

ALBEMARLE COUNTY BOARD OF ZONING APPEALS

COUNTY OFFICE BUILDING
401 MCINTIRE ROAD – LANE AUDITORIUM
TUESDAY, APRIL 1, 2014 – 2:00 P.M.

Board Members: David Bass, Chairman
L.F. Wood, Vice-Chairman
Randy Rinehart, Secretary
David Bowerman
Ed Robb

Staff Members: Amelia McCulley
Ron Higgins
Stewart Wright
Francis MacCall
Carla Harris, BZA Clerk and Recorder

County Attorney: Andy Herrick, Assistant County Attorney

1. Call to Order

The meeting was called to order at 2:00 p.m. by Board Chairman David Bass. Mr. Bass stated that if anyone was aggrieved by a decision of the BZA, they had the right to appeal to the circuit court within 30 days.

2. Establish a Quorum

A quorum was established, and the meeting proceeded.

3. Matters Not on the Agenda

None were presented, and the meeting proceeded.

4. Matters Deferred from Previous Hearing

None were presented, and the meeting proceeded.

5. Appeal Hearing

SP2014-00008 Lochlyn Hill Temporary Construction Offsite Sign

Mr. MacCall: The applicant petitions the Board of Zoning Appeals to issue a special use permit for one offsite construction sign, or offsite sign, in accordance with 4.15.5(A.1). The proposal is to erect one sign on Tax Map 61A-01- Parcel 8. It will be a construction sign, and I believe in the report I've laid out the description of what a construction sign is versus just a regular business sign. It does make a differentiation in the ordinance.

The applicant is proposing one offsite construction sign and this is the schematic that is referenced in the report for their sign that they would propose. It essentially meets all of the criteria for a construction sign. They would fill in the blocks with the appropriate content. The content and size are not as important as the location is to this particular hearing. So here's an overview location of the property, where you can see the subject property in red. This will give some context from some of the other slides that I'll show you that will have references where you can see the color context so you stay in perspective of where everything is. The subject parcel is approximately 440 feet from the intersection of Rio Road and Penn Park Lane to the Lochlyn Hill subdivision. Here's the actual subdivision plat, you can see the yellow is the one on this page here, and with the

actual proposed subdivision and where the actual entrance to the subdivision of Lochlyn Hill would actually be on Penn Park Lane.

So before you, what you are trying to figure out and what I'm trying to help you figure out and to make a decision - is whether or not an onsite sign would be ineffective to communicate its message offsite because of topography or vegetation. You'll see with the next slides where topography will be the issue that we're dealing with here offsite. So again, go back to the layout. It's a little different, but it gives you a schematic of the pictures that will follow on the next few slides, as far as the pictures from Rio Road at the intersection of Rio Road, and then a little farther down Penn Park Lane. There will be another set that will actually show some additional photos and I'll elaborate on those.

So here's a picture -- these numbers at the bottom of the pictures will correspond with these numbers that you see up here -- one, two, three, four, five and six. So we are taking a picture here from across Rio Road to the location where the sign is proposed to be located. The next slide is a picture that was provided by the applicant with a schematic of where the sign would be proposed in relation to how a person would be standing and where the sign would fit on that property. The next picture is actually a picture from the intersection, looking towards the property. I've had some neighbors in the subdivision raise some concerns of the sign possibly blocking the sight distance. This picture is essentially taken right at the stop bar. Rio Road is up here looking towards the city, and the next photo we'll give a little different view where you can see the traffic. It is just a little further back. But you get that perspective there of the location of the sign...and how if you're moving forward, you should be able to see the oncoming traffic. The sign would not block the sight distance coming that way, from the perspective that I can see.

So, this picture here is a perspective of where we will end up at the end of the road, and I wanted to point this out because these landmarks -- the vehicle and the "End of State Maintenance" sign will be kind of where we are looking down the road on Penn Park Lane. This is where the topography is affecting the ability of the sign that's on the actual property from adequately communicating its message. This area here is actually Lochlyn Hill where they've started doing some of the grading, and the applicant can tell us a little more about that as far as where they are in their process. So, starting back at the beginning at the entrance, this vehicle here, we took a picture at the entrance here and you can see right there where the "End of State Maintenance" sign is. I don't know if you guys can see that well enough or not; up there it's a little dark. It does look like it's showing up pretty well on there. That's that perspective. If you notice, I cannot even see from the entrance the top of the County vehicle that was there at the beginning. So here's another -- I step out of the road, looking down there's that same vehicle traveling down, and you see the "End of State Maintenance" sign. Here's #6, I now start looking back up towards Rio Road and then back towards the sign. You can see the sign, there's the vehicle, and there's our own Stewart Wright standing in the road there.

The subsequent pictures that you'll see are taken at these points -- 7, 8 and 9 -- and they're taken from both directions. So right there at 7, I'm now at that intersection of the existing subdivision that's there, looking back up towards Rio Road and then back down towards the vehicle and the "End of State Maintenance" sign. A little further, you start seeing Rio Road starting to disappear. Then getting closer, a little farther, #9 -- again, you can't even see the traffic. You can barely see it, depending on the type of vehicle that travels down that way. Then we're back at the actual sign, so you see that perspective there. So again, going down that entire length of approximately 440 feet from the entrance all the way to where the approximate entrance of the Lochlyn Hill subdivision will actually be.

Again, the criteria as far as I have noted is that an onsite sign would be ineffective to communicate its message offsite because of the topography or vegetation. So let me go back to this picture here and get you that perspective again. If they put a construction sign at the top of their subdivision right here, and I am offsite,

technically on the road – it is visible. It might be able to communicate that message as far as what they are proposing. Penn Park Lane is a dead-end road. It does not go anywhere, there's no through traffic coming the other way other than residential traffic of the folks that live down in that area. But it's not connected to a major road. So for determining that application as far as whether it's ineffective to communicate its message offsite, I am offsite – technically on Penn Park Lane. And it may be effective at that point, but when you get up to where the traffic will actually be coming to the subdivision, hopefully those pictures were communicating that point that a sign down here, to have people moving safely into the subdivision, whether it's construction traffic, residential traffic. Having a sign up at this intersection would probably better serve, so it would be offsite. The sign would better communicate the message that they are proposing with their construction sign.

There are additional criteria in 33.8 that outline criteria for considering a special use permit, and in reviewing the application I believe that most if not all of those criteria are being met. It is my opinion that it does satisfy the goals and the sign regulations and the criteria for issuance of a special use permit. So I am recommending approval of the request with the conditions that are outlined here and in the report. I will end this with a little further perspective, and then we can open it up to questions from you all. But this is another perspective of seeing where the sign would be in the sense, and that perspective of traveling up towards Rio Road.

Mr. Bass: I've got a couple questions. Amelia, have we changed the offsite sign ordinance yet?

Ms. McCulley: No. We are very close. We've had a public hearing with the Planning Commission, they recommended it to the Board. We took it to the Board in March and one of the Board members had questions, and they deferred it for us to meet with a couple Board members. And we're going back in May.

Mr. Wood: Do you remember what the question was that the Board member had?

Ms. McCulley: It related to the proposed regulations, and whether it was going to spur or promote more sign requests as a result. And so when staff met with them and explained really how limited a kind of span of permission that we were talking about, I think there's more of an understanding. Maybe still a little bit of concern on that one Board member's part. We're really trying to get people to consolidate signs and limit offsite signs.

Mr. Bass: OK, on the wording, Francis, on the five-year expiration or sooner, with 75% of the units developed, is that your creation or is that in the ordinance?

Mr. MacCall: No, that's my creation in consultation with the applicant as far as the understanding of the eventual build-out and how long it will take to get to a point within that subdivision given the state of homebuilding. I know it's increasing, but...

Mr. Bass: So five years is somewhat arbitrary, it's not in the code?

Mr. MacCall: Somewhat, and I believe that the applicant can speak to that a little more. If this is approved, there is an agreement that they have with the actual owner of the property as far as the time limit that owner has put on there.

Mr. Bass: And then a last question – it's not before the Board – but a couple Board members are concerned about Penn Park Lane, and we wonder if the Planning Commission specified that the lane would be improved for the increase in traffic? It's a very narrow lane, visibility is poor.

Mr. MacCall: I don't know the full extent of the subdivision approval; the applicant may be able to speak to that a little more as well, because they are the ones that are developing the subdivision there to the north.

Mr. Bowerman: The end of that road is in the City, is it not?

Mr. MacCall: That is correct. The end of state maintenance is where the subdivision begins. They are dedicating some right of way with the subdivision and it probably will go up to a point, but I don't know to where that ends for their subdivision.

Mr. Bowerman: And there's also a large subdivision planned in the City, is there not, that may access this?

Mr. MacCall: I believe it is, the applicant may also be able to speak some to that, but yes, that would be part of -- I believe -- the Lochlyn Hill subdivision.

Mr. Wood: All of, what you've presented is in the County?

Mr. MacCall: Yes, the sign, the sign location and this subdivision portion is in the County.

Mr. Bass: Any other Board questions, or are we ready for the applicant, please?

Mr. Lopez: Good afternoon, Mr. Chairman, members of the BZA, staff. Francis, thank you for the thorough report. My name is L.J. Lopez with Milestone Partners. We're the development manager for the property owner, Lochlyn Hill Development Group. I won't go into too much detail on my report. We can breeze through a lot of the imagery that I've provided. Staff did an exemplary job on outlining the issues before you. What I will do is give a little bit more contextual information, and answer some of the questions that you did raise here just a minute ago.

So, on the screen before you -- and I guess what's in front of me -- this just gives a little bit larger context of the location of Lochlyn Hill, the neighborhood, as proposed. It's adjacent to Meadowcreek Golf Course at the end of Penn Park Lane. It's along the Rio Road corridor, and is one of several developments that are occurring along the Rio Road corridor currently. So you have Belvedere and Dunlora Forest and Stonewater are current neighborhoods being developed that have direct and adjacent access to Rio Road. This one is at the end of Penn Park Lane, and sometimes commonly confused with Penn Park Road -- which is the road further to the north, which does have a traffic light. My next is a little bit closer view, and I'm happy to back up if anyone wants to study these photos any further. This is a little bit closer view of the neighborhood adjacent to the golf course; again, at the end of Penn Park Lane. The block in red is the proposed location of the offsite sign, the property owner through the application process has already consented to that, and we've worked out an agreement on that. But that property is adjacent to Rio Road at the end of Penn Park Lane and is a location in which the primary vehicular traffic will come to the neighborhood. The only means of access to the neighborhood is along Rio Road and Penn Park Lane. There are no other points of access. The horizontal line that you see -- the green line -- that's the jurisdictional boundary. So to the north or what's to the top of the page here is Albemarle County, and what is to the south is the City of Charlottesville. So it is currently being developed as a large neighborhood, master planned community. Phase I -- which is what's currently under development and site construction -- is R4 zoning, being developed by-right. And in the City -- that's been rezoned to PUD.

The next slide I've got is the intersection of Penn Park Lane and Rio. The block in red shows approximately the location where the sign will be located. And it will meet all the conditions within the current onsite temporary construction sign being of a certain size and distance from the right-of-way line. It would obviously comply with all of those. The next series of slides, I think our photos were taken days apart, but the conditions onsite

were dramatically different. Francis managed a sunny day with warm temperatures, and for whatever reason, I decided to pick it when we had several inches of snow on the ground. But what's shown here, the numbers here – zero feet, Penn Park Lane, we're on Penn Park Lane. This is the "End of State Maintenance" sign, which is what Francis referenced – that is the visual landmark for the closest approximation to where the front corner of where the property is, and where it starts. And I've got a series of slides that walk backwards at 50-foot intervals, approximately, and you can see that the sign although the photo may be a little bit dark, as we continue 50 feet to 100 feet, not only do we have distance, but we have topography and we have vegetation. And I would also say that the street as it narrows and as you move, your perspective gets wider, your point of focus is narrower, and you have less visibility of the sign if located onsite. So there we are at 100 feet, 150 feet, 200 or so feet, and I may have been off in my approximations as to where I ended up in the intersection. Francis took a much more detailed [look] at a little over 400. And the intersection at Rio Road, again, that sign has disappeared. Not only distance, but the perspective of – with the houses and the vegetation – not visible at that intersection, and I've got two others. A view looking north on Rio – so the City would be behind us in this photo, and a view of the intersection looking south, with the City in the [background] there.

And lastly, this sign, borrowed from Stonewater, the neighborhood under construction across the street, and used as just a mock-up with a person there to provide a sense of scale for what those signs typically look like in their form. This would be an A-frame sign, two-sided, to capture visibility from both the north and south directions on Rio Road. And lastly, as Francis had indicated, the sign in kind of form or general concept would look something like this – and the two gray boxes would be changed out over time as the message of the phase of construction may need to change over time. So this is kind of the current concept, but meeting all of the criteria of identifying the neighborhood, the telephone number, the developer, contractor, builders, etc. – all pertinent information for the sign as they currently exist by-right for onsite construction signs.

A few other highlights that I just want to touch on while I have you all is, Lochlyn Hill is a neighborhood. It's a 200-unit multi-phased development, part in the City, part in the County. The County is being developed by-right; the City is a PUD. Rio Road carries approximately – depending on which traffic study you read, over whatever period of time they were done – 20,000 vehicle trips per day. And signage at the entrance, really increasing the health, safety and welfare of those residents in the neighborhood and adjacent neighborhoods, identifying so that there's no confusion between Penn Park Road and Penn Park Lane, and identifying that the neighborhood is under construction at the end of Penn Park Lane, where there's no other through traffic or a cross-street or a connection to. There hasn't been any development down at the end of Penn Park Lane for 30+ years, so it's really an unknown area and an unknown entity back there, so we feel strongly that identification for all – whether they're prospective purchasers, or subcontractors, or builders or construction delivery trucks – to know where it is because it is such a new entity, in an area that's not frequented unless you have reason to go there because you live there.

As far as the conditions, which was a question raised, we're amenable to the timing – and that was something that was discussed with staff before we came to the meeting. I felt as though staff was seeking a condition for timing; ideally, I'd like it to have the same timing of the development as a by-right, onsite construction sign. But if a restriction or condition had to be placed on it, the five-year 75% - whichever was the earlier to occur – seemed a reasonable amount of time to identify the neighborhood and kind of build an awareness of where the neighborhood is located. I'm a little bit hesitant about the design review of the sign, as indicated in condition #1. What's proposed or what you see before you certainly meets all of the criteria of a by-right onsite sign. But I wouldn't necessarily want to get into nor do I know that it's necessarily the best use of everyone's time – in reviewing what sign concept, and particularly if those blocks are to change over some period of time, are we looking at having to reapprove those? Or is that a staff review as long as we meet the criteria of what's a by-right onsite sign, I would think that would be enough. So, I'll leave it at that, and if there's any questions that you all have, please...

Mr. Bass: Mr. Bowerman's point about it might be a through-road at some point in the future, is that correct or incorrect?

Mr. Lopez: Incorrect. So, there are no other points of access.

Mr. Bass: It doesn't look like it. What about the improvement to Penn Park Lane?

Mr. Lopez: Improvement to Penn Park Lane, so Phase I is being developed by right, and what's currently approved on the plan, there's no available right of way available for a widening of Penn Park Lane, based on existing residences and based at the intersection, there's no additional right of way available for a right-turn lane. But what is being done within the existing right of way is upgrade to the storm drain system that exists on Penn Park Lane, and we're capturing a lot of that storm drainage and taking it into our development into a stormwater management pond that we're constructing. Secondly, we're creating a sidewalk on the southern side of Penn Park Lane that will go from the neighborhood out to the intersection at Rio Road. The idea there being pedestrian access on one side of the street so that residents can safely access across Rio Road, and Stonewater has access to the Meadowcreek Parkway Trail through their development so the idea being that there was sidewalk access across. And lastly, there is a topcoat or a resurfacing of Penn Park Lane through to the intersection that's all currently approved as part of the by-right development for Phase I.

Mr. Bass: That's not within our purview, so I appreciate your comments but it looks like a narrow road to me. Francis, I've got a question on this. I mean, our talks in the past about offsite signs, we've discussed directions, safety, but I'm seeing 800 numbers, names of developers, names of marketing people. Did the staff consider a smaller sign that dealt with directions as opposed to the marketing aspects of this development?

Mr. MacCall: Not directly, but I mean if you would like some sort of directional aspect to that – that there's an arrow of some sort, or a "turn here," or something as far as that goes? But generally with construction signs, there is no real regulation to the content other than meeting the definition of meeting those items that are on it. But there was no specific determination or suggestion that there should actually be some sort of directional feature on there.

Mr. Bass: Amelia, I come back to the ordinance. What's our [consideration]? Is it safety here? Is it directional? I understand the topography limitation, I see the need for a sign, but I'm still questioning in my mind whether we're setting at least in my mind a precedent here with offsite signs.

Mr. MacCall: Part of the goals of the sign regulations are to improve vehicular and pedestrian safety by avoiding saturation and confusion in field of vision; otherwise it results in signs not regulated. So you are in a sense having something there to make sure people are able to turn in that location versus missing Penn Park Lane, which is just the small street sign, and then having to go down to the next intersection and turn around.

Mr. Bass: I get you, Francis, but do I need an 800 number? A phone number? Do I need the names of all the developers and marketing people when I've got a 20,000 traffic count on Rio Road? Or do I need an arrow that says the Lochlyn Hill development is to your right, or to your left if you're coming from the other direction?

Mr. Bowerman: Mr. Chairman, in that particular area there are so many current projects and so many construction signs, it's very confusing. And anything this sign can do to indicate where the development was, I think could be important.

Mr. Wood: And what is the reason for the telephone number? We've been through this before, and that seems like it could get into marketing, and the content of those two squares I think could be left up to the staff, but also we've discussed that content and taken off some content on other sign requests. So it kind of takes it out of our hands not knowing approximately what might be on there now. Is it going to be advertising or marketing?

Mr. Bass: Directional.

Mr. MacCall: Well right now, if somebody were to put up a construction sign, that does not come into play. They have a phone number on there, so we were just treating it as the same kind of sign that are all along there – phone numbers, contractors, subcontractors, lending institutions. It is an advertising sign, so that is what they're trying to do is advertise their location, and who they are, and the product they are putting together. And so, if somebody drives by and sees a phone number, whether they're there actually developing on Rio Road or farther off, we were just giving it the same consideration as any other construction sign. We weren't really putting any conditions on that. But if you would like to consider potentially saying that it needs to have a directional arrow of some sort, that may be within your purview – I don't know.

Mr. Bass: It's an offsite sign, that's what we're talking about – not an onsite construction sign. I don't have any problem with that, that's obviously in the ordinance. Andy, we haven't asked you to address the Board.

Mr. Herrick: In looking at the ordinance, I see the definition of a construction sign, the term "construction sign" means a sign that identifies a construction project and/or an architect, contractor, subcontractor, materials supplier, or lending institution participating in the construction project. So the definition of "construction sign" does anticipate more than just directions. It does anticipate identifying who's involved with the project.

Mr. Bass: But it's offsite.

Mr. Herrick: Yes sir, but my understanding is that what's being proposed is that the standard for a construction sign be imposed on whatever may or may not be permitted offsite.

Mr. Bass: Thank you.

Ms. McCulley: I can appreciate your struggle, and I really actually very much appreciate how carefully you're considering that, because I think we've done a lot of thinking about just how limited our allowance for offsite signs should be. So in this particular case, it is a construction sign and it's a temporary sign. And given the fact it is of a short-term duration, and they can have other longer term solutions for listing the development and the fact that the topography really does make an onsite sign ineffective to communicate the message offsite - we were supportive of it. If a directional arrow also serves part of the purpose that we're talking about here, which is directing people to the development down that road, then maybe that's a good addition to the sign.

Mr. Robb: Mr. Chairman, I have some concerns related to the use of the word "temporary sign," but I'm led to understand that this sign could be there as long as five years, is that correct?

Mr. Bass: That's the proposal, but it can be amended by us.

Mr. Robb: OK. And the question that remains still, it says "reason for review, Section 4.15.2 defines a construction sign as follows..." Are we dealing with a construction sign here?

Mr. MacCall: No, an offsite sign. It's just that it meets the criteria of a construction sign, yes.

Mr. Robb: "A sign which identifies a construction project and/or architect, contract or subcontractor, materials supplier or lending institution participating in construction project." I'm not hearing anything about a marketing company. I'm not hearing anything about putting telephone numbers for the realty company. Those kinds of information presented here, and I'm in line I believe with what the Chairman is bringing up.

Mr. Bass: I'm approaching it as an offsite sign, not as a construction sign. It would be impossible – it took me, I turned on the wrong road myself, and it took a long time to find the development. But the phone number and the companies here in the bottom wouldn't have helped me a bit. The sign "Lochlyn Hill" would have, and arrows would have helped a lot. So my thinking is it's more directional. Clearly a need for an offsite sign, but it's more directional. I'm more concerned with safety than marketing, so that people do get the turn right the first time. That's just where I am. But I'm still not clear even with Andy's help whether this is a special use permit for a construction sign or an offsite directional sign. Because I'm kind of going the other way here, and maybe I'm off the reservation.

Mr. Herrick: So I see that also as part of the Zoning Ordinance, Section 4.15.5D, that "a special use permit shall not be required for offsite directional, political, subdivision or temporary signs." So if what was before you was simply a directional sign, it wouldn't require a special use permit.

Ms. McCulley: And you know, this sign is somewhat of a hybrid – it's probably more appropriately termed a "real estate sign" than a "construction sign." Of course initially and for several years, construction is going to be occurring. But in many ways, in terms of the purpose of the sign, it's more like a real estate sign.

Mr. Bass: So they could have a by-right directional sign of this size on the corner of Rio and Penn Park Lane without our approval?

Mr. MacCall: And I believe it can be 32 square feet.

Mr. Wood: What's the square footage of this one?

Mr. MacCall: The limit is 32. That's what the ordinance allows for construction signs, so we're using the guidance of the ordinance to move towards a kind of hybrid as Amelia said, of the type of offsite sign that they would put on there. It would be similar to a construction sign, but it may also then meet some of the portion of the definition of a real estate sign as well.

Mr. Rinchart: That was my first question. You hadn't brought up until just now the size, so the size is not an issue, what you've said. Second is, do we have the prerogative to say what goes on a sign like this? Help remind me. I didn't know, if an applicant wants to put up a sign – and there are the guidelines – I don't know if we can change or add to it? I'm in total agreement with what the sign is really going to end up being, but I just wanted to...

Ms. McCulley: I think that we are limited, generally speaking, to regulate the content of the sign. Now the fact that this sign is available only by special use permit, if one of your findings is that the purpose of the sign is providing direction that isn't otherwise provided by an onsite sign, then I think it's appropriate to say the sign should have an arrow if that's what's needed to better direct people to the site.

Mr. Bass: We have not asked if there are any public comments today, other than from the applicant. If there are, if anyone would like to address the Board, please let us know right now.

Mr. Wood: Applicant, you look like you had something else to say a minute ago...

Mr. Lopez: The only comment I was going to add, or really question to ask is, of the signs that are currently along Rio Road that are in the same vein and context of what this is, would those then qualify as a real estate sign if the content of those being similar, are those then real estate signs? But I think that the general consensus, or at least what I've been discussing with staff to this point has been that those are construction signs. And so we kept content and material in the same vein. To give you some more detail on the block for the inserts, those would be builders of the homes that would be featured in the neighborhood. Those are still somewhat undetermined at this point, so I didn't have logos to put up there to finalize. But again, builders, contractors, the bank, and in today's day and age a telephone number and a website, there are a lot of folks with smart phones...that phone [number] will get to a live person, and they can get additional information about location, traffic, any number of things by talking to somebody. So I think those are important as informational in addition to a directional arrow.

Mr. Bass: Any other comments before the Board considers this? Francis.

Mr. MacCall: Would you all like some sort of suggested language on a [sign], if you so desire to change that first condition? And then we were evaluating the third condition as far as potentially adding some additional suggested language to that?

Mr. Bass: Let's start with number three. Is the Board happy with "five years and 75%?"

Mr. Rinehart: I don't have any problem with that.

Mr. Bass: The number one then, Francis, would that include the directional arrow?

Mr. MacCall: Something to that extent. But back on number three, if possibly considering saying something like "the sign shall be removed at the earlier of either...five years or 75% of the dwellings."

Mr. Bass: That makes it more clear, but I thought that's what you meant.

Mr. MacCall: I thought so as well, but I just wanted to make sure...so "the sign shall be removed at the earlier of either five years or 75%," and then nothing changes after that.

Mr. Rinehart: Before we go any further, Ms. McCulley, did I understand you to say that there's going to be another potential sign in the future that will be put in after this? It won't be a subdivision with no sign, down the road?

Ms. McCulley: That's right, any subdivision has the ability to have a sign at any of the entrances to the subdivision. And in addition to that, the proposed sign [regulations] that we're working on for offsite signs would encourage somebody to bundle or consolidate - have multiple establishments on a sign at the intersection. So they could potentially, we would hope people would go together on sharing a sign at the intersection.

Mr. MacCall: It would have to be a special use permit, they would have to obtain the bundle sign as a special permit still. So the first condition, I'm not sure how to continue the language, but something to the extent that "the sign shall be limited to a construction sign and must include a directional arrow." And I'm having trouble trying to figure out how to word possibly something that would say, "in the direction of Penn Park Lane," as far as where. You don't want them to put the directional arrow, obviously they're not going to put it straight up in the air, but it's kind of that turning direction and I'm not quite sure how to get the rest of that.

Mr. Bass: If you're coming from the east, the arrow would point to the right. If you're coming from the west, it would point to the left.

Mr. Rinchart: [inaudible]

Mr. MacCall: So just ending it as, "and must include a directional arrow."

Mr. Bass: Board comments on the directional arrow?

Mr. Bowerman: The arrow would be the same. I mean the direction, would it not?

Mr. Bass: Yes. Amelia, do you want to draft the language, you guys? Yes sir, Mr. Lopez.

Mr. Lopez: Mr. Rinchart, just to answer your question about, to alleviate any confusion on signage in the future, what's being requested is one offsite construction sign in the same vein as other signs as Rio Road to serve the same purpose. And that being conditioned this point as the earlier to occur of five years or 75% of the development, and we're amenable to that. The addition of an arrow to further enhance the direction of the neighborhood and location of it, no issue. Signage in the future, once that time period were to expire, to use the ordinance language -- a "subdivision/monument sign would be located at the entrance onsite to the property." There is no request in the future for an offsite subdivision [sign] along Rio Road. There's no intent for that.

Mr. Bass: Good, gotcha. The other one's an onsite sign.

Mr. Lopez: Correct. So this is the one and only that I expect to be here before you [for], and our subdivision onsite monument sign will be located onsite, on property owned by the neighborhood. At that point we've served our purpose in identifying where we are in locating ourselves for a period of five years, and kind of training the public if you will -- and at that point, there's no longer a need for Rio Road signage.

Mr. Bass: I like the website better than the phone number.

Mr. Wood: Well, that's alright.

Mr. Bass: The Board is fortunate to have four staff people. Five now.

Mr. Wright: I just want to offer some clarifications on certain nuances of the ordinance that may help you reach a decision, because I realize we're kind of getting hung up on what this sign looks like. So just a bit more information may help steer you towards a direction. What the applicant is proposing is an offsite construction sign. If we deemed this to be a real estate sign, we would still be before you doing the same thing because it's an offsite real estate sign. A real estate sign could also be 32 square feet, and you've got to remove it once the property is sold. I think there's a bit of confusion about what the ordinance says in that a directional sign does not require a special use permit [in order] to be offsite. That is true, but the ordinance only defines a directional sign as a temporary directional sign, and limits it to four square feet. So the applicant certainly has the option of sticking the little metal real estate signs in there that says "Lochlyn Hills" with an arrow, temporarily. But if they came in and applied for a directional offsite sign that was this size, 32 square feet, staff would deny it because it's not allowed by the ordinance. So as far as a construction sign goes, we get these questions a lot, and this is fairly typical of what a construction sign looks like these days. And I do applaud the applicant for agreeing to remove the sign after a five-year time period, because other examples that I can give you of signs

very similar to this – Hollymead Town Center, they began construction in 2004. Here we are 10 years later, and we still have four or five construction signs very similar to this still there as of this time.

Mr. Bass: Thank you.

Mr. Robb: Mr. Chairman, just as a point of interest and education for me, who does the enforcement of the removal of such a sign? Who would be tracking this? Is there some sort of tickler system that's set up to cause this enforcement to occur? I mean, just how is all this done? You say there's signs that are up that have been up 10 years, here's one that's going to up no more than five, but who's... watching the shop here?

Ms. McCulley: Well I think Stewart's example is not to say that it's a violation that we haven't made Hollymead Town Center take theirs down, because they're still in development and still allowed to have a sign up. In answer to your question, we really don't want to do this very often because it is difficult to set up a system that will track five years forward with changes to computers and other types of systems. So every time we have something that's a timeline – a lot of proffers are time-based – we have to establish a tickler system in the calendar. But it's something you want to do rarely.

Mr. Robb: Thank you for the information.

Mr. Bass: OK. Francis, do you want to read the language that you've finalized?

Mr. MacCall: One would be, "The sign shall comply with the standards of a construction sign, and shall contain a directional component. The sign shall not be illuminated in any manner. The sign shall be removed at the earlier of either five years from the date of approval of this special use permit or when 75% of the dwelling units within the entire Lochlyn Hill subdivision obtain a certificate of occupancy. A request for an extension for one year must be made no sooner than two weeks before the five-year deadline, and may be granted by the Zoning Administrator."

Mr. Rinehart: Moved, with that language.

Mr. Robb: Mr. Chairman...not wanting to be a stickler for detail, but how many of these signs do we have out now that have these kind of time limits that exist? None. This would be the first and only one? I would just like to bring to the Board's attention that we may be opening a can of worms here by putting that time limit on there. If no other signs are required like that, then why are we putting these time limits on this particular sign?

Mr. Bowerman: There's a motion on the floor, I'll second it.

Mr. Bass: It's been moved and seconded. Randy Rinehart made the motion and David [Bowerman] seconded it. In the course of discussion, I would like Amelia to answer [Mr. Robb's] question.

Ms. McCulley: I can tell you that if this were a request for a permanent sign, we would not be recommending approval. It doesn't meet the standards for an individual establishment on a road that serves multiple establishments to have its own sign. We would have to do a whole different analysis, and part of the analysis was based on the fact that it was a short-term usage, primarily during construction and early development.

Mr. Robb: Mr. Chairman, to consider under the point of discussion - who proposed putting this time limit? Where did that come from?

Mr. Herrick: Well, there's nothing in the ordinance for construction signs, using that base that says it has to be up for x number of years. I was using that base but knowing that it was still temporary and offsite, which is a little different than your standard sign, like [Mr. Wright] was saying, that could then stay there for 10 years. So I had thought of putting the condition, knowing that it would be removed and not stay there for 10 years, and applying that kind of condition.

Mr. Robb: Mr. Chairman, I have a problem with the "single finger" if you will, just one sign in the entire County that has to meet these criteria. I have no problem with the sign itself. I agree that that should be fine, but that's my position when it comes to this vote.

Mr. Bowerman: Up at Hollymead Town Center, those are onsite signs, correct?

Mr. Bass: That's different.

Mr. Bowerman: And they're totally different. I mean, as long as it's under development, it's onsite, they're allowed.

Mr. Rinehart: Mr. Robb, I will entertain if you have a modification to number three, to my motion, to make your point. I'll listen to that...if you want to make a recommendation to modify number three of the condition that is on the table, what would that be?

Mr. Robb: That particular time limit be removed entirely in order to be consistent with the other signs that exist in Albemarle County at this time.

Mr. Rinehart: So would that limit be once that 75% of the houses that receive their certificates of occupancy?

Mr. Robb: It would be whatever the other language has been in the past to grant these sort of signs.

Mr. Herrick: So the language that's currently in the ordinance for construction signs basically states "it shall not exceed 32 square feet in sign area" and that "a construction sign shall be removed within seven days after the issuance of a certificate of occupancy. I believe the intention of that language has an idea of one house being constructed - "a certificate of occupancy." There are going to be multiple certificates of occupancy on this particular application for this particular site, so seven days after the first CO is given to the first house in this subdivision, the sign has to come down. I didn't think that we were...

Mr. Robb: Then what we have is a conflict as to what a "construction sign" is.

Ms. McCulley: There are many signs that have time limits. If you look two signs up from "construction sign," "auction sign" has a time limit, "political sign" has a time limit, "real estate sign" has a time limit - these are all things that we don't proactively or actively enforce. But there are a lot of built-in time limits for particular types of signs that are based on activities or events for example. Temporary signs have time limits.

Mr. Bowerman: This is a special application, because it's for an offsite sign.

Mr. Wright: I'd just like to clarify one thing for the Board with that particular language there, where it says "it shall be removed after the issuance of a certificate of occupancy." That language was certainly written with the idea of a construction sign in front of a lot with one house being built on it. When we have these larger developments that have 3, 4, 500 lots in them - Old Trail, for example, or even a commercial development - I

mean, it's certainly the intent is that seven days after the issuance of the last CO, construction has ceased, the project is done, now remove your sign.

Mr. Robb: Well Mr. Chairman, if that's the case, wouldn't it be that we don't have an ordinance to deal with the questions before this Board now? If the only construction sign that we have an ordinance on relates to construction sign for a single residence.

Mr. Wright: I can't say that the ordinance specifically says that, I'd have to leave that to the County Attorney. But the way the ordinance is written now, with this project if we were talking about a by-right, onsite construction sign, once they had completed the last house in Lochlyn Hill, the construction sign would have to be removed within seven days.

Ms. McCulley: This is coming to you as an offsite sign, and as we've discussed, it serves a couple of different purposes. Marketing is listed – it's marketing the development. Builders are listed – it's also advertising as a construction sign does the builders involved in the project. So what's before you is a special use permit because it's an offsite sign that's not allowed offsite, and conditions are recommended that limit the term of it. If the applicant is in agreement with it being a short-term approval, they will have other options available to them longer term for listing the subdivision name.

Mr. Lopez: If I could clarify that, we're in agreement as the condition is proposed; however, if given our preference, we'd have condition #3 eliminated, and it would be held to the same standard that all other construction signs are held to today in that it is maintained for the duration of the construction of the development, so as one, not to impose an administration challenge for removal of the sign and the timing and how to determine 75% - but also, real estate markets change, and if additional time were needed in order to continue to still serve its purpose, which all other developments currently receive that benefit, we would support the removal of condition #3 as well.

Mr. MacCall: And I am confident in staff's ability to make sure that condition is complied with.

Mr. Bass: I'll remember too, Francis.

Mr. Wood: I personally think a time limit is an asset to this, and I would be willing to leave the enforcement up to those people who do the enforcement – and that's not us.

Mr. Bass: So is the Board happy with a motion as originally made by Mr. Rinehart, which does not eliminate condition #3. If so, is the Board ready to vote on this. If so, please call the roll.

Ms. Harris: Mr. Wood?

Mr. Wood: Aye.

Ms. Harris: Mr. Bowerman?

Mr. Bowerman: Aye.

Ms. Harris: Mr. Robb?

Mr. Robb: Aye.

Ms. Harris: Mr. Bass?

Mr. Bass: No.

Mr. Bass: So the sign is approved 4-1.

6. New Business

A. Minutes of February 4, 2014

MOTION: Mr. Bowerman moved to approve the minutes as presented. Mr. Wood seconded the motion, which passed unanimously (5-0).

B. Annual Report – Board of Supervisors

MOTION: Mr. Wood moved to approve the minutes as presented. Mr. Robb seconded the motion, which passed unanimously (5-0).

Mr. Wood said that he had only raised the issue of the phone number because of a previous matter regarding a sign on Route 250 that had caused some controversy, and they changed a lot of wording on that sign to make it conform -- but they still had to come back and consider it. He stated that with the Lochlyn sign issue, they seemed to be within their bounds.

7. Old Business

There was no old business presented.

Mr. Bass asked Ms. McCulley about the quarry issue.

Ms. McCulley responded that she's been given another 300 pages of material to review, in addition to 300 she already has -- and it's from many different sources that staff is now trying to verify. She said that it would be a big meeting for the BZA once she makes her determination and it's appealed.

Mr. Bowerman asked why it was so long and involved.

Mr. Herrick said that Ms. McCulley knows more than he does about it, but his understanding is that it deals with the property ownership rights of the area owners and to what extent individual lot owners are still subject to the mining rights of others on their property.

Ms. McCulley stated that it's a very emotional issue for residents who own the surface rights and live on these properties or own homes on the property, and part of the complication is that when they're dealing with a nonconforming use in the County, we have to research back to the adoption of zoning, which is 1969. She said that's a long way to go back to find mining reports, and the state only started permitting mines in the mid to late-1970s -- so some of the data isn't available.

Ms. McCulley said that she wasn't sure if they would meet in May, because the deadline to file new appeals and variances was the following Monday, April 7.

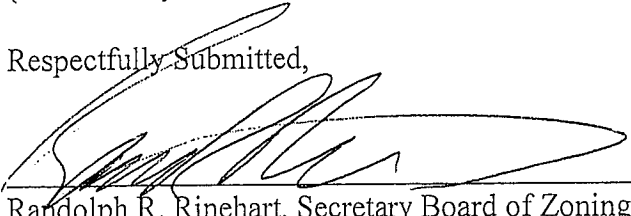
8. Adjournment

Mr. Rinehart moved to adjourn the meeting. Mr. Wood seconded the motion, which passed unanimously (5-0).

There being no further business, the meeting adjourned at 3:05 p.m.

(Recorded by Carla Harris and transcribed by Beth Golden)

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Randolph R. Rinehart", is written over a horizontal line. The signature is stylized and cursive.

Randolph R. Rinehart, Secretary Board of Zoning Appeals

