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Albemarle County Planning Commission
April 27, 2004

The Albemarle County Planning Commission held a work session on Tuesday, April 27, 2004 at 4:00 p.m., at the County Office Building, Room 235, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Rodney Thomas, Chairman; Calvin Morris, Marcia Joseph, Bill Edgerton and Pete Craddock, Vice-Chairman. Ms. Higgins arrived at 4:07 p.m. Mr. Edgerton arrived at 4:15 p.m.

Other officials present were David Benish, Chief of Planning & Community Development; Scott Clark, Senior Planner; David Hirschman, Water Resource Manager; Bob Crickenburger, Deputy Director of Parks and Recreation; Pat Mullaney, Director of Parks and Recreation; Susan Thomas, Senior Planner and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Thomas called the meeting to order at 4:00 p.m. and established a quorum.

Work Session:

Community Recreational Facilities Needs Assessment Study, Phase 1 - The consultants responsible for this study, Ballard-King & Associates, will present the findings of the Phase I study to the Commission. (See Attachment A) (David Benish)

- In summary, Ken Ballard, of Ballard-King & Associates, provided an overview through a power point presentation of the completed County of Albemarle Community Recreational Facilities Needs Assessment for Phase I. The consultant explained the procedures used in the study, what data was collected and the methods used in making the summary and conclusions. The Planning Commission provided comments and asked that staff schedule another work session for further discussion. The Commission made the following comments:
    - The document contains negative language about the growth area boundaries, Dark Sky Ordinance, and Neighborhood Model that conflicts with established County policies in these areas. This could lead to confusion in the future. It would be preferable to revise the way in which this section of the report is worded.
    - There was concern in the way the questions were asked when collecting data from the citizens.
    - The report used the terms weaknesses and threats, and presented value decisions. The Commission suggested that the wording be massaged a little bit.
    - The Commission expressed concern about not having had an opportunity for any input into the study before it had been completed.

Work Session:

Groundwater Ordinance and Assessment Standards - To review the update version of the Groundwater and Assessment Standards. (See Attachments B, C, and D) (David Hirschman)

- In summary, the Albemarle County Planning Commission held a work session to review the update of the Groundwater Ordinance and Assessment Standards. Mr. Hirschman presented the Proposed Groundwater Ordinance and Assessment Standards in a power point presentation. Staff provided a brief overview of the proposed plan and answered the Commission's questions. In general consensus, the Planning Commission asked that the proposal continue on to public hearing to receive comments from the public with a work session following.

The meeting adjourned at 5:50 p.m. for a dinner break.

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The meeting reconvened at 6:10 p.m. in Room #241 for the regular meeting.

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, April 27, 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; Calvin Morris, Jo Higgins, Marcia Joseph; Bill Edgerton and Pete Craddock, Vice-Chairman. Mr. Craddock arrived at 6:15 p.m.

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

Call to Order and Establish Quorum:

Mr. Thomas called the regular meeting to order at 6:10 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.

Neil Williamson, of Free Enterprise Forum, stated that he was coming forward with two informational items for the Commission. The first item is the results from a survey conducted by the Mason-Dixon Polling & Research, Inc., which the Free Enterprise Forum commissioned regarding regional transportation. The handouts include the press summary as well as the questions and results as provided by Mason-Dixon. The Forum has had significant interaction and requests from the public on this issue and he thought it would be interesting for the Commission to have all of that data. The second item is information from a presentation that he attended on inclusionary housing where it was mandating a percentage of housing to be affordable. This is the first academy study that he has seen on the results of inclusionary housing or inclusionary zoning and the affordable housing stock. The study describes how it affects development patterns, which is the reason that the public policy institute commissioned the study. In the interest of trees, he provided them with just the summary. The study itself is available on their website. The study summarizes the market demands that push the developments out of those communities that have such zoning into communities that are neighboring that do not have that zoning. He pointed out that he wanted the Commission to have this information because the Board of Supervisors has recently passed a mandate for 15 percent of affordable housing in the Comprehensive Plan. (See Attachments E and F)

Mr. Rieley asked to make a couple of quick observations regarding the report that Mr. Williamson just handed out. He noted that the report has been presented by the Free Enterprise Forum and in the press as sort of an impartial document. But, just as the Commission discussed in their earlier work session on recreational facilities, sometimes the questions that you ask and the way in which you ask them has a great deal to do with the answers that you get. The Free Enterprise Forum's document does not cover anything but the bowel of ice cream in asking the questions. Therefore, these things have to be taken with a great grain of salt since if these questions had been asked in a more balanced way that they would have gotten a more valuable result.

Mr. Thomas asked if there was further public comment on other matters. There being none, the meeting proceeded to the consent agenda.

Consent Agenda:

Approval of Planning Commission Minutes - February 24, 2004

Mr. Thomas asked if any Commissioner would like to pull the item from the consent agenda. There being none, he asked for a motion.

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

Mr. Craddock seconded the motion.

The motion carried by a vote of (7:0).

Public Hearing Items:

SP-03-91 Kappa Sigma International Memorial Headquarters (Sign #56) – Request for special use permit to allow the fraternal headquarters for Kappa Sigma International in accordance with Sections 13.2.2.2 and 5.1.02 of the Zoning Ordinance which allows for fraternal clubs. The property, described as Tax Map 91, Parcel 16, contains 6.14 acres, and is zoned R-1, Residential. The proposal is located on Rt. 20 (Scottsville Road), approximately one mile south of Mill Creek Drive, in the Scottsville Magisterial District. The Comprehensive Plan designates this property as Urban Density in Neighborhood 4. (Margaret Doherty)

Ms. Doherty summarized the staff report. The Commission held a work session in March. The Commission discussed the proposal and gave some direction to staff and the applicant on how the use might be better suited to the site and discussed the impacts on the adjacent uses, the utilities and so on. The applicant made changes to the plan and went before the Architectural Review Board. The recommendations from the Architectural Review Board are listed in the staff report. The changes are listed in the staff report, but the applicant will elaborate on the changes that they have made on the plan since the last time the Commission saw it. The remaining issues for staff are also highlighted in the staff report, which include the following:

- The Utilities - The applicant wants to connect to public water by extending the water line that is located west of Route 20. The applicant wants to connect to public sewer by a pump station and a 3-inch force main. A utility report was provided by the applicant that was very informative, which has led staff to recommend that they extend the public utility gravity system that is there and essentially oversize it. Staff hopes that the adjacent property owners will utilize this. That recommendation is in staff's recommended conditions for approval.
- Vehicular Pedestrian Connections – Staff typically requests in special use permits or rezonings that applicants provide connections to adjacent parcels. This was a tough one for this use because it is a very particular use that would not be able to be used by adjacent property owners. Also, their entrance is not in a great location on Route 20 since it is located right at a curve. Staff has come up with a compromise solution. Staff requests the applicant to provide the pedestrian access internally to their site and to the bike/pedestrian pathway that will be located along Route 20. The applicant should reserve for the future vehicular connections to the adjacent properties, which might actually get them to a signal that could be on an adjacent property in the future. Currently staff is trying to get people to traffic signals, which was how Route 250 West has been recently developed. If they put the possibilities for connections in now so if a signal is built on Route 20 and if they could get to it, then the signal would serve them. She pointed out that had also been included as a condition.
- Lighting – Staff is proposing pretty dramatic lighting conditions, which go beyond what they normally require. The Zoning Department and Architectural Review Board have reviewed the proposed lighting conditions. The purpose of that is that this is a very dark part of the County and there are no commercial uses out here. Therefore, any kind of lighting is going to have a real dramatic effect. Staff wants to keep the residential character. Their building is trying to provide sort of an estate feeling, but staff just wants to make sure that their parking lot and everything else does not feel like a commercial use. Those conditions of approval are included in the staff report.

Ms. Doherty stated staff has had conversations with the other property owners on Avon Street. A rezoning was just submitted this week for the Avon Street, which used to be called the Stratford on Avon or the Coran Capshaw property, and they are hoping to use this sewer line. Therefore, that issue seems to be falling into place. She pointed out that her conditions addressed that issue.

Mr. Thomas asked if there were any questions for staff.

Ms. Joseph asked staff where she was envisioning these vehicular connections.

Ms. Doherty pointed out the two possibilities. She pointed out that the conditions suggest that the applicant provide a reservation of right-of-way for these vehicular connections, which at first would probably be private, but then eventually being public.

Mr. Rieley stated that they would have to hold an easement. He asked who the easement would be dedicated to.

Ms. Doherty stated that if it ever becomes a public road, then it would be available for us. If it remains private that it does not need to be dedicated to anybody unless it provides access back into their site.

Mr. Rieley stated that it was just a designation on the plan.

Mr. Thomas stated that they could still put landscaping on it because the area just had to be reserved.

Mr. Rieley stated that he was just thinking about the mechanics of executing it.

Ms. Doherty stated that when she thinks about what is happening at the current Kappa Sigma site and what they were trying to work out with White Gables that she was just trying to put something in for future planners when that corridor starts getting developed that they have the possibility to build the connections that they need to. It is questionable if they even know the mechanisms of how it would work today, but that they would have future mechanisms.

Mr. Rieley stated that if the property to the south were to develop and they could not get the site distance for an access onto Route 20 and there were a light up next to the boyhood home of Mr. Craddock, would you foresee some kind of connection essentially being imposed on this property for that area. He asked if this note on the plan would be adequate to enforce that.

Ms. Doherty stated that it would if it were a reservation for dedication to the public.

Mr. Edgerton stated that they often get copies of the Architectural Review Board's review, but they just got a summary here and he was a little concerned. On page 3, staff says that in addition to all of the requirements of the ARB is the preliminary site plan review check list. It says please provide when you have a list. He asked if staff has that check list since he did not know what was on that or did the summary cover it all.

Ms. Doherty stated that she certainly could provide them with copies.

Mr. Edgerton asked if their review was based on this plan or the previous plan that they saw.

Ms. Doherty stated that it was based on this plan. She pointed out that this is actually all that she had received this time from the Architectural Review Board. There had not been anything to attach and therefore it was not here.

Mr. Thomas asked if that was something that should be required to be part of the packet.

Ms. Doherty stated that was really just for their information because she could require that anyway.

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

Lori Garrett, with Gaffney and Holmes Architects, stated that they would like a chance to respond to any questions. Other persons present tonight regarding this plan include Don Rissmeyer, Civil Engineer with Draper Aden and Associates; Linda Winecoff, Landscape Architect with John Milnor and Associates and Mitchel Wilson, representing the owner and Executive Director of Kappa Sigma Fraternity. She stated that they would like to make a couple of comments first. As Ms. Doherty has mentioned, they have tried to respond to the items that were mentioned in the Commission's prior work session. The building has been reoriented to reflect the topography at the front of the site. The parking has been reviewed to find ways that they could soften the impact near the residential property. They have met with VDOT and ascertained their requirements in terms of turning lanes and the analysis of that. They have also studied the utilities. She asked Linda Winecoff and Don Rissmeyer to present the parking issues and the utilities since that falls within their areas of expertise.

Linda Winecoff, of John Milnor Associates, stated that the site plan has changed very little since the work session. She pointed out that they have taken into account the Commission's comment about the parking and the parking next to the residential parcels. They have indicated here and think it was a great idea to put stabilized grass in these parking areas. In addition, they also put shade trees within that area so that the effect is such that they virtually have 40 feet from the parking lot to parts of this parking. It has worked out nicely and is what the Planning Commission's recommendation was. They have incorporated a pedestrian interconnection or path, which might not have been shown at the last meeting. They have incorporated this into VDOT's right-of-way and shown it as requested in the staff's recommendations. They will make a connection from this pedestrian/bike path in order to make a connection into the property. This would create an easy option in an area such as this to connect to the trails that they have interior to the property. The screening along the property lines is the same and the screening of the dumpster areas is recessed behind a wall as well as it is screened from Route 20.

Don Rissmeyer, with Draper Aden and Associates, stated that there were two engineering issues that they have been working on with the County and VDOT. The first one had to do with the entrance. They did the turn lane analysis and the peak hour traffic counts on Route 20. They analyzed that and figured out that turn lanes basically are not needed. For example regarding the left turns coming into the property, since nobody that works at Kappa Sigma lives in Scottsville that they assumed that one person might if they hired someone. Based on the traffic coming south bound, which is pretty minor in the morning, they would have a 15 second gap on average per turning vehicle. Therefore, there were just not a lot of traffic issues with getting in and out of the site for a left turn. For a right turn they assumed that everybody would come to the site at 5:00 p.m. at night with all of the cars coming south and came up with the need for a turn lane with a taper. They sent the analysis in and met with VDOT, who felt that using a different method that a turn lane would be needed. What they agreed to is shown in the plan that they worked out last week with Chuck Proctor from Charlottesville Residency. The plan essentially requires putting in a 150 foot turn lane and taper, which is designed to avoid the bridge at Cow Creek because taking a head wall off of a bridge, extending a culvert and getting a permit is a lot of stuff that they would rather avoid. He noted that VDOT was agreeable to that as the basis of the design. Therefore, they still have to work out the details, but that the agreement reached was based on their analysis and our analysis. On the current plan the entrance shifted just slightly in order to accommodate that 150 foot lane. That is really the biggest issue for VDOT and they were able to work it out. On the public utilities, the 8-inch water main that they discussed last time is still the plan, which was what the Service Authority wanted. For the sewer, they were still looking at two options, which were the force main or the gravity system. They have met with the engineers for

the Stratford on Avon property and have come up with an engineering solution that is being incorporated into their study where they could cost share the gravity sewer system. They feel that there should be no increased cost to anyone as long as there is a fair cost share. Therefore, they just need for the two developers to look at the money side of it and then they can design something that would accommodate both of these developers. There is a parcel in between their properties. There would be a gravity sewer coming down through their property and Kappa Sigma would have to provide an easement for their project as would the property in between them. Then from there they were figuring that they could use Route 20, which was pretty much down hill from there, so that they could install the sewer system. There are about eight parcels between them that could connect that are already being serviced by sewer and water if they do this project. He pointed out that they would have all of this figured out by the preliminary site plan.

Mr. Thomas asked if they have an easement for going across those eight pieces of property.

Mr. Rissmeyer stated that the tricky part is putting in Route 20 because Route 20 is here and the creek is here. The Service Authority's master plan puts the sewer along the creek that was great, but they could not force people to give them easements. Therefore, they might wind up putting it in Route 20 if it was deep enough with inverts in order to service all of those parcels. Or if those property owners were interested in allowing those in the creek, then it would make those connections cheaper in the future. That would be great as long as they would give them an easement. He pointed out that they would have to just work through this.

Mr. Thomas asked if there were any questions.

Mr. Craddock stated that it was sort of the same thing with the northern and southern connection through there because the creek runs parallel to Route 20. If they were going north on that you would almost have to follow the creek to connect for interconnections of the parcels. He pointed out that going south it was pretty much a hill side. He asked where the road connections would be made.

Mr. Rissmeyer stated that he did not catch where the road connection would be for the other parcels.

Ms. Doherty stated that they would be made up front on the parcel.

Mr. Craddock asked if there were plans for any roads to cut through there over to Avon Street.

Mr. Benish stated that there were no plans at this time. He pointed out that there has been from time to time some internal discussion about that possibility once they get to a neighborhood plan.

Mr. Rieley asked if the alignment of the entrance road in the front was dictated by the desire not to remove the head wall.

Mr. Rissmeyer stated that it did. They moved the entrance as far as possible in order to stay off of the creek and the bridge and also to minimize the length of the turn lane. The plan shows basically where they could get the entrance in, which actually has a good site distance.

Ms. Garrett stated that there was a comment made last time that it would be advantageous for the owner to look into purchasing the adjacent property. Currently there are negotiations going on that have not had any conclusions, but they are hopeful that they will be able to purchase that property.

Mr. Thomas asked if there was anyone else present who would like to address this issue. There being none, he closed the public hearing to bring the matter back before the Commission.

Mr. Rieley stated that if all of their suggestions in work sessions were taken and implemented in as complete and an elegant way as these have, then they should have more work sessions. The applicant seems to have done everything that they asked them to and did it very well.

Mr. Thomas concurred with Mr. Rieley that the applicant has responded to everything that the Commission had requested at the work session.

Mr. Rieley moved for approval SP-03-91, Kappa Sigma International Memorial Headquarters, subject to the conditions as recommended by staff in the staff report.

1. The site shall be developed in general accord with the plans, entitled *Kappa Sigma Fraternity Headquarters*, dated April 2, 2004;

2. Lighting of the site shall be limited as follows:
   a. Light levels at the property line shall be no greater than 0.001 foot candles;
   b. No flood lighting of the building is permitted;
   c. Only the parking lot north of the building shall be allowed pole lights;
   d. Utilize bollard type lights in place of pole lights whenever possible. Use only full cutoff fixtures; and
   e. Site and building illumination shall be limited to the satisfaction of the ARB.

3. Final site plans shall show a reservation for future vehicular and pedestrian connections to adjacent parcels to the north and south;

4. Final site plans shall show a pedestrian connection from the ped/bike pathway on Route 20 into the site;

5. A right turn and taper shall be constructed at the entrance in Route 20' to the satisfaction of VDOT;

6. Landscaping shall be provided to limit the impact of the storm water area on the Entrance Corridor to the satisfaction of the ARB; and

7. The Applicant shall construct public water service to the site via extension of the existing Albemarle County Service Authority water line located on the west side of Route 20 and public sewer service via extension of the existing Albemarle County Service Authority sewer line located along Route 20 and the Cow Branch Creek, generally as provided in the report entitled, *Preliminary Engineering Report Water and Sewer Facilities for kappa Sigma Headquarters* by Draper Aden Associates, dated March 30, 2004.

Mr. Higgins seconded the motion.

The motion carried by a vote of (7:0).

Mr. Thomas stated that SP-2003-92 would be heard by the Board on May 12th.

SP 2003-079 The Rocks Amendment (Sign #49, 52, 53) Request for special use permit amendment to: (1) Allow reconfiguration of the Preservation Tract; (2) Allow for an alternate private road location than was approved with the original Rocks Rural Preservation Development. This request is made in accordance with Section 10.2.2.28 of the Zoning Ordinance, which allows for 20 or more Development Lots in a Rural Preservation Development. The property, described as Tax Map 74, Parcels 18,18C, 18C1, 18C2, 18C3, 18D, 18D1, 18D4, 18D7, 18D8, 18D9, 18E, 18E1, 18E2, 18E3, 18E4, 18E5, 18E8, 18E9, 18F, 18F1, 18F2, 18F3, 18F9, 18G, 18G1, 18G3, 18G4, 18G5, 18G6, 18G7, 18G8, 72, 73, and 74, contains 645.237 acres, and is zoned RA - Rural Area. The proposal is located off of Rt. 637 (Dick Woods Road), at its intersection with

Interstate Route 64 in the Samuel Miller Magisterial District. The Comprehensive Plan designates this property as Rural Areas in Rural Area 3. (Yadira Amarante)

Ms. Amarante stated that there were a few clarifications that need to be made to the staff report. She asked that each Commissioner note the following corrections on their individual staff report as she went through it. One of the applicant's requests is to allot three additional development rights that were left over from the original special use permit for The Rocks Rural Preservation Development. Staff received comments from several persons that throughout the staff report that the request was not clear. After the applicant pointed it out, staff realized that it probably was not as clear as it should be. On page 2, in the middle of the page, she asked that a change should be made from ". . . 3 additional dwelling divisions within Lot 1 which is a 106 acres. . ." to read ". . . in essence since lot 1 will have the ability to create four development lots/dwellings within its boundaries." She noted that is the actual request.

Mr. Edgerton stated that the applicant has not told us where those lots will be, and Ms. Amarante stated that was correct.

Mr. Edgerton asked if they already had the right to divide that property.

Ms. Amarante stated no, because the special use permit that was approved in 1991 showed those 43 lots on the plan of development for the Rocks, but now they want to take it up to the 46 lots that were previously allowed. She pointed out that the owner did not want to show the location of those lots at this time.

Mr. Edgerton asked if there was a reason why.

Ms. Amarante stated that the property was sold and she thought that the new owner does not know where he would like to put those lots. That owner is fully aware that he will need to come back and amend the special use permit to be able to create those parcels because it will be a departure from the application plan that the Commission is being asked to approve tonight.

Ms. Joseph stated that on the plan that they say it looks like lot 1 contains all of that space that is now called open space on the original approved special use permit, and Ms. Amarante stated that was correct.

Ms. Amarante asked to continue with the corrections, and then she would present the staff report. On page 6 at the top of the page, basically the same change should be made to read, "Three addition dwellings/divisions within lot 1 (the lot has a total of 4 development rights)." Then on page 8, under the recommended conditions of approval on item number 3, the wording should be changed to read, "Within the boundaries of Revised Lot 1 there shall be allowed a total of 4 (four) dwelling units or 4 (four) lots." Staff noted that was all of the corrections. Staff summarized the staff report as follows. The petition is requesting four different amendments to SP-91-36, which is the current special use permit on this parcel that is an existing Rural Preservation Development of 43 development lots and one Rural Preservation Tract. The first request is to amend the boundaries of the preservation tract as shown on the application plan. The second request is to amend the boundaries of four parcels, which were created in 1991 at the top of Bear Den Mountain. Those lots were created as family division lots. The family division provision is for only two years, and therefore the four parcels are now normal lots and the applicant would like to amend and change the boundaries of those four lots. The applicant would like to amend the access shown on the original plan from the side of Bear Den Mountain coming through The Rocks Preservation Development. The applicant would now like to move the road to come through Rosemont Subdivision and allot those three additional development rights to give lot 1 a total of four.

Mr. Thomas asked if the road would not be coming through Rosemont.

Ms. Amarante pointed out that it would be coming through Rosemont Subdivision and not through The Rocks. She stated that in reviewing this request that she did not go back and try to look at the original Rural Preservation Development and how that was approved since she assumed that at the time it was approved in 1991 that they did the right thing in approving it. She stated that these were what she would consider with the exception of one thing being the minor modifications to the Rural Preservation Development, and therefore recommends approval with the conditions listed. Staff would be happy to answer any questions that the Commission might have.

Mr. Thomas asked if the Commissioners had any questions for Ms. Amarante.

Ms. Joseph asked if all of those lots as shown from the original special use permit have been recorded and platted.

Ms. Amarante stated yes, that the preliminary plat was approved by the Commission in 2002.

Ms. Joseph asked if the plat was recorded, and Ms. Amarante stated that she believed that it has.

Ms. Joseph asked if those lots were shown on the tax maps, and Ms. Amarante stated no that the lots have not shown up on the tax maps yet, but that it has been recorded.

Ms. Joseph stated that if it has not been recorded that she wondered how it has vested.

Ms. Amarante stated that even if the subdivision plat has not been recorded, that the special use permit has been vested.

Ms. Joseph asked how the special use permit was vested.

Ms. Amarante stated that the special use permit was vested by a determination by the Zoning Administrator in 1993.

Ms. Joseph asked what the Zoning Administrator had based that on, and Ms. Amarante stated that she did not remember what the specifics were on that since they had gone through this conversation in 2002 when the subdivision plat came through.

Ms. Joseph asked if staff had received anything in writing from Rosemont Homeowners Association saying that this community has agreed to an extension of this.

Ms. Amarante stated that the Secretary of the Rosemont Homeowners Association is present tonight with a letter from some of the Rosemont Homeowners Association members. Staff has not heard anything against the proposal.

Mr. Edgerton stated that visually he could see some benefit, as backed up in the staff report, for the change of access to the four family subdivision lots. He stated that he had a great deal of difficulty in seeing any benefit in giving three more development rights. He asked if there was something that he was missing from a staff perspective.

Ms. Amarante stated that from staff's perspective, noting that she had talked with the Rural Area Planners before coming to a conclusion was that they were allowed 46 development lots at the time that they made the application for the special use permit in 1990. They chose to only use 43 of those development rights for whatever reasons. After going back and reviewing the previous staff report and minutes that it was not clear, and she assumed that they did not want to maximize their development potential. This applicant does want to maximize their development potential and are asking for those three development rights that were kind of left out there just floating and not used, but would now like to use those.

Mr. Rieley stated that his understanding was that when a special use permit is given for a specific project that then supersedes the theoretical number of development rights.

Ms. Amarante stated that he was absolutely right and that she should not be calling them development rights since the zoning on that property is for those 43 lots. The by right potential of that property used to be 46 lots, and at that time if they had shown 46 lots. That is why the applicant is amending that special use permit.

Mr. Thomas stated that the question is whether the applicant should have lost the other three lots.

Ms. Amarante stated that had they shown in 1991 the 46 development lots as opposed to the 43 development lots that she has no reason to believe that those 46 lots would not have been approved, but that she did not know. She pointed out that she had looked at the previous materials and gone back and read the minutes

Mr. Thomas stated that in other words it does not set in stone that they had to stay with the 43 lots.

Mr. Kamptner stated no because one way to look at it is that the development rights in this case is 46 and would always be there theoretically. The special use permit that allows the Rural Preservation Development in this case limited them to 43 lots because that is what was sought. The applicant always has the opportunity to come in and amend their special use permit to revive those three unused theoretical development rights.

Ms. Higgins stated that in the notes, which was very tiny, it talks about no development rights are being affected by the transfer of land from tax map something to something. She pointed out that her impression was that they did not intend to forever limit the development rights or there would have been a condition with the special user permit at that time to limit them. The real question relates to the issue of those three development rights and if the benefits here were significant in some ways and why they should not allow the development rights by right when they were getting a preservation tract development in this case. She pointed out that she had not seen anything that precluded that, but that some of the notes were too small and unreadable.

Ms. Amarante agreed that the notes were very small, but pointed out that those notes should probably not have been on that. Staff was considering the plan that was part of the Commission's packet, which was the application plan for the special use permit. Those notes were usually seen on a subdivision plat. Therefore, those notes were really irrelevant. She suggested placing a condition on it or just note for the record that these notes can be removed since they don't need to be on this document. There are some boundary line adjustments happening between the preservation tract and some lots in Rosemont Subdivision. She noted that was meant to say nothing is happening with the development rights for those lots in Rosemont since the preservation tract obviously does not have any development rights being transferred.

Mr. Craddock asked if at the number 9 if the note about lots 1, 2, 3 and 4 in the preservation tract may not be subdivided was a moot point.

Ms. Amarante stated that the special use permit was going to signify that, and it was not necessary for it to be on this plan because it should be on the subdivision plat.

Ms. Higgins assumed that note 10 that says The Rocks lot 1 has three (3) development rights was what was recorded on the plat that was approved before.

Ms. Amarante stated that what was before the Commission was not what was approved before.

Ms. Higgins asked if that plat had been approved by the County and recorded and if it designated where the development rights were retained.

Ms. Amarante stated no that it did not. She pointed out that actually that was not the plat that was recorded. She stated that was the approved special use permit plan that was the plan of development for The Rocks. The plat that was recorded is different from what the Commission sees there, and that the open space was eliminated.

Ms. Joseph asked if the final plat that was recorded did not carry forth the open space reference.

Ms. Amarante stated that was correct and that she could elaborate on that. In 2002 when the subdivision plat came before us, staff looked at this and was kind of confused as to what to do with that open space. There is really no open space provision in the Rural Areas District, except for Rural Preservation Developments which they call Preservation Tracts. Therefore, staff did not know how to deal with that open space. As far as staff was concerned it was just another parcel. If it was not a preservation tract, which it clearly is not, then there is no easement or restrictions to it in the covenants. When the applicant came in 2002 with their subdivision plats the original subdivision had expired. Therefore, the applicant had to come back in 2002 to redo their subdivision and staff did not know what to do with that open space. Therefore, staff just included it as part of lot 1. Zoning approved the subdivision and signed off on it as being in compliance with that plan.

Mr. Benish asked that they keep in mind that the special use permit plan governs what happens on this parcel.

Ms. Joseph asked how one would know if they did not see the plat.

Mr. Benish stated that the plat signifies that it is governed by the special use permit.

Mr. Edgerton stated that it might be argued that there was an implied promise that would remain open and it sounds like the new owners have decided not to. In the review of that, it was given as an argument for why they thought this was such a great idea. Now they were being told that they were just kidding and they are really going to divide that land up.

Ms. Amarante stated that the open space tract right now and the way that the subdivision was approved in 2002 that it does not exist. However, they could tonight limit those development rights and limit the size of the lots. Staff tried to limit the area to at least keep the development east of the flood plain.

Mr. Morris stated that on number 9 of the recommended conditions on page 8 that staff states that conditions 9 through 19 have been obtained. He pointed out that he did not see a number 19.

Ms. Amarante stated that actually it should really say 10 – 13. There were two special use permits in 1990 with one for flood plain crossing and the other for rural preservation development. She stated that only conditions 10 – 13 would deal with that ridge crossing and the private road that was approved in SP-91-36. Therefore, she asked to amend that to say conditions 10 – 13. She pointed out that there was one more change that needs to be made to the conditions. The applicant has asked if condition 15 could be deleted. Staff's reason for that condition originally was that after talking with the Homeowner's Association of Rosemont that their covenants specifically restrict certain types of traffic and she did not want the preservation tract to be restricted in terms of its usage for agricultural and forestry purposes. If they wanted to use the land in that way, she wanted the trucks to be able to get onto the land. After talking with the applicant's council, she did not think they needed that note because they still retain their access through lot 1 on that original jeep type of trail road.

Mr. Edgerton stated that one of the arguments given for changing the access was that they would not have to clear that entire road, but he would assume that they would have to clear that road if they were retaining that access.

Ms. Amarante stated that there were two conditions included so that the Public Recreational Facility Authority will have to review any expansion or widening of that road for forestal and agricultural purposes and the Engineering Department would have to approve an erosion and sediment control plan. She pointed out that at least the County will be able to regulate how that road gets developed in the future. She stated that the argument was that moving the access for those four development lots from that jeep trail road to Rosemont on a physical level makes sense, but they did not want to limit the access. Part of the preservation tract and the easement of the Public Recreational Facility Authority was that it will be used in an agricultural or forestal way and they did not want to limit the use of the preservation tract in any way. The jeep trail exists now and it will continue to exist.

Mr. Thomas asked if that would give them access to Rosemont Subdivision.

Ms. Amarante stated that it gives the four residential lots access to Rosemont, which will become part of their Homeowners Association and in their covenants be responsible for the roads in Rosemont.

Ms. Higgins asked that "it" be changed to "if" in condition 16 regarding the roads, and Ms. Amarante agreed.

Mr. Thomas opened the public hearing and asked the applicant to come forward to address the Commission.

Terra Boyd, representative for The Rocks LLC, stated that the request was to amend the special use permit. There are representatives present tonight for the applicant, The Rocks LLC, which includes their engineer, Thomas Lincoln who was also from the Neighborhood Association for Rosemont; and a member of the Board from the Rosemont Homeowners Association who was signed up to speak. Therefore, she would describe their position later in the meeting. She stated that she wanted to make sure that the Commission was clear on exactly what they were asking for here because it is a fairly complex set of changes that they were making to an originally fairly complex project. The project was a RPD done under a special use permit because it was over 20 lots, which was approved a few years ago and then platted and put to record. The way it was set up is kind of interesting in that the rural preservation lots were down in the bottom land close to Dick Woods Road in order to create a preservation parcel up on the side of Bear Den Mountain and preserve that wooded area. That is what you can see in the application plan as that large area that has a lot of slopes on it, which was depicted on their plan. Up in that area before the RPD was finally platted and, of course, before the conservation easement on the preservation parcel was put in place, the four family lots were platted up there by a former owner. Those would remain up in that area. The thrust of their application is to move the access to those family lots from an existing approved very long route to a very short and less environmental stressful access from the Rosemont Subdivision. In order to access those four lots from that road in a way that makes engineering sense they needed to move those four lots by a boundary adjustment over slightly. She pointed out that her understanding from their engineers was that this movement does not cause them to be more visible. But, in fact there were drawings submitted showing site lines from I-64 to back that up that these are not going to make these lots more visible. The lots are currently not built on. There are no houses up there and the lots have not been cleared. This boundary line adjustment is not going to change anything regarding the preservation values and the preservation track. Of course, they will have to take that up directly with the Public Recreational Facility Authority next month to talk about amending the easement to allow those lots to be reconfigured. Therefore, nothing that the Commission does this evening will force their hand in making any approvals since they will have to consider separately the impacts on the preservation values that they would be concerned about with the preservation parcel. They are proposing to move the road over and reconfiguring the family lots. Regarding the existing approved access road, she pointed out that the environmental impacts of their proposal versus the existing approved access road from The Rocks Subdivision up over the mountain to the

family lots that they were looking at difference in impact for the existing road, which is 434,100 square feet of disturbance to vegetation, to their proposal that would reduce that to 76,800 square feet. Therefore, that is less than a quarter of the amount of disturbance that would otherwise happen if they were to improve the existing approved jeep trail up the side of the mountain if they were to approve it to the point that it could be used for access to residential lots. Staff kept a condition in the special use permit that would allow access over that jeep trail for agricultural and forestry purposes in keeping with the purposes of the conservation easement. There are no immediate plans to clear a lot or anything else on that preservation parcel. Currently, that lot is being used recreationally. If there were plans to do that the improvements that would be made to that road to make it usable for agricultural or forestal purposes would be far, far less than would be required to bring that road up to the County's standards for accessing residences on the top of the mountain. Therefore, they feel that in presenting this to the County that they are offering an appealing option for getting rid of a road that is already approved and that has a lot of negative consequences in the watershed and they are replacing it with a much more environmentally sensitive road that has the support of the neighbors as well. They see this as a win/win situation and have worked hard with the neighbors to make sure that they do as well. The change in the road also lessens the visual impact. The existing approved access if it were built would be basically a gash up the side of Bear Den Mountain and visible from both I-64 and Dick Woods Road. The proposal where they would like to shorten this access through Rosemont would not be visible from either I-64 or Dick Woods Road. The road is their major persuasive point. There were also concerns about the changes to lot 1 and she would like to clarify the changes. When The Rock RPD was originally platted there was an omission made on that plat. Typically when they record a subdivision plat and there are development rights that remain there is a note that goes on the plat that says X number of development rights remain with lot Y. There is no such note on this plat, even though as Ms. Amarante presented, who checked with Bill Fritz who was the staff person who worked on The Rocks RPD, that those did exist. They simply want to assign them to lot 1. There are conditions in this special use permit application that would fit any development that would eventually possibly happen on lot 1 would have to comply with. Condition 3 states that anybody who wished to develop all 3 of the additional residences on lot 1 that fill out that development potential on that single lot that they would have to submit a site plan. In addition, to subdivide lot 1 they would have to submit a subdivision plat for County approval. There is also a condition 4 for the special use permit amendment which would forbid any building on lot 1 within the floodplain, which is a substantial area. Originally they had talked about trying to plot those lots, but it was problematic with the floodplain. The current owner of the lot wanted to get those development rights assigned to lot 1 to increase the value of lot 1. If the owner had immediate plans on the table to change that or to resubdivide it, then they would be platting those lots right now. The owner will have to come back to the County if he ever wants to use those development rights and plot the lots or comply with the Site Plan Ordinance. If lot 1 was going to have further residences located on it that the County would get another shot at how those would be configured. The protections that Ms. Amarante has built into the proposed conditions are fair and would protect the things that the Commission would be concerned about, which would be the impacts in the floodplain. She asked that the Commission approve the amendment with the conditions as presented by staff.

Mr. Rieley stated that Mike Boggs copied him on a recent correspondence that he sent to Ms. Amarante relative to the road standards for the new section of road and argued for a relaxation of the minimum road standards. He pointed out that these conditions require the use of the VDOT Mountain Terrain Standards. He asked if the applicant was comfortable with these conditions including that one.

Ms. Boyd stated that they have submitted a request for waivers and those will be considered with the subdivision plat. They plan to come back before the Commission for that request.

Ms. Higgins asked if condition 6 was a condition of the original approval of the special use permit or if that was new. She suggested that the condition should be amended to say access road, dwellings and septic field areas.

Ms. Amarante stated that it was not a new condition and was an original condition from SP-1991-36.

Mr. Thomas stated that there were two persons signed up to speak. He stated that the first on the sheet was Anabel Bowen and he asked her to come forward to address the Commission.

Anabel Bowen, a member of the Board of Directors of the Rosemont Homeowner Association and Secretary/Treasurer, stated that in that capacity that she wanted to bring to the Commission a letter from their Board of Directors. She summarized the letter as follows. She noted that they have combined their support for this special use permit as well as for the SUB for the subdivision plat in one letter because they did not realize that the two issues would be separated. The Board of Directors of the Rosemont Homeowners' Association unanimously supports the petitions to the Planning Commission by The Rocks, LLC and Haley, Chisholm & Morris, Inc., who are their developers and partners, for this special use permit and the SUB-2003-262. We believe that the requested waivers will minimize negative environmental, as well as visual impact and will allow Newcomb Mountain Lane to fit the mountainous terrain more naturally. Upon approval by the County of the cited petitions, The Rocks, LLC has requested in writing that their four lots be fully included into Rosemont, thus subjecting those lots to all Rosemont Homeowner fees (including private road maintenance fees) and to the full Rosemont Homeowners Association Covenants, Conditions and Restrictions. Our Board unanimously supports this and will urge all Rosemont owners to vote for this amendment for their inclusion. The letter is signed by our five board members. (See Attachment H – Letter dated April 26, 2004 from Rosemont Homeowners' Association to Planning Commission)

Harry Bowen, Jr. stated that he wanted to read a letter that they were going to submit to the Commission in support of this approval process. He pointed out that he was the owner of the corner lot in Rosemont Subdivision on lot 46, which probably will have as much impact as anybody in there from this approval of Newcomb Mountain Lane. He summarized the letter as follows. From the view on our part of 11.3 acres, we will look at Newcomb Mountain Lane either way that the road is constructed. We have carefully evaluated the impact of these applications and conclude that approval will greatly benefit all owners in Rosemont. Therefore, they wholeheartedly support the applications to the Albemarle County Planning Commission by Haley, Chisholm & Morris, Inc. and The Rock, LLC. We urge the County approval of all elements of the petitions, especially the waivers of the County's road standards for Newcomb Mountain Lane and allowing access to the four lots owned by The Rocks, LLC. We believe that the waivers are necessary in this instance to minimize the negative environmental and visual impact and to preserve the rural nature of the Ivy entrance corridor. Approval of these applications will prevent unsightly scar on Newcomb Mountain that would be highly visible from I-64, The Rocks at Ivy subdivision, Rock Mills Farm, Rosemont Farm and about 20 lots in Rosemont subdivision. Thank you very much for the opportunity to express our support for the efforts of these two developers to preserve the beauty of our mountains. (Attachment G - See the attached copy of the letter submitted by Harry Bowen, Jr. and Anabel S. Bowen dated 4/26/04 addressed to Planning Commission.)

Mr. Thomas asked if there was anyone else present who would like to speak regarding this application.

Jeff Werner, representative for Piedmont Environmental Council, stated that he did not have any comments that support this proposal, but he had been listening and had some observations and questions. Since they were talking about the rural area that he had been planning to come and tell the Commission that Babette Thorpe's replacement is in. As of last year the County they had worked with people of 42,300 acres under easement in the County, which was good news for the rural area. The objectives for the County's Rural Areas Policy are to limit residential development in the Rural Area only to that which is related to a bona-fide agricultural/forestal use. He stated that he was a little alarmed to hear that in discussing condition 15 that there are subdivisions in

our Rural Area that prohibit agricultural and forestal vehicles. This is a preservation tract that is supposedly for agricultural use and they were trying to figure out how to agricultural people to it. He felt that something there needs to be discussed further. He noted that he paid a lot of attention when trees are discussed in County issues, particularly when they talk about tree protection in our tower ordinances. He stated that this was a question more for clarification and for future reference. In condition 5 it says 10 trees per acre and he questioned the rationale for that in if that would do anything substantial. He stated that the report states that it is more or less an addition of 4 family lots which will interestingly generate approximately 40 vehicle trips per day. There is a comment that says that this is incremental and it is no big deal. He pointed out that at the Board of Supervisors meetings many people on Doctor's Road and Gilberts Station Road have absolutely demanded that millions of dollars be paid to improve those roads. It is just an observation, but as they incrementally add four houses here and four houses there adding the number of vehicle trips that they are ultimately going to pay the price to pave those roads.

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

Ms. Higgins stated that in reviewing the condition about the agricultural/forestal processes and if condition 15 is deleted for example and condition 16 becomes 15, she did not interpret that it limits access for those purposes, but as a matter of fact it limits improvements for only those purposes. She stated that she thought that was clearly the intent and it was only due to potential restrictions of taking equipment through Rosemont, which would only fail if the Rosemont Subdivision requirements excluded some sorts of equipment. She noted that it was probably unlikely that if a tractor went through there that someone would complain. There are probably tractors that go through there to cut the grass. Therefore, she was unsure about that. The Rosemont Homeowners Association's letter talks about that the Board unanimously supports this and would urge Rosemont homeowners to vote for this inclusion. Therefore, she suggested that there be a condition that those lots, which are clearly giving up their access by the longer route to go through the shorter route through Rosemont, be conditioned upon the vote or confirmation or verification of documentation that they are allowed to be accessed by that road or the Commission will have approved something and that it be precluded if the homeowner's association does not vote the way that the Board has shown them to vote. She noted that it was probably unlikely, but that she felt that should be a condition.

Mr. Rieley stated that there seems to be a couple of parallel issues. The issue of replacing this very long road parallel to I-64 that is highly visible and highly disruptive up to the top of the mountain with a small connection from an already existing road seems to be a no brainer. He felt that there were a number of details about the road standards that the Commission would get into at the next level of this, but he felt that part of this was very clear. He noted that he had more difficulties on the issues of moving previously platted lots to a higher elevation when their Comprehensive Plan clearly says that preservation of mountain tops is an important criteria. He noted that he had even more trouble essentially adding four development rights in the Rural Area. His reading of the situation that they were in is that there were a certain amount of development rights on this. The applicant chose to develop this by a special use permit and a part of that package was leaving all of that lot 1 area open, which was the plan. The plan did not have four lots in that area. This seems to be a gratuitous bonus of giving additional development rights. Those development rights might have some theoretical standing somewhere, but once the special use permit was instigated the only way that they could get additional development rights was through another special use permit and he did not think they should be giving special use permits to add to development rights in the Rural Area. He stated that he was concerned about those four lots on top moving higher and adding four lots below, but he thought that the road changes were very sensible.

Ms. Joseph stated that adding on that issue that if they don't know where the lots were going that was another issue. She felt that the Board of Commission approved the plan thinking that the

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open space was going to remain open, but then under this proposal it all becomes one lot. She pointed out that they would be saying it was alright to put four lots on lot 1 any place that they want to. She acknowledged that the request would come back before the Commission, but it was still a great concern.

Mr. Edgerton concurred that he would like to change the access, leave the four family subdivision lots as originally platted, and was completely against coming back now and adding three lots.

Mr. Higgins suggested that condition 6 read that the clearing of land should be limited to the minimum amount necessary for the construction of an access road, dwelling and appropriate septic field areas. That change would allow staff the ability for when someone comes in for a building permit to review the septic field location to avoid conflict with the trees. Personally, she felt that they have an example before the Commission where they keep wanting neighbors to work together and developers to work with neighborhoods and it seems to be an unanimous benefit that this is coming back before us and it is very frustrating that Ms. Bowen said that they want to correct that the note was not included on that previous plat and since it appears that there is not a lot of documentation that in the benefit of the doubt that typically the zoning department when they check a plat when there are development rights retained that they say they stay with the lot, but they don't show where they are platted. If this clearly restricts their location and they are going to be covered under a Site Plan or Subdivision Ordinance requirements and that they have gone through this effort of consolidating access and improving it environmentally and all of the other benefits that she was willing to not let them use what they could have used. She felt that they have to go back to the original premise that you have a preservation tract and it is predicated on the fact of how many rights did they have to begin with. So now that it was a preservation tract in essence they were taking away those three potential lots. She stated that they could disagree about that approval, but obviously that documentation is not before the Commission. Therefore, she was willing to give them the benefit of the doubt and did not think that those three houses or a barn with an apartment as a way to use it or the creation of the three lots was a reason to vote this down. She made a motion that the request be approved with the conditions recommended by staff with the changes she noted about the cleared area and adding a condition that it be included to provide documentation that the Homeowners Association has allowed the access and to be incorporated into their use.

Mr. Thomas stated that due to a lack of a second that the motion dies. He asked if there was another motion.

Mr. Rieley made a motion for approval of SP-2003-079, The Rocks Amendment, with the staff's recommendations, with the changes in the language that Ms. Higgins just made, and in addition the stipulation that the 4 (four) additional lots be deleted and leave the locations, with minor boundary adjustments to accommodate the road, aside to essentially where they are and that everything else or all of the road change remain as it is.

1. Development of The Rocks shall be in accord with the "Special Use Permit Plan…" prepared by Thomas B. Lincoln Land Surveyor, Inc. dated April 2, 2004. For purposes of these conditions it shall heretofore be referred to as "The Application Plan."
2. The boundaries of Parcels identified as Tax Map 74, Parcels 18C, 18C1, 18C2 and 18C3 may be modified **to allow minor variations to accommodate the new road alignment for the extension of Newcomb Mountain Lane that will serve these lots.** ~~only as shown on "The Application Plan."~~
3. ~~Within the boundaries of Revised Lot 1 there shall be allowed a total of 4 (four) dwelling units or four (four) lots. Before the 3rd dwelling unit can be constructed a site plan meeting the requirements of Section 32 of the Zoning Ordinance or a Site Plan Waiver, per Section 32.2.2 of the Zoning Ordinance shall be submitted, reviewed and approved by the County. All subdivisions within the boundaries of Revised Lot 1 shall conform to the rules and regulations set forth in Chapter 14, the Subdivision Ordinance.~~
4. ~~All dwellings/lots within Lot 1 shall be located east of the floodplain of Ivy Creek.~~

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5. A minimum of ten trees per acre shall be provided on the development lots and the lots permitted by condition one, in accordance with Section 32.7.9.5 of the Zoning Ordinance for the purpose of providing screening from Interstate 64 and Route 637. Trees shall be installed within two planting seasons of the date of issuance of a certificate of occupancy for the dwelling on the lots.
6. Clearing of land shall be limited to the minimum amount necessary for the construction of access roads, ~~and~~ dwellings~~;~~ **and appropriate septic field areas**.
7. Building siding and trim shall be of colors and materials that blend with the surrounding natural environment. Highly reflective colors or surfaces, or light colored roofs are prohibited.
8. Concrete driveways visible from off-site shall be darkened to blend with the surrounding natural environment.
9. The bridge shall not be constructed until the approvals in conditions ~~9 through 19~~ **10 through 13** have been obtained;
10. Department of Engineering issuance of an erosion and sediment control permit;
11. Department of Engineering approval of bridge design;
12. Department of Engineering approval of hydro geologic and hydraulic calculations to ensure compliance with Section 30.3. of the Zoning Ordinance;
13. Department of Engineering approval of private road plans and drainage calculations. Private roads shall be designed to Virginia Department of Transportation mountainous terrain standards. This condition is only applicable to the private roads constructed to access and provide frontage to all the lots in the Rocks development except the Rural Preservation Tract and revised Tax Map 74, Parcels 18C, 18C1, 18C2 and 18C3. ~~as shown on "The Application Plan."~~
14. The extension of Newcomb Mountain Lane as a private road is subject to Planning Commission approval. The Planning Commission shall establish the standard of the private road extension at the time of review.
15. ~~The Preservation Tract shall not have access to or from Newcomb Mountain Lane.~~
16. The existing road, shown entering from Rocks Farm Drive, parallel to Interstate 64 and meandering through the Preservation Tract shall not be improved or widened except for agricultural and/or forestry purposes. The need for such improvements shall be reviewed by the Public Recreational Facilities Authority. ~~It~~ **If** the Public Recreational Facilities Authority deems that the improvements are warranted, construction shall not commence until a road plan and an erosion and sediment control plan has been reviewed and approved by the County Engineer.
17. Prior to the approval of any plat modifying the boundaries of the Rural Preservation Tract, the rural preservation easement shall be amended to allow the modification; amendment to the easement is subject to the review and approval of the County and the Albemarle County Public Recreational Facilities Authority. Approval of this special use permit in no way implies or guarantees approval of a modified easement by the County or the Albemarle County Public Recreational Facilities Authority.
18. Prior to the approval of any plat providing access to Newcomb Mountain Lane an amended road maintenance agreement shall be reviewed and approved by the County Attorney. This agreement shall be recorded with the plat.
19. **Provide evidence to the County that the Rosemont Homeowner's Association consents to the Newcomb Mountain Lane extension to serve as access to the four mountain lots.**

Mr. Thomas asked if he wanted to add the suggested language on condition #6 about the appropriate septic field areas, and Mr. Rieley stated yes that he did want that added and that staff would craft the language.

Mr. Benish pointed out that his motion essentially deleted condition #3 with all of the other things that he mentioned that deletes the one about the additional dwellings.

Mr. Edgerton asked if the motion was to leave the existing four family division lots as originally platted with minor boundary adjustments to accommodate access to the road, which was in addition to deleting condition #3, and Mr. Rieley agreed.

Mr. Kamptner asked if condition #2 would be amended concerning the parcels, and Ms. Amarante stated that staff could amend that condition.

Mr. Edgerton seconded the motion.

Mr. Craddock asked if condition #15 was deleted and condition #6 was amended, and Ms. Amarante stated that was correct.

Mr. Thomas asked for an explanation regarding condition #3.

Ms. Amarante stated that they were deleting condition #3 in its entirety.

Mr. Edgerton stated that Phase I would stay the way that it was originally promised in 2002.

Mr. Thomas pointed out that personally he disagreed with that decision. He agreed with Ms. Higgins because he did not see much of a reason to change that because he liked the way the road was coming through Rosemont and creating those lots on the back. He noted that the other roads would have been eliminated.

Mr. Rieley stated that would suggest that they would built four times as much road and that it was an awful lot less expensive to do what they have proposed. It does not require the incentive of the four additional development rights.

Ms. Joseph stated that in the long run that a lot less would be spent on the maintenance of the road.

Ms. Higgins pointed out that she had got the impression from the adjacent home owners that by them allowing the access for the four lots that it was predicated upon the improvement of the visuals and that sort of thing. Therefore, that they might go hand in hand as far as the home owners are concerned if this developer ties them together, then it might fail and not go forward.

Mr. Thomas stated that in other words the accessibility would still be here, but these would be spread out all over the parcel rather than being right here.

Mr. Rieley stated that the lighter line would stay where they are and this other line was where it was proposed. He noted that he was suggesting that they leave the lines where they were and they just would not move them to that side of the road.

The applicant asked to make one comment to clarify what they were discussing.

Mr. Thomas stated that he could not make a comment at this time unless there was a request by a Commissioner because there was a motion on the table.

The motion carried (6:1). (Higgins – No)

Mr. Thomas stated that SP-2003-079 would be heard by the Board of Supervisors on June 9th.

The Planning Commission took a ten-minute break at 7:40 p.m.

The meeting reconvened at 7:50 in Room #235.

***Work Session*:**

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SP 2004-004 Lewis & Clark Exploratory Center of VA (Sign #45, 47, 54) - Request for a special use permit to allow establishment of the Lewis and Clark Exploratory Center of Virginia, in accordance with Sections 10.2.2.1 and 13.2.2.1 of the Zoning Ordinance, which allows for a community center. The property, described as Tax Map 62 Parcel 23, contains 101.47 acres, and is zoned RA, Rural Areas, R-1, Residential and EC, Entrance Corridor. The proposed site is located at the northern end of Darden Towe Park, on the west side of Rt. 20N (Stony Point Road), approximately one-half mile north of the intersection with Rt. 250E (Richmond Road), in the Rivanna Magisterial District. The Comprehensive Plan Land Use Plan designates this area as Parks and Greenways, and Neighborhood Density Residential (3 - 6 dwelling units per acre) in Neighborhood Three.

AND

SP 2004-006 Lewis & Clark Exploratory Center of VA (Sign #45, 47, 54) - Request for a special use permit to allow fill in the flood hazard overlay district, for activities associated with the proposed Lewis and Clark Exploratory Center of Virginia, in accordance with Sections 30.3.05.2.1(2) of the Zoning Ordinance, which allows for uses or activities in the floodway. . (Susan Thomas)

Ms. Thomas asked if the Commissioners had any questions about the staff report. (See staff report in Attachment I.)

Ms. Joseph asked if staff had a chance to check if this property was in the jurisdictional area for water and sewer.

Ms. Thomas stated that it was not in the jurisdictional area, but because it was in the development area it would just be primarily a formality to enter into the jurisdictional area. Our policy in the past has been not just to link it with jurisdictional amendments, but rather to bring them forward at the request of an applicant to process them and approve them as long as the property lies within the development area and recommended for the appropriate service. It could be done, but it has not yet been done.

Mr. Morris pointed out that when they pushed the water lines to Key West that they did not push the sewer line. He asked if she had said that was no problem.

Ms. Thomas stated that it would not be a problem because, in fact, there was a 54 inch sewer line within 1,000 feet of the site. She pointed out that it would take some money to make it happen.

Mr. Rieley questioned the size of the sewer line, and Ms. Thomas pointed out that the Service Authority's report actually listed it as a 54 inch sewer line.

Ms. Joseph asked if there was any kind of an official determination from the zoning administrator about this use fitting within the community center definition. The community center definition talks about a building or a group of buildings or other place designed and/or used for the cultural, educational and/or recreational activities of the inhabitants of a definable geographic area. On the application plan it talks about this being a tourist destination and she felt that is not a geographic definable area. It sounds more like it is not a community center, but some other animal that maybe they don't have a definition for.

Ms. Thomas pointed out that she did have a conversation with Amelia McCulley about that today, but she was not able to come tonight. Ms. McCulley said that when this application was received Zoning determined that the use was a community center, which was not an official written determination, which was the basis for the special use permit process currently underway. Ms. McCulley cites the definition of community center, Section 3.0 Definitions, as a building or a group of buildings or other place designed and/or used for the cultural, educational and/or recreational activities of the inhabitants of a definable geographic area and not operated for profit. Ms.

McCulley says that you will note that the geographical area is not defined and a more typical community center in terms of the area served might only serve a more immediate area such as western Albemarle. Staff felt that she was referring to Greenwood Community Center. For the Lewis and Clark Center the area served is larger than the more immediate community and extends throughout portions of the State. The work space in the building and some of the special events will likely serve mostly the immediate community. Cultural, educational and recreational activities will take place through this use. In the Zoning comments, which are not included in the staff report, John Shepherd did say that Section 5.1.04 of the Ordinance states that the Commission must find that the proposed service for a community center is not already adequately served by another such facility. In addition, this section states that the Planning Commission shall be mindful if such use is appropriate for villages and communities in the urban area of the Comprehensive Plan. Therefore, that may be a topic of your discussion tonight for both on whether that is adequately served and whether that use can fit the community center definition.

Ms. Joseph pointed out that it was very difficult for her on how this use can fit into that definition because Monticello has been trying to do a ZTA for several years and they can not consider Monticello as a community center.

Mr. Edgerton asked for some history on the City, County and applicant's relationship. He asked if the City and County have agreed to lease the property.

Ms. Thomas stated that was done almost a year ago.

Ms. Katherine Slaughter stated that the Board of Supervisors and the City Council leased the property to the Lewis & Clark Exploratory Center of Virginia, which is a nonprofit 501.C.3 organization.

Mr. Rieley asked if there was a public hearing held on that, and Ms. Slaughter stated yes that there were several public hearings.

Francis McQ Lawrence stated that the Lewis & Clark Center started in 1996 when the City formed a committee that included several members of the Board of Supervisors and the City Council to consider how they could have a Lewis & Clark Center in Charlottesville. The search committee looked for the best possible site for the center. The City very much wanted the center to be located in the city and was very supportive. The City gave them $2,000 on the outset to do a feasibility study. The committee found the site on the Rivanna River to be the best spot because of Lewis & Clark in the water and the tie into the George Rogers Clark birthplace. Therefore, they studied for about two years on where it would be located and voted to select that site and begin the process. In the meantime, they were incorporated and received their tax exempt status from the IRS in the fall of 2001 and began the lease process. In the spring of 2001, they presented their plan to the Darden Towe Committee, the two members of the Board of Supervisors and the two members of the City Council. At that time they told those persons that this was coming and asked them to begin thinking about it. In September of 2002, they meet with the City Parks and Recreation because they along with the County's Parks and Recreation run Darden Towe Park. In October, 2002 they actually met with Pat Mulaney, Dan Mahone and Pat Flowcheck. He pointed out that they have met with Pat Mulaney frequently to talk about what his plans were for the park, which was where they came up with the separate entrance and the boundary line of the cross country track. At the time they started talking with the County there was a water shed center that the Darden Towe Park had approved just about where the barn is. Part of the agreement was that water shed center would no longer be built and if there was to be a water shed center that it would be part of their property. On November of 2002, they met at Darden Towe Park for the first time with the two Supervisors and Council members to officially show them the draft. That lease then went through the City Parks and Recreation and the County Parks and Recreation. They received feedback all along about sharing pedestrian access, a single bridge across the creek and to basically refine the plan. Part of that process was to have a kick out for a potential year end Eastern Connector. As early as the beginning of the process at least a couple

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of the Council members had talked about the year end Eastern Connector. Therefore, their lease provided that they would give that property if someone told them that they wanted to put the connector across the property. Some of the small refinements were that there was an issue at Darden Towe Park about parking for activities and so they agreed to give cross parking with their parking and to provide access for the dog run and for cross country meets. Pat Mullaney felt very strongly that he did not want any more cars across the main part of Darden Towe Park, and therefore they created a separate entrance way. They were looking for a place that was away from their active recreational uses. There were public hearings held both with the City with the execution of the lease and with the County. In the meantime they entered negotiations with the immediate adjacent landowner to the north of this property, who at the time was Ms. McClenahan who had a 175 foot track that interrupted any possible connection to the George Rogers birthplace. They were able to obtain from her, actually with the City and County as the beneficiary, an easement of right-of-way for two trails. One would be the Riverside Rivanna Trail and the other one would be a more developed trail that would be part of their handicapped access main trail. That lease was put to record in November of 2002. That gave them the right to connect to the George Rogers birthplace, which is owned by Dr. Claire Bell Wheeler, who is their Development Chairman and on their board. She has promised to convey to either the Center or to the County and City about seven to nine acres that would include the George Rogers birthplace. That is not in writing, but that has been a commitment of hers. To some extent, it is their thought that they would actually be extending the parkland. He asked to close with a quick summary of sort of why they got here and why the City and County did this for them. This was a preamp to the July 1, 2003 lease. He stated that it was part of the process, but not strictly part of the planning process, in which Ms. Thomas has reported to you about. He explained the factual background about the Lewis & Clark expedition, which is one of America's greatest adventures. It began in Charlottesville/Albemarle at Monticello with President Thomas Jefferson and Meriwether Lewis planning a trip west. Both Thomas Jefferson and Meriwether Lewis were Albemarle natives. William Clark and his family were central Virginians who had lived in Albemarle where his older brother and mentor George Rogers Clark was born. Jefferson's home in Charlottesville/Albemarle is uniquely suited for visitors to explore and discover the core of discovery in Jefferson, Lewis and Clark and also the geography, wild life and Native American culture that prides the nation in the 19th century. As a side they put themselves in some sense as a 19th century science museum. The northern end of Rivanna Park along the Rivanna River, which connects with the George Rogers birthplace, is uniquely situated to provide a premiere site for the facility. The property is also located along the Southwest Mountains and historic Route 20 which connect the homes of Thomas Jefferson, James Madison, James Monroe as well as other Virginia explorers such as Dr. Thomas Walker. The facility will compliment the visitor's experience of Monticello, the University of Virginia. Ashlawn, and other important central Virginia attractions and enhance our community's connection with the Rivanna River. They will also commemorate both the Lewis and Clark expedition and George Rogers Clark. The facility will be designed in a manner that is environmentally and aesthetically sensitive and developed in a manner to enhance the natural beauty of both the Rivanna River and Darden Towe Park. That is an explanation as to why the City and County have signed a lease with them for forty years and what they view as their charge. To some extent, the idea that there would be a more intense use there was addressed by the City and County as part of this process. It was certainly true that the improvements were to be approved by the City and the County. The Commission's input to us to make it more environmentally and aesthetically sensitive and to not hurt the environment is an open subject and that they were here to listen to what they can do.

Mr. Thomas asked what the pleasure was of the Commission. He asked if they wanted to go through the questions or if they had any more questions.

Katherine Slaughter asked to address three of the concerns listed in the staff report. Those concerns were the Eastern Connector, the level of development and the use of the site for passive recreation and nature. She stated that they have put it in their lease that they will accommodate the Eastern Connector. She reviewed the proposed activities that they planned to

have on the site. (See Attachment J for Lewis & Clark Exploratory Center, Virginia Keelboat Replica – October 2003 submitted by applicants.)

Warren Byrd reviewed the proposal with the Commission and addressed questions and concerns.

The Commission reviewed the proposal and provided comments and suggestions on the questions posed by staff regarding the proposed plan.

- The intensity of the proposed development is too great. The applicant needs to lessen the intensity of development on this site.
- The level of development proposed for the site is not appropriate for the context of the park, river and general area.
- The proposed structure is located too close to the floodplain and should be set back further from it.
- The location of the building and area of activities located within the floodplain should be reviewed.
- The Commission asked that consideration be given to preserving future options related to the proposed Eastern Connector in the review of this project. The question was raised whether this development should wait for the study to be completed on the Eastern Connector. There were concerns about the possibility of the proposed location of the Eastern Connector on this property particularly with the intensity of the proposed development on the site. The Commission wanted to make sure they committed to make the land available for the Eastern Connection.
- Request made for staff to obtain an official determination from the Zoning Administrator that the proposed use is a community center as defined by the Zoning Ordinance.
- There were concerns expressed concerning potential lighting of the site.
- The location of a separate entrance off of Route 20 is a critical issue. The Commission felt it was very important to have a shared access if there was any way possible to do so.

Old Business:

Mr. Thomas asked if there was any old business.

There being no further old business, the meeting proceeded.

New Business:

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

Adjournment:

With no further items, the meeting adjourned at 9:25 p.m. to the next meeting on May 4, 2004.

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V. Wayne Cilimberg, Secretary

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