

Albemarle County Planning Commission
May 5, 2009

The Albemarle County Planning Commission held a public hearing and meeting on Tuesday, May 5, 2009, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Calvin Morris, Marcia Joseph, Don Franco, Linda Porterfield, and Thomas Loach, Vice-Chair. Eric Strucko, Chairman, Bill Edgerton and Julia Monteith, AICP, non-voting representative for the University of Virginia were absent.

Other officials present were Scott Clark, Senior Planner; Wayne Cilimberg, Director of Planning; Mark Graham, Director of Community Development; Bill Fritz, Chief of Current Development, Rob Heide, Zoning Enforcement Manager; Lisa Green, Code Enforcement Officer, Ron Higgins, Chief of Zoning; Amy Pflaum, Senior Engineer, Glenn Brooks, County Engineer; Rebecca Ragsdale, Senior Planner; Summer Frederick, Senior Planner; Joan McDowell, Principal Planner and Andy Herrick, Senior Assistant County Attorney.

Call to Order and Establish Quorum:

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

Committee Reports:

- Mr. Morris reported that the Pantops Steering Committee would hold an open house on May 18 from 4:30 to 6:30 p.m. at the Broadus Memorial Baptist Church. Members of the public are welcome to come and talk about any ideas on how to pursue projects within the Master Plan without spending a lot of money.
- Ms. Porterfield reported that the Historic Preservation Committee met and is looking for four new members with terms starting in June.
- Ms. Joseph reported that there were no *MPO Tech Committee* or *PACC Tech* meetings this month. An email was sent from TJPDC regarding a survey on public transportation. Ms. Joseph volunteered to forward the survey to any Commissioner upon request.

Other Matters Not Listed on the Agenda from the Public:

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

Consent Agenda:

Approval of Minutes – February 3, 2009

Mr. Loach asked if any Commissioner would like to pull this item from the consent agenda.

Motion: Mr. Morris moved and Ms. Porterfield seconded for approval of the consent agenda.

The motion passed by a vote of 4:0:1. (Mr. Franco abstained.)

Regular Item:

SDP-2008-00061 Earlysville Business Park

The request is site plan approval to allow the construction of an 8,000 square foot building described as a "Machine Shop". This application includes requests to modify Section 4.2.3.2 to allow activity on critical

slopes, Section 4.12(g) to remove the requirement for curb and gutter in a parking area, and Section 26.10(c) to allow disturbance in a landscape buffer. The property, described as Tax Map 31 - Parcel 21A, contains approximately 26.8 acres and is the location of the Earlysville Business Park, and is zoned LI, Light Industry. The site, known as Earlysville Business Park is located on the south side of Reas Ford Road approximately 1.1 miles west of the intersection of Reas Ford Road and Earlysville Road. This parcel is located in the Rio Magisterial District and is designated as Rural Area in the Comprehensive Plan. (Summer Frederick)

Ms. Frederick presented a PowerPoint Presentation and summarized the staff report.

- The applicant proposes the extension of an existing road, construction of an 8,000 square foot building described as a "Machine Shop", and the creation of a contractor's storage yard. The proposal includes requests to modify Section 4.2.3.2 to allow activity on critical slopes, and Section 26.10(c) to allow disturbance in a landscape buffer. Adjacent property owners have requested the Planning Commission review of the project.
- With approval of the requested waivers the plan meets Zoning Ordinance requirements for a parcel with light industrial zoning. There are some outstanding issues and the applicant is currently working with county staff to resolve these issues. Therefore if the waivers are approved staff recommends the Commission approve the site plan with instructions to the agent to withhold final signature until the following have been secured.
 1. Approval of submitted Water Protection Ordinance application,
 2. Final VDOT approval,
 3. Final VA Health Department approval,
 4. County Engineer approval of Certified Engineer's Report for noise levels.
- This critical slopes modification request has been reviewed for the Engineering and Planning aspects of the critical slopes regulations. Section 4.2.3.2 of the Zoning Ordinance restricts earth-disturbing activity on critical slopes, while Section 4.2.5(b) allows the Planning Commission to waive this restriction. The applicant has submitted a request and justification for the waiver, and staff has analyzed this request to address the provisions of the ordinance.
- Critical slopes cover approximately 4.00 acres or approximately 15 percent of the 26.8 acres of the property. This request is to disturb 0.80 acres, or 20 percent of these critical slopes. Staff has reviewed this waiver request with consideration for the concerns that are set forth in Section 4.2 of the Zoning Ordinance, entitled "Critical Slopes." The critical slope areas within TMP 31-21A appear to contain both natural and man-made slopes. The critical slopes are partially in areas of embankments that were most likely created when the existing building on the parcel was constructed. There are also areas that appear to be stockpiles of soils and debris. The presumably natural critical slopes are small, scattered areas on the perimeter of the site. Staff review has resulted in both favorable and unfavorable findings:

Favorable factors:

1. The applicant has satisfactorily addressed the technical criteria for the disturbance of critical slopes.
2. The measures proposed by the applicant will satisfy the purpose of Section 4.2, at least to an equivalent degree, meeting the requirement for 4.2.5(a)3(a).

Unfavorable factors:

1. Denial of the waiver would not prohibit or restrict the use of the property.
- The Planning Commission may grant the modification if it finds that the request has met one of the three requirements in Section 4.2.5 (b). Staff has found that the request for modification meets one of the three requirements, and therefore recommends approval.

- **LANDSCAPE BUFFER** - Section 18-26.10(c) provides for minimum yard requirements in industrial districts, and the allowance of a waiver of this section by the commission as follows: No construction activity including grading or clearing of vegetation shall occur closer than thirty (30) feet to any residential or rural areas district. Screening shall be provided as required in section 32.7.9. (Amended 9-9-92) The commission may waive the prohibition of construction activity, grading or the clearing of vegetation in the buffer in a particular case where the developer or subdivider demonstrates that grading or clearing is necessary or would result in an improved site design, provided that: (i) minimum screening requirements are met; and (ii) existing landscaping in excess of minimum requirements is restored. (Added 7-10-85)
- The applicant's proposal to extend the public road will require disturbance of the required buffer. Extending the public road and the inclusion of the stub out provides public road frontage to two parcels that are currently landlocked. Staff review has resulted in both favorable and unfavorable findings:

Favorable factors:

1. The applicant has provided screening required by Section 32.7.9.8.
2. The proposed screening matches vegetation already in place where the buffer has been previously disturbed.
3. Approval of landscape buffer disturbance allows for the extension of a public street that appears to meet the newly adopted VDOT inner-connectivity standards.

Unfavorable factors:

1. At the time of installation, replacement vegetation will not exactly match existing vegetation in height or density, but the nature of the plantings will, in time, equal or exceed the existing screening.
- Staff believes proposed landscaping addresses screening issues to the greatest extent possible under the current zoning regulations, and therefore recommends approval.

In conclusion, the Planning Commission will need to act on the final site plan proposal and waiver requests from Section 4.2.3.2 – disturbance of critical slopes and a waiver of Section 26.10(c) – disturbance of required landscape buffer.

Mr. Loach invited questions for staff.

Ms. Porterfield questioned where the adjacent neighbors abutted the property, and Ms. Frederick explained the location of parcels 21B, 21K, 21D and 21C.

In response to Ms. Porterfield question about the owner of parcel 21C since the road was being placed on that property, Ms. Frederick noted that the same person owned parcels 21C and 21B, but not 21K.

Ms. Porterfield asked who owned 21D, and Ms. Frederick replied that she did not know.

Ms. Joseph asked if there was any reason why this was a public road since it served the one parcel.

Ms. Frederick replied that it was currently a public road and would be extended as approved on the last site plan 2005-144.

Ms. Joseph noted that the letter from the neighbors talked about the fact that usually when there is a public road there is a subdivision occurring. She asked if staff talked to counsel or looked at the rules and regulations because it is unusual for a public road to serve one parcel.

Ms. Frederick replied that the road actually comes through several parcels, 31-19A and 19, before it reaches the subject parcel. Therefore the public road is serving more than one parcel.

Mr. Fritz noted that if VDOT felt that the road was ineligible to be brought into the public road system they would have said so during the site committee review.

Ms. Joseph asked how the parcel was being connected to the landlocked parcels and if it had to do with the new legislation.

Mr. Fritz replied that VDOT would not have required the road to be continued because those regulations were not fully in effect at the time when the application was filed. It is clearly getting closer to meeting VDOT's standards for interconnectivity. It also affords access to parcel 21C which is currently a nonconforming parcel with no frontage. Parcel 21D is owned by the same owner as 21C.

Ms. Porterfield clarified that parcels 21D, 21C and 21B are all owned by the same person and 21K is owned by someone else, and Mr. Fritz replied that was correct.

Mr. Loach opened the public hearing and invited the applicant to address the Commission.

Mark Keller, with Terra Concepts and representative for the owner of the property Four F, LLC, noted that his associate, Allan Franklin, handed Mr. Franco an enhanced exhibit. Highlighted in yellow are the additional parcels owned by Four F, LLC so that the Commission can see the adjacent ownership. Highlighted in red are the three parcels not owned by this group that actually touches the subject property. Some are the parcels highlighted in yellow are zoned LI along Rais Ford Road, but the vast majority of the acreage is zoned RA. He noted the following:

- The business park resides on one tax map parcel zoned LI and the parcel has been used for industrial purposes for more than 40 years. The subdivision of RA land in the surrounding neighborhood occurred more recently. The property is now an enterprise zone for numerous businesses. They wish to continue to maximize the potential of the LI zone property. The applicant owns numerous other parcels that nearly surround this property. The vast majority of those are zoned RA and will not be touched other than as requested in the critical slope waiver or the need for extending the road.
- There are only three parcels that abut the subject site that are not owned by the applicant, which includes the Earlysville Volunteer Fire Department property, the first lot on the left in the east section of Graymont at the entrance and one lot in the western section of Graymont. Properties of other neighbors are separated from the LI land by the applicant's RA land. This property has unused LI land that can easily be crafted into a venue for contractor's storage yards and other small businesses that require LI property and they are currently seeking it. Logical development of this small portion of the property requires that they disturb a limited amount of slopes that meet the critical slopes criteria. It also requires that they disturb an area that resides within 30' of some RA zoned land, albeit most of it owned by the applicant. This disturbance is part of the parcel in the short extension of an existing road. The previous phase of this road had notes that said this road is to eventually be extended to serve the tax map parcel 31-21C. The extension of the lane would now serve two adjacent RA parcels owned by the applicant that are now landlocked. These interconnections were deemed desirable by all parties that have been a part of the review to this point.
- The site plan also reflects the simple extension of hardscape and landscape improvements that were accomplished during the recent construction of the Foster Well and Pump Facility. Yesterday they received comments on their certified engineer's report. They have no problem with making the satisfaction of these matters a condition of the site plan approval as is recommended in the staff report. The applicant feels that they have a solid plan before the Commission and if performed on their end of the bargain with regard to several key issues associated with this property they feel this application is ready for consideration and request support.

Mr. Loach invited questions for the applicant.

Ms. Joseph asked if parcel 21D is landlocked.

Mr. Keller replied that he did not know what vague easements must exist, but he doubted that any do. His recollection was that Graymont might have been part of Panorama Farms with a different owner. His assumption is that no interconnectivity easements between those subdivision sections were provided. If the sole source of access would be through the subject parcel, then he would have to say that it is likely landlocked, albeit served by travel ways paved or otherwise.

Mr. Franco reiterated that Mr. Keller said he was happy to make changes to the certified engineer's report. He asked what concerns have been identified thus far.

Mr. Keller replied that this project even prior to this time has had several setbacks that he referred to as "housekeeping matters".

- A longstanding central water system did not carry with it Board of Supervisors approval. Therefore, they had to go through a formality that took several months. They went through another reiteration of something in similar regard to that. Finally their site plan was picked up again and carried forward. They had a meeting with numerous staff only several months ago and now have to meet a relatively new requirement since they filed their site plan of a certified engineer's report. The certified engineer's report was brought to their attention. It was pointed out in that meeting that staff would not run them through the gauntlet of detail that their firm had to do on other ones most recently. Staff asked that they cover the basics. On short notice that is what they did.
- The outstanding issues he recalled were:
 - Staff requested a floor plan inside the shop;
 - Provide a noise test;
 - Install a grease and oil separator;
 - A great deal of equipment on the site, and
 - the supplies or materials.
- There was an interoffice memo issued on March 18 by Mr. Brooks that the applicant did not receive. The memo was two paragraphs that they reviewed and thought looked excessive given the agreement that they had at the meeting. But none of it was a deal breaker at this point. He was not excited about going to the trouble to try to address the comments they received yesterday. This morning he emailed Ms. Frederick and Ms. Pflaum and addressed 5 out of 6 of the items by contacting the applicant who will actually occupy the shop. He conducted a phone interview this morning and wrote down the answers and emailed it to staff. There was a lighting issue, but they are not proposing lighting on the site plan. He felt those issues could be addressed at the site plan level.

Mr. Loach invited public comment.

Dr. Luis Gutierrez, an adjacent property owner to the Earlysville Industrial Park for 11 years, said that they basically want to bring up that they are the ones that live there. The words sound like they are taking care of what they are supposed to do, but that is not actually what will happen. When they first moved there 11 years ago the industrial park was dead and there was no activity. But now they have 18-wheelers that come, go and park there creating a lot of noise particularly at night. Some of the 18-wheelers park and idle with their generators on all night. There are lights. Two years go he was here and spoke about another project Cooper Industries about the water situation which had been polluted by the industrial park. He called the EPA and at that time they did not know anything about the water situation. The EPA was very concerned about that. The project was cancelled at the second time. This is the third time he had been here. Looking at the buffer zone that has been proposed sounds good on paper but the trees planted are very short and will take 30 years to grow. By that time he and his family would not be around. Now that there is some other trees fully grown that provide some screening the trees are going to be torn down because of something else. He begged the Commission's indulgence to listen to them. He asked the Commission to base their decision on their thinking that they are owners in the plots around the industrial park and what kind of decision would they make if they have to live

there and that it is not just what is on paper, but in reality. He noted that he owned parcel 21L.

Thomas Mancuso, a neighbor to Dr. Gutierrez and owner of parcel 21K, reiterated that the buffer from the previous project is totally inadequate because the trees are short and many are dying. There are pictures that refer to their letter of July, 2007 and a recent letter in which they discuss these matters. He pointed out that the latest buffer is a replacement to a whole grove of tall evergreens. It seems ridiculous to remove these trees and put up 4' Leyland Cyprus trees, which will take 20 to 30 years to provide screening. In the meantime they are looking at this whole complex in their back yards, which to say the least is unattractive and noisy during the evening. There are lights at night that flash into their homes with flashing green and red lights, especially in the winter time when the leaves are not on the trees. To remove these trees or natural buffer would be a hardship for the neighbors. He recognized that there are nuisance laws having been trained in the law. There was a building with trees in close proximity and trees on the outer perimeter that were not disturbed on the subject property when they moved here. That is what they expected. Also trained in the law he could say that there is common law which has to be recognized that a property owner is entitled to quiet enjoyment of his property. He thought that they were at a point now this is going to be now violated. They can look at the statutory law, case law and common law. He would appreciate the Commission looking closely at that. In their letter they propose that this road be diverted a number of feet to allow for the ability not to remove these natural barriers that exist at the present time.

There being no further public comment, Mr. Loach closed the public hearing to bring the matter before the Planning Commission.

Mr. Franco asked the applicant to address how far would they have to move the road to avoid the buffer and if it was even possible with the first phase having already been built.

Mr. Keller replied that he was not sure if there is much they can do. He pointed out that most of the road is already built and it was only a short section being extended. The parking lot to serve Foster Well and Pump, which includes the large and small building, is already in. There is something underneath the parking lot. They would be required to swing road the road to the secondary cul-de-sac and swing it back through the proposed parking lot of BBX Corporation. He was not sure they would accomplish anything since he had to provide a limited amount of frontage to the cul-de-sac on the 10-acre RA parcel and they had been asked to provide the T to access the other parcel. Unfortunately Mr. Mancuso's property is the triangular piece in between and he had ditches and grading to tie into. He would be going out of the way just to get right back almost immediately where he is going on this. If they were designing the whole road in new he thought that would be a logical request. But, it would be jumping through fiery hoops at this point to come up with anything that might save a small cluster of trees. The trees that were planted for phase one were planted a year ago. One-half of those trees were Leyland Cyprus, which grow very fast. He heard what the neighbors were saying, but felt that this combination of landscaping would go a long way. If there was additional landscaping that the Commission or staff feels would be an act of good faith he asked that it be put on the table for consideration. Of course replacement of any dead material that was recently planted is an obligation. But what they don't want to do is have tree plantings be the thing that keeps additional Light Industrial land from being developed on this property.

Ms. Joseph asked if Leyland Cyprus come in 6' to 8' heights, and Mr. Keller replied yes.

Ms. Joseph asked if the applicant would be willing to do some planting on the adjacent property he owns and having a triple instead of a double staggered row of trees.

Mr. Keller replied that they may have room to put all that on this property so it would not impact Mr. Mancuso's property. There is no reason they can't push those trees up closer to the right-of-way except there is a small swale in that area. They may have been trying to thread the swale between the rows of trees.

Ms. Joseph noted that the applicant owns on both sides of the triangular piece.

Mr. Keller pointed out that they did not propose something that would take ten years to grow up. It has been pointed out that sharp corner to right hand side all of that is thick woods. It would be really advantageous if that is the direction they would like to go that they take an appropriate staff member out to the field to look at this proposal in light of what is on adjacent parcels that is not to be disturbed and find where the gaps would be and come up with some acceptable enhancement.

Mr. Franco suggested that most of the gaps to the right of the adjacent parcels and closer to the cul-de-sac. He suggested that they fill in the gaps with taller trees. It does not make sense where it is heavily wooded to go right to a 6' tree. But in the pasture area where it is open he felt that it made sense to go to taller trees.

Mr. Keller agreed noting that they were willing to work with the adjacent property owners.

Ms. Joseph asked the applicant to address several concerns dealing with the trucks running at night and the red and green lights. She asked if that is something they know about that these trees will block that from people's view.

Mr. Keller asked the owner Mr. Foster to come up and answer those questions. The red and green lights may be posted on the building. For many years the property has been posted that there shall be no idling of tractor trailers. While visiting the site he has seen the trailers parked on site, but not the tractors. He personally has not witnessed it.

Mr. Foster noted that when he first bought the facility he had problems with the truckers coming in the site to park at night to idle their trucks in the middle of the summer to stay cool. At that point he went to Crutchfield Corporation who rents from him and they sent out a bulletin to anybody coming in. They also put signs up saying no idling after 10 p.m. He has not had any problems or calls from the neighbors since they put the signs up. The parcel in between his and Mr. Mancuso is 4.4 acres and has mature hardwoods. Mr. Mancuso can see the plant in the winter time when there are no leaves on the trees. The trees planted last year are now over 6'. Two trees have died that have to be replaced. The trees are planted under the power line and Dominion Power bush hogs under the power line. He planted 219 trees and shrubs on the premises when he built the facility. The red and green lights are on the loading docks. If a loading dock is not being used it flashes green. If it is being used it flashes red. It is a 40 watt bulb that flashes and he questions how the neighbors can see it.

Ms. Joseph asked if it was a possibility that they could find a way to shield the lights.

Mr. Foster noted that he was supposed to put 5 outside lights on his building. He ended up putting 3 lights on the building and shielding them towards the ground. His site plan called for 4 parking lot poles 15' high with lights. He came back to the county because Mr. Mancuso sent a letter saying that it was too bright. The county allowed him to keep 3 lights on the building which he put shields on to aim the lights toward the ground. He omitted all of the lights in the parking lot. The county said he did not have to put lights in parking lots. So he has tried to work with the neighbors the best that he can.

Mr. Mancuso asked for rebuttal time. With regards to the flashing lights to his knowledge there was never any approval. These were added when loading docks were added in the last couple of years. He did not know if any permits were granted and he was never notified of that. The green lights flash all night long, which he could see through the trees. Mr. Foster or Mr. Keller has not been to his house in the middle of the night. He invited them to come any night, but to call first.

Mr. Morris noted that it sounds like the applicant is more than willing to work with this and provide a screen.

Ms. Porterfield asked staff to talk a little bit about the topography of the site regarding the height of the facility and the neighbor's property.

Ms. Frederick replied that the only topography staff has is what is shown on the site and the topography only goes 50' off the site.

Ms. Porterfield asked if the county engineer visited the site or did staff work totally with the applicant's submission.

Ms. Pflaum, reviewing engineer, replied that a site visit was done to look at the area being developed regarding the critical slope and some other items. She did not recall the exact topography, but it does appear on the plan that there is a ridge at the bottom where the ditch is. She did not recall exactly what it looked like and did not happen to notice looking down the hill to the residents.

Mr. Morris asked how long this area has been zoned for LI.

Mr. Fritz replied that the property was zoned B-1 prior to the 1980 ordinance. It may have been zoned industrial ever since the county has had zoning.

Ms. Porterfield asked if VDOT asked for the cul-de-sac.

Ms. Frederick noted that the design of the cul-de-sac was presented by the applicant. VDOT did not specifically ask for the cul-de-sac.

Ms. Porterfield asked if they could access from the other cul-de-sac and not have the lower cul-de-sac at all.

Mr. Fritz noted the public street needs to end at an approved turnaround. The cul-de-sac is an approved turnaround. By having the bottom entrance it allows for interior flow within the contractor's yard. Even if it were not being extended for a public street they would probably be trying to get some type of flow to get back to the existing street back on the left. They don't want to back up inside the contractor's storage yard.

Ms. Porterfield asked if there is a specific time limit for loading or unloading at the docks.

Mr. Fritz said that the ordinance has performance standards that have to be met. There are some differentiations in the standards of daytime or nighttime. But there is no flat requirement that they can't load at a particular time and could do it all 24 hours if they are within the performance standards.

Mr. Loach asked if in the final site plan approval they would be looking again for compliance with the Dark Sky Ordinance.

Ms. Frederick replied that they would, but right now they are not proposing any additional lighting with this site plan.

Mr. Fritz said that lighting is not required by any requirement of the ordinance. If lighting is proposed and it is over 3,000 lumens then it must comply. If it is below 3,000 lumens then there is no regulation. Staff can get with the applicant and make sure the flashing red and green lights are below this level. The way the applicant is describing it that even if it was an incandescent bulb at 40 watts it would be below the level.

Mr. Franco asked if the new building has loading docks proposed with it, and Ms. Frederick replied no.

Ms. Porterfield noted that the final approval is going to be contingent on the applicant performing all the items staff listed. If they do not perform those, the final approval is null and void.

Ms. Frederick replied that was correct.

Mr. Loach noted that the Planning Commission has three separate items to vote on being the final site plan, the zoning ordinance waivers and the landscape buffer.

Ms. Frederick noted that the landscape buffer is one of the ordinance waivers.

Mr. Fritz suggested that the action be taken on the waivers first.

Action on Waiver of Section 4.2.3.2 - Critical Slopes Waiver:

Motion: Mr. Morris moved and Ms. Joseph seconded to grant the waiver request of Section 4.2.3.2 for the disturbance of critical slopes as shown on the plan for SDP-2008-00061, Earlysville Business Park with the findings specified in the staff report.

The motion passed by a vote of 5:0.

Action on Waiver of Section 26.10(c) – Disturbance of landscape buffer:

Motion: Mr. Morris moved and Ms. Porterfield seconded to grant the waiver request of Section 26.10(c) for the disturbance of the requirements of landscape buffer as shown on the plan for SDP-2008-00061, Earlysville Business Park with the findings and conditions recommended by staff, as amended.

Ms. Joseph noted that the motion should include Mr. Franco's suggestion about adding plant materials if necessary in some areas.

Mr. Franco asked to add a condition since the applicant has indicated a willingness to add additional landscaping.

Mr. Fritz suggested the following language for the condition, but asked the Commission to chime in on the height question. He suggested staff approval of additional plantings of screening trees and/or deciduous trees if the Commission wants a mix of deciduous and screening.

Mr. Franco pointed out that he was looking for an extension of the buffer.

Ms. Joseph suggested that it include some deciduous along with the screening evergreens since the planting should be something that looks natural for the rural areas.

Mr. Fritz suggested that the wording be "Staff approval of additional plantings of screening and deciduous trees within the buffer area or on adjacent parcel. The additional plantings are intended to enhance existing vegetation."

Ms. Joseph suggested that the evergreen plantings shall be installed at a height of 6' to 8' and the deciduous trees should be 1 ½ "caliper.

Mr. Fritz reiterated the wording, "Staff approval of additional plantings of screening and deciduous trees within the buffer area or on adjacent parcels. The additional plantings are intended to enhance existing vegetation. Screening trees are to be 6' to 8' in height and deciduous shall be 1 ½" caliper or larger."

Mr. Franco noted that they are also talking about the additional trees to extend the buffer and not just to enhance it further to the power line.

Ms. Joseph asked if he meant around the cul-de-sac.

Mr. Franco replied yes, but not all the way around the cul-de-sac since that is where the trees start to disappear on the adjacent parcels and get more into a pastoral setting. Therefore it is more visible there. It is the extension of the buffer to provide additional screening.

Mr. Morris accepted the amended condition, which was seconded by Ms. Porterfield.

The Planning Commission, by a vote of 5:0, approved a waiver of Section 26.10(c), disturbance of required landscape buffer with the findings and conditions recommended by staff, as amended.

1. Staff approval of additional planting of screening and deciduous trees within the buffer and on adjacent properties. The additional plantings are intended to enhance and extend existing vegetation and the buffer. Screening trees are to be 6 to 8 feet in height and deciduous trees shall be 1 ½ inch caliper or larger at the time of planting.

Action on Site Plan SDP-2008-000061:

Motion: Ms. Joseph moved and Ms. Porterfield seconded to grant approval of the final site plan SDP-2008-00061, Earlysville Business Park with staff's recommended conditions, as amended.

Ms. Joseph noted that the neighbors should know that a lot of light industrial land has been lost in this county. There was not a lot going on in this area when the residents moved in, but this is sustainable development in Albemarle. They are trying to do as much as they can to make it so that people can live there without a terrible intrusion. But they have lost a lot of land to residential in light industrial. What they are trying to do now is make this work because the county is losing jobs to other counties. With our Economic Development Policy they have really been trying very hard to pick up that land and to preserve it. The county is trying to make it as palatable to the neighbors as they can. The Commission hopes that they will talk to their neighbor and they can do something about the blinking lights and everything else that is causing the concerns.

Mr. Herrick asked if the motion would be with the conditions that staff recommended, and Ms. Joseph replied that it did.

Mr. Franco asked for discussion. He asked if they could make it a condition that the plantings in the first part of the buffer be replaced before the site plan is approved. He knew it was a requirement that the dead trees in the first phase have to be taken care of.

Mr. Fritz pointed out that they could not do it as part of site plan process. He was not sure if the Commission could reconsider their action on the buffer and make it a condition.

Mr. Franco said that it was okay because the applicants would be required to take care of those trees quickly.

The motion passed by a vote of 5:0.

Mr. Loach said that SDP-2008-00061 Earlysville Business Park – Final was approved with the following conditions.

1. Approval of submitted Water Protection Ordinance application,
2. Final VDOT approval,
3. Final VA Health Department approval,
4. County Engineer approval of Certified Engineer's Report for noise levels.

Mr. Fritz pointed out for both the Commission and the applicant that staff will not send the action letter out until the Planning Commission has seen the action letter. Therefore, he asked the Commissioners to please look at the action letter very carefully.

Public Hearing Items:

SP-2008-00061 Slingluff Dock

PROPOSED: Construction of a private floating dock on the South Fork Rivanna Reservoir

ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); FH Flood Hazard - Overlay to provide safety and

protection from flooding

SECTION: 30.3.05.2.1(2): Water related uses such as boat docks, canoe liveries, bridges, ferries, culverts and river crossings of transmission lines of all types.

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre in development lots)

ENTRANCE CORRIDOR: No

LOCATION: 256 Woodlands Road (Route 676), approximately 0.3 miles north of the intersection with Earlysville Road (Route 743)

TAX MAP/PARCEL: TMP 45-6D1 and TMP 45-67A

MAGISTERIAL DISTRICT: Jack Jouett

(Scott Clark)

Scott Clark presented a PowerPoint Presentation and summarized the staff report.

This is a special use permit request for a private floating dock on the South Fork Rivanna Reservoir.

In response to Mr. Franco's question by email on why this is being allowed on a neighboring property that actually is owned by the city for the reservoir, Mr. Clark stated that parcel 45-67A is a portion of the reservoir and the city has signed on this application as the owner of that parcel. Therefore, the city has agreed to allow this to happen in this place. The special use permit actually applies to Dr. Slingsluff's property and to the reservoir's property and is signed off by both owners.

The drawing of the dock shows it 21' long and 8' wide. It is a floating dock and is not anchored by piers into the bottom of the reservoir. The side view shows how the dock is on floats and then anchored with weights that will keep it from leaving the site. It is a fairly minimal floating decking dock for the use of launching wind power boats.

The recommendation is based on the following favorable and unfavorable factors:

Factors Favorable:

1. No direct impact to the water supply or neighboring properties is expected as a result of this special use permit.
2. No increase in flood levels will result from installation of a dock.
3. The proposed dock is supported by the City of Charlottesville Department of Public Works, and meets the requirements of the Rivanna Water and Sewer Authority for residential boat docks.

Factor Unfavorable:

1. If a significant number of these requests are approved, the resulting proliferation of boat docks could impair the primary function of the Reservoir as a drinking water supply. This is an issue that staff expects to address in the next update of the Comprehensive Plan.

RECOMMENDATION: Staff recommends approval of this Special Use Permit, with the standard three conditions recommended in the staff report that have been applied in the past to floating docks in the reservoir.

Mr. Loach invited questions for staff.

Mr. Morris thanked staff for stating in the report that there are about 20 of these docks existing. Understanding that the city is involved in this he asked if it has ever been indicated what number is the magic number that they hit when the city would say no more.

Mr. Clark replied that they have never heard that from the city. As he mentioned that is an issue they would directly address during the next Comp Plan update.

Ms. Porterfield asked if all 20 of the docks were legal. In other words, does staff have applications for all 20 docks?

Mr. Clark replied no that quite a few of the docks have been there for a very long time. The estimate of 20 docks is taken from review of the aerial photos.

Mr. Cilimberg pointed out that it does not make the docks illegal, but potentially nonconforming.

Ms. Porterfield noted that she had seen three dock requests since she came on the Commission, which is why she was curious how the docks got there. She asked if staff has any idea when this section of the Comprehensive Plan would be reviewed.

Mr. Cilimberg replied that actually it was in the work program to begin in 2010.

Ms. Joseph noted that the design is approved by the city and Rivanna on all dock requests. They review the request to make sure that the water supply is safe. There are no motor powered boats allowed.

Mr. Clark noted except for staff maintenance activities motorized boats are not even allowed on the reservoir. Also swimming is not allowed. Therefore, the dock is only for the launching of man powered vehicles.

Ms. Porterfield noted that the staff report says no stairs and the actual drawing for this dock shows stairs.

Mr. Clark noted that there is no condition referring to this drawing.

Ms. Porterfield said depending on the elevation change to get down to a dock they could end up with quite a set of stairs. She would assume that there would be elevations like that as you go around the reservoir.

Ms. Joseph said that this drawing or schematic could be changed before the request goes to the Board.

Mr. Clark agreed that it could, but that the conditions of approval don't even refer to this drawing. The drawing is just for the Commission's information.

Ms. Porterfield asked if this is the dock that the applicant plans to put in.

Mr. Cilimberg noted that the drawing was not part of the conditions.

Ms. Porterfield suggested that they could condition it on the drawing without the steps.

Mr. Cilimberg suggested that the Commission might not want to do that.

Ms. Porterfield said that in other words the applicant would have approval of a dock that could be built a different way.

Mr. Cilimberg said that the dock was pretty much set by the conditions.

Mr. Franco suggested that they allow the applicant to address the issue.

Ms. Porterfield agreed that was a good idea. She asked if all of the property around the reservoir is owned by the city.

Mr. Cilimberg replied that the pool level of the reservoir is actually within the ownership of land by the city. Decking and stairs are referred to in the condition as structures. There can be steps. They could literally use the grade to create steps going down and that is not a structure. That is probably what the applicant would be anticipating. There has to be some way to step down to the dock.

Mr. Loach opened the public hearing and invited the applicant to address the Commission.

Dr. Slingluff said he used the reservoir for kayaking and rowing primarily. In that location there is a step down. The grassy level slopes down gradually and it is easy to walk down. About 5' from the edge there is a cliff. When he moved in he attached three steps to prevent eroding the land. He felt it was better for the reservoir as well as being safer. One of the advantages of having a dock is that it enables him to take a boat in and out of the water without dragging it across the edge of the land. He felt that the dock would be beneficial to the reservoir and he has followed all of the requirements there. His intension is to use the steps that are already there and put the dock out from that following the requirements of the county. If the requirement is to not have the steps then he could put in a ramp or build into the land without being a separate structure.

Ms. Porterfield asked if the diagram is what he intended to put in.

Dr. Slingluff replied that was the dock he intends to put in. He submitted the diagram to two other groups and followed the requirements stated. He has made some adjustments to make it narrower from the original plan, but this diagram fits what he has been told to do so far. He said that he would be willing to do what is appropriate.

Ms. Joseph noted that the city has requirements for the dock.

Dr. Slingluff said that he had followed the city's and Rivanna Authority's requirements for anchoring and used appropriate materials so it would not be toxic.

Mr. Loach invited public comment.

Jeff Werner, speaking solely as a city resident, added that this is not just the city's water supply, but it is also the county's urban growth area water supply.

- The staff report says that there are a number of boat docks for private recreational use already in place on the reservoir. It also says a proliferation of residential boat docks could impact the reservoir. He had nothing against this applicant, but he thought that they have a larger issue to answer here. The question is what the tipping point is, which has already been raised. He understands that this issue will be part of a pending Comp Plan review, but what happens in the interim.
- By his rough count from the map in the staff report there are roughly no less than 60 parcels similarly abutting this publicly held 301 acre parcel. They can only stipulate how many additional development rights are out there that also get additional lots added. So how many private docks on public land constitute a proliferation. Even if the dock itself is not an issue, regardless of stated conditions, how much clearing will they see for each new dock? It was stated by staff that the person needs to access the dock. So how much disturbance of grade on public land are they going to see since many of these properties have steep terrain going down to the reservoir. The big question is who monitors the land clearing and the dock construction, how frequently and what information is recorded and in what manner to establish the baseline condition of the existing vegetative buffer and the existing terrain. How often is Greg Harper going out there in a boat and checking things and against what information?
- This is a private amenity on a public property and who has responsibility for the maintenance, repair or removal of the dock at some point in the future. If the private property is transferred how will the next owner know that they have this responsibility to this dock? He asked if there is going to be a note on the plat. He felt that a fee should be associated for monitoring these activities by a water shed manager. The conditions need to be far more substantial and rigid until they establish some threshold for the tipping point. He questioned how they would be able to say no in the future because it is one big parcel and there are 60 others out there. He did not know at what point it is legally defensible to start saying no.

There being no further public comment Mr. Loach closed the public hearing to bring the matter before the Planning Commission for discussion.

Mr. Morris asked if the Commission can clarify condition 3 so that the existing stairs that have been there for some time are not required to be removed and become conforming.

Mr. Loach said that should be part of the overall design.

Mr. Morris noted that Ms. Porterfield's point is well taken since the stairs have been there and are for the good of the property. He recommended that the Commission allow the stairs.

Mr. Cilimberg said that if the Commission decides to recommend approval with that comment, then as part of the condition it could be amended before it goes to the Board to reflect that the existing stairs or steps can be retained. Staff will make sure that the condition language is correct.

Mr. Porterfield said the approval was for access to the dock that has been shown in the drawing. So the approval would be based on the drawing that has been submitted for the dock.

Mr. Cilimberg noted that they would not want to get into the dock itself because that is a permitting process by the Rivanna Authority. The access to the dock is good to address but the actual dock construction is something that they work out between the applicant and the Authority. He thought that was why the Commission has never had the full dock plan as a condition of their approval.

Mr. Herrick suggested rather than approving the specific design perhaps the condition could be added to say, "For the purposes of this condition the existing steps shall not be considered a structure."

Mr. Cilimberg noted that staff wants to make sure to get that right and that Mr. Herrick had a good approach they could take if the Commission decides to recommend approval.

Ms. Porterfield understood what he was saying, but was surprised that the Commission was looking at docks. She grew up on the shores of Lake Erie in the summer time where docks required approval by the Corps of Engineers. There are a whole bunch of hoops to go through to even get close to putting a dock in. A dock is like any other structure there and has to be approved. She would hate to approve docks and allow them to be built in any way, shape or form. She would like approvals to be based at least on the design the applicant has taken this to the other authorities, who like this design. She would like the approved dock to be similar to the design.

Mr. Cilimberg pointed out that the Authority actually exists and they have to permit the specific design. It is being permitted by an entity that is equivalent to or has the same jurisdiction as the Corps, which is the Rivanna Authority.

Ms. Porterfield asked that this approval be based on this particular design.

Mr. Cilimberg noted that was the Authority's decision.

Ms. Joseph said that is not up to the Commission to make that determination. It would be like the Commission approving a building permit for something and the Commission does not have that authority.

Ms. Porterfield said that it could at least be size-wise or something like that. It just seems strange to not at least have something to base PC approval on such as what was submitted by the applicant and adding in what Mr. Morris has said about making sure that the steps become conforming.

Mr. Loach noted that it would be that way because the dock is actually on the city property and the Rivanna

Authority has control.

Mr. Morris pointed out that from what he had heard the applicant has already been to the Rivanna Authority and the city and the design now matches their requirements.

Mr. Loach said that it is not to say to Mr. Werner's comments about when they hit that limit shouldn't they study where they are going. He suggested that this should be taken in the same consideration that they have looked at the past three. From what he has seen it seems that this is compliant.

Ms. Joseph said that they were sort of dealing with the unknown. They know that maybe it is not such a good thing to have docks on the reservoir, but they don't know why and what it is doing to the water quality. They have never had any study to her knowledge. Therefore her expectations are when they get to the Comp Plan review that they will have some information from the Service Authority to find out what sort of impact these things have on the reservoir. But right now she was thinking about all of the places she has lived that had water drinking reservoirs that people actually swim, boat and do all kinds of things. She feels very comfortable at this point since she the city and Rivanna are going to take care of the design impact and will not allow anything that is really incredibly intrusive.

Ms. Porterfield suggested with Mr. Werner's comments that they add a fourth condition that the applicant will keep the dock in good repair and, if not, will remove such dock. It at least puts the burden on the applicant.

Mr. Loach said it was a jurisdictional issue because the dock is in the city.

Mr. Cilimberg said that he did not know how that would work and can't speak to it very well. He thought that the Authority in having a permit is probably going to have some requirements. He wished that they had the permit here to show the Commission. In future reviews it would be good to have the permit for the Commission. The Authority has a permit that they are giving these individual owners which includes not only what the plan is they have to construct to but also how they are suppose to maintain it.

Ms. Porterfield asked if the 25 horizontal feet of the reservoir for the lighting is 25 horizontal feet on the reservoir's property or the applicant's property.

Mr. Cilimberg replied it is measured from the elevation of the normal pool at elevation 382. So it is 25' horizontal feet from that point.

Ms. Porterfield asked if this would give some applicants the ability to put lighting on property that is not their own.

Mr. Clark said that if the reservoir property was deeper than that between the resident's property and the water line elevation it would probably increase that number to make sure the lighting would have to be back on the resident's property. The permit only specifies a dock and does not specify permission for lighting.

Ms. Porterfield suggested changing that to indicate that lighting needed to be on the applicant's property if the 25' did not take it off onto the applicant's property. Lighting had to be 25' plus whatever it took to get onto the applicant's property.

Mr. Clark said that he did not specifically measure that out partially because there is no way to know on any given day if it is at 382 or not. He would tend to guess that there is no problem in this case since he did not think there is 25' between the water line and the edge of the property.

Ms. Porterfield noted that in condition 2 she felt that staff meant "within," and Mr. Clark agreed.

Mr. Cilimberg pointed out for the Commission's information that there is a 14-point board dock use permit and agreement that the applicant has with the Rivanna Water and Sewer Authority. It includes construction

requirements and an annual inspection fee to be paid to the Authority. Staff tries to avoid recommending duplicate conditions to the Commission which duplicate or muddy the jurisdiction that is already in another public entity's control. For future reference staff will include the permit and agreement so that the Commission will see what it includes.

Motion: Mr. Morris moved and Mr. Franco seconded for approval of SP-2008-00061, Slingluff Dock with the three conditions recommended by staff, as amended, in condition #2 the word should be "earth disturbance within the 200' stream buffer" and condition #3 amended in accordance with counsel's wording.

1. There shall be no lighting within 25 horizontal feet of the Reservoir, measured from the elevation of normal pool, which is Elevation 382 (North American Vertical Datum of 1988).
2. There shall be no removal of vegetation or earth disturbance within the 200-foot stream buffer associated with the installation of the boat dock. The stream buffer is measured from the edge of the floodplain, which is Elevation 391.
3. There shall be no other structures, such as decking or stairs, constructed in the 200-foot stream buffer. For the purposes of this condition the existing steps shall not be considered a structure.

The motion passed by a vote of 5:0.

Mr. Loach noted that SP-2008-00061 Slingluff Dock would go to the Board of Supervisors with a recommendation for approval on a date to be determined.

The meeting recessed at 7:25 p.m. and the meeting reconvened at 7:35 p.m.

SP-2009-00004 Old Crozet School Arts

PROPOSED: Request to amend SP 91-10 to allow for the existing Old Crozet School building and grounds to be used for both a private school for arts instruction and also the Field School, a private middle school for boys.

ZONING CATEGORY/GENERAL USAGE: R-1 Residential - 1 unit/acre

SECTION: 18.10.2.2.5 Private Schools

COMPREHENSIVE PLAN LAND USE/DENSITY: Designated CT 1 Development Area Preserve for Parks and Greenways in the Crozet Master Plan and limited residential at densities of 1 dwelling unit per 20 acres.

ENTRANCE CORRIDOR: No

LOCATION: 1408 Crozet Avenue

TAX MAP/PARCEL: 56, Parcels 61 and 62

MAGISTERIAL DISTRICT: White Hall

(Rebecca Ragsdale)

Ms. Ragsdale presented a PowerPoint Presentation and summarized the staff report. (See PowerPoint Presentation and Staff Report)

- This is a request to amend the special use permit for a private school on the Old Crozet School property. (SP 91-10) The two existing conditions that run with the property include the maximum enrollment up to 271 students for a private school and no students shall drive to school. That condition is problematic for the arts school proposed which would have students, or parents of students, driving to the site for classes. The request is to remove that condition that prohibits student driving. The County will lease the Old School building to two tenants: Old Crozet School Arts (OCSA) and the Field School.
- OCSA is a non-profit organization that would offer classes to the community in dance, visual arts, music, theater, and other art forms to all ages. Additional information from OCSA is in the staff report. The Field School of Charlottesville is a private middle school for boys that is currently located in the community building at Crozet Park and has a need for more space. The Field School will have an estimated maximum enrollment of 100 students and OCSA will have an estimated maximum of 84 students attending classes at one time or concurrent with Field School classes; however there may be more students total enrolled in OCSA. The recommended condition of approval addresses the maximum number of students and not total enrollment.

- The property is zoned R-2 Residential and private schools require a special use permit. Public schools are allowed by-right. The property is within walking distance of Crozet Downtown. The Crozet Master Plan has the property designated as CT-1 and 2, which was the designation given to public property such as parks and schools in the Master Plan. The Master Plan encourages public reuse of the property.
- There was a county study done by staff in the spring and summer of 2008 for reuse of the building, which a consultant assisted with. It was a public school until 1991 and then a special use permit was approved for a private school. The Waldorf School occupied the building. After the building became vacant there was interest in finding out what the community desires were for reuse of the building. That study was completed and presented to the Board last fall in September, 2008 with the preferred community concept being a community center that would be fairly multi-purpose. There was an emphasis during the process and interest from the community in having art instruction. That is something that was noted in that study, which the Old Crozet School Arts would be providing in terms of those programs.
- When the proposal went to the Board the community center option would involve rehab of the building for these multi-use purposes. Being that there was no budget and it was not in the CIP the interim recommendation and the plan for the building is that the county would lease it for a tenant. The General Services Department of the county is the lead in terms of maintenance and working to get these tenants. The two tenants are Old Crozet School Arts and the Field School, which staff reviewed in terms of potential impacts. There are two private schools going in. One would have hours that are staggered throughout the day versus the conventional day time school hours. There were not issues raised with the reviewers in terms of traffic impacts. The condition that students were not allowed to drive to school with the 1991 special use permit was intended to address traffic impacts as noted in the staff report. There have been improvements to the roadway since that time.
- Staff recommends approval of the Special Use Permit subject to the conditions noted in the staff report with the finding that it is consistent with the Master Plan and meets some of the goals of the Reuse Study and would get tenants in the building that would provide some revenue and help with the maintenance of the building. The recommended conditions of approval state that the maximum number of students shall not exceed 185 students. It addresses the maximum number of students and not total enrollment. Condition 2 is no longer recommended. It was intended for Field School that they provide a shuttle bus or bus service and was a carry over from the Crozet Park location, which has a different road situation and access to the site. In this review there were no traffic issues raised by the reviewers. Therefore, staff is no longer recommending that as a condition.

Mr. Loach invited questions for staff from the Commission.

Mr. Morris noted that in the staff report it lists the maximum number of students as 271, which was dropped by 86 students to 185. He asked if that was strictly the 185 for the private school or total students in that building at any one time.

Ms. Ragsdale replied that the 185 would be the total number of students in the building at any one time. It breaks down for 100 students for Field School and 85 students for Old Crozet School Arts. Staff is trying to provide conditions that are flexible enough since the tenants are on a one year lease with the county so that General Services would have flexibility to find similar tenants. It is 185 students for both schools for any one time.

Ms. Porterfield asked if there is any reason why if the school was able to handle 271 prior that they necessarily need to bring the number down.

Ms. Ragsdale replied that the 271 was at its maximum usage when it was a public school. When the special use permit for Waldorf private school was approved it was approved at 271 maximum enrollments. The 185 was presented in the application and what would result in leasing the main floor of the building and what existing parking can handle. Therefore it was 185 on site rather than the enrollment.

Ms. Joseph noted that Field School received the special use permit for Crozet Park. That special use permit stays with the land and will be there forever. Other people could come in and do a school at the park and just comply with the conditions of that special use permit.

Ms. Ragsdale noted that there was an expiration date of that special use permit.

Mr. Cilimberg pointed out that the special use permit was reapproved with a time frame.

Ms. Porterfield asked if there would be a time frame on this, and Mr. Cilimberg replied “no,” that the special use permit would remain effective.

Ms. Joseph pointed out that it was a very unique situation to have a private school conducted in a public park.

Ms. Porterfield said she did not want these people to have to come back every year to the PC.

Mr. Cilimberg noted that if the schools decided not to renew their lease that other schools could come in and fall under this permit as long as they stay within the 185 total at any one time on site.

Mr. Loach opened the public hearing and invited the applicant to address the Commission.

George Shadman, Director of General Services for Albemarle County, said that the packages were put together very well and Ms. Ragsdale did a very good job of presenting it. Mr. Michael Freitas, Chief of Public Works, was also present to answer questions.

Sharon Tolchek, Artistic Director of Old Crozet School Arts, introduced Molly Washburn, School Administrator. She reiterated that the idea for Old Crozet Schools Arts grew out of last June’s reuse workshop in response to the community’s interest in having arts instruction in Crozet. They hope that the Commission will support their endeavor to bring arts to Crozet in an extensive way and are very excited about occupying the old school to do this.

Mr. Loach invited public comment.

Barbara Westbrook, resident of Crozet, said she was born in Crozet over 60 years ago. She went to Crozet School for 7 years and always had a love for that building. She made the following comments:

- She was not opposed to having these two private organizations lease the building. Her main concern was that most everyone in Crozet wants to have a community center and the reason they cannot is that the county does not have the money right now. She knew that the county needed to lease the building to make enough money to be able to redo the school.
- She was on the Old Crozet School Reuse Committee in 2008. The committee picked a consultant that did a very good job in getting the feedback from the people. The result of the committee is in the table that she passed out before and the one Ms. Ragsdale referred to that showed that the majority of the people wanted a cultural arts/community center. Almost everything that is listed under that could be included in a community center. (Attachment – The Old Crozet School Re-use Study – Table 1 Results from the Ideas Workshop – June 19th, 2008)
- Once it is a community center the county could still make money by renting it out. An example is the Green Olive Tree, which is a thrift store in Crozet that would love to rent some space. There would still be room for classes for dance, arts and exercises, etc. Some other ideas expressed by the public were satellite police station, community market, ball fields and possibly a local theater. One of the major concerns in Crozet currently is that there is no recycling center. They have been going around and around on the recycling issue. She thought this would be a great location for it.
- She felt that there are three problems with the school, but not against this proposal. Her understanding is that the school has asbestos, lead paint and no handicap access to the 12 entrances, which she understands that the county does not have to do anything about because they were leasing the building.

She felt that morally the county should do some correction of these problems.

- She noted that the Rockfish County Community Center was done entirely by the volunteers because the county did not have enough money to turn their old school into a community center. She disagreed with the budget that the consultant gave. For example, the historic preservation consultant would be between \$8,000 and \$10,000. There were several items that she felt were over the reasonable amount. She suggested that the proposal have something included that it was on a year to year basis so that it was not forever.

There being no further public comment, Mr. Loach closed the public hearing to bring the matter back before the Planning Commission.

Mr. Loach asked staff to address Ms. Westbrook's questions about the asbestos, lead paint and handicap access.

Mr. Shaffner replied that General Services has a complete inventory of the lead paint and asbestos that is in there. They are all contained and there are no dangers to the tenants that are going to be in there. Our environmental compliance manager monitors it regularly and they have had testing done by third parties to verify this. As far as the ADA compliance the county is renting this as is.

Mr. Herrick noted that some of the issues that have been raised could be addressed in the county's lease to these tenants rather than a land use decision for the Commission.

Mr. Loach asked with the issue of lead if there should be a limitation on the minimum age so that they don't have children with the potential exposure to lead. He asked if age should be a factor in the lease as far as what minimum age child would be enrolled in the building.

Mr. Shadman noted that this has consistently been an elementary school and the previous tenant, Waldorf School, was K through 5. It will be continuing on that same pattern that they have. They have an excellent environmental compliance manager that stays right on top of this.

Mr. Loach noted that one other issue raised by Ms. Westbrook was about other entities using the building. He asked if the two schools will use the entire building or is there room for additional entities to use the school and enter in as part of this lease.

Mr. Shadman replied that county advertised widely for tenants and only received five responses. Two of responses were suggestions of what the county could do with the building and another one was for a light industrial purpose. There were only two legitimate ones that would fit in with their zoning at that time. The two schools will be occupying about three-quarters of the available space.

Motion: Ms. Porterfield moved and Mr. Morris seconded for approval of SP-2009-00004, Old Crozet School Arts with condition #1 recommended by staff.

1. Maximum number of students on-site attending private school use(s) shall not exceed 185 students.

The vote carried by a vote of 5:0.

Mr. Loach noted that SP-2009-00004 Old Crozet School Arts would go to the Board of Supervisors on June 10, 2009 with a recommendation for approval.

Ms. Joseph asked to address Ms. Westbrook's comments a little bit. She understood what the committee went through and what the community would like to see there. But the flip side is that it is horrible to have a vacant building site and deteriorate. With this proposal at least they can get the building occupied with some good uses and still have a quarter of the building left. She suggested that three quarters of the building could possibly become a nucleus for some sort of community center. She felt that this is an old building and would like to see it used.

SP-2008-00058 Harris Garage – Amendment

PROPOSED: Amend SP 00-49 Thomas Harris Garage to expand the public garage on approximately a .60 acre portion of a 3.17 acre property

ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)

SECTION: 10.2.2 (37) Public Garage

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre in development lots)

ENTRANCE CORRIDOR: No

LOCATION: 6929 Markwood Road, approx. one-half mile north of Davis Shop Road

TAX MAP/PARCEL: 008000000035A0

MAGISTERIAL DISTRICT: White Hall

(Joan McDowell)

Ms. McDowell presented a PowerPoint Presentation and summarized the staff report.

This an amendment to an existing staff report for SP-2001-49 to allow an expansion of the auto repair garage that was approved in 2002 for Harris Auto. It is an existing garage located in the rural areas. There is a lot of history which is included in the staff report. The approval of SP-2001-49 corrected some violations and brought Harris Auto into compliance with the Zoning Ordinance and Building Code. In 2004 zoning determined that a garage addition to enclose an outside lift and to provide some storage space would not constitute an expansion of the special use permits and that building was built. In December, 2008 new violations were recorded and the notice of violation was mailed to the applicant. Consequently SP-2008-58 was submitted as a request to amend the earlier special use permit in order to correct the violations and make the plan current.

To give an idea of the changes on the site staff presented side by side aerials of the site. The earlier aerial in 2002 provides an idea of the site differences between the application then and what has taken place now. She noted the changes to the garage in 2001 and how it looked now with the addition. The proposal is for two carports, the paint mixing building, additional parking for 15 spaces, paved parking and access (which has already been done), an outside car lift, relocated trash dumpster to area of critical slopes disturbance and to incorporate the building expansion into the special use permit. Additionally there is a storage unit and specifically to designate the garage area from the residential or the personal space. This has been a very big issue. It was discussed in the staff report to designate a specific area only for the garage. If the applicant decides to park in the garage area and use those spaces, then those spaces are used. This was determined to be the best solution by not only the applicant but staff in feeling like if they could separate these two uses it would better serve the applicant and the zoning enforcement.

Staff reviewed the concept plan noting that the driveway was relocated with the special use permit in 2002. She noted the expanded garage, the new storage garage, the existing dumpster, two carports (a 2-space and 3-space carport) existing and private parking behind the residence. She also noted the two areas of critical slopes.

Staff has identified the following factors favorable to this application:

1. The public garage is an existing operation that provides a service to the surrounding community.
2. The applicant has made improvements to the garage and the parking area.
3. The use is consistent with the Rural Area, if all impacts of this use are mitigated.

Staff has identified the following factor unfavorable to this application:

1. The garage, if conditions are not implemented, compromises the character of the Rural Areas district.

Based on the findings contained in this staff report, staff recommends approval of SP2008-58 JR Harris Garage Amendment, subject to the conditions of approval as listed in the staff report.

There is also a request for a critical slopes waiver. The applicant has applied for critical slope waivers for

disturbances that already have been made on two areas of the property: generally between the garage and the adjacent neighbor on the north and between the garage and the Beaver Dam Creek on the east. The County Engineer, Glenn Brooks, is present to answer any questions specific to this portion of the application. She reviewed photographs of the disturbance of the slopes with area below the slopes, which had some evergreens planted. The applicant has graveled behind the garage. The staff report discusses the critical slopes and the engineering analysis. There are three conditions recommended if the critical slopes waiver is approved.

Mr. Loach invited questions for staff.

Mr. Morris asked how many violations are currently in effect.

Ms. McDowell replied that several people from zoning, Lisa Green and Rob Heide are present to answer questions about zoning issues.

Rob Heide, Manager of Zoning Enforcement, said that there is one notice of zoning violation that outlines several different conditions, which is included in the staff report.

Mr. Herrick noted that the notice of zoning violation is a letter dated August 22, 2008.

Mr. Heide pointed out that there are three different conditions within that notice of violation that have been outlined.

Ms. Porterfield asked if the special use permit approval would clean up those violations.

Mr. Heide replied that it won't prevent future violations. They still have the ones that were pending before they got to today, but it will bring the site into compliance. The violations that exist as a result of this notice of violation have yet to be adjudicated. They are pending in court. It would prevent the site from being in violation in the future. He said that perhaps Mr. Herrick could explain that.

Mr. Herrick noted that Mr. Heide summarized it well that this site was in violation of the site plan that existed as of August 28, 2008. If these conditions are met the current condition of the site presumably will not continue to be in violation going forward.

Ms. Porterfield reiterated that the answer to her question was "yes" it would clean up any violations that are on the books. Or was the answer no.

Mr. Herrick pointed out that it would not take care of violations that have already occurred. It would prevent future violations if the same use continued.

Mr. Morris said that the conditions must be met.

Mr. Herrick replied that was correct because if the conditions are changed then it will no longer be in violation going forward.

Mr. Loach opened the public hearing and invited the applicant to address the Commission.

Dave Wyant, representative for the Harris family, said that he put together the plan. He appreciated staff working with them on this request and made the following comments.

- He had met a number of times with staff in the office and on the site since the violation was issued at the end of last year. The applicant has been asked not to do anything on the site until they got it corrected and meets this plan as the counsel has said. The other thing is that they have been advised by staff that if they want to do something that is in addition to what is out there to please show it on the plan. So the storage building has been indicated as a new building. Also, they had gotten building permits and

got the carports in. That was not on the previous site plan. Staff issued the building permits not knowing that they should have gotten a site plan amendment just to build those. This is a commercial operation and they have lived there all of their lives. The garage operation has been going on since the late '70's. So this has been a family operation since their dad's operation of the garage since the late '70's. The boys work in the garage. There are a total of five employees.

- He has advised the Harris' several times not to do anything until they get this thing through the process. Every time staff says something like plant another tree the Harris' are ready to do it the next day. But that is what has gotten them into some of this. They are ready to correct. The back slope which was shown as being seeded is a critical slope. He met with staff and the back slope was unstable. The small stream is down off of their property and was not in good condition. Being involved with erosion control all of his life he did not like it and advised them to go in and get it at a 2:1 slope and seed it. That is what they did one weekend when he was not around. Therefore, he was not available to shoot the grades. It is a little bit off from a 2:1, but it is fairly close and is stable. His recommendation has been not to disturb it and to over seed it more to get a more permanent establishment on that slope. They got that on. From that point on he told them to leave it alone.
- The other problem they ran into with zoning was what cars are on this parcel of land that belongs in the garage operation and what are personal. Back on the first plan in 2001 he got involved and the boys were living at home. The boys had four antique cars a piece to show and staff did not know who owned the cars. Each boy titled three or four cars. It has been a very difficult situation. So through the years acknowledging what they have been going through they said let's define the boundaries of this garage area and keep the personal vehicles separate just like the rest of us that don't have a business on their property. In working with staff they came up with 15 cars and decided to have marked parking spaces. What folks have done in Greene and other places that take vehicles up there is just park them anywhere at night when they are not there at night. They park the cars in front of the door waiting for somebody to come in the next day to start working on them. They do run a paint operation. They have a paint booth inside and restore cars. They take fenders off of the cars to paint in a slow process. A question is how they keep these parts from being out there in view of the public. It is not just screening. They started out with the carports, but it would not keep it out of site. Therefore, they need the storage building to keep the parts in. The cars proposed on the carport are the ones they have repaired that need to stay out of the sun and weather that they have sanded waiting to go in the paint booth.
- The last sentence in condition 6 says any vehicles parked outside the area marked parking for personal vehicles shall be considered to be associated with the public garage and are counted in the 15 vehicle maximum. What he has been trying to do is that the personal vehicle place that they have for these extra cars is marked with a sign. As well at the entrance into the garage area they have two signs that indicate park the vehicles in a parking space. He is reading this as being just to say that he has a vehicle parked somewhere else on the personal part of the property it is not part of the garage. He thought that sentence was problematic and something that staff should consider before the request gets to the Board.
- The other condition he had problems with was condition 3 regarding the critical slopes. Glenn Brooks wrote condition 3 that said canopy trees at 6'. It is about 170' across the back of the property. If they took that at 6' that is almost 30 trees across there. That is not what they table says. It says for every 400 square feet across a buffer you need to have 1 canopy tree. When you have to put more than 1 it needs 6' spacing. He did not want zoning to come out and say they are suppose to have trees every 6' all the way across here when really as he figured it was actually about 1,800 square feet and ought to have about 5 trees across there. If a buffer is bigger that then the numbers goes up. But he was figuring a smaller buffer across the whole back. He thought that they need to be very clear about the last statement on the recommendation 3.

Mr. Loach invited questions for the applicant.

Ms. Porterfield asked if this business ever has more than 15 cars on this property.

Mr. Wyant replied that it was their responsibility which was why he felt that the marked parking spaces in there and the signs say if there is no parking space they can't leave that car here to be worked on. That is the

responsibility of the Harris' to let people know that. Right now they just drop cars off. The way they came up with 15 cars is the 5 spaces for the employees to park at the garage, the 4 lifts and paint booth that hold 2 cars is 10 which is how they came up with the 15 number. Having lived in the rural area for years he did not think that they want to get much larger than that. He has a garage coming before the Commission in two weeks and the number of spaces is really getting up in size. They used the bay numbers and employees in that request to get a total.

Ms. Porterfield noted that this number is 5 more than was allowed previously.

Mr. Wyant replied yes because the other count made it difficult for staff. The calculation and increase would make it much easier for staff to enforce. The applicant understands building permits now, but not so much the site plan. A lot of people in the rural area do not understand site plan regulations. That is his assessment of what he has been running into out in the rural areas.

Mr. Franco asked what wording he would you propose for #6.

Mr. Wyant said that he was not sure that added a lot to it. He suggested that they strike #6. They have to park the personal vehicles in the area designated as personal vehicles. If they go across that marked line they are going into the garage area and have to park there. He thought that the condition makes it ambiguous. For example if he was not in that personal parking space and he was parking on the side of the driveway going back there by this wording he would take it to be part of that garage. When they wrote this staff may have had another reason, but he had not gotten to staff to get a clarification on that. It was something that he noticed when he read through the staff report.

Mr. Loach asked if he would rather have a total number of parking be it personal or private.

Mr. Wyant replied no, but just being totally in the boundary of the garage the total be 15. Mr. Harris works for the fire company and he brings that company vehicle home. If he goes into the garage area it is considered part of the garage operation even though he is not doing work on it. If he takes his personal vehicles and drives it into the garage area he had to park it in a parking place and it is part of the garage. Keep the personal cars outside and keep the business vehicles inside. He thought that would make it cleanly cut.

Mr. Loach noted that he would leave it no more than 15 vehicles associated and strike the only personal vehicles may be parked in the area marked parking for personal vehicles.

Mr. Wyant replied yes. That is on the conceptual plan that only for personal vehicles. They don't want to allow those people coming in with a vehicle for the garage parking out there because that has been the problem. They park anywhere they can find a spot to leave one. He thought that it really clarifies this. That is why they put the boundary around this area.

Mr. Morris asked if that also applies to item 3 in critical slopes.

Mr. Franco asked if in recommendation #3 he would propose changing that to say instead of the 6' on center it state one tree for every 400'.

Mr. Wyant replied yes. He believed for anything less than one-quarter of an acre for a buffer that they use table A out of this guidance manual. It has all those 6' spaces and the understory are 4'. He assumed that Glenn Brooks wrote the manual. The shrubs would be up to 18". Therefore, he would just refer to table out of the guide and not have the specific. Then that way they just follow this guideline. He was afraid that condition might cause them a problem.

Mr. Morris asked Glenn Brooks to come forward and address this.

Glenn Brooks agreed with striking whatever is in the parentheses there. He was just trying to give an example

of one of the scenarios that is possible out of that manual. It has a number of them. Therefore, that is fine because he did not have to give an example.

Mr. Loach invited public comment. There being none, the public hearing was closed and the matter before the Planning Commission.

Ms. Joseph asked Mr. Brooks to come back up and address condition 2 that talks about the retaining wall. She asked if that is that the same garage building that the Commission was shown photographs of.

Mr. Brooks asked if she was referring to the back of the building where the travel way has been installed.

Ms. Joseph replied that was correct.

Mr. Brooks replied yes.

Ms. Joseph asked if his expectations are that there is a 3' wall there and then it will feather back somehow.

Mr. Brooks replied that they asked the applicant if they would like to finish the slope and they said no that they wanted some area in the back of the building. So the alternative is a retaining wall. That is why he put the condition. He did not see another way to keep that slope the way it is.

Ms. Joseph said that the other slope they were talking about was the other photo that they were shown. It looks like they are starting to establish something back there.

Mr. Brooks replied that they are. When he looks at these he is careful because they always had the comments that it is easier to ask forgiveness than in this county than permission. So he tried to review them like they were not already built. But as Mr. Wyant says he believes that it is close enough and they can keep it as it is, then he does not object to that.

Ms. Joseph asked if this is something that they expect to be maintained or can they let it rip and let this go back to the trees that were there before. She asked when he looked at this does he have a no mow zone from the creek itself.

Mr. Brooks replied that the buffer itself is beyond the slope. It is down in the flat area where they see the downed trees in the picture. It is actually not much land that is in buffer on this property. It appears as though there was some back there too. If they look on the aerial photo they can drive farm equipment down through there. He did not know what they were doing with it. But it connects to the neighboring property and then goes all the way around back up to the back side of this property. There was not much clearing in the buffer because the buffer is way close to the property line. It is not a large area.

Ms. Joseph said that they were talking about critical slopes rather than buffers in this instance.

Mr. Brooks replied exactly.

Mr. Morris asked on item 6 is staff satisfied with removing the first sentence so it starts that no more than 15 vehicles associated, etc.

Ms. McDowell said if they don't lease it then the garage cars can go over the line. She asked to defer the question to the zoning division since they have to enforce this.

Mr. Morris asked zoning staff to come forward. He asked for enforcement purposes how item 6 should be worded.

Mr. Heide said that for zoning enforcement they prefer condition 6 as written.

Mr. Wyant pointed out that he was just talking about the last sentence. He agreed with the first sentence. They need to keep the designated personal parking spaces marked with a sign.

Ms. McDowell thought that the last sentence actually addressed what Mr. Wyant was talking about. If the owner uses up some of those 15 spaces designated for the garage then they are used up and the garage has less for public. She thought that is what that sentence is referring to.

Ms. Joseph asked Mr. Herrick to comment.

Mr. Herrick agreed because he understands Mr. Wyant's desire for clarity. He shared that desire. He used the analogy of crossing the center line and having a different rule. He thought that is exactly what the final sentence of paragraph 6 is intended to do. It to say when you cross this line rather than having a question of is it or isn't it a part of the garage, is it or is it not a personal vehicle when you cross that line by definition it is now classified as associated with the garage business. He thought that the last sentence of paragraph 6 actually adds clarity and creates a bright line test that might not otherwise be.

Ms. Joseph acknowledged that they had been in violation, but felt from looking at the photographs it looks pretty spiffy and it looks as if they are really trying to clean it up. She knew it was frustrating that it seemed that they were sort of doing things as they felt like doing things. She was glad that the staff had worked together to get them to this point so that they can come into compliance. She thanked the applicant for working with staff to bring it into compliance.

Mr. Loach noted from the pictures it looks like they have been trying to keep things on the up and up at least to make this a presentable operation in the rural area, which is what they are concerned about.

Mr. Franco asked if item 1 in the recommendation for the critical slopes waiver where it says uniform grade not to exceed 2 to 1 is needed if it has been established to the satisfaction of the county engineer now.

Mr. Brooks said that he was leaving that for the Commission to decide. It does not meet a 2:1 down at the bottom of the slope. It will cause more erosion if they disturb it again. But maybe in the long run it might be better, but they don't know. There is some clean up required around the area where they are still having some fill in the trees and they have deposited some rebar and things like that. If the Commission wanted to remove that he was fine with it. If the Commission wanted him to make the decision, he would suggest removing it.

Ms. Joseph noted the change in #3 within the parenthesis is out.

Ms. McDowell pointed out a typo in the condition for condition 7 which should read that the hours of operation shall not exceed earlier or later.

Mr. Franco noted that is how it shows up in the staff report.

Ms. Joseph asked if the hours of operation do not prohibit customers from dropping off vehicles before 8:00 a.m., which can be from 9 p.m. to 8 a.m.

Ms. McDowell relied that was correct.

Ms. Joseph noted that it says not more than 15 cars in a row. She noted that the zoning inspector would have to get out to the site before 10:00 a.m. to see what they are doing.

Motion on Special Use Permit:

Motion: Ms. Joseph moved and Mr. Morris seconded to approve SP-2008-00058, Harris Garage Amendment with the conditions recommended by staff.

1. Development of the use shall be in accord with the conceptual plan titled “Amended Site Plan Harris’ Garage”, prepared by DW Enterprises, and dated March 16, 2009 (hereinafter, the “Conceptual Plan”), as determined by the Director of Planning and the Zoning Administrator. To be in accord with the plan, development shall reflect the following major elements within the development essential to the design of the development: The area designated for the special use (public garage);
 - The size, height and location of the proposed buildings (16’ X 30’/maximum 24’ high);
 - The size, height and location of the existing buildings/structures (original garage – 1,936 square feet/24 feet high/3 vehicle bays; garage expansion – 1,496 square feet/24 feet high/1 vehicle bay; enclosed compressor room; paint mixing room; one outside lift; one dumpster pad/fence enclosure; 3 parking spaces carport; 2 parking spaces carport);
 - The number (maximum spaces public garage) and location of the vehicle parking spaces;
 - The two (2) signage locations at the entrance to the special use permit area. The signs shall state, “All vehicles beyond this point must be placed in a marked parking space” and be a maximum of four (4) square feet.
 - The sign location at the area designated as “Parking for Private Vehicles.” The sign shall state, “Parking for only personal vehicles of the Harris Family” and be a maximum of four (4) square feet.
2. Gasoline sales are prohibited;
3. The sale or rental of vehicles or other motorized equipment is prohibited;
4. All repairing or equipping of vehicles shall take place inside the existing garage, with the exception of vehicles being repaired on the vehicle lift located adjacent to the garage;
5. The outdoor storage of parts, equipment, machinery and junk is prohibited;
6. Only personal vehicles may be parked in the area marked “parking for personal vehicles” on the Conceptual Plan. No more than fifteen (15) vehicles associated with the public garage use shall be located outside the garage. All vehicles associated with the public garage use shall be parked in the spaces shown as “for garage only” on the Conceptual Plan. Any vehicles parked outside the area marked “parking for personal vehicles” shall be considered to be associated with the public garage and are counted in the fifteen (15) vehicle maximum;
7. The hours of operation shall not exceed (earlier or later) 8 A.M. and 8 P.M., Monday through Saturday. These hours of operation do not prohibit customers from dropping off vehicles before 8 A.M. on the days of operation;
8. Within three (3) months following approval of the site plan or site plan waiver, the permittee shall install and thereafter maintain a minimum twenty (20)-foot deep landscape evergreen-screening buffer between the garage and garage parking and Markwood Road; and between the areas designated as parking for personal vehicles and Markwood Road. This landscape screening shall supplement existing landscape approved with SP 2001-49 and consist of Eastern Red Cedar or other material approved by the Planning Director, a minimum feet high at planting, and planted in staggered rows with a maximum of ten (10) feet on center spacing between the landscape materials. The permittee shall also submit a landscape plan with the site plan application that will be subject to the approval of the Planning Director or the Planning Director’s designee; and
9. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan (for new lighting) limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval.

The motion passed by a vote of 5:0.

Motion on Critical Slopes Waiver:

Motion: Ms. Joseph moved and Mr. Morris seconded to approve the critical slopes waiver request with the conditions recommended by staff as amended.

- Removing the recommended condition 1 and amending condition 3 to remove the language between the

parentheses.

1. ~~The eastern facing slope above the creek must be reshaped to a uniform grade not steeper than 2H:1V, covered with erosion control matting, and permanently seeded.~~
2. The retaining wall proposed in the rear of the garage building must be at least 3' high, and topsoil, matting, and permanent seed or mulch and shrubs must be applied to the cut slope for adequate stabilization.
3. To provide stormwater management and replenish the buffer, the entire buffer area within the property should be planted in accordance with the Chesapeake Bay Riparian Buffers Modification and Mitigation Guidance Manual no later than three (3) months following the approval of this critical slopes waiver. ~~(The applicant is referred to the Restoration Establishment Tables in Appendix D, calling for canopy trees at 6' centers, understory trees at 4' centers, and shrubs at 18" centers.)~~ These shall be bonded as a guarantee of survival for a minimum of 5 years.

The motion passed by a vote of 5:0.

Mr. Loach said SP-2008-00058, Harris Garage Amendment would go to the Board of Supervisors on June 10 with a recommendation for approval.

Mr. Cilimberg pointed out that the critical slopes waiver action was final and did not go to the Board.

The Planning Commission took a break at 8:33 and the meeting reconvened at 8:35 p.m.

ZTA-2009-00004 Flood Hazard Overlay District

Amend Section 30.3.05.1.1, By right within the floodway, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Section 30.3.05.1.1 to add public water and sewer transmission lines, main or trunk lines, and interceptors owned and/or operated by the Rivanna Water and Sewer Authority, as by right uses within the floodway in the Flood Hazard Overlay District, and change the reference to a County department. 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. (Mark Graham)

Mr. Graham presented a PowerPoint Presentation and summarized the executive summary. (Attachment)

- The request is to amend the Zoning Ordinance to make Rivanna Water and Sewer Authority's water and sewer lines a by right use within the Flood Hazard Overlay District
- This is a housekeeping type of ordinance amendment. In reviewing a plan for the upgrade to the Meadowcreek Sewer Interceptor, staff found that water and sewer lines owned and operated by the Rivanna Water and Sewer Authority (RWSA) are not a by right use within the Flood Hazard Overlay District. Staff also found that RWSA's water and sewer lines are a by right use within all zoning districts outside of the Flood Hazard Overlay District and that water or sewer lines owned and operated by the Albemarle County Service Authority (ACSA) are a by right use within the Flood Hazard Overlay District. Staff proposed a Resolution of Intent to amend the Zoning Ordinance to treat water and sewer lines owned and operated by Rivanna Water and Sewer Authority the same as those owned and operated by the Albemarle County Service Authority with respect to the Flood Hazard Overlay District. The County Board approved this Resolution of Intent on April 1, 2009, directing staff and the Planning Commission to expedite the processing of this ordinance amendment.
- Staff plans to take this ZTA to the Board next Wednesday because Rivanna Water and Sewer Authority are somewhat anxious to get this done as soon as possible. They will be coming back because there is a compliance with the Comp Plan review that will have to be done as part of this because these are transmission mains.
- Staff recommends that the Planning Commission recommend approval of attached Zoning Text Amendment. Staff has scheduled this to be heard by the County Board on May 13, 2009.

Ms. Joseph asked what the time frame is on the construction of the Meadowcreek Sewer Interceptor, and

Mr. Graham replied that they are trying to get started at the end of June or early July of this year.

Mr. Loach opened the public hearing and invited public comment. There being no public comment, the public hearing was closed and the matter before the Planning Commission.

Motion: Mr. Franco moved and Ms. Joseph seconded to recommend approval of ZTA-2009-00004 Flood Hazard Overlay District.

The motion passed by a vote of 5:0.

Mr. Loach said ZTA-2009-00004, Flood Hazard Overlay District would go to the Board of Supervisors on May 13 with a recommendation for approval, as follows:

ORDINANCE NO. 09-18(4)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE III, DISTRICT REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article III, District Regulations, are hereby amended and reordained as follows:

By Amending:

Sec. 30.3.05.1.1 By right within the floodway

Chapter 18. Zoning

Article III. District Regulations

Sec. 30.3.05.1.1 By right within the floodway

The following uses or activities are authorized within the floodway as a matter of right:

1. Agricultural uses, excluding structures of any kind, limited to field crops, pasture, grazing, livestock, raising poultry, horticulture, viticulture and forestry.
2. Recreational uses (excluding structures of any kind and uses involving human habitation) such as parks; swimming areas, golf courses and driving ranges; picnic grounds; wildlife and nature preserves; game farms; fish hatcheries; shooting preserves; target, trap and skeet ranges; hunting, fishing and hiking areas; athletic fields; and horse show grounds.
3. Flood warning aids and devices, water monitoring devices and the like.
4. Fences.
5. Electric, gas, oil and communications facilities, including poles, lines, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility, but excluding tower structures. (Added 7-1- 81) (Amended 5-12-93)
6. Water distribution and sewage collection lines and appurtenances owned and operated by the Albemarle County Service Authority, but excluding pumping stations and holding ponds; public water and sewer transmission lines, main or trunk lines, and interceptors, but excluding treatment facilities and pumping stations, owned and/or operated by the Rivanna Water and Sewer Authority

(reference 5.1.12, 30.3.03.1, 31.2.5). (Added 7-1-81)

7. If paragraphs (a) through (d) are each satisfied, projects which: (i) are designed or directed by the county, a soil and water conservation district, or a public agency authorized to carry out flood control or environmental restoration measures; or (ii) are reviewed and approved by the department of engineering and public works in accordance with the water protection ordinance.
 - a. The purpose which will be served by the project, as determined by the department of engineering and public works, is either flood control or environmental restoration;
 - b. The amount of fill material placed within the floodway, floodway fringe or approximated flood plain does not exceed the amount of cut material removed from the same floodway, floodway fringe or approximated flood plain in which the fill was placed;
 - c. No natural streams will be relocated; and
 - d. The project will use natural materials such as rock and vegetation, and will not use engineered structures such as those identified in section 30.3.05.2.1(5).
8. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)

(Ord. 98-18(2); 9-16-98; Ord. 04-18(2), 10-13-04)

I, Ella W. Jordan, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of ____ to ____, as recorded below, at a regular meeting held on _____.

Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Boyd	_____	_____
Mr. Dorrier	_____	_____
Ms. Mallek	_____	_____
Mr. Rooker	_____	_____
Mr. Slutzky	_____	_____
Ms. Thomas	_____	_____

Presentation:

Virginia Stormwater Regulations Update (Mark Graham)

Mr. Graham presented a PowerPoint presentation and an update on the Virginia Stormwater Regulations for informational purposes only. (Attachment – PowerPoint Presentation)

The Stormwater Regulations have been going through a process for about three years. In looking at the changes it has proven to be fairly controversial. As they are moving forward a number of organizations and groups have expressed concerns with what has been proposed.

The Planning Commission received a memo dated April 27, 2009 regarding the Virginia Stormwater Regulations Update from him about the latest update from the Virginia Department of Conservation and Recreation (DCR) on the subject. In the memo he noted several more recent changes since this information was published. (Attachment: Memo to Planning Commission from Mark Graham dated April 27, 2009 regarding Virginia Stormwater Regulations Update)

Glenn Brooks, County Engineer, was present to answer questions.

Mr. Morris left the meeting at 9:07 p.m.

The Planning Commission discussed, asked questions and made comments. The work session was for informational purposes only. No formal action was taken.

Old Business:

Mr. Loach asked if there was any old business. There being none, the meeting moved to the next item.

New Business:

Mr. Loach asked if there was any new business.

- Mr. Franco suggested that aerial photos be made available for future projects such as the Earlysville Business Park.
- Ms. Joseph suggested that neighbor concerns could be addressed in the staff report. The answers being in the staff report would help placate the neighbors.

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

Adjournment:

With no further items, the meeting adjourned at 9:12 p.m. to the Tuesday, May 6, 2009 joint Board of Supervisors meeting on wind turbines at 2:45 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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