containing copy that is exclusively non-commercial, which he thinks all of these probably would be. Then up to two signs per lot containing copy that is exclusively non-commercial and it does not exceed 4 square feet. So that is those smaller signs that you probably would see applying those directions. He would say that they are probably exclusively non-commercial as far as the content that are on those. As it says regardless of whether the signs are permanent or temporary, he was fairly certain that is how they would address it.

Mr. Higgins agreed as long as the signs are not in the right-of-way under our current law, and that is where the rub comes in if you need a right-of-way sign that leads you somewhere. In the Glenmore example staff would probably allow a sign on the corner or in the median, not out on 250, but in your entrance to the development. But, you are talking about something on 250 that gets you into Glenmore for the Parade of Homes.

Mr. Randolph agreed. He noted the sign usually goes right where the turn lane is to alert people that this is where the turn would be made. They might put a sign on 250 going west prior to the turn into Glenmore Way so that the people again know there is the Parade of Homes. But, both of them would technically be in the right-of-way.

Mr. Higgins noted that it was any right-of-way maintained by VDOT; and, therefore, he was right it was any public road.

Mr. Randolph noted one concern he had in what Mr. MacCall just read was it sounds a little complicated. It does not sound like it is the most easily accessible language for somebody reading it, especially for the Harry real estate agent who is out there on the weekend trying to put a sign up quickly prior to an open house. It might be helpful if this could be just put into simpler English and then clarified so it stands out and makes it very clear what people can do.

Mr. MacCall noted he believed all of those signs in each of the tables under b.5 are signs that were not actually getting permits.

Mr. Higgins agreed they would not get a permit since the signs are exempt

Mr. MacCall pointed out that addresses signs, advertising vehicles that he knows are everybody's favorite, commercial flags and non-commercial flags. So they are not getting permits for those. He does understand what Mr. Randolph is saying, but whether that can be adjusted now he was not sure.

Mr. Wright said it would be hard to adjust the ordinance language for any signs of this type in the right-of-way because it is VDOT property. So for an event, such as a bike race, a marathon or something like that, the event organizers have worked with VDOT and with Albemarle County Police as far as traffic control, establishing the route for way finding and things like that. So he would have to go under the assumption that VDOT does not have an issue with these directional signs for finding sites for 150K Bike Ride or something like that in their right-of-way.

Mr. Higgins noted they take it that way when they do that kind of event organization, and they are required to coordinate with VDOT and others as needed.

Mr. Wright agreed. He does not think anything in the previous or proposed regulations are going to have any effect on the events that are being run on the road. The real estate signs, the Parade of Home signs, again, if it is on private property it should work fine. But, as soon as you put a sign in the VDOT right-of-way it does not matter what kind of sign it is you have to have VDOT approval to do it, and it is not for county approval.

Mr. Higgins pointed out although it is on private property that is an exempt real estate sign. They do them all the time. So we don't really hear about those.

Mr. Randolph said the East Rivanna Fire Company when they have an antique fair they put a sign, on the 250 right-of-way. He did not think they request permission from VDOT.

Mr. Higgins said he would doubt it.

Mr. Randolph said so technically they are in violation.

Mr. Higgins agreed. However, if staff were having a sweep on 250 and saw the sign in the right-of-way the sign would be picked up. Then staff would contact them to say please don't do that anymore. If a complaint was received staff would contact them and say please don't do that anymore. The county can't change the state law in that regard. However, we have an agreement to enforce the state law with the state so if there is a fine we can collect and keep it. Up until a couple of years ago it was not worth our trouble collecting the fine because we had to send it to the State Transportation Board.

Mr. Kamptner suggested they could amend the regulations that apply to temporary signs for which a permit is not required and add that class of signs.

Mr. Morris said that would clarify it.

Mr. Randolph agreed that would be great.

Mr. Wright noted just to give a little history when staff started tearing this thing apart when they talk about temporary directional signs, as Mr. Williamson mentioned, it was listed as an exempt sign. A temporary directional sign was exempt from a sign permit. The problem they found was there was no definition in the ordinance for it. So that alone caused problems because you have a listed sign type that is undefined. Hopefully, this corrects that so now they actually have a definition for it so they can administer it.

Mr. Keller complimented staff on this effort. Having said that, it seems that the presentation in the beginning separated this into two major concepts. The first one was responding to the Supreme Court effort. The secondary set of objectives to reorganize and simplify have become all mushed and muddy together. He suggested they should break them back out apart into two pieces and to succinctly respond to the Supreme Court decision. It seems like that is a no brainer and almost everybody is on the same page on that. Then he did not think that there are necessarily that many areas of disagreement. But, once they have put that aside, then they can deal with the secondary set of objectives. In that area he had a number of questions. He was really glad to see the clarification of it not being residential areas where the wall signs would be. He asked if he was correct that only the commercial areas would have the wall signs.

Mr. Higgins replied that everybody has wall signs.

Mr. Wright pointed out the ordinance as it stands right now every property in Albemarle County is eligible for a freestanding and a wall sign.

Mr. Keller noted he had a major concern with the way that is addressed with the larger buildings and going up to the cornice with the square footage. In our Neighborhood Model we are encouraging pedestrian bicycle kind of traffic. All the sign psychology research that has been done for decades shows that the closer and the slower one is moving the smaller the sign needs to be. The faster and the more distance one is at the larger the sign needs to be. So there tends to be a bias against the very concept that they are trying to promote in our growth areas in these Neighborhood Model areas. So that needs a major relook in this.

Mr. Keller noted another part he mentioned in past sessions is the issue of waiting to see what happens with home occupations to see whether they are going to have a significant increase in the number of home occupations if transient housing is defined as home occupation. So that means looking and thinking about grouping of these signs in areas in close proximity to one another.

Mr. Keller said he also thinks that both in the letter and the two sets of comments from speakers that there are other issues that have come forward. He is not against cleaning this up and modifying, but he did not think the second portion of it is ready for prime time yet. He thinks staff did an outstanding job with the urban design guidelines and working through that several time. However, they need to work through the signs in several more iterations to get it really where we want it. Mr. Keller asked staff to put up the last chart that had his last point along those lines. If we look in a number of these categories we are seeing where there was 10 and 12, but there is a default to 12 now. There is 40, 20 and 32, but there is a default to 40. Why are they always defaulting to a larger size?

Mr. Higgins replied that he blatantly admits that is what they did. However, it doesn't really matter.

Mr. Keller said this is the sort of thing that would be interesting to have a public dialogue. He would imagine that our two speakers would have two very different takes on this. He would like to see that addressed in a discussion since that is the kind of a forum they have been operating under, and he thinks it is really effective.

Mr. Randolph said he would not attempt to typecast either one of them as favoring larger or small. Their unpredictability will be entertaining at a second meeting. However, he would echo the remarks of my colleague. He thinks there are issues here. Fundamentally, what Reed is asking us to do is deal with non-commercial signs and mixed in here is the set of assumptions about what may happen in the future with commercial signage. He did not think they should be in the speculative mode as a county or a planning commission making recommendations when they don't know what the future is going to bring. He thinks they need to be really strict here about keeping Reed defined to and need to make changes on the non-commercial side based on the remarks also by Mr. Williamson this evening and by previous comments by Mr. Pietila. Therefore, he would not be voting to recommend that the Commission pass this on because there is still work to be done.

Mr. Morris asked if there was a motion.

Mr. Kamptner asked to respond to some of the comments and explain why we did what we did. Reed had a non-commercial sign in front of it. However, when you read the majority opinion it is hard to imagine that the majority of the court is going to reach a different result the next time a commercial speech case gets in front of it because just as Thomas' decision really leaves no room for the kind of distinctions that we would like to be able to continue to make. The cases that are coming are being brought by the pharmaceutical industry right now challenging some FDA limitations on how pharmaceuticals can advertise their products. So that is coming. We have Citizens United where the court recently in 2012 recognized that these corporate entities have free speech rights. So that is one reason why we are taking the leap ahead a little bit.

Mr. Kamptner noted the number of commercial signs where we did content based distinctions are pretty small or minor. They are the exempt signs, which include the auction signs, real estate signs, and things like that. So we have transposed those into situational type of signage, which ties into why we added that paragraph in Section 4.15.1 explaining what we were doing. The reason they added that paragraph was to let the board tell the courts or anyone else who wants to challenge our ordinance that we recognize in certain circumstances

there may be a number of signs that end up on a property, and arguably that hinders our goals of improving traffic, safety, and promoting aesthetics. We recognize that; but, are explaining why we are doing it. In other context in noise cases those type of statements have helped the locality justify their ordinance when under certain circumstances the standards that they have were significantly relaxed.

Mr. Kamptner said with respect to the more wholesale amendments to the ordinance, he has been working with this ordinance for 20 years. It is a 35 year old ordinance and poorly organized. It is very difficult to understand. It is difficult to figure out how many signs are actually allowed on a particular lot. What they discussed through this process that there are some sign classifications that have not limitation. So they have to make these changes. They have to get our ordinance into compliance with Reed. So that is why we took the extra steps to make these additional changes and to reorganize the ordinance. When you go through this exercise you also find out that there are defined terms that don't show up anywhere else in the ordinance other than the definition. Somewhere along the way over the 35 years whatever regulation applied to that definition it disappeared and the definition no longer has any relevance. That is another type of change that we made here.

Mr. Higgins said he would like to make a case for looking at what the issue is right now. You are right that it is two separate objectives. We realized that after getting into it in the summer. There is no magic to selecting 12 or 10 feet in height. There is no magic right now to selecting a 40 square foot sign over a 32 square foot or 20 square foot sign. It does not matter. We can keep that the same. He just does not want to lose the opportunity for the reorganization. The Commission could recommend this without those changes, and the ordinance would be exactly the same in those regards they would have the lower sign limits. If we do want to go back and start to look at what that square footage ought to be everywhere, then we do that in the more informed analytical way. He was with Mr. Keller on the Neighborhood Model because you don't need big signs in the Neighborhood Model. We just reduced our setbacks for that reason. However, he did not want to lose the opportunity we have at the reorganization. If the hang ups are making some signs taller, and sometimes bigger than they can be, given the fact that those sizes are rarely used might be another reason to reduce them all. Those changes can be eliminated without affecting this ordinance greatly that is in front of you. So he was putting in a plea for that.

Mr. Keller said he appreciates what you are both saying and understands that a significant amount of work has gone into this. He asked what the big deal is about having staff make those kinds of changes and having one more shot at this.

Mr. Loach asked do you lose the opportunity. In other words, they are passing this now to meet the compliance with Reed. That is the way he looks at this rewrite. However, he did not see that as the end of the discussion. If you think about it this way that if it was not for Reed they would not be talking about this now. The fact that Reed was brought up we have had this chance to review and say we need some more tweaks. He did not think passing this to make sure they are in compliance with Reed stops the discussion, and we can bring it back.

Mr. Keller recommended the Commission pass the portion that deals directly with Reed and not the other.

Mr. Randolph said he totally echoes that so they meet the objective here.

Mr. Morris pointed out one of the things he thinks is if the Commission sends this on to the Board that is a public hearing.

Mr. Higgins replied the Board would have the public hearing on December 9th.

Mr. Morris said it seems they have worked on this quite a lot; however, he still sees that there needs to be some fine tuning to clarify and simply. If they want to change the 40 square feet to 30 or 20 square feet fine; but, personally he would like to see the whole package go forward to the public hearing on December 9th.

Mr. Lafferty asked Mr. Keller if he was recommending that they not do the reorganization.

Mr. Keller replied no, that was not his point at all.

Mr. Lafferty asked if he was just going to leave out the difference between commercial and non-commercial.

Mr. Keller replied that there are enough issues that have been brought forward by the public and Commissioners that they need to be addressed. He thinks this gets to same root discussion that we had when the Commission and Board got sort of synch in terms of things moving forward because what gets recommended to the Supervisors when we support something is staff's interpretation of what we have said. It is not the same as the Commission being able to make the full imprint that we want to make on it. That is not disparaging staff it is just the way it happens in all jurisdictions. Whoever is writing it gives it the bit of a slant that they want. So that is the only reason that he thinks that they have enough of these things that need to be cleaned up.

Mr. Lafferty said it was a well written report and appreciated all of the comments to bring into perspective.

Mr. Wright asked to clarify some other things. He has spoken to the Southern Environmental Law Center a couple of times about this and tried to address the concerns and give them the information they need. He would like to give the Commission some real life situations since he is the person who reviews sign permits. The wall signs in the rural areas are allowed 40 square feet, which signs are for the churches, gas stations, stores and the gift, craft, and antique stores allowed in the rural area. His property is zoned rural areas and therefore allowed a 40 square foot wall sign. He could not think of any motivation why he would want to apply for a sign permit from Albemarle County to put a 40 square foot sign on my house. When you look at the other districts that only allow 20 square feet, which is R-1 and R-2. What are the non-commercial uses in R-1 and R-2? That would be the clubhouse at Dunlora, the clubhouse at Forest Lakes, private school, and a church. So the question may be well why a church in Forest Lakes should have a smaller sign than a church in Earlysville. So, again they are looking at the situations. When will these signs be applied for? When does the customer need it? He has been looking at these sign permits for a long time. As far as sign permit for a wall sign being applied for in R-1 through R-10 less than 2 in his 8 years, and those were for clubhouses and churches. The number of wall signs in the Rural Area he reviews per year maybe 3. As far as a wall sign permit to go on somebody's private residence there have been no permits. He understands the concern the Southern Environmental Law Center has, but as it is applied and administered every year looking at the permits applied for we are not seeing a flood of wall sign permits in residential districts. We see almost none.

Mr. Keller asked to respond to Mr. Wright's point. He thinks it is great to have the history. However, in the last couple of years because of the state legislator definitions we have now allowed in the County for agritourist, wineries, cidery, distilleries, and breweries. We are starting to see some multiple proliferations around some of the places that have multiples of these. For those of us that have spent time in a lot of touristic centers in this county we've seen the kind of proliferation that can occur. That specifically is what he is responding to with our charge in the Planning Commission to look towards future planning. However, he does appreciate hearing the historic context that Mr. Wright put in and how little there is, which kind of gets back to the statement for the Supervisors. He would guess he was of mixed minds. He sees the argument that staff is making with it. But, maybe it is rewording it.

Mr. Kamptner noted if it eases your concerns part of this is that every locality in Virginia and most throughout the country are under the gun to get their ordinances in compliance with Reed. To the extent possible we have tried to maintain the status quo transfer everything from a content base even though viewpoint neutral into a content neutral set of terminology. He thinks staff would welcome the studies that you are looking for because they are moving into a new era with technology with science investigating traffic safety in signage. There are some new studies out. There were some referenced in a APA document that came out about 3 months ago that they can look at in the next version of the sign ordinance. This is really just to get into compliance with Reed.

Mr. Keller noted he had one final comment. We know how stretched staff time is. So he understands that while they have the bull by the horns you want to finish it. He supports wanting to finish this. But, at the same time if we say oh we are just going to pass it on, then what is the likelihood because it has been done that there is going to be staff time allocated to it again. It seems to me this is the time that we have staff interested in it and we can get the staff time to get it right. He thinks it is very close to being right.

Mr. Wright said as the staff person who does administer the rules if you want to keep the wall signage at 20 square feet in certain districts and 32 square feet in another, he is perfectly fine with that. If they still want to keep the distinction between 10 feet and 12 feet on temporary signs in certain districts, he did not have a problem with that at all. It does not affect us. We were trying to simplify to make it easier to administer and make it fair. But, if the Commission or the public has concerns about it staff are certainly willing to concede on that. Not trying to put any pressure on the Commission, he would point out the last time he tried to do a minor tweak to the sign ordinance, one of which was to make the setback from the front property line 5 feet for everybody instead of 5 feet for some and 10 feet for the other; it took 2 years to get that finished. That was a minor tweak. He was kind of enthusiastic with this to try to get it done.

Mr. Morris recalled that they had commended staff in the past for trying to simplify the ordinance. The ordinance says 40 square feet, but where it is allowed would you fault me if I went to 35 square feet. So in other words he was not taking advantage of the full amount allowed.

Mr. Wright noted the only danger about reducing sign areas right now is creating a lot of nonconforming signs. The one drawback to doing that is creating nonconformities. But, staff can address those, too.

Mr. Randolph said he would guarantee if they have one more meeting they will recommend that they can get a consensus within the Planning Commission. He did not think they were looking at 2 years here. However, he thinks it is a good idea tonight that the Commission pass the section that is applicability to noncommercial signage consistent with Reed and then bring it back and have a discussion about the size of the signage and look at it in all different contexts. So they would look at perhaps the original chart compared to what staff is recommending; have input again from the public and make a decision and recommendation to the Board of Supervisors.

Mr. Higgins asked how staff would separate those sections. Just from a practical standpoint the ordinance in front of the Commission is reorganized, certain sections are deleted, tables have been consolidated, and notes have been put in to keep from having 7 tables. All of that could be done under the Reed stuff without changing any of the issues that have been coming up with the Commission or members of the audience, and we would have an improved ordinance document. If we wanted to change some of the standards, we would have to advertise it all over again. They did not say they were going to reduce everything to 20 square feet. As they started to pick it apart they looked at some of these differences and tried to figure out what on earth these difference were all about. He thinks we can eliminate all of that in four strokes of a pen by simply not changing those standards and really dealing with them in a better way. In the second work session Mr. Keller made some good comments that maybe some of these sizes are not right and there are some standards that they really ought to think about. That is similar to what you are saying now are they outdated standards. That is a bigger picture and a bigger issue. He did not know that they are going to resolve that in an extra meeting of the Planning Commission.

Mr. Keller said he did not want to be snarky here, but we have had to come back for two sets of public hearings that were not properly advertised. So he thinks coming back for a meeting to get something really done that needs to be done is not too much to ask.

Mr. Higgins said okay, but staff did properly advertise this one. However, he knows what Mr. Keller is saying.

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

Mr. Keller asked that the proposed motions be put back up on the screen. He would make the recommendation of the first one and the condition would be that it is only the elements that relate specifically to the Reed Supreme Court case.

Mr. Randolph asked if the second part of the motion is that the Planning Commission then look at the other sections of the recommended changes.

Mr. Morris pointed out that would be a separate motion.

Mr. Randolph asked if the Commission could take two separate motions.

Mr. Kamptner said he was trying to figure out how they pull out just the Reed issues. Certainly we can deal with making all of the non-commercial signs content neutral. Reed also deals with under inclusiveness, which means that there is just a signage free-for-all. That is one of the things we are trying to address here by putting limitations on most of the signs in which don't exist under the current regulations.

Mr. Keller said the question would be how quickly it could be done and is there a way this could still be done this year to meet your goal instead of December 9th.

Mr. Higgins said from a practical standpoint probably the last opportunity we will have for a hearing with the Board of Supervisors is the 9th of December.

Mr. Loach said he hears what Mr. Keller is saying, but again he would go back to the point where they can conform to Reed with this. He did not think from what he heard from the history of the way the problems we have had with this are that eminent that we should stop this. Honestly, he can support moving this forward. He thinks they can come back to it at a later time and look at those problems. However, with all the work staff has done with the consolidation he would support it moving forward.

Mr. Lafferty said he would support it, and Mr. Morris agreed.

Mr. Kamptner said just to clarify they have been discussing some comments or issues that everybody has mentioned:

- Retaining the current regulations for temporary sign height, and it will stay as it is.
- Temporary wall sign height would stay as they are now in the various districts.
- Wall sign square footage would stay as it is.
- Add a classification for temporary off-site signs to the exempt sign regulation in Section 4.15.6 in the definition, and
- Lastly, a desire to make commercial signage content based again.

Mr. Randolph said that it works for me.

Mr. Morris asked Mr. Loach if he would like to make that motion.

Mr. Wright asked Mr. Kamptner if that would be just temporary directional signage exempt instead of temporary off-site or temporary off-site directional signage.

Mr. Kamptner replied no, he meant temporary off-site directional signs.

Mr. Higgins noted he had temporary off-site directional signs.

Mr. Wright said he just wanted to make sure they were clear on that.

Mr. Keller asked if he was saying the smaller size would be the default instead of the larger size, and Mr. Kamptner agreed that it would be smaller or lower for the regulations they currently have.

Mr. Keller asked how is that going to affect the neighborhood commercial areas where we want to encourage the pedestrian bicycle traffic. Will the signs by definition of what you are doing be smaller or be larger.

Mr. Wright replied that the signs would stay as they are since they will not see any change there.

Mr. Kamptner agreed.

Mr. Keller said he can live with this.

Motion: Mr. Loach moved and Mr. Randolph seconded to recommend approval of ZTA-2015-00010 as presented with the revisions as discussed by the county attorney.

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

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

Mr. Morris noted that ZTA-2015-00010 would be forwarded to the Board of Supervisors with a recommendation for approval to be heard on December 9, 2015 with the revisions as discussed by the county attorney.

Work Session

a. **Overview of existing development standards in Zoning Ordinance.**
Background and discussion of existing development standards for grading contained in the Zoning Ordinance. (Bill Fritz)

In a work session Mr. Bill Fritz, Manager of Special Projects, presented a PowerPoint presentation on existing development standards for grading contained in the Zoning Ordinance to provide information and highlight some of the issues regarding grading. The work session was designed to provide feedback to the Planning Commission for developing future standards which should include ongoing discussions between policy makers and the development community.

The Planning Commission asked for a brief summary of regulations that already exist in the zoning ordinance that deal with grading development standards. Staff pulled some things together and provided the information contained in the packet. The regulations are limited and deal mostly with slopes of roads and parking. Most grading is prohibited on critical slopes in the rural areas and development standards for steep slopes are only in the development areas. While it is not a regulation it is contained in our ordinance, which is something they have and are proffers.

Roads and parking – It is basically a 16 percent maximum for the roads, 5 percent for parking, and 10 percent for access ways and landings. The one that does not really fit in here, but he put it in here so he did not have to make an extra slide, is in recreation areas it is a maximum 10 percent grade.

The Steep Slopes Ordinance, a fairly recent amendment to our ordinance, does seem to be working well and has saved us a lot of time. It has a maximum retaining wall height of 6 feet. It has provisions for:

- the rounding of slopes,
- the separation of the toe and fill slopes so that you don't just start these transitions very rapidly,
- setbacks from property lines,
- maximum grades, reverse slopes and surface water diversions (That is all getting towards the long term maintenance and prevention of erosion.)

What does that look like? In the presentation Mr. Fritz said he took the information directly from the Steep Slopes Ordinance and provided examples regarding the following:

- avoid the single tall wall,
- promote multiple shorter walls with terraces in between, and
- round the slopes so to look more natural instead of making them harsh, which is what the Steep Slopes Ordinance gets to.

Proffers –
Included In the packet are a set of proffers that comes from a particular project in Albemarle County. There are not many of these proffers because the language is just a recent one. It includes things for maximum grades, which are the same that they find in the steep slopes. It has provisions for:

- Surface drainage not flowing across more than three lots. Again, that is to collect the water.
- Direct street drainage beyond the front of the lots to the back of the lots, and maintains a maximum ten percent grade adjacent to the dwelling so you are not grading right up to the dwelling itself.

All of these things are intended to somewhat soften the appearance of the property, but also getting towards the long term maintenance and long term minimization of soil erosion. That is the information staff has provided, which is not a lot except in the Steep Slopes Overlay District.

RECOMMENDATIONS:
This information is provided for discussion purposes only. No recommendations are being made.

Mr. Morris invited questions for Mr. Fritz.

Mr. Lafferty noted there were few reports that he has to look up a word. However, in this report he had to look up superjacent, which he thought means adjacent and not overfilled, and Mr. Fritz agreed.

Mr. Lafferty suggested having the diagrams in there would be helpful particularly for the retaining walls and the transition of grades.

Mr. Fritz said when they did the Steep Slopes Overlay District they talked about putting those things in, but because they are not specific and they used word based that is what we did. We did obviously include those diagrams in the report so if there is any dispute as to what the intent of the ordinance was we can go back and look at that. So they chose that route instead of putting it in the ordinance. One they could do, which was briefly mentioned in the report, is they have a design standards manual, which is guidance, and they could put it in there that says the concept we are getting at is to do this. Again, it is just guidance, and it is not regulatory.

Mr. Lafferty said in grading in section 8 part b it says please refer to the Building Official, which is all capitalized. He asked if that is a Building Official Manual.

Mr. Fritz replied that it is referred to the Building Official, who is Jay Schlothauer.

Mr. Benish pointed out the building official has to approve retaining walls, which requires a building permit at a certain height.

Mr. Fritz noted that he is talking about attachment C that tells you that a building permit is required and if you have questions go talk to the Building Official and he can tell you how to go about doing that. Again, this is guidance and it is designed to be informal.

Mr. Benish said under the Steep Slope provisions as a general guideline they look at slopes that are not subject to steeper managed slopes. The goal of trying to achieve no higher than 6' retaining walls and staggering them, while it is not required in other areas, we kind of look at that as a standard. When we have a legislative authority to consider that and that is appropriate in that case we kind of use that as our standard.

Mr. Fritz added or if there is a variation or whatever. While it is not a design standard that regulates the grading of slopes there is a provision in the ordinance that deals with screening of objectionable features, such as dumpsters, loading areas and things like that. Many years ago we made a determination that any retaining wall that was more than 6 feet tall was deemed to be an objectionable feature and would have to be screened. He did not include that because it is not an ordinance and it is not really a design standard. It is an interpretation of the existing ordinance.

Mr. Lafferty said under the same section part 3 in Attachment C you have 30" (quote) for inches. Everywhere else in the document he specifies feet or inches. The same is true with the 5' in the next column.

Mr. Fritz pointed out that he just copied this straight over, but he would point these things out to Glen Brooks.

Mr. Lafferty said it took a while to figure out what an overlot grading lot was.

Mr. Fritz replied that it was something they have talked about in a couple of places. What they are trying to do is not grade one lot contrary to the grading on another lot so you do what is sometimes called a mass grading.

Mr. Lafferty noted that the contours seemed short for the plan.

Mr. Fritz replied that attachment D was showing them at not greater than 2 feet, which was pretty standard.

Mr. Lafferty agreed that made sense.

Mr. Keller said he really appreciates staff pulling this together and summarizing this as subsequently as he had. With his long term history with the county he asked how he would rate these current guidelines and their effectiveness in maintaining the existing underlying topography and geomorphology of Albemarle County.

Mr. Fritz said with the exception of the provisions in the development areas because there is not a lot of grading that actually occurs in the rural areas, and he was going to push that aside. With the exception of the provisions that exist regulating steep slopes you can terraform.
Mr. Keller asked have the vast majority of the developments we have seen in your tenure with the county dramatically changed the underlying topography.

Mr. Fritz said obviously it was in the developer's best interest to do as little earthwork as possible and try to conform to the landscape because it is expensive to build retaining walls and move materials. That being said look at the retaining wall that is at Lowe's. That was a massive filling operation. Sam's is sitting on top of 70 feet of fill and Walmart was 40 feet of cut. So that is just three projects that he can think of. Therefore, some projects have had fairly extensive terraforming and others have not. So there is no standard answer.

Mr. Keller said as a person of a design background he feels that there is not a site that can be found that can't be built on and maintain the geormothoroty of the site better and more effectively than most of the developments that they are seeing. He goes out Route 20 towards Key West and he is sickened by what he sees in the way the land is being disturbed. He looks at Fifth Street Station and am sickened with the way the land is being transformed. He believes that you could get the same number of residential units in that first one and the same number of commercial units in the other working with the existing topography in a more creative way.

Mr. Fritz agreed with alternative construction techniques obviously because you would pick the slopes up through the buildings, terrace the property more, use structured parking and things like that you can develop in varied terrain. However, it is very difficult to provide a single large footprint for a building and not have to do some grading because there is not a lot of flat ground.

Mr. Keeler agreed if one is not willing to break the massing up into different things.

Mr. Fritz said that was what he was saying to do one single building of a large footprint. Other jurisdictions have different terrains. Therefore, he agreed with Mr. Keller that some properties are graded extensively and others are not and different building techniques result in different needs for grading.

Mr. Keller said where he is going with this is in the discussions that they all have about Albemarle County being a really special place that he thinks a lot of that is the environmental qualities that we have been given. He believes that with better design to compliment the significant planning efforts that there are we would continue to have new construction that would be appealing to the people who came from other places and saw how that fit in our landscape. This to my mind is a step and where do we go to that next level to be able to do it. Because those of us who really believe and support economic development economic development is not the bad guy, but it is often in the bad rep that it is often given. It is the form that it takes. Yet he has seen all over the county and world where businesses and industry have responded to the specific sites and with that they have places that become even destinations, like the John Deere plant in Illinois for instance or the Johnson Place. He was interested in Mr. Fritz's thoughts with his long range in perspective in what might we add to work towards so we are not discouraging development, but we are giving more direction in how that development can take a form that is more respectful to our landscaping.

Mr. Fritz said the low hanging fruit would be to essentially utilize language they have already been utilizing in proffers and in the Steep Slopes Ordinance. It would be to amend the ordinance to broaden the performance standards. The more comprehensive thing he is talking about would be to do just a comprehensive analysis of the ordinance and of our goals as stated in the comprehensive plan, identify what it is we are trying to achieve and what we are trying to avoid, and then craft ordinance language that would promote those things we want and prevent those things we discourage. That would be a much more interesting and long term endeavor.

Mr. Randolph said he had one observation and a question on attachment B Steep Slopes Overlay District Development Standards D that talks about surface water diversions. He asked is this paragraph really appropriate given our new storm water management recommendations for water recapture. The paragraph reads pretty traditional in that surface water shall be diverted from the face of all cut and/or fill slopes by use of diversions, ditches and swales or conveyed downslope by using a design structure. Is that consistent with what has been recommended. He did not see it unless you are interpreting a design structure to reference a multiple step wall separation.

Mr. Fritz replied that it could be, but it could also be a diversion, ditch or swale. What that is talking about is less about how you would get the water off the slope than that you don't concentrate the water on the slope. Then the other provisions kick in about this water quality, which is about keeping the water from concentrating itself across the slope and causing long term erosion. The storm water regulations are going to pick up how you actually treat that water so they are working in concert and not working in opposition to each other at all.

Mr. Randolph asked Mr. Fritz if he feels what they are doing is consistent with what those goals and objectives are, and Mr. Fritz replied yes.

Mr. Morris invited public comment.

Public comment received from the following person:

Neil Williamson, with the Free Enterprise Forum, said during Mr. Keller's comments he was looking at Tom Loach because he served on the DISC Committee, DISC II and the Development Steering Committee and all they talked about was the topography of the area. Interestingly when they brought up topography issues when the county wanted to outlaw cul-de-sacs and promote interconnectivity of roads they said you can't have roads hook up like this. Many of the regulations that you have placed on the Neighborhood Model in the Development Area will require mass grading. That is the facts. They talked about it at DISC that this would work great in Iowa because it is flat, but we have a rolling Piedmont that we love. If you look at some of the older developments you can see some of those ideas coming into play. It is not just Albemarle County because VDOT loves interconnectivity and you have to have your links. However, these are ideas that are tough to do in a Piedmont area. It is not a new idea because it has been discussed for 20 years. He appreciates the idea of allowing innovative uses for economic development such as the Caterpillar Plant and the John Deere Plant because those ideas have great opportunities. He even looks at the film place in Culpeper that is built into the mountain, which is a great use of the space. He would hate to see Albemarle County dictate such things, and would ask that they make sure it is permitted by the Code, but don't dictate it. If you want to stifle economic development tell people how they have to develop their property and you will see applicant after applicant leaving Albemarle County. He thinks this is a really good discussion and was appreciative that they are having it at this level.

There being no further public comment, Mr. Morris closed the public comment period to bring the matter back to the Commission for further discussion.

Mr. Loach noted speaking of DISC that he remembered during one of the original presentation in DISC Mark Graham gave a presentation about the number of hours that staff is putting into problems post building into drainage problems. He asked if all the ordinance changes that have been made have had a significant dent in the number of hours staff has to do this now.

Mr. Benish said the requirement for curb and gutter has helped tremendously. A lot of the time was spent in areas of Lake Reynovia and Fontana was probably one of our last major developments where we could not require that. That potentially required some additional costs on the front end by the developer, but it certainly reduced our issues there. The overlot grading was one that they had and its purpose was to make sure each developer is not grading one lot at a time, which then creates puddles and nonconveyance. In major developments having that overlot grading concept has helped tremendously. However, there are still issues that come up since they have old properties that have old zoning that are being developed and old existing drainage issues that we still have to address. Therefore, there are still those issues; but definitely we have improved in those two areas.

Mr. Fritz agreed with Mr. Benish. However, the single biggest change was curb and gutter in terms of the long term issues around storm water. They have done a lot of other things also. The Steep Slopes Ordinance does appear to be making a significant difference also. However, we don't have a lot of projects that have been approved since then. But, the review and approval process has been made easier or so it has been stated and we will see how the long term maintenance goes.

Mr. Keller thanked staff for responding to the issue that the Commission wanted to hear more about.

No formal action was taken by the Planning Commission.

Old Business

Mr. Morris asked if there was any old business. There being no old business, the meeting moved to new business.

New Business

Mr. Morris asked if there was any new business.

- Mr. Randolph noted Pam Riley will be the next Scottsville District Commissioner.
- Mr. Loach announced his retirement from the Commission in January and his absence during December.
- Mr. Lafferty noted that the Governor last night announced that Virginia will get 55.5 million dollars of additional revenue from the federal government for highway and bridge repair.
- No Planning Commission meeting on November 24, 2015.
- The next Planning Commission meeting will be held on Tuesday, December 1, 2015 at 6:00 p.m.

There being no further new business, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 7:41 p.m. to the Tuesday, December 1, 2015 Albemarle County Planning Commission meeting at 6:00 p.m., Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

David Benish, Secretary

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