

**Albemarle County Planning Commission
March 15, 2016**

The Albemarle County Planning Commission held a regular meeting on Tuesday, March 15, 2016, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Karen Firehock, Vice Chair; Daphne Spain, Pam Riley, Bruce Dotson, and Tim Keller, Chair. Absent were Mac Lafferty, Jennie More and Bill Palmer, UVA representative.

Other officials present were Elaine Echols, Principal Planner; David Benish, Acting Director of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

Public Hearing Item

a. ZMA-2012-00007 5th Street Commercial (Sign # 98 & 99)

PROPOSAL: Request to amend proffers and application plan of ZMA-1999-00013 for 4.35 acres on property zoned HC – Highway Commercial, which allows commercial and service; residential by special use permit (15 units/ acre) and property zoned LI Light Industrial, which allows – industrial, office, and limited commercial uses (no residential use). No zoning district change and no dwellings proposed.

ENTRANCE CORRIDOR: Yes

AIRPORT IMPACT AREA: Yes

FLOOD HAZARD OVERLAY: Yes

PROFFERS: Yes

COMPREHENSIVE PLAN: Regional Mixed Use (regional serving retail, service and office uses, non-industrial employment centers and residential up to 6.01 – 34 units per acre) and Parks and Green Systems (parks, playgrounds, play fields, greenways, trails, paths, recreational facilities and equipment, plazas, outdoor sitting areas, natural areas, preservation of stream buffers, floodplains and steep slopes adjacent to rivers and streams) in Southern Urban Neighborhood (N5).

LOCATION: The east side of 5th Street Extended just north of its intersection with Interstate 64.

TAX MAP/PARCELS: 0.875 acre portion of 07600-00-00-055A0, 3.041 acre portion of 076M1-00-00-00100, and all of 07600-00-00-055C0

MAGISTERIAL DISTRICT: Scottsville
(Elaine Echols)

Ms. Echols summarized the staff report for ZMA-2012-00007 5th Street Commercial Project - Amendment to ZMA-1999-13 in a PowerPoint presentation. This is a zoning map amendment that has been around for a few years. The property is located almost at the interchange with 5th Street and I-64. On 5th Street it is located between the Holiday Inn and the Waffle House on the eastern side. In the location map staff pointed out the site is part of several properties. It also includes a part of the property that the Holiday Inn is on and the only part of that property itself that is involved is the driveway. Everything else is north of the Holiday Inn site. Some of the property has been cleared as shown in the pictures in the slides. Other pictures of the site were taken. The entrance would be shared with the Holiday Inn and there were some overhead utility lines.

This is an amendment of an existing plan. In 1999 there was an approved plan and along with it a special use permit for fill in floodplain. Then that special use permit expired and was reapproved and that special use permit pretty much matched the 1999 approved proffered plan.

The 2016 plan is what is proposed by the applicant. The differences that exist between the two plans can be seen by looking at the two plans side by side. Staff would talk more about the proposed plan later and we can always go back to the existing approved plan.

History of the Project –

- 1999 Application to change the zoning boundaries. There were a couple of things that were going on. One, there was right-of-way which needed zoning on it. There was light commercial land and it was desired to have a commercial zone on it.
- 2000 Letter of Map Revision (LOMR) from FEMA – The floodplain was generally shown on one of the floodplain map. The actual location of that floodplain needed a little bit more work. In the process the applicant also asked for a letter of map revision from FEMA to change the floodplain boundary. The Planning Commission reviewed that initially and did not recommend approval. The Board of Supervisors reviewed it and said it needed to go back to the Planning Commission – they were supportive of the fill in the floodplain but not the plan that the applicant had provided. Mr. Dotson may have been on the Planning Commission at that time and may have some more knowledge on this. Eventually the plan was found to be in conformity with the Comprehensive Plan, the Neighborhood Model and the Planning Commission recommended approval to the Board.
- 2002 BOS approval of ZMA with proffered plan and SP
- 2004 SP expiration
- 2005 FEMA's LOMR not revalidated with updated floodplain maps
- 2008 FEMA revalidated LOMR from 2000. It took a few times before FEMA actually did accept that updated map and revalidated it.
- 2008 BOS reapproved SP
- In the meantime there were some changes to the floodplain boundaries. There is a map in the staff report.
- 2011 Site Development Plan (SDP) request submitted. Staff provided comments; but, the applicant never resubmitted so it was considered to be withdrawn. The process never completed
- 2012 The owner of the property's applicant made a new request for a zoning map amendment (ZMA) in many ways to go back to 1999 to where we had started only they had the letter of map revision and the special use permit with a request to drop the original plan and change the proffers.
- Staff worked very closely with the applicant for several years until they resubmitted in January, 2016. That was a result of a number of different deferrals and then the applicant running out of deferrals. Part of the deferrals related to the need to work with VDOT on getting the entrance sorted out. So there were some legitimate reasons why it took a while to get this project resubmitted and why there were some deferrals.
- Ultimately, a plan was submitted in January and it had several aspects of the 2002 plan; but, it also did not have some of the aspects of the 2002 plan that were important to the Board of Supervisors back then. Also, staff does not believe that what is shown on the plan agrees with the approved special use permit. Therefore, the 2016 current proffered plan drops several aspects of 2002 plan and does not agree with special use permit.

Mr. Graham is supposed to be here to answer questions the Commission might have about the floodplain. Ms. Echols reviewed the map shown previously in the packet, which was used for the special use permit application and review in 2007 and pointed out the stream, the 100 foot stream buffer along Biscuit Run and along Moore's Creek on the property, and then there was an area that the Water Protection Ordinance allows in the development areas the potential for a disturbance of a portion of that stream buffer – up to 50 feet. This was a mitigation area that was shown on the special use permit from 2007

In 1980 the approximate floodplain boundary was as she was showing it. She was approximating it because she found some difficulty in finding the exact limits because the original FEMA map from 1980 that was used in 1999 was so general. Since she was actually part of the review team that worked on this particular rezoning application in 1999 she recalls that there was not a lot of disturbance that was proposed nor approved. The floodplain boundary is what is shown on this, which was the 1980 map approximately.

In 2002 FEMA approved a LOMR to approve the floodplain boundary to be moved to the location as shown on the orange line.

In 2005 those maps came out and did not recognize the LOMR. The floodway boundary is shown in the dashed line on the plan; the floodplain boundary is shown in the hardline and so this was a topic of a lot of discussion. Ultimately, FEMA reapproved/revalidated the letter of map revision to allow for the floodplain boundary to be moved back to where it was in 2002, which again is the orange line. The letter of map revision is a conditional approval. She may be corrected by Mr. Graham when he gets here. Once there are as built drawings done after the fill in the floodplain is done, then the maps are officially changed. So right now our GIS maps show floodplain that is more extensive than what you see with the orange line, and that orange line would then be the new floodplain boundary after the fill occurs, after the project is built and the as-built drawings are sent to FEMA.

Proposed Plan

The proposed plan has several aspects to it that are important to us. It actually uses the same entrance that was previously shown; but, whereas the former front plan had the buildings up closer to the street with parking to the side. This plan shows a strip of buildings with two rows of parking in front and also a drive through in the back. The first plan had two buildings shown on it and this one is showing three buildings in this area.

There are also proffers that are proposed for the following:

- Buildings, parking areas, driveways, the retaining walls, etc. in terms of the general location shown on the plan
- Uses – (Staff is a little hazy yet on what uses are actually being proffered out.) That is not a major issue because the uses would all be in conformity with what is shown on the Southern and Western Urban Neighborhoods Master Plan. It was a big deal back in 1999 because we were looking at towards advancing the interstate interchange policy. The uses that were previously proffered were to be in accord with the interstate interchange policy that has now been replaced with what you see on the master plans.
- Joint access with the Holiday Inn* (Proposal previously proffered. The * indicates that staff will go back to that in relation to the preserved slopes.
- Building orientation is proffered on the plan that the applicant has provided; but, it is not the same building orientation that was proffered with the 1999 plan.
- Undergrounding new utility lines - There was a question because there was some ambiguity with the utility line proffer from 1999. The applicant is proffering that the utility lines that would be undergrounded would be those that would be the new utility lines not the overhead ones that are in the right-of-way.
- There is a proffer for a traffic impact analysis (TIA), an additional one if requested by VDOT that was previously proffered.
- Additional greenway easement – In the first set of proffers approved there were greenway easements that were proffered and have been provided. Since that time our greenway plan has been refined. Staff noted where those additional greenways would be desired and the applicant has proffered to provide those in the form of the easement.
- Vegetation between development and greenway – Those proffers still remain.

Outstanding Issues

- There are some major outstanding issues noted in the staff report. The proposal does not meet the recommendations for relegated parking in that instead of the building being the closest item to the street the parking area or the large parking lot that allows parking on both sides of the travel way is shown in the front of the building.
- Because of the curb and gutter and sidewalk that is not being provided we don't really get a good pedestrian orientation and then we get into the buildings and spaces of human scale. The setback is so far it is difficult for the pedestrian along the street to know where they are in relation to that building.

- Proposed plan does not appear to accurately depict prior special use permit (SP) approval for fill in floodplain. Staff has talked to the applicant about that and they agree that is something that needs to be corrected.
- Proposed plan does not appear to accurately depict prior approval for disturbance in the 100' buffer
- Lack of clarity concerning the "proffered out" uses. That affects the plan, as noted in the staff report, because we are not sure whether, especially fuel tanks, would be in or out of those uses that are being proffered.

Other Issues

- There are disturbance of preserved slopes for a driveway. When this was first done in 1999 they were critical slopes and disturbance of those critical slopes was approved. Since that time we don't have critical slopes we have "preserved" and "managed" slopes in the development areas. So some of those slopes for which approval was given previously are now called "preserved" slopes. Because there is an approved special use permit the disturbance can still occur to those slopes for the driveway and the parking area that runs parallel to 5th Street. That can still occur even with a change to the proffered plan. But, if there are changes to the area of disturbance then the applicant instead of being able to get a special exception really has two options. One is to apply for a zoning map amendment to change those "preserved" slopes to "managed" slopes. That could be coordinated with this particular this particular ZMA. The applicant can provide their justification for it or they can show to us that we have made a mistake in how we have designated "preserved" and "managed" slopes. There are two options for dealing with those "preserved" slopes. The important thing to note here is that in order for a joint driveway to be used with the Holiday Inn there is going to have to be disturbance of slopes, and some of that disturbance was previously approved. All of it may have been previously approved, but we just don't know yet.
- Bike lane to be considered at site plan stage. This is something that is going to require some coordination with the city. They are still working out what their plan is for that particular area. We want this area to be multi-modal. It may be that it ends up being a shared path that is preferred in the right-of-way or a bike lane may be appropriate. The city is doing work on their side of the creek right now in developing their plan. By waiting to the time of the site plan we can do coordination with them so it matches.
- The plan shows a rural cross section with a sidewalk in the right-of-way and that is acceptable to VDOT. Staff thinks that from a pedestrian orientation curb and gutter with sidewalks and having a vegetation strip or tree strip between the back of the curb and the sidewalks would provide for better pedestrian access. By doing that you can also then have a walkway from the public sidewalk to the front of the buildings if they were closer to the street.
- If the applicant wants to resubmit his plan the retaining walls and wants to be in accord with the original special use permit for fill in the floodplain, as they indicated to us verbally, the retaining walls that were an issue that we pointed out in the staff report may not be as tall and may no longer be an issue. Staff would need to see an updated plan to know.
- Staff also suggested that it could be desirable to have a greenway trail connection from the greenway trail that goes across Moore's Creek to the north to the sidewalk along 5th Street. The applicant has said he would consider that.
- Greenway area proffered is in addition to proffers with ZMA 99-13. Staff appreciates the applicant's offer for an easement there. Staff has asked for consideration of dedication. That is totally up to the applicant to make a decision about whether they want to dedicate and if so how. Staff has had those discussions with the applicant and they seem to be amendable to having it as a dedication. However, they still need to make a decision on that. If they want to go with an easement that is fine, too.

- The issue of new versus existing utility lines. There was some ambiguity in the 1999 plan. It may have been that the Board of Supervisors and the staff were thinking about the existing overhead lines needing to be undergrounded. The new lines were a requirement of the site plan regulations. However, we can't require that an applicant do something in the right-of-way that isn't necessitated by their particular development. We don't typically ask people to change the utility lines that are in the right-of-way. If the overhead utility lines that are in the right-of-way were undergrounded it would create a much nicer streetscape. But, staff does not think that is something that we can require nor should we because that has not been our policy.

Planning Commission Options

- Hold a public hearing and recommend approval (as is) to the Board or disapproval,
- Recommend approval with conditions, or
- Ask the applicant if they would be willing to defer to a future date. The Planning Commission cannot defer this without the applicant's agreement and all of their administrative deferrals as well as the ones that are allowed for in the zoning ordinance up to the time of public hearing have been exhausted. That is why we are where we are now.

Staff Recommendation

- Staff's recommendation is to have the Commission hold the public hearing and let the staff and the applicant know what your thoughts are on whether or not you believe that the proposed development plan is appropriate. Or, if you think that a different one is necessary. If you think a different one is necessary, then staff recommends the Commission defer action to a date specific so we don't have something setting out in an undetermined timeframe. But, it is staff's impression that the applicant would like to address the comments that have been provided in Attachment F. But, there is the issue of the relegated parking that we are not sure they are ready to agree to. So the applicant would be looking for your input on whether or not the redesign would be necessary. Staff believes that a plan can be developed which meets the county requirements and also allows for some visibility of parking near a building for the purpose of the commercial use being successful if that is what is needed. Staff believes we can come up with something that works with both comprehensive and the applicant's desires. That is why staff thinks it is worthwhile to defer this if the applicant is willing.

Actions

- So the Commission's motion tonight after the public hearing needs either to recommend approval or denial; and, if you are recommending approval whether you want any changes made to the concept plan. The third option is if you want to ask the applicant to defer with agreement by the applicant.

Mr. Keller invited questions for staff.

Ms. Spain said going back to the floodplain map and what they are working with from the 1980 FEMA map versus the 2005 FEMA map just because they are not bound by the 2005 map does that still mean that they are building in a floodplain.

Ms. Echols replied yes it does. But, FEMA allows for people to build in the floodplain, and what they have to do though is they have to make sure that the fill is not going to cause any downstream effects. FEMA has to revise its floodplain maps to accommodate the changes to where the topography is for the floodplain. So FEMA will approve that; you have to provide all the calculations. That is something we look at as well. We have more restrictive regulations than any localities do and we do more than what FEMA would have us to. We are looking for protection of the floodplain because we are looking at cumulative impacts. So FEMA will approve this letter of map revisions so that the boundary can be changed. The reason why we can support that change is because the Board of Supervisors has already spoken about that change. So this is not a request for changing of the floodplain boundaries, that special use permit has already been permitted. This is a request to change what is actually shown on the plan and make sure that it is in keeping with the special use permit. If it is not and the applicant wants to

change the fill in the floodplain they would need to apply for a new special use permit, then you could consider that.

Ms. Spain asked if the plan the Board of Supervisors approved the one approved with the two or three buildings.

Ms. Echols replied the Board of Supervisors approved the special use permit that had a plan but there were other aspects of that plan that could be modified. So the special use permit was for the fill that related to that plan and the disturbances that related to that plan.

Mr. Kamptner pointed out the plan associated with the rezoning was the two building plan.

Ms. Echols agreed that was correct.

Mr. Dotson questioned the zoning. Do I understand correctly that currently the property is partly zoned Highway Commercial and Light Industry and what we are looking at tonight is a request to make the entire property Highway Commercial?

Ms. Echols replied in looking at the legal ad the entire property has two zoning boundaries on it. The full property has split zoning on it. The part that is being requested for rezoning is only the part that has the Highway Commercial zoning on it.

That is a little confusing as well. Initially there was Light Industrial zoning on a portion of this property and then it was rezoned to Highway Commercial. But, the whole property itself has two zonings on it. It has Highway Commercial (HC) and Light Industrial (LI) zoning on it. Only a portion of these properties are being proposed for revision, and the portion are the ones that have the Highway Commercial (HC) on it.

Mr. Dotson said so we are not actually being asked to change the zoning district meaning HC tonight because it is HC now and it will stay HC.

Ms. Echols replied that is correct.

Mr. Dotson said his second question is about proffers in connection with conventional zoning districts. My belief is that a proffer is an offer of something that goes above and beyond what the conventional zoning district would restrict. Is that a proper understanding?

Ms. Echols replied among other things.

Mr. Dotson asked instead of an offer could a proffer be a request for relief from a requirement of a conventional zoning district, and Ms. Echols replied no.

Mr. Dotson said so the proposal here is not for neighborhood model or planned commercial which would then mean that the zoning was crafted just for the site rather it needs to meet the requirements of Highway Commercial, and Ms. Echols replied that is right.

Mr. Dotson asked what the maximum setback is now in Highway Commercial, and Ms. Echols replied 30 feet.

There being no further questions for staff, Mr. Keller opened the public hearing for applicant and public comment. He invited the applicant to address the Commission.

Katurah Roell, representative for the applicant, said as Ms. Echols said this property has a lot of history. He appreciated the question about the floodplain issue. There is a debate of a couple of feet if our engineer is showing the right location of the retaining wall in regards to the floodplain line or the toe of the slope. The retaining wall was requested by county engineering and so we located it on the property in order to prevent scalloping or erosion of the slopes. So we will address that with engineering to the fine line of a couple feet and make sure that quality is met.

Mr. Roell asked Ms. Echols to show the reasons on the screen to cover the same basis. Again, back Mr. Dotson's excellent question, we are not asking for any change in any other part of the land since all the rest of the blue area is currently zoned LI to be dedicated to greenway. The property backs up to the Wegman's site and the frontage to that Wegman's site. There have been a dozen plus potential tenants for this site who have from Cracker Barrel on walked away from the site because of the relegated parking requirement. Also, 7-Eleven and gas stations have said they would be more than happy to locate there by the interstate. We actually asked them thanks, but no thanks because that is not our desire to see. We want to see more quality building there that provides a restaurant service to the intersection, a coffee shop that we all know and put a very attractive building along the front. The middle building will fill the site. The back building is actually a proposed daycare center. Part of the uses you were referring to in the Highway Commercial we have asked to include is that daycare. It is currently in operation on 29 north behind the Dunkin Donuts in that location and they want to provide a southerly location. A lot of people coming to and from the university need to drop kids off. It is a very attractive building. This site plan has been reviewed by the Architectural Review Board (ARB) along with what was the special use permit for the drive through, which is now a moot point thank goodness. The ARB has approved the building settings for three buildings.

The outstanding issues staff has is the relegated parking, and that is the real issue at hand. We had more than a dozen potential users and applicants and the one that started and then backed out was Cracker Barrel who said if we can't have parking in the front of our building so folks can pull up to the front of our building and store we are out of here. That has been a real issue and that has been the push pull here. We are in alignment with the Holiday Inn's setback; with the new shopping center that is going to be built south of Waffle House; and we are further forward than the Exxon Gas Station. If you look at that streetscape now all of that is in the city and we are in the county once we have crossed Moore's Creek. Our intent is not to disturb any more of the buffer than we are permitted to. We did go through great length and detail with FEMA as soon as they realized that they did not provide the proper LOMA to show the area that we can disturb and fill, which was approved by the Board as well as the buffer that the Board approved for the 50', which basically is to provide a slope and plantings to screen our development. Those are the real issues at hand.

Whether or not the Commission sees fit to waive the 30' setback which we discussed with county engineering who smiled a little and said I am not here to design your plan what can you do in 30'. Well basically that precludes any kind of parking in front of the building. What we are proposing is roughly 7 to 8 million dollars of buildings, some good tax revenue, multiple businesses and restaurants. It is not for our benefit; it is the county's because this property has been sitting dormant for a while. It is at a regional intersection of 5th Street and I-64. The delay staff referred to that we dealt with VDOT on was extensive. In the process of all that VDOT changed the regulations on how far light spacing needs to be between intersections. Now there is a light at Wegman's, a light at the interstate, and there are no more lights to be had. So we have currently a right-in and right-out. We can build the existing proffered plan as is by simply submitting the site plan putting the 7-Eleven gas station in there and some sort of other building in the back. It is not our desire to. In addition to that the full access intersection will go away and only a right-in and right-out so you must turn left, go up the street, and make a U-turn to get back to the interstate. That is a VDOT requirement now due to an update of the plan and the current traffic impact. Because Wegman's is going to increase traffic impacts, thereby, 10,000 trips a day which we will see. That is what the studies say. Just like Hollymead Town Center was going to increase 30,000 trips a day and 10 years later it is 1,000. Those are some of the highway improvements that VDOT gets you to make.

As far as the roadway frontage, sidewalks, street trees we've provided them all the way in our access we will provide them along the street frontage. It has never been our intent to bury the power lines for the 300' of our frontage that go all the way up and down 5th Street. But, the intent was to bury any internal lines crossing or entering the site putting all those utilities underground to make our interior site clean and attractive. Ample landscaping will be provided. The greenway trail to 5th Street there was a mutual kind of discussion that it would be easier than routing everybody through our site by actually creating a path up to 5th Street where it meets Moore's Creek. So folks can come off the sidewalk, come down a trail and go

across the bridge that was built. We provided the dedication.

Once again we are not here to consider the special use permit and the fill in the floodplain. That is an engineering issue that will be dealt with on the fine line. Interior curb, gutter, water quality and all those site plan issues will be dealt with and done accordingly. Uses that we are requesting are to increase from what was at the time 15, 17, 20 years ago. It started long before the approval to increase more uses because numerous people have come in and requested can we put our business here and we are like no you can't. The daycare that wants to go in there is not under a current approved use. What we would ask of you this evening is to give a consideration to the setback and the relegated parking issue. We feel that it is most important that some parking is provided for even if it is a single loaded spacing of the parking and a travel way in the front of the building. It is still in line with all of the existing buildings and future buildings to be. We have seen examples of shoving a building too close to the street, like the Vitamin Center and on 29 and Rio Road where now they have decided to widen that road and now it is really going to encroach and create a problem. We are not in a downtown urban area. We are in a regional district by an interstate and so we are not West Main Street. So I ask for that consideration. Not all things fit in one package and it takes discretion and understanding in setting to properly set a building. We will continue to seek ARB approval for our final designs, colors, brick, and materials and will answer any questions.

Mr. Keller suggested moving on to public comment and come back for questions.

Mr. Roell said he would be available for any questions.

Mr. Keller invited other members of the public to speak on this matter.

Travis Pietila, with the Southern Environmental Center, said he hoped the Commission received the written comments they submitted earlier this afternoon. He would just briefly recap our key points here tonight. Overall, we agree with staff that there are a number of problems with the current proposal and that it should not be approved. One of our biggest concerns is the location of parking in front of buildings on 5th Street along with the deep setbacks being proposed. The county's Neighborhood Model Guidelines make clear that relegated parking and avoiding excessive setbacks are essential to creating the active pedestrian friendly streets and development patterns envisioned by the comprehensive plan. In addition, while the guidelines acknowledge that many existing buildings have car focused layouts with parking out front and deep setbacks they make clear that this is not a reason to approve additional development of this type rather the goal is to transform this current pattern over time. Now it will, of course, require some sites to evolve before others. Another concern we have is with the proposed development within the 100' stream buffer along Moore's Creek. As we noted in our written comments Moore's Creek in this area is already impaired due to excessive runoff. This buffer will play a crucial role in limiting further degradation if this site is cleared and developed. As we read the Water Protection Ordinance it only allows development within the outer reaches of a stream buffer in limited cases when it is necessary to make reasonable use of the site. We simply don't see that level of need here.

Mr. Pietila noted lastly, we wanted to comment on a couple of the positive changes that staff notes may be made to this proposal further down the line. The first is adding a bike lane along 5th Street in front of this project. The second is providing additional screening from I-64 from what the ARB previously recommended based on an updated review of the conditions of this site. We agree that both would be positive steps. If the county is serious about making these changes part of this project, then it is important that at least basic commitments are made on them at this point before the county approves these amendments. On the I-64 screening issue this may require first sending it back to the ARB for additional review. Thank you for your consideration. We hope the Commission and staff continues its careful review of this project and move forward.

Neil Williamson, with the Free Enterprise Forum, said they have not position on this application; but, we do have a strong policy with regard to relegated parking. We have spoken against mandated relegated parking for over 12 years. The concept of moving all parking to the side and the rear is simply challenged. When you look at existing development patterns it is important to recognize how those move

forward. I was thinking of a recent county expenditure off of Rio Road, the Northside Library. How did that work without some, not all, some parking in front? I ask you to think long and hard about how you apply the relegated parking provisions and to consider whether or not you want to revisit those based upon the reality on the ground. Thank you.

There being no further public comment, Mr. Keller invited applicant rebuttal. He noted that this would be the time for questions from the Commissioners.

Mr. Katurah Roell said those were all good points by both gentlemen. He thinks Mr. Williamson's about the county library and its need for access and parking in the front of this building is paramount to our same need. As far as the gentleman from Southern Law Center and his concern about the buffer that is not a point of consideration here since that has been approved. As far as the setting or impact in the floodplain that has been approved. As far as the number of buildings that may go there and whether it is two or three it is still the same pad and the same area to be filled so no more or no less than was approved 17 years ago will be filled in the current future. We have already started bringing in dirt and material and to that point is all behind us in the past. So I don't want to cloud your considerations by that discussion. It was a good point 12 years ago. Currently, we are just trying to deal with uses and relegated parking. Those are our two key issues. So to that end if the uses are acceptable we are happy to proffer away the gas tanks as long as we get approval for our site plan for reasonable use in a restaurant and a more updated need. Otherwise, we will be left in denial and with an existing plan that is approved and be forced to put a gas station in because that is our approval, which we don't want to do. So we are here asking for your consideration to allow us to update and come to current times in the 21st century and building something that is more appropriate in a relative setting to the existing buildings on the property. He asked if there were any questions.

Mr. Keller invited questions.

Ms. Spain said she was confused about the filing station, and asked if that was the original intent.

Mr. Roell replied yes and asked staff to put the first plan on the screen.

Ms. Spain noted she had that in her package.

Ms. Echols asked Mr. Keller if he wanted it put up on the screen, and Mr. Keller replied yes.

Mr. Roell noted that the plan to the left is the filling station showing it set on 5th Street. He pointed out the location of the gas station 7 Eleven, Wilco or you name it. We have turned six of them down since it is not our desire to see that minimal use. Our new plan as shown on the right shows a coffee shop with a drive through on the right hand side, a restaurant space in the middle and some sort of retail associated support business. The lower screen shows a daycare center, and on the previous application that was a Cracker Barrel and the rest of that parking lot was for Cracker because we know they would need a lot of parking. When they came back in 2012 they wanted to take the front spot and be closer to the road and have a big parking lot in the front. That was when they said that is not going to fly or work because their parking lot was twice that deep. So we have gone to a minimal size lot in the front. There are less than 30 parking spaces. They are not talking about the parking lot in front of Target. This is a simple small parking lot to serve an 8,500 square foot building; the bulk of it is going to be handled through some drive-through serve; and the rest of the folks are going to park to the front. We have put parking to the right side of that and around to the rear for overflow, and all of the rest of the parking, again, is to the far right hidden by the building that would serve the middle building. Of course, the daycare needs very little parking since it is more pick up and drop off and stop and visit.

Ms. Spain thanked Mr. Roell.

Ms. Firehock said she had a couple of questions. In just going back to a couple of concerns raised by staff that she did not feel have been fully addressed she asked if he could elaborate more on them. One, was the comment about the amount of disturbance of the buffer being unclear on the updated plan. Then

the second question is regarding the bike lane idea and that would be dealt with at the site plan stage. However, she had had experience with development where they say we will do that later; but, it is not a proffer and so it gets scrapped later. So she would like to know why that can't be actually more officially added at this time.

Mr. Roell replied that they would be happy to add that. That is not an issue and had built bike lanes all through Hollymead Town Center. It is not a concern. It was a more recent request. Therefore, it has not caught up in the submittal; the review process and then the comment process because that takes months as we all know. He would be happy to do that as well as the connection. At the top of the screen the little dark trail is an access way from our parking lot to the greenway trail where we proffered, dedicated and provided funds to build the bridge. That would actually come and turn up to go along Moore's Creek south of the bridge at a reasonable grade and slope would access directly to the front street sidewalk and bike lane so folks could take one or the other to get to there and get into the greenway if they like. He would be more than happy to do that.

Mr. Roell replied regarding the first comment about the buffer, there will be substantial plantings. It is now shown on the left plan, but on our plan there are intermediate plantings there. There would have to be what she determined in the mitigation, if staff would pull that slide up, multiple plantings, trees and so forth along that slope of bushes that will both provide screening to the development as well as water quality and slope. He pointed out on the older version the 50' mitigation area. So that is the area we are not disturbing. He did not know why that was actually labelled that way and pointed out to Ms. Echols that was wrong.

Ms. Echols agreed that was right and the mitigation area should be down over here since that was the preservation area. She could get that changed in just a minute so when they look at it is correct on the screen. She apologized that for the mistake.

Mr. Roell said that was a good point Ms. Firehock. The mitigation area is actually an area we are not touching. They would be happy to plant some more trees in there; but, there are quite a few. The mitigation areas is the space between the green line and that area. That is where you see all those shrubs planted.

Ms. Firehock asked if what is there now in the 50' mitigation area cleared presently.

Mr. Roell replied that it was cleared line; we have not touched it, and it has been existing that way. It is flat grass. So we will increase that slope and then plant that slope. We would be happy to add some more trees to the other trees. He asked if there were any other questions.

Mr. Dotson said just thinking of the options that the staff outlined it could be send it on to the Board with a recommendation not to approve because there are too many loose end; or, sent it on to the Board with some conditions, which are things to be cleaned up before the Board acts; or send it on approved as is. He knows you will remember another time we sent to something to the Board with some conditions and they sent it right back to us and it ended up taking you more time because they wanted the Commission to see those changes on paper before they reviewed it. So he was wondering how you would take that prior experience and apply it to today.

Mr. Roell replied that it was a very good question and appreciates you asking. Obviously our consideration would be that it would recommended and approved as is. The real outstanding issue is the relegated parking. The uses are really not in question. The special use permit, the fill in the floodplain, is not a point of discussion. It is the issue of relegated parking. With the new ordinance that is, again, recently come into effect stating that 30' is the maximum setback I am asking you to waive something that has just been approved as a county wide standard for Neighborhood Model with this current application. But, it is an application that has been going on since 1999 and it is in a regional service district in a high traffic volume area. Per day 27,000 cars go by 5th Street and another 57,000 go by on I-64. The benefit of putting that building 30' closer to the road is of what real context and value. Does it make it more accessible or walkable? He means how many parking lots have you walked across when you parked

from over there and walked across a travel way to get into a building? To that he asked for their practical consideration of the many places you go and travel to and go in and out of. Is it paramount for the quality of the life in this county that this building be 30' closer to the road? To that end he would either accept you recommend acceptance of this; and, if the Commission cannot find peace with 30' better setback from our standpoint, then he accepts your denial.

Mr. Dotson said so you would like a decision tonight, and Mr. Roell replied yes, please.

Mr. Dotson said the other is not a pivotal question, but he saw on the site plan that the area behind the daycare was shown as playground. He was trying to figure out who would generate the most noise, the interstate of the kids.

Mr. Roell replied the kids, and pointed out there will be trees planted behind the playground separating as the gentleman thought we should screen those children playing from the highway because we don't want to disturb those that drive by. Actually, it is just an exit lane. VDOT, as you all know, when they double wide the exit ramp cleared that entire slope down to our property. So we want to plant some trees on the back side to screen the noise from the highway. He asked if there were other questions.

Ms. Spain asked just as a point of information if this is in the Monticello view shed, and would assume that it is.

Mr. Roell replied that he has dealt with that a fair amount, but did not think so. We are doing earth tones in colors, dark roofs and a very attractive building.

Ms. Riley asked to be clear about what you are willing to ask of us. She asked if he was not interested in deferral.

Mr. Roell asked if deferring what he was deferring other than the relegated parking issue. Most importantly he was asking for the Commission's opinion about this location and relegated parking. If the Commission feels that relegated parking is something that is appropriate in this location, then by your denial he would guess they will understand that. Then we will have to submit a plan and possibly be sent back here with a modified plan to be reconsidered.

Ms. Riley thanked Mr. Roell.

Mr. Keller said just to follow up there are five factors that are noted as unfavorable by staff and you keep focusing on the relegated parking. However, there are other issues as well that do involve floodplain related issues. He understands the long history and approvals of earlier points. However, he thinks that most Commissioners would agree today that some of those floodplain related issues really are not best practices for development in these times.

Mr. Roell pointed out those floodplain issues, even though brought up and staff recognizes them, are engineering issues. If Mark Graham is still not here, those are engineering issues that will be determined by them. He noted that Glen Brooks is not here and so engineering will determine exactly where that line is when they come to an agreement for this sketchy line from FEMA that we have received a map amendment for. We are asking or debating that. We will live with that line of demarcation as the county and FEMA come to agreement with our engineer as to where that line needs to be. Right now we are 2' to 3' off in width.

Mr. Keeler due to what fellow Commissioner Dotson said based on a previous project he just thinks that it would behoove all of us to have all of the pieces that we are in agreement on all of the pieces and not say that certain things will just be settled by engineering. He did not want to close the public hearing because this was an opportunity to have a discussion about the question raised by Ms. Echols about speaking to the applicant about whether they would be willing to defer until the details could be worked through, and that could conceivably expedite the process of coming back to us. He asked staff if that was a correct summation of that point.

Ms. Echols agreed and pointed out he could close the public hearing to have that discussion before or after since it does not matter. The Commission cannot defer it because the applicant has to agree to that deferral.

Mr. Keller asked the pleasure of the Commission on this and asked to continue with Mr. Roell at this point and see if we can work towards something here on the outstanding issues.

Mr. Roell noted first was the lack of clarity regarding the fuel pumps. He had stated the difference why that was left in currently. We are happy to proffer that out if our plan is approved, and we have discussed that with staff. The proposed plan does not actually depict the 100' buffer. That is because her plan is incorrect and our plan follows our Board approval. There is no clarity and there is no questions about the 50' buffer. We are not disturbing the 50' next to the stream; we are planting the area. He asked if staff wanted to comment.

Mr. Keller asked staff to response for us.

Ms. Echols said she respectfully disagreed that the plan does not clearly show where the disturbance of buffer is. She agreed that there was prior disturbance that was approved. We just need to make sure it is the same disturbance that is being proposed on this plan that was approved in a prior action. But, the plan that we are reviewing our county engineer was unable to agree that the same disturbance that was being proposed in this plan was the one that had been prior approved. So she thinks that is part of the reason why it is important to get a plan that clearly depicts both the floodplain and the area of disturbance.

Mr. Roell said we are not agreeing on the 50' buffer setback from the stream line that is shown on our plan that matches exactly the original plan.

Ms. Echols said Mr. Chair I would prefer to stop at this point, and Mr. Roell said he was sorry but was frustrated.

Mr. Keller agreed to Ms. Echols request to stop at this point.

Mr. Roell said we will accept a recommendation from the Commission to defer so that we can determine where some of these lines need to fall. What he would like would be some feedback most importantly on your thoughts about the relegated parking. That would give us some direction about whatever we would submit in how we locate buildings and our engineer can agree with staff about where things should be disturbed and not disturbed.

Ms. Riely asked to comment on a couple of things. She thinks we are put in a difficult position where our staff that has put a lot of time into this and a very thorough evaluation saying there is still lack of clarity. It is very uncomfortable for me personally to approve something where these things are going to be hammered out later, but we have already approved it. So we don't really know what we are approving. She understands your frustration for how long this has taken and all the changes that occurred all these years that makes these new requirements. But, the relegated parking she feels like he is simplifying that issue. By not relegating the parking you are preventing a lot of other pedestrian oriented aspects and multi-modal aspects of the Neighborhood Model. So it is not just an issue of relegated parking or not.

Mr. Keller suggested closing the public hearing so the Commission can have this discussion. Then if we have any questions the Commission can invite Mr. Roell to come up since these kinds of comments are really better amongst ourselves at this point.

Mr. Roell said that was fine and then we are willing to accept a deferral.

Mr. Keller thanked Mr. Roell. He closed the public hearing to bring the matter before the Commission for discussion and follow up from staff. He invited discussion.

Ms. Firehock said to be a little bit contrary in terms of the relegated parking that she understands the purpose of the Neighborhood Model and the importance of pedestrian connections to streetscapes, walkability and all of that and frankly multi-modal transportation, which is why she asked about the bike lane. However, she spent a lot of time on that side of the city and while there has been a lot of great residential development in the area and there are things that you can walk to it is more of a car oriented part of the county. She see a lot of the uses that are proposed there are probably going to be more akin to people driving to site dropping off getting something and going rather than so much of a pedestrian stroll to these facilities. When she thinks about all of the different uses that are all along there that this actually would not be out of character for it to have some additional parking in the front. She also takes into consideration the comments by the Southern Environmental Law Center about when you want to have change we do one building or site at a time. However, in this particular case being that it is at a major intersection of 5th Street and the Interstate 64 she did not think that is as big of a consideration to me to have this be more of a pedestrian oriented building massing close to the street. So she may be in complete disagreement with all the other Commissioners; but, that is the way she sees this particular site.

Ms. Spain agreed with Ms. Firehock. She had a point of information and asked if the Neighborhood Model is applicable to Highway Commercial as well as Neighborhoods.

Ms. Echols replied that it was not by zoning district; but, it is trying to create more opportunities for pedestrians to use sidewalks to get to and from places.

Mr. Dotson said he had a question of staff about the Highway Commercial setback of 30'. He asked is there a way that we can adjust that 30' or is that a standard setback maximum that everybody developing in Highway Commercial has to meet.

Ms. Echols replied this was just changed by the Board of Supervisors on a recommendation from the Planning Commission that it is a maximum of 30' setback, minimum of 10' maximum of 30', and there are special exceptions that are available for unique circumstances. We just adopted the ordinance so it becomes very difficult to make an exception immediately after we have adopted the ordinance. But, the applicant could ask for a special exception. He has verbally asked for one to have more area in front of the building. Then the Board actually acts on that; but, because it is in conjunction with a rezoning the staff would probably not recommend so the Planning Commission would need to make a recommendation on it. To answer the question that maybe this was leading to are there ways that there was something that could be done in the 30' for parking. She thinks they need to look at the different options. There is always the option of parking on the side as opposed to right in front. There is some design options that might work. There is angled parking that we have not really looked into the solutions to it right now. Staff needed to know the input from the Planning Commission before we started looking towards other options. However, she thinks they can look at angled parking as an option. But, she thinks it would only allow for one bay in the front with angled in the 30'. She was not positive it would work; but, thinks they can look into that and see whether there are options that exist.

Mr. Dotson said as a follow up question he remembers during the zoning text amendment discussions when we were looking at that maximum setback and the Carter Meyers proposal was before us around that time. He remembered it being said that their desire was to have a building with car display and parking in front of it there. He asked staff or Mr. Kamptner if they have addressed that already.

Ms. Echols explained that the setback requirements are different along 29 North and 250 East.

Mr. Dotson noted this was on Berkmar, and Ms. Echols replied that she thinks they left that option open and we have not seen a final site plan for what is going on in the back.

Mr. Benish recalled that it was primarily intended for parking anyway and they wanted the ability in the future to do a building, but did not know what type of building it was. They approved an envelope for that building and did not emphasize any setback issues because the emerging ordinance would bring it closer to the street. But, that circumstance that they were proposing contemplated that being mostly parking

anyway. So he thinks there was an acceptance that they were going to see parking from the site and so relegation of that building was a little bit less important. That is his recollection of that discussion.

Mr. Dotson said he did not think the Commission has approved or recommended approval that would serve as a precedent that would say that we did it there let's do it here. He did not believe that the Commission did it there.

Mr. Benish said he did not think so.

Mr. Kamptner pointed out the new regulations allow the special exception to accommodate low impact design, unique parking or circulation plans or unique target market design. Those are the three circumstances where the maximum front setback can be increased.

Mr. Dotson said just in terms of a commentary, then, to me the more important issue is meeting the ordinance maximum setback of 30' rather than the relegated parking. That space could in a redesign perhaps be incorporated as part of the drive through flow so that it would not be "unusable space", but could actually be useful to the applicant and the tenant in that front building. Therefore, he would like to see a site plan that comes back achieving the 30' trying to use that area to benefit the use. He agreed with two prior commissioners this is kind of an island in a sense. In the staff report he underlined it and it says "to truly have a pedestrian orientation, etc." He thinks here it is not a question of truly, but rather what is acceptable in this location down by the interstate there is not really any residential areas where people are likely to be walking. So he tends to agree that the relegation of the parking and the full fledged perhaps pedestrian orientation isn't as important here as it might be someplace else.

Mr. Keller agreed with the three commissioners on those points as well. It seems also that in the back of the site there is the pedestrian way from the parking area to the bridge over the stream and so there is alternative circulation. If he was choosing between being next to high speed vehicles and having an opportunity back further in the site he would tend to choose that, and we are being presented with that alternative. The question he has gets back to sending things to the supervisors and having them sent back and the amount of time it takes and costs the applicants in that process. If we were to do the deferral because we have had that option how quickly could we see this back to us and then how quickly could we act to be able to push it through without the possibility of it being pushed back to us by the supervisors, which is his concern if we just straight deny it at this point.

Ms. Echols said we need to have the applicant make the changes to the plan and to the proffers and submit it on one of our resubmittal Mondays. It takes us about six weeks to get it back to the Commission because we have to have time for review and then write the staff report. But, it depends how quickly the applicant can get something modified back to us on a submittal date, give us an opportunity for review and then get it on your agenda.

Mr. Dotson said he had another question for the applicant. One of the lesser issues that was mentioned was the height of the retaining wall – 10' to 15' as opposed to a stepped situation. He asked Mr. Roell what are his thoughts are on that. He has seen some retaining walls in the county fail shortly after they were installed.

Mr. Roell replied the current proposed retaining wall is 12' and this would reduce it to 8' or 9'. The only way to achieve that is to actually put a slope and then set the retaining wall on the slope making it shorter. It is not visible to anyone as it backs up to the 100'+ stream buffer. From a stability standpoint 9' versus 12' and it varies. As it gets closer to 5th Street it drops to 9' to 10' because the grade rises naturally. At its highest point is it 12' and that is to put the pad 2' above the 100-year floodplain and 1' is required. We want to get closer to the Holiday Inn parking lot since we are sharing entrances and exits and it kind of predetermines the building pad elevation and puts us on grade with 5th Street itself.

Mr. Dotson said in terms of the question of the possibility of a terraced wall as opposed to just a straight wall do you have any thoughts on that.

Mr. Roell replied either way; that is not a critical issue to us as far as to how that wall steps.

Ms. Echols said she thinks what they want to do is work with our engineers on that since they are going to be able to talk to us about the value from a flood management standpoint. But, once we get the revised plan their engineer has assured us that it is going to be lower walls and we will know more about whether or not there is any value in terracing at that time.

Mr. Roell pointed out your feedback about what we are going to resubmit is most important. Thank you.

Mr. Dotson said there may be a way to attempt to capture that would be this. Personally, he thought it was a very good staff report and he pretty much agreed with all the points in it though he was kind of soft on the relegated parking issue. But, all the other points he agrees with. He was curious if other commissioners feel the same way.

Ms. Firehock said she pretty much agreed with Mr. Dotson. She also would have felt very uncomfortable recommending something up to the Board with all of these issues in terms of the buffer disturbance, the location of the floodplain line, etc. Even if she trusts everyone in this room explicitly to do everything perfectly in between us and the Board she just does not want to set a precedent for sloppy work to come forward and be approved. She was not laying blame here; but, this is just a very important issue. Just for the record she is no fan for filling in floodplain anywhere; it is a stupid idea; it does cause downstream problems; and she does not care what the law says you can do. So she registers her soapbox dislike of that; but, understands they are not here tonight to discuss that.

Ms. Spain requested to ask the applicant another question, and Mr. Keller replied absolutely.

Ms. Spain said one member of the public here tonight is a student of mine who uses a wheelchair and she wanted to ask on his behalf what the plans are for ADA parking access to all of these buildings.

Mr. Roell replied again, that is the reason for the raising grade to nearly be at 5th Street keeping it within 2 ½ to 3 percent across the site. In the entire 300' there is barely 3' of fall and enough to shed water. It is a very level site and accessible. Even access to the greenway trail down to the bridge is a very long slope, and so it is handicap accessible. There will be handicap ramps at the various key points of access. The thing you mentioned about maybe putting the drive through around the front if there is any kind of parking or people trying to walk from the sidewalk, which he does not see a lot of people wandering around on the street down there by the interstate, he did not want them having to cross a drive through lane. So we have tried to relegate it to the southern side and around the rear of the building so it is safe pedestrian access across from the front parking lot and there will be adequate handicap spaces.

Mr. Keller reiterated Ms. Firehock's point about the frustration of projects like this that have been going on this long. This is not a reflection on the development community; but, it is just how things have changed over time. We have a comprehensive plan component that Ms. Echols pointed out in the Planning Academy last week about wanting to work with and keep the terrain and the hydrology of our area to the best possible degree and this site is certainly not doing that. It is not the development fault, there were standards that allowed for that fill to occur. Having said that it seems to me that through this further discussion we have an opportunity to craft a motion. First we look at these, take a minute and look at the actions, and then go back to the staff unfavorable factors and make sure that we clearly delineate that each of those pieces is going to be addressed by the applicant with the staff. There will be a new plan and it will come back to us as quickly as possible. We can't make policy like this so he is going to suggest something that the Commission might want to consider. We do have some open meeting times and maybe there would be a possibility to make in certain cases like this that they if feel close to having a favorable decision that we could try to expedite the process for the developers when they are working with us. Again, that is wondering about that six weeks. However, you don't need to answer that now and maybe that needs to be something that staff looks at and comes back to us in terms of policy that we could have an expedited process when we are close to a solution with the applicant in the future. He asked if someone could try to think about crafting a motion.

Ms. Echols said she did not give the Commission the third option which was to defer. So that is why she put it up on the recommendation. She asked to get some clarity before the Commission gets to the motion on the relegated parking. What she heard from Mr. Dotson was he would like to see that the 30' be respected for the setback and see what can happen in that 30' between the building and the street from a parking standpoint. From some of the others she heard that it was less important than that. What is important to staff and the applicant is that the Commission be clear on where you want that to fall out because if you can support the setback that is shown on the plan, then we will need to process a special exception when we come back. So that is one of the reasons why that is important. She will just say with regards to the fill in the floodplain that occurred that is problematic to many people that when that was originally done the staff and the Planning Commission did not recommend approval.

Mr. Keller noted that Mr. Kamptner gave three things that we should consider in terms of the special exception. What we had been talking about if we were going to come up with something that would require the special exception he asked Mr. Kamptner if he thinks that fits and we are still in line with the way we have changed.

Mr. Kamptner replied that it might. We don't have a particular tenant in mind for the target market which might be that front building. Where or not there is unique parking or travel ways within the site he would have to defer to planning. The third criteria he did not think it applied, but he would take a look here.

Ms. Firehock noted that we also mentioned low impact design. They certainly would be free to put permeable parking in the front of their building and other nice bio-swale type of features to capture some runoff. It would be a nice demonstration in our entryway should they so choose to pursue more innovative approaches.

Mr. Kamptner noted that staff would need more information as to whether any of the three options are available.

Mr. Keller said that would again go back to the applicant to work with staff to see. He asked for a motion that would be giving more specific recommendation to staff or does staff feel that you need more specific input from the Commission as part of this.

Ms. Firehock asked if the Commission makes the motion to defer since the applicant requests it.

Ms. Echols replied that the Commission would make the motion to defer.

Mr. Benish pointed out that the applicant has to agree to the deferral.

Ms. Echols reiterated what she heard from the Planning Commission is that the items we have identified and they are all in the Attachment F need to be addressed with the exception of fully relegated parking. She thinks she heard two Commissioners were in favor of the relegated parking and three who did not think it quite as important. If that is where it is headed, then the relegated parking would not be part of those changes that you would like to see made.

Ms. Firehock noted it was with the understanding that there are two commissioners absent tonight and they could bounce it in either direction when this comes back.

Ms. Echols asked would it be the Commission's desire that the applicant should attempt to meet the setback and see what parking and design he could come up with within the setback requirements. If not, the applicant should look at something that gets the building as close to the street as possible, but with also providing some parking in front.

Mr. Dotson said he would say yes.

Mr. Kamptner said even if everything can't be nailed down 100 percent we may be close enough where the Commission is comfortable to make a recommendation to the Board when it does return.

Mr. Benish said that was what he was going to say because he thinks the six week turnaround allows us to focus in on the two main things here. With design it looks like it is meeting your intent from the parking and setback standpoint and make sure the engineers are comfortable with what is being proposed for the floodplain information provided. So there are two primary reviews. He will point out this is on an Entrance Corridor; but, if the Commission is comfortable with the design planner making comments on behalf of the ARB that would help expedite the review process. So with that understanding that gives us the opportunity not to have to schedule back with the ARB. If you are comfortable with that he thinks we can work towards getting the request moved forward within that six week timeframe or sooner depending on once it is submitted.

Mr. Keller said he would like to make one other comment, which he thought Ms. Spain as going to make, about the continuity of the Entrance Corridor between the city and the county. It seems that actually the applicant had addressed that in terms of setbacks. However, he thinks it is something that they do need to think about in these places where we have a city/county interface and it is as direct as we have in this case. He thanked the applicant for making that point. He asked for a motion.

Mr. Dotson said he had a question and then would be happy to make the motion. He was curious about August 9th since they keep talking about 6 weeks. He realized that you can't process a plan until it comes in so we don't know how long that will take. He asked if that is the reason for August 9th.

Ms. Echols replied that was correct. Staff did not know how much time it would take and if there was public who was interested we wanted them to know that the Commission is postponing action and that it was going to have a cut off time. We would like to have a cut off time so it did not keep moving. That would have allowed two submittals and a submittal with review and then they could address anything before it came to you. It does not have to be that. We did not know what to expect from this meeting so that is why we were going to put a time on there.

Mr. Benish suggested the Commission might want to make it an indefinite deferral to allow for it to come forward sooner than a specified date. The other option is to put a sooner date that is deferred again if it is not ready. We have two choices.

Mr. Kamptner said the real difference is that because the Commission has held its public hearing already the deferral to a specific date does not require a new public hearing with full advertising.

Mr. Dotson said he would prefer a date certain and then defer it again if the applicant is agreeable and if it is necessary. He asked if staff can suggest that date.

Ms. Echols replied that they are looking at the schedule to see if they can come up with something. We would put in a no later than so that it gives some time.

Mr. Dotson asked the applicant to address this.

Mr. Roell said he would like to request 45 days to submit a revised plan.

Ms. Echols pointed out if it was 45 days to submit the revised plan then staff will need our time to bring it back.

Mr. Roell asked if he was to understand you want us to consider what we can squeeze in the 30 feet between the sidewalk and the landscaping and the travel way and parking.

Mr. Dotson replied yes.

Mr. Roell said he will submit both plans so the Commission can see what we can and cannot do for your consideration.

Mr. Keller noted that Mr. Roell keeps zeroing in on this one point which is very important to you, but the Commission supports staff on all of the points they listed in Attachment F.

Mr. Roell pointed out on FEMA and the maps that is engineering, math and not an issue. Political is the issue.

Mr. Keller pointed out that the Commission wants all of those pieces addressed.

Mr. Roell replied yes, sir. Thank you very much.

Mr. Dotson asked if a revised plan came in 45 days giving time for staff review and report what would be the date.

Ms. Echols replied that she believes it ends up being in June and is a June date. What may make more sense would be for us to get back with you on a date. She can look at the dates and then give that to Mr. Benish and you could come back to a particular date. She needs to look at the review schedule, the resubmittal Monday that relates and then the scheduled Planning Commission date that is closest to that to what is being suggested. So she can't do that real quickly.

Mr. Dotson asked if they went with the latest Commission meeting in June would that at least bracket it because August sounds like an awful long time.

Ms. Echols said it was no later than.

Mr. Dotson said he understood, but people don't read no later than.

Ms. Echols pointed out Mr. Benish was looking at the Planning Commission's schedule here.

Mr. Benish suggested June 21st.

Mr. Dotson said with the agreement from the applicant he recommends that the Commission defer action to a date no later than June 21.

Mr. Kamptner pointed out actually you should be specifically to that date no later than.

Motion: With agreement of the applicant, Mr. Dotson moved to defer action on ZMA-2012-00007, 5th Street Commercial to June 21 in order to allow the applicant and staff to address the issues identified in Attachment F and in line with the comments received tonight from the Planning Commission.

Ms. Firehock seconded the motion.

The motion passed by a vote of 5:0. (More, Lafferty absent)

Mr. Keller thanked the applicant and staff for working with the Planning Commission and looks forward to the resubmission.

(Recorded and transcribed by Sharon Taylor, Clerk to Planning Commission)