

**Albemarle County Planning Commission
December 8, 2009**

The Albemarle County Planning Commission held a public hearing and meeting on Tuesday, December 8, 2009, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Other officials present were Wayne Cilimberg, Director of Planning; Gerald Gatobu, Principal Planner; Rebecca Ragsdale, Senior Planner; David Benish, Chief of Planning; Bill Fritz, Director of Current Development, and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Strucko called the regular meeting to order at 6:01 p.m. and established a quorum.

Other Matters Not Listed on the Agenda from the Public:

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

Review of Board of Supervisors Meeting – December 2, 2009

Mr. Cilimberg reviewed the actions taken by the Board of Supervisors on December 2, 2009.

Consent Agenda:

- a. **Approval of Minutes:** September 8, 2009 and May 12, 2009
- b. **SDP-2009-00062 Free Bridge Auto** - Proposal for a waiver to Zoning Ordinance Section 18-4.2.3.2 "Location of Structures and Improvements" to allow disturbance of critical slopes, pursuant to Section 4.2.5 and in conjunction with the review of a preliminary site plan. The property, described as Tax Map 78, Parcel 11, contains 0.849 acres zoned HC-EC (Highway Commercial and Entrance Corridor.) The site is located in the Rivanna Magisterial District on the south side of Olympia Drive (under construction) approximately 760 feet east of its intersection with Town and Country Lane [private]. The Comprehensive Plan designates this property as Urban Density in Urban Area 3. (Elizabeth Marotta)

Mr. Strucko asked if anyone was present to speak regarding any item on the consent agenda. There being no one, he asked if any Commissioner would like to pull an item from the consent agenda.

Mr. Morris asked to pull SDP-2009-00062, Free Bridge Auto critical slopes request from the consent agenda for discussion. He asked that a condition be added that none of the soil removed from the critical slopes area be taken through the Fontana Subdivision for depositing on another development site.

Mr. Fritz pointed out that it should be the soils from the site and not just from the critical slopes area because it would be hard to distinguish one truck load from another.

Mr. Morris agreed with the suggestion.

Mr. Kamptner pointed out that the board accepted a similar type of proffer with Belvedere where they prohibited construction traffic from going through Belvedere Subdivision. It is similar in its nature.

Mr. Morris noted that the residents of Fontana have had it with truck traffic and there should be limitations on truck traffic before 7 a.m.

Mr. Franco noted concern with the condition if the dirt is required for this adjacent subdivision they are requiring them to get the dirt from somewhere else.

Mr. Morris said that if they use Olympia Drive, which the contractor has not opened up yet, they can skirt Fontana Subdivision and come up through the back. They have chosen not to do that although the Community Development Director has requested this on more than one occasion. So there is an alternative if they chose to do it.

Mr. Morris asked that the condition be added that none of the fill taken from the construction site will be transported through the Fontana Subdivision.

Motion: Mr. Edgerton moved and Mr. Morris seconded for approval of SDP-2009-00062 Free Bridge Auto with the additional condition:

Mr. Franco asked for an amendment to the motion so that if Olympia Drive is considered through Fontana that they can't use Olympia Drive either.

Mr. Morris agreed and suggested adding to the condition "through the front entrance".

Amended Motion: Mr. Edgerton accepted the amendment, which was seconded by Mr. Morris for approval of SDP-2009-00062 Free Bridge Auto with the condition, as amended:

1. None of the fill taken from the construction the site shall be taken through the front entrance of Fontana Subdivision for depositing on another development site.

The motion passed by a vote of 7:0.

Mr. Strucko noted that SDP-2009-00062 Free Bridge Auto critical slopes waiver was approved.

Motion: Mr. Morris moved and Mr. Loach seconded for approval of the minutes for September 8, 2009 and May 12, 2009

The motion passed by a vote of 6:0:1. (Porterfield abstained)

Mr. Strucko noted that the minutes of September 8, 2009 and May 12, 2009 were approved.

Public Hearing Items:

SUB-2009-00147 Glenmore Equestrian Parcel – Final

This proposal is for final plat approval to allow the subdivision of a 60.752 acre parcel [Equestrian Parcel] from Tax Map 93A1 parcel 1. The property, described as Tax Map 93A1 - Parcel 1, contains 149.250 acres zoned Planned Residential Development (PRD), (EC) Entrance Corridor and Flood Hazard Overlay. The site is located in the Scottsville Magisterial District at the intersection of Richmond Road [State Route 250] and Glenmore Way [State Route 1054]. The Comprehensive Plan designates this property as Neighborhood Density and Parks and Greenways in the Village of Rivanna. (Gerald Gatobu)

Don Franco disqualified himself since he represented the applicant on this plat and asked that this be recorded in the record for a period of five years. He left the meeting room at 6:10 p.m.

Mr. Gatobu presented a PowerPoint Presentation and summarized the staff report.

- This is an odd item because it does not require an action from the Planning Commission because it is mostly administrative. Staff, in the interest of public participation, brought the request before the Planning Commission to be heard. There are some issues. Staff has had residents write letters and in the interest of full disclosure wanted to have it in a public forum so that it can be

discussed and addressed. A final plat has been submitted for SUB-2009-00147. What is being proposed is an equestrian center. They are trying to divide one parcel on its own for the part called the equestrian center to be purchased as it is. It will be about 60 acres in size. A final plat was submitted and staff has to review it by Section 303 of the ordinance to see if it meets all of the requirements for a final plat. The plat does meet the requirements of a final plat. Staff has had questions as it relates to common area and open space. A determination was made as noted in Staff Report Attachment C and D.

- In a letter from Mr. O'Brien, a Glenmore resident, he had a question about a note on the plat. For most of the Glenmore plats they have the private road right-of-way and open space shall be owned and maintained by the Glenmore Homeowners Association. In this case the Zoning Administrator had to determine how much open space had already been achieved within the Glenmore Community and state whether this parcel itself is open space or common area. The letter written by Ms. McCulley determined that this is more open space than common area. Common area is open to the use of residents. Open space can be privately owned. In this section there is 38 acres that is equestrian center with a remainder of about 22 acres that will be open space. With that note on the plat staff is trying to determine if this is going to be privately owned what happens to the 22 acres that are open space. Since it will be privately owned by an individual what rights does the public have. They would not want everyone going to the equestrian center for cases of liability and issues like that. That was the issue with the request.
- It also brought up the issue of the roads within Glenmore. Since it is going to be privately owned what rate of payment would they have to make to maintain the private roads within Glenmore. That is why it says that the private roads and right-of-way shall be maintained by the Glenmore Homeowners Association. Members of the Glenmore Homeowners Association pay a certain amount to the Glenmore Homeowners Association to maintain the roads. Mr. O'Brien's concern was that it might be private ownership but how much do they pay in terms of the roads and what they use within the subdivision itself.
- Staff recommends approval of the final plat with the conditions outlined in the staff report, which must be met before final plat approval is granted.

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

Melissa Riley, with McGuire Woods PLC representing Glenmore Associates, said they have no issues with conditions two and four.

- With condition one there is no issue regarding presenting this information to the Planning Commission. The only concern they have is that including this information on the table as part of the plat can lead to confusion because as some residents have already expressed the opinion that is a legal binding document, whereas, the covenants, restrictions and the deeds actually provide it. A notation on the plat is not legally binding. They are afraid that by attaching this to the plat it encourages that confusion further. But, they have that information prepared and are prepared to give it to the Commission. If the Commission wishes it to be a condition they will meet that condition.
- With regard to the third condition she did submit some alternative language to Mr. Kamptner this afternoon asking that "private improvements" be replaced with the following language: "Maintenance of the portion of Piper Way serving the equestrian parcel." There were some concerns because all of the other residents don't determine what their percentage of maintenance fees would be based on the section of road that they use. However, that is the agreement in the covenants and restrictions that the Country Club has. What they would propose to happen would be that the Equestrian Center has a similar agreement as the County Club does that states that they are responsible for a portion of the maintenance for that particular section of the road that is used. That was the reason that they asked for that slight change to condition three.

Mr. Strucko invited questions for Ms. Riley.

Ms. Porterfield asked if she was making the assumption that the Equestrian Center will only and always wish access through the one road that it has right now.

Ms. Riley replied yes that is the case in that would be the only access.

Ms. Porterfield assumed when she was talking about that section of Piper Way they were considering the guard house also.

Ms. Riley replied that is correct.

Ms. Porterfield noted that anybody accessing the Equestrian Center would have to use services of the guard house to come through the gate if they were not a resident.

Ms. Riley replied that was correct.

Mr. Kamptner noted that his last comment sent about 45 minutes ago was that usually the County leaves it up to the subdivider as to how particular lots were going to share in the contributions in the private improvements. This situation is a little bit different because they were subdividing a parcel that is already part of the Glenmore Subdivision. To a certain extent it may already be covered. But, usually it is the subdivider who decides what a particular lot's proportionate share is going to be. Sometimes lots are entirely exempted or sometimes the percentage is very minimal. The applicant has concern with the language of condition three. They are proposing that they would be subject to contributing for a proportionate share of the maintenance of Piper Way. He did not recall any circumstances in the past where the County has interceded and determined what proportionate share a particular lot should pay per the maintenance of private improvements. He assumed that it was not a County determination as to how the Country Club would pay for its share.

Mr. Fritz replied that typically what they were looking for is that the private facilities be maintained and how they decide to divvy up the responsibility for that maintenance if someone wants to assume a higher or lesser burden is part of the agreement and then they look for the enforceability of the maintenance.

Mr. Cilimberg pointed out that could change. They could have one arrangement that gets changed by another later as lots develop and ownerships change.

Alton English, lawyer with McGuire Woods, asked to make one clarification that the Homeowner's Association is obligated to maintain the road under the covenant. The assessments the homeowners pay is established by the Homeowner's Association, which goes to the road maintenance. It is not a percentage per say per lot. It is determined by the Homeowner's Association Board, which he assumed to be like most other homeowner associations.

Mr. Edgerton asked if currently the homeowners determine how much each lot has to pay.

Mr. English replied yes, and also how much of that goes towards the maintenance of the road.

Mr. Edgerton questioned why they would not have to do this if this is a lot in a subdivision.

Mr. English replied that if the covenant was amended to provide maintenance obligation by the equestrian center it would have to be approved by covenants

Mr. Edgerton said if the homeowner's have to decide, then why should the Commission say that in a condition before the homeowners have a chance to weigh in on it.

Mr. English deferred the question.

Mr. Kamptner pointed out that the way condition three is worded the contribution to satisfy the condition could be zero or a dollar. It is whatever everybody agrees to. The maintenance instrument in this case is the recorded covenant, which has to be amended, that requires the minimum percentage of the vote of the membership.

Mr. Kamptner said that his suggestion would be that this subdivider needs to make their case to the Homeowner's Association as they come under the recorded covenant. This property's usage may be less than what the homeowners may be or it just may be different. The recommended condition does not bind them to any minimum contribution.

Mr. English said that the owner is in agreement with that.

Ms. Riley said the owner was more than happy to negotiate with the Homeowner's Association. Our concern was that the language of the private improvements might somehow give the Homeowner's Association more right to apply things beyond just the road maintenance to the Equestrian Center. But, that is something they are happy to negotiate with the Homeowner's Association. It was the intention of the applicant and the eventual owner to do so.

Mr. Kamptner said that the language "private improvement" was just to borrow the concept from Section 14-317. It actually uses non-public or non-authority owner-maintained improvements. For the condition he just simplified it to say private improvement. It was not intended to expand the scope beyond that section.

Ms. Porterfield pointed out that this issue just came up about 1:30 p.m. this afternoon because of the subsequent letter from Jerry O'Brien. She was unfortunately unable to get hold of the president or the vice-president of the Homeowner's Association to confirm this. But she believed that the Equestrian Center has never been separated as another entity that would be contributing because it was a parcel of the developer's properties. Therefore, the amount that the developer has been paying to take care of the clubhouse, tennis courts and access to all of that plus the Equestrian Center has all been lumped together. This particular issue came up and she spoke to the individual who is going to buy the Equestrian Center and his belief all along is that he is going to go in after he buys the property and work with the Glenmore Homeowner's Association to come up with a reasonable amount of money that the Equestrian Center would pay on an annual basis. So he was willing to do it. It was just the question of putting it into this action so if in the future the property was sold to someone not that willing there would be clear direction. At least it would be there in black and white that the Equestrian Center is separate under private ownership and this is how it is going to pay for its access to and through the Glenmore private streets, gate, etc.

Mr. Strucko opened the public hearing and invited public comment. There being none, the public hearing was closed and the matter before the Planning Commission. He asked if they were looking at changes in the language of the conditions.

Mr. Kamptner asked staff if the table needs to include common open space as well. This district requires that they maintain 25 percent. Zoning had determined that they have achieved that 25 percent as common open space. But it would be helpful to put that to rest if that was tracked as well.

Mr. Gatobu replied that it says including areas in common area and open space.

Mr. Kamptner said that "common" is modifying both common and open space.

Mr. Gatobu replied yes. What staff has to do is make sure that the applicant tells us specifically how much is in common area and how much is in open space.

Mr. Kamptner noted that the Subdivision Ordinance uses the words "common area," which includes both open space and common open space. It would be helpful if they are asking for common open space to insert a comma in front of common open space so there is no uncertainty there.

Mr. Gatobu agreed.

Mr. Kamptner said that one thing this project realized is that they need to clean up some of the terminology in the various ordinances.

Ms. Porterfield said the person buying this has all good intentions to do all of these things. Some of these comments that came up had nothing to do with the plat. So it has been a mixture of things. It appears at this point that staff has been able to work with the developer and the purchaser to come up with reasonable conditions on this plat to move it forward tonight.

Mr. Morris said that those conditions are as stated.

Mr. Edgerton agreed with the addition of Mr. Kamptner's one comment to insert a comma in front of common open space.

Motion: Ms. Porterfield moved and Mr. Morris seconded to support the subdivision agent's approval of the final plat for SUB-2009-00147, Glenmore Equestrian Parcel with staff's recommended conditions, with the one modification.

1. The final plat shall include an accurate land use table summary (tabulation) for all areas in the Glenmore Community including areas in common area, common open space, and open space. The land use table (tabulation) will be shown on all future plats to be reviewed in the Glenmore (PRD) Planned Residential Development. [Section 14-302A.14]
2. The applicant must satisfy **proffer #8 of ZMA 99-16** requiring installation of a traffic signal at the entrance to Glenmore on Route 250 before final plat approval can be granted. Final plat approval is conditioned on the establishment of a bank account with the necessary funds to cover installation of the traffic signal.
3. The subdivider shall either submit an instrument satisfying the requirements of County Code § 14-317 assuring SUB 09-147's contribution and participation in the perpetual maintenance of private improvements within the Glenmore Subdivision or provide evidence satisfactory to the subdivision agent that SUB 09-147 is already obligated to contribute to and participate in the perpetual maintenance of private improvements within the Glenmore Subdivision in an instrument previously approved by the County.
4. The subdivider shall submit for review and approval an instrument satisfying the requirements of County Code § 18-4.7(d).

The motion passed by a vote of 6:0. (Franco abstained)

Mr. Strucko said that SUB-2009-00147, Glenmore Equestrian Parcel - Final was recommended for approval with the recommended conditions, as modified, that must be met before final plat approval is granted.

Mr. Franco returned to the meeting at 6:42 p.m.

Kinloch Addition

Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcels to the Kinloch Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 49, Parcels 5C and 6A1, and Tax Map 50, Parcel 13. The parcels proposed for addition are approximately 101.96 acres in size and located north of Turkey Sag Road. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions. (Eryn Brennan)

Mr. Cilimberg said that the Planning Commission reviewed and recommended approval of an addition of three parcels to the Kinloch District on November 10, 2009. There is a missing fourth parcel proposed to be added in that hearing. As a result they are having another public hearing tonight to consider this fourth parcel as well as the other three so that there is a complete and comprehensive recommendation on Kinloch that goes to the Board.

- The fourth parcel is Tax Map 50, Parcel 19, which is 7.3 acres primarily forest with no dwellings. It is owned by the same property owner of the adjacent parcel. The Agricultural and Forestal Committee met on November 30th and recommended approval of the additions including this fourth parcel to the Kinloch Agricultural Forestal District. Staff recommends that the Planning

Commission recommend approval of all additions to the Kinloch District. This matter would go to the Board of Supervisors tomorrow night.

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

Motion: Ms. Joseph moved and Mr. Morris seconded to recommend approval of the additions to Kinloch Agricultural and Forestal District.

The motion passed by a vote of 7:0.

Mr. Strucko said that Kinloch Agricultural and Forestal District additions would go before the Board of Supervisors with a recommendation for approval on December 9.

SP-2009-00021 Comcast Facility Expansion

PROPOSED: 16'x 30' facility expansion to install new electronics for advanced services

ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas, [EC] Entrance Corridor overlay, [AIA] Airport Impact Area.

SECTION: 10.2.2.6 Special Use Permit, which allows for unmanned telephone exchange centers/facilities in the RA Zoning District

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas uses in Rural Area 1

LOCATION: Tax Map 45, Parcel 16A: in the Earlysville area about 1000 feet from the intersection of Earlysville Road [State Route 743] and Rio Road West [State Route 631].

MAGISTERIAL DISTRICT: Jack Jouett

RELATED APPLICATION: SP1990-019, SP1979-32
(Gerald Gatobu)

Mr. Gatobu presented a Power-Point presentation and summarized the staff report.

- This is an existing Comcast Facility that was approved in 1979. There was an amendment approved in SP-90-19 and SP-79-72 as shown in the staff report. The square footage approved in SP-90-19 is being amended today, which was in condition #2 that the building size shall be 24' X 30'. Comcast has a lot of equipment and needs to expand the size of the building to add additional equipment. They have asked for a 16' X 30' expansion, which is 480 square feet for new digital output equipment.
- He talked to the property owner to the right and he had some concern with the traffic generated and wanted to make sure it remained an unmanned facility. He talked to Mr. Welch and he indicated that he would talk to the owner and explain that it is to remain unmanned. The only time traffic would be generated on the road is when Comcast needs to do emergency repairs. There will be no one at the facility unless there are emergency repairs.
- There is a fence all around the facility mainly for safety purposes. The fence was a condition of the special use permit, which is along the edge of Roslyn Ridge. One of the conditions is that the building shall have the appearance of a residential building. The addition will take the appearance to look like a residential building. Mr. Rooker expressed some concerns with the facility and has been talking with Comcast. The issue with the one pole has been cleaned up when the site was updated.
- Staff recommends approval of SP-2009-21 Comcast Facility Expansion to the Board of Supervisors with the conditions listed in the staff report. The conditions will be almost identical to the previous SP-90-19 conditions with the amendments to the size of the building itself.

Mr. Strucko invited questions for staff.

Mr. Edgerton asked if Mr. Rooker's concerns have been satisfied, and Mr. Gatobu replied that Mr. Rooker has not told him, but he had been working with Comcast.

Mr. Edgerton said that it appears that the access road is not on the property. It appears that most of the access road is to the south of the actual property line.

Mr. Fritz noted on page C2 it indicates a 20' right-of-way. So the access road is on the property and within a right-of-way.

Mr. Edgerton said that the Western By Pass was proposed going through close to this area. He asked if it would impact this property.

Mr. Gatobu replied that he sent this to Joel DeNunzio and he had no concerns except to suggest that the sight distance be shown.

Mr. Loach asked regarding noise if the increase in size of the equipment would need a larger generator or need more time to run.

Mr. Gatobu replied that he did not know and should ask the applicant. He did not know how much equipment they were putting in. But he said that it comes on occasionally. He expressed what the neighboring neighbor and property owner said.

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

Mike Welsh, engineer for Comcast, said that the generator was tested once a week during the day time hours. The generator will not be increased in size.

Nat Darly said that he works in government affairs for Comcast.

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

Ms. Joseph noted that the staff report was very thorough.

Motion: Ms. Porterfield moved and Mr. Loach seconded to approve SP-2009-00021, Comcast Facility Expansion with staff's recommended conditions.

1. The proposed 480 square foot addition [16' x 30'] to the existing unmanned Comcast cable network facility must be developed in general accord with the concept plan prepared by Engineering Solutions with a revision date of 09/30/2009.
2. The proposed Building size addition approved with this special use permit shall be limited to 16' x 30';
3. Building shall have the exterior appearance of residential buildings and shall have landscaping, screen planting and/or fencing. Trespass fencing and other safety measures shall be required at the time of the site plan review; and
4. No additional satellite dishes shall be added on the site.
5. All elements of the site plan shall be reviewed by the Current Development Division. Please note that the conditions of previous special use permits remain in effect.

The motion passed by a vote of 7:0.

Mr. Strucko said that SP-2009-00021 Comcast Facility Expansion would go before the Board of Supervisors with a recommendation for approval at a date to be determined.

ZTA-2009-00010 Downtown Crozet District

Amend Secs. 4.15.2, Definitions, 4.15.11, Regulations applicable in the PUD and NMD zoning districts, 20B.3, Area and bulk regulations, and 20B.7, Sidewalks and street trees, of Chapter 18 of the Albemarle County Code. This ordinance would amend Sec. 4.15.2, to add a definition of sandwich board sign; Sec. 4.15.11, to add the DCD as a zoning district subject to the sign standards in Sec. 4.15.11 and to authorize sandwich board signs in the DCD subject to standards; Sec. 20B.3, to add setback standards for secondary buildings on a parcel, to add definitions of primary and secondary buildings, and to clarify the regulation pertaining to determining setbacks on corner lots; and Sec. 20B.7, to amend the standards and procedures for waivers from the sidewalk and/or street tree requirements.

Ms. Ragsdale presented a Power-Point presentation and summarized the staff report.

- This is a public hearing to make a few corrections and additions to the Downtown Crozet District. The Crozet Master Plan identified the need for zoning changes in order to fully implement the Plan's recommendations to promote the redevelopment and invigoration of the Crozet downtown area. The Downtown Crozet zoning project was initiated by the Board of Supervisors in September 2006, based on the urging of Crozet business and property owners, along with endorsement of the project by the Crozet Community Advisory Council. On June 11, 2008, the Board adopted a new zoning district for downtown Crozet, as well as a zoning map amendment to rezone most of Downtown to the new district. At that time the Board recognized that this was a new type of zoning district for the County and future amendments could be anticipated. Since the DCD was established in June 2008, County staff has identified several provisions in the zoning district's regulations that should be added or revised to further clarify district requirements. The Planning Commission passed a resolution of intent to initiate these changes on May 19, 2009.
- There are three provisions in the ordinance that need changes. These provisions relate to signs, sidewalk and street tree waivers, and setback provisions for secondary buildings. The proposed ordinance with changes underlined is attached.
- **Signs-** When the DCD district was adopted signage regulations were inadvertently omitted. No sign provisions currently apply to the DCD district. The proposed amendment will apply the sign regulations currently in place for the PUD and NMD districts (Section 4.15.11) to the DCD. Staff believes that these regulations are appropriate for Downtown Crozet, without the need to craft separate regulations because of the smaller sign area maximum requirements, with one exception. Sandwich board signs are a type of sign commonly allowed in most downtown areas and staff believes would be appropriate for Downtown Crozet. Staff is recommending that sandwich boards be allowed in the DCD only.
- **Front Setbacks for multiple buildings on the same lot-** Having multiple buildings on one lot is a building scenario that was not provided for with the front setback provisions in the DCD district. The current district regulations require that ***all*** buildings on a lot meet the front setback requirements and be built to the street. This situation is problematic for lots that may have building(s) behind the building fronting the street. Therefore, provisions to allow multiple buildings on a lot and secondary structures are proposed. The Planning Director will be given authority to determine front setbacks for secondary buildings based on the prevailing building pattern that has developed in the vicinity of the lot.
- **Section 20B.7. Sidewalk and Street Tree Requirements Waiver Provisions-** The DCD requirements for sidewalks and street trees represent the desired ultimate streetscape. The DCD District currently stipulates that sidewalks along Crozet Avenue, Three Notch'd Road and new Main Street shall be at least ten (10) feet wide. All other sidewalks shall be at least eight (8) feet wide. Street trees are also required and may be planted within grates on each sidewalk or in a planting strip abutting the sidewalk, spaced at a minimum of twenty-five (25) and a maximum of forty (40) feet on center and the distance of each tree from the edge of the sidewalk shall be approved by the agent. (See illustration in staff report)
- This section of the ordinance was written ahead of the County's final streetscape design for Downtown, which includes a planting strip and variable width sidewalk of up to 6'-7'. Unfortunately, the ordinance section as written limits the waiver criteria granted to the agent and does not grant broader authority to Commission:

Waivers from sidewalk requirements. In accordance with the procedures stated in subsection 20B.3(l), the agent may waive the requirements for a sidewalk and/or street trees where the developer demonstrates that: (i) the Virginia Department of Transportation prohibits establishing sidewalks and/or planting street trees; or (ii) existing utility easements prohibit establishing sidewalks and/or planting street trees.

- Staff is finding that more flexibility is needed to deal with existing development, right of way widths, easement constraints, on-street parking and bike lanes, and the potential of a historic. To better meet the intent of the DCD, staff believes there should be broader discretion in granting waivers and modifications. The proposed amendments would provide for additional criteria. These criteria would allow for waivers if there are unusual physical conditions on the lot or an adjoining lot that make it impossible or unfeasible to provide the required sidewalk and/or street trees.
- Staff recommends the Commission forward a recommendation for approval of the attached ZTA 2009-010 for Downtown Crozet District corrections as noted in Attachment B of the staff report to the Board of Supervisors.

Mr. Strucko invited public comment.

Neil Williamson, of Free Enterprise Forum, said that the Downtown Crozet project is a fascinating process to see the County go through since it puts the County in the role of the applicant seeing some of the challenges that are put forth by strict rules and strict interpretations.

- Many Commissioners sat on the DISC II Committee and heard again and again the need for flexibility. He was reminded of that as he read the staff report since staff is finding that more flexibility is needed to deal with existing development, right-of-way width, easement constraints, etc. All of this speaks to the specificity of the programs that have been put forth.
- Regarding the sign ordinance he has one concern with the grandfathering. The Crozet Pizza wall sign may exceed 20'. He asked if they are going to outlaw the Crozet Pizza wall sign. Finally, the Commission has said over the past few years that waivers should be rare. This is a good example of the idea of administrative waivers with clear direction, which should not be rare but in fact they should be frequent in order to make the overall vision of the master plan occur.

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

Mr. Loach noted that he was very supportive of this. Allowing the sandwich board by Mud House is good idea. He agreed with Mr. Williamson to the extent that they do need flexibility particularly with some of the significant changes that will probably come about with the lumber yard and the area from the Fire House down to Con Agra in looking at changes in zoning for those. These changes probably come at an opportune time to coincide with some of those changes. He noted that Mr. Williamson did raise a question about the sign at Crozet Pizza.

Mr. Kamptner replied that the existing signs that exceed the size limits of the new regulations would be allowed to continue as non-conforming signs. As long as the signs are used they are allowed to continue.

Ms. Porterfield noted on page 5 where they are adding the verbiage within the DCD about the sandwich board it talks about the agreement shall be in the form and have the substance approved by the County Attorney. She asked if there was going to be a boiler-plate agreement available so that somebody could just come in and sign it instead of everybody having to create their own agreements.

Mr. Kamptner replied that typically they do get to that point where they do have a template to offer to anyone who is subject to this requirement.

Ms. Porterfield noted that would be most useful if they could do that. She pointed out several grammatical items.

- In the third line after right of way, add a comma.
- In the definition of primary building (Page 8K) take out “primary building” changing the definition to read as follows, “The buildings or structures on a lot that must comply with the minimum/maximum front yard setback requirements.” She assumed that there was only one building.

Mr. Cilimberg pointed out that on one parcel there could be two buildings along the front or more. Based on ownership there could be more than one primary building. The primary is located next to the street and the secondary building would be behind it. That would be beyond the maximum setback.

Motion: Mr. Loach moved and Mr. Morris seconded for acceptance of the draft ordinance for ZTA-2009-00010 Downtown Crozet District as recommended by staff with the additional comments as noted below.

- In the third line after right of way, add a comma.
- In the definition of primary building take out “primary building” changing the definition to read as follows, “The buildings or structures on a lot that must comply with the minimum/maximum front yard setback requirements.”

The motion passed by a vote of 7:0.

Mr. Strucko said that ZTA-2009-00010, Downtown Crozet District will be forwarded to the Board of Supervisors on January 13 with the recommendation for approval.

Old Business:

Mr. Strucko asked if there was any old business.

- Mr. Franco noted that he has not been appointed to the Fiscal Impact Committee by the Board of Supervisors.
- The Farm Roundtable will be held on Thursday, December 10 at 3:00 p.m. in Room #241.

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

New Business:

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

Adjournment:

With no further items, the meeting adjourned at 7:17 p.m. to the Tuesday, December 15, 2009 meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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