Albemarle County Planning Commission
June 22, 2004

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, June 22, 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; Marcia Joseph and Pete Craddock, Vice-Chairman. Mr. Rieley and Mr. Edgerton arrived at 6:12 p.m.

Other officials present were Stephen Waller, Senior Planner; Francis MacCall, Senior Planner; Wayne Cilimberg, Director of Planning & Community Development; Margaret Doherty, Senior Planner; Amelia McCulley, Zoning Administrator 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. There being none, the meeting proceeded to the consent agenda.

Consent Agenda:

Approval of Planning Commission Minutes – April 20, 2004

SUB 2004-042 Shifflett Farms - Request for Open Space and two-lot private road approval for the subdivision of 25.73 acres into 58 lots. (Tax Map 056, Parcels 46, 48 pt of, 53, Tax Map 056D, Parcel E7 & Tax Map 056F, Parcel 1) (Francis MacCall)

SDP 02-038 Thomas Harris Garage Site Plan Waiver Request - Request for a site plan waiver to allow a public garage and dwelling unit on Tax Map 8-Parcel 35A containing 3.17 acres. (Yadira Amarante)

Ms. Higgins asked to pull SUB-2004-042, Shifflett Farms, off of the consent agenda just for some clarification.

Ms. Joseph requested that Ms. McCulley explain the process of SDP-02-038, Thomas Harris Garage Site Plan Waiver Request, to clarify what has gotten us to this point.

Mr. Thomas asked Mr. MacCall to start with SUB-2004-042, Shifflett Farms.

Ms. Higgins asked if staff had anything more graphical or anything clearer to show them.

Mr. McCall distributed an email from Ms. Higgins dated June 22 and his response regarding SUB-2004-042. Since Dan Mahon was not available, he spoke with Susan Thomas and she essentially provided what they have laid out in the Master Plan regarding the proposed greenways. The specific connections that Mr. Mahon was looking for are not specifically shown on there. But, after discussions with Mr. Mahon he felt that would probably be a good location for some reservation. What he was attempting to do was create a loop of access from the park around the road or near the road down to the greenway and then back up through one of the connections that was actually shown on the Master Plan.

Mr. Edgerton and Mr. Rieley arrived at 6:12 p.m.

Ms. Higgins asked if the two greenway connections were the shaded areas.

Mr. McCall stated that was correct because it would be the path which is shown on the other sheet of the subdivision plat. On Attachment B, it is a little unclear there because you don't really see it. But it does say a 20 foot easement and pedestrian pathway which runs along the sewer. It is shown on Attachment B down near the top right of lot 7. It speaks to that being an easement and pedestrian pathway easement.

Ms. Higgins stated that the other one that starts at Route 612 that she would assume that the sewer line is the other pathway.

Mr. MacCall stated that was correct and that there was a similar note.

Ms. Higgins asked if the pathways go across the individual lots because it shows on both drawings that it does.

Mr. MacCall stated that with the final plat that the property line would run on the outside edge of the easement.

Ms. Higgins stated that the only thing that she wanted to suggest concerning the easements themselves is changing the way the condition reads. Instead of saying County Engineer approval of the final path location and design that she would suggest it to say that it is generally in accordance with our Attachment B as noted. Then, if staff could explain why one of them is 8 foot with a 10 foot width and one of them is 5 foot. She asked if they are all the same or are we doing different things.

Ms. MacCall stated again, not knowing what Mr. Mahon would wind up in his process actually developing that it is hard to really determine that at this time. If they want to set up something now, then he may have to work with that in the future as far as the pathway. In his memo Mr. Mahon recommended the 10 foot easement with an 8 foot path, which was what he would be looking for.

Ms. Higgins stated that he says that our only recommendation is that the portion of the trail along the future connection road reservation be wider than the 5 feet shown on the plan. Therefore, is the applicant okay with doing an 8 foot width on a 10 foot corridor or not.

Mr. MacCall stated that as far as he knows yes. As stated in the email, they had submitted the application not knowing exactly what Mr. Mahon had wanted and they had just thought 5 feet. But, they were willing to do what Mr. Mahon was looking for as far as an easement. That would be brought out as a revision on the plat, which they would see soon.

Ms. Higgins stated that even though he says 10 foot they were going to do a 20 foot easement because it says 20 foot on Attachment B.

Mr. MacCall stated that it was 20 foot because that is the width of the standard sewer easement. That is what they usually look for on the trails along with the sewer easements. Since there is not actually a sewer easement there along that connector down to the buffer to the north, ten foot would probably be fine for a ten foot easement that would end up with an actual 8 foot path that they would develop.

Ms. Higgins asked if they could say County Engineer approval of the final path location consistent with a 10 foot corridor or green or pathway easement.

Ms. McCulley stated that Mr. Mahon says that ten foot is the minimum width necessary. Therefore, you may be more limiting than it needs to be to limit it to ten feet if they can get more than ten feet in areas depending on the topo since you might need more than ten feet.

Ms. Higgins stated that it says 8 feet within a 10 foot corridor.

Ms. McCulley pointed out that it was an 8 foot pathway.

Ms. Higgins stated that they might need more than that to construct it.

Ms. McCulley stated that was correct. It would be within a minimum ten foot corridor. Therefore, they may not want to limit it to ten foot.

Ms. Higgins stated that she was hesitant about imposing 20 feet if you only need 10. Or if it was a path of a sewer line that is typically kind of graded and smoothed out anyway after the sewer line has been constructed. She pointed out that it was not a big issue for discussion, except that it was unclear as to what they were passing back to the engineering department to approve.

Mr. MacCall stated that what they were looking for here mainly was for a reservation of an area or some sort of intent to provide access to that point. He felt that Mr. Mahon would wind up eventually finding those locations and developing the paths, and then actually getting easements dedicated over those exact locations.

Mr. Thomas asked if staff would consider that a swatch of territory that is being described rather than a specific amount of feet.

Mr. MacCall stated yes, again with Mr. Mahon not knowing exactly where that path was going. Again, that was just some additional information.

Ms. Higgins suggested wording the condition that the County Engineering approval of the final path 8 foot wide, which seems to be what he says the path would be, and whatever corridor is necessary to accommodate an 8 foot wide path. She asked if that seems clear enough. She suggested that staff work with the applicant on whether it was 10 foot in some sections or 20 foot in others to accommodate. Then the other question, which staff might have answered in the email but that she wanted some clarification on, is that it refers to a trail head and then it says previous location of a trail head, but when she looked at the trail head, which was not labeled, it looks like the future connection to the future east side connector road where there is five parking spaces shown. She asked if that was the trail head.

Mr. MacCall stated that was correct.

Ms. Higgins stated that when she saw a temporary trail head, which she was unsure when it was going to be constructed, and that this future connection was really important to the overall plan in what is happening here, then she questioned where the alternative location of it would be. She asked if they have gotten any information about doing that.

Mr. MacCall stated that in the discussion with Mr. Mahon the extension of Park Road is what he was considering to eventually be the permanent trail. It goes off to the left of the storm water detention area. Because that portion is the residue, it is not part of this actual subdivision and it is the residue of the division, once that future plat comes in for that development that is where the permanent one would be more than likely located at the end of Park Road. It would essentially T up more than likely to the connector. Therefore, it would shift to the left on the plat to the north.

Ms. Higgins stated that the trail head that he is referring to is not even shown on Attachment B.

Mr. MacCall stated that was correct. The temporary one as Mr. Mahon and the applicant agreed to as providing a temporary location for access to those greenways that eventually would provide five parking spaces or however it would be designed. But they would use that location and there would be a reservation made, even though it was not shown on there. The previous plat did show

that reservation going up to that connection. It still needs to be shown, but they had just omitted it from the last provision.

Ms. Higgins asked if they address that where it says County Engineer approval of an 8 foot wide path and a final location for the trail head to make it straight forward so the applicant knows what he is doing.

Mr. MacCall stated that the paths as far as these additional items, specifically the five parking spaces and the trail, are going north and are not actually in the open space that they are proposing. These were extra items that the applicant had agreed to after discussing the locations in the open space. As far as the action that the applicant is looking for in the approval of the open space that technically the trail head and that other pathway are not actually in that open space.

Ms. Higgins asked why staff told them about it.

Mr. MacCall stated that it was a little extra to let you know that the applicant is working with us and that if you had any questions once you saw it on the plat. He apologized if it was not explained thoroughly enough in the staff report, but he was trying to bring out that the applicant was willing to do this for the future and to provide what our Comprehensive Plan is showing as far as trail connections and trail heads.

Ms. Higgins stated that when the final plat came in there would be a trailhead that the applicants agree to, but it was not part of their action.

Mr. MacCall stated that he would think so because that portion of the trail and the trailhead was not actually in the open space. It would actually be in the residue at this time.

Mr. Thomas stated that he felt that the rewording of number 2 would cover the first part of it. He asked if there were any other questions. He asked if any of the other Commissioners had any questions at this time.

Ms. Joseph asked if the intent was that the existing sewer line would serve as the pathway, and Mr. MacCall stated that was correct.

Mr. Thomas stated that they would put this one aside and go to the Ms. Joseph's question.

Ms. Joseph stated that she had some correspondence today with Ms. McCulley about Thomas Harris' garage. She stated that she wanted to make sure that she was not reading the approval letter wrong because there were some dates that seemed to be very time sensitive as far as things were submitted for review. She asked Ms. McCulley to explain to the Commission what is going on.

Ms. McCulley stated that Ms. Joseph had asked a really good question that relates to condition 4 and 18 of the special use permit approval. Those conditions have time lines for completing actions within a certain number of months following special use permit approval. For example, it includes site plan approval and landscape installation. The question was since those time lines were not met does that invalidate or void the special use permit. It is a very good question because at first glance you might think that it would and it was valid for that time period. The answer is that it does not invalidate the special use permit or void it. The applicant is in violation of those time lines. They are in violation of condition 4 and 18. Zoning staff sent a notice of violation last year in May and at that time informed them that there were 12 conditions of the special use permit approval that they had not yet satisfied. Between that date and now they have been able to satisfy all of the conditions of the special use permit approval except for the requirement for the site plan, which is what they are seeking tonight, and the requirement for a building permit for a shelter over where they have some fluids stored. That building permit cannot

be issued until the site plan is approved. Therefore, they are in violation of those time lines and the special use permit is still valid.

Mr. Edgerton asked why staff bothers to have dates if it does not impact the permit.

Ms. McCulley stated that in most cases having those dates is a real motivator and it really does work by staff obtaining compliance by those dates. Staff asks for dates earlier than the ordinance would allow because the ordinance allows up to two years to satisfy all of the conditions of special use permit approval. Once a site is already in violation and the use has already begun the two year period could be seen as extra time to come into compliance. Therefore, staff tries to take that time line down to a few months. Unfortunately, this did not work in this case. But, the applicant is here and could explain some of the things that they ran into with State Agencies and others in terms of delays to get compliance. It simply has taken a long time and this has been an extremely long Zoning case. They have been working on this case for years before it came before the Commission for a special use permit. Staff is hoping that very soon with the site plan approval, the building permit issuance, the installation of the landscaping and the CO for the building that the case will be closed and the applicant will be in compliance.

Mr. Thomas presented the consent agenda again to the Commission for approval. He asked if there was a motion at this time.

Ms. Higgins suggested on SUB-2004-042 that condition 2 be reworded to say County Engineering approval of an 8 foot wide path and a final location for the trailhead. That would make it straight forward so that the applicant would know what he is doing and then staff can review it. With that amendment, she stated that she had no other comments.

Mr. Thomas stated that he felt that the rewording of condition 2 would cover the first part of it. He asked if there were any other questions.

Ms. Joseph stated that she was satisfied with Ms. McCulley's explanation of Harris' garage.

Mr. Thomas stated that since both Commissioners were satisfied with the explanations provided, he asked if there was a motion on the consent agenda.

Mr. Craddock recommended approval of the consent agenda with the recommended amendments for SUB-2004-042, Shifflett Farms as follows.
The Planning Commission approved the Open Space, with the following conditions;

1. Submittal of covenants or other such instrument, which evidences the establishment of a homeowner's association and provides for ownership and maintenance of proposed Open Space. Such document shall be subject to County Attorney review and approval and shall be in accordance with Section 14-313 of the Subdivision Ordinance - Instrument evidencing maintenance of certain improvements.
2. County Engineering approval of an 8 foot wide path and a final location for the trailhead.

The Planning Commission approved the private road request, with the following conditions;

1. The subdivider shall submit a maintenance agreement for the private road, which satisfies the requirements of section 14-313.
2. The final plat shall contain the statement required by section 14-303(N).
3. The subdivider shall provide surety for the completion of the private road as required by section 14-413 if the private road will not be completed prior to approval of the final plat.
4. Each deed of subdivision, or similar instrument, and each deed conveying the lots to be accessed by the private road shall contain the following statement: "The streets in this subdivision may not meet state standards and will not be maintained by the Virginia Department of Transportation or the County of Albemarle."

Ms. Higgins seconded the motion.

The motion carried with a vote of 7:0

ZMA 2004-002 Townhouses Fontaine Avenue (Sign # 80) - Request to rezone 12.606 acres from Highway Commercial (HC) to Planned Residential Development (PRD) to allow 60 dwelling units. The property, described as Tax Map 76, Parcels 12A and 12G are located in the Samuel Miller Magisterial District on the north side of Rt. 702 **(**Fontaine Avenue), approximately .25 miles west of the intersection of Fontaine Avenue and Route 29. The Comprehensive Plan designates this property as Neighborhood Service, in Neighborhood 6. (Margaret Doherty) ***DEFERRED FROM THE MAY 25, 2004 PLANNING COMMISSION MEETING. APPLICANT REQUESTS DEFERRAL TO JUNE 29, 2004.***

Mr. Thomas opened the public hearing and asked if there was anyone in the audience who would like to come forward and speak on this application. There being no one, he closed the public hearing to bring the request back to the Commission for discussion and an action. He pointed out that the applicant has requested the deferral to June 29.

Ms. Higgins made a motion that ZMA-2004-002, Townhouses Fontaine Avenue, be deferred to June 29 as per the applicant's request.

Mr. Morris seconded the motion.

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

Mr. Thomas stated that ZMA-2004-002 would come back to the Commission on June 29.

ZMA 2004-003 Avon Park (Sign # 81) – Request to rezone 9.976 acres from R1, Residential to R6, Residential to allow 16 single family and 45 townhouse units. The property, described as Tax Map 90 Parcel 32 is located in the Scottsville Magisterial District on Rt. 741 (Avon Street Ext.), approximately one-half mile south of the intersection of Avon Street Ext. and Stoney Creek Drive. The Comprehensive Plan designates this property as Neighborhood Density, recommended for 3-6 dwelling units per acre, in Neighborhood 4. (Margaret Doherty) ***DEFERRED FROM THE MAY 25, 2004 PLANNING COMMISSION MEETING.***

Ms. Doherty summarized the staff report. The applicant, Weatherhill Homes, proposes rezoning a 9.9 acre parcel located on Avon Street Extended from R-1 to R-6 to allow 16 single family and 43 townhome units. Nine of the townhome units will be proffered to meet the County's goal for affordable housing. The project creates a pedestrian friendly community with a mix of housing types and sizes, a park, an alley for a rear loading product, sidewalks, etc. The ARB has reviewed the application and expresses no objections to the rezoning and did offer some comments which can be incorporated into the future site plans. Those comments are included in the staff report. Generally the project is looked upon very favorably by staff. The design meets most of the principles of the Neighborhood Model. It provides public road connections to adjoining parcels. It provides water service and sidewalks, which are noted in the County's CIP. It meets the County's target for 15 percent for the total units being offered for affordable housing. In addition, the applicant has proffered another $1,000 per unit towards the CIP. The only remaining issue is the public sewer. This part of the County is underserved for public sewer. The single family homes are proposed for individual grinder pumps. The rest would be served by a sewer that goes towards Mill Creek and connects up to the sewer in Mill Creek South. The Engineering Department has strong reservations against the use of grinder pumps as they often result in staff time trying to negotiate with the builder and homeowner to find solutions. The gravity sewer that would eventually serve those single family homes at the front of the property is on the other side of the drainage between Route 20 and Avon Street. The sewer line will likely be constructed for the Kappa Sigma project and potentially the Avon Street Rezoning Project previously known as Stratford on Avon. Staff has previously discussed this sewer connection, but

it is very far from this property. Therefore, the applicant's only possibility is to do grinder pumps for the single family and then serve the rest of the development going back the other way through Mill Creek. The proposal was reviewed by the Albemarle County Service Authority and received preliminary approval. But, the sewer connection to Mill Creek South will require an easement through Mill Creek's open space to extend the sewer service. This connection will result in a wide swath of clearing to provide access down a steep wooded slope to lay the new sewer line. This will result in a loss of mature vegetation, which will have a significant negative impact on Mill Creek South. Staff believes that there are not reasonable alternatives to provide sewer to the site. The Mill Creek Homeowner's Association has been in conversations with the applicant. Staff thinks they have reached an agreement on how to deal with the re-vegetation and so on. Staff feels that the applicant has done what can be reasonably expected in this regard and believes that the other attributes of the proposal outweigh the impacts of the sewer issue. Therefore, staff recommends approval of the rezoning. Staff handed out the revised proffers. (See Attachment – Original Proffer 5/19/2004) (See the Attachment of Map showing Kappa Sigma and the Proposed Site.)

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

Mr. Edgerton stated that he was interested in the issue about the easement across Mill Creek Homeowner Association's property. He asked why that was not part of the proffer agreement if it has been worked out. He felt that would assure the neighbors that in fact that work will be done as discussed.

Ms. Doherty stated that could potentially be done. Staff will ask the applicant to do that.

Ms. Joseph asked how far the sewer line was from this property.

Ms. Doherty pointed out that it was about a mile and a half to Kappa Sigma, but the sewer currently ends at Stony Creek.

Since there were no more questions for Ms. Doherty, Mr. Thomas opened the public hearing and asked the applicant to come forward and address the Commission.

Vito Cedda, of Weatherhill Homes, stated that the main design feature with the project is a central park. Most of the units face on to the park. Along side of that there are sidewalks, street trees and front porches. The project has four different housing types, which means four different price ranges. There are three different varieties of townhouses and single family homes. The road can extend onto adjacent properties to make a more combined community at some point. The plan is consistent with the Comp plan. It has almost all of the features of the traditional Neighborhood Model. They very much respect that. They have notified the neighbors and sent them drawings. They have met with several of the neighbors, who seem to generally be in support of what they are doing. They have provided some cash proffers and affordable housing. At this price range they were certainly able to maneuver the project to get the affordable housing to work, and they were happy that they were able to do that. The ARB has reviewed the proposal and given the project their blessing. The sewer issue is just what it is. They have a water pressure problem. As a result they have a water tank on the property because they need water pressure for fire fighting. They have resolved that issue. The letter that the Commission received from the homeowners was actually about two months old. They have since met with them and there are some other comments. The homeowners are generally supportive of what they were trying to do. They have put an angle into it will he did not think it was going to be as disruptive as it perhaps was originally. They feel like that problem has been solved. Also, the easement is 20 feet and not 40 feet. A 40 foot easement is often used for grading, but it is only a temporary issue if it was needed. But, they have to clear the 20 foot easement for the Service Authority. They have talked with Kappa Sigma, which was about one mile away. There is no question that the land east of Avon Extended will eventually be developed. That land is in the growth area and is planned for that. Eventually that land will have to be provided with sewer. That land is downhill from this

property. Therefore, it is possible for them to install a sewer that will not be connected to them, which could be used later. He felt that it was just a matter of time before that land across the street gets hooked into. The Kappa Sigma property is just too far away to connect to. There is a sewer located about 1,000 feet to the north, and the engineer has checked that out and it just cannot be reached because it is too high for them. He pointed out that they have done what they could and it does work. It is a well designed project, which was something that they would be very proud of.

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

Mr. Craddock asked if Ron White of the Housing Office reviewed proffer 5, which deals with affordable housing.

Mr. Cetta stated that all three of the conditions dealing with affordable housing have been reviewed by the Housing Office. They gave staff the wording they would like to see used. He noted that they had reviewed all of their projects with the Housing Office a while back. There are a couple of letters on file dealing with the affordable housing element for all three of their proposed projects.

Mr. Kamptner stated that there might be some final adjustments to the language, but it looks like it is generally consistent with the standard language that they are trying to develop.

Ms. Higgins asked if the nine units that Mr. Cetta identified as being affordable were mixed throughout the plan.

Mr. Cetta stated that there were four different housing types and the affordable units don't have attached garages. What they have done is clustered the units right in the middle of the project. Originally they had those units mixed in, but because in an effort to reduce the cost of that unit they are on grade and have detached parking.

Mr. Cetta pointed out that the plan has been revised so that there were actually nine of them.

Mr. Edgerton asked if there was any reason that he could not proffer the conditions that he had worked out with the Homeowner's Association.

Mr. Cetta stated no because they would certainly do that. He pointed out that had all been worked out and everybody was happy with it.

Ms. Joseph asked if he indicated that he would be able to maneuver this easement so that they would be removing less of the larger trees.

Mr. Cetta stated that it was not so much that, but that they had made a turn in the road instead of taking a straight shot.

Ms. Joseph asked if they would be able to work around some of the specimens.

Mr. Cetta stated that he did not have the answer to that. They were certainly willing and want to do that because of their respect for the large trees. What he has described is generally what is happening. But, it needs to be adjusted to save some trees they were certainly going to do that.

Mr. Thomas asked if there were any other questions for Mr. Cetta. There being none, he opened the public hearing and asked if there was anyone in the audience who would like to come forward to speak on this application.

Steve Johnson stated that he lived straight across the street from this project. He pointed out that he had not heard anybody address anything about the amount of traffic this is going to create. As

he understands it, there is only one entrance way in or out for this project that will be on Avon Street. There is already a tremendous amount of traffic from all of the southern part of the County, Scottsville, Fluvanna County, Buckingham, Schuyler and Esmont that comes through every morning. Currently they have difficulty getting out of their driveway as it is. If you use the average of two vehicles per resident there, then that creates another 100 or so cars or more. The average family has two to three automobiles. They are adding traffic for the entire project into the entire community. This has been a single family community for a very long time. They would like to see the community stay that way. In that particular area Mill Creek has already created a lot of traffic in all directions. There are a lot of heavy big trucks coming through there all of the time. It is a terrible situation for traffic at this location already. This is going to be dumping additional traffic right in the front of the single family homes that have lived there and enjoyed the peace and quiet for many years. He pointed out that he did not think that the project should be done. He pointed out that he was totally opposed to this project. He noted that the applicant was having problems with the sewer. He questioned how they would obtain water for the site. He pointed out that most all of those single family homes in that area now have water problems from existing wells. They have not had the opportunity to enjoy public water or sewer. He asked that the neighbors involved be addressed more than the project itself.

Mr. Thomas asked if there was anyone else

Sally Maek, homeowner in Mill Creek South residential development, stated that with her tonight are the President of the Association, Don Letch and the adjoining homeowner, Ms. Nemie Alma, whose house adjoins the sewer alignment that was originally proposed by developer. They met with the developer. The developers contact them and they let them know their concerns about the alignment which was going to shoot right straight down past Ms. Alma house. It was on her immediate border and went down a very steep critical slope hill to join the sewer. Working with the developer's representatives they worked out informally an alignment that she felt that they were satisfied with that goes up the hill at an angle as has been mentioned. It takes a turn once it crosses over into the woods and then angles back up to the property of the Weather hill Homes. They asked the developer to preserve as many large trees as possible and to pick an alignment that would not only satisfy the reduced visibility criteria that they set, but would also preserve the forest cover. They have not had a formal proposal from them since those suggestions were made. Their surveyors did lay out an alignment and they have individually walked it and were satisfied. But, they would like to be sure that there were some conditions somewhere that stressed that the utmost environmental protections be taken when the sewer line is excavated. This would include making sure that the roots of large trees are not cut and to that extent be limited. Also, that spoil, debris and rocks that will be excavated not be piled up around the roots of the big trees since that hastens their failure once the excavation has occurred. All appropriate erosion control measures and restoration of the open space area, which is in turf. That should be restored and properly supervised by all appropriate authorities, which it was the County or the Service Authority. She pointed out that they have another concern. The density has been lowered by two units from what they had heard because it brings them within the 6 units per acre. The applicant has stated that it is now proposed for 59 units instead of 61 units. That satisfies one of their concerns. But, they have a larger scale concern about the density. They recognize that the Comprehensive Plan calls for three to six units, but there is clearly activity going on the 1,000 acres surrounding the southerly and western boundaries of Mill Creek South and they are concerned if this development is built at six units per acre, then would those larger developments possibly be built at 6 units per acre. They feel that is just too high given the conditions of their development and the topography and site conditions. If it was six units per acre that would probably be a lot of attached units to get that kind of density. Those are the conditions that they have in going forward. The applicant has made an informal proposal to them, but has not put it forward in formal terms yet.

Robert Spalls, stated that his family has a lot that was part of that lot. Therefore, his property has four boundary lines with one located on Avon Street and two of the other three are bordering on this piece of property. He pointed out that he was a neighbor to Ms. Glass who lived up there by

herself for the twenty years that he had lived there. He stated that his main concern was just like Mr. Johnson's in that they would be dumping a lot of traffic out on that two lane road on the side of the hill. He pointed out that there was a very sharp curve in the road right at the bottom of this proposed development. It is a blind curve and there is a sign for school buses. Conservatively they were talking about adding another 100 to 150 cars coming in and out of one entrance in the morning and evening. He talked with Ms. Doherty who gave him a lot of information. She indicated that there was a proposed right turn lane off of Avon Street as you are heading south into the property. That would certainly be useful. But, he felt that the Commission needs to recognize that if anyone was going to access any major road in this area that they would not be going up Avon Street, but rather would go down to Route 20. Therefore, the majority of that traffic would be exiting that property going south on Avon Street. The majority of the traffic that was going to enter that development were going to enter coming up the hill and making a left into the development. He felt that the traffic situation had not been addressed at all at this point. He stated that this would be built and then everybody would have to try to figure it out and do the best that they could. He pointed out that the applicant was proposing the maximum amount of dwelling units on this small piece of property. He questioned what happens with the sewage from the sewer grinders used for the single family homes. He asked if the sewage would be pumped up the hill. He pointed out that there has been no privacy provided towards his property to the rear or for James Pace's property on the other side. He stated that the developer has not had any conversations with him or with the major property owner that borders the entire north side of the property. There was a privacy fence proposed on the south side of the project because of a dog kennel. It is very unclear as to what the retention pond would look like, which was right next to his house. He asked how the sidewalk would be extended on the southern portion of that lot because the bank was ten feet above the level of the road. He asked they would be able to achieve that and grade this so that there would be a retention pond on the side of the hill, which does not have any water available. He pointed out that there were a lot of unanswered questions.

John Webster, resident of Mill Creek South, asked to reemphasize that Mill Creek South is about three houses per acre or less with the common ground. When you start putting six houses per acre he starts wondering about the 1,000 acres to the west and north bordering Mill Creek South. If they start building developing developments like this behind Mill Creek South, it was going to completely change the neighborhood. The traffic would be dumped onto Avon Street with only one entrance. As the architect pointed out that the road is made to adjoin those 1,000 acres because there is a through road there. He stated that he hoped that any future development would be much less dense. Although he does realize that the land does call for this, he felt that it should be moderated in view of what is coming up in the future.

Mr. Thomas asked if there were any other speakers. There being none, he closed the public hearing to bring the request back to the Commission for comments, discussion and possible action.

Mr. Rieley stated that he had a couple of questions that relate to issues that were raised by Mr. Johnson and Mr. Spalls. He asked if VDOT has done an analysis of the turning movements in the traffic. He felt that Mr. Spalls was right in that if someone wanted to go to the interstate that they would go south and not north on Avon Road. He asked staff if there was any discussion about a left turn lane.

Ms. Doherty stated that the applicant submitted traffic information with their application and their proposal was that it did not warrant a left turn lane. VDOT's comments have always said right turn lane only. That is the limits of the conversations that they have had, but they did not disagree and say that they should look into this further for a left turn lane. They accepted applicant's traffic analysis that they agree only to a right hand turn lane.

Mr. Rieley asked how many vehicle trips per day the applicant's study showed. He felt that it was going to be higher than the people anticipated.

Ms. Doherty stated that they had fewer than 1,082 vehicle trips.

Ms. Higgins stated that it showed less than 1,000 vehicle trips per day.

Ms. Doherty agreed that VDOT was anticipating 1,000 vehicle trips per day with the interconnections and were still saying that the applicant only provide a left hand turn lane.

Mr. Rieley asked staff to clarify the issue about the sewer grinder pumps being required for the single family residents because there is no gravity flow available. In the future the gravity flow will be available. But, the gravity flow is available from the townhouses units.

Ms. Doherty stated that was correct. If you look at the aerial you can see that the single family homes are going up the hill and most of the townhomes are at the top of the hill. Therefore, the townhomes could easily drain down to Mill Creek. Grinder pumps would be needed to get the sewage from the single family homes up to a point and then connecting to Mill Creek. The Service Authority is not concerned about it because there are so few units. They feel that grinder pumps on individual private lots are something that they can deal with. They don't have the same concerns that the engineering department has.

Mr. Rieley asked how would make the call on that decision.

Ms. Doherty pointed out that the County engineering staff would make the decision.

Mr. Craddock asked where the development boundary was located.

Ms. Doherty stated that it was very far to the south.

Ms. Higgins pointed out that it was located at Route 20 on the east.

Mr. Cilimberg stated that it runs down to the south of the intersection of Avon and Route 20. He pointed out that some of the Breeden property was within the development area, but some was not.

Ms. Higgins asked if Avon Road in any sort of plan for upgrade because it was a collector road to Scottsville Road.

Mr. Cilimberg stated that there were no plans at this time. Route 20 is proposed for widening. Currently Mill Creek Drive is connecting from Avon Road to Route 20, and actually some trips now took that west to east movement between the two to go or come to Route 20.

Mr. Thomas pointed out that the curve was created to make traffic come out parallel rather than at an angle.

Mr. Cilimberg stated that they have the same circumstance here that was all over the development area in that they have an immature road system. Therefore, they have the choice of trying to work with the development areas to try to build the road system up or just allow it to spread out all over the County.

Mr. Rieley asked how they envision the mechanism to happen for solidifying the arrangement of a sewer connection.

Ms. Doherty stated that they could work on the proffer language for that between now and the Board meeting. Staff would have to come up with something that was enforceable by the Zoning Department.

Ms. Higgins asked if this was something that the Mill Creek Homeowners Association will be granting and signing a deed of easement. Typically that is the complete control because if the developer does not agree to the terms of that, which is built right in that agreement, that she would assume that it would be reviewed by the attorney for the Albemarle County Service Authority. Although the premise is set, she felt that the County's enforcement does not nearly come close to the Service Authority's enforcement. If the developer does not agree to the terms, then he won't get the easement. There is an agreement that he can put into a legal document that can be recorded. Then they would have that mechanism in place.

Mr. Cilimberg stated that he did not think that a proffer would be nearly as strong as the leverage that the Mill Creek Homeowner Association holds over this developer to grant them an easement. There is no condemnation going on here.

Mr. Rieley stated that there is no reason that it could not legally be condemned, but it has not been done in cases like this.

Mr. Cilimberg stated that the County does not condemn land for this kind of thing.

Ms. Higgins stated that the Albemarle County Service Authority has condemnation authority and would in the event that the developer demonstrated compliance and a very great diligent effort to comply with these things. Then if it was not granted, then only they could do so. It is very, very rare that they would ever accept it.

Ms. Joseph stated that a condition was very important because of the way it travels through the open space and how sensitive it was to the existing area.

Mr. Cilimberg pointed out that the proffer won't hurt anything. He felt that the applicant had indicated their willingness to provide a proffer and it was not a point of argument for the Commission.

Mr. Edgerton stated that he was a little confused about the fiscal impact statement on page 11 in attachment C. There is a school expenditure attributed to this project of $237,000. He noted that this caught his eye because in the staff report on page 5 it says that the impacts to the schools with the proposed 52 townhouse dwellings will be minimal. He asked for some help in understanding why that is considered minimal. Then in going through the whole thing, the final statement on page 13 says that the numbers generated by the first and third scenarios indicate that if the County approves ZMA-04-03 that the differential net annual fiscal impact would be $15,000 minus $47,000, which equals a negative $32,000. That means that annually the County would be $29,000 worse off approving the ZMA than denying the proposal. They have rarely taken this into consideration, but it does not take much math to realize that the $59,000 proffer offer is only going to help the County out for a very brief period of time. He suggested that in their approval that they recommend perhaps a larger proffer because of the impact that the project will be having on the County.

Ms. Doherty stated that to address the school expenditure on page 13, the fiscal impact proposed zoning that the revenues expected would be $243,000 and then the total expenditures would be $290,000. She noted that the revenues were expected from the development area because the taxes were supposed to cover some of that school expense. Whether the development is paying for itself annually is another issue.

Mr. Rieley stated that residential development never covers itself.

Mr. Cilimberg stated that was going to be the case in all residential, unless there was high value in the residential units. When they start getting units in the over $400,000 kind of values, then it starts evening out. The school expenditure here he would imagine was primarily reflective of the

fact that there will be a southern elementary school at some point and this is their share as it was figured.

Mr. Edgerton stated that this is their share from this one particular project.

Mr. Cilimberg stated that was what this is, and it was off set by revenue that is coming from real estate. What you see is the net annual fiscal impact, which is the difference from a modeling standpoint from the revenues that this project will generate and the property and other taxes minus the expenditures that are reflected in their CIP to pay for facilities that they have a portion of the impact on. The reality is that the $47,000 in this particular math of the net annual fiscal impact is roughly what it will cost the County for this project to develop as it relates to our CIP beyond what they can cover in the revenues that they will provide to the County through property taxes and other revenues.

Ms. Higgins stated that another factor that becomes clearer when you look at an analysis like this is that the revenue side of this is based on property tax anticipated revenue with nine units at a lesser cost. In other words, the closer to $400,000 property value in each case was the range where it says that it supports the student with 70 percent of the tax dollar going to education. But there is actually another cost to affordable units. The children generated from potential affordable units and the value of that real estate is going to another expense to the County that they are committed to understand and still promote. It has to be considered that this development is actually going to generate less revenue because the developer has stepped up to the plate and put 15 percent out there for meeting that commitment. That is something that the Commission has not seen across the board.

Mr. Rieley stated that brings them to a logical conclusion that means that they could be approving houses for multi-millionaires that are too old to have children or to drive because they will all stay home.

Ms. Higgins noted that it was a delicate balance.

Mr. Cilimberg pointed out that the standard analysis is based on people per household average based on dwelling unit type. Any customized version still applies to the same people per household, but it just puts in different values for the housing. If they incorporate the values provided by the applicants, then that could adjust the fiscal impact due to the higher and lower values. The pupil per household ratios is not changed by that.

Ms. Higgins pointed out that the cost per pupil was affixed.

Mr. Cilimberg stated that the starting point was the number of pupils being generated and the cost is going to be the same whether it was here or anywhere else in the County.

Mr. Edgerton asked if the Board had given any amount on what is an appropriate per unit proffer, and Mr. Cilimberg stated no.

Mr. Rieley asked how this compares with the proffer per unit for Hollymead Town Center. There was some discussion about making the North Pointe per unit proffers in balance with those used for Hollymead Town Center.

Mr. Cilimberg stated that it was a lesser dollar amount per unit than what is represented by Hollymead Town Center or Albemarle Place, but neither of those projects offered affordable housing components.

Mr. Rieley asked what the difference was per unit.

Mr. Cilimberg stated that it came out about $3,000 in the ultimate approvals. He pointed out that the Stillfried project that just went to the Board last week provided for a $3,000 per unit proffer, which was proffered for capital improvements as well as affordable housing programs. Therefore, that was an effort to try to make up for the fact that the project itself did not meet the affordable housing target that was set out in the recent policy.

Mr. Rieley asked what this project worked out to.

Mr. Cilimberg stated that it was $1,000 in terms of per unit, and then the provision of the affordable units. He noted that was not provided for any of the other projects that he had mentioned earlier. As far as North Pointe, he did not know where that was going to end up.

Mr. Thomas asked the maximum number of units you could have before being required to have two entrances. He asked if this proposal fell under that provision.

Ms. Doherty stated that it was 50 units, but that there are different ways it can be provided. In this proposal the developer was providing interconnections. Staff has found that those two points of principle access on a public road don't provide a meaningful connection. In addition, it doesn't meet the goal of that which was to provide multiple network streets. What the applicant is doing is exactly what staff suggested.

Mr. Cilimberg stated that their Subdivision Ordinance recommendation to the Board essentially removed the 50 unit minimum because it was such an arbitrary figure and it was not really accomplishing what was intended. It deferred to the idea of interconnection creating a street system, which would ultimately provide multiple points of access rather than artificially trying to create one in an isolated project.

Mr. Rieley asked if the 32 foot width the narrowest possible amount to make a public road.

Ms. Doherty stated that it was at the time that this application was made. She noted that they have made some in roads on other applications in the mean time that they may benefit from. Therefore, they would have to see what the applicant wants to do.

Mr. Rieley stated that it was possible that amount would be decreased as this moves through the process. He stated that it would be in everybody's interest to see this condensed as much as possible

Mr. Thomas asked if there were any buffers or tree plantings planned around the borders of the property.

Ms. Doherty stated that they were around the proposed water tank and the adjacent parcel to the south, which has an existing dog kennel. Then, the ARB would have review of the screening around the entrance.

Mr. Morris moved to recommend approval of ZMA-2004-003, Avon Park, with conditions and the amended proffers.

Mr. Rieley stated that the amendment to the proffer was the solidification and agreement relative to the sewer line.

Mr. Cilimberg asked if they were acknowledging the proffers handed out tonight. He asked if in addition they wanted to see a condition regarding the sewer line.

Mr. Morris agreed.

Mr. Craddock seconded the motion.

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

Mr. Edgerton stated that he was very pleased with the efforts that have been made by the developers on this project. He stated that it was very upsetting by the community to see this scale of change come into their neighborhood, but he did not have anything to reassure them about that. He pointed out that this was exactly what they have asked for in the development area. It seems to be the best that can be done. He noted that he very much hoped that there was a way to do the best job environmentally possible in the sewer connection and he really hoped that there might be opportunity for the Board when they consider it that they could take a little more seriously the amount of money proffered. He felt that some day that Albemarle County was going to have to take on more responsibility for thinking about the long term cost of the projects that they approve. He stated that day might be closer than we might realize. With that said, he congratulated the developer for really working hard on the project to incorporate the Neighborhood Model in the development area. He stated that his concerns should not outweigh his enthusiastic. Therefore, he was very much in favor of approving this.

Ms. Joseph agreed with Mr. Edgerton. She stated that it was refreshing to have the applicant come in and offer up the affordable housing aspect of this, which was very important. None of the Commission had anything to say about the design because what he plans to do represents exactly what everybody has been asking for all of this time. She noted that she understood the concerns of the adjacent owners, too. But she noted that the development would help preserve the Rural Areas.

Mr. Rieley seconded those sediments. But, he also wanted to say that one of the areas he felt they owe consideration to the neighbors was as the next round of public improvements are made specifically to sewer and the improvements to the traffic to handle this that due consideration be given to the people who are already there and are going to be coping with the impacts from more development in the growth areas.

Mr. Morris stated that his sympathies were for all of the people in the area dealing with the traffic. He pointed out that this was not unique to Avon Street, but was throughout the County. It is definitely something that needs to be addressed.

Mr. Thomas stated that the motion carried for approval of ZMA-2004-003, which would be heard by the Board on July 14.

Public Hearing Items:

SP-2004-012 Verulam Farm Conservation Group LLC/Nextel Partners (Sign #85, 86) Request for special use permit approval to allow the construction of a personal wireless service facility with a wooden monopole, approximately 101 feet in total height and 10 feet above the height of the tallest tree within 25 feet. The proposed facility would include flush-mounted panel antennas and ground equipment stored in a 200 square foot building. This application is being made in accordance with Section 10.2.2.6 of the Zoning Ordinance, which allows for microwave and radio-wave transmission and relay towers in the Rural Areas. The property, described as Tax Map 74 Parcel 17, contains 356.26 acres, and is zoned RA, Rural Areas. The site is located on Bloomfield Road (Route 677), approximately .75 miles from the intersection of Route 637 and Route 677, in the Samuel Miller Magisterial District. The Comprehensive Plan designates this property as Rural Areas in Rural Area 3. (Stephen Waller)

Mr. Waller summarized the staff report. The applicant is proposing the installation of a personal wireless service facility that would include a wood monopole at approximately 101 feet in total height with a top elevation of approximately 1,077 feet Above Mean Sea Level. This would result in a monopole that would be ten feet taller than the tallest tree within 25 feet, and that tree is identified as a 91 foot tall tree on the applicant's construction plans. The monopole would be

equipped with an array of three 8 foot long 12 inch wide and 7 inch deep flush mounted panel antennas at its top. All of the supporting ground equipment would be contained within a 20 foot long by 10 foot wide building that would be housed on a 288 square foot concrete pad. The staff report incorrectly calls the pad out as being 2,088 square feet. The lease area for this site is located on property that is described as tax 74, parcel 17 and it contains 356.36 acres, zoned Rural Areas and Entrance Corridor. The property is currently held in a conservation easement by the Nature Conservancy. At its meeting on July 14, the Board of Supervisors unanimously approved a request for the installation of another personal wireless service facility at this site. At this time that facility has not been constructed, but the approval was again for a 101 foot tall monopole, which was the same request that was being made here today. The site for both the facilities is located at approximately the same elevation. During a field visit staff observed that an orange balloon that was floated at the height of the proposed monopole was only slightly visible at the tops of the tree lines and could not be seen from various vantage points. While staff was out trying to view the balloon from different properties in the area and some of the near by public roads staff requested that the gentleman who was floating the balloon raise it up to 20 feet above the tallest tree within 25 feet so that they could an idea of which area of the trees that they needed to be looking at. Then, the gentleman brought the balloon back down to 10 feet. At those points where staff could identify the site the balloon was only slightly visible at the top of the trees. This site qualifies for all of the criteria of a Tier II Wireless Facility under the Personal Wireless Service Facilities Policy. However, because the site is located in an avoidance area near the bridge line, if under the proposed Service Wireless Facilities zoning text amendment in any case it would still require a special use permit. Therefore, it would have to go through the full Tier III review. The Architectural Review Board has reviewed the proposal and recommended approval with three conditions. One of which has already been met, which was the revision of the original plan that showed the panel antennas slightly above the top of the tower. The information in the Commission's packet was revised in response to the ARB's conditions and now the antennas are being at or below the top height of the tower. As stated previously, this site is located within a conservation easement held by the Nature Conservancy and the applicant is in the process of working with them to amend certain conditions on that easement. When the easement was first created there was an allowance for one facility at that site. During the review of another facility that was near by the site that would have covered the applicant's same coverage objectives staff and the Planning Commission have recommended denial of that original request, which was on the Gallihugh property on the other side of I-64 across from the Rosemont Subdivision. At the Board of Supervisors meeting it was recommended that the applicant look at this site. That information is not covered in the report because staff looks at each site individually on its own merit, but he just wanted to point that information out. The application for the second facility on this site is a result of the Board's identifying the earlier facility at this site as a good site. Then the second applicant came in and attempted to work with the property owner and the Nature Conservancy to amend those conditions and possibly have a second tower on the site. Staff has reviewed this request with consideration for the special use permit requirements set forth in the Zoning Ordinance, and recommends approval of the request with general conditions that are consistent with the earlier request that was approved at this site. But, also with some conditions that are specific to this site. If there were any questions, he would be happy to answer them.

Mr. Thomas asked if the Commissioners had any questions for staff.

Mr. Cilimberg pointed out that he was at the Board meetings in which the Gallihugh proposal was considered. He noted that the Commission had recommended denial of the Gallihugh request, which was essentially across I-64. The Board actually saw the Gallihugh request the same night they saw the application on this property that was approved. There was some discussion that then started taking place with the applicant about looking at this site. That was really the origin of the thinking that came to this site. The Gallihugh proposal has never been acted on since it was actively deferred since then to allow them to bring in an application on this site that could be considered by the Commission and the Board of Supervisors.

Mr. Edgerton asked if there was any discussion on whether there could be a joint tower that could handle both company's facilities.

Mr. Waller stated that was part of the earlier discussion, but basically the premise of the personal wireless facility is looking that they were willing to accept more shorter towers within an given geographic area as opposed to taller towers. The applicant has indicated because the original tower was built at 10 feet above the tallest tree and those original panel antennas were 6 feet in length that if Nextel's antennas were to be placed on that same pole and be able to work with their 8 foot antennas that staff would probably have recommended denial of the request since the request would have been for 20 feet above the tallest tree. The 20 feet would have been required due to the requirements for separation between the two sets of antennas.

Mr. Rieley stated that they have typically looked favorable on application with the antennas on the top of the pole being no higher than 7 feet above the nearest tree within 25 feet. He pointed out that the staff report makes it clear that this site is a special condition and that even at 10 feet it was essentially invisible. He pointed out that they were not shifting to a different standard because in fact this was meeting a different condition. He asked staff if that was correct.

Mr. Waller stated yes that was correct. With the recommendation for 10 feet it was basically to keep consistent with what was already approved at that site. At the other site staff showed the Commission photographs where no balloon was even visible at 10 feet, which is the reason staff wanted the pole raised higher. With most applications and most approvals staff has looked at the 7 feet.

Mr. Edgerton asked why Nextel's equipment takes up so much more space than the Omnipoint equipment. He noted that the proposed building was huge.

Mr. Waller stated that from the technological standpoint, they did not look at it. At the Gallihugh site their original proposal was for a building of similar size. Because that site would have been visible from an adjoining owner, staff requested that they reduce the size of the equipment. But because this site is so isolated from all of the nearby property lines and road ways, staff did not even question them on the size of the building. Staff felt that since the site was so far out of view from off site and that it did not require the removal of any vegetation that there was no question about the size of the equipment shelter.

Mr. Thomas asked if there were any other questions for Mr. Waller. There being none, he opened the public hearing and invited the applicant to come forward and speak.

William Daly, representative for Nextel Partners, stated that they were proposing this site to provide coverage along I-64 and the surrounding neighborhood for their wireless communications network. Regarding the question about the technology, he pointed out that part of the problem for Nextel is that they use a system called IDEN, which was developed by Motorola who were one of the major stockholders of Nextel. The other carriers tend to either use GSM or CDMA technology which has competition among several companies that produce that equipment. Without the competition there has not been that much drive to develop the micro-sizing of the equipment as much. Unfortunately, Nextel does require the larger equipment shelters in a lot of cases. They area trying to provide the service with the least amount of impact on the surrounding areas and were willing to work with the Planning Commission and County to try to achieve that.

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

Mr. Craddock asked if this was within the Omnipoint lease area.

Mr. Waller stated that the second building and the monopole itself were all within the lease area that was granted to Omnipoint. The applicant will have to deal with their competition as far as getting the site

Mr. Craddock asked if there has been any discussion about any effects this may have on the 800 megahertz system for the County.

Mr. Waller stated that there had not been any discussion about that issue.

Mr. Morris moved for approval of SP-2004-012, Verulam Farm Conservation Group LLC/Nextel Partners with the conditions as recommended in the staff report.

The facility shall be designed, constructed and maintained as follows:

1. With the exception of any minor changes that would be required in order to comply with the conditions listed herein, the facility including the monopole, the ground equipment building, and any antennas shall be sized, located and built as shown on the concept plan entitled, "SP-004-012 - Nextel Partnership/Verulam Farm Conservation Group LLC/Meechum", last revised May 25, 2004 and provided with Attachment A.
2. The calculation of pole height shall include any base, foundation or grading that raises the pole above the pre-existing, natural ground elevation.
3. The top of the pole, as measured Above Mean Sea Level (AMSL), shall never exceed seven (10) feet above the top of the tallest tree within twenty-five feet. In no case shall the pole exceed 101 feet in total height at the time of installation without prior approval of an amendment to this special use permit or personal wireless facility permit.
4. The monopole shall be made of wood and be a dark brown natural wood color.
5. The ground equipment building, antennas, concrete pad and all equipment attached to the pole shall be the same color as the pole and shall be no larger than the specifications set forth in the application plans.
6. Only flush-mounted antennas shall be permitted. No antennas that project out from the pole beyond the minimum required by the support structure shall be permitted. However, in no case shall the distance between the face of the pole and the faces of the antennas be more than 12 inches.
7. No satellite or microwave dishes shall be permitted on the monopole.
8. No antennas or equipment, with the exception of a grounding rod, not to exceed one-inch in diameter and twelve (12) inches in height, shall be located above the top of the pole.
9. No guy wires shall be permitted.
10. No lighting shall be permitted on the site or on the pole, except as herein provided. Outdoor lighting shall be limited to periods of maintenance only. Each outdoor luminaire shall be fully shielded such that all light emitted is projected below a horizontal plane running though the lowest part of the shield or shielding part of the luminaire. For the purposes of this condition, a luminaire is a complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.
11. The permittee shall comply with section 5.1.12 of the Zoning Ordinance. Fencing of the lease area shall not be permitted.
12. Size specifications and other details, including schematic elevations of the antennas shall be included in the construction plan package.
13. Site grading and all construction around the facility shall be minimized to only provide the amount of space that will be necessary for placement of the monopole and equipment building.
14. Details and cross sections for any future plans to upgrade the existing dirt logging road shall be subject to review and approval by the County's Engineering Department

Prior to the issuance of a building permit, the following requirements shall be met:

15. Certification by a registered surveyor stating the height of the reference tree that has been used to justify the height of the monopole shall be provided to the Zoning Administrator.
16. Prior to beginning construction or installation of the pole, the equipment cabinets or vehicular or utility access, an amended tree conservation plan, developed by a certified arborist shall be submitted to the Zoning Administrator for approval. The plan shall specify tree protection methods and procedures, and identify any existing trees to be removed on the site - both inside and outside the access easement and lease area. All construction or installation associated with the pole and equipment pad, including necessary access for construction or installation, shall be in accordance with this tree conservation plan. Except for the tree removal expressly authorized by the Director of Planning and Community Development, the permittee shall not remove existing trees within two hundred (200) feet of the pole and equipment pad. A special use permit amendment shall be required for any future tree removal within the two hundred-foot buffer, after the installation of the subject facility.
17. With the building permit application, the applicant shall submit the final revised set of site plans for construction of the facility. During the review of the application, Planning staff shall review the revised plans to ensure that all appropriate conditions of the special use permit have been addressed.

After the completion of the pole installation and prior to the issuance of a Certificate of Occupancy or to any facility operation, the following shall be met:

18. Certification by a registered surveyor stating the height of the pole, measured both in feet above ground level and in elevation above sea-level (ASL) using the benchmarks or reference datum identified in the application shall be provided to the Zoning Administrator.
19. Certification confirming that the grounding rod's: a) height does not exceed two feet above the monopole; and, b) width does not exceed a diameter of one-inch, shall be provided to the Zoning Administrator.
20. No slopes associated with construction of the facility shall be created that are steeper than 2:1 unless retaining walls, revetments, or other stabilization measures acceptable to the County Engineer are employed.

After the issuance of a Certificate of Occupancy, the following requirements shall be met:

21. The applicant, or any subsequent owners of the facility, shall submit a report to the Zoning Administrator by July 1 of each year. The report shall identify each personal wireless service provider that uses the facility, including a drawing indicating which equipment, on both the tower and the ground, are associated with each provider.
22. All equipment and antennae from any individual personal wireless service provider shall be disassembled and removed from the site within ninety (90) days of the date its use is discontinued. The entire facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the Zoning Administrator determines at any time that surety is required to guarantee that the facility will be removed as required, the permittee shall furnish to the Zoning Administrator a certified check, a bond with surety satisfactory to the County, or a letter of credit satisfactory to the County, in an amount sufficient for, and conditioned upon, the removal of the facility. The type of surety guarantee shall be to the satisfaction of the Zoning Administrator and the County Attorney.

Mr. Rieley seconded the motion.

The motion carried by a vote of 7:0.

Mr. Thomas stated that the motion carried for approval of ZMA-2004-012, Verulam Farm Conservation Group LLC/Nextel Partners, which would be heard by the Board on July 14.

SP-2004-010 Kimco L.C. (Brown, Flow, Crown) Stand-Alone Parking (Sign #83) - 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 78 Parcel 16 contains 4.87 acres, and is zoned HC Highway Commercial. The proposal is located on Richmond Road (US Route 250E), approximately .1 mile from the intersection of Richmond Road and Stony Point Road (US Route 20N), in the Rivanna Magisterial District. The Comprehensive Plan designates this property as Regional Service in Neighborhood 3. (Francis MacCall)

Mr. MacCall summarized the staff report. The applicant is proposing to use the former lumber storage area at the rear of the Moore's Building on US Route 250 East as a stand-alone parking lot, to allow the Brown Automotive, Flow, and Crown Motors auto dealerships to park inventory that will not fit in the existing locations that are located on Richmond Road, US Route 250 E. There are no physical changes proposed for the site. The petition is for approval of a special use permit, (in accordance with Section 24.2.2 (12) of the Zoning Ordinance) to allow stand-alone parking. The property, described as Tax Map 78 Parcel 16 is 4.87 acres, and is zoned HC, Highway Commercial and EC, Entrance Corridor. The property is located on Richmond Road (US Route 250E), approximately .1 mile from the intersection of Richmond Road and Stony Point Road (US Route 20N), in the Rivanna Magisterial District. The Comprehensive Plan designates this property as Regional Service in Neighborhood 3. Staff has reviewed the proposal for conformity with the Comprehensive Plan and the Zoning Ordinance and recommends approval of the special use permit with conditions. This site is currently under violation and has been since August 2003. The owner was cited with an official notice of violation in late February 2004.

STAFF COMMENT: The applicant has agreed to limit the use to one year. Staff believes that the redevelopment of this area will eventually provide for a possible road connection. Staff knows that this is a "band aid" fix for the automobile dealerships involved since all three (3) are or will be going through some major site redevelopment in the near future. The applicant should be aware that if the Board of Supervisors decides to approve the permit, before the use can lawfully begin the permit conditions must be met and a zoning clearance must be obtained through the Department of Community Development.

Staff has identified the following factors, which are favorable to this request:

1. The vehicles will not be visible from the Route 250 East.
2. The use will be limited to one year unless the applicant applies for an extension by amending this Special Use Permit. (See conditions)

Staff has identified the following factor, which would be unfavorable to this request.

1. The property is currently being used as a stand alone parking lot in violation of the Zoning Ordinance. The applicant is trying to get the Special Use Permit to correct the violation and may not be in compliance before the Special Use Permit is granted.

Mr. Morris asked if staff recommends this use for a period of one year, and Mr. MacCall stated that was correct.

Ms. Joseph asked if in essence the building and the existing parking could still be used and the storage of these other vehicles would just be in the rear.

Mr. MacCall stated that was correct. He pointed out that currently the building was vacant. If the applicant proposed another use for the building, they would have to come in and apply for a zoning clearance.

Mr. Thomas opened the public hearing and invited the applicant to come forward and speak.

Jim Gregg, representative of Daggett and Gregg Architects, stated that basically the previous use of the site was for a building supply facility. The area in back proposed to be used for parking was the yard space that was behind the old Moore's business. Three of the car dealerships came to Grant Cosner and asked if they could store cars there. It would be very hard to see any of the cars from Route 250. But because of the nature of the zoning a special use permit is required to store cars. Therefore, that was what they were seeking.

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

Mr. Craddock stated that the building had generally been used by the community. He asked if this use would affect the SPCA sale or anything like that. He asked if there was sufficient parking up front for those uses.

Mr. Gregg stated that Mr. Cosner was present and could answer that question.

Grant Cosner stated that the proposed use would not compromise those uses because the dealers involved have three times more parking back there than they would need to store cars. What would happen is that the car dealers would squeeze up and work it out with any charitable organizations that came along. He pointed out that once he got the letter from the County and spoke with several people that he had no other choice but to tell these good people that they could not come back at all. He stated that he did not like that at all and was very upset about it. The SPCA has made about $600,000 to $700,000 on that site. He stated that he might have misunderstood them, but he asked them twice about this and the answer has always been no that he would have to get a special use permit. He pointed that he had been allowing them to do this without a special use permit, but he thought that it was alright. He stated that there was plenty of room on the site. The Salvation Army has asked to use the building for a time, but he needed the County to tell him how to go about this.

Mr. Thomas asked if there were any other questions for the applicant. There being none, he asked if there was anyone else present in the audience who would like to come forward and speak regarding this application at this time. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and possible action. He pointed out that there had been a problem with the signage on this site because they had too many in too short of a time.

Mr. Rieley moved for approval of SP-2004-010, Kimco L.C. (Brown, Flow, and Crown) Stand-Alone Parking, with the conditions.

1. A site plan amendment shall be submitted for approval, which shall be in general accord with the concept plan on Tax Map 78 Parcel 16, dated 3/19/04. (Attachments A)
2. At least one sign shall be posted in the parking area that identifies the use as parking for Brown Automotive, Flow Companies of Charlottesville, and Crown Motor Company only, with size and location of the sign to be determined and approved by staff.
3. No customers of the three (3) dealerships noted above shall be permitted onsite.
4. The use shall be valid for a period not to exceed one (1) year from the approval of the site plan amendment. Any extension of the one (1) year period will require that SP-2004-010 be amended.
5. Approval of the special permit does not authorize the use to begin. The use may not lawfully begin until all necessary approvals have been received and conditions met. This includes, compliance with applicable conditions of the special permit; approval of and compliance with the site plan; and approval of a zoning compliance clearance.

Ms. Higgins seconded the motion.

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

Mr. Thomas stated that motion carried for SP-2004-010, Kimco L.C. (Brown, Flow, Crown) Stand Alone Parking, which will be heard by the Board of Supervisors on July 14.

Old Business:

Mr. Thomas asked if there was any other old business.

Mr. Kamptner asked the Commission to consider the revised Resolution of Intent concerning the proposed zoning text amendment pertaining to the definition of "museum" that was passed out at the beginning of the meeting.

Ms. Higgins made a motion to adopt the Resolution of Intent as submitted.

Mr. Morris seconded the motion.

The motion carried by a vote of 7:0.

Ms. Joseph stated that as she was reading through the minutes of April 20, it talked about the Pantops public hearing that was suppose to be held in May. She asked what had happened to that public hearing.

Mr. Cilimberg stated that public hearing had not been held due to the volume of work and the loss of a staff person. Staff plans to still hold that public hearing in the future, but wants to make sure it is well thought through.

Mr. Fritz stated that last week they had reviewed SUB-2004-00098, the Digiacomo Subdivision. The Commission asked staff to go back and look at some way to address the remaining future development rights on the residue. In talking with the County Attorney and a preliminary conversation with the Engineer, but not with the applicant, staff believes it is within the Commission's authority in their review of the modification request to allow a private road to place a condition which would limit the usage of those further development rights. The development rights would still be there, but there would be a condition with some wording that they were trying to come up with. Staff is still working on the exact wording of that condition, which is why they did not have anything in their packet. Staff will prepare the wording of the condition and send it to the County's Attorney's office for review. The suggested wording would be reviewed by the Commission next week, which would be something within their ability to control. He stated that it would be a condition of the private road, which would be the authorization that allows that subdivision plat to be created with a private road on it, which had a condition that says something. He stated that it would be a notation that they would put on the plat.

Ms. Joseph asked that the Commission receive that information prior to the meeting.

Mr. Fritz pointed out that staff would get that information to the Commission as soon as possible. He pointed out that it might be sent by email. He stated that the condition would be specific to the modification to allow the private road, which would be where the connection comes in that allows the Commission to make the restriction.

Since there was no further old business, the meeting proceeded.

New Business

Mr. Thomas asked if there was any new business.

Mr. Cilimberg pointed out that there would be a 4:00 p.m. work session next week on ZMA-04-07, Belevedere. The Rural Areas public hearing will follow at 6:00 p.m.

Mr. Thomas stated that he stood in for Mr. Craddock for a few minutes at the Mountain Top Meeting. He pointed out that they discovered that another Commissioner was needed as a substitute. He stated that the floor was open for a nomination or a volunteer to be Mr. Craddock's substitute in his absence.

Mr. Cilimberg asked since the Board actually appointed this committee if they would have to appoint the alternative. He pointed out that the Board had appointed Mr. Craddock.

Mr. Kamptner suggested that they table this for a week or two to allow the original appointment action to be pulled and reviewed.

Mr. Craddock noted that the next meeting was August 2.

Mr. Thomas stated that along those same lines the Committee discussed using internal email communications back and forth between the members. He asked whether these committee members were appointed and, if so, whether they come under the same regulations for a body like the Commission.

Mr. Kamptner stated that they were a public body and that he received the email from Harry Levins this morning, and, his office would send out some advice regarding what they can do.

Mr. Thomas suggested that once a month that the Commission review what each member is doing in their committees to bring all of us up to date as to where we are. Since they were not prepared tonight, he suggested that they start next month.

Ms. Higgins asked what the status was on the agenda for July 6, and Mr. Cilimberg stated that there would be no meeting on July 6.

Adjournment:

With no further items, the meeting adjourned at 7:55 p.m. to the next meeting on June 29, 2004.

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V. Wayne Cilimberg, Secretary

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