Albemarle County Planning Commission
October 7, 2003

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, October 7, 2003 at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Chairman; Rodney Thomas; Bill Edgerton; Jared Loewenstein; Pete Craddock; and William Finley. Absent from the meeting was Tracey Hopper, Vice-Chairman, whose resignation was effective at the last meeting.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; David Benish, Chief of Planning & Community Development; Tarpley Gillespie, Senior Planner; Margaret Doherty, Principal Planner; and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Rieley 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. Rieley invited comment from the public on other matters not listed on the agenda. There being none, he stated that the meeting would move on to the next item.

Consent Agenda:

SUB 03-175 Tucked Away Preliminary Plat - Request for private road approval in conjunction with a preliminary plat to create 10 lots on 75.35 acres. The property is zoned RA - Rural Areas. The property, described as Tax Map 55, Parcels 87, 88A and 88A1, is located in the White Hall Magisterial District on Half-Mile Branch Road [Route # 684] approximately 3/4 miles south from its intersection with Jarmans Gap Road [Route # 691]. The Comprehensive Plan designates this property as Rural Area in Rural Area 3. (Yadira Amarante)

Mr. Rieley asked if any Commissioner would like to pull the item off the consent agenda for further discussion. There being none, he asked if there was a motion.

Mr. Thomas moved to approve the consent agenda as presented.

Mr. Edgerton seconded the motion.

The motion carried unanimously (6:0). (Hopper – Absent)

Public Hearing Items:

ZMA-03-03 Eckerd Drug Store (Sign #73) – Request to rezone 1.753 acres from R-15 Urban Density to C-1 Commercial to allow a drug store with a drive through window. The property, described as Tax Map 78 Parcels 12, 12B and 55A4 is located in the Rivanna Magisterial District on Rt. 250E (Richmond Road), at the northeast intersection of Route 250 East and Rolkin Road. The Comprehensive Plan designates this property as Urban Density Residential, recommended for 6-34 units per acre in the Pantops Neighborhood (N3). (Tarpley Gillespie)

AND

SP-03-47 Eckerd Drug Store (Sign #73) - Request for special use permit to allow a drive-through retail use in accordance with Section 22.2.2.10 of the Zoning Ordinance which allows for drive in windows serving or associated with permitted uses. (Tarpley Gillespie) ***DEFERRED FROM THE SEPTEMBER 16, 2003 PLANNING COMMISSION MEETING.***

Ms. Gillespie summarized the staff report. She pointed out that a handout had been distributed this evening on the proffers and staff comments. She stated that the applicant submitted some additional materials last week that she wanted to share, but noted that staff had not been able to review them. The Planning Commission last reviewed this item on July 1st when they reviewed the conceptual road network for the Pantops Comp Plan Amendment. The Commission asked staff to expand the scope of that CPA study to include the land use plan designations as they relate to the road network. Due to contractual obligations the Eckerd applicant has chosen to proceed with the rezoning request prior to our CPA study. The plan that is before the Commission tonight is slightly modified from the July 1st plans that you saw. That plan did not meet a required 20-foot side yard setback to the adjacent residential property. Therefore, the applicant increased the area to be rezoned in order to meet that setback requirement, which was at staff's request.

The property is designated for Urban Density Residential and the Pantops Development Area profile recommends limiting strip development along Route 250 East by preventing commercial development along the north side of the roadway from the interstate interchange to the Regional Service Area, which is just west of this site. Staff analyzed this proposal in relation to the Comprehensive Plan and found it to be in conflict with the intention of the Land Use Plan and with the Development Area Profile.

Staff has identified two favorable factors to this request. The first is if the drive-through is relocated to the rear of the property, which was in response to staff feedback. The second is that the area to be rezoned has been oriented to accommodate the construction of Rolkin Road Extended, which staff believes will enhance the connectivity within this development area.

Staff has identified several unfavorable factors to this request at this time. The first is that the proposed use conflicts with the Land Use Plan designation and with the Development Area Profile. The second is that at the previous work session, the Planning Commission advised that zoning changes for this area should be considered after the review of the land use issues as part of the Comprehensive Plan Amendment (CPA). Due to their resubmittal, staff has not yet reviewed the draft proffers. Further, the applicant has not yet proffered the application plan at all, but is simply asking for C-1 zoning. Additional information is needed to complete analysis of the storm water management system. Due to the recent receipt of the traffic study, VDOT has not had the opportunity to assess what are any transportation improvements that are necessitated by this development. Staff is also concerned about the vehicle ingress and egress patterns as part of the internal circulation on the site plan that is presented. As a result of these outstanding issues, staff cannot recommend approval of the zma or the sp at this time.

Mr. Rieley asked if there were questions for staff. There being none, he opened the public hearing and asked if the applicant would like to address the Commission.

Susan Whaley, of Mid Atlantic DSD who was the contract purchaser for the parcel, stated that they were proposing an Eckerd pharmacy at this location. She pointed out that also present were Katurah Roel representative for North Pantops Townhouses, who was the owner of the property, and Kelly Strickland, of Rivanna Engineering. Basically, they fell that the Eckerd Pharmacy is consistent with the Comprehensive Plan because the current zoning allows for neighborhood service. There is an existing Eckerd Drug Store in the Pantops Shopping Center to the west of this site. Their intention was to relocate to provide a larger store with a drive-through window to expand the customers that they provide to their customers in this area and well as to the additional residential that is being developed to the north in the Pantops Area. She stated that Kelly Strickland would address some of the other staff concerns at this time.

Kelly Strickland, with Rivanna Engineering, stated that they had been working with Mid-Atlantic DSD with this rezoning application. First of all he pointed out that they had gone through several iterations of the site plan trying to make things work a little better on the site. He noted that they still had some issues with the parking reductions and working the circulation of the traffic through

the site a little more. He stated that they would love to eliminate the four parking spaces that are down in the corner next to Route 250 and provide landscaping there instead of the parking. He pointed out that they would appreciate any help that the Commission might be able to provide with that. The big question that came up at the work session this summer was the road network and the master planning of the concept of road network behind this property. This road, Rolkin Road Extended extends and connects to Avemore Development and Fontana. Avemore Development is in the final stages of the final site plan approval. Fontana is just finishing its last stage of development. Westminster Canterbury, which is located up on the hill, is just finishing up some construction. The Moore property is a rezoning application that the Commission is going to be hearing at some point in time. Also, there is another piece of property above Fontana that connects further. What they were showing on sheet # 2 on the far right was a connection to the existing Olympia Road and the existing Fontana Road. The houses are already built right to the property line. Therefore, the connections are in place and ready to go. On the lower right side, they were showing Sarah Road, which connects over near Aunt Sarah's Pancake House. That alignment has been coordinated with VDOT to allow for a future connection from Stated Farm Boulevard to come on through. He pointed out that it might be easier to see in the aerial photograph. He pointed out that they feel that this zoning would be appropriate here because this intersection on Route 250 at North Rolkin Road that connects all of these neighborhoods, which makes it a center and makes it appropriate for a use such as Eckerd Pharmacy.

Mr. Rieley asked if there were questions for the applicants. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Thomas stated that he would like to ask staff a couple of questions. He stated that the Planning staff does not recommend the approval of this due to the Comprehensive Plan Ordinance and the way that it was written.

Ms. Gillespie stated that staff does not believe that this proposal is in accord with the Land Use Plan designation of Urban Density Residential. Staff believes that this use is a little bit more than a Neighborhood Service due to the building's 14, 000 square footage and the way the building was oriented towards Route 250 rather than being an internal service integrated into a residential neighborhood. Staff was also very concerned about the Development Area profile, which recommends against allowing commercial development on this portion of Route 250.

Mr. Thomas asked if it was kind of an internal project anyway with the roads going down behind it and beside it and not coming directly off of Route 250.

Ms. Gillespie stated that you could see it that way, but staff saw it being oriented along the Route 250 strip.

Mr. Thomas stated that there was a term that was talked about years ago on Pantops about no strip between the Montessori and I-64.

Mr. Benish stated that this site was more highway oriented than it was oriented to the neighborhood with this center. He stated that the neighborhood center really appeared to be across the street at the Giant Food and the shopping center area there. Based on the last work session, the Commission actually corrected us to begin to evaluating some of the road connections as they relate to land use issues. That helps to clarify what the expectations are within these corridors. He pointed out that he was not present at the last meeting, but that was the approach that staff was taking with this plan amendment.

Mr. Thomas asked if staff felt that these roads are not appropriate with what is there now. He asked what else they could put in there that would change the road there anyway.

Ms. Gillespie stated that staff does not have a concern about the location of Rolkin Road on this plan. She pointed out that they had a specific concern about the use and some of the specifics of the plan in the package that is before the Commission.

Mr. Thomas asked what could be built there.

Mr. Benish asked if he was asking under the Comp Plan designation.

Mr. Thomas stated under the Comp Plan designation.

Mr. Benish stated that the Comp Plan designation was Urban Density Residential, which provides for essentially high-density residential development. The Urban Density Residential does call for within an urban density area the possibility for some mix, but within the concept that it was supporting residential development. The zoning designation was R-15.

Mr. Loewenstein asked if this was the only parcel on that side of Route 250 for some distance that was not already in commercial zoning.

Ms. Gillespie stated that there was a strip just east of this piece that had a setback problem.

Mr. Loewenstein stated that his question was that up to a couple of parcels distance east beyond this development, everything on that side of the road already carries commercial designations and this was the only parcel that does not. Except for redevelopment you are not going to achieve what the profile calls for anyway because they had already gone way beyond that.

Mr. Benish stated that most of the parcels have not been developed at this point of time. He pointed out that there were some plans that had been approved for the Martha Jefferson Development and Aunt Sarah's.

Mr. Loewenstein stated that the lots were zoned for commercial use.

Ms. Gillespie stated that this was correct, except for the property between Nieguil Gray and this site.

Mr. Finley asked what was the recommendation of the ARB.

Ms. Gillespie stated that the ARB had recommended approval with conditions.

Mr. Craddock questioned the status of the development of roads, especially the extra roads going down to Fontana or maybe looping back around to State Farm. He asked if that was dependent upon how everything else got developed.

Ms. Gillespie stated that staff was reviewing the Comprehensive Plan Amendment (CPA) and hoped to bring that to hearing within the next several months. There are some development proposals on the table, which are not in conflict with that process or setting.

Mr. Benish stated that the roads in this general area were going to be developed as part of the Luxor property. He stated that their general location or at least their connecting points have been evaluated by the Engineering Department and are deemed to be relatively appropriate. He stated that he did not think that their question with the CPA was on the Luxor site and the appropriateness of the concepts that they have in place. That includes the entrance location at Eckerd at Rolkin Drive is the location for the interconnection and from the Engineering standpoint that was a viable location for that roadway relative to what has been found. The CPA really talks about stepping back from the whole Pantops Plan and looking at how some of these roads as they have been planned, such as the Luxor roads relate to other connections that staff feels like we need to make. Therefore, as staff gets into working with applicants, they can establish which

connections that they want and how they relate to one another. Also, staff can evaluate the land use decisions that they have discretion on as to the appropriate use relative to those roadways.

Mr. Thomas asked Mr. Benish if he understood him to say that these roads were designed and in place and this was the location where they were designed to go.

Mr. Benish stated that he was responding in relationship to the CPA that they have under way. He stated that the CPA was generally going to accept the location of the Luxor Road and their connecting points conceptually as the appropriateness location. He stated that through this process and other processes that were started earlier, the Engineering Department has evaluated these road locations and they do seem to be appropriate road locations and access points. He emphasized that the question in the CPA was not to pinpoint the exact location of this roadway, but to understand how the network would link. He stated that the CPA was probably assuming the linkage between Fontana through Luxor up to Route 250 and how that relates to other connections that they were going to make.

Mr. Rieley stated that when the Commission looked at this before a few weeks ago that a number of Commissioners had some misgivings about the current Comprehensive Plan's designation and how the pieces were fitting together. Some of the points that Mr. Thomas and Mr. Loewenstein just made were made then as well. For that reason the Commission asked that this current study of the road locations in that area be expanded into a CPA that would look more fully at the land uses in that area. That would give the Commission a reassessment so that they would be in a better position to make this determination. Now the Commission still does not have any more information than they had at the last meeting. He stated that the proposal was not in compliance with the Comprehensive Plan. The only way that you could say that it was in compliance with the Neighborhood Plan was to say that it was a Neighborhood Service and not Highway Commercial. He pointed out that from the illustration it was very clear that this proposal was oriented to Route 250. This was exactly the kind of development that the Comprehensive Plan says should not be there. He stated that his misgiving about this was not with the points that Mr. Thomas and Mr. Loewenstein made, even though they were good points. But, he pointed out that he was extremely reluctant to support a plan that is categorically a rezoning that is categorically at odds with both the Comprehensive Plan and the Neighborhood Plan. He stated that the applicant was here because the current zoning would not allow this use.

Mr. Thomas stated that he liked the plan, the design of the building and the location of the roads. He pointed out that the property was just not zoned properly.

Mr. Loewenstein stated that was why they were here, which was why he was prepared to support the request. He pointed out that the rezoning would fix these problems.

Mr. Finley stated that he was prepared to vote in favor of this request.

Mr. Edgerton stated that he felt strongly that this proposal was contrary to the Comprehensive Plan and there was really no use in having a Comprehensive Plan if they were going to ignore it. He stated that it was more than a stretch to refer to this as Neighborhood Service. The reason why they wanted to locate here is to take advantage of the strip development model to be closer to Regional Service. He doubted seriously if just the residents located behind them could support the economy of the Eckerd Drug Store. He felt that they would depend on the traffic from Route 250. The applicants have tried with their façade treatment to address both the Route 250 and Rolkin Road facades. He noted that the reality was that the entrance was still on the Route 250 side and the internal circulation on the site was a total disaster. He pointed out that there was no way to fix the circulation because it was being driven by the need for the drive-through isle in the rear of the store, which the ARB wanted. In short of putting the drive-through in the front of the store there was really no way to make the circulation work because of the steering wheels on most vehicles was on the left hand side. He felt that the only way the drive-through would work was to come off of Route 250 at the additional entrance that they had requested. He pointed out

that he had hoped that they would have had more information in order to be able to look at this with a bigger picture. Without the additional information requested, he stated that he could not support the rezoning request. He felt that it was inappropriate and that the community would be better served by the existing zoning for the R-15, which would allow 24 residences on this site rather than an additional strip development.

Mr. Craddock asked if the circulation would be improved if the four parking places were eliminated towards the front so that they could get a bigger planting median.

Ms. Gillespie stated that she did not think that would help the area in question around the building.

Mr. Edgerton stated that if one tried to enter off Rolkin Road with a right turn, and then navigate around to the drive-through window, there really is not way to do it without creating a conflict between pedestrians and vehicles. If the principles of the Neighborhood Model were used, it was even more preposterous to make sense out of it.

Mr. Rieley stated that this rezoning plan does not have a proffered plan with it and, therefore, it does not have any proffers that have been evaluated by staff. He pointed out that he did not recall a time that the Commission has approved something without a proffered plan particularly with a plan with so many concerns.

Mr. Edgerton pointed out that in order for the applicant to do this plan they would need three access points.

Mr. Benish pointed out that if there was a favorable action, it would be advisable the Commission advise the Board of Supervisors that their actions should be based on submittal and evaluation of the proffers that would allow the third access point.

Action on Rezoning:

Mr. Edgerton moved to recommend denial of ZMA-03-03, Eckerd Drug Store, for the reasons presented in the staff report.

Mr. Rieley stated that the motion failed for the lack of a second. He asked for another motion.

Mr. Loewenstein moved to recommend approval of ZMA-03-03, Eckerd Drug Store.

Mr. Finley seconded the motion.

Mr. Rieley asked if the Commission would like to see as Mr. Benish suggested that they add language that requests that the proffers be fully worked out before it goes to the Board of Supervisors.

Mr. Kamptner asked if that motion includes amending the 1995 proffer dealing with the access.

Mr. Loewenstein agreed that the motion did include both of the suggested conditions to be met before the Board review.

Mr. Finley agreed to add both conditions to his second.

The motion carried by a vote of (4:2) with the two conditions to be met before the Board review. (Rieley & Thomas – No)

Mr. Rieley stated that ZMA-2003-003 would go to the Board with a recommendation for approval.

Action on Special Use Permit:

Mr. Loewenstein moved to recommend the approval of SP-03-47, Eckerd Drug Store.

Mr. Craddock seconded the motion.

Mr. Kamptner ascertained that there were no conditions of approval of this special use permit.

The motion carried by a vote of (4:2). (Rieley, Edgerton – No)

Mr. Rieley stated that SP-03-47 would go to the Board with a recommendation for approval.

Action on Waiver of Buffer:

Mr. Loewenstein moved for approval of the waiver of Section 21.7.3 buffer of the Zoning Ordinance as requested by the applicant.

Mr. Craddock seconded the motion.

The motion carried by a vote of (4:2). (Rieley, Edgerton – No)

Mr. Rieley stated that the buffer request was approved.

Mr. Thomas recollected that there was a request to move four parking spaces so that they could landscape that corner. He asked how they would handle that.

Ms. Gillespie stated that the modification would have to be granted by the Zoning Administrator and she was in the process of working with the applicant on completing that application.

Mr. Rieley pointed out that the special use permit was obviously conditional upon the Board of Supervisors concurring with the recommendations of the ZMA. The Board of Supervisors will hear these requests on November 5th.

The Planning Commission took a 15 minutes break at 6:30 p.m. to move the meeting to the Auditorium.

The meeting convened at 6:45 p.m. in the Auditorium.

SP-03-19 (Sign #84 & 88) & SUB-03-43 Vineyard Estates Rural Preservation Development Preliminary Plat - Request for special use permit to allow a Rural Preservation Development of 30 development lots, ranging in size from 4.1 to 7.5 acres with one preservation tract of 328.7 acres, in accordance with Sections 10.2.2.28 and 10.2.2.30 of the Zoning Ordinance which allow for divisions of land as provided in section 10.5 and permitted residential uses as provided in section 10.5. The property, described as Tax Map 103 Parcels 3, 7, 8,9,10 and 15, contains 510.6 acres, and is located in the Scottsville Magisterial District on Blenheim Road [Route # 727] approximately 0.7 miles from the intersection of Routes 727 and 627. The property is zoned RA Rural Areas and FH Flood Hazard Overlay. The Comprehensive Plan designates this property as Rural Area. (Margaret Doherty) ***DEFERRED FROM THE AUGUST 26, 2003 PLANNING COMMISSION MEETING.***

Mr. Rieley stated that when the applicant for this proposal came before the Commission with a proposal for a farm store a couple of years ago he reclused himself because of consulting work that he had done for the applicant. Now enough time has passed so that he no longer had any reason to recluse himself and he would participate fully.

Ms. Doherty summarized the staff report. This is the Vineyard Estate Preservation Development. The applicant is proposing to develop 510 acres into a Rural Preservation Development of 28 development lots ranging in size from 4.1 to 7.5 acres with preservation tracts totaling 333.3 acres, in accordance with Section 10.2.2.28 and 10.2.30 of the Zoning Ordinance which allows for divisors of land as provided in Section 10.5. Three of the existing parcels are currently in the Lanark Agricultural/Forestal District. A portion of the property is currently being used by the applicant for vineyards. A National Register property, known as Blenheim, is located on and adjacent parcel. The proposed development shows areas for vineyards, orchards, meadows and sheep grazing. The layout does not meet the design standards for rural preservation developments and does not meet the goals and objectives of the Rural Areas as found in the Comprehensive Plan. Therefore, staff finds that the purposes and intent of the Zoning Ordinance have not been met with this proposal and recommends denial of the special permit for a Rural Preservation Development. The preliminary plat and private road request rely on the special permit approval and have not been found to meet the requirements of the subdivision ordinance, and are therefore not ready for Planning commission action. Should the Planning Commission favor this proposal in concept, staff recommends further design of the Rural Preservation Development in accord with ordinance requirements before the special permit is approved.

Mr. Thomas asked how low ground water availability was determined.

Ms. Doherty explained that this was determined by using existing water studies undertaken by the Water Resource Planner.

Mr. Rieley asked if there were questions for Ms. Doherty.

Mr. Rieley noted that on page 6 of the staff report, there is an analysis by zoning regarding the determination of allowable lots. It seems that the plans presented by the applicant have a numbers of lots that are questionable. It seems that is a fundamental a beginning point for this assessment. Is this correct? If so, why do we have a plan in front of us for which we don't know the number of allowable lots?

Ms. Doherty stated that this was correct. The applicant decided to pursue the special use permit. These comments were provided to the applicant earlier, but have not yet been revised. Your analysis of our analysis is correct. The applicant wanted to proceed with the public hearing to discuss the concept. This is why we do not have any analysis on the preliminary plat or public road request because it has not been found to comply with ordinance and is not yet ready for action. If the Commission favors the special use permit then the applicant would get the preliminary plat in a position where it could be approved if the special permit was approved.

Mr. Rieley ascertained that he presumes this is the reason that the special use permit is before the Commission, but the preliminary plat is not. He noted the analysis on the impact of roads from VDOT that seems to be contradictory.

Ms. Doherty stated that this is Code language and is a standard that has to be met. In other words they are not meeting these criteria.

Mr. Rieley noted staff's summary of findings on page 17, in which there are nine unfavorable conditions. Condition # 6 deals with traffic. # 7 deals with the fact that access road falls across a forested stream valley, #8 deals with the fact that a number of lots would be located in an area of relatively low ground water availability. And # 9 deals with the effects of interspersing residential development among working vineyards. Is seems each of these factors would be equally true of a by-right development as it would a rural preservation development. By definition a rural preservation development cannot exceed the number of lots that are available to a landowner by right.

Ms. Doherty stated that #9 speaks to a specific layout proposed so you would need to know the layout by right and #7 is a specific proposed access road. These could be different in a by-right scenario.

Mr. Rieley stated that it was important for everyone to understand that typically the benchmark for rural preservation developments is the by-right development and the degree to which the arrangement of the development lots is better or not better than that that could be achieved by right. The number of development rights and whether or not the property can be developed is not before the Commission at this time.

Mr. Finley noted that #6 states that "VDOT finds that the increase in traffic associated with this development will create unsafe conditions on Rt. 627. VDOT cannot approve the entrance onto Rt. 795 shown on the concept plan unless improvements are made to the intersection of Rt. 705 and 620." Is it possible to make these improvements and has the applicant indicated a willingness to do this?

Ms. Doherty stated that is was possible to meet VDOT's requirements; however the applicant has not done any design work to date.

Mr. Finley stated that #7 speaks to the access road for Lot 24 crossing a forested steam. He believes this could be relocated.

Ms. Doherty stated that the access road for Lot 24 should be accessed from the same road that connects to Lot 23.

Mr. Finely stated that # 9 speaks to the public health impacts and asked if there were any facts provided?

Mr. Doherty stated that the Rural Areas Comprehensive Study provides some information on this. Staff has asked for more information from the applicant. It is an important issue that has not been entirely flushed out, but if you were to mix residential with the agricultural use there is a potential conflict, but it is separated from the agricultural use as a traditional rural preservation development there is less of an issue.

Mr. Finely stated that he has been in many old farmhouses in his lifetime which were adjacent to all kinds of pesticides and fertilizers.

Mr. Finley noted that #3 stated that the proposed development does not meet the goals and objectives for the Rural Area. Residential development is not prohibitive in the Rural Areas. Should this not read that it does not meet all of the goals?

Ms. Doherty stated that on page 2 of the staff report, notes that the main objective of the Rural Area Plan is to discourage rural residential development other than dwellings related to a bona fide agricultural/forestal use. Limited amount of residential development, which is permitted in the Rural Areas, shall be located in a manner to minimize impact on rural resources and to minimize conflict with agricultural/forestall activities.

Mr. Benish pointed out that staff does not have any verification as to the number of by-right development lots, noting that this analysis is an important element of the evaluation.

Mr. Finley noted that it is staff's opinion that the proposed development should be accomplished without any negative impact to the historic property and it scenic setting. Are there guidelines for determining what would have diverse effects?

Ms. Doherty stated that this comment comes from the Design Planner who uses the National Guidelines for Historic Properties.

Mr. Craddock noted that three of the six parcels are in the Lanark Agricultural/Forestal district. When do they expire? How many lots could be provided?

Ms. Doherty stated that she will provide this information to the Commission.

Mr. Rieley stated that before opening the meeting to public comment, he would like to review the basic ground rules and make a few requests. The applicant will have 10 minutes for a presentation of its application. Then each person who would like to speak on the proposal and has signed in will be called one at a time. Each person has three minutes. After going through the list, anyone else can address the Commission for three minutes each. After that the applicant has five minutes to respond to comments/issues that were made by other speakers. The Planning Commission's action on the special use permit is advisory to the Board of Supervisors. When and if the preliminary subdivision and private road requests are submitted, they are approved by the Planning Commission, but can be appealed to the Board of Supervisors. The issues before the Commission is land use decisions that run with the land and are not with any individual person. Personal comments about individuals are not pertinent. As one of our speakers stated we can disagree without being disagreeable. Please do not applaud as it takes allot of extra time and makes it difficult to hear the next speaker. Some speakers have asked that everyone that agrees with their points to stand up. Doing this once gives the Commission an idea of the feelings of the group. Following these basic guidelines will allow us to move forward in a timely fashion.

Mr. Rieley asked if the applicant had any comment.

Frank Cox stated that he is representing the Kluges on the Vineyard Estates. It is important that rather than going into a detailed a rationale about lot lines, they present the logic of the construction. They are trying to ascertain if the preservation approach is better than the by-right approach. He went trough a series of slides, which gave a general orientation of the 511-acre property. There is a small amount of frontage on Carter's Mountain Road, Blenheim Road and Pleasants Road at the south of the property. The terrain of the property in a rural area is important to determine whether a special use permit is warranted or develop under the conventional by-right procedures. The organization of this site with respect to its natural fixtures the 70 acres of critical slopes, valleys, areas that have less than satisfactory ground cover, highly erodable areas. Basically this site is one that is not conducive for farming operation or grazing or crops. As we looked at it found some opportunities that fit in with the interest of the property owner. With that came the Vineyard Master Plan. We fist worked with the Vineyard horticulturalist at Virginia Tech, who has specialized in this work for 30 years, to identify not only the soils for aspect of winery and vineyard operation, but also to identify those pockets that would be conducive to maintaining erosion controls and protect small pockets of prime soils on the site. One of concept is identify areas outside of those and provide for plantings that will grow and be a part of the arm store operation that is currently in place. With both the orchards and the vineyards there is approximately 100 acres of land that can be set aside and preserved. Due to the land features this land is not contiguous. In combining the meadows, pastures and the orchards, one of the hopes is to raise goats and sheep in isolated pasture areas. Unfortunately, there are not many of them. The pastures would be fenced to provide safety and protection for small livestock. When you combine the vineyards, meadows, orchards and gardens, there is approximately 200 acres of land within the 511 acre property that we feel has been accessed for those particular agricultural uses. The existing vegetative cover ranges from poor too horrible. The timberland is on the third and fourth growth. One of the goals we have on particularly on sensitive steep slopes around the main drainage way is to undertake an extensive reforestation program that would embrace 175 acres. Added to that is the opportunity to create ponds and water features and to provide access along the existing farm roads and logging roads; which will be upgraded to be compatible and comfortable for farm workers into the property. The Carter's Mountain Road entrance would be the main entrance into the property. One of the design concepts is to create a private road system. The private road system with the opportunity for gated control will prevent

through traffic and provide those working within the farm area and those living there with a heightened level of safety and security. We have an agricultural master plan with vineyards, orchards, forested areas, garden meadows, water future opportunities; the total preservation area is over 330 acres. The applicant has tried to reconcile the goals and objectives favored by staff, with those that represent a more site-specific sensitivity of the land. An issue, which is still unresolved, is the plan for the estate residence.

Mr. Rieley asked for public comment regarding this petition.

Antoinette Brewster stated that she and her husband own Lanark Farm, which is adjacent to the Kluge Vineyard proposed development. She noted that there are 500 signed petitions, which have been presented to the Planning Commission, from both Albemarle County and City residents, in opposition to this proposal. She noted that Charlottesville residents believe that granting of this special use permit will have adverse effect on them also. She pointed out that the petition refers to 33 lots, however, when the Agricultural/Forestal Committee reviewed this it was noted that this should be 28 lots. It is not the number of lots that is the issue as much as the intrusion upon the Agricultural/Forestal district. The current application is still dividing lots in an Agricultural/Forestal district to measure less than 21 acres. Approval of this request could weaken the agricultural, rural and forestal ordinances. This not about saving the family farm, or opposing a by-right use of land, or opposing a zoning change, this is about protecting the integrity of an existing ordinance. This is about keeping the rural area rural.

Kathy Rash noted her concern regarding the flood and storm water control. She noted that last year there was an enormous amount of rainfall. During that time a levee broke on Wellesley Farm, which is now owned by the University of Virginia. As that level broke, which is on Carters Mountain Road, she noted that the road, shoulders and bridges were washed away. VDOT had to rebuild this area. She questioned what would happen with all of the storm water if this area is developed. If this project is approved, she questioned what would be done with the road systems in this area. She presented a copy of the floodplain in this area, noting that Rt. 627 is on a floodplain. She asked if the topography of the road will change. Will Rt. 627 be taken out of the floodplain or will the road be raised. She reiterated her concern with the additional traffic and storm water runoff.

Bob Rash presented a video showing the damage sustained on Rt. 627, Carter's Mountain Road, during the flood of July 2, 2003. Rt. 627 was washed out; bridges and shoulders had to be rebuilt. His concern with the project or any change in that area is how it will affect storm water controls. Rt. 627 was closed for days last year; even emergency vehicles could not get in or out. If this project is approved, what improvements will be done to Rt. 627?

Nellie Houchens stated that she has lived in this area for 73 years. She has always been fond of history and has worked at Ash Lawn and Monticello for 45 years. She grew up on a farm between Ash Lawn and Morven and remembers waling to a one-room school in the area. The area is rich in history, not only Monticello and Ash Lawn; there are many other unique sites in the area. One is Slate Hill Baptist Church which dates back before the Civil War period. Another church in the area dates back to 1879 and was built for slaves and was purchased by Harden Lewis for $5.62. Blenheim another home in the area was built in 1745 by Robert Charter, Secretary of the Colonies. This is the home that Thomas Jefferson and his bride stopped in to warm themselves before going on to Monticello. Morven, which dates back to 1821, is known for its stately gardens. Along with these homes are many other homes which back to the 1700's. Her property has been in her family since 1798. There are many concerns in our community regarding this proposal. It will not only diminish the agricultural/forestal districts in Albemarle County but would change the character of the community.

Virginia Clump stated that she lives on Keelona Farm, which was purchased by her mother in the 1950's. There have been four generations of her family living here. She pointed out a couple of things that she feels is difficult in combining a residence and a vineyard. The first one is the

problem of deer control. Are there barricades or vineyard fencing to keep them out? Will there be organized shoots with permits from the Department of Inland Game and Fisheries? She noted that in 2002, 106 deer kill permits were issued and 944 deer were killed in Albemarle County or harvested under the special permit. In 2003 eighty-eight permits have been issued so far this year and fifteen of those killed permits are for vineyards. The deer kill or harvesting is normally done at nights with sharp shooters and spotlights. She wondered on this proposal will fit in with residential living. She also pointed out that guard dogs, which roam the inside perimeters of the area, are normally used in vineyards. This is another thing that is in conflict with residential development. Another is the control of plant diseases like powdery mildew. Agricultural needs to be able to control diseases, but residential development does not need to be next to the vines. She also noted that employees use four wheelers to get around in the vineyards and the number of vehicles needed to transport workers to and from vineyards. Farm living is a lot of work. She stated that she does not know the answer to these concerns, but pointed out that they are in conflict with residential development.

Ben Brewster stated that he lives on Lanark Farm, which abuts the Kluge property. In 1988 he put his farm in the Lanark Agricultural/ Forest District because he felt preserving agricultural and forestal areas were important to the county and neighborhood. Given the development he has seen since 1988, he believes more strongly in the benefits of the agricultural/forestal districts. People choose to live in Albemarle County for many reasons. One of which is its historical integrity. Farms and forests are lost in other parts of the state. This integrity enhances the value of our historical assets and helps generate revenue for the county. The County's Comprehensive Plan amended in July 10, 2002 appears to share the same feelings when it says on page 3 "agricultural and forestall resources have been identified as the most critical county resources in the desired primary land use in the rural area. It goes on to say that lost of these resources to development is irreversible and irreplaceable." We were willing to limit development rights in exchange for protection against non-agricultural development. We are opposed to the special use permit, which would allow residential development in an agricultural/forestal district. The area currently contains vineyards, meadows and forests so that clearly are not the cause of our concern. It is the development of 28 houses that causes our concern, which is aggravated by the fact that the development does not conform to the exiting development's cluster rules. We believe that such a development is in opposition to the rural area codes which state that residential development not related to agricultural use shall be encourage to locate in the designated growth areas where services and utilities are available and where such development will have minimal impact on rural resources and agricultural/forestal activities. From a broader perspective, granting the special use permit would weaken the agricultural/forestal ordinance countywide and set a precedent for other development.

Svaha Woodward stated that three generations of her family has lived at Colle on Route 53. Sixty years ago her father-in-law saw the possible loss of farm and forestland in the County. As a result of this, he placed all of his farm and forestland under easement. His actions have been beneficial to the county, wildlife and to the tourist who visit our area. According to the last forestry assessment Albemarle County has lost 21,400 acres of forest to the government in the last nine years. Most will agree that the country roads through this valley are some of the prettiest, if not the safest in the county. Any increase in traffic would require the roads to be widened which would destroy the scenic character of the area. She asked the Commission to consider commitments made by landowners in the area to preserve the character of the area. This proposal sets a bad precedent for the agricultural/forestal district and goes against what so many people in the area have worked for.

Pat Payne asked the Commission to put themselves in their shoes. In the neighborhood, which she lives in the residents, have been there for many years. The average cost of their homes is $85,000 to $175,000. The homes in this proposed development are higher, which means that taxes will be increased. She noted that middle income people do not want to be taxed out of their homes. Twenty-eight new homes will have a substantial impact on the roads as well as schools in the area. She also noted that there was a quarry in this area. Another concern was the impact

to natural resources in the area. She asked that the Commission take into consideration concerns such as increased taxes, water resources, roads, schools, etc.; and not just increased revenue for Albemarle County. She noted that the road but could not handle increased traffic. She again asked the Commission to put themselves in their shoes and reminded them that they are the voters.

Marcia Joseph representing the Southwest Mountain Coalition stated that the decision the Commission makes tonight will affect development in agricultural/forestal districts in other parts of the County. We understand the legal argument that approval of this application does not set precedent for development in other parts of the county; however, it will be very hard for the Commission to deny a similar request in the future if you approve the Vineyard Estates. We are also concerned that this application might set a standard for cluster development in the County. As you are aware, the arrangement of lots does not allow for preservation tract that is removed geographically or factor ally and visually from the residential lots. As a former employee of the Albemarle County Zoning Department, I know that folks on adjacent residential lots perceive many agricultural uses as nuisances. There are other factors that make this development difficult to accept. One is the argument that the lot placement has been done to preserve prime vineyard land. According to the staff report, saving the suitable vineyard elevation and soils is not the overriding element in the design as presented. The applicant proposes a private road that uses 21 acres of the site; which equates to ¾ of an acre of road per lot. One of the benefits of clustering to a community is to minimize the length of impervious roadways, thereby minimizing the runoff and construction into existing fields and woodlands. This particular subdivision road does not ride like a like ribbon on the landscape. There are bridges, and streams with 25' of fill. It is not a gentle intrusion in the environment. This gated community with sheep pastures and attention to architectural detail, may be an attractive area to drive through but does not present a cluster development that should be approved or replicated in Albemarle County. As the representative for the Southwest Mountain Coalition, I would like to ask the Commission to deny the request for Vineyard Estates. She asked that all those opposed to this development stand and be recognized.

Annette Patterson, representing Wanda Collier who could not be here tonight. We are very concerned about development in the community. We as well as other residents in the area are concerned with increased taxes, which will create a hardship for many in the area. She noted that this development could dramatically change the character of the area. It has been a dream of Ms. Collier to own this home for many years.

Karen Collier stated that she resides in the Blenheim Road area and is opposed to this development. If the Commission approves this special use permit, you will be adding to the destruction of the agricultural district within in Albemarle County and will open doors for other major developments. This development will not only have an impact on roads and the natural beauty of the area, it will raise taxes and have an adverse effect on wildlife in the area. This project not only goes against the agricultural/forestal district, but is not in compliance with several sections of the Zoning Ordinance and does not meet the goals for the rural area outlined in the Comprehensive Plan. As to roads, VDOT has stated that increased traffic will create unsafe conditions on the already strained roads in the area. Half of the lots will be located in an area of relatively low groundwater availability. Not only is this a problem, but this community has been told that the project would benefit the community. This is a gated community, not an open door policy. As natives of this community we would not enjoy the native gardens and walking paths of this development. In closing, I would ask the Commission to deny this request.

Scott Smith stated the developer is aware that the County is reviewing the Comprehensive Plan with an eye to limiting the density of rural development. The developers must also be aware of the County's on-going ground water study and its impact on the subdivision ordinance. The special use the applicant seeks would cease to be in existence once the land ceases to be an exception once the land ceases to be under state protection as an agricultural/forestal district. It is not clear that the vineyard can be sustained as part of a residential development or productive

agricultural land. Special permission now is in the interest of the developer since is ensures that the interfering interest of the public will not have a chance to manifest. To grant the special permission sought by the developer would not be the same thing as allowing them to break the law, but by effectively removing the publicly sponsored protection enjoyed by agricultural land would ensure that the law would be broken, useless and stripped of its power to protect the public still required to pay for it.

Jim Lark stated that he lives in the Buck Mountain area of Albemarle County and is here tonight to ask the Commission to approve the special use permit for Vineyard Estates. His main reason is philosophical, he believes people have the right to use their property as they see fit unless that use violates the rights of other. As far as he can see, the applicant's plans do not violate rights of others. He felt the concerns he has heard tonight should be addressed through means other than those of land use restrictions.

David Hamar stated that he lives on rural property in the southwest mountain district. He is concerned with the rapidly changing character of Albemarle County and feels that this proposal will have a direct impact on the degradation of the vernacular quality of the county. This parcel is in one of the few remaining rural areas of the county. Several parcels are in the agricultural/forestal district and I urge the Commission too not to do anything to decrease the protection afforded by the agricultural/forestal districts. He questioned the economic viability of this project. He questioned where the agricultural activities would be in a relatively short period of time. He urged the Commission to deny the special use permit.

John Grisham stated that he lives in the southern part of Albemarle County. Ten years ago he brought a 200-year-old estate between North Garden and Covesville. He moved here in 1994 and has been here every since. He moved here from an area where zoning, comprehensive plans, conservation easements, and agricultural/forestal districts were virtually unheard of. The folks who lived there believed strongly that a man can build anything he wants to on his own property. No permits, inspections or approval were required except for hog farms or nuclear reactors. What is special about Albemarle County is that people care deeply about their land. We elect leaders who believe in zoning, comprehensive plans and will enact ordinances that place residential developments where it belongs in growth areas, not in agricultural district. In the past five or six years I have been fortunate to work with Piedmont Environmental Council and the Virginia Outdoors Foundation and we have placed 1800 acres in the conservation easement. We are now working to place this land in the agricultural/forestal district program. To grant an exception here, and another one tomorrow, soon you have no ordinance. For those of us who care deeply about the preservation of land, this makes us very nervous.

Brian Rogers represents Defenders of Property Rights, the nation's only national public interest foundation dedicated to protect private property rights. Defenders believe that the Vineyard Estates request is exactly the type of development Albemarle County should encourage. Zoning by definition is designed to serve as a model for development and local jurisdictions. It is not a one size fits all code, because if it were houses and businesses would all look alike. The Commonwealth of Virginia has granted Albemarle County authority over land use and development. The County has seen fit to allow certain types of development by way of a special use permit. This is not a request to withdraw from the current zoning; rather to ask that a special permit that will not set a precedent. The current zoning law allows approximately 30 homes to be built on the 511-acre parcel each on its own 201-acre lot with its own infrastructure. The owners want to scatter 28 homes over meadows and forests. Over 65%of the land would be placed in a preservation tract on which no development will ever take place. This project would lead Albemarle County into the profitable and environmental sustainable wine industry. This project serves as a role model for integrating agricultural land use and profitable development striking exactly the kind of balance between property rights, economic growth and environmental protection. Defenders encourage this Commission to set an example of smarter growth and development by approving this special use permit.

Harold Olinger stated that he is a retired forester living in the Scottsville district. As a forester he was trained to manage forestland to root products, wildlife habitat, and quality of water, recreation and aesthetics values. The priorities for these values may vary with individual owners. The way to accomplish this is to maintain biological diversity on a landscape basis. Fortunately an experienced forester can maximize any one of these values without seriously minimizing any of the other values. He noted the large amount of Virginia forestland being lost to development every year. Sixty-four thousand acres of forestland is lost in Virginia every year. Much of this is concentrated in a few small areas, one of which is Albemarle County. Since 1992, twenty-one thousand acres of forest have been lost in Albemarle County. The Kluge proposal comes close to being the ideal model for development n a forestal setting. The Kluge plan does include 300 acres to be managed with forest. The diversity of forest, meadow, vineyard and water, will be the ideal habit for deer and other animals. Several of the species in this habitat may become over populated and become a potential management problem. Large home sites are often a big problem to foresters. Economy, scale and proximity to houses preclude most management practices. The Kluge Vineyard plan calls for 6-8 acres lot which are widely spaced. The Kluge proposal is a forested eco-system.

Joe Rinkevich, representing the Earlysville Area Residents League, stated that they support development consistent with the preservation of the quality of life and environment as articulated in the County's Comprehensive Plan. Each year they conduct a survey of the Earlysville residents to get feedback on development, quality of life, and the state of public feelings in our area. The 2003 survey produced some interesting feedback. Relative to today's discussion our survey indicated that residents in the Earlysville area favored the rural attributes of open space, agricultural activities and county roads as most worthy of preservation. It is because these value features of Albemarle County are currently threatened by developments such as the Vineyard Estates that we ask the Commission to deny the rural preservation development request. He noted that the staff report clearly and eloquently list many reasons why this development should not be approved. The negative impacts on the rural character of the area will far outweigh any potential benefits. We ask that the Commission deny this request.

Karla Miller, lives on Milton Road, stated that "government like fire is our most useful servant, if controlled by us—it's citizens. And government, exactly like fire, becomes our most destructive master if not fully controlled by the open majority of its constructive working citizens." Tonight these majorities of constructive working citizens have signed petitions, emailed, phone, and came to a Tuesday night meeting. You our representative government body, please listen to their voices. Deny the special zoning permit to Vineyard Estates to development. Thank you.

Patty McGraw stated that she is representing Ben & Antoinette Brewster. There has been a great deal of discussion and still unresolved confusion about what the applicant can do by-right with these parcels. The staff report concludes that, it is safe to say, that the applicant can develop by right up to 30 lots on these parcels, one more than the 29 proposed. Which fact the applicant used to argue that this proposed development is not more intensive than that allowed by right. That argument assumes that intensity is measured solely in terms of number of lots with no consideration given to the size or the configuration of those lots. An assumption, which flies in the face of the Code itself, which does not simply count lots when looking at a proposed development. The fact is the question of what the applicant would do by right is a diversionary one. The 30 lots the applicant could allegedly have by right are not by any means the measure of the same 29 lots the applicant wants. This is why we have this application for a special permit rather than a by-right development. And the question is should the special permit be granted. As the staff report eloquently explains the answer to that question is no. This development does not qualify as a rural preservation development. The applicant candidly admitted that in the process calling the guidelines for such developments antiquated, fundamentally flawed, and inconsistent with the new paradigm, which is allegedly been created by contemporary vineyard planners of mixing up scaled residential estates with producing vineyards. Whether such a new paradigm has been, in fact, been created elsewhere is not the question. The fact is not the paradigm that this County has chosen after much thought and deliberation. Nor does this development qualify

for a special use permit. It is not consistent with the purposes of either the rural area district or the agricultural/forestal district. Nor does it comport with the precepts of the rural area plan. Even though the granting of a special use permit does not necessarily constituent binding precedent in the strictly legal sense, the request still constitutes a radical departure from the policy set forth in the County Code and would send the wrong signal to future applicants all of whom, I think, you can expect will undoubtedly cite this precedent, if granted, loudly and often. So my clients along with the other 400 signatories of petitioners opposing this petition ask that the Commission defend and protect the property rights which are really at issue here. And these are not the property rights of the applicant, which acquired land subject to strictures, which it now seeks to have lifted pursuant to a special use permit. A special use permit for which it does not qualify. Instead the rights that need to be protected are the rights of the adjacent landowners such as my clients. Not to mention the inchoate rights of all those citizens of Albemarle County who are interested in protecting and preserving the rural areas. Those are the property rights, which are in danger here, and those are the rights, which must be protected. We ask that you deny the special use permit.

John Marquis voiced his support for the Vineyard Estates project. He has lived in the area more than 20 years and his late father, John Marquis, Sr., actually owned the Blenheim tract that is part of this project. He and his father started a vineyard in 1980 at Blenheim Farm. Personally he finds the reasoning of lack of water to be unfounded as he can personally state that the area around Blenheim Farm has an abundant source of water. There are three wells at Blenheim Farm with roughly a 50-gallon per minute flow. Water was used to water and spray grapes and for different farm operations. This project is appealing as it serves the rural environment by devoting roughly 65% or more than 300 acres to vineyards, orchards and lakes. His complaint in the past on rural development in general is that so little land remains once all the houses are built. He hopes that more developers will emulate this type of project and preserve more land. This project can only benefit the community. He asked the Commission to support the project.

Mr. Rieley reiterated that outbursts from the audience will not be tolerated. If this happens again you will be asked to leave.

Wren Olivia stated that she lives on a farm in southern Albemarle County where she and her husband raise sheep on a farm, which has been in her family for almost 150 years. She is speaking in opposition to the Vineyard Estates proposal. In a recent survey of County residents, a sizeable majority supported preservation of open spaces and protection of natural resources. This proposal does neither one of these things. It would be a sprawling, gated suburb in the midst of an agricultural/forestal district meeting only some of the design standards established for any allowable development in such an area. The residents of our county, as well as our county government officials, must work diligently to prevent such developments from desiccating our natural resources. A healthy eco-system is essential for all of us humans and non-humans to survive. I urge you to vote no to this proposal.

Madison Spencer stated that did not think the irony of this should all go unnoticed. This is a situation where a couple is committed to actually returning a thriving agricultural enterprise back to the County. To deny them the opportunity to continue their success with what they have already established as one of the most important vineyards in our State I think is foolhardy. This is an opportunity to take into account a precedent setting strategy that does what it should do. That is returning a thriving, re-enforce the agricultural enterprise. I also have to say that the two people behind it, Bill Moses and Patricia Kluge have done nothing but conduct themselves in the most forthright manner in terms of philanthropy or commitment to agricultural undertakings. It has been success after success. If there was an operation that we should be embracing in terms of setting a new standard by how we build and combine agricultural enterprises in this community, I think this is it. I have not seen anything before the Commission that speaks to the heart of the matter in the way this project does. It is a project we should embrace more than anything. I really do. I will leave it at that.

Don Gilberg stated that he is living with the smart growth imposed on us in Middleburg, where I live. I live next to a 53-acre parcel of land where we now have 50-acre minimum growth. I am a contributor to PEC. My wife lived in Preston County, West Virginia where she grew up on a farm. We were impressed with the smart growth when we went to Middleburg, but little did we know we would have a neighbor who could take advantage of an open space easement for a tax advantage. What the Kluge's are doing caught my interest because I felt this would be great—we could have some smarter growth. After walking through the project with the Kluge's he felt this is what they wanted to do. This looked like the kind of place where we wanted to bring up out twin daughters. He put down a land hold on two of the lots. If this goes to by-right development I have no interest in moving into this neighborhood. I've seen the by right neighborhoods around Loudoun County. You are talking about development that brings nothing to a County. That is what you are looking at. What I've heard tonight from deer, flood, to groundwater stories. He would like to know how will this be corrected by a by right community. I keep two documents on my desk every day – the Declaration of Independence and the Constitution of the United States. I think these owners have done far more than you would expect for a property owner. They have every right to do it, but they've gone beyond the by right to make it a very special place for people like me who can see what can be done by the "smart growth in PEC."

Tom Olivier stated that he lives in the Scottsville district. In the judgment of staff the Vineyard Estate proposal does not meet a range of requirements for rural residential development. As designed it would burden the sources on the surrounding landscape. Public roads in the vicinity are narrow and winding. VDOT has stated that additional traffic would generate unsafe conditions on Rt. 627. Part of the proposed development lies in an area classified as generally low in ground water. As a biologist I'm particularly dismayed by the sprawling layout of the proposed residential lots. Fragmentation of habitats by sprawl is recognized in the Albemarle County Comprehensive Plan as a major threat to survival of vital biological resources. To quote briefly from the Natural Resources Chapter of out Comprehensive Plan, Page 70, Paragraph 1, Sentence 1 "the decline of many plant and animal species in Albemarle can be attributed to large scale tree clearing or by development activities such as woodlands, subdivisions, power lines and roads. The clustering of development is a strategy developed by the County with wide public support to help protect essential natural resources." I have concern that if this project is approved it will set a precedent that undermines County efforts to protect rural resources that are essential to the long term well being of our community. In short, I think this project would be a detriment to the Scottsville District's rural areas and I urge the Commission not to grant the special permit needed for it to proceed.

Tony Vanderwarker, representing the Albemarle Smart Growth Initiative and the Piedmont Environmental Council. We were delighted to hear of the applicant's desire to start a new vineyard in the area because we are most interested in economically useful and productive use of rural lands. Vineyard culture in Albemarle County is turning out to be very lucrative. Some fine wines are being produced. I saw a huge opportunity to create a compromise that was necessary because we saw a neighborhood basically set against this proposal. Is there a way to go down the middle? Is there a way to have everyone win? We hired McKee Carson to prepare an alternative scheme of that development. The development as planned requires about two million dollars worth of roads. They have 28 lots they will sell at $300,000 and $400,000 apiece. Our concept was to save the money on the infrastructure of the road, take a huge tax deduction and put the whole thing in conservation easement divided into five lots. Each lot could be sold for one million dollars or more. We went around the neighborhood and asked owners if they would consider putting their land under conservation easement if the Kluge's development was less intensive. Everyone said they would. We now have an aggregate of well over 2,000 acres committed to be put under conservation easement in return for less intensive development of Vineyard Estates. I hope that this possibility of compromise is not lost for this project.

Cheryl Longnecker lives on Bishop Hill Road, which abuts Ashlawn. Her well did go dry last year and the well, which was 100 feet deep, is now 300 feet deep. I went from 20 gallons per minute to 2 ½ gallons per minute. Groundwater is definitely an issue. I also have a question, is it correct that you don't necessary have to get a permit that you can ask for land to be taken out of agricultural/forestal use?

Mr. Rieley stated that staff can provide answers to this question. Typically, the Commission does not engage in question and answer.

Ms. Longnecker asked if staff could let her know why this was not done in this case.
Gabriele Rausse stated that he came to Virginia in 1976 to start the first commercial vineyard. One of the first places he considered for a vineyard was Blenheim. He started the Barboursville Vineyards and since has moved to Seminole Vineyard. He is in favor of the Vineyard Estate proposal.

Ann Mallek stated that her family has resided for the last twenty years on a farm in Earlysville. She is lucky to be one of the county residents who live with the peace provided by open space, forests, narrow country roads, and animals. Their farm was the core farm for the Jacob's Run Agricultural/Forestal District. Neighbors within a specified radius have joined the Jacob's Run district and made a commitment to open space preservation and reduction in development in return for a reduction in County tax assessment. The project before the Commission, Vineyard Estates, proposed to take land, 330 acres of which is in an agricultural/forestal district and develop it as if it were not under restriction. 4-8 acre lots are far below the 21-acre minimum called for in the Comprehensive Plan for the 330 acres of the project in the Lanark Agricultural/Forestal district. It would seem that the larger minimum size would better achieve the stated goal of the rural area, "to discourage rural residential development." These acres of the project would only allow ten 21-acre lots by right. The staff report describes obstacles preventing the approval of the project. (1) According to VDOT, the roads are inadequate for the projected traffic and the presence historic Blenheim district presents a desire to retain the narrow and scenic nature of Rt. 627. (2) To paraphrase Senator Lloyd Benson, I know what a Rural Preservation Development looks like, since I live next to one, and this plan does not show one. The rural preservation lot in this plan does not meet the requirements of the Comprehensive Plan by shape or protection of prime soils. Winding throughout a U shaped parcel interspersed with houses, the prevention tract does not constitute a large uninterrupted and useable tract of land in one place. This arrangement might work for vineyards, but what if some other agricultural use is needed in the future? Growing a crop, which is tended, mowed, fertilized, or harvested with machinery, would be difficult on small sloping areas of odd shapes with houses up close. The interaction of houses and farming throughout the project increases the possible hazard to residents, their children and pets, from machinery, chemicals, and the constant interruption that farming entails. (3) This project is not consistent with the land use around it. According to the staff report 82% of the land within one mile of the project is under active agricultural or forestal taxation. This is not a developed rural area. (4) The Comprehensive Plan states that "highest priority in the rural area is to preserve agricultural and forestal activities rather than encouraging residential development." Therefore, extra houses in the area should not be allowed to put strain on the water resources in an area of poor water availability, highway resources in a historic district, and scenic resource. There are residents in the County who do not agree with land use assessment and the special benefits that farmers receive from lower taxes. To me it is imperative that all farmers in the district take their responsibility very seriously to protect their land and to conserve the e open space as much as possible. I hope the County will keep agricultural/forestal land agricultural and forestall, not intensively residentially. I urge you to deny the petition.

Jeanie Rausse stated that she lives on Rt. 627. She agrees that there should be more vineyards in Blenheim, but not a development. It is one of the most beautiful rural areas in Albemarle County. The road is so narrow and gorgeous that if it were widened it would destroy the whole character of the road. I urge you to not encourage a development of any type in this area, which should be historically preserved as well as agriculturally preserved.

Elizabeth Muse lives on Rt. 727 at Quandary Farm. She is here tonight to express her concern over the request for the special use permit by Vineyard Estates and the implications it has not only for this neighborhood, but for the entire County. She and her family are recent members of the community. They have loving and painstakingly restored an 1860's farmhouse and become stewards of the surrounding acreage. What drew us to the property was the agriculture and rural nature of the area. With narrow roads, loose cows that you often run into and the farms and homes of significant beauty and heritage. The proposed Vineyard Estates with the request for a special use permit promises to forever change the nature of the area in Albemarle County as a whole. I say this because when one development is given special consideration other landowners will be able to follow suit. Houses will spring up in areas not designated for growth and subdivisions will be created in patterns not foreseen by planners. Control over Albemarle County structure will be lost. As my husband and I look towards a conservation easement quandary farm, it is important to us that the surrounding community remains as it has been. A rural agricultural district. I hope you will consider the ramifications that the request for a special use permit will have not only on my immediate neighborhood, but the entire community.

Nick Carter stated that he has been asked to give a brief overview of the historic houses within this district. The district begins at Monticello Mountain and runs down to the Hardware River where it takes a left turn and intersects Blenheim Road and makes a loop. Within this area, there are no less than 14 houses. Those houses are 200 years old. All of them are working farms. Two others are over 150 years old. This is a very unique area and it is our feeling that it should be an historic district. I do not believe that it is duplicated in any other area in the State of Virginia where a number of houses at this age are confined to this region.

Tim Morris stated that he just recently relocated to this area. He is in support of this particular project due to its harmonious blend that will be utilized within the environment. Instead of doing by right where you have a large area and each individual landowner has the ability to do what he wants on his particular property. This is a flowing project which will have less of an impact, better utilization of tax dollars. I just really support it.

Benjamin Ford, representing Preservation Piedmont, which is a local preservation organization, composed of several hundred members who all live in the Central Virginia Piedmont. The applicant's proposal as presented tonight is only beneficial to the applicant. It is not beneficial to the majority of the county citizens. It is not beneficial to the local environment. It is not beneficial to the areas historic resources. And it is clearly not beneficial to the residents who live in the area. Preservation Piedmont has two main concerns regarding the proposed development. First, any development within the view shed of the Blenheim property will have an adverse impact on the property's integrity and significance. As you know, Blenheim was nominated to the National Register of Historic Places in the mid 1970's for its significant 18th and 19th century architecture and archeological resources. The view shed of Blenheim southeast of the majority of the proposed development area is a significant part of the property's integrity. The current view shed of Blenheim is predominately forested and agriculture land. Uses which are similar to how the larger area was once used in the 18th and 19th century. The County has expended a significant amount of time and energy over the last decade discussing view shed issues. Particularly, the Monticello View shed. I do not need to lecture you on the importance of a view shed and its association with historic properties. The proposed development in addition to constructing a number of residential units will require the clearing of untolled acres of wooded land. I would ask the Commission to consider what the construction of a residential subdivision and the clearing of many acres of forested woods would do to the Monticello view shed. I would also urge the Commission, if you have not done so, to visit Blenheim and see the magnificent view shed that extends over the property. In addition, if the integrity of this significant property is adversely impacted it might also impact the tax benefits the property owner now enjoys or may apply for in the future. Secondly, we would like to emphasize the very real threat to the rural nature of the local area if this development is allowed to proceed. In particular, we are concerned about the preservation of the single lane roads that surround and wind through the area. These public

resources, resources that are owned by the people in this audience tonight, would very likely disappear. Road would be widened by the demand of increased traffic. Magnificent tree lined boulevards that now link many of these road would suffer. Fences, rock walls and other small-scale cultural features would also disappear. These rural county roads are a significant feature to Albemarle County that most of us have the pleasure of enjoying. Their loss or any change to them would be a tragedy. In conclusion, we believe that there is nothing rural or preservation about the applicant's proposal. We strongly urge the Commission to deny the special use permit.

Cindy Patterson stated that she lives in the Blenheim neighborhood. I would like to tell you a little bit about the water out there. Eighteen years ago we brought our home. The first weekend we were living in the home I turned the water on and out came mud. We have had about eight wells dug before we hit good water on our land. It is not just a problem with my section of the road. The area is predominant with water problems. She has talked to countless people who have had to have wells dug. These are extremely deep wells—300 to 400 feet deep and still not a great water supply. Half of the land that is proposed to be developed falls in a category 3 which by the County standards is the lowest level water grade you can have in the county. The rest of the property that is proposed for development is in category 2 zone, which is a medium. C R Moore Well Drilling has records dating back past the 70's in this area noting water problems. Morven Farm gets ¾ of a gallon per minute. One house in the area had to have a tank system, where the well is constantly pumping into the tank to store the water because there was not enough available water in the ground to the home. Frankly this has nothing to do with a water issue, but you need to know that we have terrible where we live. To us who live here and love the area, it is an issue. It is a major issue when you don't have water. The main issue of this tonight is the special use permit. When we were put in the agricultural/forestal district we took pride in it. We felt it afforded our area some protection. To grant this is really infringing on the agricultural/forestal district and the integrity that it stood for over the year. I want to ask the Commission to deny this request so that it will not open the county to development.

Kevin Fletcher stated that he lives in the Scottsville district and has lived in Albemarle County for 13 years. He realizes that he can not expect Albemarle County to remain frozen in time, but we should consider the components that are in the combination to make Albemarle County such a special place. This includes preserving the rural areas. I want to quote from the vision statement in the proposed Rural Area section of the Comprehensive Plan "civil aspects of this vision were reflected in the input received from citizens during four public meetings held during the winter of 2002 and 2003. The strong majority of the attendees, over 70% in each case, felt that the visual character of the Rural Areas should be made up of farms, forests and natural areas. Note this statement does not include subdivisions. Stream buffers and habitat corridors should be common throughout the Rural Areas. Once again, note that there have not been any proposed buffers for the stream proposed. Growth should be limited and well managed to maintain the rural character of the County." I don't think that the people responding to the questionnaire expected the rural character would include a gated residential community. Residential development should be directed into the designated development areas. This is clearly not a designated development area. Agricultural and forestall lands are critical county resources. Agricultural and forestry are the designated primary land uses in the rural areas. I think it is clearly revealed in the staff report when it points out that 7 to 8 of the proposed lots are on prime vineyard locations. That is that the residential uses proposed are the primary objective of the proposal. The input stated above came from the citizens participating in the Comprehensive Plan's public meetings. It is clear that the public would like the rural areas to remain primarily for agricultural and forestry use, not for residential development. I urge the Commission to vote to deny the request for the special use permit for Vineyard Estates.

April Fletcher stated that she does not have a great deal to add to what the Commission has already heard tonight. She lives in southern Albemarle County together with her husband she manages over 4,000 acres of farmland and wildlife preserve. 1900 acres are under conservation easement. 1261 more will be before the end of this year. She manages orchards, vineyards, pastures, equestrian facilities, wildlife preserve, etc. The only difference between the 4000 acres

that they manage and the proposal before the Commission tonight are the residences. Clearly the focus of the proposal is the residences. Otherwise, the applicant would not be before the Commission. As a farmer and a resident of Southern Albemarle, I can tell you that the residences are not critical to the agricultural component and I ask the Commission to deny the application.

David van Roijen stated that he is a member of the Agricultural/Forestal Committee; however, he is before the Commission solely as a concerned citizen and not a spokesman for that group. This application has given me a lot of sleepless nights because in the past rural areas have had to defend themselves against commercial developers and residential developers chipping away at the character of the county. He was afraid that a new force to defend against was ruling its ugly head. That of a vineyard development. I was wrong. This is not a proposed from a new foe; it is simply a residential developer in disguise. Mrs. Kluge has stated that they must develop the property because only a portion of the acreage is ideal for vineyards and the cost to establish the vineyard is very high. The costs are high because the best land for vineyard is not being used and the layout is designed for best residential return rather than an agricultural one. At this point I would refer you to the report and file developed by the County staff. The letter from Tony Will, Professor of Horticulture at Virginia Tech describes the current property and proposal. He states these vineyard locations are generally located on elevations of 500 to 600 feet above sea level. Although, higher elevations would be preferable (i.e. 800 to 1500 feet above sea level). As may be seen on the map provided by Virginia Tech there are also many excellent locations for vineyards as such in Albemarle County though this area is only classified as good. I ask you why someone of Mrs. Kluge's character would settle for second best unless agriculture was not the prime motive. Further, Dr. Will states the negatives which Bill Moses and other are no doubt aware of, are the irregular nature of the vineyard parcels means that most of the parcels will have not more short rows and that adds to their establishment cost. Here we have the answer to the high cost of the Kluge Vineyard. Further it is stated that numerous independent parcels of vineyard mean the cost of deer exclusion fences if used would be greater than if the vineyards were consolidated. Again, we find evidence that the motive of pursuant of agriculture appears secondary. In this regard, you will note that the staff report indicates that 7-8 of the lots occupied prime vineyard areas. Again, I ask you if Mrs. Kluge wants to produce great wine why is she purposely adding to her costs and not using the best lands. I propose that this special application for a subdivision decorated with the words of agriculture be rejected as an unnecessary development of the rural areas. Most of the people in this county would be only too pleased to see Mrs. Kluge establish a great vineyard and I would be only too glad to help her locate an excellent site for one. Only a developer could love a project like this. However, if you approve a plan like this, I as a citizen of the county recommend that you ask the County Attorney to prepare a disclaimer by the County to be attached to the deed of each parcel or lot such that the purchasers are clearly warned that chemicals will be sprayed in the immediate areas of the houses for up to four months of the year and that the County will in no way be obligated to pipe water to them should their wells be uprooted.

Jim Ballheim stated that he lives in Albemarle County and has land in an agricultural/forestal district. He feels this is a bad project for all the reasons listed in the staff report and what has already been said tonight. He asked the Commission to deny this request.

Andrew Carter stated that he is a landowner on Rt. 627. He thanked the Commission for serving. He is opposed to this development. The area is such a gem and without exaggeration for people living in the area, Carters Mountain Road is the best Sunday drive in the County. He is employed as an environmental scientist and has done a number of groundwater and environmental projects in the region. He would like to respond to statements made in the Progress about the consultants for the developer regarding groundwater availability. The statement indicted that because of fracture trace analysis, which a tool to use to look at fracture density in an area, that because of this the acceptable analysis was that it would yield good groundwater results. This area in the County would be expected to good fractures. However, fractures are not the total picture when you are considering long term sustainable groundwater volume and availability. The fractures

are negligible volume compared to the water stored in the soil above the rock. In other words, the actual apertures and volumes of the fractures themselves are very small in relation to the apertures and void spaces in the soil over top of the rock. It is that soil thickness that can be a determining factor in long term ground water availability. Carters Mountain Road tends to lie on the contact between Carters Mountain and the canyon which is to the east of there. Manteo soil is known for being a very thin, very poor soil. His data is consistent with the soil survey data. The technical problem with groundwater availability here is not the fractures but the thinness of the soil that dominates that area. I can't speak to the site itself, as I have not done a walk around the property. He suggested that more investigation be done regarding groundwater availability.

Jeff Werner representing the Piedmont Environmental Council. PEC was created in 1972 to protect the rural landscape of the Piedmont. In 31 years, we have worked to place approximately 174,000 acres under permanent conservation easement. Of that, almost 37,000 acres are here in Albemarle County. The PEC urges the denial of this special use permit. Among the reasons for this position are: (1) the subdivision runs counter to the provisions of the Agricultural/Forestal District Ordinance. (2) The proposed "cluster" is not consistent with the criteria in the Rural Area Ordinance. (3) The proposed residential component is not related to a bona fide agricultural/forestal use of the land. (4) Approval could provide a precedent and weaken the agricultural/forestal and rural area ordinances. (5) The County's Agricultural/Forestal District Committee recommended that approval "would create a serious conflict" with the Agricultural/Forestal Ordinance. No land use decision can be viewed in isolation from the County as a whole. No doubt, there are arguments in favor of this proposal that cannot be refuted. In fact, no one is here to refute the proposed agricultural uses. However, when we take a step back, as we must, we cannot ignore the potential for establishing a precedent with the approval of this request. One may argue that the unique nature of a special use permit precludes it from being a precedent. We suggest that the unique nature of land use law in Virginia and of local, subjective politics offers little assurance that approval here would not establish a "general" precedent by which other similar proposals would be governed. For example, the proposal seeks permission to relocate development lots from one parcel to another. This s is not proposed in order to facilitate a cluster but to further disperse the proposed lots throughout the landscape. A precedent establishing such mobility of development lots is contrary to the provisions of the cluster ordinance. The applicant argues for a favorable review of the proposed 65% set aside for the preservation tract. Is this amount worthy of sanctioning with a special use permit? 65% is not remarkable compared to other cluster proposals in the County and it is well below the target 75% suggested in the proposed revisions to the County's Rural Area Plan. In fact, were this a by-the-book cluster proposal, it is theoretically possible—with twenty-eight 2-acre lots—to create a preservation tract of almost 455 acres, about 89%. Though the PEC remains dubious of clusters as a Rural Area solution, an 89% set aside might certainly be viewed as remarkable. So, what advantages do landowners and the residents of the County gain? If it is that they will get road improvements, I would suggest these are not for the current resident but for those that ill move into the new estates. To argue these road improvements could not be required by right development and thus it would be advantageous to approve the special use permit is an indictment of the County's regulations, not an argument for this special use permit. If land is being developed that will require road improvements, that work should be required with or without a special use permit. Is this proposal in the best interest of the residents of Albemarle County? The PEC joins the hundreds of other County voices in stating we do not believe it is.

Mary Cole Marquis stated that Albemarle County Water Resources Manager notes in a memo dated in an August memo "that the project in an area considered to have the County's lowest groundwater availability." What is this person's name and where and when was this memo published? I am not a report, however, as a person trained with a scientific venue I would certainly want substantiation of the writer of this mystery memo as well as what specific type of data was used to gather this information. As the geologist explained Albemarle County's water supply scarcity issues over the wells that were drilled before the technology was available to reach the plentitude of water underneath the red rock. In simple terms, since we are able to drill further into the ground we are able to locate and utilize plentiful underground water resources,

which are referred to as aquifers. In the previous summer a lot of Albemarle County wells were drilled prior to this technology, hence these wells are depending on the rainwater/groundwater supply rather than the under ground aquifers. I would appreciate in the future that all the scientific facts are presented as we all know our community has a responsibility to present the most accurate and scientifically based information rather than hearsay. In responding to the inability to find water for the Blenheim area of Albemarle County, I personally find this statement puzzling. As a resident of Blenheim Farm for several years as well as being involved in a farming operation, I never had a problem with the water supply. In fact, the opposite was true. I personally used Blenheim Farms numerous groundwater spring sources as well as the enormous aquifer supply. As a scientific persona and personal resident of Blenheim I would like to have the answer to this reported water supply issues. I have a challenge to each of you on the Commission—Instead of talking the talk, let's walk the walk. Let's put our boots on and go out to Blenheim and I'd be more than happy to show you where these wells and aquifers are located.

Diane Krunk, lives on President Road and has been a resident there for 17 years. In that 17 years she has walked out her door and have never seen anyone watering lawns every week, washing cars twice a week, because each and everyone of us knows that whether we are on an aquifer source or whatever they want to call it we are all sharing the same water. We all take pride in the fact that we are working together to preserve that water for each and everyone's use. I recently was invited to one of the audience member's homes for a meeting and that had hundreds of acres. I was astonished at the views that they had. I looked around my two-acre property and thought "this is my little piece of heaven". My husband has worked very hard to get a garden and flowers in. He is out there every weekend. It's my piece of heaven and when someone comes in and says they are going to cut through our road, they are going to build 28 more homes, take away from our water, they are going to make me move out of my home because I can't afford the taxes; it gets personal.

Mark Holmes stated that he just moved to the area from Crozet. One of the biggest things I like about the property is the fact that when you stop and you look around what you hear is nothing; which means it's quiet. When you are in Crozet, you stop and listen; you hear many cars whizzing by. As for the issue of the well, we just had a well dug with 1 gallon per minute. I would also like you to think about the winding country road, which is quiet. If this is made a straight road, you will have the racecar drivers, people cutting through, etc. I hope you make sure that everything stays the way it is; which is nice and quiet.

Glen Gibson stated that he moved into Albemarle County 22 years ago. I have a well that is 150' deep that was producing just enough water for the house and slowly going down hill. Three years ago, it gave out. It took six months for the well drillers to finally get there. I have a well now that is 320' deep that is producing enough water for my house and my family. However, I live one mile below Blenheim Farm, so I am not getting ten gallons a minute as it is on Blenheim Farm. The County has lot millionaires; we also have many people that are poor like me. Therefore, you cannot compare this person with that person. Same thing with wells. This is a very poor area. Mrs. Patterson said she had to drill eight wells before they got water. She is only about 300 yards from Blenheim Farm

Francena Eldridge speaking for her father, James Monroe, who lives in the Blenheim area. We go to Midlobe Baptist Church, this area is a historical site and I would hate to see this change. My father's family has lived here for over 200 years. I would not to see the old people who would come back and see this property changed to area where cars are up and down the highway, the trees are cut away. These old people worked hard for their property. They left it to their children and their children's children. I think it is a shame when people can come in and do what they want to do and the little person is standing back like they can't do anything. I ask you, please don't let this project go through. I'm asking for all the old ones who have gone, who have worked hard for their families.

Cory Miller stated that her father is in the army and she has lived in ten different places over the years. Of all the places that she has been, this is one the most beautiful places. I'd hate to see the beautiful woods and wildlife get wasted by development.

With no further comment, Mr. Rieley pointed out that the applicant has five minutes to speak to these concerns.

Steve Blaine, representing the applicant. He expressed on behalf of his client's appreciation for all of the remarks heard tonight. We have had some town meetings where we have tried to interact with neighbors. We have heard some of the same concerns and questions raised here tonight. We'd like to see this as a continuation. I know there were some specific questions the Commission had and I would like to take the opportunity to address some of those. Mr. Rieley, I think you asked the client why the by-right plan did not address some of the zoning concerns. We chose to come before the Commission and get a sense of what the policy implications were of this approach to a RPD. As we know, the RPD analysis requires us to do a comparison on what can be done under the permitted zoning. We used this as a baseline to analyze the proposed zone. That is why when you hear about the permitted zoning—30 lots—we do a comparison of the impacts of the proposal versus the permitted zoning. Sometimes the reaction when the developer or property owner says "I can do this by right" tends to sound arrogant. Had this come across in this process, I want to apologize for that that is not the intention of the applicant. It is part of the relative analysis. When we talk about traffic we are not comparing the traffic that will be generated by this site to no traffic, we are comparing making relative comparison of what the proposal will have to the permitted uses. When we talk about other impacts we are talking about the number of houses. We have a model, we are not suggesting that it is going to replace the current model for the RPD. We are asking the Commission to consider a new innovative model, one that combines a profitable and vital agricultural use. What we have experienced in some of the rural analysis going through the Comprehensive Plan, we are seeing a loss of farmland. We are seeing less and less farm use every year. This is partly because of the economics. What we have in Albemarle County and actually experiencing across the state, is actually increase in vineyards for wine producing. In Albemarle County from 2001-2002 an increase of 16% of this crop has occurred. What we propose is a model combining the RPD recognized residential development with a viable crop. We are not suggesting it will replace traditional agricultural, but we are asking to try this to see if we cannot promote agriculture. In the end, the analysis does not promote agriculture. Here we have a way to respond and supply the growth that we know is occurring

To conclude, we take issue with staff on a number of issues noted in the staff report, but we feel we can work with staff to address to those issues. We did not conduct a complete by right plan, we were focusing on the plan that we planned to pursue. We felt we had established sufficient alternative use with the division rights. If we need to demonstrate that we can do another plan, we will do this. We will, if necessary, have a hydrologist meet with staff and satisfy the concerns related to ground water. The reason why Blenhem has 10 gallons per minute and only a gallon a minutes on adjacent properties is the nature of the groundwater in the community. We would not propose this development without conducting on site testing. There is a way to test for adequate ground water and is not necessarily from aerial photographs or from maps. We are prepared to do it on the ground.

Mr. Finley stated that the report explains clearly why the applicant is not meeting the zoning and planned requirements for a rural preservation development. He asked if the applicant felt they could prepare a plan that would meet County requirements for a rural preservation development, particularly clustering

Mr. Blaine stated that the applicant feels they can meet the requirements of the ordinance. The ordinance does not have one-design criteria. It does have design criteria that have been implemented as a tradition in the community. The ordinance actually says that the Planning Commission, where practical, should follow these criteria. What we are proposing is a practical

alternative. It is actually impractical to pursue the agricultural development and apply a traditional clustering because you would be intruding on what is planned for agricultural, the orchards and the open spaces. We take issue with the staff in identifying, based on soils, not all of the aspect in elevation and other criteria that are used to identify appropriate vineyard properties. Again, we have a vineyard culturist who has actually been on the site and located these prime vineyard sites. We would be happy to take staff to the site and show them that we are intruding on prime vineyard land. So, yes, can we do an alternative plan? Certainly, but this is a plan that meets both the agricultural component and meets the clients vision to create a vineyard community.

Mr. Thomas asked what portion of the proposed development is in the agricultural/forestal district. Mr. Blaine stated that approximately 378 acres are in the agricultural/forestal district. He pointed out that no property is being removed from the agricultural/forestal district. The client was guided by the County and the County Attorney to the RPD process. It happens that the RPD with this level of development requires a special use permit. There is an exception to the smaller than 21-acre development in an agricultural/forestal district where a special use permit is required. The notion that this will set a precedent, the small lot zoning is the precedent. That is what we are experiencing around the County. The County is trying to find ways to the alternative of the small lot zoning and the RPD is one that staff in review of the Comprehensive Plan Amendments would like to encourage. As you can see from the process that we are going through there is a reason why not many people are pursuing the RPD. Obviously, you not have to produce your plan and show that it complies with the zoning, you also have to do a by right plan all the way though to final engineering. So there is a disincentive to our traditional RPD. We felt this was the only way to develop the preservation tract approach to the plan that we are seeking. The preservation tract will have over 313 acres of permanently preserved land.

The Planning Commission took a ten-minute break at 9:26 p.m.

The meeting reconvened at 9:48 p.m.

Mr. Rieley asked if anyone else present would like to speak on Vineyard Estates. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and possible action.

Mr. Craddock stated that his grandparents went to went to Slate Hill Church and used to live on Morven. Living at Milton, he is very aware of historic areas and what a development next door can do. His first thought was that this proposal was in an agricultural/forestal district. After reading the report, he noted that 378 acres of the 511 acres are in agricultural forestal. The report also notes that there are 18 lots that are in the agricultural/forestal district, but we are not sure of the exact number of lots this development will have. The report also states that the preliminary plat and private road requests to allow a special use permit approval to meet the requirements of the subdivision ordinance and are therefore not ready for Planning Commission action. He felt this is not ready for Planning Commission action because it is in an agricultural/forestal district, much less the subdivision ordinance and so forth. He recommends denial of this permit.

Mr. Loewenstein stated that he was puzzled as to how this petition got this far, it is really not ready for prime time. First of all he commended staff for preparing a very detailed staff report which has made this difficult job slightly easier. How did we get here? This issue is approved would conflict with the agricultural/forestal provisions; which was the opinion of the Agricultural/Forestal Committee. It does not meet the rural area goals from the Comprehensive Plan. It does not meet the current design standards for RPD's. VDOT has suggested that increased traffic can cause unsafe conditions on Rt. 627. There is a potential for low groundwater availability among other things. There is an enormous amount of citizen input regarding this application. The vast majority of citizen input has been in opposition to this request. He pointed out that he has been on the Commission for four terms and never in his experience has he seen this much citizen input about any application. During his for terms, he

has operated on the principal that the Commission should do the greatest good for the greatest number of citizens in this community. As the at-large commissioner he is very focused on this goal. Having said this, he is unable to recommend approval of this special use permit. Echoing, Mr. Craddock, he would vote for denial of this request.

Mr. Finley stated that he lives on a farm in the rural area. He values his development rights and respects them as rights. He has a constitutional right to own private property and feel that his property rights starts at his property line although he may wish otherwise. There are approximately 30 development rights on this property and one way or the other something will be done with them. As the Commission, knowing this will happen, we need to decide what route to take. Is a rural preservation development the best way to go? By right? Or just close our minds and let it lie dormant—those rights will never spring up. He is not ready to vote yes for the project, but he is not fully ready to vote denial. He recognizes the enormous amount of work that has been done. He reiterated that something will happen, the Commission can not take away those rights, what is the best way to go?

Mr. Edgerton stated that the proposed subdivision really is the issue here. In revising the application and the plan, there is no question that the subdivision as proposed is not allowed in the agricultural/forestal district. It is actually asking for more lots than would be traditionally allowed in a RPD. Having worked on several RPD's he is familiar with the ordinance and this request does not approximate the RPD standards. Personally, he has problems with the model that is being proposed by the applicant. He deeply values the agricultural/forestal ordinance and can not support granting the special use permit for a project that is working counter to what the ordinance stands for.

Mr. Thomas stated that he agrees with Mr. Edgerton on the fact that this is not a project that is incompliance with anything in the agricultural/forestal district. He supports property rights and is being pulled left and right on making a decision. He is an avid fan of property rights. I believe the applicant has all the rights to develop their land. In order to support the vineyard, he feels this is a creative way to utilize the property rather than just a by right development. It is neat the way it is tucked into the vineyards. Even though 313 acres will remain untouched, it still is not in compliance with the agricultural/forestal district; which he also supports. The decision is whether it is worth giving up the land to a by right development or save it for a vineyard or some other purpose. The terrain is roughed in certain places. At this time he is not ready to vote he would like to hear more discussion from the other commissioners.

Mr. Rieley stated that he would like to thank all of the speakers who are remaining for tone of the comments tonight. This hearing was one in which, he felt, the substance could be heard. He agrees with the comments made by Mr. Craddock, Mr. Loewenstein and Mr. Edgerton. The staff builds an irrefutable argument against the passage of the special use permit. He takes issue with items #6, #7, and #8 in the staff report, because he feels they apply equally to a by right development as they do to a rural preservation development. The fact that this is in an agricultural/forestal district is the overwhelming issue. If this were approved by special use permit, which would not be approvable administratively if it were less than 20 acres, because it would require a special use permit. He felt the agricultural/forestal district essentially governs this. A scheme whatever its lure, is directly contradictory to the objectives of the Comprehensive Plan. The mosaic of residential and agricultural land locked together served by a huge amount of roadway. In looking at the schemes which the applicant said were to establish a baseline, the amount of roads in the by right scheme looked like there were not as many as in the cluster developments. Certainly, they were very comparable. The by right scheme is more clustered than the proposed scheme, which is spread out all over the entire property. There may be 30 development rights, to be at this stage to have a special use permit before the Commission and we don't know how many development rights we are talking about is incredible. It is appalling. It is an incomplete application. The plan does not comply with the Zoning Ordinance. For all of those reasons, but primarily because of the agricultural/forestal district I certainly could not support this special use permit.

Mr. Finley stated that the residences proposed in this request are not in the agricultural/forestal district.

Mr. Rieley stated that the residences were in the agricultural/forestal district.

Mr. Finley asked why in 2008 there may be more parcels.

Mr. Rieley stated that in 2008 the property could be voluntarily withdrawn from the agricultural/forestal district.

Mr. Finely stated that they are not talking about the additional ones that may become available in 2008. Does the request for a special use permit include the property that may be withdrawn from the agricultural/forestal district in 2008?

Mr. Rieley stated that this was a different level of development in 2008. The parcels that are within the agricultural/forestal district are, in fact, included in this proposal.

Mr. Finley ascertained that out to the 28 parcels, 18 are in the agricultural/forestal district.

Mr. Thomas stated that he would like to know the number of development rights on this property.

Mr. Rieley stated that this was required by the applicant as part of the application process; which has not been done yet.

Ms. Doherty stated that a determination can be made by the Zoning Administrator. The applicant can request a determination of the number of development rights or he can show the number of division rights you have and staff will do the research to determine whether or not this is correct. In this case they went with the later, but they were not shown correctly according to our ordinance. This is why we can not definitely say that they met the ordinance requirements. Division rights are different from how many potential lots they could create because of the agricultural/forestal district. With the agricultural/forestal district at least 30 development rights and up to 43 development rights is the agricultural/forestal district goes away.

Mr. Craddock moved for denial of SP-03-19 The Vineyard Estates.

Mr. Loewenstein seconded the motion. The motion carried by a vote of 6:0.

Mr. Finley stated that he found, on page 15 of the staff report, as Mr. Craddock had previously said that part of these parcels were in the agricultural/forestal district and for that reason he would vote aye.

Mr. Rieley stated that the motion to deny SP-03-19 would go to the Board of Supervisors and this will be heard by the Board at their December 10th meeting. He asked if there was any old business.

New Business:

Vice- Chairman: Mr. Loewenstein stated that because of the unexpected retirement of Tracey Hopper from the Rivanna District and because apparently that seat will not be filled until the end of the calendar year, he would suggest since she was serving as vice-chairman of this committee that they elect another vice-chair for the remaining weeks that they have in this year. He nominated Mr. Thomas for that position.
Mr. Craddock seconded the motion.

The motion carried by a vote of 6:0.

Mr. Rieley stated that Mr. Thomas was the Vice-Chairman.

Conflict of Interest Act: Mr. Kamptner distributed a memorandum to the Commission prepared by Mr. Davis, County Attorney for the Board of Supervisors that summarizes the changes to the Conflict of Interest Act that became effective this summer. He asked that the Commissioners take a look at it this week and if there were any questions that they contact the County Attorney's office.

Rural Area Work Sessions: Mr. Benish stated at the last Commission meeting they attempted to set some dates for future work sessions in the Rural Areas and the Crozet Plan. He stated that there was an agreement on the Crozet Plan to go to October 28th. At the 6:00 o'clock meeting the Commission opened up and closed a public hearing on the Meadows and deferred that to October 21st. That is the only item on that meeting and the applicant will be requesting, again, a deferral. He pointed out that the Commission would have to convene just on one item just to open and close the public hearing for another deferral. Therefore, he proposed that they take the Crozet work session from October 28th and move it to October 21st to give the Commission more items to cover and make the October 28th meeting a little shorter.

Mr. Rieley stated that sounded like a good idea.

Mr. Thomas asked if there was a work session scheduled for October 4th.

Mr. Benish stated that there will be a joint City/County work session on the 14th. Topics of discussion include the Avon Street – Fifth Street Extended Comprehensive Plan Amendment for that property and also the CHART recommendations. That meeting will start at 4:00 p.m. The proposal is to actually do both of those from 4:00 to 6:00 p.m.

Adjournment:

With no further items, the meeting adjourned at p.m. to the October 14, 2003 meeting at 4:00 p.m.

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V. Wayne Cilimberg, Secretary

(Recorded by Sharon Taylor, Recording Secretary and transcribed by Janice C. Farrar, Department of Planning & Community Development Assistant)