Albemarle County Planning Commission
February 3, 2004

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, February 3, 2004 at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Rodney Thomas, Chairman, Bill Edgerton, Calvin Morris, Jo Higgins and Pete Craddock, Vice-Chairman.

Other officials present were David Benish, Chief of Planning & Community Development; Francis MacCall, Planner; Yadira Amarante, Planner; Stephen Waller, Senior Planner; and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Thomas 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. Thomas invited comment from the public on other matters not listed on the agenda.

Mr. Neil Williamson, Executive Director of the Free Enterprise Forum of Charlottesville, stated that there was an article in Sunday's Washington Post that he wanted to bring to the Commission's attention. This article reflects a small residential development in Washington, D.C. called Sursum Corda. Sursum Corda is made up with about 155 townhouses and 44 apartments. The Catholic founders who conceived the Sursum Corda Cooperative nearly 40 years ago envisioned an urban village for the District's poor, where townhouses, courtyards and narrow streets all promoted a sense of community. Built around a horseshoe shaped street, Sursum Corda was given a name as lofty as its mission: Latin for "Lift up your hearts." When the townhouses were finished they were appraised for all low-income residents with air conditioning, garbage disposals and washers and dryers. At the time an editorial in the Washington Post lauded the architects for building "a compact little village." But the social planners of 1968 could not foresee the onset of crack cocaine in the late 1980's, or how the development's layout would be ideal for drug dealers who could sell openly and then vanish at the sight of police. The urban village is now an infamous housing complex off of North Capital Street. It is a place where a nun lived for nine years until the risks became too great, where visiting prosecutors were shot at, where some residents help drug dealers out of fear, and where 14-year old Jahkema Princess Hansen was fatally shot January 23rd after apparently witnessing a murder. For police, Sursum Corda is one of the most daunting of the 100 or so open-air drug markets in the city. "It was designed like the Alamo. It is very hard for us to get into," says Sgt. John Brennan, who has worked in the D.C. police's major narcotics branch for 24 years. "You worry about sending in undercovers because it is so confined." He stated that he raised this not because it was designed by bad planners. It was not approved by a lax city council or built by mean spirited developers. All of those involved in the process felt this concept was strong. The market did not embrace this type of urban development and very few were produced. He stated that he found this to be a very interesting story relating to the impact of design on the life of this community and wanted to bring it to their attention. (See the attached article entitled NW Housing Complex A Tangle of Drugs, Despair from the Washington Post.)

Mr. Thomas asked if there was anyone else present to speak on other matters not listed on the agenda. There being none, the meeting proceeded.

Consent Agenda:

Resolution of Intent to Amend the Zoning Ordinance to Complete Implementation of the County's Personal Wireless Service Facilities Policy - Adopt resolution of intent to amend the Zoning Ordinance to provide for a distinct "Three-Tiered" review of tower sites based on facility

types; add related definitions; amend the minimum submittal standards; and, add personal wireless service facilities to the by-right and special uses allowed in each of the zoning districts.

Approval of Planning Commission Minutes – October 7, 2003, October 14, 2003, November 11, 2003, November 18, 2003, and December 2, 2003.

Mr. Craddock moved to approve the consent agenda as submitted.

Mr. Edgerton seconded the motion.

Mr. Thomas stated that there were two Planning Commissioners who were not here for the meetings to be approved and they wish to abstain.

The motion carried by a vote of (4:2). (Higgins, Morris – Abstain)

Public Hearing Items:

SP 2003- 080 Tower at Pepsi Place (Sign #40, 44) - Request for a special use permit to allow the construction of a 60-foot tall tower equipped with six antennas and two grid-styled microwave antennas for enhanced radio broadcasting. This request is being made in accordance with Section 22.2.2(2) of the Zoning Ordinance, which allows for radio-wave transmission and relay towers, and appurtenances in the C-1 Commercial zoning district. The property, described as Tax Map 61W, Section 2, Parcel 2A, contains 1.32 acres zoned C-1 and is located in the Rio Magisterial District, at the intersection of Rt. 866 (Greenbrier Drive) and Rt. 1340 (Pepsi Place), approximately 1 mile east of the U.S. Route 29 North. The Comprehensive Plan designates this site as Community Service in Neighborhood 2. (Stephen Waller)

Mr. Waller stated that this proposal is for the construction of a radio broadcast facility, which would use a 60-foot tall tower equipped with six antennas and three grid-styled dish antennas mounted on it for the enhancement of clear channel radio broadcast. The building at Pepsi Place currently houses four channel radio stations. The applicant mentions in the petition that because of the current system's dependency upon telephone lines for the transmittal of radio signals that during times such as storms that the radio station was actually off the air for several hours until the telephone lines are repaired. He pointed out that this happened most recently during Hurricane Isabelle last fall. With this request, if they were allowed to construct this tower facility, they would be able to have a direct transmission to their existing facilities on Carter's Mountain. That in turn would send their radio signals to several other smaller facilities throughout the area as opposed to relying on the telephone lines. The proposed facility would be constructed adjacent to the existing building at that site, which is located at 1150 Pepsi Place. The portion of the building that the 60-foot antenna would be closest would be 35 feet in height, but the tallest portion of that building was actually 46 feet. For reference, there is an adjacent building on the northern property that is 53 feet in total height. The proposed facility would be located approximately 72 feet from the nearest boundary line. That boundary line is the property line that is shared with that 53 foot tall building known as the Jordan Building, which is on the property just north of the site of the proposed tower. Staff also recognizes that the top height of the proposed tower is approximately 5 feet shorter than the maximum height that would be allowed for a standard building under the district height regulations. Also, the facility would not require any waivers of the setback because that facility is a 60-foot tall facility and would be located farther than the height of the facility away from the nearest boundary line. During a field visit staff observed a balloon test which was flown from the 46-foot tall portion of the building. Due to windy conditions the balloon testing did not really go as well. Sometimes the balloon was blowing at an angle that did not let staff observe the total height. Staff also had a chance to go on the roof of the building to take some photos of some of the characteristics of the area, which included some of the existing buildings and some of the wooded area surrounding the facility. Staff also noticed that there are several similar facilities within a two-mile radius of this Pepsi Place site. Staff also recognized that when viewing the site from the west on portions of Route 29 North that the site

was not visible from the Entrance Corridor. When staff went farther west of Route 29, the photos show that the relationship of the building with the balloon test that it would appear that site would have some back drop provided by the trees, which were on an incline to the east of the site. Staff has reviewed this request and recommends approval with several conditions. One condition would require the applicant to provide with the building permit a set of construction drawings that would show two scale elevations and the locations of all antenna and dishes that would be installed on the tower for future references in case they add future antennas in future. Therefore, staff would have a record of what has been approved and would be able to tell anyone whether they would need a special use permit for any additional requests. He pointed out that the applicant's representative was present.

Mr. Thomas any if there were any questions for staff. There being none, he opened the public hearing and asked if the applicant would like to come forward to address the application.

Kishore Persard stated that they had several problems in the past where members of the public have depended on the radio in cases of emergency and that they have lost their telephone lines during some of these emergencies. Last year they lost their power several times. Last February they lost power on one site for 22 hours and in March they lost power on another site for 24 hours. During the hurricane they lost power for 6 hours on Carter's Mountain. It is for this reason that they make this request to ensure that during times of emergencies that they could facilitate and give the appropriate information to the public. Therefore, they would like to build this structure and put this wireless system into place. It is a very low power system. With regards to the emission, it is in compliance with the FCC and is very small. In order to exceed those emissions they have to be within a foot and a half of the antenna.

Mr. Craddock asked if they needed a generator to run this facility if the electricity goes off.

Mr. Persard stated that the site already has a generator that runs the entire facility.

Mr. Rieley stated that the Wireless Policy recommends various kinds of installations to minimize the visibility for structures like this. He asked which of those that they have explored as part of the application.

Mr. Persard stated that the initial size of the proposed dish was 6 feet in diameter. There are emergency technologies that would allow them to use a 2-foot square antenna panel. That technology is probably 4 times as much in cost compared to what they have right now. The last proposal was $96,000 for the installation. Currently they are paying 24,000 for this installation. He pointed out that maybe in a few years that the price of that technology will come down enough so we can use it. But right now it was a little bit too costly.

Mr. Thomas asked if there were any more questions for the applicant. There being none, he asked if there was anyone else present from the public who would like to speak on this application. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and possible action.

Mr. Rieley asked Mr. Waller if in his discussions with the applicant if there were any discussions about roof top installation.

Mr. Waller stated that staff had not really discussed that. Staff recognized that even though they were installing some larger equipment than what you would normally see on a personal wireless service facility that the width across the top of the tower would be 1 foot 10 inches. This was opposed to an 18-inch facility being used to mount the panel antennae. In talking with Mr. Persard about possibly using a monopole as opposed to this structure, staff found that part of this structure because of its rather small width would be seen through as opposed to being a solid structure where you have some backdrop. The antenna would have to be painted to match whatever backdrop is provided. There was no discussion about the smaller antennas.

Mr. Persard stated that they had some structural engineers look at the system initially and they were going to mount it on the roof. But, after the hurricane came through it was determined that should the hurricane gust exceed 45 mile per hour, then it would have caused structural damage to the building, which is why they decided to go with a tower. In addition, they wanted to maintain the integrity of the building.

Mr. Thomas asked if there were any other questions for Mr. Waller.

Ms. Higgins asked if the 65-foot height limitation was the ultimate that this structure could be built in the C-1 zone.

Mr. Waller stated that 65 feet was the ultimate structure height. As far as attachments on the structures, he pointed out that would be up to the Zoning Administrator's determination. He noted that if you had an elevator shaft or something like that, he was not sure if that would be counted towards the 65 feet.

Ms. Higgins stated that in theory the building could have an extension on it. This could be mounted flat on that roof and it would still be less than the 65 feet. She stated that instead of a see through tower that structurally does not offer wind resistance, that a building could still be 65 feet and have something mounted on top of it.

Mr. Waller stated that was correct.

Mr. Thomas asked if there was any more discussion. There being none, he asked if there was a motion.

Mr. Morris moved for approval of SP-2003-080, Tower at Pepsi Place, subject to the conditions as recommended in the staff report as follows:

1. The tower shall be located and built as shown in the applicant's submittal packet entitled Tower 1150 Pepsi Place, initialed 1/28/04 and included as Attachment B.
2. Prior to the issuance of a building permit, the applicant shall submit the final revised set of site drawings showing the proposed construction of the tower. These plans shall include to-scale elevations showing the tower profile and the location of each antenna Planning staff shall review the revised plans to ensure that all appropriate conditions of the special use permit have been addressed.
3. The tower structure shall not exceed 60 feet in height.
4. The width of each side of the tower shall not exceed 30 inches at its base, and 22 inches at the top.
5. Attachments shall be shall be limited to three (3) dish antennas not to exceed 6 feet in diameter and the six (6) antennas detailed in the applicant's submittal packet included as Attachment B.
6. No additional antennas that support services other than radio broadcasting shall be attached to extend above a total height of 60 feet on the tower.
7. The tower, antennas, dishes and all other equipment attached to above the roof of the existing building shall be painted a non-reflective, dull brown color that reduces its contrast with the sky and blends with the backdrop of trees.
8. No guy wires shall be permitted.
9. The tower shall be disassembled and removed from the site within (90) days of the date its use for radio broadcasting services is discontinued.

Ms. Higgins seconded the motion.

Mr. Rieley stated that before they vote that he wanted to make one comment. He pointed out that he hoped that the discussion about the transparent nature of trellis structures was not something that was going to leak over into other tower evaluations. He noted that he thought that it was

factually incorrect to say that a tower is less visible because it is a lattice structure rather than a solid one. He pointed out that his statement was just an editorial comment for future reference.

Mr. Thomas stated that it was a good comment and that he agreed with Mr. Rieley.

The motion carried by a vote of (6:0).

Mr. Thomas stated that SP-2003-080 would go to the Board of Supervisors with a recommendation for approval and would be heard on March 10th.

SP 2003-077 Parking Lot Expansion Ron Martin Appliances (Sign #36) - Request for special use permit to allow stand alone parking in accordance with Section 24.2.2 (12) of the Zoning Ordinance which allows for stand alone parking and parking structures. The property, described as Tax Map 45C, Parcel 02-1B contains .77 acres, and is zoned HC Highway Commercial. The proposal is located on Rt. 1417 (Woodbrook Drive), approximately .1 mile from the intersection of Woodbrook Drive and Rt. 29N (Seminole Trail), in the Rio Magisterial District. The Comprehensive Plan designates this property as Community Service in Neighborhood 1.

AND

SDP 2003-083 Ron Martin Appliances - Request for preliminary site plan approval for a 3,684 square foot addition to the existing Ron Martin Appliance store on parcels 2-1 & 2-1A and for a stand alone parking lot on parcel 2-1B on US Route 29 on a total of 2.02 acres zoned HC, Highway Commercial. (Francis MacCall)

Mr. Thomas asked Mr. Kamptner if these two applications could be heard at once.

Mr. Kamptner stated that they could consider both applications at the same time, but they would need separate actions.

Mr. MacCall summarized the staff report. He stated that the applicant requests a special use permit for Ron Martin parking lot expansion. The applicant is proposing to add a stand-alone parking lot to the parcel that is directly behind their existing building, which was on an adjacent parcel. Staff is currently reviewing the applicant's proposed expansion with the site plan amendment. With some work with the Zoning Department on how Mr. Martin will wind up using the building, it was determined that the number of parking spaces would be sufficient to accommodate the expansion that they are proposing. There are several conditions stated in the staff report about the screening, and staff believes that with review of the plan and then the subsequent review of the site plan, that they are supporting this application with the conditions as stated in the report. Staff is also supporting the waiver request for the buffer disturbance which essentially adds to that screening that is necessary for stand alone parking, which would provide the planting of screening shrubs along the property line. He stated that if there were any questions, that the applicant was present to answer them.

Mr. Thomas asked if there were any questions for Mr. MacCall. Regarding the idea of the entrance, which he thought was on the next parcel that comes off of Route 29, he asked if there has been any discussion about doing anything with that right lane. He pointed out that the right lane actually enters the second parcel.

Mr. MacCall stated that they did not have any discussion of that during this review.

Mr. Thomas asked if there were any other questions for Mr. MacCall. There being none, he opened the public hearing and asked if the applicant would like to address the application.

Mr. Kurk Gloeckner, of Gloeckner Engineering, stated that he represents Buddy Smith who is requesting the special use permit on the parcel. He pointed out that he also represents Logan Martin who has taken over his father's business and is planning an expansion. Logan has purchased Mr. Eways's property upon his retirement and he wishes to joint both buildings. In

doing so it necessitates additional parking. Logan also has a long term agreement with Mr. Smith to eventually own this parcel that is being requested for the special use permit and has no plans for building immediately, but needs the parking that fits on this property. He stated that he would be glad to answer any questions, but that was essentially the jest for the special use permit.

Mr. Thomas asked if there were any questions for the applicant. There being none, he asked if there was anyone else present who would like to speak regarding this application.

Greg Keyman, the owner of the adjacent property, stated that they actually work together for the upkeep of the roadways there. He pointed out that this place is a mess. He stated that he has been dealing with this situation since 1988. Mr. Martin promised the Woodbrook Association that he would not bring heavy-duty trucks in because he had a warehouse on Sixth Street, but that has been sold. Now that the trucks are coming in, he pointed out that he could not get anything to his building. He pointed out that he could not get a fire truck, police car or a rescue squad to the building for emergencies since it was totally blocked. If a car comes in the back entrance, there are refrigerators and washing machines all day long and trucks blocking both roadways. He noted that he has asked Mr. Eways many times to do something about this. There is another broken promise because Mr. Eways promised when he was going for his approval that he would bring the trucks into the building to unload, but it was never done. Now what happens is that the racks are put up to put the refrigerators and washing machines in and you can't bring anything into the building. Therefore, a huge tractor-trailer has to come on my property, backs up into his and the blocks the road. In addition, he has his delivery trucks parked there are waiting for the delivery. They have no quick method of unloading and loading their goods. The trash that Mr. Eways said would be kept indoors was never kept indoors and was constantly overflowing. The water from the property, which they are asking for a special use permit for, flows down onto my property. There is a guttering system on the back of this building, but nobody has ever cleaned that out. There are trees growing out of it. He pointed out that he has asked Logan and Mr. Eways to clean that out. It washes down on my property bringing all of the refuge. He pointed out that he was responsible for cleaning his own gutters and sewage system. Once the water stops, then it just sits there for a week easily. In addition, the road, which he was responsible for along with the other landowners, was disintegrating. He stated that he has pointed that out to the other owners, but still nobody cleans the gutter. Now they were asking for additional parking spaces and eventually a larger retail space and he did not understand where this was coming from. He questioned how they could ask for additional parking spaces when you look at the trucks that were parked there now that take up four customer parking spaces. He asked how that could be considered as a parking space and how could that be used to justify the number of parking spaces per square foot with all of these trucks there. He stated that he had trucks coming to his business that at Woodbrook and that the drivers have to hand carry his goods in to him. He stated that he has customers who come in that can't get to his property.

Sharon Evans stated that she lived on the property that was directly behind the parking lot. She pointed out that she was concerned about what was going to be done to maintain a proper distance between their yard and the actual parking lot and to when the trucks will be using that. She asked if there was going to be an adequate zone to keep the noise from affecting her house.

Mr. Thomas asked staff to state some of the distances that are required between this piece of property and her property.

Mr. MacCall stated that the requirement between the commercial and residential is the 20 feet as far as the undisturbed buffer. There is a 50-foot building setback, but the applicant is not proposing a building at the moment. The parking is required to be 20 feet from the residential. The parking that the applicant was showing does meet that 20-foot setback. The applicant was also requesting to disturb a small portion of that buffer to add a line of screening shrubs along there. There are already a considerable number of large pine trees that are along the property line. There is also an existing fence line. He pointed out that he did not believe that the parking spaces that are there would be used for any kind of truck traffic or anything like that. He pointed

out that Mr. Martin periodically has some events in the front area, which they use up some of the parking spaces for, but that this overflow parking would then assist with anybody who may come in. He pointed out that he believed that those concerns have been adequately addressed as far as with the screening in that was essentially necessary. If additional screening should be required then that was something that could be discussed. He pointed out that he did not think that the applicant would be adverse to that, but that they could probably speak to that if need be.

Ms. Higgins stated that she had never noticed a dumpster on the Ron Martin site and she felt that the trash was a legitimate concern because there are a lot of boxes that get flattened.

Mr. MacCall stated that was the concern, and that right now they have been using this parcel and have been cited for multiple violations for putting a dumpster on the site without a site plan.

Ms. Higgins stated that the dumpster has just been dumped there and has been used.

Mr. MacCall stated that was correct, but that staff is accommodating that with an actual dumpster with the appropriate screening which would be necessary. He pointed out that the dumpster just had a fence around it, but if there was a need for additional screening that they could possibly put in some screening shrubs. Again, that whole tree line is there, even though it might not be exactly intact as laid out, but there are a number of white pines that are all laid out.

Mr. Thomas asked if there was anyone else who wanted to speak on this application.

Edgar Lindamood stated that he was a friend of the Evans' who live directly behind this site. He stated that that he heard the answer that you don't think that they are going to have truck traffic in odd hours and that does not sound like a very definitive answer. He stated that the answer should be if there are going to be deliveries or there not going to be deliveries there. If the answer is yes, fine then let us know. But it does not really sound like we got an answer. He asked if there were going to be deliveries done in this space.

Mr. MacCall stated that he did not believe there were.

Mr. Lindamood stated that was really a major question because two of the mornings for deliveries that it was really going to disturb what is very much a residential area.

Mr. Thomas asked if there was anyone else who wanted to speak on this application. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and possible action. He asked if there were any more questions for Mr. MacCall.

Ms. Higgins stated that the dumpster location is shown with a 10' x 10' dumpster and she was assuming that the screening fence would be opaque. She asked why the dumpster was not of a double size so that there could be adequate area for cardboard. She pointed out that the only thing she had seen blow around there was the boxing off the appliances and that sort of thing. She asked if the applicant has given any concern to making that a double dumpster pad. She assumed that at some point they would opt to put another dumpster there and then they would have the same thing reoccur, which was one outside of the screening fence. She asked that they consider that as a potential recommendation.

Mr. Craddock asked where they park the trucks now.

Mr. MacCall stated that the time that he went out on site that the trucks that are not being used are actually parked along the side along Woodbrook. Those trucks are small and not like the large tractor-trailer trucks that deliver to the site.

Ms. Higgins asked if the required loading spaces would be in front of the docks. She pointed out that implies that there will obviously be trucks that deliver.

Mr. Benish pointed out that there were two loading docks proposed.

Mr. Thomas asked if the applicant would like to come up and answer these questions.

Mr. Gloeckner stated that they would be providing a new loading space for the trucks, which was actually a curve that was parallel to the new addition. It would handle a large truck that would be parallel to the building, which would improve the circulation of traffic. As far as adding another dumpster, that if that is the wish of the Commission that the applicant would not have an objection to that. He noted that they were correct that there has not been a dumpster in place and that the trash has been thrown all over the property, but this should take care of it. The delivery times will remain the same that they have been during the day. As far as trucks in the parking lot, the parking lot is designed for automobiles and not for trucks. There is 60-foot wide double bay parking.

Mr. Craddock asked about the comment from one of he adjoining landowners about the water, trash and stuff like that coming down on his property.

Mr. Gloeckner stated that he could not help him with the trash, but that the applicant could be put on notice that he is concerned about that. The dumpster should be very helpful as far as that was concerned because there has not been one. This plan has not been engineered at this date, but they were waiting for the approval of the permits and then the final engineering will be done.

Mr. Edgerton pointed out that he had said that the parking lot was not designed for trucks. He asked if he would be able to commit that there would not be trucks delivering to that site.

Mr. Gloeckner stated that to the best of his knowledge that he would commit to that.

Mr. MacCall pointed out so that it was understood that they might be able to possibly condition the special use permit, which was for the stand alone parking on that separate parcel, to not allow storage of delivery vans or something to that extent on there. The site plan issues that are coming up are being addressed and they are reviewing all of that, but it is still in that process. Engineering has not brought up any problems with circulation, the loading location, drainage and things like that. He pointed out that he had suggested to the applicant that they have engineering go out physically on the site to check over the current problems. He stated that he was not sure if they have seen those things during their current review. He pointed out that the review just had not been completed and that they would hopefully address all of these issues.

Mr. Gloeckner stated that the additional impervious area that they were creating is going to be properly put into the storm drainage systems. In addition, they will also have to treat the storm water and there will be a bio-filter in place so that a lot of the run off that the neighbor has been experiencing will be trapped on the property.

Mr. Rieley asked if the adjacent property owner would come back up and point out the location of his property.

Mr. Keyman pointed out the location of his adjacent property.

Ms. Higgins asked if he was Heartland Trust, and Mr. Keyman stated that he was.

Ms. Higgins pointed out that there appears to be a storm water clean out located on the plan at that juncture in the corner of that building. She pointed out that whether it is maintained or not would affect its collection point.

Mr. Keyman stated that he did not know if it exists, but that he did know that it does not work. He pointed out that for the past three weeks there has been a big delivery truck parked in this area and he has complained numerous times to the Fire Marshall and others to have it moved.

Mr. Rieley pointed out that helped him to understand his concerns.

Mr. MacCall stated that travel way is proposed to be widened, and he believed that the actual loading space had been pushed back into that new addition where you could see the new curb line where the truck should technically sit. Then there should not be a truck at that corner in that blind spot coming around that building. Technically through the engineering review there should be appropriate site distance, which hopefully they are improving with some travel way improvements in the back. He pointed out that you could see the existing curbing and understand why that problem was happening, but with the addition of some new curb lines and travel ways that it would be passable and the site distance may be improved

Mr. Edgerton stated the stand alone parking, which was just the portion up on the right, was being requested. He questioned how the buffer would be impacted by waiver request. The buffer will be disturbed a little bit along that edge, but then they were putting in the boxed bushes. He asked if all of the trees shown on that buffer were existing.

Mr. MacCall stated that he did not take a full count of those, but he felt that this was a work up from an existing site plan, and therefore all of the trees should be there.

Mr. Thomas stated that there are some pine trees along there, but he was not sure how many.

Mr. MacCall stated that if all of the trees are not there, then that is something that Zoning usually can take care of through compliance of the site plan.

Mr. Kamptner pointed out that, since this was a special use permit, the Commission could impose conditions as part of the special use permit to deal with those issues.

Mr. Benish pointed out that the delivery in that parking or storage area could also be conditioned.

Mr. Thomas asked if there were any concerns about the buffers. He pointed out that he definitely has some concerns.

Mr. Rieley stated that the previous comment about it being about one-half the way there is very pertinent. He stated that the suggestion to deal with some of these concerns through the conditions is a good one and a sensible way to do it. It seems that most of the concerns that have been raised by neighbors on both sides of the property, on the east and north, could be dealt with through conditions. It requires a certain leap of faith on our part because he felt that they should go ahead and deal with this. He felt that they should put conditions in the hands of staff to execute, but others may be needed as previously stated. One condition was that the screening on the east side, particularly adjacent to the Evans property, should be addressed.

Mr. Thomas stated that the screening all along those residential properties should be protected.

Mr. MacCall stated that screening could come in multiple forms, and one of those usually is a fence, which is currently existing there along that shared residential property line.

Mr. Thomas asked what the height was of that fence, and Mr. MacCall stated that it was approximately 6 feet.

Mr. Rieley stated that he was suggesting that because this was a special use permit and that the screening condition could go beyond the site plan requirements. One of the other issues that he felt that they should put in engineering hands to make sure that it is dealt with is the improvement

of the drainage on the north side of the site. There is no reason not to fix that as a part of this special use permit. He suggested that they stipulate the location of trucks, particularly when safety is an issue not only on the parking lot on the east side, but also the location on the northern part of the site. Ms. Higgins' is correct that in the widening that they were going to have a better place to put the trucks, and therefore specifying the location makes sense. He stated that he would be happy for engineering to do that. He concurred with Ms. Higgins' suggestion to go ahead and make the pad big enough for two dumpsters and provide screening for both of them. Since that has been a big problem, they should go ahead and take care of it now. He stated that he was not sure how to phrase all of this, but it should be done. He stated that there was a real opportunity to improve this situation.

Mr. MacCall pointed out that there has been a recent addition to requiring refuge dumpsters on site plans, but that some businesses only have the use for one dumpster and other may have the use for a cardboard container, but it varies. He thanked the Commission for making that suggestion.

Ms. Higgins pointed out that the site plan listed the existing screening as 10 boxwoods or screening bushes and new 16 boxwoods. She asked what type of fence was existing.

Mr. MacCall pointed out that it was an opaque wooden fence right on the property line.

Ms. Higgins asked if the fence was required when the property was rezoned and who would be responsible for maintaining it.

Mr. MacCall stated that he could not see any deterioration, but pointed out that he did not look at it that closely. He stated that it appeared to provide an adequate amount of screening.

Ms. Higgins stated that if the fence was a required amenity to the site that she felt that it should be reinforced.

Mr. MacCall stated that he honestly did not know because it was a mismatched type of fencing, and therefore it might have been the property owners that had done that.

Ms. Higgins stated that if there is an opaque wooden fence of a certain height and it goes from this corner all along the residential section that she did not have as much problem with the 42 trees, the 16 boxwood, and the 4 pin oaks. But if it does not exist and there are gaps in the fence, then they should look at reinforcing those gaps or talking about fence.

Mr. Thomas stated that they need to make sure that the fence is a blind and is in good condition.

Mr. Rieley stated that it was a good idea and as the other concerns that they could entrust staff to follow through.

Mr. Rieley asked to question Ms. Evans about the fences.

Sharon Evans stated that those fences were actually the residents and were on each of the resident's properties. Therefore, it was not anything that would be maintained by Mr. Martin. The reason that there are the different types of fences is that each resident put up their own.

Mr. Thomas pointed out that the question was if the Commission wanted to condition the fencing.

Ms. Higgins asked if the applicant had any suggestions concerning filling in the gaps in the fence. She pointed out that at any time any resident could take their fence down or it could deteriorate to an extent that it does not provide fencing. She stated that she did not know what the answer to that would be.

Mr. Gloeckner stated that as far as appearance, he felt that the natural shrubbery and trees would exceed the fences.

Mr. Benish stated that to install a fence they would have to get into where the existing trees are located now. He noted that it was a potential problem. He stated that they could suggest some standard for additional screening, but if they wanted to allow for the option of fencing to be installed that staff could deal with that at the site plan level. He pointed out that it sounded like the screening trees would be the best approach.

Mr. Thomas stated that they needed a motion to include all of the conditions.

Mr. Rieley moved for the approval of SP-2003-077, Parking Lot Expansion Ron Martin Appliances, with staff's recommended conditions and the additional conditions as follows:

The Planning Commission recommends approval of the special use permit request to allow stand-alone parking with the following conditions:

1. A final site plan shall be submitted for approval, which shall be in general accord with the revised plan that shows improvements on Tax Map 45C Parcel 02-1B, dated January 28, 2004.
2. At least one sign shall be posted in the parking area that identifies the use as parking for the adjacent commercial use only (Tax Map 45C Parcel 02-1A & 02-1), with size and location of the sign to be determined and approved by staff.
3. Additional screening on the east side of the property both under the existing trees and in the gaps under the direction of staff to provide a satisfactorily level of screening of the residences on that side.
4. A stipulation for the location of the storage of trucks with particular attention to no storage of trucks in the new off-site parking area in a safe designated area for the storage of trucks on the northeast side of the property.
5. Improvement in the drainage to the north side of the site and additional work on that with Engineering's staff approval to make certain that planting system is working at a satisfactory level.
6. This approval does not deal with the fence since it is located on the adjacent residents' properties.
7. Double the dumpster pad with the screening going all the way around it on the three sides of the new double-dumpster pad.

Mr. Edgerton seconded the motion.

Mr. Kamptner asked for clarification of the truck storage. He stated that this special use permit applies only to parcel 1B. He noted that he was not sure if the drainage or the truck storage pertained to that parcel or to the site plan. He pointed out that those two conditions should just become a direction to staff as part of their site plan review.

Mr. Rieley stated that they would stipulate a parking lot that was covered by a special use permit in which no trucks shall be stored in that and staff could define what passes as a truck. He asked that in addition that the Engineering Department pay particularly close attention to the location of the trucks on the northeast side and the drainage issues.

Mr. Edgerton stated that he had already seconded Mr. Rieley's motion.

The motion carried by a vote of (6:0).

Mr. Thomas stated that the Commission would now take up the waiver that was in the same application, SDP-2003-083 Ron Martin Appliances.

Mr. Kamptner asked if SDP-2003-083 was the correct application number.

Ms. Higgins stated that the correct application number was SDP-2003-058.

Mr. Benish suggested that it might be a good idea for the condition that they just applied to the special use permit to be applied to the buffer just for continuity for the same screening condition.

Mr. Rieley moved for approval of SDP-2003-058 with the inclusion of the buffer that Mr. Benish has just articulated.

1. Additional screening on the east side of the property both under the existing trees and in the gaps under the direction of staff to provide a satisfactorily level of screening of the residences on that side.

Mr. Edgerton seconded the motion.

The motion carried by a vote of (6:0).

Mr. Thomas stated that the motion carries and the applications for SP-2003-077 and SDP-058 would go to the Board of Supervisors with a recommendation for approval and would be heard on March 17th.

Regular Items:

Western Albemarle HS Lighting Waiver: Request for a waiver of the Lighting Regulations in Section 4.17.4(a) of the Albemarle County Zoning Ordinance in accordance with Section 4.17.5(a) 2; so that the fixtures on the four (4) existing poles on the main athletic field can be replaced and to install two (2) new poles at the end of that field, also to install four (4) new poles on the practice/multi-use field adjacent to the softball field. The property, described as Tax Map 56, Parcel 17C, is located in the White Hall Magisterial District on Rt. 250W (Rockfish Gap Turnpike), about .25 miles from the intersection of Rockfish Gap Turnpike and Rt. 240 (Crozet Avenue). The Comprehensive Plan designates this property as Rural Area. (Francis MacCall)

Mr. MacCall summarized the staff report.

- The applicant requests a waiver of the outdoor lighting regulations in Section 4.17.4(a) of the Albemarle County Zoning Ordinance in accordance with Section 4.17.5(a) 2. An upgrade to the existing lighting system for the main athletic field at Western Albemarle High School is proposed as well as the addition of two (2) poles at each end of the field. A practice field is being proposed to have a new lighting system of four (4) poles as well. Prior to negotiating a contract for a lighting system, the County's Capital Projects Team seeks approval of this waiver.

- The property is currently developed with Western Albemarle High School. Currently, three athletic facilities have sports lighting. These are the football field, the tennis courts, and the most recently approved softball field.

- The lighting ordinance, adopted August 12, 1998 and subsequently amended October 17, 2001 as Section 4.17 of the Albemarle County Zoning Ordinance, requires each outdoor luminaire with a lamp emitting 3000 or more maximum lumens to be a full cutoff luminaire.

- Upgrading the lights at the main field and providing lighting for the practice field will further the objectives of the Schools and Parks and Recreation facilities and to the greatest extent possible, the Dark Sky objectives as identified in the Comprehensive Plan.

- Currently the Planning Commission has approved waivers for lighting of athletic fields at all of the high schools - Albemarle High School softball field, Western Albemarle High School softball field and the baseball field at Brownsville Elementary, and Monticello High School baseball and softball fields. Tom Garrison, Project Manager for the County's Capital Projects Team, has stated that the types of luminaries that they would use at Western Albemarle High School are the same that were used for the fields mentioned above.

- The Request for Proposal for the lighting system has specifically stated that the lighting system should minimize light output above the horizontal plane to the extent possible while providing safe illumination as determined by the recommended practices adopted by the Illuminating Engineering Society of North America. The proposal also states that the project execution is contingent upon the approval of the waiver by the Planning Commission.

- There will always be the concern of glare from any proposed lighting system. Attachments D and E provide a visual explanation of glare and show how a sport lighting luminaries properly shielded can reduce the amount of uplight and glare above the horizontal. In addition, the luminaries will be angled properly to provide for the best illumination of the field. Staff believes that the glare that will be seen from the lights will not significantly affect any adjacent rural or residential property. The location of the fields is also far enough away from any property line and public road that light spillover is not an issue.

- There is currently one company that states that it can provide a system that uses full cutoff luminaries. Whether this system is one that is affordable for Albemarle County or not is something that is currently being evaluated by the County's Capital Projects Team. Staff is still not sure if a system that requires more poles and would have poles that are higher than the proposed poles would be what the County is looking for, and still provide safe illumination of an athletic field as recommended by the Illuminating Engineering Society of North America. The Capital Projects Team seeks to meet the objectives of the Comprehensive Plan as much as possible, and feels that the system of lights that the County has recently installed on three of its athletic fields and at Piedmont Virginia Community College does to the greatest extent possible meet those objectives. After previous evaluations, staff believes that the amount of uplighting and glare are reasonable for this type of lighting system and that certainly the replacement of the old system with a newer is an improvement that reduces light pollution caused by uplighting.

- During the yearlong Crozet Master Plan process, citizens voiced concerns about adverse impacts to the night sky from increasing growth within the community. In Section III of the proposed Master Plan, under Natural Environment, it is recommended that exterior lighting be carefully monitored and minimized in areas that are widely visible from other parts of the community. Because outdoor and/or athletic field lighting at Western Albemarle High School is already extensive, in staff's opinion no new adverse impacts would be created with the addition of another lighted field, provided that the requirements of the lighting ordinance are met. Obviously the sports lights are not full cutoff luminaries, but they will certainly meet the spillover provisions of the ordinance. If the proposed field were centrally located in an otherwise dark area, particularly one widely visible from other parts of the Development Area, introduction of athletic lighting would likely be inconsistent with the intent of the Master Plan.

- The applicant's letter mentions pedestrian lighting attached to the poles at the main athletic field. These are full cutoff luminaries and will be used to illuminate the track enough for public use without having to turn on the entire lighting system. A waiver is not necessary for these lights to be installed.

- Staff finds that this request to replace the exiting fixtures on the main athletic field, add two (2) additional poles to that field, and light the practice/multi-use field at Western Albemarle High School is consistent with the intent of the Comprehensive Plan in that it addresses

Service Objectives identified for Schools and Parks and Recreation as well as certain objectives of the Dark Sky section of the Comprehensive Plan. Staff believes that what is being requested through the proposal will, to the greatest extent possible, reduce the light output above the horizontal while providing safe illumination for play, and, therefore, recommends approval of the waiver.

Mr. MacCall stated that staff from the Capital Improvements Program and Parks and Recreation are present to answer any questions.

Mr. Thomas asked if there were any questions for Mr. MacCall. He pointed out that the Commission has already had waivers that we have recommended at other schools in the County for safety reasons because of the standards that have to be met. There being none, he opened the public hearing and asked if there were any comments from the applicant.

Tom Garrison, Project Manager with Capital Improvements for Albemarle County, stated that he has been tasked with getting this program moving and getting the lights out there. He stated that he had some additional information that he wanted to hand out tonight that has come in since they submitted this request to the planners. This information was just received today from a Musco representative, which shows a comparison of the soft lighting fixtures compared with a Musco type. He pointed out that they did contact Soft Lighting and they did a design for them on the multi-use field itself. With their design it would have doubled the poles and instead of having four poles with two on each side, it would have had two on each side and then two additional poles in each end zone. So the cost would be about 1¼ to 1½ times what it would be for what they have been using so far. There is a question of spill. He stated that he did not have a design from Soft Lighting on the spill at the property, but he did have it from Musco. He pointed out that they could meet the ordinance at the property line with their design. But, in the Seattle comparison that they had here the spill light was actually more for the soft lighting fixture. It was 1.9 foot-candles at the property line compared to 1.61 foot-candles. Another thing is that with more poles there is more visible impact. He pointed out that the colored sheet that he had would show them a profile of this particular test case that they had in Seattle, which would show the visual impact with more poles with more fixtures on each pole that may help the Commission make a decision. He pointed out that they have details of the full cut off light fixtures and they are not actually perfectly level, but are kicked up a little bit to aim out a little bit. Therefore, they are not true full cut off, and the Musco light fixtures have a little baseball cap like bills that will help direct the lights downward. He pointed out that a Soft Lighting representative had a sketch of a vulnerability area for glare for when someone was down at the goal end and looking off directly to each side at 90 degrees if there is a pole in those areas. Most of the end zone is in that vulnerability area. Therefore, in this design that they have on the multi-use field, the directional lights are not in that zone, but the Soft Light would be in that case.

Mr. Edgerton stated that he was certainly not familiar as he wished with this type of lighting. He pointed out that they were trying to direct a lot of residential growth into this area. If he had read the report correctly we are replacing the existing lighting with more shielded lighting on the main field, but adding lighting to the multi-use field that does not exist now.

Mr. Garrison stated that was correct.

Mr. Edgerton asked if there were any plans in the coming years to add additional lighting to additional fields. He stated that they really need to think about that. He stated that the question was at what point do we say that there is enough light in this particular space.

Mr. Garrison stated that however if the growth continues you would still need to have facilities and would it be better to have them concentrated in one place than out around the County. He stated that he could not answer the question about what future plans that the Parks and Recreation Department may have. On the existing football fields, they added poles on the end zones not just

to light that, but to meet the spillover ordinance and make it better than what was originally out there.

Mr. Morris stated that the Crozet Master Plan seems to emphasize a great deal about the dark sky question and naturally this will have some type of impact on it. He asked what was the time frame for the new lighting for the multi purpose field would be to be in use.

Mr. Garrison stated that basically as soon as they could get it going. If they receive approval this month, then it would take about two months to get it advertised and then they would have it built by fall.

Mr. Morris asked what would be the cut off time.

Mr. Garrison stated that it would be around ten o'clock at night.

Mr. Benish stated that staff wanted to respond to the concentration of lighting issue, which was one of the balancing factors in their ultimate decision. He pointed out that at least there already was a concentration of lighting in the area where the new lighting was being proposed. Staff sees some benefit in clustering that lighting impact if they approach the full cut off as close as they can. The other thing that they grapple with is that as they grow there are needs, particularly in the winter time periods and late fall, for more playing facilities. They can maximize the utility of the existing fields by extending the length of playing time and that balances the need for additional fields. There is no magic to that, but they want look much more cautiously when they are introducing a whole new set of lighting in the area that has not been lit before. In this particular case because there was some presence of lighting he felt that in the end staff felt comfortable with the balance of impact here.

Mr. Thomas asked if there was anyone else in the audience who would like to speak regarding this application. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and possible action.

Mr. Rieley stated that he thought that when they discussed and eventually passed the Lighting Ordinance that one of the caveats from the very beginning was that they realized that sports' lighting was going to require a waiver for this process. That was one of the reasons why the waiver was built into the ordinance as it was written. He stated that the argument between the soft lighting approach and the Musco semi cut off approach is one in which there are good arguments on both sides. He stated that he would like to see the County be aggressive to get the very best system, but he felt that it was a mixed issue. He stated that the system that is in front of the Commission was a substantial improvement over what is out there now. Therefore, he was inclined to support this recommendation.

Mr. Thomas asked if there was a motion.

Mr. Rieley moved for approval of the Western Albemarle High School Lighting Waiver as recommended by staff.

Ms. Higgins seconded the motion.

Mr. Thomas agreed with Mr. Rieley in keeping the light as low as possible and also in keeping the safety factor in mind for all of the athletes who are using these fields at night.

Ms. Higgins stated that this was the fourth waiver for athletic facilities. There are 16 schools in the outlying areas of the County. She asked if there was any expectation of having a provision for athletic fields in the ordinance. She stated that the fourth time on a waiver for the same proposal seems to be the point that the Lighting Ordinance should be redone or maybe it was something to think about.

Mr. Rieley stated that it was something to think about. But he pointed out that before the Lighting Ordinance was adopted that these issues never came before them and they did not hear these arguments about why Musco was almost as good as Soft Lighting and what the pros and cons were. Therefore, he would support the waiver process.

The motion carried by a vote of (6:0).

Mr. Thomas stated that the motion carries, but that since it was a waiver that it would not go to the Board.

Mr. Thomas suggested that the Commission put the next three items together and that staff gives an overview on all three, but then act on each one individually.

It was the consensus of the Commissioners to hear all three requests together.

SUB 03-263 Blenheim View Estates Preliminary Plat - Request for preliminary plat approval to create 6 lots on 226.1 acres with an 84.9 acre residue to be combined with another property. The property is zoned Rural Area. The property, described as Tax Map 103, Parcel 10 is located in the Scottsville Magisterial District on Rt. 727 (Blenheim Road), approximately 1 mile south of its intersection with Rt. 627 (Carters Mountain Road). The Comprehensive Pan designates this property as Rural Areas in Rural Area 4. (Yadira Amarante)

SUB 03-265 Orchard Estates Preliminary Plat - Request for preliminary plat approval to create 17 lots on 229.96 acres. The property is zoned RA - Rural Area. The property, described as Tax Map 103, Parcels 7, 8, 9, 10 and 15 is located in the Scottsville Magisterial District on Rt. 795 (President Road), approximately 2 miles south of the President Road and Rt. 620 (Rolling Road) intersection. The Comprehensive Plan designates this property as Rural Areas in Rural Area 4. (Yadira Amarante)

SUB 03-264 Meadow Estates Preliminary Plat - Request for preliminary plat approval to create 8 lots on 139.3 acres. The property is zoned RA, Rural Area. The property, described as Tax Map 103, Parcel 3 is located in the Scottsville Magisterial District on Rt. 627 (Carters Mountain Road) just north of its intersection with Rt. 727 (Blenheim Road). The comprehensive plan designates this property as rural areas in rural area 4. (Yadira Amarante)

Ms. Amarante stated that there were three subdivisions before the Commission. She pointed out that various maps for each request. All three sites are comprised of a total of 6 existing parcels and were all similar in characteristics in terms of that they are all very wooded, and fairly to very steep in some areas particularly around the stream locations. All 6 parcels combined are proposing to create 31 lots. Some of them are in an Agricultural/Forestal District, and all of those lots that are being proposed are 21 acres or more. Then there is a range of acreages for the smaller lots, which are outside of the Agricultural/Forestal District. In total, it is about 594 acres that are being subdivided. There are 356 acres that are in the Agricultural/Forestal District. All three subdivisions came in as by right developments because they are proposing public roads. All of the lots meet the minimum requirements of the Subdivision Ordinance and the Zoning Ordinance. Staff is recommending approval of the first two subdivisions with conditions as stated in the staff report. Staff is recommending denial of the third one, and she would get back to that. The reason that these subdivisions are before you, which are by right divisions, was that they were called up to the Planning Commission for review by an adjacent property owner who was concerned about the lots being created in the Agricultural/Forestal District. As stated in the staff report, however, the County Attorney opinion is that these parcels in the Agricultural/Forestal District can be subdivided as long as they meet the requirements of subdivisions in the Agricultural/Forestal District both being 21 acres or more, and the subdivisions do meet that requirement.

The third subdivision is being recommended for denial because they don't meet the site distance for the entrance. She pointed an omission in the staff report. She pointed out that she had stated on sheet two in the second paragraph that there are two site distance lines that are needed. One of them is the 550 foot site line for left turn movement and the other one is a 400 foot site line for a north bound movement out of the subdivision for the left hand movement, but looking northbound from the subdivision entrance. The applicant has obtained that 550 foot left turn movement. It is within the right-of-way and VDOT has informed staff that they will have to cut down some bushes and some trees in order to get that sight line, but they can get it. It is within the right-of-way. It is the 400-foot sight line that we need across the street from the property that is not under the applicant's control. She pointed out that she just wanted to make it clear that it was on Route 795 where the sight distance is lacking. Therefore, that is the reason that staff is recommending denial. It is the County's policy not to approve preliminary plats unless we have a letter of intent from that other property owner that they are willing to grant that easement. She stated that if there were any questions that she would be happy to answer them.

Mr. Edgerton asked if the site distances for the other two proposals are satisfactory.

Ms. Amarante stated that the one for Meadows Estates is fine. For Blenheim View Estates that a sight distance easement is needed on the property across the street from tax map 102, parcel 35B. But, the applicant owns that property.

Mr. Edgerton asked if they have the necessary sight distance on Bleinheim View Estates, and Ms. Amarante stated that they do.

Mr. Edgerton stated that looking at the Blenheim View Estates plat it has lot 3 that is 27.05 acres (1 development right retained) and then it has lot 24. He asked if she could explain what that means.

Ms. Amarante stated that these parcels are envisioned to come out of the Agricultural/Forestal District at some point. Actually the Landark District is up for review in 2008. There are development rights on all of these properties, which are not being utilized because they can only create 21-acre lots. Therefore, the ordinance dictates that we put those development rights somewhere because they cannot just go away. Basically, they are just noting where those development rights are going and which lots they are being apportioned to so that if ever these lots came out of the district they would be able to utilize those development rights and then further subdivide the property.

Mr. Edgerton stated that what they would be granting here would be permission for a 27 acre lot which in effect is going to be subdivided in a few years or actually could be. He stated that it seemed like they were getting it both ways and he was really having some trouble with that. He asked if that was legally the way that they had to go.

Mr. Kamptner stated that the Subdivision Ordinance requires that development rights be assigned to parcels that are being created by a plat. Therefore, this is required by the ordinance.

Mr. Thomas asked if there were any more questions for Ms. Amarante. There being none, he opened the public hearing and asked if the applicant would like to address the Commission.

Steve Blaine, representative for the applicant House and Garden Company LLC stated that there were representatives from the Cox Company here as well to answer questions, but that they did not have a planned presentation. The staff report adequately sets out the standards and indicates that the subdivisions, other than the one line of sight issue which has been identified, meet the requirements of the ordinance and meet the standards of the Agricultural/Forestal District in terms of subdivision. Therefore, the proposed subdivisions are appropriate for your approval tonight. There is one point of order that he would like to point out for the record, which should not affect their review or deliberations. Code Section 14-218(b) actually permits an

adjoining property owner to call up a preliminary subdivision plat, which has been done appropriately for SUB-03-264, Meadow Estates. But, there are no adjoining property owners who requested Planning Commission approval for SUB-03-263 or SUB-03-265. He pointed out that as we say, we are here and this is a legal matter. Therefore, he stated he must in the interest of his client reserve this jurisdictional basis, and he had to make that point of order. On the line of the sight issue that relates to Orchard Estates, they understand that they must have a letter of intent or actually an easement ultimately from the adjoining property owner to provide the line of sight for the northbound movements out of that subdivision. They have already engaged in contacting that adjoining group of property owners. It may be of interest to you that it is a family owned property and there are no fewer than 14 individuals. It is always this way. There are 14 family members who must sign the letter. He suggested that they go right to the form of the easement. But that is in process, and they understand that must be obtained to ultimately get this plat approved. What they would ask is that the Commission provides conditional approval of a preliminary plat and authorizes the staff, as you typically do in these instances, to make certain that is satisfied as a condition for final site plan. He stated that they know that there will probably be 8 to 10 months of engineering to take the preliminary plan to a final site plan. They can be doing that contemporaneous with getting the family members who may be dispersed around on the easement. If they don't obtain it, then they realize that they have to go back to square one. He stated that he just wanted to be clear on the reservation of these development rights that Mr. Edgerton raised. That is an accounting that is required in the ordinance for any subdivision. He pointed out that they were not approving any further subdivision by just accepting a plat, but it just must be accounted for. The point on Blenheim View Estates is that they can maintain the line of sight being that the one off-site easement is on property owned by an affiliate of the applicants. He respectfully requested that the Commission approve all three requests. He emphasized that all three requests were separate subdivisions and could be developed separately at different times. He asked that the Commission consider that in their deliberations.

Mr. Thomas asked if there were any questions for the applicant.

Mr. Blaine asked to reserve a minute or two if there were any questions that arise from the public.

Mr. Thomas asked if anyone was present to speak regarding this request. He pointed out that Marcia Joseph was signed up on all three sign up sheets.

Ms. Marcia Joseph stated that Mr. Blaine had brought up the point that only one person adjacent to one of the properties had sent in a request for a hearing. She asked if the Commission was going to limit the comments to that property or not. When she saw that this was coming before the Planning Commission that she assumed that all three of these subdivisions would be discussed and it was here. She asked if she would be restricted or could she speak to all three of the subdivisions.

Mr. Thomas asked Mr. Kamptner to address this issue.

Mr. Kamptner stated that he would assume that they have only the one letter. He asked where that parcel was located in relation to the proposals.

Ms. Amarante noted that the letter did not state and she did not know which parcel it was. She asked if Mr. Blaine could point that out on one of the maps.

Mr. Blaine pointed out the location of Mr. Brewster's property, which was not adjacent to all of the proposed subdivisions.

Mr. Kamptner stated that the Brewster parcel does not abut the other two parcels.

Ms. Joseph stated that this was unfortunate because they would have gotten other emails from other people writing to you and not expecting that just one or two of them would just come in.

She stated that was an unfortunate thing. She asked if the Planning Commission members had known this was true whether they would have called up this plat themselves.

Mr. Kamptner stated that the only appeal that should be before you is the plat on Meadows Estates because it was the only one where there was an abutting property owner who asked that the Planning Commission consider the matter. With that said, he asked Mr. Blaine to correct him if he was wrong, that the applicants were here on all three plats, but he (Mr. Blaine) was reserving his objection as to the Commission's authority to consider the other two plats (that were not appealed); the applicants were willing to proceed, with that objection..

Mr. Blaine stated that it was not their intent to limit the public interest or view on this, but it was their intent to reserve jurisdiction if it should be relevant on appeal. He stated let's hope that it is not relevant on appeal, but it was not their intent to limit the debate or the public interest.

Mr. Kamptner stated that, with that being said, the Commission could consider all three plats.

Mr. Edgerton stated that the Commission got a letter from an adjoining property owner several weeks ago, which indicated to him that they would be hearing all of these requests. He pointed out that adjacent owner apparently did not bother to send that letter into the County. He pointed out that if he had known that was the case that he would have called this up for review himself.

Mr. Thomas stated that he felt the same way, but the Commission would hear all three requests if it were the Commission's desire.

Mr. Blaine stated that if there have been any communications received by the Planning Commission on this item that they would also like to have copies.

Mr. Craddock asked if any Commissioner could bring this up now.

Mr. Kamptner pointed out that the time has passed for anyone to call it up.

Ms. Joseph asked that the Commission consider that there is historic property located on the Blenheim View Estates property. She asked that the Commission restrict the building to the building site location shown. Therefore, if the historic site would like to put up some screening that they would know where this building was going to be. With the Meadow Estates, she was wondering why the area on lot 8 was not considered a stream and why there was not a buffer shown on there. Since it was retaining a development right, she wondered if the stream buffer issue had been investigated by staff. She pointed out that there were some 100-foot stream crossing buffers, but it was not shown on this one. She stated that if there was going to be another lot over there that they need to consider some mitigation, which was one of the conditions of one of the subdivisions. On Orchard Estates there is another stream buffer issue. It is not shown as a buffer, but it goes down into the flood plan. They have heard from of the people in the area that it had cut outs for driveways and all kinds of things there and she felt that a stream buffer would be very helpful in this area. Also, lot 15 is retaining 4 development rights. The house sites have been placed over here and a major stream crossing would be needed to get to whatever there might be in those four development rights. There are two development rights left in another parcel and there would be major access problems if that is indeed a stream buffer, which it looks like it might be because there is a stream shown on the plat. The other issue here is parcel 9 and whether or not there has been an official determination from the Zoning Administrator that parcel exists as a separate parcel since it is shown on the tax map as one parcel and not two with little hooks. She pointed out that the applicant was showing the parcel subdivided.

Antoniette Brewster stated that her husband Ben and herself own Landark Farm, which was one of the properties adjacent to the Kluge development that was recognized as a by-right development. She pointed out that after Blenheim View Estates is built that the value and beauty

of this stately home would be greatly diminished. She stated that it seems quite ironical that the development is called Blenheim View Estates, which could be called a mockery of historical structures. It is with great sorrow that she watches the view shed of such a great 1846 house with one of the few detached plantation libraries in the County destroyed. This house has been a historical landmark since 1975. She stated that she found this view destruction not being very neighborly and one in which people would not ever question why in the Rural Areas that developers are viewed with such distaste. It is such a slap in the face to those who historical properties. The neighbors hired McKee Carson at a considerable expense to find a viable alternative. He proposed five 100-acre sites that would eliminate the costly expense of roads and preserve the beauty of the area. McKee Carson felt that the profit of this proposal would be similar. The Kluge Estate people told them that it was not enough money. She asked that the Commission deny this request as this part of history has been disturbed and not preserved.

Ben Brewster, owner of Landard Farm, stated that at the last Planning Commission meeting on October 7th that there were approximately 60 residents who expressed their concerns about the impact that this development might have. Among those concerns were water, traffic, and degradation of the rural character of the area. The residents stated that they were not against the creation of vineyards, meadows or orchards as described in the developer's plan, but were against the building of 33 residences for the reasons that they had stated. At the time the plan called for the creation of an active vineyard operation located within an area where residential land may be used for the development with the limited number of exclusive residential dwellings. It went on to say a conventional development of 510.6 acres has been tested and found to be in conflict with the County Planning objective and two, the owners desire for efficient agricultural use of the property. The current plan does not appear to meet the developer's agricultural objectives, which were described in length in the original proposal. Nor does it discourage any of the resident's concerns about water, road traffic and degradation of the character of the area. Additionally and perhaps more importantly, the plan appears to conflict with the planning objectives which this Commission has spent so long putting together. But maybe the County's by right requirements that it meets appears to fall short of the Planning Commission's goals for rural preservation and jeopardize the work of the Planning Commission that is trying to strike a balance between residential growth and the preservation of the County's rural heritage. He stated that if this development goes through that he hoped at least the opposition of the residents displayed at the October 7th meeting will focus the County's attention on the need to amend the County's regulations for rural preservation. .

Mr. Thomas asked if there was any one else present in the audience who would like to speak on this request. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and possible action.

Mr. Rieley asked to ask a question of Mr. Kamptner. The County has provisions for the naming of streets and the names have to be approved. He asked if there was a similar requirement for names of subdivisions.

Mr. Kamptner stated that there was a requirement that subdivision names can't duplicate an existing name. But, beyond that, he did not think there were any other limitations.

Mr. Thomas asked if there was any more discussion.

Mr. Craddock stated that he would like to make some comments. He stated that if had of known that all three requests were not going to reviewed that he would have certainly brought it up. He stated that it had been their thought that with the letter from the Brewsters that all three requests would have been considered. He agreed with Mr. Rieley's comment about the naming of subdivisions. He stated that this was an situation where an agricultural/forestal district will be ending in about 4 years and because of the 21-acre rule and some reservations on some development rights that some of these parcels will not be 21 acres then. He stated that he found this whole situation very distasteful and that he expressed that in a meeting that he had with the

applicant a week or so ago. He stated that he has never been for ending an agricultural/forestal district sooner than the time to be developed.

Mr. Thomas concurred with Mr. Craddock.

Mr. Rieley stated that he also agreed with every word that Mr. Craddock said.

Mr. Edgerton stated that he would like to address some of the concerns that Ms. Joseph brought up since he felt that they were legitimate concerns. He stated that perhaps the concerns could be addressed in the form of conditions to be looked at by staff to make sure that buffers and stream crossing are dealt with. He pointed out that he was not quite sure how they could do that.

Mr. Rieley asked what the calendar looks like on this. He pointed out that some of these matters were technical. He asked if these requests meet the ordinance requirements. He stated that they clearly have a ministerial action before them, but part of their responsibility was to make certain that in fact all of these requirements are being met. If there are stream buffers that are being omitted that he would certainly like to make sure that is the case.

Ms. Amarante stated that Mr. Blaine would like to address the Planning Commission if that was possible.

Mr. Thomas asked if they wanted to discuss the streams first.

Ms. Amarante stated that they could talk about the stream tonight or staff could come back to the Commission. She stated that the Engineering Department has looked at all of these streams and they have determined which streams need buffers and which do not. The entire site is not in the Watershed District. Therefore, those streams that appear as dotted blue lines in the USGS Maps don't have to have buffers on them. Those that appear as solid blue lines do have a requirement for buffers. She suggested that perhaps the applicant's engineer could tell us which of those streams are the ones that are required to have buffers.

Mr. Blaine stated that what he was hearing was concern about the requirement to meet buffers where division rights have been reserved and that was where they were having a disconnect. That was related to the question where they have designated a future development right that would require a subsequent plat for subdivision. If they engage a stream for that then it would require a stream buffer that they would have to maintain. He stated that was a technical matter and if there was a stream buffer required for a designated lot, then there was an issue there. He stated that was something that the applicant's engineer working with the Engineering Department, which they have been doing over the past several months, could address. He stated that their engineer was here and he would stand by his subdivision plat.

Ms. Amarante pointed out that the County's Engineer was not here.

Mr. Blaine stated that in terms of the other item that they heard was the specific identification of the building site on the adjacent lot. They do have constraints and they must maintain drainfield locations, but subject to that they would be willing to work with staff and perhaps the adjoining property owner. He stated that regarding the planning for that adjacent lots that he would take some issue with the raising of the issue regarding the historic district designation and preservation of view. He pointed out that he had photographs of the planned property that he wanted to pass around and show of the property that showed an A-frame behind the historic structure between where these lots would be developed. He stated that part of their planning would be to try to determine how to screen that use. He passed the photograph around for the Commission to review.

Mr. Thomas asked if there was any further discussion.

Ms. Amarante stated that she wanted to get back to Ms. Joseph's earlier questions. She had asked about lot 9, which is on the Orchard Estates plat. She pointed out that the applicants did submit to the Zoning Department a request for a parcel determination and the Zoning Department in conjunction with the County Attorney's Office determined that it was actually two parcels that exist.

Mr. Kamptner stated that staff handles parcel determinations all of the time. It is quite common that a single tax map parcel consists of several legal parcels. In the late 1970's the Assessor's Office consolidated parcels shown on the tax maps for administrative purposes.

Ms. Amarante stated that the building site on lot 8 does appear to cross what might be a stream buffer. Our Engineering Department has looked at that and determined that no stream can be mandated there. Staff did ask that building site be moved closer to the cul-de-sac. It came back after site review shown in the same location. Staff did ask them to provide a profile of what the driveway would be in that location. Staff has looked at that also and determined that a driveway could be built showing it. In terms of where staff is and what the ordinance allows this for that building site has remained, but staff did try.

Mr. Thomas any if there were any more questions.

Mr. Craddock stated that they can divide it into 21-acre lots and then after the year 2008 when it comes out of the Agricultural/Forestal District then they can exercise those extra development rights.

Ms. Amarante stated that was correct.

Mr. Craddock stated that if his math was correct that there were 31 actual lots now and they can put an additional 16 more development rights.

Ms. Amarante pointed out that she has not counted those development rights, but if that was what he counted then it was correct.

Ms. Higgins pointed out that they could only if all the other conditions are met.

Ms. Amarante stated that they would still have to go through the subdivision process. She pointed out that the public roads would all have to be built to public road standards. There was a possibility that they may be able to have some administratively approved plats at that point because they would have public road frontage as opposed to a subdivision plat that would be subject to Planning Commission review and approval. She stated that she did not know how this would come back.

Ms. Higgins stated that in the mean time if a particular parcel in here wanted to build a barn with an apartment above they could use a division right on a parcel that stays as one. She asked if that was allowed in the Agricultural/Forestal District because it was not subdivision.

Ms. Amarante pointed out that it could because it was a use allowed in the Rural Areas.

Mr. Kamptner stated that if it were allowed by right in the RA zoning district, then it would be allowed in the Agricultural/Forestal District.

Ms. Higgins stated that it would use up that development right since it was a commitment.

Mr. Benish stated that was correct.
Mr. Rieley stated that one issue that they needed to decide among themselves is the question about how to deal with SUB-03-265, which has a staff recommendation for denial and there is some question whether it is before us properly. He pointed out that several Commissioners had

said that they were very much under the impression that all of these have been called up and had they known that they were not that they would have called them up for review.

Ms. Amarente stated that because SUB-03-265, Orchard Estates, was recommended for denial that it would have come before the Commission anyway.

Mr. Thomas stated that there were some options. He pointed out that they could ask for a deferral or vote to recommend it.

Mr. Rieley pointed out that they could take staff's recommendation for denial.

Ms. Higgins asked if the sole reason for denial the easement for sight distance, and Ms. Amarante stated that was correct.

Mr. Kamptner stated that if the Commission decides to condition it, they have the opportunity to call the final plat back for review to assure that sight distance is obtained to the Commissions satisfaction.

Action on SUB 03-265 Orchard Estates Preliminary Plat - Request for preliminary plat approval to create 17 lots on 229.96 acres. The property is zoned RA - Rural Area. The property, described as Tax Map 103, Parcels 7, 8, 9, 10 and 15 is located in the Scottsville Magisterial District on Rt. 795 (President Road), approximately 2 miles south of the President Road and Rt. 620 (Rolling Road) intersection. The Comprehensive Plan designates this property as Rural Areas in Rural Area 4. (Yadira Amarante)

Mr. Rieley moved for denial of SUB-03-265, Orchard Estates Preliminary Plat.

Mr. Edgerton seconded the motion.

The motion carried by a vote of (5:1). (Higgins – No)

Mr. Kamptner stated that for the record that was for the reasons stated in the staff report that the plat does not comply with Section 14.512(H) of the Subdivision Ordinance in providing proof that adequate sight distance can be achieved. He pointed out that to satisfy the provision that the applicant needs to establish that adequate sight distance can be achieved for the entrance to this development.

Action on SUB 03-264 Meadow Estates Preliminary Plat - Request for preliminary plat approval to create 8 lots on 139.3 acres. The property is zoned RA, Rural Area. The property, described as Tax Map 103, Parcel 3 is located in the Scottsville Magisterial District on Rt. 627 (Carters Mountain Road) just north of its intersection with Rt. 727 (Blenheim Road). The comprehensive plan designates this property as rural areas in rural area 4. (Yadira Amarante)

Mr. Thomas asked if the Commission needed to take an action on the other two applications.

Ms. Amarante stated that the Commission needed to take action on SUB-2003-264, Meadow Estates Preliminary Plat, because it was the one that was called up correctly for review.

Mr. Thomas asked if there was a motion or any more discussion on SUB-2003-264.

Ms. Higgins made a motion to recommend approval of SUB-2003-264, Meadow Estates Preliminary Plat, with the affirmation that the issues brought up tonight are taken care of with that review. She pointed out that the Commission could not make it a condition, but they could bring it to staff's attention. She stated that those issues include the following:

- During the preliminary and final plat review, the Engineering Department shall take extreme care in making sure there is an appropriate buffer provided to the greatest extent possible and that all of the other details are taken care of in that review.

Mr. Rieley seconded the motion, but asked if she would accept a friendly amendment that the Commission would also call the plat up for final review for ramifications.

Ms. Higgins accepted Mr. Rieley's friendly amendment.

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

Mr. Thomas stated that the motion carried.

Action on SUB 03-263 Blenheim View Estates Preliminary Plat - Request for preliminary plat approval to create 6 lots on 226.1 acres with an 84.9 acre residue to be combined with another property. The property is zoned Rural Area. The property, described as Tax Map 103, Parcel 10 is located in the Scottsville Magisterial District on Rt. 727 (Blenheim Road), approximately 1 mile south of its intersection with Rt. 627 (Carters Mountain Road). The Comprehensive Pan designates this property as Rural Areas in Rural Area 4. (Yadira Amarante)

Mr. Rieley stated that he had a request for staff concerning SUB-2003-263, Blenheim View. Although the Commission was not dealing with SUB-2003-263, he requested that during the preliminary review that staff would do everything possible to assure that those building sites remain as they are shown. He noted that Mr. Blaine had said that they would be happy to work with staff on that. Therefore, as the request moves from the preliminary to the final plat stage, he certainly hoped that could be solidified.

Ms. Amarante pointed out that condition would be fine if it was shown on the plat, which she felt would probably be all right if the plat went to record that way. But, she pointed out that she questioned if staff could use that condition to then deny someone at the building permit stage if they wanted to build outside of that area. She stated that staff would try to keep the building sites where they were shown.

Mr. Thomas stated that was all of the public hearing items for tonight. He asked if there was any old business.

Mr. Blaine asked the Commission to close the loop on SUB-2003-263, Blenheim View Estates Preliminary Plat.

Mr. Thomas asked if the Commission needed to take action on that request since it was by right.

Mr. Kamptner stated that the Commission needed to take an action on the request.

Mr. Thomas apologized for the oversight and asked that the Commission take up that request for further discussion and action. He asked if the Commission wanted to make any comments on that about the structures.

Mr. Rieley asked if they could condition that.

Mr. Kamptner stated that the Commission could not condition that request under the Subdivision Ordinance, but they could encourage staff and the applicant to work together to perhaps find a legal covenant that would address the issues. He pointed out that it was a voluntary matter.

Mr. Thomas asked for a motion.

Mr. Morris moved for approval of SUB-2003-263, Blenheim View Estates Preliminary Plat, with the conditions as staff presented tonight as follows:

The Planning Department shall not accept submittal of the final subdivision plat for signature until tentative final approval for the following condition has been obtained. The final subdivision plat shall not be signed until the following condition have been met:

1. Verification from the applicant that the adjacent property owner of TMP 103-24A has given permission for a sight easement on that property (for grading, clearing, etc.).
2. An erosion control plan, narrative and computations. [14-311, 17-203]
3. A stormwater management/BMP plan and computations. Computations must include water quality and detention routings for the 2yr and 10yr storms. [17-304]
4. A mitigation plan for stream buffer disturbance. [17-322]
5. A completed stormwater management facilities maintenance agreement and fee. [17-323]
6. Road plans, pavement design sheets, and drainage computations. [14-512, 14-304, Policy]
7. All improvements are to be bonded or built before final plat approval. Bond estimate and construction schedule forms can be obtained from the Engineering office.
8. Health Department approval of all drainfield locations.

Mr. Rieley seconded the motion.

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

Mr. Thomas stated that the motion carried.

Old Business:

Mr. Thomas asked if there was any old business. There being none, the meeting proceeded.

New Business:

Mr. Thomas asked if there was any new business.

Mr. Craddock pointed out that he would not be able to attend next week's meeting or the joint meeting with the Board on February 4th.

Mr. Thomas asked if there was any further new business. There being none, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 8:20 p.m. to the joint meeting with the Board of Supervisors on the Urban Area B Study on February 4th at 3:45 p.m.

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V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon Claytor Taylor, Recording Secretary.)