

**Albemarle County Planning Commission  
May 12, 2009**

The Albemarle County Planning Commission held a public hearing, meeting and work session on Tuesday, May 12, 2009, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Other officials present were Brent Nelson, Landscape Planner; David Benish, Chief of Planning; Wayne Cilimberg, Director of Planning; Margaret Maliszewski, Design Planner and Greg Kampthner, Deputy County Attorney.

**Call to Order and Establish Quorum:**

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

**Other Matters Not Listed on the Agenda from the Public:**

Mr. 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 – May 6, 2009**

Mr. Cilimberg reviewed the actions taken by the Board of Supervisors on May 6, 2009.

Ms. Joseph asked about the significant VDOT budget cut from 13 million to 7 million which she heard discussed by a VDOT representative at the Board meeting.

Mr. Benish noted that VDOT's funding for maintenance in the Charlottesville District was reduced from 12 to 7 million. He offered to email the slide presentation on VDOT's proposed plan regarding the funding for maintenance.

**Work Sessions:**

**ZTA-2009-00009 Entrance Corridor Process Improvements** - Amend the Zoning Ordinance to change Section 30.6 Entrance Corridor Overlay District (ECOD) and related sections to streamline procedural requirements and improve efficiency and effectiveness in Entrance Corridor (EC) review, and to address recommendations of the Development Review Task Force (DRTF). (Margaret Maliszewski)

Ms. Maliszewski presented a PowerPoint presentation and summarized the staff report.

- The proposal is to amend the Zoning Ordinance to change Section 30.6 Entrance Corridor Overlay District (ECOD) and related sections to streamline procedural requirements and improve efficiency and effectiveness in Entrance Corridor (EC) review, and to address recommendations of the Development Review Task Force (DRTF).
- This amendment will provide for greater efficiency and effectiveness in the review of applications for development proposals made under section 30.6 of the Zoning Ordinance.

Staff will highlight the changes, as well as issues raised by Ms. Joseph, as follows.

Sections 3.1 and 4.15.15: Definitions and Signs

- Proposed Revisions:
  - Specify that all internally illuminated box/cabinet style signs must have an opaque background.

- Add definition for “opaque background.”
  - The EC sign guidelines have included a guideline for opaque backgrounds for internally illuminated cabinet signs since 2004.
  - The ARB consistently required opaque backgrounds for such signs prior to 2004.
- Add definition for “Certificate of Appropriateness” and clarify that a CofA applies to both structures and site improvements.

#### Sections 30.6.1 and 30.6.2: Purpose and intent

- Proposed Revisions:
  - Clarify the purpose and intent of the entrance corridor regulations.
  - Establish a more direct link to the relevant section of the Virginia Code (15.2-2306)
    - Provides more direct reference to significant routes of tourist access,
    - Identifies some of the County’s significant historic resources
    - References the applicable goals of the County’s comprehensive plan.
- Questions from PC:
  - Why identify specific landmarks and scenic resources?
  - Define “quality development”?

These revisions establish a more direct link to the relevant enabling legislation or section of the Virginia Code (15.2-2306), with more direct reference to significant routes of tourist access, identification of some of the County’s significant historic resources, and by referencing the applicable goals of the County’s comprehensive plan. There was a question about why we were identifying some of the specific landmarks. Again, that is just to provide that more specific connection to the enabling legislation. There was a question about the definition of quality development. That is not something that was added in.

#### Section 30.6.4: Certificates of Appropriateness

- Summary of Proposed Revisions: Proposed revisions to this section more clearly state the circumstances under which a CofA is required, clarify that site improvements (not just structures) are subject to CofAs, clarify that ECOD requirements apply to improvements visible from the EC street to which the parcel is contiguous (not from EC streets to which the parcel is not contiguous), and outline more fully the elements included in a CofA. Proposed revisions also provide for County-wide CofAs.
- Comment: The provision for County-wide CofAs is intended to address the DRTF’s concern, and staff’s recommendations, for more streamlined review. With this provision, County-wide CofAs would be available for certain classes of structures and improvements that are recurring or have minimal visual impacts, once specific criteria have been satisfied. When an application for a structure or improvement within a specified class is thereafter received, staff would review the application to determine whether the criteria were satisfied. A similar process is currently followed for most of the EC sign review. Possible classes for County-wide CofAs might include:
  - a. Buildings/additions located more than a certain distance from the EC (for example, buildings proposed more than 2,000’ from the EC)
  - b. Buildings/additions located behind other buildings as viewed from the EC (“2<sup>nd</sup> tier buildings”)
  - c. Proposals for telecommunications facilities
  - d. Minor amendments to site plans or architectural plans

The County-wide CofA concept and the four above-noted classes have been discussed with the ARB. The ARB supports the concept of County-wide CofAs and staff has held discussions with the ARB regarding specific criteria applicable to the various classes. Staff recommends that the criteria and procedures related to County-wide CofAs be finalized following the adoption of the text amendment.

#### Section 30.6.6: Exemptions

- Summary of Proposed Revisions: Proposed revisions to this section to expand the list of development types exempt from EC regulations by adding temporary construction trailers, temporary signs, and sub-permits (if a building permit has already been issued and the sub-permit does not change the external appearance of the structure).

- Comment: Staff has requested that temporary construction trailers and temporary signs be added to the list of exemptions to codify typical practice. The ARB agrees with the proposed revision. The sub-permit exemption would eliminate duplicate review of permits following issuance of a CofA.

#### Section 30.6.7: Administration

- Summary of Proposed Revisions: Proposed revisions to this section clarify and expand the requirements for submitting, reviewing and acting on an application for a CofA; allow for rejection of incomplete applications; allow for expiration of CofAs; and clarify requirements regarding the 60-day window for acting on an ARB application.
- Comment: These revisions address inconsistencies in the current application procedure and are intended to encourage the submittal of complete applications, to eliminate time wasted in the review of incomplete applications, and to allow for the expiration of CofAs to accommodate updates to guidelines, policies, etc. These changes have been requested by both staff and the ARB. Proposed changes in this section would also simplify notification requirements by allowing for electronic mailing of such notification, which has been a long-standing practice. Proposed changes also outline specific steps to be followed in the event that the 60-day review period is reached without an action by the ARB. Staff has requested this clarification to address reviews that are extended due to the need for multiple rounds of revisions, or due to long periods of time that lapse between review and submittal of revisions.

#### 30.6.8: Appeals

- Summary of Proposed Revisions: Proposed revisions to this section limit the right to appeal to the applicant, the agent, the Zoning Administrator and the County Executive.
- Comment: This revision, recommended by staff, simplifies the text. It eliminates the specific reference to members of the ARB, PC and BOS to appeal a decision of the ARB to the Board of Supervisors, but any member of these bodies could still request that the County Executive, agent or Zoning Administrator file an appeal on the County's behalf. Other sections of the ordinance that contain similar provisions are planned to be similarly revised as amendments are considered in those sections.
- Administration/Review Process: The proposed amendments will allow more efficient review of applications for development proposals made under section 30.6 of the Zoning Ordinance.
- Housing Affordability: Increased administrative review would allow some residential development subject to CofAs the opportunity for quicker review and approval, potentially reducing the "carrying cost" of the project's development and creating the opportunity for that reduction to be passed along to the purchase or lease cost of future residents.
- Implications to Staffing/Staffing Costs: Adoption of this zoning text amendment would reduce staff time and costs associated with preparing staff reports and making presentations at ARB meetings as well as reduce the time necessary for ARB meetings.

STAFF RECOMMENDATION: Staff is providing this for the Commission's information, questions/feedback and direction as to any changes. Staff recommends that the Commission endorse taking the zoning text amendment to public hearing.

Ms. Joseph asked why they are referencing these specific places and why it could not stay in the guidelines. She worried that people will read this and feel that these are the places they need to look at and no place else. She questioned why this has to be so specific in the Code right now.

Mr. Kamptner replied that the purpose and intent section puts the rest of the regulations in context. It explains why the county is doing what it is doing if someone is asked why this particular route was designated as a significant route of tourist access. The purpose and intent section gives the reader some of the key historic structures and landmarks within the county and the city that persuaded the Board of Supervisors to adopt these regulations. That is the purpose that it serves. It is not all inclusive and they recognize under State law that in Albemarle County the county can designate a significant route of tourist access to historic landmarks and structures in an adjoining locality such as Nelson, Fluvanna, Louisa or Green. It is simply to enhance and explain the purpose of these regulations.

Ms. Joseph suggested that with so much verbiage it could overpower people. She wondered if there was some other way this could be done rather than just putting in specific references because they are leaving some things out, too. There are other places that people can use as a guide for new architecture or sites. She worried about the specificity of these things because people just want their project approved and it might stifle creativity.

Mr. Strucko said that they use the legal magic language of "including but not limited to".

Ms. Joseph said that it was a long paragraph with a lot of references. She felt that "quality development" belongs in the guidelines because it is a very subjective term.

Mr. Kamptner pointed out that the word "quality" is actually carried over from the current statement of purpose in the regulations. He was not sure for purposes of the Entrance Corridor Overlay District beyond architectural compatibility which standard is applied. He was not sure that the word "quality" really adds anything to the policy.

Mr. Strucko noted that the sentence that reads, The Entrance Corridor Overlay District will ensure "quality development compatible with the county's standards." He asked if it could read, "The Entrance Corridor Overlay District will ensure compatibility with the county's natural, scenic, historical and architectural resources."

Ms. Maliszewski said if they go back to the current ordinance it actually says "a quality of development and compatible with."

Ms. Joseph said that it was the quality development that is making her feel uncomfortable.

Mr. Cilimberg suggested just dropping "quality."

Mr. Strucko asked if they could drop the word "development" and just say "compatibility."

Mr. Cilimberg noted that it is about development. So having the term "development compatible with" is referencing what the reviews are of and that is development proposals. Therefore, he suggested that they keep development in there because generally it is not ensuring overall compatibility since there were some things the ARB does not get to look at.

Mr. Strucko asked if it was possible that compatibility meant no development.

Mr. Cilimberg replied not within the confines of this ordinance because this is only in play when something is being reviewed for development.

Ms. Joseph said that it was not up to the ARB to stop development. The ARB is supposed to make it so it is compatible with what is going on.

Mr. Morris noted that in dealing with the term "quality" with a business it is generally accepted that "quality" is in the eye of the beholder. One develops a product based upon what the customer wants and that varies from customer to customer. He asked if that was what they were saying. He questioned how they determine quality.

Ms. Joseph noted that is where the guidelines come in.

Mr. Morris said that everyone thinks that they know what "quality" means, but they don't, and Ms. Joseph agreed.

Mr. Kamptner said that in the context of these regulations "quality" means compatibility.

Mr. Morris noted that it was a good point.

Ms. Joseph suggested that they use the term compatibility so they can move on.

Mr. Cilimberg asked if it would be okay with saying, "to ensure the development is compatible with."

Ms. Joseph and Mr. Kamptner agreed.

There being no other questions, the meeting proceeded to the next item.

#### Section 30.6.2: Boundaries

- Proposed Revisions:
  - Clarify the extent of the overlay district.
    - Makes it easier to understand which parcels, or which portions of a parcel, fall within the ECOD.
    - Clarifies that ECOD is based on parcels as they existed at the time the individual ECOD was adopted.

Ms. Maliszewski pointed out the new text that helps clarify which parcels fall within the Entrance Corridor Overlay District. It is confusing to a lot of people. The extra text really does spell it out a little more clearly. It does not really change anything except on page 9 under b1. Currently the ordinance is written to say the parcels that fall within the overlay district are the parcels as they existed in 1990 when the original ordinance was adopted. This would change it to be the parcels when each individual Entrance Corridor was adopted.

#### Section 30.6.3: Permitted uses and other regulations

- Proposed Revisions:
  - States that ECOD boundaries don't change without a ZMA.
    - This is further clarification re: which parcels fall within the ECOD.
  - Outline the availability of bonus factors as they relate to EC requirements.
    - Intended to address ARB's concern that maximum building height restrictions can limit area available for required landscaping.
  - Outline requirements regarding designating and preserving trees and wooded areas.
    - Corrects the reference to the Virginia Erosion and Sediment Control Handbook.
    - States that the ARB may require alternate methods for greater tree protection.
- Questions from PC:
  - Can ARB determine that affordable housing bonus cannot be enacted?
  - What other bonuses might be affected by this provision?
  - Grading/land disturbing activity: How determined? Must save all trees?

Ms. Joseph asked what the intent on the bonus question was.

Mr. Kamptner replied that the intent was that if someone is required through the certificate of appropriate process to do something, such as the environmental bonus factor, where someone can get density credits for preserving a certain percentage of trees on the site. If the ARB is going to require that the applicant preserve, for example, 15 percent this provision would not allow them to also get the bonus density factor for preserving 15 percent.

Ms. Joseph said that she did not like the proposed change at all since she thought that they ought to have these bonuses remain the way they are. They have a hard enough time getting the density in the growth area that they want.

Mr. Kamptner noted that this is just a carry over of the existing regulations.

Ms. Maliszewski said that 30.6.4 is the section of the existing ordinance that it comes from.

Ms. Joseph said that this is another instance where the ARB will be making a land use decision when they should be making decisions on the aesthetics or the way something looks.

Mr. Strucko and Mr. Morris agreed.

Mr. Cilimberg said that essentially they were saying if a requirement of the ARB for the issuance of a certificate of appropriateness might earn the applicant the opportunity for a bonus that they were okay with that.

Ms. Maliszewski said that in response to the questions related to the tree protection that change was made simply to correct the reference to the E & S Handbook. Most of that other text is really just moved around from other sections that already exist.

Ms. Joseph asked if they are being redundant with these. She asked if someone writes on the site plan that they are going to grade up to a point and do tree protection the expectation is that is going to happen. She was wondering why they are hammering on this. If it is a normal site plan not in the Entrance Corridor that is what they are going to expect there also. So she was wondering why they are doing this here.

Ms. Maliszewski replied that this is not new and it has been in the ordinance.

Ms. Joseph questioned if this wording exists in the ordinance in the EC section somewhere now.

Mr. Kamptner pointed out that on page 12 it is struck through, but it is 30.6.4.2.c. A little of the wording was changed, but essentially it is the same subject matter.

Ms. Joseph said that it was under landscaping and screening requirements and says the requirements shall apply in any overlay district. It is written under 30.6.3.d permitted uses and other standards. It worries her because they need to keep all the trees.

- Under Section 30.6.3.d after “(including trenching or tunneling) add “designated on the site plan to remain” or something like that so the scope of that provision is limited to what the applicant is actually showing on the site plan as being protected.

Mr. Kamptner agreed that is a good point. They can add some clarifying language to that. After the parenthetical clause including trenching or tunneling on line 2 they could add “designated on the site plan to remain” or something like that so the scope of that provision is limited to what the applicant is actually showing on the site plan as being protected.

Ms. Joseph said that she would really appreciate that because it helps clarify what is going on. She wondered how they would determine what needs to be saved because there is nothing in here that says what is important to be saved on the site.

Mr. Franco agreed. What they broke up used to be 30.6.4.2.c and made it into 2 sentences and the last part of the old language, which qualified what it pertained to, was dropped out. So if they can get that back in the first part it would help.

Ms. Maliszewski noted that there were several sections that talk about tree preservation and protection. She did not think any of them was intended to say that all trees should remain.

Ms. Joseph noted that she loved trees, but they have urban areas that they need to build in.

Mr. Franco said that in section b he did not get a chance to compare this to the old language. He asked what is different in the area, bulk and other regulations. It says that the setbacks and yards, etc. shall apply to all uses and structures in the EC overlay districts. He asked if that already applies to all uses and structures in the underlying zoning district.

Mr. Kamptner said that there was one thing he was trying to address. There was a question as to whether the ARB could allow a building to be taller than what the zoning regulations otherwise allow. So they were trying to clarify the requirement of what the scope of their authority is in their review of

architectural compatibility. In the middle of page 11 the struck out under Sec. 30.6.4 that is where the area and bulk and other related language was in the prior version.

Ms. Maliszewski said that was the issue about the ARB concern about a building if it was too big for a site and the site could therefore not accommodate all of the required landscaping that if a building could be taller they could then accommodate the required landscaping.

Ms. Joseph pointed out that she had talked with staff about what they need to do is to look at the other part of the zoning ordinance to see if maybe the coverage that they allow now is more than they should be allowing as far as the hardscape, etc. If they want more green then maybe they should change the ordinance to allow for less building and more green. When the Commission looked at that at the Pantops site she thought that everybody was appalled that it just covered everything.

Ms. Maliszewski noted that is the ARB's concern.

Mr. Franco said that he was confused. What he heard her saying is that this confirms that the ARB does not have the right to approve something that would not meet the underlying zoning district requirements.

Mr. Kamptner noted that what they were trying to clarify is that the ARB cannot modify these types of regulations. They need to deal with those in the particular zoning district regulation such as the building height, setbacks, area, etc. where the underlying zoning regulations establish either minimum or maximum standards. Those need to be addressed in the other regulations.

Mr. Franco said that he did not have a big problem with it not being in there. But it seems like the proffers they had were saying that they proffer to follow the ordinance.

Mr. Kamptner recognized that there was some duplication, but the question has been raised can the ARB do this or that. Hopefully this section puts that kind of uncertainty to rest. It may be that in five years practices change and it becomes obvious and it can fall away. As someone is not forced to work in Section 30.6 everyday and he looks at this and they kind of tear it apart there are a lot of holes in it. He thought that there were a lot of practices that developed over the years, which have worked fine. But it helps the public who does not work in this everyday to be able to understand what the scope of the ARB is, what the rights and procedures and everything for someone who needs a Certificate of Appropriateness. It helps everybody if they can look in the regulations and hopefully find the answers to these questions. So they have tried to fill in these blanks for those who work with the ARB, development staff and the people in the development community who come in on a regular basis and are familiar with the practices they have tried to provide that right here in the regulations.

Mr. Edgerton said that conceptually he can hear what he is saying. But it worries him a little bit because he felt that Mr. Franco and Ms. Joseph have good points. The ordinance should be the standard. He worries if they miss something in this restating of provisions of the ordinance what is going to prevail. If they have two documents that are both part of the ordinance and one says you can do a, b and c and the other one says you can do a, b, c, d, e and f it is going to be confusing. He asked how they can resolve the differences. What he was hearing in the justification, which he felt was very considerate of the public that does not deal with this all the time, is that they will feel that they can get it all in here and they only have to read this section. That puts the county at risk at setting up a dynamic where if there is an omission in one section of the ordinance that contradicts another section of the ordinance that they will all be tripping over it down the road.

Mr. Kamptner noted that when they draft these ordinances that in the work sessions they have already identified some things that can be added to clarify to the work session process and just through their ongoing review before final adoption they try to close all of those holes. They have also found some holes that exist in the current procedures and practices that they are correcting. The current regulations provide that if the ARB does not act within 60 days the application is deemed approved. But it is kind of unclear. They have built in a mechanism that gives the applicant the right to get a timely approval, but it also is paralleling the state law that applies to site plans and subdivision plats. It requires an additional step so that everybody is on notice that the action has to be taken quickly or it will be deemed approved.

In answer to his question as they go through this process they try to close all of the potential gaps, loopholes and things like that. They strive for it even though they cannot guarantee perfection.

Mr. Franco asked if there are uses or structures that are not regulated in the underlying zoning district that are now regulated because it is in the EC district. He asked if they are reaching out further in the EC district because there is some kind of use or structure that is not dealt with in the underlying zoning.

Ms. Joseph noted that outdoor display would be the only different one, which is outlined in this section.

Ms. Maliszewski pointed out that wording is already in the ordinance and that part is not going to change.

Mr. Franco noted that this is just a work session.

Ms. Joseph noted that Mr. Kamptner brought up a tangential point about the 60 day review. She pointed out that the way the city does their review is if the applicant does not have everything done they get a denial letter from the city listing the things that they have to do giving them a number of days to resubmit. Sometimes there are circumstances where an applicant can't resubmit within those 60 days. The applicant can ask the director to extend that and very often they do as long as the applicant documents what is going on. She wondered why the county can't adopt something like that and just go ahead and deny these things because they don't have whatever it is that is holding them up causing this delay. She asked if they can do it that way so that everybody knows what is going on so they don't get into the sticky type of situation where staff has to get something to the ARB very quickly or whatever.

Ms. Maliszewski replied that she felt that might be able to work. They would have to figure out exactly what the process would be. She asked if that was a denial from the ARB or from staff.

Ms. Joseph asked if staff could act as proxy for the ARB say that the application is denied because it does not have x, y and z.

Mr. Kamptner noted that the process has built in a step that requires the staff to determine whether the application is complete. Technically it is only the ARB that can act on an application. So it would be by the ARB. If they want to do it they meet every other week and it could be on their consent agenda.

Mr. Edgerton asked if a simple solution could be that if staff deemed that the application was incomplete then they would make a recommendation that the following applications have been judged by staff to be incomplete and recommend denial. Then the ARB could review the requests on the consent agenda very quickly. He pointed out that he had read it three times and felt it was confusing. He was struggling with the duplication over and over again. He asked if there is a different time requirement for ARB review versus site plan review per the state code.

Mr. Kamptner said that the enabling authority does not really specify the time in which an ARB is required to act. The practice here has been to try to coordinate it with site plan review.

Mr. Edgerton asked if that was a 90 day review.

Mr. Kamptner replied that it is 60 days but then that period is added on if there is any state agency review.

Ms. Maliszewski noted that part of the proposed changes do address incomplete submittals. That is not really the problem that this additional 21 days was trying to address. The problem is that sometimes applications come in for review and they are working with an applicant and it takes longer than 60 days to get the revisions done. It is not that it is an incomplete application, but sometimes resubmittals take longer than the 60 days.

Ms. Joseph said that if an applicant goes to the city for a site review they get a list of things that need to be done. The letter says that the request is denied and lists the reasons. If there is some way that sort of thing can happen that would alleviate that problem because obviously the applicant is working and trying



to get something finished.

Mr. Kamptner replied that staff can certainly look at the city's process. The question for the department is philosophically do they want to deny an application and have the applicant resubmit or just stop the clock.

Mr. Edgerton said that he did not think they could have it both ways. If the applicant is going to hold the county's feet to the fire about the deadline then he thinks the county has the responsibility and the right to hold the applicant's feet to the fire about what is a complete application. The clock should never start ticking until the application has been judged complete. This is not just limited to the ARB but is also an issue for the Commission in instances where they are forced to deny a request or persuade the applicant to ask for an extension. That sets up a hostile situation right from the beginning. Missing information needed for review ties up staff and the Commission with a lot of unnecessary things. If the applicant is going to revert back to the State Code for expeditious review and hold us to the 60 days or 90 days if a state agency is involved then he thought that they need to be more hard boiled about making sure that these applications are complete before the clock starts ticking. If they want to work with an applicant and it is taking longer he thought that maybe some document in the review process should state that the clock has not started ticking yet because this application is still not complete. There needs to be a time that is declared if in fact they are going to have to work under the rules of the State Code.

Mr. Cilimberg pointed out that has been addressed on page 16 and 17. On page 16 under b is essentially giving staff the authority to reject an incomplete application. Also, under c it is saying how quickly the resubmittal of that application needs to be made. So the clock is not ticking yet. There is a period of time in which staff does need to reject the request. But it can be rejected by staff. It does not need ARB action to be rejected.

Mr. Franco noted that it is the wholesale changes aspect when there are major changes. On the site plan level there are huge changes that occur and the applicant has to run around for ten days and make these large changes. Then when the revised site plan comes back in to staff it is like re-reviewing it but they only have whatever of 3 or 4 days to do it. That is the situation that they are trying to address here as opposed to the other scenario.

Mr. Cilimberg noted that in c the applicant has a period of time to resubmit and meet their requirements.

Mr. Edgerton noted that he was confused in paragraph c in the second sentence which stated the date of the next application deadline following the resubmittal of the application shall be deemed to be the date upon which the application was officially submitted.

Mr. Cilimberg said that is their standard practice.

Mr. Edgerton said that goes back to the date when the application comes in complete or not. He asked if that was correct.

Mr. Kamptner replied it was not.

Mr. Cilimberg replied no, that it was the new date. The clock still does not start if after an applicant resubmits and within ten days it is rejected again because it is incomplete and then it is back again to b and c. This is addressing the issue mentioned by Mr. Edgerton. The question that Ms. Joseph was raising is that once it is on the clock basically how that process works. It is not on the clock until it is officially accepted by the county.

Ms. Joseph said that even with Ms. Maliszewski experience she says that even if it is complete there are still some things that may be missing that need to be addressed.

Ms. Maliszewski replied that not necessarily missing, but just something does not meet the guidelines and the applicant is willing to change it, but it is just going to take time to get that done.

Mr. Franco asked if there are guideline issues is it as simple as trying to take it to the ARB with yes they

are going to put hardieplank on this instead of brick or they will paint it blue instead of yellow.

Ms. Maliszewski noted that it usually has to do with a sign and normally is easy to figure out which changes need to be made to have the proposal meet the sign guidelines. The sign maker has to go back to his client, the client has to go back to the corporate office, the corporate office has to go to the headquarters and then it has to come all the way back down. It takes more than 60 days to get that done. That is really the primary type of application that this is meant to deal with.

Mr. Kamptner noted that while all of the background work is being done it would be helpful for staff to be able to stop the clock. Everyone is working towards the same goal, but it just takes time. The County needs to be able to stop that clock.

Mr. Edgerton agreed that is what needs to happen. The ARB as well as the Commission needs that protection with site plans and subdivisions so it does not come back in their face without having adequate time to address the issues.

Mr. Cilimberg noted that the application has been accepted at this point, but now they are talking about the review time. At this stage there should not be missing submittal information, but as Ms. Maliszewski mentioned they find that the applicant has not addressed guidelines in the way they need to.

Mr. Kamptner agreed that staff would work on it.

Ms. Maliszewski moved on to Section 30.6.4 which talks about the Certificate of Appropriateness (COA). The revisions would add text that would more clearly state the circumstances under which a COA would be required. It clarifies that site improvements and not just structures are also subject to COA's as well as follows.

- Proposed Revisions:
  - Clearly state circumstances under which a CofA is required.
  - Clarify that site improvements (not just structures) are subject to CofAs.
  - Clarify that ECOD requirements apply to improvements visible from the EC street to which the parcel is contiguous.
    - not from EC streets to which the parcel is not contiguous.
  - Outline more fully the elements included in a CofA.
  - Provide for County-wide CofAs.

Ms. Joseph asked if there was a problem if a property is visible from other Entrance Corridors.

Mr. Edgerton asked what review is required when there is a parcel in between the Entrance Corridor and the subject parcel.

Ms. Maliszewski replied that whatever is visible within 500' of the right-of-way is included in the overlay. She moved on to the County-wide COFAs.

- County-wide CofAs
  - Address the Development Review Task Force's concern, and staff's recommendations, for more streamlined review.
  - Definition:
    - The term County-wide Certificate of Appropriateness means
      - A decision made by the architectural review board establishing specific design criteria, that are consistent with the applicable design guidelines,
      - That must be met for a particular class of structure or improvement located within the entrance corridor overlay district.
      - Once the County-wide Certificate of Appropriateness is established, the director of planning or his designee may approve individual applications for that particular class of structure or improvement that meet the established design criteria.

This works much like our comprehensive sign reviews do right now. The ARB establishes the criteria for sign design on a multiple business building. The ARB approves those criteria when the building design is approved and then later on as tenants come into the buildings they submit their individual sign applications. If those proposals meet those criteria that were previously established then staff approves those signs without having to go back to the ARB. With the County-wide Certificate of Appropriateness that concept would hopefully work for things outlined below.

- Possible classes for County-wide CofAs might include:
  - Buildings/additions located more than a certain distance from the EC
  - Buildings/additions located behind other buildings as viewed from the EC
  - Proposals for telecommunications facilities
  - Minor amendments to site plans or architectural plans
- Questions from PC:
  - What is a County-wide CofA?
  - Existing vegetation to remain:
    - Require maintain all?
    - Define natural features?
    - Will this limit density/development?

Mr. Franco asked why it is called County-wide versus EC wide.

Mr. Kamptner replied that it was just a name they came up with. It is modeled after the nation-wide permits that are issued by the Corps of Engineers for certain wetland actions. The term County-wide is intended to apply to any EC District within the County.

Mr. Strucko asked if it would ruin the intent if they were more specific as Mr. Franco requests. He asked if it compromises it at all.

Mr. Kamptner replied no, that whatever term the Commission or the Board desires is fine. The way they look at it is they have different Entrance Corridors. So calling it an Entrance-wide permit may imply to someone that it only applies to Route 29 or only to Route 20. They wanted to make certain that it was clear that it applies within Entrance Corridor District.

Ms. Joseph requested that the definition be expanded a bit so that it explains that here are the possibilities such as buildings that are located more than a certain distance or whatever they determine. To help clarify what is going on with this she suggested that a listing be provided.

Mr. Franco disagreed because he would tend to omit those kinds of things because it would be extra verbiage.

Ms. Joseph felt that it needs a definition somewhere in the definition section of the ordinance so that someone would know what these things are. She asked if he could agree with the definition proposed by staff.

Mr. Franco replied that he could agree only in general.

Ms. Joseph said that she still did not know what it is.

Mr. Morris asked Mr. Franco is he agreed with keeping that County-wide and changing it to say County-wide EC so that they are clear that they are talking about Entrance Corridor.

Mr. Franco said that he did not have a lot of heart ache about leaving it County-wide. When he looks at that it starts to suggest that it is county-wide and that these would be standards that would apply everywhere and not just to Route 29. But that this is now the model for a sign in the middle of no where and county-wide. That is his only fear.

Ms. Maliszewski noted that the Certificate of Appropriateness only applies to Entrance Corridors.

Mr. Cilimberg pointed out that it was in the Entrance Corridor section so can't apply beyond.

Mr. Franco agreed, but that it seems that it is reaching out. Since it is a work session they can deal with that as it moves forward.

Mr. Cilimberg said that also they would be defining it.

Mr. Franco said that it is easier to say County-wide than Entrance Corridor wide.

Ms. Maliszewski moved on to Section 30.6.6, Exemptions.

- Proposed Revisions:
  - Expand the list of development types exempt from EC regulations by adding:
    - Add Temporary construction trailers and temporary signs
      - Historically, these have not been reviewed by the ARB.
    - Include Sub-permits (if a building permit has already been issued and the sub-permit does not change the external appearance of the structure).
      - This would eliminate duplicate review of permits following issuance of a CofA.

Ms. Monteith asked if there is a definition for temporary.

Mr. Kamptner replied that temporary construction headquarters currently are for 18 months. There is a text amendment dealing with those regulations, which ties it to active construction recognizing that they are now in an era where there are multi-year construction projects and not requiring the applicant to keep requesting extensions as their construction goes on.

Ms. Maliszewski asked if temporary signs allow for four signs for two weeks.

Mr. Kamptner replied that temporary signs are for four 15-day periods within a calendar year.

Mr. Cilimberg noted that temporary sign regulations are included in the ordinance.

Mr. Franco asked to move backwards. On page 13 in section d on the third line of the opening paragraph it says the ARB may specify the following without regard to requirements of the underlying zoning district or section 32. He questioned if that was too powerful.

Ms. Maliszewski replied that she was not sure if that is different from what is in there now.

Mr. Cilimberg noted that landscaping typically has had a greater allowance than what the underlying section 32 site plan requirements are.

Mr. Edgerton said that this is not to release people of responsibilities that are in the ordinance.

Mr. Cilimberg said that it was a layer of what is already in the ordinance.

Mr. Edgerton noted that the language sounds like they don't have to pay attention to the ordinance in the underlying zoning district at all.

Mr. Franco said he read it that they don't necessarily get to rely on the underlying zoning. It sounds like they need to keep all the trees on their site regardless of what the site plan that is going forward wants to do. That seems like the ARB has the ability to make land use decisions and he was not sure that was the purpose or intent to give that authority to the ARB.

Mr. Edgerton said if the intent of this authority is to give the ARB the opportunity to require more than what the underlying ordinance says then he felt that it needs to be stated that way. If the Planning Commission is comfortable granting that authority then it should be stated that way as opposed to just

wondering.

Mr. Franco pointed out that he was not comfortable with that. If that is the goal he felt that they need to word it that way so they can have that debate.

Ms. Joseph and Mr. Edgerton agreed.

Mr. Cilimberg noted that the question for Mr. Kamptner is that alternative language may specify the following in addition to the requirements of the underlying district or something along those lines.

Mr. Kamptner agreed that would work a little better and it is consistent with the tone of the content of other clauses there.

Mr. Franco asked if this runs into the question that they had when they reviewed the church in Keswick in that the parking lot and the arrangement that was on the conceptual plan that was not being proffered was adequate and the Commission felt that they wanted to have it proffered so that it would give some direction to the ARB. He asked if this gives them the right to say forget all of that.

Mr. Morris agreed.

Ms. Joseph suggested that they take out without regard and replace with in addition to.

Ms. Maliszewski noted that those words came from the existing ordinance Section 30.6.4.1.b. The next section to review was Exemptions.

#### 30.6.6 Exemptions

#### 30.6.7 Administration

- Proposed Revisions:
  - Clarify & expand the requirements for submitting, reviewing & acting on a CofA application
    - To address inconsistencies in the current application procedure
  - Allow for rejection of incomplete applications
    - Encourage the submittal of complete applications
    - Eliminate time wasted in the review of incomplete applications
  - Allow for expiration of CofA
    - To accommodate updates to guidelines, policies, etc.
  - Simplify notification requirements
    - By allowing for electronic mailing of such notification, which has been a long-standing practice.
  - Clarify requirements regarding the 60-day window for acting on an ARB application.
    - Outline specific steps to follow in event that 60-day review period is reached without an ARB action.
    - Addresses issue of reviews lengthened by multiple revisions or slow revisions.
- Questions from PC:
  - Amount of reinstatement fee?
  - 81 days to review an application? Is denial an easier way?
  - CofA expiration: 5 years or 3 years?

Ms. Joseph asked if there any way they can connect the expiration date with the approval date of the site plan.

Ms. Maliszewski replied that it does that. On page 17, letter g the certificate is valid for the period that the final site plan is valid or if it was granted for a project for which a site plan was not required, then it is three years.

Mr. Cilimberg pointed out that they were also doing CofA's for building permits.

Mr. Franco asked the way it is written what happens if it is built. If they have a CO for a building it does not expire after a certain period of time. He understands that it is tied to the site plan and as long as the site plan is valid that is good. If it does not require a site plan then the certificate expires even if you build it after three years.

Ms. Maliszewski noted that if it is built then it is done.

Mr. Kamptner noted that within the context of the regulations it would be found to have vested and would be established.

Ms. Joseph asked Mr. Kamptner if someone vests the site plan by doing something and not building the building then that site plan is vested and that means the Certificate of Appropriateness is vested also.

Mr. Kamptner replied that it should. But, the analysis could be a little bit different. Therefore, it should but not necessarily because the Certificate of Appropriateness is assuming that it deals only with the structure and if nothing has taken place with the structure itself that needs clarification. He noted that staff would take a look at that to make the two fit together.

Mr. Franco asked to go backwards to page 15 in the exemptions. As he read those one of the questions that came up was where are things like hardscape changes or landscaping changes dealt with. He asked if there are changes to landscaping that don't necessarily require a site plan that are minor enough.

Ms. Maliszewski replied that if the changes were minor enough they could call it not a significant change in design and it would fall into those exemptions.

Mr. Franco questioned where it would fall in the exemptions because it keeps talking about the structures. Hardscaping and landscaping are not structures. He suggested that the language be expanded to include those things.

Mr. Edgerton suggested adding language to e and g.

Ms. Maliszewski suggested g because it would be an addition or a modification rather than repair or maintenance.

Mr. Franco suggested e and g or both.

Mr. Edgerton asked who would decide if it was substantial.

Ms. Joseph replied that it would be Ms. Maliszewski.

Ms. Maliszewski replied that it would be the Design Planner. The next section was Appeals.

- Proposed Revisions:
  - Limit the right to appeal to the applicant, the agent, the Zoning Administrator and the County Executive.
    - Simplifies the text.
    - Eliminates the specific reference to members of the ARB, PC and BOS.
    - Any member of ARB, PC and BOS could still request that the County Executive, agent or Zoning Administrator file an appeal on the County's behalf.

There being no further comments, Mr. Strucko invited public comment.

Morgan Butler, representing Southern Environmental Law Center, asked to make four points. He noted that he actually read this earlier tonight liked it.

- On page 2 of the staff report under County-wide CofA that the paragraph underneath sets forth four potential examples. It says staff has discussed this with the ARB. There is a sentence that says Staff

recommends that the criteria and procedures related to the County-wide CofA's be finalized following the adoption of the text amendment. His concern and question is that this concept is very much being hammered out and these four different classes of potential County-wide CofA's have not been formalized yet. He was wondering if there would be another opportunity for public comment to weigh in not only on those potential classes of County-wide CofA's but the standards and procedures that would be developed to implement them. It seems like an important concept and he was concerned that they could be removing it entirely from the realm of public comment by doing it in this way.

- Moving on to the ordinance itself his first question is on page 15, which mirrors a concern raised earlier about the temporary construction headquarters and temporary construction yards. There is the effort going on right now to basically remove the time limit from those different uses. He believed that Ms. Joseph raised the point during that work session a few weeks ago that it would be helpful to have a definition of those terms to reduce the likelihood of potential abuse for someone to say well this is a temporary construction yard and it does not have a time line. In this case this is a temporary construction yard that is exempted from ARB review. It would be helpful to have a definition that limits those particular terms to curtail abuse.
- Regarding the appeal process on page 19 in Section 30.6.9 both the agent and the Commission would have the ability to basically override the ARB when there is an issue of public, health or safety. In the current ordinance it is only the Commission that has that authority. He asked if the agent is referring to the ARB's agent or the Planning Commission's agent. Ultimately he felt that it really did not matter. It seemed that neither one of those should have the authority to override the ARB. It is something that should be limited to the Planning Commission as it is in the current ordinance. That would be his suggestion there.
- In Section 30.6.8.d appealing the Board of Supervisors decisions to the Circuit Court. In the prior version of the ordinance this was pointed out tonight there are different parties that may appeal the final decision of the Board of Supervisors. This proposal would limit it to just the applicant. Again, he was wondering if that level of limitation is really where they want to go. He asked if that is being done to match a state law requirement or if it is more of a policy shift. If it is the latter he would actually suggest that opening up jurisdictional review to a couple more parties would be the preferred route.

Neal Williamson, with the Free Enterprise Forum: recommended retaining the bonus factor provisions; stated that only one item in this zta responded to the DRTF recommendations; questioned the need for an expiration date; and recommended that there was no need to "stop the clock" because an applicant can defer. He was all for staff determining when an application is complete. A level playing field suggests that once staff makes that determination the clock starts. If there is additional information that is required of the applicant that is above and beyond the concerns in the ordinance staff can chose to refuse it or the applicant can chose to defer. That does not set up a hostile environment but does demand accountability so that every time requests come back from staff on the applicant the applicant has to respond. They can determine whether they responded timely. He hears again and again about multiple conflicting requests coming back on various applications and notes coming back that were in conflict to the notes they received at the last iteration. This is a problem and the clock helps them keep tabs on that problem. With all due respect the idea of stopping clocks it seems that the clock requirements is from the State Code and should be followed.

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

Mr. Strucko noted that some good questions were brought up by the public. He assumed staff would take those comments into consideration. He asked if a second work session was planned for this.

Mr. Cilimberg noted that the question asked had to do with public review of CofA's that subsequently were put into place. He thought that they should talk about that in terms of how that could happen. It could happen as part of the Design Guidelines, which actually gets approved by the Board of Supervisors. So that is a public hearing process. The idea was to get the provisions in place now and they would be working on what kinds of CofA's would get County-wide Certificate of Appropriateness if that is the term decided upon. Under the question of who the agent is under this particular reference the agent is the agent for the site plan administration under Section 32. Staff needs to know whether or not the Commission wants the agent to be included under 30.6.9. .

Mr. Kamptner explained why the agent was added. At the time that the original ARB regulations were put into place typically all site plans came to the Planning Commission. Over the years a number of site plans can be approved by the agent. The agent was added here to provide internal consistency.

Mr. Cilimberg pointed out that under the ordinance right now the agent would be Amelia McCulley. He thought that would change because of the structure in the department, which would ultimately be the position of Bill Fritz as the agent. The other question asked was about right of appeal to the Circuit Court. He asked Mr. Kamptner to address that question addressed on page 19.

Mr. Kamptner said that Ms. Maliszewski explained it in the staff report and PowerPoint presentation that although the members of the Commission and the Board are not expressly authorized they can ask the County Executive or the Zoning Administrator to appeal on behalf of the County. He did not know if Mr. Butler had in mind other people having the right to appeal.

Mr. Cilimberg noted that it said the appeal was to the Circuit Court and said that the applicant may appeal. He thought that the question was whether it should only be the applicant. There was a question whether there is a legal reason why only the applicant could appeal the final decision of the Board to the Circuit Court. He asked if Mr. Kamptner knew the answer to that question regarding 30.6.8.d on page 19.

Mr. Kamptner said that it was probably worded this way because it is only an appeal from a decision of the Board of Supervisors and they assume that is a denial of the Certificate of Appropriateness.

Ms. Joseph asked what if it is an approval and someone does not want it to be approved by the Board of Supervisors.

Mr. Kamptner said that the ordinance could be amended to provide for that. What the State enabling authority does is authorize the County to decide who has the right to appeal these to the Circuit Court.

Mr. Cilimberg asked under any current ordinance provisions do they have any rights of appeal to the Circuit Court other than applicants in other sections.

Mr. Kamptner replied that site plans and plats are reserved to the applicants. That is probably where this is modeled after. Appeals of Board of Zoning Appeals decision to Circuit Court are different. It includes any person aggrieved including any county departments that have the right to appeal those decisions.

Mr. Edgerton asked if adjoining property owners have the right to appeal the Board of Supervisor decision.

Mr. Kamptner replied that it depends on the nature of the decision. The enabling authority for the ARB or the Entrance Corridor Overlay District is unique in that it allows the locality to decide who has the right to appeal the board's decisions to the Circuit Court.

Mr. Edgerton asked if there was an aggrieved property owner that is unhappy about an ARB decision he thought that it ought to be considered to give them the right.

Mr. Cilimberg noted that they were speaking to an appeal of a Board of Supervisor's decision to the Circuit Court.

Mr. Edgerton noted that the way the language was written the applicant would be the only one who could appeal. It is conceivable that somebody could be unhappy about an approval.

Mr. Butler requested to make a comment. The current provision in effect says that any person or persons jointly or severally aggrieved by any decision of the Board of Supervisors may appeal such decision to the Circuit Court. But the term "person aggrieved" itself limits it to the applicant, the ARB or any member thereof, the Commission or any member thereof, the agent, the Zoning Administrator, the County Executive and the Board of Supervisors or any member thereof. What he understands these changes to



be doing at least with respect to appealing the ARB's decision to the Board is to say let's limit that to a smaller subset of groups and then if one of those now excluded subsets of groups is upset they can talk to one of the groups that may still appeal. He thought that makes some sense to have that smaller subset of groups. His concern is that they are then talking about appealing the Board's decision to the Circuit Court and limiting it just to the applicant, whereas in the current ordinance there was a longer list. He suggested that there maybe an intermediate step to not necessarily allowing any person aggrieved under the sun but perhaps this subset of groups that the ordinance is moving toward. His main concern is if they just limit it to the applicant then it really cuts off that right of appeal in these different situations that may not need to be a decision but a member of the Commission or some other person with that power could then pursue.

Mr. Loach agreed with the recommendation and also including Mr. Edgerton's suggestion of including adjacent property owners.

Mr. Cilimberg noted that staff needs guidance if they want to expand that.

Ms. Joseph asked that it be expanded.

Mr. Kamptner said that was fine, but noted that for site plans and subdivision plats the third parties do not have the right to appeal approvals of those decisions. But Certificate of Appropriateness is a different type of approval than a subdivision and site plan.

Mr. Franco disagreed in that he would not like to see it expanded. It is a long process to go through anyway. If someone can actually come out on the other end with an approval and Certificate that meets the County's guidelines and then go through the appeal to the Board of Supervisors he would hate to think an aggrieved neighbor could continue the fight forward if they did not like the project.

Ms. Joseph noted that it is part of the juridical process.

Mr. Franco noted that it was not right now unless they added it.

Ms. Joseph and Mr. Loach agreed that it should be added to the process.

Mr. Cilimberg asked regarding Mr. Williamson's points if there was something different that staff needs to prepare for. One of his comments had to do with the expiration or the time period for the Certificate of Appropriateness building permit type of application. The edit would be the years. The other was regarding the processing of an application once it is deemed to be complete, which the Commission had some discussion about. He asked if there were any other comments.

Mr. Edgerton agreed with Mr. Williamson. He did not think they could change the rules. What he was suggesting was that they have a set of rules for what is required for a complete application. If additional information is requested he did not think they should stop the clock at that point. He thought that they had a responsibility from the County's perspective to be clear enough about what they expect to be submitted to be deemed a complete application. It would be totally unfair to say a week later that they need some additional information and then use that to stop the clock. He did not think that would be appropriate. But at the same time he felt that they need to be very firm about not accepting applications unless they are complete. That would solve that problem. It puts the onerous on the applicant to submit a complete application and puts the onerous on the County to review the application to make sure it is complete and then declare it is a complete application.

Ms. Joseph noted that they were into the semantics of what is a complete application. There is a checklist with the information that needs to be submitted and once staff gets that information the information has to be analyzed. She suggested that they need to define complete application in the way that they are doing this. Sometimes there are things missing that are requirements of the ARB or in the Guidelines or whatever that may not come to light until they get deeply involved in the review process. That is what she was thinking was going on.

Ms. Maliszewski said that there is a distinction. There is a checklist and an applicant either has the stuff on the checklist or they don't. If it is not there she would call that an incomplete application. Once staff has a complete application and reviewing it they might find that the proposal does not meet the Guidelines and that is a different thing. That is something staff is working with the applicant on to meet the Guidelines.

Mr. Franco noted that it was a debate about the quality of the development which could be very subjective things that they are going back and forth on. It is a completely different issue with a subjective nature that is drawing the timeline out. So it is not always a fault of the applicant or the County. It is just the back and forth that occurs.

Ms. Maliszewski noted an example is a sign that meets all of the checklist requirements for a sign but they have proposed it as an internally illuminated cabinet with a background that is not opaque. That does not meet the guidelines and requires revisions to meet the Guidelines, which takes time to get that revision in.

Mr. Franco pointed out that another example is that the sign does not meet the location requirements and requires moving.

Ms. Maliszewski noted that could involve moving utilities or something that takes longer than 60 days. That is where the problem is.

Mr. Cilimberg noted that at the end of the 60 days an action has to be taken even if all of the information has not been supplied, which can penalize the applicant.

Ms. Joseph agreed that it takes time to get revisions done.

Mr. Loach noted that it has to be some way to make a decision at some point in time and it could be appealable. But the decision has to be made sometimes as to when that clock stops so that when it gets to the Commission it is complete.

Mr. Cilimberg pointed out that in this particular case in this ordinance these matters would not come to the Planning Commission. It is about what is necessary to take the action on the Certificate of Appropriateness.

Mr. Kamptner said that they were still talking about whether the application is deemed complete and what criteria can be used to reject an application. On page 16 is what constitutes a complete application. What Ms. Maliszewski will do is look at subsection a) and it may need to be further embellished. He assumed that once these regulations are adopted staff will establish a checklist that is applied. When the application comes in that is what staff looks at to determine whether or not the application is deemed complete. The qualitative analysis is what happens after that initial determination is made and that is when the 60 day clock is running. Staff looks at whether the particular proposal satisfies the Guidelines. That is where the clock is running, which is the period where revisions may need to be made. Those are two different stages to the review process

Mr. Cilimberg noted that the checklist is going to be based on what the ordinance requires.

Ms. Joseph suggested that some language can be added to the application that will help the applicant and staff get through that process and allow for the stopping of the clock. She noted that the applicant has the option if denied that they can go forward to the Board.

Mr. Cilimberg pointed out that is actually built into the special use permit and rezoning review processes that any applicant can say I have done what I am going to do and wants to move on.

Ms. Joseph suggested that they add that language in here that if it is necessary that it gives the applicant the understanding that they can decide to move forward if they really want to.

Mr. Strucko thanked staff for the presentation.

**In summary, the Planning Commission made the following comments:**

- The Planning Commission discussed and asked questions about the proposed amendment, took public comment and provided input on the draft ordinance language changes as summarized as follows. No formal action was taken. Staff to address the Commission's comments and bring the draft back for Commission review at a future work session.

In a work session on ZTA-2009-00009 Entrance Corridor Process Improvements the Planning Commission asked staff to consider incorporating the following comments and suggestions into the draft ordinance text.

- In 30.6.1, the question was raised how one defines a "quality development". One commissioner felt that "quality development" belongs in the guidelines (not the ordinance) because it is a very subjective term. The Commission suggested changing the wording to "Ensure the development is compatible with".
- In 30.6.1, the question was raised why the references to historic resources have to be so specific in the Code and not remain in the guidelines. Is there some other way that this could be done? The concern was raised that some resources will be left out and some people will read this and feel that these are the only resource they need to be concerned with.
- In 30.6.3.c, the Commission generally felt that the bonuses should stay the way they are. This is an instance where the ARB would be making a land use decision rather than an aesthetics decision. The Commission generally agreed that if a requirement of the ARB earned the applicant the opportunity for a bonus, that would be okay.
- In 30.6.3.d after "(including trenching or tunneling)" add "designated on the site plan to remain" or something like that so the scope of that provision is limited to what the applicant is actually showing on the site plan as being protected.
- When the statement in 30.6.4.2.c was broken into 2 sentences, the meaning changed. The last part of the old language, which qualified what it pertained to, was dropped out. It should be put back in.
- Regarding the ARB's concern about "overbuilding" a site, it was noted that the ordinance could be reviewed to determine if coverage requirements need to be revised. If the ARB thinks more green is required, then maybe the ordinance could change to allow for less building and more green.
- Concern was expressed that the ordinance should be the standard. If there is an omission in one section of the ordinance, and that contradicts another section of the ordinance, it will be a problem.
- Regarding 30.6.4.d, a Commissioner asked if the "without regard" wording was too powerful. It was recommended that "without regard" should be changed to "in addition". It was also noted that it should be made clear which types of requirements the ARB can/can't modify. This may need to be dealt with in each individual regulation.
- The current regulations provide that if the ARB does not act within 60 days the application is deemed approved, which is unclear. The Commission discussed several options for staff to look at to simplify the process including denial of the request by the ARB or staff, ways to deal with an incomplete application such as placing item on consent agenda, the starting and stopping of the time clock, and consideration of modeling the City's denial letter procedure. A mechanism is needed that gives the applicant the right to get a timely approval, but also parallels the state law that applies to site plans and subdivision plats. Staff will work on addressing the issue

concerning the review time particularly when staff finds out that applicant has not addressed guidelines in the way they need to.

- Discussion was held on the term “county-wide COA”. It was recommended that a definition be provided in the ordinance.
- In 30.6.5 f and g, “and site improvements” should be added after “structures”.
- The section on appeals, 30.6.8, should be expanded to include the ability of adjacent property owners to appeal to the circuit court.
- Regarding 30.6.7.e/f the commission discussed incomplete applications and the timeframe of review of applications that don’t meet all the guidelines. The county should be given some flexibility in stopping the clock based on circumstances, but the language must allow applicant to move forward.
- Section 30.6.7.b should be further embellished.
- In 30.6.7.g, vesting requirements relative to CofAs may need to be clarified.

Mr. Cilimberg pointed out that staff would come back with another work session to go over the changes.”

**The Planning Commission took a break at 7:33 p.m. and the meeting reconvened at 7:41 p.m.**

**Places29 Chapter 8 – Implementation** - Follow up to the Commission’s April 14 work session on Places29 Chapter 8, Implementation Table Format - Review of sample entries for a list of implementation projects and an appendix with more detailed information about each implementation project. The Commission will provide feedback and guidance so that the complete list and appendix can be completed for review by the Commission at a subsequent work session. (Judy Wiegand/David Benish)

Mr. Benish said that the purpose of this work session is to receive some comment on a possible format for the implementation table, which was discussed at the last work session. Staff asked for guidance on the format and feedback on whether this format addresses some of the concerns raised.

The Commission reviewed Chapter 8, Implementation Table at a work session on April 14, 2009. At that meeting, the Commission requested that staff:

- Improve Implementation Table by simplifying it and making it easier to read and understand.
- Consider adding mapping/graphics to help locate and explain the projects.
- Include right-of-way costs for transportation/road projects, where appropriate.
- Provide a clearer distinction among High Priority Projects within the Table to make each one easier to find in the list.
- Emphasize the purpose of the Implementation Table and how it is intended to be used.

For this work session, Staff would like to receive input on a new format for the Implementation *Table*, now referred to the *List of Implementation Projects*.

Staff has provided a mockup of the new List of Implementation Projects that includes two sample projects. For those same two examples, staff has also provided mockups of pages from a new Appendix that will give a detailed description of each implementation project. Staff would like to be sure that this revised format is acceptable to the Commission prior to completing these changes for all 60+/- projects. Once input on the proposed format is received from the Commission, staff will complete a revised draft of the List of Implementation Projects and Appendix 2, Implementation Project Descriptions. The complete new List and Appendix will include revised information on project costs and will be forwarded to the Commission for review and discussion at its June work session.

Staff's mockup presents the following changes to the format for the List of Implementation Projects:

- Consolidate related projects
- Eliminate some of the more detailed information for each project and move to the information to the new Appendix
- Clarify the sources for the cost estimates
- Make a distinction between primary and secondary funding sources

And, in the new appendix, staff proposes:

- A more detailed project description
- To include the "issues to be addressed" and "milestones" sections formerly included in the Implementation Table
- A Location Map or concept diagram of the project where one is available

### **Recommendations**

Questions for the Commission:

- Overall, does the format for and samples of the List of Implementation Projects and Appendix 2, Implementation Project Descriptions make the information easier to read and understand?
- How would the Commission prefer to depict project cost estimates, including right of way (ROW) cost:
  - 1) Combine in one total cost figure both the construction and total potential ROW cost, or
  - 2) List total construction cost and total ROW cost separately?  
Examples:
    - 1) Ring Roads, \$14,800,000 total
    - 2) Ring Roads, construction \$9,250,000, potential ROW \$5,550,000
  - 3) Include cost estimates for that part of projects where private construction and/or dedication of ROW is possible or likely?

### **Attachments to Staff Report:**

Sample List of Implementation Projects

Sample lists of Project Nos. 10 and 34 from Appendix 2, Implementation Project Descriptions

- Staff has changed the prior implementation table and is referring to it as a list. That replaces the more in depth table received the first time. The information in the table provides the very basic information that describes the project and literally creates more of a list that somebody can look at quickly. Staff is creating a new section, Appendix 2, which will provide a more detailed description of each project and would include a map or some sort of graphics to help show the location and the scope of the project. The hand out provides examples of two of those, one is a transportation project and one is a community facilities project. Staff picked one that is somewhat complicated. One of the things they are doing in the list is combining projects that are related to one another into one project list and then providing a more detailed discussion within the appendix. Staff will go through each of those projects and provide the detail. That is the approach for this concept and staff has provided a new list.
- The description of the cost estimates has changed to state the primary source for funding that project. The secondary would provide for discussion and a description of other possible ways to fund the project, but are secondary in nature in terms of what they can assume will be available for the project. Also they indicate the cost estimate for this table. Staff suggests that they provide the consultant's cost estimate and any other cost estimate that they have from any other adopted document. Last month the Commission was presented the UNJAM Regional Transportation Plan that had cost estimates for some of the similar projects. They would provide both cost estimates that were available at the time for those projects.

One question about the table is how the Commission would want the information presented for costs,

particularly regarding right-of-way.

As an example under the ring road it shows a total cost and then it breaks it down by construction and right-of-way cost. He asked if the Commission prefers to keep right-of-way cost broken down separately and do the construction cost and show it as a total. Appendix 2 shows a project described as one project, which is a series of related projects. It goes through each of those and ends up being a fairly long appendix. Staff tried to balance the table and make it simple to read, easy to see the priorities and costs and simplified by taking out some of the detail and discussion. That would be provided in another place. It would answer some of the other concerns raised about knowing information about that project. From a format standpoint what staff has given the Commission is consistent with the type of content that they would expect in the appendix.

Mr. Cilimberg pointed out in the updated version staff looked again at the way the appendix for the grade separated intersection at Rio and US29 was formatted. Staff realized that the costs and funding sources may not have been as consistent as the list on the overall table as it should have been. He distributed a handout that shows a better version of that example.

The Planning Commission reviewed the questions posed by staff as follows.

- Overall, does the format for and samples of the List of Implementation Projects and Appendix 2, Implementation Project Descriptions make the information easier to read and understand?

Mr. Benish asked if staff is going in the right direction in providing the information as requested.

Mr. Franco said that he liked the tables and separating it out. He has more specific comments about the cost of the right-of-way and utilities. He would like to see that detail. One of the things hard to figure out for instance is the grade separation versus the ring roads in the right-of-way costs in the grade separation now. He assumed that the 35 million does not include right-of-way or utilities, but that is an assumption. He asked to be able to figure that out a little easier and if that was just the construction costs.

Mr. Benish replied that the answer would be generally yes. If they look at the ring roads below the 14.8 it would include the right-of-way and then parenthetically they have broken it down. If for some reason they have not included the right-of-way costs, the idea would be that they would explain why.

Mr. Cilimberg noted that the handout goes into a little more detail under estimated costs and notes for grade separation for b, c and f for Places29. It does not include right-of-way since the existing right-of-way is being assumed to be sufficient. That interchange is being built in a different way than the UNJAM plan interchange, which would be more of a general urban interchange. The Places29 interchange is essentially a very tight interchange within the right-of-way and the ring road served to provide the additional access.

Mr. Benish noted from a format standpoint once they have that information if there are questions about that or the Commission would want the right-of-way calculated anyway using the methodology used, at least they would know how the right-of-way is accounted for or not accounted for and could ask staff or add that number if necessary. By and large on most of the projects staff will be going back and adding right-of-way. Staff has to do that calculation, but it can be done based on the consultant's and VDOT's methodology.

Mr. Cilimberg reiterated what he was hearing was the Commission would like on the list to have those cases when the right-of-way is not separated out to have a brief explanation of that and the reason why.

Mr. Morris replied yes.

Mr. Franco asked if it was important to anyone to know where the right-of-way is coming from. In other words, is it worth identifying tax map/parcel numbers or strategic land pieces that ought to be part of the important steps in here? He has read in the paper about the theater and how it has the ability to take up the whole Hillsdale Drive connection. He asked if they should be identifying significant pieces of right-of-

way here that they need to be targeting.

Mr. Cilimberg pointed out that they don't have interchange or road designs. Therefore it was a bit speculative. The right-of-way costs are based on percentages and not based on the actual land that is out there. It could become a little problematic in a plan like this when they are looking at something over 20 years or more to say the right-of-way is going to come from specific properties.

Mr. Franco said that he could see that being a problem, but may be there is significant ones that are going to be impacted.

Mr. Cilimberg said that if they know that there is an alignment in a very specific location they could certainly note that. But it may not be altogether clear at this point.

Ms. Joseph noted with the city he is not asking for any special permit or rezoning. It is all by right what he is doing. This is a comprehensive plan and they just have these roads drawn in approximate places because sometimes it may move over one way or the other as far as the alignment is concerned. She noted that staff was talking about existing right-of-ways. She did not think they should get that specific. The only way that theater could not be expanded is if they needed a special use permit or a rezoning for that property in the city and they don't.

Mr. Franco said or if the plan had that for the connections had identified early on in the process that was important piece.

Ms. Joseph said that in that case it would not matter. Again, they would be dealing with the same thing that if somebody is doing it by right and it is going over a road way it does not matter. It can still happen. The applicant can be told that the community needs this road, but it is not going to matter. She would rather keep it loose so that it can move around if it needs to move around.

Mr. Franco said that he not trying to tie it down so much as identify again what are the important pieces that they should be trying to secure. The other choice is to go out and buy that right-of-way or that piece up front and to make that part of the plan and be able to say it is going to run through that area. For example the Berkmar Bridge only has so much area and it is going between Route 29 and the dam. So there is not a whole lot of debate on what that alignment is. He asked should they make acquisition of that parcel an important step to making sure that parallel road is constructed.

Mr. Cilimberg pointed out that there is a good example with the grade separated intersection. The first project listed is to prepare the small area plan. That small area plan is intended in part to identify just what she mentioned. There is usually a step by step process. But it is too early to get very definite. It is the next step when doing more specific plans. As an example under the Berkmar project one of the elements of that project would be the location and design of the road and the bridge. That would be a first step. Once you have that you can actually incorporate that location into an official map. Then it becomes very evident for anybody who is interested where that road is going to go and it can be part of the consideration for landowners. In the near future there will be an official map, as an example, based on a design that VDOT has agreed would be for how Hydraulic and 29 will be improved in the future. They can't do that at this level of planning since they have not gotten far enough along in specifically tying it down. They realize that Berkmar will essentially be connecting from point A to point B and pretty much know where it is going to go, but until they do the design and have that on paper he did not think they can say it is going to specifically go across a particular property. They would not want to put that in a plan because parcels get divided and those parcels numbers will mean nothing in a few years.

Mr. Franco asked what happens when the small area plan is done and after five years they are going to come back and update this table. He asked if they would then add those parcels because they know specifically where they are. Or is it something that never gets included into this document.

Mr. Cilimberg replied that he would think they would want to avoid putting parcel references in a master plan or comprehensive plan because those could be subject to change.

Mr. Benish noted that they would probably amend the Places29 Comp Plan section to refer to the small area plan, which would provide the updated guidance. Doing that would keep Places29 current. If they read through the appendix an example for this one it does lay out some sequence of projects a through h and which is more important than the other. So given the map and knowing the locations and the quadrants it does provide some guidance as to where to focus your efforts. That is what the consultants knows pending an update getting that small area plan done, which they may find given the circumstances by the time the plan is completed there may be some changes to it. Where there is some sequencing and priority of these multi-stepped projects they are going to try to provide that guidance. It sounds like they are okay with one.

Mr. Edgerton said that it is great and so much clearer than what they saw before. It leads you through the process. He noted that Mr. Franco's point was good, but unless someone comes in and requests a rezoning they are not going to have any authority to secure those right-of-ways at this point.

Mr. Benish said that they are going to provide right-of-way costs, construction costs and then describe any exceptions where they would not be doing that.

Mr. Franco asked what about the utilities, which has been raised as a significant cost.

Mr. Benish said that the method that the consultant and VDOT used is actually a multiplier that includes utilities and right-of-way. He should be clearer about that. When he says right-of-way it includes utilities. The other question is whether to provide for cost estimates for projects that they expect or are recommended to be done in the plan but done through private means. So there are some projects that are non essential to the network and they recommended them as interconnections as an example that they would expect to get through the development review process at some point in time. So there is not a cost estimate for those.

Mr. Strucko said to reach a little bit and may be represent some of Ms. Porterfield's views he thought that she would appreciate having what the potential savings would be to the county listed in the plan.

Ms. Monteith assumed that would be listed separately in some way.

Mr. Benish said that staff would probably use the primary funding to say that is going to be a private developer project, but what they would be doing is providing a cost estimate or value. Some of these the consultant did not do. Staff is going to have to create those with the help of VDOT. There are not a lot of them. Staff has the cost estimates for the major projects. The consultant's cost that the Places29 provided they provided in current dollars at the time that they completed the study, which is 2007 dollars. He was guessing that this group is going to want those costs projected to the estimated cost year.

Mr. Strucko said that they have to time stamp these estimates so that they understand that they may be several million dollars off depending on where the year is. He sees one that is dated 2025. He assumed that they got there from using some assumptions.

Mr. Benish noted that the way UNJAM did it was that list of projects is broken down in to four time frames. One is a current time frame for the first five years and he did not believe they adjusted those costs. They used the costs that were in an existing Six Year Plan, which they assume has some factor already in it. It is under some sort of plan design process. The next three increments are over 5 year periods. If a project was identified as a mid-point project he believed that mid-point period was 2016 -2020. They used the mid-point of that time frame of 2018. All projects were thought to be built in the beginning of that five year period or at the end and they used the mid-point.

Mr. Strucko asked if staff was getting VDOT validation of these figures. They ventured to say that number looks about right.

Mr. Benish replied that staff is going to sit down with VDOT and validate these numbers. VDOT was part of the consultant's process and the consultant used the VDOT cost estimate process to come up with these. As they adjust them staff wants to make sure that VDOT is okay with what they looked at before.



Mr. Loach said that on the funding sources for the primary and secondary can and would it be to any benefit to allocate percentages to them so that people know where the funding sources with percentages is coming from where either through VDOT or private party proffers, etc.

Mr. Cilimberg said that right now would be very difficult to determine because they just don't know based on timing what funding is going to be available from VDOT. They are saying that they should be the primary funding source for the grade separation as an example. But they may over time through the cash proffer system as an example collect funds that can be put towards that project that would reduce VDOT's part of the project. That is why the cash proffer policy was adopted. But they don't know how much private funds they might have at that point in time. So the percentages would be really hard to figure out. They will see cost figures, primary and secondary funding sources, for all of these projects. They are going to actually put together of what staff thinks will really get built with the funds available. That will essentially indicate to the Commission that out of these there are five very primary priority projects that have a number of elements in them each. They are only going to be able to identify a few of those elements that they think can actually get funded based on current resources that staff can project being available. It is going to leave the question of how do they do the rest. Staff can say who the funding sources should be and that the project is needed in this point of time based on the first ten years versus the second ten years. Even if this Places29 Land Use Plan were in play right now the situation would be the same and they would still have that circumstance. Staff will try to outline what seems realistic as part of the plan, which raises the question of whatever the Land Use Plan is they will still have this question of how do they fund the rest of what is needed in these projects. They can say here are the sources that they should go to, but who knows what decision may be made down the road to change how they fund projects.

Mr. Strucko questioned if the Commission would want to venture down the road to say that they determined based upon the current situation given VDOT's financial situation and the county's reluctance to build roads that these projects will be built.

Mr. Cilimberg suggested built or in some cases like a small area plan it is not even building anything, but is doing a plan and developing plans to do a project.

Mr. Strucko noted that they are looking at roads here, but he was sure there were other things. He questioned what he thinks can afford to get done. They will have to take some leaps of assumptions there.

Mr. Benish pointed out that priority was going to also identify the essential first things they have to get done. The Berkmar Drive connection is a very important step. They need to know where the bridge is going to get built. They have proffers monies that are potentially available up to about \$60,000. In the CIP that was funded this year they do have some level of funding that was put towards implementing Places29. So they do know that there is some money that they control. As an example, if that is something they feel they can do and it is an essential first step in the small area plan in which they actually get a more detailed design about the interchange and find out about the right-of-way and what is needed, then that allow them to move towards the design. It can also identify what projects they need to create official maps for to protect the right-of-way, which has surveying costs. He thought that is probably what they are going to see in this list. At the beginning of the meeting they talked about not having 6 million less maintenance money much less construction money. But to the extent that they do have monies to continue to move these projects along to the extent they can that is probably what they are going to be identifying.

Mr. Loach said that it was a good idea that they let the public know the gap between the planning and the reality.

Mr. Benish noted that his opinion on the primary and secondary, as Mr. Cilimberg said, they don't know the percentage. They are looking at the primary basically up to 100 percent. The secondary is what can help augment it, which may get it done sooner or is a tool that a future decision might allow that project to move forward. He thought that they have looked at primary with a project that they expect to be done as

an interconnection through a redevelopment project. It is a project that will sit there until that gets done. If it is a public road project most of them are going to be VDOT roads to build. Until something changes at the state and at the Board level they are responsible for the public road system. That is the best staff can do in terms of the percentages.

Mr. Loach noted that they would not have the opportunity to have another table with these projects and then a longitudinal graph that shows what the funding would be expected and an expected date of completion based on those funding sources coming in.

Mr. Benish said that they could potentially do that to some extent the constrained long range plan and UNJAM over 20 years. That is what that exercise does. There is certainly no guarantee as to when they get that money along that timeline and whether they project out those X amount of dollars per year are going to come in that short, mid and long term

Mr. Loach asked how far out VDOT projects out the dollar costs.

Mr. Cilimberg replied six years.

Mr. Loach pointed out that they have a six-year time frame that they know how much money they are going to have.

Ms. Monteith pointed out that they don't always get that.

Mr. Cilimberg pointed out that it was not very reliable in this day and age.

Ms. Monteith said that his first question was about escalation and whether that should be included. Obviously it is in these UNJAM costs which staff has noted. The assumption is that escalation is always going to go up. But right now it is down. From her position she suggested to say what the date of the cost was unless they get to a point where they are updating this and not try to add in the escalation costs because they are in a pretty volatile market.

Mr. Benish noted that he had a discussion with Chuck Proctor at VDOT who did the long range plan numbers. For the MPO he used the 2006 formulas and multipliers. The indication is when those new numbers get updated next year they probably will go down because the market over the last couple of years has been a positive market for contracts. The sheet that they use is reflective of their true costs. He agreed that if they use the new numbers the multipliers could very well go down. But there is no guarantee that it will stay that way in the next five or ten year increment. They can do it both ways. They can maintain the consultant's costs in their current year or just update it to the current year of our adopted plan. Then anyone using those numbers can apply with multipliers out of their crystal ball, which they think the best projection is. Or staff can take their best shot at it.

Mr. Edgerton said when and if this is adopted it will become part of the Comprehensive Plan and as such will be open for review and amendment on a five year cycle. He felt that the appropriate thing would be to have the numbers all keyed to the same adoption year. He noted confusion in the chart with the UNJAM numbers at 2025 dollars and the consultant's numbers at 2007 dollars. The big picture is that the more precise information they can have about this the wiser the decisions of future Commissions and Supervisors in whether it makes sense to go ahead with projects. He noted that a lot of the anxiety in the Crozet work is that the infrastructure has not been there and projects have been approved. It will be hard to deny rezonings or requests without this information in the Comp Plan. The Comp Plan is supposed to help make wise decisions. Therefore, the more information they have the better. But they do need to be consistent about how the numbers are presented.

Mr. Cilimberg noted if they were to use adoption year dollar amounts, which staff hopes will be 2009, for all of our project cost estimates he asked if the Commission felt it would be necessary to include the UNJAM plan cost figures, which were projected out for different periods of time. Or staff could remove that column if they don't think it is that valuable. It is shown here so that they get the insight that there are two estimating sources they can go to. One is more current and the other is projecting.

Mr. Franco noted that it would be a lot more useful and helpful for everything to be in today's dollars. He would prefer to see a footnote if there is a different number that exists out there. The footnote should say UNJAM by the way was slightly different but that it was twice as much. He thought it was confusing to have both sets of numbers in the chart. There are a lot of estimates but he suggested that staff should put in what they felt was the appropriate number and a footnote that there is another number out there with a footnote and commentary. He suggested that an estimate would be helpful if the amount does get committed to on how it relates to a county wide tax or some funding mechanisms. It would also be helpful to know how to generate a certain amount so there is a way to relate this information back when talking about secondary sources.

Mr. Loach noted that the percentages makes some justification about where the money is coming from and say where it is going to come from.

Mr. Benish noted that staff has a couple study examples that the Board asked for regarding types of alternate funding methods that can give what a typical cost would be. Staff certainly could not say that was what would be generated, but it is an example of a level of funding that is possible under a system that could give people an understanding of the order of magnitude to cover the cost.

Mr. Cilimberg pointed out what they were still talking about is trying to give the Commission an idea of what they think would be funded under the sources that are available. At least there would be a picture of what they think they can do. There will be a lot more that they can't find identifiable sources of money for.

Mr. Strucko asked how specific would staff get. He asked if they would talk about debt issuance.

Mr. Cilimberg replied that staff would base it on a couple of different approaches such as what the CIP is providing for as staff sees it and what the Six Year Plan would provide. They can't get into a real elaborate analysis of all of that. Very honestly, they would get into all sorts of scenarios. Staff will try to take their best shot on what seems realistic. Then beyond that they will see price estimate in 2009 dollars for projects that they will see there is no funding source readily identified to do them. If they are able to give them that and they see the cost will be an X amount of dollars, then they can give as an example what 1 cent on the tax rate would be versus some scenarios if they had a gas sales tax or other particular mechanism. He asked if that is what the Commission is looking for.

Mr. Loach pointed out that the funding decision would be made by the Board of Supervisors and not the Planning Commission. Once the Planning Commission knows what money and what is available, then staff can come back to the Commission.

Mr. Cilimberg noted that the project needs don't go away just because the money is not there. He suggested that it would be a mistake just to say they are going to remove projects because they don't see funding out there. Plans are supposed to tell them what they are going to need. Currently they have a back log of needs that are not getting addressed. So they want to be honest about what seems to be needed.

Mr. Strucko felt that they could do that with costs. He felt comfortable with staff's suggestions in the secondary column about taxes that they don't have right now. He reiterated Mr. Loach's comment that the Planning Commission does not make policy decisions.

Mr. Cilimberg noted that the Commission was just getting information and not deciding which ones to use

Mr. Strucko suggested that they come up with the projects, rank them according to needs, list the costs, list some suggested ways of funding it and then leave it at that.

Mr. Cilimberg noted that they would not be doing what Mr. Franco said.

Mr. Franco said that he was not proposing that they make a decision on how it is going to be funded. If he was one of the decision makers he would want to know how he generates 25 million if that was what it

was going to be a year. He would like to know what that looks like in different forms.

Mr. Strucko pointed out that there would be different impacts from a 1 cent tax increase in 2009 and 2025. They can do the scenarios and say here are the various options, but they run the risk of timeliness. The Commission does not have the power of the purse and maybe the Supervisors might not want that. He was trying to find the right demarcation line.

Mr. Benish said that this implementation table is not to adopt that level of detail. They were not asking the Commission to say that VDOT will be the primary source and they are going to select 20 percent out of these secondary options. What they are laying out is the need. They are identifying and being transparent about the impacts, the costs of those needs and outlining the possible ways in which the Board and the public (state) can address these needs. This table helps staff on the CIP Technical Review Team when he makes the request to implement these plans and then makes that presentation to that group how important it is for the Executive to be able to tell over the ten year plan and the CIP what sort of order of magnitude of cost are going to be for urban improvements to make some long term judgments about financing. This plan does not do that. It is just telling the public what options are there.

Ms. Monteith said that it would seem like rather than tying it to any kind of project that it appears that staff is giving a few examples just for somebody that is reading it. Rather than anything that would go into the tables something that would be in the text that is typically an implementation text beyond saying something like well funding sources could be grants, etc. that is very generic language. If there are some mechanisms staff has considered that are beyond the really basic funding sources that they have it would be useful to have that. But not have it tied specifically to projects.

Mr. Cilimberg pointed out in the chapter that leads into this table they actually talk about very different funding sources. They don't try to estimate how much money could be generated, but do talk about the sources that are out. They should be correlated to make sure the secondary identified here fits within those potential sources. Beyond that where they are talking about generation of potential revenue from different sources the Commission has to advise staff as to whether that is a good idea to do it. He was hearing mixed things here.

Mr. Strucko said that it is a good idea to list the potential sources. But if they are saying that a 1 cent increase in the property tax rate will generate this amount of money he thought it over simplifies and misleads. The variables are all over the place. It is great to think about giving all this information, but it may defeat the purpose.

Mr. Cilimberg pointed out that staff was not planning on giving estimated revenues from different sources. It was raised tonight and staff is telling them how they could do it.

Mr. Loach agreed with Mr. Strucko that it was a good idea to list those sources. But he had already heard allocations on the radio that the Planning Commission was planning on implementing some sort of taxation scheme to do this, which is untrue. He wanted to make sure that there was a clear demarcation between those priorities and the Board of Supervisors is responsible for that.

Mr. Cilimberg agreed that he was correct that the Planning Commission did not want to get into that.

Ms. Joseph said that it is perfect what they have here. She did not think they needed any more detail because it leaves the options open. She did not think they should assume that they themselves were going to pay for these roads. She thought they were put in here because the Comprehensive Plan helps guide us in rezoning applications and it helps us understand where our needs are. If the particular property that is undergoing a rezoning is going to impact these even further then at least they know what they need to be improved right now. So that is how she was using this. She agreed that it would help with the CIP and Six Year Plan. But that is not where she was aiming to decide that the community is going to pay for these roads at this point.

Mr. Morris said that they have gotten this information and with the funding sources it is all the Commission needs.

Mr. Edgerton asked to revisit one thing because he wanted to simplify it a little bit. Mr. Franco suggested that they pull out the UNJAM column because it was a little confusing. He recalled the presentation they received from UNJAM and it is a separate item and needs to be presented. He was not sure that it should be adjacent to the consultant's figures. The one take away he remembers from that presentation is that regardless of what happens to the land on either side of 29 the road improvements recommended in UNJAM are going to be required just to keep things moving. He was not sure to just put that in the footnote. He would like to see if they could adjust the numbers so that it is not so confusing when you look at 35 million versus a 50 million and they have a typical urban interchange versus something that they worked out that was much less than an urban interchange. It is confusing the way it is being presented. He was trying to figure out how to give it some significant place some where other than the footnote.

Ms. Monteith felt it should stay in also. She thought that it could go on the far right column so that it is presented as additional information rather than right next to where they want to provide the cost that the consultant gave. It is a little confusing in having the different time frames, but it does not bother her as long as it is noted. It is actually kind of useful because it shows what they are projecting as far as escalation and comparison to what they would have in for any given period of time. In addition, in the estimated cost column put in parenthesis what the year is that cost would be. If they finish the plan in 2009 it would say 2009. Then if they updated it would show that year.

Mr. Cilimberg said that one idea he heard was they could get rid of Place29 consultant and move the UNJAM source where there is comparable information from UNJAM into that far right column. Then simply have one column that says estimated cost 2009.

Mr. Edgerton asked if the UNJAM plan was going to be folded into this Master Plan.

Mr. Benish said that hopefully there was consistency in the projects. The UNJAM plan covers major network roadways and does not cover up the smaller secondary roadways in some cases as a general rule.

Mr. Edgerton said that he would like to keep it in, but felt it is confusing the way it was presented. He suggested that they line it up with the same projects but pull it away.

Mr. Benish reiterated that it be listed as additional information for a competitive cost of some sort.

Mr. Edgerton agreed.

Mr. Franco noted that they had focused on the column of UNJAM and got off the estimates for a while. He wanted to make sure everybody was clear what he asking for. He was happy to have the majority of the Commission move this forward, but he was not proposing they make the funding decisions so much as help the next level up to understand what those are. He envisioned in the section where they had a discussion of specific funding types that was in the text to quantify what those things look like. He understands the difficulties of property values going up and down. That is why he likes the idea of keeping it in today's years. But he thought that because these things are improvements that are required today the Board is going to have to make decisions on how to fund these projects. It is more for him that this plan is a transportation plan on how to meet the existing needs and it is less about rezonings. When he first listened to the meeting two meetings ago it was his understanding that most of the rezoning that will be coming forward will be coming forward to address form with some density changes but it is really a rearranging of the density and addressing form. So he was not sure that they were going to find that a lot of rezonings are coming forward in this area that will be creating huge funding sources. There may be donated right-of-way and improvements they do. But because they are addressing the form that they want he felt that it is going to be a difficult decision later on when a project like the Berkmar Drive parallel road system is needed and a project comes in that will donate a portion of that right-of-way, but they say they still need 35 million dollars so stop the project. Then that project will move forward, like the theater, in a by right form and they lose that opportunity or create hardships in the future. When they talk about service districts as a possible funding source he would like some text in there that says if they create a

service district like the sheet that came through the second time that said a service district that is all of the northern area would generate a certain amount of money. That is what he would like to see for something that helps to quantify that so that those decision makers could understand how those sources work.

Ms. Joseph noted that they have never gone into that kind of detail.

Mr. Franco said that he thought they saw that at the last meeting.

Mr. Loach said that is why he asked what the percentages would be between VDOT and the secondary source. They are saying that would be very difficult.

Mr. Franco noted that when they talk about gas sales can they tell him what it takes to generate 10 million dollars for revenue for gas sales in 2009.

Ms. Joseph said that the next step if they decide that during the planning process that these improvements are so expensive our next logical step would be to remove land from the growth area because they can't afford it. They can't afford what they have now. So why are they adding more land to be developed when they can't afford what they have right now. That is why she did not know where he was going with this at this point honestly.

Mr. Loach agreed with that Ms. Joseph's pointed was good if they can't afford what they already have.

Mr. Cilimberg said that the reality is that most everything on this list except for the form of the public transit is necessary even if they decided to scale back the development areas. If they started bringing the boundaries in they would still need it because the rezonings have already been done, the growth is happening and if it is not in that development area it is somewhere else. So he did not think that is the issue here per say. Most everything in this plan that is being shown for implementation purposes to deal with growth that has nothing to do with this land use plan.

Ms. Joseph said she differed with him a little bit. If it is already out there and they have already had these approvals they still have land that is vacant within the growth area. She was saying should they even have that in there if they can't afford what they have already approved.

Mr. Loach said that was his point about taking this up to the Board of Supervisors for funding to decide whether there is going to be a funding mechanism for them to move forward on a plan.

Mr. Cilimberg said that the question is what the plan is. The funding mechanism for the land use component of this plan is not the question. The funding mechanism for the transportation and the infrastructure component is the question. That does not have much at all to do with the land use plan or the form. If they remove those people from this area those people are still going to be in the county and would be using infrastructure and roads.

Ms. Joseph said that it is not telling us what we need, but it is telling us where we want to go.

Mr. Edgerton said that the more information it has the better the document.

Mr. Strucko noted that the Commission was in general agreement that it is enough for planning proposes to have the projects that this vision, Places29 will demand. They have cost estimates roughly based on 2009 numbers and those which are not they would get. They can list potential funding mechanisms for the county, which could involve everything from waiting for current capital capacity to free up from existing debt to replace it with something like this thereby not putting an additional financial hardship on the community or various taxing mechanisms, proffers or asking VDOT for more money. They will not get into actual calculations because that gets into a level of precision that the Commission would be misleading. He would not even venture into guessing that. The Supervisors have the power of the purse in this community and they have to determine what combination of things they would put into place to fund what project on what date. He asked if staff needs anything more from the Commission.

Mr. Cilimberg noted that what staff understands right now is what he just said. They already have a funding option section already written into the text. Staff can revise the table to reflect what the Commission mentioned tonight in terms of how they provide cost estimates and how they reflect UNJAM. He asked the Commission to provide any further specifics to staff.

Mr. Benish pointed out that staff would be providing totals so that when they have the individual cost they will be subtotaling them in some way that they can see the order of magnitude of the cost.

Mr. Strucko agreed that the Commission needs to see that information. He invited public comment.

Jeff Werner, with Piedmont Environmental Council, made the following comments:

- Several years ago the transportation funding work group met for a year and a half or two years with the TJPDC. Every group imaginable participated and came up with a list of priority projects and a series of funding options on how that revenue could be raised. He suggested that the Commission review that list since it outlines a series of scenarios that included many different things. Also the Board of Supervisors a year or so ago during the Hollymead, North Pointe and Albemarle Place reviews had a lot of discussion about community development authorities and special tax districts. Some very concise summaries were put together on what those tools can and cannot do. In the last General Assembly session this community did seek the ability to put to a vote to the residents of the community the ability to tax to build infrastructure. But that was defeated in the General Assembly. He noted that a lot of what the Commission is discussing is discussed at almost every Board of Supervisors meeting. For years he has tried to figure out how to bundle all of this together in a neat argument, but he did not know if there is one.
- The Commission raised some excellent points. If they are going to need these roads how are they going to fund them because they have already approved all of this growth. Therefore, those improvements are going to have to be made. The question is who is going to stand up and say this is what it is going to cost us. They are asking the right questions, but there is the reality that really the community has to face that they are ultimately going to have to step up in front of these things. He did not know if there was a choice that they could simply say no because of what the situation they have gotten themselves into.
- However, he agreed that this was a comprehensive plan and they are looking towards the future. Therefore, they have to have a plan. He did not know if they need all this level of detail for something that they will face in 20 years.

Neil Williamson, of Free Enterprise Forum, noted that this is so much better. The information is much more manageable and understandable. It is the step in the right direction. The three things that they have asked for all along are: transparency, accuracy and totals and they are headed that way to that end. It is important when they look at the chart they see UNJAM has a 50 million dollar cost and if it is added up it totals that. It is important to pick that up somehow. He did not know how to capture that for the reader, but if they look at it in one way it is a very different cost. It is important that information is captured.

- To that end he had to disagree with the entire Planning Commission with regard to the project year data. This plan sets out a time when they are going to do things. The mid-year point that was discussed by staff makes good sense. The fact that they could finance it is a different issue. This is really dealing with implementation. They are saying when they are going to do it and then turning around and saying that they are going to use dollars from today. Well they are not going to use dollars from today, but are going to use dollars from tomorrow. There is going to be an increase in the cost of highway construction. Ms. Monteith is correct that there have been some small local trends, but he did not think if they look over a 20-year period, which this purports to cover, that they can find a 20 year decrease in any construction or land cost. He would hope when the document gets to the H250 has a footnote or column or whatever they chose to recognize that there are three estimates for that particular interchange. That is important information to capture.
- He reiterated that the lack of a project year he fears is disingenuous to the public because those are the tax dollars that are going to be needed. Whether the money comes from the federal, state or local federal government the government receives money from the citizens. Finally he

wanted to make sure he says that this is a step in the right direction.

- He encourages having sub totals on the projects as well as sub totals for each stand point – short term, mid term and long term and use project dollars. He stands by everything that he mentioned on the radio. He accurately reflected, in his opinion the discussion that that was held at the Planning Commission. He felt that the Commission has discussed this issue quite well and he encourages any one with any questions about that to review the pod cast.

There being no further public comment, Mr. Strucko closed the public comment to bring the matter back before the Planning Commission. He agreed with Mr. Williamson, but it was going to be tricky. If he was doing the capital planning for the terms of these projects, he would like to get a sense as to when the timing of the project would hit. This was discussed earlier and Ms. Joseph brought up the point that some of the needs are for today.

Mr. Franco noted that all of these needs are for today.

Mr. Cilimberg said that staff put the projects in 10 and 20 year timeframes, but a lot of them really are pretty current.

Mr. Franco asked to address Mr. Williamson's concern. He felt that there needs to be a timeline on when this expenditure is going to occur. He thought that keeping it in today's dollars will be useful, but they need to know how to expand it into the future and how these things will change. He understood that potentially the costs will be going down in the near years, but overall the return will be up. He felt that the timeline on when the expenditures are going to occur can be capped.

Ms. Joseph disagreed about the timeline they need. This is a document that is used by UNJAM and for the Six Year Plan, which is where some of that timing comes in. She was resisting that because they want them to find where this money is coming from and she did not know that they could do that with this document. This document is used for other reasons such as for the CIP. Therefore, she was reluctant to put in a time line here forcing the community who are working on these other issues. This is to show us where we are and where we want to go, but not necessarily when they want to be there. There are so many circumstances that happen such as when NGIC comes in and where the development is going to keep occurring or not in that area.

Mr. Strucko agreed with Mr. Williamson that this is a progressive step; it is moving in the right direction and is providing valuable information.

Mr. Cilimberg noted that staff will take their best shot at what they have heard tonight. Staff will make a couple judgment calls in incorporating the recommendations and suggestions made by staff and the public. Then staff will schedule a future work session for further review.

**In summary**, Places 29 Draft Master Plan: Chapter 8 – Implementation Follow-up Comments

In a work session on Places29 Chapter 8, Implementation Table Format Review the Planning Commission reviewed the form and discussed how they wanted the cost reported. There was a general discussion about the presentation of funding options and what level of evaluation and recommendation the Planning Commission should have. The Commission felt that the format of the simplified table and description were going in the right direction and made the following comments and suggestions.

- The Planning Commission generally accepted the list and appendix format.
- Provide cost estimates in year of plan adoption dollars.
- Deemphasize/relocate UNJAM cost estimates in format of year of adoption dollars.
- Wanted total construction/right-of-way/utilities cost breakdown.
- Provided other general comments on form improvements
- The Commission wanted the list to have those cases when the right-of-way is not separated to have a brief explanation and the reason why.



- Work on columns to make consistent dollar figure amount possibly by using the adopted year figures in today's dollars and moving the UNJAM column figures and provide that information in a footnote.
- Provide for cost estimates for projects recommended in plan through private means. A suggestion was made that it be listed separately.
- Funding options were discussed with recognition that the Board of Supervisors has the power of the purse. The Commission should explore different mechanisms that would provide funding.
- Discussion held about the need for a timeline when expenditures will occur in today's dollars.

**Old Business:**

Mr. Strucko asked if there was any old business.

Mr. Cilimberg pointed out that after the Commission's public hearing on SP-2008-00058 Harris Garage Amendment staff found that the public notice sign had not been posted. While the lack of posting a sign does not affect the Commission's action, staff has heard from the public that they did not have a chance to talk to the Commission. Therefore, a second public hearing will be held on June 9 to receive additional public comment before this goes to the Board of Supervisors meeting on June 9.

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 9:01 p.m. to the Tuesday, May 19, 2009 meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

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