Albemarle County Planning Commission
February 28, 2006

The Albemarle County Planning Commission held a meeting and a work session on Tuesday, February 28, 2006, at 4:00 p.m., at the County Office Building, Room 235, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Bill Edgerton, Calvin Morris, Vice-Chairman, Pete Craddock; Jo Higgins, Eric Strucko, Jon Cannon and Marcia Joseph, Chairman. Pete Craddock arrived at 4:45 p.m. Julia Monteith, Senior Land Use Planner for the University of Virginia, representative for David J. Neuman, FAIA, Architect for University of Virginia was absent.

Other officials present were Wayne Cilimberg, Planning Director; David Benish, Chief of Planning & Community Development; Mark Graham, Director of Community Development; Scott Clark, Senior Planner; John Shepherd, Manager of Zoning Administration; Joan McDowell, Principal Planner and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Ms. Joseph called the work session to order at 4:00 p.m. and established a quorum.

Work sessions*:*

ZTA-2005-004 Phasing and Clustering, RA District - Work session to discuss and make recommendations to the Board of Supervisors pertaining to Rural Areas clustering of subdivisions, phasing of development, and the public review/input process. (Joan McDowell)

Ms. McDowell stated that last October staff brought the issues of phasing and clustering and the implementation for the rural areas to the Commission. It was Ms. Higgins that raised the question if there would be any impacts on conservation easement. So it has taken staff a while, but they have two of the local experts on conservation easements that will start off the meeting. After they have discussed the pros and cons of conservation easement and phasing and clustering then they can move into the phasing and clustering individually and then the combination of phasing and clustering and the issues that they need to consider. Also, staff has laid out two options for public input for the Commission's review. They will begin with Rex Linville, of Piedmont Environmental Council, and Ridge Schuyler, of the Nature Conservancy. It turns out that they have a little different view points on this, which she felt would be more interesting than one view point. But, they both agree to the main benefit of slowing growth in the rural areas. They both agree that it outweighs any potential for slowing easements.

Ms. Joseph asked staff what was her expectations for the end of this meeting. She asked what she wanted the Commission to have accomplished.

Ms. McDowell hoped that they could get agreement on the phasing and clustering issues that are in the report and that they pick the option or a combination of the two for public input. Then they can send this back to the Board of Supervisors as they agreed to do and let them agree on the public input. The Board wants to condense this process so that they can get phasing and clustering to them by fall.

Ridge Schuyler, Director of the Piedmont Program at the Nature Conservancy, stated that the Nature Conservancy is a global organization that has been around for about 50 years. They use a science based process to identify the Rivanna water shed as one of the places that they want to protect. It is one of the best examples of a kemont river system left. So they want to protect it before it disappears. So their interest here is in the Rivanna water shed. A lot of the work he does is to try to protect the Rivanna water shed. As an organization they both purchase land and hold conservation easements. For context, in the United States they own 3.3 million acres of land, which is land they purchased for their mission. They have easements on 3.2 million acres of land. In Virginia they own about 64,000 acres, and have easements on about 50,000 acres. He employs a lot of different strategies to protect the water shed and a couple of forests that they have identified. One of the things he does is negotiates and holds conservation easements. Last year of the 10,000 or so acres that got eased in Albemarle County, the Nature Conservancy accounted for 2,100 acres of those and POF pretty much the bulk of those. The Rainer, P.C. also did some of those. So he actually is on the ground working with land owners trying to

help them realize their vision of protection. That is just one of the tools that they use for protecting the water sheds.

Rex Linville stated that he worked for the Piedmont Environmental Council as a Land Conservation Specialist. They work in a much smaller area of nine counties from here up to Loudon County. They are a much different model in the sense that they are looking more broadly at what constitutes the land that they are trying to get preserved. It is everything from scenic open space to natural habitat areas to civil war battlefields, preserve structures and productive agricultural and timber land. He noted that his main role is really to do some seed work with some of the land owners that ultimately Ridge will work with. He was out trying to do more sort of whole sale education and outreach to the land owners in the community that have parcels that are in one capacity or another worth of protection. That might be that they would donate an easement to the Nature Conservancy or to the Virginia Outdoors Foundation. Or they might use the Albemarle County Ace Program as a way to preserve their property or the Thomas Jefferson Soil and Water Conservation District. So he was really trying to bring a range of options to land owners and try to help them figure out what best fits their set of particular circumstances and what is going to be the best tool and mechanism for them to reach their land preservation goals for that property. As a result they sort of cover the whole County rather than looking at those specific areas within the Rivanna water shed. To put it in context of those easements, last year of the easements held in Albemarle County they accepted one of those and it was on a 116 acre property. They really see themselves as easement holders as the last resort. They really only step up to the plate to hold an easement when for whatever reason due to sort of a lack of fit between those other easement holders and the land owner or due to timing constraints or other issues and there is really not another outlet for that land owner to find a good place to park their conservation easement.

Ms. Higgins stated that she felt that it was important to have them here. She asked if he could explain why people are seeking to donate easements because that gets back to the issue that they are considering. Right now there are predominantly large owners that are seeking easements and if their tax leverage is taken away, then they will not have a lot of people knocking on their door. They do not want to interfere with that traffic.

Mr. Linville felt that was the main part of this discussion. In his experience people put land under easement because they want to protect their property. Unless someone was as the IRS would put it "gaining the system", he has never worked with a land owner who put property under easement because it was the smartest financial decision to make. In every instance the land owner is losing something by putting land under easement. It is a thorn dropped gift of an access. The tax incentive that you get back will never equal the value of what you have given up. It is not a money making proposition. It is a charitable act.

Mr. Schuyler stated that it softens the blow.

Mr. Linville agreed that the tax incentive merely softens the blow. So everybody is coming with some slant towards the desire to preserve their land. His job is to sit down and help people understand that dynamic and figure out what are the incentives, their preservation goals and is that going to make this a viable decision for them.

Mr. Schuyler stated that to put a finer point on that without going into a lot of tax detail, but the financial incentives in his experience is that the land owner first wants to protect their land. They also want to know what kind of financial incentives there are to determine where they kind of end up at the end of the day. But those financial incentives are never going to get them to whole or else it would not be a charitable deduction of a charitable nature. So the way it works is that if you donate an easement on a piece of property that is worth $2,000,000 before the easement and a $1,500,000 after the easement you diminish the value by $500,000. That $500,000 is a charitable deduction on your federal taxes. So you are not getting that $500,000 back. You are getting whatever you tax rate is, which is possibly 25 or 30 percent of that as a deduction on the federal level. Then on the state level you get a tax credit that is worth 50 percent of the dollars of your donation. But, in both those cases you are getting a mere percentage of the value of the donation. So in no way could you ever come out whole by giving a gift of a conservation easement. So if people are motivated solely by financial reasons they are never going to do a conservation easement. Those people will just sell their land because they will never get back the

whole. The incentives are helpful because they do soften the blow and it may help people protect their land if they are having trouble making it worth. It may help them go forward and do that. But, it is never going to make it whole. Therefore, they have to get the conservation effort first and the financial incentive second.

Mr. Linville stated that the fact that the incentives make a difference is born out by the numbers. If they look at a chart of the trend in land conservation in Virginia and Albemarle County region wide they would see that before the land preservation tax credit was created PEC was probably throughout our service area seeing, which was in the late 90's, it might have been as low as 5,000 acres preserved region wide. Then it sort of jumped in 2002 up to 9,000 or 10,000 acres. Then with the advent of this transferable tax credit in 2002 it has really skyrocketed up to as many within our service area 25,000 acres were preserved last year. That included 10,000 acres in Albemarle. VOF accepted easements on 41,000 acres.

Ms. Higgins asked doesn't that in itself proof the point.

Mr. Linville stated that what it proves is that what they are now doing as the incentives increase we're capturing more people along that continual. Ultimately, if the discussion really centers around is some change to our zoning ordinance going to in some way diminish that incentive and if that change to the ordinance is going to result in preservation of the rural area then he would love for them to put him out of business. In other words, if they had an ordinance that was effectively preserving the rural area, then people would not need to put their land under easement.

Mr. Strucko stated that they were generally in the business of preserving open space. Does the concept of clustering as a policy achieve that ultimate need for the land owner who isn't on that end of the spectrum that is pure profit once they take their asset and make it productive in some form or fashion, but it wants to contribute to the general good of the rural area by putting a large section under a parcel into an easement and developing a smaller section. Does that policy as a concept appeal to you?

Ms. Higgins asked to make one statement in response to what he was saying. Clustering actually works with the conservation easement concept.

Mr. Strucko stated that he understood that, but just wanted to get their opinion.

Ms. Higgins stated that the one that doesn't is the phasing.

Mr. Strucko suggested that they just focus on the clustering part first and talk about the phasing later. If they want to exercise the existing development rights on their property and don't want to sell it, is the policy clustering going to do that in their perspective.

Mr. Linville stated that what clustering does not do from one perspective is that it does not take the infrastructure needs that are created as a result of the implementation of that cluster out of the rural area. In other words, just because the houses are clustered they still have to provide the same services to that cluster. It does not matter from a services perspective whether they are spread out on a map or clustered in a tight spot on the map. So from a larger question of land use planning you have not changed that dynamic from maybe Ridges perspective of sort of are you preserving intact habitat areas. He noted that he would allow Ridge to address that, but he felt that they have addressed some of those issues.

Mr. Schuyler pointed out that when the Nature Conservancy identifies a place where they are going to work one of the things that they do at the very outset because they are a science based organization is determine what is the outcome that they are trying to achieve. What is the desired future condition? What is it that they are trying to protect with all of your efforts and strategies? So it seems that the first order of business is to say what is it that you are trying to preserve or protect with your strategy that they are trying to implement. For clustering if one of the things that you are trying to protect is unfragmented forest land, then clearly clustering is good for protecting more forest from being fragmented. If their goal is to limit the effect of impervious cover on your water shed, clustering may or may not depending on how that clustering is implemented. To the intent that clustering involves the building of roads out to the cluster you may not have advanced the ball very far in terms of reducing the amount of hardened surface in your

water shed. It really depends on how it is accomplished and what it is that you are trying to achieve with the effort. But, he could see clustering done in a way that does protect the water shed by allowing you to concentrate your storm water problems in one place and deal with them. So he could see if done right with low impact development standards or something else if they decided to go forward.

Ms. Higgins pointed out that they all recognize that clustering does have a decrease in impervious area with roads because the roads are shorter. That has always been the carrot for the Rural Preservation development.

Mr. Strucko stated that you are allowing them to exercise their property rights in a way that may have a minimal impact on rural land consumption.

Mr. Schuyler stated that it depends on what functions you are trying get the land to achieve for you. If you are trying to achieve vast scenic open space, he felt that it would make sense. But, if you clustered everything in one area and kept the rest of it open, then you are protecting that. If you are trying to protect a forest similarly clustering would protect that forest. If you have other desires for your land you have to judge the outcome by the standard that you are trying to meet or the outcome that you are trying to achieve.

Mr. Linville stated that if the question is if you take a 100 acre farm and create five 20-acre farmettes versus taking those five development rights and sticking them onto 5 acres all together in the corner, clearly that is better from the habitat, water quality, scenic and land use perspectives. But going back to the services perspective and if you have diminished in any way the cost of the services associated with that, no. So they have other issues that are still associated with that because you have not in any way reduced the density in the rural area in doing that. They have not taken anything away.

Ms. Higgins noted that they would not have slowed down the rate.

Mr. Linville agreed, but noted that in some sense you have made some improvements in the way it was exercised.

Ms. Higgins stated that there was less consumption for residential use and potentially more for agricultural or just preservation for environmental issues.

Mr. Strucko pointed out that they have several scenarios. But, that unused part is 100 acres and the 95 acres that are not used goes into a permanent conservation easement.

Mr. Schuyler stated that was where the rubber meets the road. In other words, what happens to those 95 acres? He worked some on the eastern shore of Maryland where some of the counties just recorded a county restriction along with it, which was something that the county could change their mind on later. There was no long term preservation of that satisfied tract. He felt that if they were going to a lot like that it would be advantageous to see a permanent open space easement that existed on that.

Ms. Higgins noted that they have been doing that under the Rural Preservation development. Part of this about the tax equation and the potential financial benefit if it jumped in 2002 because of that it is diminished by clustering because the value of the particular land when you look at the before and after easement situation, the financial difference is probably not as great as no development or partial development versus full development in a cluster format. There is probably some tax advantages associated with clustering. They will still have a lump of land that might for various reasons.

Mr. Edgerton pointed out that it has not proven to be that way. The clustered lots next to the large piece of land that will not be developed are far more valuable. The market has supported that. He had worked on projects where they got more value for those smaller clustered lots because they know that the adjacent land is not going to be developed.

Mr. Linville stated that the question when you determine an easement value is what would a third party buy the land for. If they look at that clustered development and acknowledge that cluster development is really what people want, then he would be able to get a greater rate of return if he buys that land and

cluster because he would not have as much infrastructure cost associated with it. The price that they are going to pay to purchase that property is going to be the same or higher than if they spread the development out across. If someone came with an appraisal that said that there was a diminish ion of value because they clustered rather than spread the development all over the property he would look at that appraisal and say that is suspect to me. He could not believe that someone would pay a substantially less amount for a property that had a cluster on it than for a property other development.

Ms. Higgins stated that you would have to prepare a cluster of 10 versus a cluster of 20. If someone gives up 10 of the right that it would still give them some potential leverage to at least provide some incentive. If it is 25 percent or 50 percent of whatever it is still some leverage.

Mr. Linville stated that even in that case just diminishing the number of division rights from 20 to 10 might still not get you much of an easement value because those 10 remaining lots because they are on a bigger piece of land with more buffer around them might actually still be as valuable as the 20 were. They would want to look at what the developer would pay for the right to build those things. Really they see was that the biggest diminish ion when there is a property with a lot of development rights and you really restrict them down to one, or if you have a really big property down to only a couple.

Ms. Higgins asked to turn the page because this is why she felt it was important to talk to them. The tax incentives are there and the people want to do the right thing. There are people who are wealthy land owners and not necessarily farmers doing this, but potentially a land owner who has the financial wealth to be able to say that he does not want this property to be developed and he wants to preserve it. But, they are always dependent on when they buy easements is the value now versus the value of what could be if it were developed today. Her understanding of the tax rules are that they have even gotten more critical of that and have actually challenged the ones who did not do a development plan. But, they have to have someone do something that is a valid developable concept plan. If they interject phasing and a time delay or if they have 5 development rights over 25 years with 2 per 10 years. If you look at the today value before and you look at the tomorrow value after the development the development is only the creation of 2 lots in 10 years. The tax incentive is gone. It is literally just that one imposition could destroy the basis where people come knocking on their door. That is a true question that she does not know here way around.

Mr. Linville stated that he had a couple of thoughts on that. Fundamentally in the way that conservation easements are valued the scenario that she gave in doing a development plan and looking at what is the highest and best use of this property given its number of development rights is, of course, one way. It is typically a very aggressive way that people use to justify a particular evaluation for a property. It is referred to as the subdivision development analysis technique. What is this property worth given sort of a developer's formula of development with X number of lots for X number of dollars, for X number of dollars for infrastructure costs and X number of dollars discounted over a certain number of time and using a real complicated methodology to determine today's value.

Ms. Higgins noted that was what an appraiser does.

Mr. Linville stated that was only one technique that an appraiser may use. Another technique would be to look at comparable sales and say here is a 100 acre property and here is another 100 acre property and this one sold for a million dollars and this is a similar property with a similar number of development rights and in a similar portion of the county. Therefore, that property is also worth a million dollars. Therefore, not all easements are done under that subdivision development analysis technique. That is a technique that is used when someone wants to maximize their tax deduction. Not all landowners are doing that nor are all landowners who are donating land easements simply are wealthy individuals. There are people from all financial spectrums that are preserving land. If you go back to the underlying assumption that people are preserving property because they want to preserve their property and that there are tax incentives for doing that. They all believe in the perfect world that you are only given tax incentives for what you have given up. If they use Ridges example of a 2 million dollar property was the before easement value and 1.5 million dollars after easement value today he was asking someone to give up one-half a million dollars. They are going to get tax incentives that don't equal one-half a million dollars. If as a result of phasing he was asking them that now their property was valued at 2 million and after the easement they were only diminishing it by $200,000. Then it would be 1.8 million as opposed to 1.5

million. The phasing would result in a smaller incentive to them. Therefore, he was only asking them to give up $200,000 instead of giving up $500,000. He felt that from his perspective it was easier to ask since he was asking them to give up less capital.

Ms. Higgins noted that they would be taking away their incentive to seek that.

Mr. Strucko stated that if someone was developing their property and going through a phasing what tax incentive are they seeking? They are developing a property and we are just saying that they have to develop it over the course of 35 years. Are they seeking a tax incentive?

Mr. Linville felt that Ms. Higgins's suggestion was that an easement donation would be less likely under a phasing scenario. He did not know if he agreed with that. His bigger overarching statement would be if phasing results in the preservation of the rural area and if you go back to Ridges point if that is the desired condition and phasing results in that desired condition, and then does it matter that you have had fewer conservation easements. Again, he would love for them to put him out of work.

Ms. Joseph pointed out that when they talked about phasing it was about creating two lots every ten years. They now have a lot of land that is in agricultural forestall districts. A lot of them are created in a ten year period. She asked if that was something that is considered. That is sort of a kind of phasing. It is not a forever thing and they don't know if the zoning ordinance is a forever thing either. But, they do know that someone has made the commitment to put this land in and not subdivide anything less than a 21 acre parcel for say 10 years. Is that looked at when conservation easements are created?

Mr. Linville stated that the appraisers do look at that, but the ones that he has spoken with don't take much in to account for the fact that the land is in an agricultural district. In other words, they find that again look at comparable sales that there is not much of an impact on easement value as a result of being an agricultural forestall district.

Mr. Schuyler stated that he could not think of any cases in doing appraisals where a property was in an agricultural district over the last couple of years.

Ms. Higgins stated that technically those owners could not deal with pre-development or post-development plans because they have given up the right to do their development. Therefore, they are not in the tax incentive.

Mr. Schuyler stated that the Nature Conservancy is not just trying to get easements. They are trying to employ whatever strategies that they can to protect their water shed from various threats. The easement is just a tool. If it is a vehicle, then it is not a destination. The destination is the protection of the water shed. If felt for the County that the destination is the protection of the rural areas in the way that they define it in their Comp Plan. He views it that the easement is a tool to achieve that, but there are other tools. It sounds like the Commission considering some other tools. He felt that they would want to pick the tool that best accomplishes the arrival at the destination.

Ms. Higgins noted that they all agree that easements are permanent and that they achieve the overall goal. The land goes in voluntarily and it is either paid for or there is an incentive paid for by the tax payers' dollars. The ACE Program does the same thing. But, when she sits here and looks at these farmers that are in the second or third generation and now they are talking about rules that will tell them that they held their most valuable asset for all of this time, but now they were going to change the rules potentially to say you can only get two lots every ten years. Well what could keep your easement in its current state with this jump of people stepping up to the plate, and they don't want to take that away.

Mr. Cannon asked would a phasing ordinance likely reduce the rate that they would be able to obtain donations of easements.

Mr. Linville stated that Ridge and he had talked about this earlier today. He felt that it was a tough call to know. It is not obvious that it would. He felt that in certain circumstances with particular properties it in fact could. With other properties it may not. Again, it would depend on where that property is and who is the owner and what is the objective.

Mr. Strucko asked what would be the decision process for the land owner going through that. If he was thinking about giving a conservation easement, but he has this phasing thing going on what is he trying to decide?

Mr. Linville felt that what they would find is when they go to talk to a land owner about a conservation easement they talk about two things primarily. First, what is their vision for conservation of their property? Then what are the financial implications of implementing that decision. So they talk about both of them. They would talk through what is their vision for protection of their property and what they would want an easement to accomplish. Then what are the financial implications of that decision. The financial implications of that decision have to do with the incentives that are available and those kinds of questions.

Mr. Schuyler noted that every property owner is different, which why they ask how this is going to affect the donation of easement. It depends on every single land owner out there and what motivates them to want to donate an easement in the first place. There are as many variations of that as there are land owners.

Mr. Linville pointed out that if they go back to sort of the matter of what resulted in that dramatic increase it is the variable tax incentives that we have here in Virginia today. It is not the value of the gift. It the tax incentive and what someone is getting for giving up X. If phasing has some impact on what X is from his mind it is not going to make a very big difference. What is going to make a bigger difference are the tax incentives robust. Currently, the tax incentives are pretty robust. The reason that they are getting so many easements is that now people can get 80 percent of that back in the form of tax incentives. He noted that the conversation starts with what they are trying to preserve. The fact that when they sit down with a spreadsheet to show what they mean financially, yes, that then makes it easier to close the deal.

Mr. Strucko disagreed with Ms. Higgins that phasing was going to diminish land easements. If he was a land owner looking to make a financial gain he was going to develop. He did not think it would matter whether he had phased development of units because he was still going to develop.

Mr. Linville agreed that if it was all about finances the land owner was going to develop their land and not put it under easement.

Mr. Cannon stated that the percentage benefit to the land owner remains the same. He felt what Ms. Higgins was saying is the increment of difference in value to which that percentage would be applied would likely be smaller under a phasing program.

Mr. Linville stated that he did not know if that was correct.

Mr. Cannon stated that the alternative of selling the property for development would also be less valuable. The reason that the increment is smaller is that the value for land if sold for development is less because it is phased. There would be a decrease in the value of the alternatives if you will. What he was hearing these gentlemen say is that it is very hard to calculate it under those circumstances whether this would have an impact on the likelihood of donations or not.

Mr. Linville stated that he 100 percent agreed with Ridge that easements are just one tool. If phasing is a more effective tool than conservation easements for overall preservation of the rural area then that may be a good tool and any detrimental impact that it has on the total number of acres going under easement may not matter.

Mr. Schuyler stated that there were all kinds of different reasons why people put their land under easement. But, even with regard to the incentive there are all kinds of factors out there that are beyond our control that are going to affect that incentive far more than anything that the Commission is considering. For example, the General Assembly may racket back the generosity of the conservation tax credit. That is why he would be reluctant to advise the Commission to work only on phasing as it relates to conservation easements. There are other factors such as when VDOT changes their site line rules, which limits the amount of development that one can do. That can change the incentives. There are all kinds of things happening that could change the incentive.

Mr. Kamptner stated that he wanted to understand better the context of this discussion. What the County is looking at is mandating clustering and phasing with a preservation tract in rural areas. So if they mandate that, isn't the whole idea of a charitable donation out the window?

Mr. Schuyler stated that right because that preservation tract would not be a charitable donation. That is correct.

Mr. Kamptner stated that if they mandate this, they are talking about conservation easements that are not part of the development.

Mr. Edgerton stated that they would just be changing the rural preservation part of the ordinance if they go with the phasing of lots.

Ms. Higgins stated that she was still looking at the two separately in order to understand both.

Mr. Kamptner stated that it was probably the whole RA regulations and not just the RPD. It will also become part of the Subdivision Ordinance since it will pertain to the form of development the way that it is looking at it right now. It is throughout the rural areas.

Mr. Edgerton asked if the number of development rights would change.

Mr. Kamptner stated that the number of development rights would not change.

Mr. Edgerton asked if the Commission recommended the adoption of what staff has put before us for phasing and clustering that it would now become the by right scenario in the rural areas. If he owned a piece of land that had ten development rights, does he have the option of doing the old form of development where he could do five two-acre lots and as many 21 acre lots.

Mr. Kamptner stated that what was before us now, the answer to that is "no", that you would not have that option.

Mr. Strucko stated that every rural development would be a cluster.

Ms. McDowell stated that it would except for family divisions.

Mr. Kamptner stated that there is a bill in the General Assembly that would require that all localities allow cluster developments in at least 40 percent of its territory. This is a way to mandate clustering on localities.

Ms. Higgins stated that they all agree with the benefits of clustering. But, she has a problem that phasing will get in the way with clustering. There is not explanation in the staff report on how it would work together.

Ms. Joseph stated that if they mandate a conservation easement on that property there is no tax benefit. So they have to assume that the money will be made doing that cluster subdivision.

Mr. Kamptner stated that was the other component of what he heard Rex and Ridge saying. Your experience has shown that type of development really will not cause a loss in value to the land owner because it is just the form of the development that has changed.

Mr. Edgerton stated that the person missing from this conversation is the person who determines the value for rights that are given up. He has talked with a number of folks and has been told that it is not necessarily how much you can develop it, but some of the larger parcels are actually worth more as larger parcels than they are with their development potential. There are a lot of up front costs to developing a parcel that needs to be balanced out with the asset itself.

Mr. Linville stated that the question is what the highest and best use of the property would be. Is it an

estate property or is it a residential subdivision. He felt that they were seeing a shift because the number of estate parcels are becoming fewer and farther between they are becoming more valuable.

Mr. Schuyler pointed out that the location of the property was going to make a difference in the value. He felt that Albemarle County is an unique situation because of the large amounts of easements being held due to the many factors and can't be looked at in relationship to other counties regarding phasing.

Mr. Linville stated that it would be hard to predict the effect on easements if they took away the incentives. It is the land owner's decision to make and every land owner is different. There are a lot of other factors to consider other than do they have phasing.

Ms. Higgins stated that there was no issue with clustering because it fits with it. If someone gives up their development it won't affect their tax credits.

Mr. Linville suggested that they look at phasing to see how it would affect the goal that they are trying to achieve.

Ms. McDowell asked the Commission to look at the staff report and try as a group say which items they want to send to the Board. Their objective is to get through this list and through the two options for public input. Staff will take this to the Board and then they would get started with work sessions and public input.

Mr. Edgerton stated that he preferred option one.

Ms. Joseph stated that first of all staff started out by using the guiding principles that they went through, which she felt was excellent. Second, staff created this list that they had discussed for a long time about what sort of items within the rural areas do they think are important and worthy of preservation. She felt that was also excellent. She felt that Ms. Higgins had brought up a point that some how, some place, somewhere it should be added to something that they reference as they are looking at these things. So that is excellent also. She felt that they talked about this phasing and they all shook their heads that 1 through 4 on page 2 was okay and that they were with her.

Ms. Higgins stated that she had a problem with phasing and item 3 as she understood it. She asked to see how it would be implemented even though she knew it was a good tool.

Ms. Joseph stated that they would keep that as an addendum and a footnote. She asked how the other Commissioners felt.

The consensus of all of the other Commissioners, except Ms. Higgins, was that they agreed with it.

Ms. Joseph stated that they were on to clustering they felt that it important to put preserved area in one grouping so that they have a large block of them. She asked how the other Commissioners felt about clustering.

Ms. Higgins stated that it says these items would address the design of the rural area. She was really focused that they not lose sight of # 14, which was discussed and talked about relationship. It was actually under #5 on page 4. She asked why it was under one that is issues for considering both of them. She felt that it should be in the right place.

Ms. Joseph suggested that it be put in the right place and then the Commission would be there. She asked if any of the other Commissioners had any questions about 1-14 regarding clustering.

It was the consensus of the Commissioners that they agreed with items 1-14 regarding clustering with Ms. Higgins' comment about #14. Also, Ms. Joseph had the following two questions: Why parcels in the agricultural forestall districts would not be an exception, also.

Ms. McDowell stated that one was that they would only be committed for a period of ten years in an agricultural forestall district. Let's assume that clustering and phasing never gets off the table and they

were just dealing with clustering. They are committed to slowing growth for a period of ten years. You can pull out and you can put your growth in and you can go back into an agricultural forestall district if you want. The 21 acre lots that you are allowed in the agricultural forestall district has certainly shown over time not to be successful in preserving rural areas and cuts it up into estate lots. It is not good for farming or forestry. So what you are allowed to do is the opposite of what they are trying to do with clustering them together and use as little land as possible for residential to have the biggest bank for the buck with that preservation parcel.

Ms. Joseph stated that may be another part of the ordinance that they have to change when they change this for clustering. She agreed with staff.

Ms. McDowell stated that it would definitely have to change with phasing because it is less restrictive with phasing.

Ms. Joseph stated that they were on to phasing and clustering combined.

Ms. McDowell stated that this is new territory for Albemarle County. When you put phasing and clustering together it creates some things that they had to think about. Do they want to get the preservation recorded first? In which that is your fourth lot in which case triggers the need for a road. So that was an issue that they considered. Do they want the preservation parcel because it is tied to a conservation easement do they want that to be an exemption to a phasing requirement.

Ms. Higgins stated that she still did not understand how phasing overlaid on clustering can work with these requirements in place.

Ms. McDowell stated that the first phase they include the minimum of four lots being your parent parcel, the two new residential lots and the minimal preservation parcel if that is agreed that should be an exemption. So there is a public road standard that would be required with that. In being that they are phasing and clustering parcels together that road connection to what may be the preservation parcel would be a little longer than they would originally want without the ability to fill those lots in immediately. The parent parcel is the holder of the development rights and where the rest of the clustering would take place. So when they tie them together there are some issues that they need to think about, which staff has been thinking about. Then the issues for phasing and clustering together the subdivisions may be needed for financial purposes. This is not necessarily together. She did not know a lot about this, but there are farmers who need to just for financial purposes to create a lot so that they are not mortgaging the entire farm to buy a tractor. They would just be using that one lot as collateral. She did not know any way that they would know if that was bona-fide or that he could not sell it or use it as another estate lot later. That was number 1 in issues with phasing. They talked about the likely idea of it being 100 acre lots. But, there are some bona-fide reasons why folks might need to subdivide off big chunks of their land. This is just something that they know, but it is an issue that staff needs the Commission to weigh in on.

Mr. Benish stated that staff flagged that as an issue that they might have to tackle when this comes back to us.

Ms. Higgins stated that she had problems with #4 of clustering and phasing combined. She did not understand what it meant.

Ms. McDowell stated that they would not be getting any more lots that they could of today. This is saying the phasing potential is how many lots you could get out of the parcel today. One has to show their conventional number of lots they could get now. Then you could only create two.

Ms. Higgins noted that then they would have to build the road into those two lots.

Ms. Joseph stated that it could still be a dirt road perhaps from this point. But, they would still have their parent parcel that would have the clusters within it and the preservation parcel.

Ms. Higgins noted that the cluster would not exist because they could not create those parcels.

Ms. McDowell stated that was correct.

Ms. Higgins stated that what staff was really suggesting is that someone that creates one or two parcels does all of the planning for the future 25 years and put it into the concept plan and create the two parcels and build the road into those two because you have to meet the road requirements, which is triggered by 3, and also the requirement of # 7. She questioned if that would make it reasonable.

Ms. McDowell stated that when they come in they know how many parcels they can get out of it. That is what they have to show now with a RPD.

Ms. Higgins stated that they were not talking about the division right, but how to make the phasing which limits how many parcels can be created and works with the clustering.

Ms. McDowell stated that one of the things that they don't want is to vest properties prematurely. If they get approval for the two lots and show us all the rest of them they are vested. That is what they want to avoid. They are going to show to themselves because they always do.

Ms. Higgins asked what if the rules change in the 25 years. How do you deal with that?

Mr. Cannon stated that once they vest it does not matter because they can always go forward.

Ms. McDowell stated that they could only get the number of lots you could get today or December 10. She felt that any developer or surveyor is going to show the lay out to himself. They are just actually verifying the development, but not vesting it.

Ms. Higgins felt that they are going to have to show the clusters with the septic and well locations.

Mr. Benish felt that they need to discuss that in the next round.

Mr. Cannon asked what the concern about vesting with what was shown is.

Ms. McDowell stated that if there were any rule changes in the future they would not apply. If the County looks back and see if the 21 acres just did not do what it was suppose to do, then they could not adjust the change. If the County in 20 years looks back and finds that the density does not work, then they could not change it.

Ms. Joseph stated that they were going to need some additional information on vesting from Mr. Kamptner at some point.

Mr. Kamptner asked staff to provide some information about what the approval in year one would be.

Mr. Edgerton asked that staff provide several scenarios showing clustering and phasing.

The Planning Commission asked staff to schedule another work session to bring back additional information on vesting and to provide scenarios to show how clustering and phasing works before they take action. The next work session will be held on March 14 meeting at 4:00 p.m.

In summary, the Planning Commission held a third work session to discuss and make recommendations to the Board of Supervisors pertaining to Rural Areas clustering of subdivisions, phasing of development, and the public review/input process. Guest speakers were two local experts on conservation easements, Rex Linville, the Land Conservation Specialist for PEC and Ridge Schuyler, Director of Piedmont Program for the Nature Conservancy. The Planning Commission asked staff to schedule another work session to bring back additional information on vesting and to provide scenarios to show how clustering and phasing works before they take action. The next work session will be held on March 14 meeting at 4:00 p.m.

The Planning Commission recessed at 5:43 p.m. for a dinner break and reconvened at 6:10 p.m. in Meeting Room 241.

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, February 28, 2006, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Bill Edgerton, Calvin Morris, Vice-Chairman; Pete Craddock; Eric Strucko, Jon Cannon and Marcia Joseph, Chairman. Jo Higgins was absent. Julia Monteith, Senior Land Use Planner for the University of Virginia, representative for David J. Neuman, FAIA, Architect for University of Virginia was absent.

Other officials present were Wayne Cilimberg, Director of Planning; Elaine Echols, Principal Planner; Steve Tugwell, Planner, David Pennock, Senior Planner; Sean Dougherty, Senior Planner; Amelia McCulley, Zoning and Current Development Director/Zoning Administrator and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Ms. Joseph 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:

Ms. Joseph invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved on to the next item.

Consent Agenda*:*

Approval of Planning Commission Minutes – October 11, 2005; November 22, 2005 and December 20, 2005.

Motion: Mr. Morris moved, Mr. Craddock seconded, that the consent agenda be approved.

The motion passed by a vote of 6:0. (Ms. Higgins was absent.)

Ms. Joseph stated that the consent agenda has been approved.

Regular Items*:*

SDP 2005-131 Fife Property RL WP - Request for approval of a treetop personal wireless service facility with a wooden monopole that would be approximately 74 feet tall (6 feet 6 inches AMSL above the height of the tallest tree within 25 feet), with ground equipment in three 5 feet-10 inch tall cabinets. This application is being made in accordance with Section 10.1.22 of the Zoning Ordinance, which allows for Tier II wireless facilities by right in the Rural Areas. The property is described as Tax Map 98 - Parcel 8B (no acreage specified) and is zoned RA, Rural Areas and EC, Entrance Corridor. This site is located at the south end of Route 767 (Rabbit Valley Road), which intersects with U.S. Route 29, approximately 3/4 mile south. The property is in the Samuel Miller Magisterial District and designated by the Comprehensive Plan as Rural Area in Rural Area 3. (Steve Tugwell)

Mr. Tugwell summarized the staff report.

- This request has been reviewed against the criteria of the ordinance and the Wireless Policy and staff is recommending approval.

There being no questions for staff, Ms. Joseph opened the public hearing and invited the applicant to address the Commission.

The applicant, T-Mobile, was represented by Stephen Waller. They have reviewed the staff report and agree that this is a good site because it has a good backdrop based on the balloon test and meets their coverage objectives. They also feel that this site can meet the County's objectives for building low visibility and low impact on personal wireless facilities. This is the second of the T-Mobile sites that the Commission has seen on Route 29. They have two more sites on Route 29 and then a few other sites for

co-location throughout the County in more of the urban areas. Hopefully the rest of those sites will be sites that staff, the Commission and the Board can support along with this one.

Mr. Morris asked if the tower was still 10 feet maximum above the tallest tree in the area.

Mr. Waller stated that this site would be 4 feet above the tallest tree. But, they would be allowed to go 10 feet if they could demonstrate that there was no material difference in the visual impact of the facility at 10 feet as opposed to 7 feet. But, in this case they are right at 7 feet or at 4 feet. But, they could ask the Commission for permission to go up to 10 feet through special consideration.

Mr. Tugwell pointed out that this request was actually for 4 feet.

Ms. Joseph invited public comment. There being none, the public hearing was closed, the matter placed before the Commission.

Mr. Morris stated that the request seems to meet all of the criteria.

Motion: Mr. Morris moved, Mr. Cannon seconded, for approval of SDP-2005-131, Fife Property RL WP as submitted.

The motion passed by a vote of 6:0. (Ms. Higgins was absent.)

Ms. Joseph stated that SDP-2005-131 Fife Property was approved.

SDP 2005-083 Rio Truck Repair - Request for preliminary site plan approval to allow the construction of an 8,000 square foot building to be used for truck repair on property described as Tax Map 61 Parcel 146. The subject parcel contains approximately 1.428 acres and is zoned C1 (Commercial). This site is located at the end of Rio School Lane approximately 370 feet east of its intersection with Rio Road (State Route 631). This site is located in the Rio Magisterial District and is designated as Neighborhood Service in Neighborhood 2. (Steve Tugwell)

Mr. Tugwell summarized the staff report.

- This is a request to waive access of minimal design requirements as part of a preliminary site plan for a truck repair business. The proposed location is on Rio School Lane, which is accessed from Rio Road. The ordinance requires 20 feet width for private streets measured from the curb facing. The applicant has 20 feet minus in curb and guttering. The intensity of the proposed use the Community Development staff and the agent has determined that requiring the access and design standards described by the Code is warranted in this case and is typically practiced in development areas. Therefore, staff previously was unable to approve a waiver for the standards and the applicant has requested the Planning Commission to consider this request tonight.

Ms. Joseph asked if there were any questions for the applicant.

Mr. Cannon asked what the reason was why there is only the 20 foot easement that is not sufficient and does not meet the standards.

Mr. Tugwell stated in the development areas curb and guttering is required by the Zoning Ordinance. They have 20 feet. With curb and guttering they would need to set 6" of curbing on either sides of the access for a total of 21 feet. As he understands it, the applicant is unable to secure an easement from the adjacent property owners.

Mr. Cannon asked if the 20 foot of the easement is a function of an historical determination if that was adequate for a road.

Mr. Tugwell stated that it is actually required under the Zoning Ordinance.

Ms. Joseph stated that he was referencing the easement itself. She did not know if he knew historically because he probably has not gone back to look at why the easement was created.

Mr. Cannon stated that he was wondering why because it was almost there and was only a foot shy. How did it come to be 20 feet rather than the width that was necessary to accommodate the requirement?

Mr. Pennock, Planner, stated that the 20 feet that exists currently is the right-of-way to allow access to this site historically. The 20 feet that Mr. Tugwell refers to that is required is actually a curb face to curb face measurement of a road. The way that section of the ordinance is written is actually easement that is adequate to have the curb and gutter and the 20 feet. Therefore, it could in some cases. For example, if a drop was required or other drainage improvements the requirements from our ordinance depending on the design could actually be higher than 21 feet. The 20 feet is the minimum road width and 20 feet is what they have got easement wise. So, basically, that is where the conflict exists.

Mr. Edgerton asked if there is no flexibility in pavement width where they could go down to an 18' pavement width and have curb and gutter.

Mr. Pennock felt that it would be difficult to adequately access that. That is a waiver that the Planning Commission could grant as part of this section. However, parts of this road right now if they were improved it would be hard to say where the drainage would be contained and how to channel it back to their site. For portions of it that might be possible. But, from an engineering standpoint they would need a little more information.

Ms. Joseph stated regarding the easement aspect, when this was created didn't somebody think that maybe a road had to come back through there.

Mr. Pennock stated that the road was created for access.

Ms. Joseph stated that it depends upon when it was created. If it was created a long time ago the contemplation may have been another zoning district at the time. So they don't really know when that easement was created.

Mr. Cannon suggested that the owner may know, but that he was interested in the origin of it because he was trying to access what equities there might be.

Amelia McCulley, Zoning Administrator, stated that staff did not find any history on this property where by there was some site plan or subdivision that created this easement. Therefore, staff cannot tell the Commission about the historical origin of the 20 feet as opposed to an adequate width, which would accommodate full improvement requirements.

Ms. Joseph stated that she noticed in the staff report that there was just one sheet. Has there ever been any topo provided or a design provided for the rest of this road that will connect.

Mr. Pennock stated that he believed that there was a topo on the site plan, but he was not sure as to what level of detail it provided.

Ms. Joseph stated that it does not show a designed road. It just shows here is what is out there. There is a gravel road. It shows where it connects. So they don't know.

Mr. Tugwell stated that the two sheets are the only two sheets of the site plan.

Mr. Craddock asked if staff was referring to the whole road that included the thrift school shop and Associate Steel who have used this road for years.

Mr. Tugwell stated that these requirements would be from Rio Road all the way back to the truck repair shop. So that would include those portions. That is one of the reasons why this section kicks in is because there are multiple users on that same stretch of access, which includes the Associate Steel shop as well as other users.

There being no further questions for staff, Ms. Joseph opened the public hearing and invited the applicant to address the Commission.

The applicant was represented by Larry McElwain, of Parker, McElwain and Jacobs, a local attorney. Tonight they are faced with one of the premier eyesore properties in the County. His client, Mr. van der Linde is making an attempt to try to clean that up. He passed around some photographs that showed what was on the property right now. This is an opportunity to clean this site up. But, because of the historical nature of the access it has been by private easement in existence for a great deal of time. It certainly was long before the current ordinance was in effect. But, it dictated where the access was going to be. As you can see this parcel has been used for residential purposes. It is now zoned C-1. Therefore, it can no longer be continued to be used as residential. In order to clean that mess up they have to get this thing usable for commercial. They think that they have a very low density use for this. The road itself in reality only services two properties, Associated Steel and this property. It is principally for my clients own trucks. There will be very little traffic in and out. The only other person that may use this is the thrift store. There is a left turn exit into the thrift store. At the same point there is a right hand turn in behind the existing strip commercial area, which is another thing that they need to take into account. The tenure of the neighborhood is a commercial neighborhood. They also want to point out is that they think that there are two basic issues regarding the drainage and the roadway itself. The drainage is adequate as it stands. That road has been there for any number of years and there has not been any kind of erosion problem in the way that it is currently constructed. They happen to think that the construction of curbs on this is going to exasperate a situation. He felt that they could come up with an engineering plan to deal with that is absolutely necessary. But, they are going to have to fit it into 20 feet. They have not had any success at all in going to the neighbors. He felt that it would benefit everybody along this road, but they have held out against us. So our hands are tied. Either they are able to get some sort of variance here to work within that 20 feet or else that property is going to remain as it is as current standard. The unique nature of this is that it is commercial in nature. It is private, but it is commercial. That can be distinguished from their prior actions, which typically address residential circumstances. And the fact that this is going back to a cul-de-sac that is backed up by the railroad virtually ensures that nobody else is ever going to be able to tap in from the other side so that you were creating a false cul-de-sac here. That is not going to be the case. They are going to have two principle users of this property being Associated Steel and the truck repair. The other reason why he did not think that they are going to need curb is that they are going to have big trucks going in and out of there and that is going to have a tendency to impact the curb. They feel that they don't have a drainage problem at this point. They feel that they can address the road problem in a manner that actually decreases the amount of impervious coverage area. As you can see on our site plan, they are taking some of the area that is currently graveled that lies outside the easement and tar and graveling it. Therefore, they are cutting that out. They are going to have more open grass area to help absorb the run off. Again, he felt that they were going to benefit the site.

There being no questions for the applicant, Ms. Joseph invited public comment. There being none, the public hearing was closed and the matter before the Commission.

Ms. Joseph stated that she talked with Alan Schuck today in the engineering department to find out about what is going on as far as the engineering is concerned. Mr. Schuck said that it is our policy to require curb and gutter in the urban areas. That is what we do. They talked about diminishing the size of the pavement so that maybe it is 19 feet so that they can get the curb and gutter and 19 foot. Mr. Schuck said that might work, but he was a little worried about it because this is a truck repair place and there more than likely be trailers pulling trucks back there. There would be very large vehicles going back and forth. So he was not so sure, but they did not look at diminishing the size of the pavement. He also was a little concerned because they have not received topography from the site to Rio and there is a low spot there. So if there is a low spot there it will require a culvert, which will have to be designed appropriately. If you put a culvert in you would be on other people's property and you have to discharge the water. So it becomes more of an issue. If they keep it the way that it is even if they designed it with a crown section it with shoulders, he was concerned about the trucks going onto the shoulders. He was also saying that they still have to drain this road. There would be ditches that would be outside of the 20 foot easement. Therefore, that is what Mr. Schuck said was going on with this particular aspect. He did disagree that they would be concentrating any flow and be causing any more erosion as a result of putting the road in and putting in those improvements with curbing.

Mr. Cannon stated that he would be interested in exploring if there was a way to work through them some how. He saw that the use of the property was now being restrained by an historical easement, which can't be overcome by acquisition by neighbors. The use that is proposed he felt would be a beneficial use. It is consistent with the zoning. Based on the situation of the property against the railroad tracks it also appears that there is not a future potential for making this a through road. He felt that it would be desirable to find a way through here if they can based on the use and zoning.

After some discussion, the Commission expressed an interest in deferring this item to allow the applicant and staff to work further on the matter. Mr. McElwain stated that they would like to have some kind of idea as to when they would be able to get back with time being money.

Mr. Edgerton asked for some evaluation of the existing access from the engineering department. He requested that somebody from the engineering department go out and make an evaluation of what is there and whether what is being proposed makes sense from an engineering point of view as opposed to just saying that the ordinance says that curb and guttering is required and rejecting it on that. He asked if additional information, such as the topography of the road, is needed from the applicant, then staff needs to get that.

Mr. Morris asked to see VDOT's comments.

Ms. Joseph asked if the Commission should defer this item to a specific date.

Mr. Cilimberg stated that this is not a public hearing item and it can be rescheduled upon receipt of the information. It would depend upon the Commission's schedule.

Mr. Kamptner stated that depends on when Mr. McElwain's client can get the information to engineering staff to be reviewed and put back on the agenda for the Planning Commission. If it could be done within the next week it could come back to the Planning Commission by late March.

Mr. McElwain stated that was a reasonable time frame to move forward. Therefore, if the Commission needed additional information in order to make their decision that he would ask for a deferral and waive any time that might be necessary.

Ms. Joseph stated that it is also dependent on the applicant working with VDOT and all other agencies interested in the road connecting the Fife property to Rio Road.

Mr. McElwain stated that they would make every effort to get that done as soon as possible.

Motion: Mr. Craddock moved, Mr. Morris seconded, to indefinitely defer SDP-2005-083, Rio Truck Repair.

The motion passed by a vote of 6:0. (Ms. Higgins was absent.)

Ms. Joseph stated that SDP-2005-083 Rio Truck Repair was indefinitely deferred.

***Public Hearing Item**:*

ZMA 2002-004 Cascadia (Sign #91)
PROPOSAL: Rezone 55.71 acres from RA, Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre) to NMD, Neighborhood Model District - residential (3 - 34 units/acre) mixed with commercial, service and industrial uses; and rezone 5.06 acres from R-6 (Residential: 6 units/acre) to NMD to allow for up to 330 dwelling units and 20,000 square feet of non residential in a planned district.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential - residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses.

ENTRANCE CORRIDOR: Yes
LOCATION: Tax Map 62, Parcel 25, Tax Map 78, Parcels 59 and 59A, and Tax Map 78E, Parcel H1 located along Route 20 North, across from Darden Towe Park, north of Fontana Drive and south of Broadus Memorial Baptist Church.
MAGISTERIAL DISTRICT: Rivanna
STAFF: Sean Dougherty

Ms. Joseph pointed out that the meeting procedure on this item would be a little different. There are two issues before the Commission. The first is the rezoning request itself. The second is a list of waiver and modification requests. First, planning staff will give a presentation and then answer the Commission's questions. The applicant would then present the rezoning request. At that point the public hearing will be opened. There is a list of persons who will then speak about the rezoning request. Each speaker will be limited to three minutes. Then they will have a presentation on the waiver and modification requests. Again, the applicant will be able to make a presentation on why he thinks these waivers and modifications are important. The public hearing will then again be opened. So if anyone wants to speak to those specific issues they would again have three minutes to speak.

Motion to Suspend two rules of the Planning Commission:
Mr. Kamptner stated that the Commission will need to vote to suspend a couple of their rules; One that limits the public to one appearance and the other that limits discussion after the speakers because as he understands it there will be discussion after the first round of public comments.

Mr. Morris moved, Mr. Strucko seconded, to suspend the two rules of the Planning Commission.

The motion passed by a vote of 6:0. (Ms. Higgins was absent.)

Ms. Joseph stated that the two rules were suspended.

Mr. Dougherty summarized the staff report and presented a PowerPoint presentation.

OWNER/APPLICANT: Robert Hauser Homes, Inc. and Church Hill Development, LLC, represented by Michael Barnes.

PROPOSAL:
A request to Rezone 55.71 acres from RA (Rural Areas) to NMD (Neighborhood Model District) mixed with commercial, service and industrial uses); and rezone 5.06 acres from R-6 (Residential: 6 units/acre) to NMD to allow for up to 330 dwelling units and up to 20,000 square feet of non-residential, neighborhood-service uses.

Development concepts for this site were reviewed by the Planning Commission in a work session on August 13, 2002. A copy of the plan reviewed and the minutes of that meeting are Attachment F and Attachment G, respectively in the staff report. The Planning Commission anticipated further review of the plan, but spoke to the following:

1. Maintain a hard edge with the rural areas.
2. The design should work to decrease the project's visual impact, with respect to the edge of the Development Area, proximity to Darden Towe Park, and higher elevations proposed for development.
3. Multifamily buildings should be sited carefully and at lower elevations.
4. Include non residential to compliment Avemore's non-residential (20,000 square feet).
5. Integrate residential uses into and above the non-residential portion.

After the 2002 work session, the applicant submitted for Architectural Review Board preliminary review (ARB memo is Attachment J) and, in summary was asked to:

1. Provide a maximum height and width for retaining walls.
2. Include language in Code of Development describing careful treatment of existing land forms and areas requiring regrading.

3. Include in the Code of Development more specific descriptions of landscape and planting treatment
4. Maintain a relationship between color/materials and building locations.
5. Design the Entry Park consistent with Option B as presented at the May 17, 2004 ARB hearing.

The applicant's work on the latest concept began in earnest with the County in September of 2004 when a joint analysis of the site's attributes and constraints yielded the current plan. On February 2, 2006, the applicant held an informational meeting for residents who live near the project, including Fontana, the closest subdivision and concentration of housing. This was one of several meetings conducted by the applicant over the past several years. Rather than go directly to a public hearing after this meeting, staff encouraged the applicant to pursue a work session, as the Commission had not had an opportunity to review the project for over three years and because the request is accompanied by a significant number of waiver or modification requests. However, the applicant chose to proceed with a public hearing so that all concerns from adjacent neighborhoods may be heard by the Commission at the beginning of the Commission's review process. This application request was initially accompanied by 42 requested waivers or modifications. In the review of these waivers, the applicant has reduced that request to 24 waivers. Some of these are necessary to implement the plan, while others are more specific to the nature of the project (size, density, and layout) and cannot be granted with any assurance until the site plan stage. For such requested waivers, staff has had to "agree to disagree". A detailed discussion and staff's recommendation for these requests is Attachment I of the staff report.

The request is found to be generally consistent with the Land Use Plan and the Neighborhood Model in general. Given the site's constraints and the multiple studies the applicant has performed on the subject property, the applicant's latest proposal provides a balanced approach to the density this Comprehensive Plan designation allows. Areas in which additional work is needed include updates to the Code of Development based on the Commission's response to the multiple waivers requested with the rezoning, general corrections to and refinements of the Code of Development, and the substance and form of proffers.

Factors Favorable to this request

- The applicant has provided a workable plan in response to many of the site's constraints which respond well to the Neighborhood Model.
- The applicant is committing to providing for-sale and for-rent affordable housing.
- The applicant has coordinated a suitable alignment for a secondary access / interconnection and is constructing a public road through this development that will provide access and interconnections to a large portion of the Neighborhood Three.

Factors Unfavorable to this request

- The amount of money proffered for the CIP and Schools appears insufficient to offset impacts.
- Many of the requested waivers, if granted, do not provide for sufficient oversight by staff at the site plan stage.
- Architectural Review Board concerns regarding retaining walls and no limit to height or length have not been resolved.
- Storm water Management issues need to be resolved.
- Commitments for an Overlot Grading plan have not been made.
- The proffers fall short of similar accepted proffers and require corrections.
- The Code of Development requires revisions.

RECOMMENDATION:
Staff cannot recommend approval at this time because staff cannot support 6 of the waivers requested and because the proffers appear to not adequately address the project's impacts in consideration of the Capital Improvement Projects proposed in this area that will serve this project.

Staff presented a power point presentation to familiarize everyone with the site's proposed features.

Ms. Joseph opened the public hearing and invited the applicant to address the Commission.

The applicant was represented by Michael Barnes, of K.G. Associates. The power point presentation was divided in half to try to meet the suggested format. The first portion was to introduce the land use that they are proposing.

- The lower portion of the project right of Route 20 is the most intense and dense portion of the project. It has a small commercial area with a maximum of 20,000 square feet allowed for in the Code. There may be around 12,000 to 15,000 square feet of non-residential uses. That would be a mixture of neighborhood service retail and office uses in that lower section.
- He explained the proposed development on the site. They plan to provide a wide range of housing types and diversity of commercial and retail uses in order to meet the goals of a mixed use and many other goals of the Neighborhood Model such as sidewalks, street trees, etc.
- They are working towards providing affordable housing. They are working to give 15 for sale affordable units that would be a combination of townhouses, apartments and/or condos or live work unit type units. The remaining total would be for rent products, which would be apartments and also efficiency units contained within the townhouses and carriage house units, which would be associated with the single-family detached house or townhouse and have a garage behind it. The garage would have a dwelling above it that would help serve for affordable housing.
- They have worked to address some of the concerns. They have worked to try to protect the rural character along Route 20. Early on in work sessions it was talked about trying to mirror the fill of Darden Towe Park. It sort of pulled the development area, which extends almost up to Key West. But, that pulled it into the site and really started the development area at their entrance.
- They have worked with the Entrance Corridor to provide a presence on the Entrance Corridor without a big parking lot backing up to it. They have tried to tuck some of the parking up underneath some of the commercial buildings and garage units to provide a wall between the back of the buildings and the Entrance Corridor. They also tried to use the entry park, which is the green space behind the storm water features to try and create an attractive interface.
- They have tried to build on making this a Neighborhood Center and link it in with sidewalks and other pedestrian amenities.
- Earlier plans had larger buildings on the northern side with senior condos a little bit higher. Balloon tests were done. The residents in Franklin were upset about the intensity and density that was up at the top of the hill and how it affected them. So they have scaled that back dramatically and put single-family houses and townhouses up towards the top. This also helps with the visual impacts that have been identified from Darden Towe Park and other places.
- Along the back, the stream was identified in David Hirschman's study as a stream of high quality in part because there was no development in that drainage. Now with Lake Ridge and Fontana there will be run off that will affect the stream. But, they have tried to off set that by taking most of the water from our site and bringing it back towards Route 20 and providing a 50 foot preservation strip. Then on top of that they would provide a conservation strip that would give another 50 to 70 feet of buffer. The difference that should be noted on that is that they were asked by staff to cut a hole in the preservation strips to allow for a sewer line connection to the Lake Ridge Subdivision, which would be coming in behind them. Essentially, they have to get a connection. They recognize the water process that they need to follow. They saw that development was coming and planned to not trip up the commitments that they were going to make to the County for preservation of that stream.
- Finally, they have agreed to provide a secondary access to Fontana at the rear of the site, which staff requested. They can get into some of the issues of the proffers and how they are addressing that a little later.
- The major issues that staff identified will be addressed a little later. Staff mentioned the ARB's issues with the retaining walls. The height limit the ARB wanted to put on the retaining walls was 4' a few years back, but now is 6'. They feel that is somewhat arbitrary. They are raising the buildings to step up the grade. The two blocks of townhouses may be 20 feet apart. Since the townhouses would be holding up 10' to 12' of grade in the foundation of the building, they may need to be able to link those two buildings together using taller walls. There are other places that they may use them as decorative walls. They tried to address that concern by telling staff that by limiting it to the Code that the larger walls shall be broken down. They did not want to have a specific standard, but wanted to try to address something that would allow if they felt that it was too large of a wall and they could not come and bring it forward at the site plan, but to bring it back to the Commission as a Code of Development as a mechanism to bring it back to the

Commission as opposed as identifying it as an arbitrary number. Also, the Architectural of Review Board will have the Certificate of Appropriate, which allows them at the site plan stage to say this wall is too tall or too long.

- They just received the problems with some of their calculations on storm water. They understand that it is a quantity issue and not a quality issue. They have a pond down at the bottom of the site that need be can be reworked. They will be able to work with staff in the final engineering hopefully between now and getting through this rezoning effort to pass by those concerns. But, they think that they are in the ball park. If they are not, then there ponds can always be underground retention. That is an issue they think they can work through.
- Finally, the over lot grading issue. Currently the overlot grading issues have not been finalized. So they are not sure what they would be proffering. The majority of their site is townhouses and mixed use buildings, which are required to go through the site plan process. At that time the grading can be analyzed by staff at the site plan.
- They have provided five proffers: affordable housing, dedication of 20 feet on Route 20 for the potential widening of Route 20, the interconnection to the rear to Fontana, cash contribution to both the CIP to be used for transportation and to the schools.
- Regarding the affordable housing proffer on the 90-day time limit, they have worked with Ron White previously to explain their concerns with bringing a product to market and once they have it finished not to still be holding the carrying cost of that unit. They hope that the County can have in place a buyer for that unit. That would be the perfect time to put that person in those units. A second concern was a reasonable distribution within the site. They believe that they can achieve that. It was the mechanisms that they were being asked to follow to standardize the way of doing this, but they believe that they can reach a reasonable distribution. But, it was not using the standards that came from the Old Trail. They would also like to be able to use private/public ventures, which would allow them to work with non-profits such as PHA and AHIP to realize meeting buyers who would be below the 80 percent threshold. That is another issue that they can get into in a later discussion. Another issue that came up is capping rent or rent control on units. It has been made clear that the county does not have a program to manage individual homeowners in these rental type units. So our tack has been to achieve affordability by creating carriage house units and efficiencies that either off-set the rent or mortgage of the larger structure or provide rental units that are affordable because of their design.
- Regarding the interconnection to Fontana in the rear, they have agreed to grade the road in up to our property line with the site plan that comes in with that section as the proffers are written. Furthermore, if the right-of-way is available on the other side they will pave our half up to the property line. If it is not there and it looks like it may be there at some point in the future or who knows, then they will give the construction cost difference to the county so that they can either use it for this road or some place else within Neighborhood III.

Ms. Joseph asked if there were any questions for Mr. Barnes.

Mr. Morris asked if there were any other alternatives for a connector route that would allow traffic to move from Cascadia over to 250 without going on Route 20, or is the connector as shown the one and only.

Mr. Barnes stated that the answer to that is no. The more complicated alternative is they could build a road anywhere. An engineer, if you give them enough money, will say that a road can go anywhere you want. They could go through Ashcroft and come around. But, Fontana abuts the Ashcroft Subdivision, which is in the rural areas. If you keep all of the connections in the development area, the road would have to go in through Fontana.

Mr. Edgerton stated that staff had urged the applicant to do another work session before going to public hearing, but they chose not to do that. He asked Mr. Barnes if he could give the Commission a reason why they chose not to do that.

Mr. Barnes stated that they knew that they had a work session previously. Also, they knew that there were many people in the general public that were upset about the Fontana connection. They felt that it was best to have the public put their comment in now while they were in the process rather than having a work session and coming back to deal with that issue on the back side. Finally, they wanted to make sure that all of the issues that were associated with this project were out on the table. They felt that

getting a full staff report was the best way to get that done.

Ms. Joseph invited public comment.

John Warnecke, President of the Fontana Homeowner's Association, said this evening he was here with over 70 homeowners from Fontana to discuss the Cascadia issue. It was not just about the connector roads. There are a number of issues that concern the Fontana homeowners. He presented a petition signed by 110 of the 134 homes in Fontana Subdivision. The other 24 homeowners were not home this weekend. Therefore, 82 percent of the homeowners signed the petition. They believe that 100 percent of the homeowner's would have signed the petition if they had been home this weekend. As seen on the petition, the number one issue is the connector road coming out of the back end of Cascadia connecting to Fontana with the potential of an easy access out to 250 by Giant and Eckert. They are against that. Our roads were not built to handle that kind of traffic. The roads in Fontana are rural roads and are not wide. In some places the roads are only 17' wide. There are no sidewalks. There are over 60 children under the age of 12 currently living in Fontana. All of those children have to walk on these roads to wait for school buses. About 20 residents of Fontana have signed up to speak. But, they have tried to organize this so that everybody is going to address different issues that they are concerned with. (See Attached Petition.)

Lynwood Belc, five year resident of Fontana, stated that he serves on the Board of Directors and wanted to speak tonight about the light at Fontana Drive, Darden Towe Park and 20 North. He presented photographs to the Commission to illustrate what he was talking about. The traffic from Cascadia is scheduled to exit onto 20 at the light at Fontana and Darden Towe Park. This traffic will pass the Montessori School where people are making a left turn to drop their children off across Cascadia Drive. The exit onto Fontana Drive from Cascadia Drive is only 200 yards from the light. It is directly opposite the drive from Avemore. There is another exit onto Fontana Drive and the light from Wilton Farms at 50 yards from the light. He noted that Avemore has about 440 housing units. Wilton has another 400 housing units. Fontana when built out will have 135 housing units. Cascadia may max out at about 330 housing units. Lake Ridge is scheduled for 95 housing units. They believe that it is poor planning to potentially put the traffic from 1,300 to 1,400 housing units through that one light. They would ask that there would be a light on 20 North that would provide for the primary exist from Cascadia. The roads there are rural roads and not made to handle this kind of traffic. Also, they believe that Fontana Drive and Verona Drive should not be turned into a "Pantops Parkway." Traffic in this community is a major problem and connectivity is not a good way to fix it.

Loc Hart, resident of Fontana, stated the plan for new connector roads into Fontana poses dangers. Fontana is a community of families with children, grandchildren, and mothers walking and driving the children to the bus stops. The two planned connector roads would dump hundreds and hundreds of commuters and other drivers into Fontana everyday from Route 250 and Route 20. There are serious safety concerns. Fontana Drive is too narrow and not a good country road. There are no shoulders, curbs, or sidewalks. There is only open drainage. So please consider the dangers of dumping vehicles into Fontana and the risks to Fontana residents.

James McClain, resident of Fontana, asked the Commission to consider the possibility of following through on the Pantops Community Development Plan that was proposed on January 5. He attended the community meeting in which the point was made that there is not enough pedestrian and cycling access as it is on Pantops. Perhaps they could use this opportunity, if they decide to go ahead, to install connector roads to make the roads only accessible to emergency vehicles by installing bollards at the connections between the neighborhoods. That would permit pedestrian traffic and bicycle traffic between the communities. Also, they should consider providing for access across Route 250 in a couple locations such as across from the Liberty Gas Station at the top of the hill and down to Pantops Shopping Center just across the Route 20/250 interchange. Until they have that they don't really have pedestrian access. Personally, he felt that the connector road is not wanted and is not necessary. They already have an alternative. The way the plan is presented there are two secondary accesses. The main site access off of Route 20 is not called the primary access. He wanted to make the point that it was not, but it should be the primary access. There should be a turn lane in order to relieve traffic from the Fontana/Route 20 light so that they don't funnel all of the traffic from the four communities through this single light.

Nancy Grable, resident of Fontana, said that she would not be redundant. There are a couple more pieces of information that she would like to share with the Commission about this connector road or the "Pantops Highway" through Fontana. Clearly the development was not built for a connector road to go through. It is a rural road. She presented several pictures for the Commission to review. There are no sidewalks, curbs or gutters. There are only rural roads and people use them as such. Children play on the roads. People walk and jog on the roads. Cars occasionally park on the roads. She measured some of the road so that the Commission could have a feel for how wide they were. Of the relative roads that people would typically go through if they are moving from the various developments the narrowest is 17 feet and the widest, which is Fontana Drive, is 22 feet. If you put two SUV's mirror to mirror and side by side it would use up 15 feet. There is a potential of passing on a very narrow road with a 15' span. In one case there would only be a 2' separation. In addition, mail boxes come right out to the very end of the road. So the potential of some side swiping of mail boxes is there as well. Today it is difficult to pass a car on these roads. Tomorrow with additional traffic it would be very difficult and potentially very unsafe. She questioned how the school buses and construction traffic would get through these roads with the additional traffic. She shared several pictures of children playing in the street and what the streets look like when cars are parked.

Frank Saulsbury, resident of Fontana, stated that he had been a pediatrician for 30 years and had tried over the years to advocate for children and try to perceive what their best interest is. Many times their interests are not the same as those of adults. One of the Commission's jobs is to resolve competing interests among individual. In his view there is only one overriding interest and that is the interest and safety of the children when roads were not even meant to carry even the current traffic load let alone anything increased. He felt that it was not in the interest of the children to have three or four times the traffic coming down the road. The children will be riding bicycles and walking on these roads to the playground and to the swimming pool. He urged the Commission to consider the competing interest of all of the adults here and really consider the interest of the children of Fontana. He wished that the Commission could hear from the children on this issue.

Joe Lance, resident of Fontana, spoke in opposition to the extra traffic being routed on the road in the interest of his three children. The primary problem is safety. The interconnecting of these roads just does not work with the way their roads were developed. When cars park on the road it is limited to one way traffic. Compounding the problem are the lack of very basic traffic control measures, varying road elevations which cause vehicles to pick up speed on downgrades and numerous blind spots when approaching parked and oncoming vehicles. Basically it is the same story over and over. These roads were not built to handle major traffic of any kind whatsoever. There are at least 10 children under the age of 9 within 3 doors of his house. The children are outside everyday playing in the driveway. To get to the clubhouse, pool and playground the children have to cross these roads with no sidewalks, curbs or any kind of buffer area. There is no other way to get there. As far as interconnectivity, they are getting interconnectivity with Fontana. Verona is emptying into a road that is being developed as they speak through Luxor. That road will connect to Route 250. The primary problem is that they all know that 250 and 20 north is a mess. It is only going to get worse. The reality if he was trying to cut through to get to Cascadia he was going to take that route and cruise right up Verona Drive to get to his home. He agreed that he would do it if he was them. It is just reality. These roads were just not built for to handle a large volume of traffic. He asked that the Commissioners drive on these roads if they have not to see what the roads are really like. He felt that visuals would be the best thing right now to explain this.

Michael Talbert, resident of Fontana, recognized that the County has to balance its need for the good of the whole versus the good of the few. In this case it is the Fontana residents who are the few that are being impacted most dramatically in this instance. He understands that the County has to look to public safety to everyone. They need to be able to get emergency vehicles from Route 20 up to Pantops without too many problems. But, does that mean that Cascadia needs to have that access back all the way around. If there is one way for them to get from Route 20 if there is a major problem at the 20/250 intersection all the way back up to the top of Pantops. What is already going to be in place will suffice because they don't need to be able to get all the way through Cascadia. If they have two entrances for public safety to be able to get into there, that covers that. The other issue is the CIP in the schools. They were at the winter carnival this weekend at Stony Point and were talking with David Cushman, who is the principal, and they said that 12 more children are coming from Fontana next year and what are they going to do. He seemed surprised when they told him that there were a lot more homes being built bringing in

more children to the school. He did not realize that there is so much growth going on in Fontana. He felt that he would be really surprised about 330 more homes where there were going to be more children coming in to his school. Their children were going to be impacted at those schools. Lastly, if the Commission decides that it is in the best interest of the County and the good of the whole to have this cut through road be access some how as many traffic slowing measures in a neighborhood that was not meant to have traffic slowing measurements. He sees in other places in the County they have the traffic circles and things like that to slow the traffic down. But, he would suggest putting four stop signs on Verona for each of those T-intersections for the cul-de-sacs and where the children are coming on and off the road. With the increased traffic flow he felt that it would pose safety issues and be very dangerous for his children riding bicycles on the road.

Biff Beers, resident of Fontana, stated that he had two young boys and a baby girl due in July. He reiterated the same concerns as the other speakers. The safety of the children waiting for the school bus was a major concern. Every car on the proposed connector road will go through this intersection. He added that their bus comes at 7:07 a.m. and for about one-half of the school year it is pitch black. It is true that there is no place to stand except for in the middle of the streets. He would hope that would weigh on the Commission's decision.

Mike Plecker agreed with the issues that were raised by the other speakers. Specifically, concerning if in fact these measures do go forward with the interconnectivities with the communities that there are some traffic calming measures that take place to alert people to the fact that they are leaving curb, gutter and sidewalk communities and coming through a community without any sort of shoulder, sidewalk or pathway for people to walk along so that the drivers are aware that it is time to slow down before they enter another community where they have curb, gutter and sidewalk. He lived on Olympia Drive and backed up to the pond where Luxor was directly behind his house, so he was very familiar with the fact that they were talking tonight about Cascadia and the possible connector road at lot 119, but he wanted to ask that they not focus on that so much as in what they are facing 5, 6 or 7 years down the road. They are truly going to meet a cross roads of all of the interconnectivity from 250 to 20 and vice-versa. So yes they can talk tonight about the issues of that interconnectivity with Cascadia and what it may do to our traffic through the community. But, the bigger picture really is, again, what they are facing with Lake Ridge and some other lots in Fontana that will be developed. So this is an issue that they don't want to wake up one day and say wow, we had a chance to do something early on to put some measures in place to make it a safer environment for all of the residents of Fontana. So he asked that they focus now on what they can do to assure that down the road that they do have something that has already been put in place so they won't have to readdress this issue every time a road gets ready to open through the neighborhood. Many people pointed out that fact that they do have children. He asked to reiterate the fact that during the school year in the fall and winter it is black. If you take the option to drive through at that time one could see that with the topography of the neighborhood that they were constantly either up a grade or down a grade around a curb. So visually as a driver cutting through on their way to 250 from 20 it is very hard to see at the bottom of a hill around a curb children waiting for the bus standing on the edge of the road. He supported installing additional traffic calming measures to address the safety concerns.

Josh Arbangh, resident of Verona Drive in Fontana, asked to share his perspective about the connector road. He felt that he lives in one of the critical areas of Verona Drive. As Verona Drive goes down from Fontana it is a very steep slope as others have talked about. He lived at the bottom of that slope. He works at home and his office window faces Verona and he sits there all day watching people riding their brakes at the bottom of the hills. It is a very steep slope and it is difficult to maintain the speed limit. Across from his house Olympia Drive intersects Verona, which is a major bus stop in the neighborhood. He asked the Commission to think about the safety issues involved with the people walking on these roads.

Duane Gran, resident of Fontana, stated that he was a past board member. He was an advocate of the Neighborhood Model to a degree. He has had productive discussions with Harrison Rue about it. He has looked at how it works. He thought that it makes a lot of sense. However, it is predicated on a notion that the neighborhoods are congruent with one another and that the model does, in fact, connect. What they have here is an oil and water type of connection. He did not believe, although he is a supporter of the Neighborhood Model, he did not think that he could lend his support behind trying to interconnect these

different things. He took a look through the executive summary that was put on the table earlier. On page 6 in the first few points he was struck by the disconnect between our neighborhood and the Neighborhood Model. That is with the pedestrian orientation, the neighborhood friendly streets and paths and interconnectivity streets and transportation networks. These are tenants of the Neighborhood Model. A lot of this sounds like things which Cascadia will have. Fontana definitely does not have a pedestrian orientation or family friendly streets if they allow this kind of traffic to come through. So what he would suggest is given that these two systems don't mesh is that they get together and sharpen their pencils and attack this problem either from the angle of what can they do to make Fontana appropriate conforming to the Neighborhood Model and they get the current developer, Tony Nickels, and the County to put their heads together and try to fund reworking the streets of Fontana. But, he was not a civil engineer and did not know if it was even possible. Or they simply should come to the conclusion that this is not feasible to interconnect these communities.

Gregg Scherbil stated that he comes before the Commission tonight as a husband, father and home owner. He had his 8-year old and 4-year old here as props, but mom could not wait this long and had to take them home. His home was located right at the junction of all the activity. Although he lives on Capri Way his backyard backs out to Fontana Drive and the intersection of Verona. His children love to play baseball and they are out there frequently playing catch and the balls do go out of the yard into the roadway. It is a safety issue regarding whether they just have the Fontana cars coming in here. He also has something in common with the Commission. He deals in financial planning. They deal with bring the future into the present so that they can do something about it. That is exactly what they have right now. They can do something about the future tonight. They have to ask ourselves a question is the decision that they are about to make an expedient one, and the answer is probably yes to do the connectivity. Or is it a necessary. He hazards to say that 5 years from now if any one of us has to face ourselves and find out that they did it because it was expedient and not because it was necessary and there was one accident or one human being that was affected in some way adversely that they would not be able to deal with that personally. He bought the property there with the intention of raising his children in a wonderful neighborhood. He asked that they preserve the neighborhood in the interest of the children. He asked if it was necessary or expedient. He asked that the Commission do the right thing.

Jeannie Anderson, resident of Fontana with two children, stated that she lives on one of the more difficult roads Avian Way. Not only is it a very steep hill, but there is a blind curve. So she lives at the bottom of a very steep hill and a blind curve that could possibly be connected through the end of Olympia. She understands all of those are coming. But she really thinks that the reality of the traffic is not going to be nearly as significant as if Cascadia is allowed to funnel up through our neighborhood and funnel down through it. She asked that the Commission not consider this in a vacuum. They have Lake Ridge, Luxor and Cascadia all surrounding Fontana. Fontana was never designed in a way to handle the Neighborhood Model surrounding it and connecting into it. The "Pantops Expressway" is not Fontana Drive. She urged that the Commission think about this creatively and have the applicant think about ways that this could better serve the Neighborhood Model. Fontana is a neighborhood, but does not fit the Neighborhood Model.

Tom Williams, resident of Fontana, stated that he was on the board. The most important thing is the safety concerns of the children and fellow residents in the neighborhood as they travel around within the neighborhood. He presented some photographs of the neighborhood. The roads were set up as rural roads. They are already seeing some deterioration of the roads from the limited amount of the current traffic. Once a school bus comes down one of these roads there really is not a lot of room to pass or come in the opposite direction without getting on the shoulders. As you look at the shoulders it drops off on either side and goes directly into the drainage ditches. Particularly in the spring and fall when there is a lot of wet ground it is a very dangerous situation with the people walking in the neighborhood and children. Again, some other people have already brought to the Commission's attention that in order to travel up to the club house to the pool, tennis courts and playground area they are going to have to cross Fontana Drive. They will have to cross where if you put in that connector road that is off to the east. It sounds like Cascadia in their opening comments that they are not necessarily in favor of putting that connector road in either. So it does not make a lot of sense. Fontana does not want to see that as a thoroughfare and it sounds like Cascadia does not want to see it as a thoroughfare. So why would the County force them to do that. It just does not make a lot of sense.

Bryan Bickers, resident of 108 Fontana Court, reiterated that the main concern is the traffic through there. There is a 30 foot buffer zone between the Fontana Subdivision and Cascadia. When Avemore was put in they were offered 60 feet there and anybody that lives along Avemore can tell you those 60 feet does not work. So point number 6 on their petition is what he is speaking to. He felt that the petition speaks to 70 or 75 feet. He has been told that one of the developers at one time offered 75 feet. That would be absolutely wonderful.

Antonio Rice, resident of Fontana, stated that he wanted to talk about what a neighborhood should mean. They service the trucks that use their roads that never clean their tires. They potentially could serve as a water source for other neighborhoods. He noted that they don't have very strong water pressure. He stated that he was ready for Fontana to service its residents. They are talking about a cut through and then they would be servicing another community and then some. As a concerned parent, he had safety concerns. He was ready for his neighborhood to service the homeowners.

Parker Cassidy, resident of Fontana, said that being number 20 on the sign up sheet that he felt that everything has been covered. As a homeowner and parent, he wanted to reiterate the concern about the connector. He would like to commend the people who came to the Board tonight with some proposals and alternatives and did not just throw up their hands and say that they did not want this.

Michael Powers thanked the Commission for their patience in hearing everyone's comments. He wanted to speak about green space and not so much about roads. The one point or word he had not heard tonight was liability. If anything ever happens on that road the County has a petition, which was part of the public record, of 100 people. Also, as a matter of public record 20 residents came and told you so in advance. The vision of our community is to preserve the natural resources of the rural character and the visual beauty. Referring back to text of the Neighborhood Model, the Neighborhood Model calls for sensitivity to exist in terrain and through site and architecture that fits into the grades and where significant regrading is necessary reconstructive slopes are called for that are attractive and functional needs are maintained, with his emphasis next, minimizing destruction of natural terrain will help Albemarle County retain its beautiful landscapes. If you look at Cascadia's plan there is a beautiful buffer of trees all the way around. He commended them for including that in the plan and providing the buffer between neighborhoods to preserve our rural character, which is our goal. From his experience he felt that they need to be concerned with if what they see on paper will actually make it into the reality. He supported preserving the green space.

Kenneth Webster, resident of Fontana, agreed with what the other speakers had said. He asked to underscore a few things. He would ask that Commission to strongly consider adding a second light at Cascadia. They have already heard that the lights are too close. It seems that if from the money that could be circumvented that the lights could be linked together or flashing light added up the hill on Route 20 south to improve the sight distance to a stop light that might come into Cascadia. Second, he supported what he sees in the staff report about the proffers being too low. He appreciates staff recognizing that and calling attention to it. He asked to get back to the water issue. The language in the staff report says that the water in Fontana should not be impacted. He emphasized their point in the petition that they would like to see an independent study of the water impact on Fontana. The reason is that they conducted an informal survey. They have an internal mail list. So he asked how many people do have water pressure problems. Forty-seven percent of 30 people who responded said that they don't have water pressure problems. Adversely 53 percent said that they do have water pressure problems. Twenty percent of those people have contacted the Water Authority. They have 32 percent of the people who answered that have pressure assist pumps. He spoke to a representative from the Water Authority and he assures me that the piping is large enough. But, they are not convinced. They ask that the developer be proffered or that some kind of independent study be done to guarantee that after Cascadia is done and finished that they don't have a bunch of Fontana residents needing to install assist pumps on their on at $500 a piece plus electric costs and the cost of replacing it in 10 years. He supported the staff's recommendation calling for an overlot grading plan. One thing they stare at everyday is the Luxor project, which just seems to move dirt aimlessly, and they don't want to see the same thing happen at Cascadia where there is a giant earth pile and not rhyme or reason. It would help give the Fontana residents some assurances that what is presented in the plan is actually what gets implemented. They are very cognitive that this is a range that the Commission is hearing about today and not a fixed project.

Bryan Vig, resident of Fontana, stated that he lived at the end of a cul-de-sac and not on the expressway. But, he would like to bring up the point about the Stony Point School. It took three years for him to decide to move into Fontana based on the Stony Point School and some other issues. His wife did not want his daughter riding the school bus all the way to Stony Point, which is already an overcrowded school. So now even though he lives in Fontana he pays the money and has his child sent to the city schools because the Stony Point School is already overcrowded. The traffic issue is a major issue, but nobody has brought up the extreme topography of the Fontana Subdivision. It really does not allow for sidewalks or any extra room on the side of the walk because that is where the drainage is. It is not like the children are standing in the road because they are disobeying their parents. There is no where else for them to go. If they step a couple of feet off the road they are standing in the drainage ditch. That is just the reality and he did not see any way to fix that other than not putting the extra traffic through there. Long term somebody is going to have to fix the Stony Point School problem because there are a lot of children moving into this area.

Mike Frederick, resident on Verona, stated that he had three daughters who were all under six years old. He asked that the Commission visualize him driving along their sidewalk at 35 miles an hour. That is what they live with everyday. He felt that they need to limit that as best as they can. Secondly, they walk along that road going to and from the pool in the summer. He voiced concerns about the narrow roads and the safety issues involved with people parking along the sides of the road.

Anthony Iachetta, of Broadus Memorial Baptist Church Adhoc Committee, stated that he brings the Commission a different problem. The church committee has been negotiating with the developer to try to make the church part of what you call the neighborhood. They are still negotiating. Currently they are not longer connected and they don't know if that will be reinstated. But, they would like it known that the church is still in the process of negotiating with the developer to make as much of a connection with this neighborhood as possible. In the event that they are not successful they do think that if the Commission approves this neighborhood they logically should be rezoned to be part of that neighborhood since the church is part of the growth area that this is part of. So they would ask that to be a consideration if in fact they are unsuccessful in becoming part of it through their negotiation.

Laura Olson, resident of Key West Subdivision, addressed the intangible traffic congestion, which will develop if Cascadia is built. She felt well qualified to make certain remarks because she has spent 15 years managing consulting projects in environmental science and health care. At the last public hearing Mr. Franco agreed to send her a copy of the traffic study, but she never received it and her calls went unanswered. Also, he agreed to send a copy to our Association President, but that never happened either. She did receive by email a copy of the traffic impact study addendum, and she had some comments to make on that. Now she could see why Mr. Franco never sent her a copy of the traffic study. Based on common sense and her experience living in the area she believed that she could reliably state that the assumptions that have driven these traffic impact conclusions must be highly faulty. For example, she would call attention to the number of residential units. When adding together the number of apartments, townhouses and single-family homes it totals 284 units. Most units today are occupied by at least 2 people with 2 cars. According to this study only 40 of those 568 cars will exit the development during peak a.m. hours. During the p.m. peak hours only 137 of the 568 cars will enter the development. Of course, none of these numbers factor in non-residents traffic, such as service men, deliveries, visitors or the Montessori School. Nor is there a definition of a.m. or p.m. peak hours. If they are looking at about a 20 minute window in the a.m. or p.m. period the counts may be somewhat accurate. Otherwise, the numbers are clearly false. There is 9,000 square foot building for general office use in this plan. But, the study predicts only 14 vehicles will enter the development during peak a.m. hours. She wondered if there were restrictions on the numbers of employees. Otherwise, that number is clearly understated. She finds the attempts of the developer to bamboozle the members of the Planning Commission and the residents in the Pantops area highly insulting. If the project remains as is the developer will complete the project and walk away with a boat load of money and leave the residents with an enormous traffic alliance. Additionally the developer does admit that if Route 20 is not widened there will be a problem. At a minimum it seems logical and fair to all residents to defer any development until this stuff is taken. She recommended that a new traffic impact study be conducted by an impartial group and managed by an objective professional. She urged the Planning Commission to take a step back and get the real facts about the traffic impact of Cascadia. These comments are respectfully submitted by me and no one else.

Bill Downer, a member of the committee of Broadus Memorial Baptist Church, asked to enlarge a little on what Dr. Iachetta had to say. The church property is to the north of this. They negotiated with the developer. They have a hill at the back of their property that ties in well with the developer's cul-de-sac. They are trying to negotiate to sell that to him and therefore bringing the church into the project and rezoning all of their property to make it a part of this development. In addition to that they are working with Southern Development to bring a waste line across the church's property and connect to Cascadia if this development occurs. What this does is give the church the opportunity to connect to that waste line via a pump station at the lower part of their property right by the little house on Route 20. Long term this would provide what the church needs for their growth. They now just have one building. Their plans when they went on this site was for a sanctuary and another all purpose building. So it is imperative to the church that they achieve this negotiation with the developer. They also want to work with the County to see if they can't get all of this that belongs to the church rezoned into the Comprehensive Plan because the growth line runs along the creek area. The church is at the northern end of that. If the development goes forward there could be a substantial benefit to the church, which in turn would be a benefit to the community. As they develop facilities there will be more accommodations that can be used by the community, which would avail other opportunities for the community to participate in things at their church and also use their facilities. They think that it is imperative that they work this plan with the developer so that the church can be included and hopefully they can achieve an agreement to sell the top of the hill for the benefit of the church and the developer.

Clara Belle Wheeler stated that she lives just a stone's throw from the Cascadia development. Her property has lived on that property for over 50 years. There are three words that she would like the Commission to remember during her talk. They are rape, pillage and greed, which are not pleasant words. She hopes that the words evoke exactly the sentiment that she wants them to think about. When this subdivision was planned there was no consultation with any of the home owners, residents, and land stewards in the view shelter. No one was consulted. No one talked to us. Those of us who have lived in Albemarle County on Stony Point Road in a rural environment expect it to be just that. They have paid their taxes, built their homes and brought our families in and they expect a rural environment. When the County took over the land that was the Mahane's farm and turned it into Darden Towe Park the county Board of Supervisors and this group signed a paper that said that there would be no light at all at night. There are lights all over this proposed subdivision. It does not make sense that there would be no lights on one side of the street and lights on the other side. Let's talk about the Rivanna Watershed. The Commissioners heard a gentleman talk about the watershed protection earlier. Cascadia is proposed to be up on an elevated parcel of land. The drainage runs right down to a little creek that runs right down by Route 20 that falls into Trevillians, which runs right into the Rivanna River. Can you imagine what the watershed impact on the Rivanna River is going to be if Cascadia is built? It is not going to be the same place rural area. The traffic problem has been addressed. It is going to be legend. People are going to get hurt. They need to readdress whether or not this project needs to take place because it is changing the entire face of that section of the County where people have lived not planned to have 500 other houses under their noses.

Greg Garland, of 1636 Franklin Drive, concurred with Ms. Olson, Ms. Wheeler and others that this may be an exercise in over development in this particular area of the county. He moved to Charlottesville 8 years ago to attend graduate school and had no intention of staying. He came from Connecticut where he spent 60 to 75 minutes per morning going 15 miles to work. He was here because he does not want that anymore. He felt that is the reason why so many people move to this area and decide to stay here. He hoped that the county planning as well as the developers will work together to maintain this area in a rural area that can accommodate some development, but not over development.

There being no further public comment, the public hearing was closed and the matter before the Commission.

Mr. Morris stated that it rather obvious that the people do not want that connector between Cascadia and Fontana. If anyone has visited the site they will be able to see that it is problematic to say the least.

Mr. Strucko said that he visited the site with Joe Lang and Jeannie Anderson who took him around the neighborhood on Sunday. He noted that he was an advocate for interconnected neighborhoods and the Neighborhood Model. He believed that was the way that development areas should develop to preserve

the rural area and rural character of Albemarle. He had to say after touring Fontana it is not a Neighborhood Model neighborhood. It is a grand example of how not to build a neighborhood road. All of the speakers made that point and he saw it first hand that there are no sidewalks, curb or gutters and the road widths vary from one point to the next. Personally, he was willing to sacrifice a principle of interconnectivity if it threatens the health and vibrancy of an existing neighborhood. He looked at these site plans and thought that the Fontana area will interconnect with Cascadia but at a point closer to Rt. 20. Fontana will interconnect with Luxor down at the lower end because that is already graded because he walked it. He thought that should be the extent of it. Moving his attention towards Cascadia he was determined not to make the same mistake twice. He was determined no to sacrifice a principle for road width. He was determined no to sacrifice critical slopes. He was determined not to see an over developed poorly used parcel adjacent. He did not want the county to repeat that same mistake twice. So as they look at Cascadia and review this rezoning and look at the site plan he personally was going to be one that is against this interconnection at Fontana Drive.

Ms. Joseph asked Jack Kelsey if staff has any idea what right-of-way exists in Fontana.

Jack Kelsey, County Engineer, replied that the right-of-way widths vary based on the roadways. To know specifically he would have to pull the plat on the particular road to see what the right-of-way width was there.

Ms. Joseph noted that they did hear a couple of people say if there is not an interconnection is there some sort of upgrade and can there be traffic calming measures, sidewalks, etc. put in there so that it is a walkable community. She questioned if that was possible.

Mr. Morris stated that if someone goes 3 feet off the side of the road while driving down the road they would be in the drainage ditch.

Ms. Joseph noted that they would have to pipe it and then put the sidewalks in. She wondered if there is enough room in there to even do that.

Mr. Strucko said that improvements would not only have to happen along Verona Drive, but also Fontana Drive from Route 20 to where this connection occurs. That is a substantial project. It would include moving mailboxes and moving drainage ditches.

Ms. Joseph said the county has to make the decision whether that is an important aspect of interconnectivity. That is all that she was saying. They heard from people that there could be other ways to do this and she was just exploring that before saying no, absolutely not.

Mr. Strucko stated that it would have to be significant, which was his point. After seeing it, driving it and walking it to a certain extent the improvements would have to be very significant.

Ms. Joseph asked if there were other comments about the interconnectivity.

Mr. Morris requested that the applicant address his question about something that was on previous plans. At one particular time there was definitely a connection between the proposed Cascadia and the driveway going into Broadus Memorial Baptist Church. That would be a third connector. He asked if was correct.

Don Franco, of K.G. Associates, stated that was on earlier drawings when the church was part of their project or rezoning. But since the church has dropped out of the process that connection has been dropped as well.

Mr. Morris asked if they were still in negotiations if that was something that could be brought up. But, that is a business decision. He noted that could be a third connector.

Mr. Franco said that they could leave that as an option to move forward with, but at this point because the negotiations have been stalemated for quite some time it has dropped out. He was not sure if there was a real net benefit since they are expecting more of the traffic to come out and head towards town versus 20 north.

Mr. Morris agreed that it would go out onto Route 20 again, which was a good point.

Mr. Strucko stated that the issue with Route 20 and the light at Fontana and 20 is making that, which would be a left hand turn to head towards 250, and the light creates the ability to make the left turn with halting oncoming traffic. That same oncoming traffic would actually intensify with the connection with this new development to Route 20 and the potential third one with the Broadus Church. So he was hoping that there would be a light there. With the Key West traffic already coming down Route 20 and they were adding all of these new residential units and adding other access points to Route 20. He felt that there needs to be a second light at least.

Mr. Morris said that on previous examples they have even looked at the possibility of having a light at their primary entrance off of Route 20. He asked if that was correct and if VDOT says that it would be a little too close to the other one.

Mr. Franco agreed that the proximity played into that partially, but the warrants were not there. Part of the issue that VDOT has is that when you look at the traffic it does not warrant it meaning that it does not qualify for a light there. If they were to allow a light to go in when the warrants are not there and they have issues where someone gets rear ended when they are stopped at the light or runs the light, then that is a liability for them. So there is a specific process to go through with a traffic study that gets looked at that says a traffic light is warranted. It did not qualify for a light at this location. The only other issue that he would add that came up in the discussions in the past, since they have been in the process for a number of years. Early on ARB has taken the position of trying to keep Route 20 as rural in character north of our entrance as possible. Early on they looked at a potential of adding a light, but then the warrants issue became a problem. But, a light at the entrance to the church the idea was potentially Lewis and Clark could add into that. But what it did was start to creep the urban section or feel of the growth of the growth area all of the way to the edge of the rural area. So again it was something that was looked at early on as part of the process.

Ms. Joseph asked if they had looked at the geometry of the land that was already there. The Commission has heard about steep slopes and curbs.

Mr. Barnes asked if she meant as far as an analysis of the Fontana Subdivision because they were also connecting to it.

Ms. Joseph said not their part connecting, but the existing. She asked if they looked at it and determined that it was 14 percent or the curb that could only carry X amount of traffic.

Mr. Franco replied that he had been on it and seen it and thought that it is questionable. Their challenge is that it is really not a choice that they can make because interconnectivity is a requirement of the ordinance at this point in time.

Ms. Joseph clarified that she was asking what his professional opinion on the road itself.

Mr. Barnes pointed out that when they did the original Luxor rezoning, which Virginia Land had this parcel, Fontana and Lake Ridge, and it was all factored in as part of the road design for the Fontana Subdivision. He felt that they were getting towards the capacity of the Fontana road system with Lake Ridge, Fontana, and he would assume Luxor at the time.

Mr. Franco noted that is why from their perspective that they have made it a proffer to give the Commission the flexibility to make that decision and whatever monies would have been spent on that connection to use elsewhere to improve that system.

Mr. Craddock said that one of the speakers mentioned that there was not a good deceleration lane and a left turn lane to that entrance on Cascadia off of Route 20.

Mr. Franco noted that there was going to be a right decal in taper, but there is not a left turn lane.

Mr. Craddock asked if someone traveled from Key West and wanted to make a left turn in there, then they were going to stop the traffic on Route 20.

Mr. Franco agreed. But, again, it is a warrants issue with VDOT. There are set standards of warrants that are established as part of the study that is looked at.

Mr. Craddock asked if they could build it anyhow.

Mr. Franco replied that it becomes a challenge with VDOT. He could not say absolutely that they won't allow us to build it, but they don't encourage it. Also, there is no guarantee that they will accept it. It is going to be a hard thing for him to offer to do when it did not meet the warrants.

Mr. Craddock noted that there was a question about connectivity to Lake Ridge at one point. What is the issue with that now?

Mr. Barnes stated that the concept here is which is misleading on staff's colored diagram that their boundary with Lake Ridge is along most of that stream. Lake Ridge is actually in the development area. The development area boundary continues along the top of that map. So there was talk about whether they could connect Cascadia to the Lake Ridge portion of the development area. Again, there is a very deep ravine there that would require a lot of fill to get across. It was considered that stream was pristine and no storm water measures in there. It was one of the earlier concepts pursued with the road crossing there and putting a pond in. That was abandoned based on the concept of trying to create a wooded buffer between the stream and the developments on the other side. It would be a very poor connection to make. It was for environmental reasons that the idea was abandoned.

Mr. Craddock asked if the church was in the growth area.

Mr. Barnes replied that the growth area was along the creek.

Mr. Craddock asked if they have an up to date traffic study or anything based on residences or Fed X trucks. He thought that 40 cars sounds awful little coming into that area.

Mr. Franco stated that the traffic study was done on a higher density and more non-residential square footage within the town center or neighborhood center through there. The update was to adjust those numbers to reflect the density that they were pursuing of a 320 cap units and the reduced square footage of non-residential. So the impacts were less than the original study based on the reduction in density and intensity of our development. That is what has been adjusted. There is not a fresh so to speak today study that reflects that because it was deemed that because it has gone down in size that the original study was applicable.

Mr. Craddock said that most of the traffic will be directed towards the traffic light at the Elk's Lodge at Route 20.

Mr. Franco said that the original study assumed that light was in. When it was done the light was a proffered item with Fontana. So it was one of the base assumptions and one of the early discussions that they had with staff was that if they had been approved two years ago before the light was put in how they were going to guarantee the light. So their study was based on a light being there.

Mr. Craddock asked to his knowledge is there a road coming from Brady Bushy Ford over to Route 20 or behind Avemore. Or has he seen anything along those lines?

Mr. Barnes said that there are maps that have been drawn and concepts pursued potentially that if something like that could happen it would be another solution for the 20/250 intersection. But, to his knowledge nothing has been formally adopted and certainly he knew they were going through the Eastern Connector Study and maybe that would be part of that process.

Mr. Craddock felt that Fontana Drive was going to have more trouble with traffic coming from Luxor down Fontana Drive than trouble having Cascadia people going the other way. That appears to be more of a

cut through if there was going to be traffic coming off of Route 250. With the improvements that are suppose to happen at 20 and 250 and they restripe that there will be a right turn lane there. When he traveled up in Fontana a number of times he felt that 17' seems to be very narrow while traveling through there especially with the geometrics. He felt that 35 miles per hour was 10 miles per hour too fast.

Mr. Franco noted that particularly since 18' was considered to be the narrowest public rural section of road.

Mr. Craddock stated that one of the speakers talked about more buffers between Fontana and his house and neighbor's house along Cascadia. He asked if there was a potential to get more buffer as was done with Avemore and Fontana.

Mr. Franco said that they had a public meeting a couple of weeks ago and this came up with one of the residents. What was proffered or discussed with the residents early on as part of the discussions that he had been in has been the 30 foot buffer. There was also a promise made of keeping 75 foot between structures. So the structure being 75 foot as opposed to an undisturbed buffer. He felt that they were happy to adhere to the buffer and the 75 foot to structure. But, they did not want to put a 75 foot undisturbed buffer along that property line.

Ms. Joseph asked if anyone else has any questions for the applicants.

Mr. Edgerton said that staff points out an issue in the staff report that has not come up at all that they have been mandating 15 percent affordable housing units and they are only proffering 13 percent. What is their justification for that?

Mr. Franco stated that they were happy to do 15 percent. In the beginning they did not know what density they were going to pursue. So what they felt was taking 15 percent of where they were gave the ability that if they were at the low end they were at 17 percent and if they were at the high end they were at 13 percent. If they want it changed to 15 percent, then that is fine. The other thing that came up was administrating that. There has been a discussion about how to reasonably distribute that density through the development. Their approach has been to build above and beyond what other people have done and say if they are going to commit to 15 for sale units. But, there may be more for sale units. But, there will be a minimum of 15 for sale units through there. The other mechanisms they are using are accessory units, even though they are in a townhouse.

Mr. Barnes noted that it was a duplex or two dwelling units.

Mr. Franco stated that they were using some of the other tools that other people have used in and through there to create these rental opportunities that are sort of a granny flat sort of thing. It is hard for us to guarantee where those are going to be at this point in the process. So what has come up in some of the discussions is how they know they won't get them all at the end. Also, how do they know that when they get to the end that there will still be enough of capacity? So sticking to a solid number seemed to be an easier way to approach that. But, their goal has been all along to create 15 percent affordable housing.

Mr. Edgerton said on the range of 285 to 330 the plan that they are looking at shows the 330.

Mr. Franco replied no, sir. The plan in front of the Commission represents 274 lots because there is some multi-family in there. There are 274 units. What it does not necessarily reflect in there is the granny flats and where these opportunities will be. To meet their 15 percent criteria they would end up with this plan at 306 units in and through there. The reason that they asked for the additional density was to provide additional opportunities for these efficiency units to exist. Now if someone wants to come back later and add efficiency on top of their garage or to enclose or convert that space in their basement they wanted to have that opportunity. It is counting as a dwelling unit in a proffer. So they are happy to reduce that number down, but they would just be eliminating some of the infill opportunities in the future.

Mr. Edgerton noted that he was struggling because the land use plan recommends the area for Neighborhood density of 3 to 6 dwelling units. According to the staff report, they are at the high end of

that all the way across the board. They had an average of 5.4 dwelling units per acre. At one point they are up to 12.1 dwelling units per acre. Therefore, the plan has just about the absolute max that could be supported by the Comprehensive Plan in this area. He just wanted to make sure that he understands that correctly. He asked if they were agreeing with those numbers.

Mr. Franco agreed that they were at that upper end. He would say again that if they were at 304 on this plan including their affordable units of 330 that at least 10 percent of that extra is this infill opportunities that they are trying to allow for. If they don't want to allow for those they would be happy to reduce that number down even further.

Mr. Strucko asked if they will pursue the critical slopes waiver along the stream on the back edge.

Ms. Joseph said that they were not going to discuss the waivers until round 2. The Commission was only talking about the rezoning and whether this fits on the property without going to the specifics. The specifics will include a lot about the width of the roads. She asked if there were any other questions. She was grateful that the applicant asked for a public hearing so that they could get all of this input. But, she wished that they were at a work session because there were still a lot of outstanding issues. It is very complex and large. There are many other things happening on this site that are extremely important. There are proffers that have been offered and the applicant feels that a lot of the rules have changed since the last time they talked to staff. The Commission had a conversation last week about proffers about how uncomfortable they were with approving something that was only good for 90 days. She acknowledged that was brand new news to them. She knows that the applicant wanted to get the proffers to us in time for staff to write a report. Therefore, they had no way of knowing that. There are so many items that they have questions about. There is the question about the traffic counts. They have questions about the density. She felt that they would be here until midnight.

Mr. Morris requested to ask Mr. Downer a question. If the church is in negotiations with the applicants could he request that they continue to talk about everything that they requested, but also opening up a partnership again? That has so much to benefit the entire operation here. Broadus Memorial Baptist Church has been the community center for the last three years that they have been looking at this.

Mr. Downer stated that they have not been able to successfully negotiate with the developer, which is why they were here tonight. They certainly agree that they want to be a part of this project. He felt that it was critical to the community as a whole and the church and would be beneficial to the developer. Therefore, they intend to work hard to get this done. They did not drop out and their intentions are to work it out.

Ms. Joseph pointed out that there are issues in the staff report as well as other issues that have been raised. She wondered if they could at least try to work through some of those and then maybe have meeting two where they talk about the modifications or just see where they go.

Mr. Edgerton stated that he was under the impression that their two step agenda was first to determine whether the Commission was comfortable with a rezoning request at this time. If they were not comfortable with the rezoning request at this time, then they can address a lot of those other issues at a later date. He suggested that the Commission discuss how they feel about it.

Ms. Joseph stated that is correct.

Mr. Strucko said that he had discomfort with the rezoning request for issues that he cannot discuss until round 2.

Mr. Edgerton said that he was going to vote against this rezoning. The reason was that he felt that it was too much for this piece of property. First, the property is too steep. There is too much going on here. Topographically, it was going to be a nightmare to engineering. He felt that it was informative to hear from the public the reality of how pretty that picture is going to be especially with the buffers. They have drawn in far greater than 75 foot buffers around the property. As an architect he knew how creative someone could be in their drawings. But, he was concerned. This property needs to be developed at a greater density than what the current zoning is. But, he did not believe that almost a ten fold increase in

density was appropriate. They are going for the maximum. He did not see providing granny flats and affordable housing as something that they have to increase density for. He felt that the Fontana roads was a substandard situation and was something that the County was going to have to figure out how to address. This is not the last time that the County will have this problem. They are going to be addressing interconnectivity issues with existing neighbors that were built to a lesser standard. They need to solve that problem and figure out a way to get these children out of the street. That is not where they should be playing. This is a bigger issue. Inconnectivity is a traffic issue that they are talking about. That is why they are advocating interconnectivity so that they can get some of the local traffic and give them a choice off the main roads. But, they would not be solving the problem at all if they put them on the roads where there is no place for the children, mothers' or school buses to safely go. So they have to come up with some solution. They don't have that solution currently available to us. With that in mind he did not think that it was appropriate to require interconnectivity on this site at least through the upper part of the Fontana connection.

Mr. Strucko felt that they need interconnectivity, but just not at that point.

Mr. Edgerton said that he sees no value in that interconnectivity because it was only a hazard unless they can figure out a way to put some sidewalks in and change the rural cross section road standard. He did not know how they could do that because they were talking about private property issues and involving a lot of issues that the Commission cannot solve tonight. Finally, the infrastructure issue is that they have a tremendous traffic problem on Route 20 right now. They don't have the infrastructure in place. They keep hearing the community say don't approve these projects until they have the infrastructure. The only vehicle left to them because of the Dillon rule in the State of Virginia is rezoning. That is the only vehicle they have to control any of the growth for the infrastructure. The infrastructure is not coming any time soon. Therefore, he was concerned about the density being proposed being dumped on Route 20, which would add to the congestion and infrastructure problems. He did not think that they were ready to approve this. For those reasons, he was going to vote against the rezoning.

Mr. Morris stated that if they just take a look at what the developer has presented and forget about where it happens to fall within the County that it looks great. It has everything that they want. He has done a super job. But, then they get into the traffic problems, etc. These are things that the developer cannot do anything about. This is a problem that is in the County's lap. At this particular time no matter what the developer does it is going to be absolutely havoc on Route 20 and they can't do a thing about it. The traffic has been a question ever since they have started talking about this development.

Mr. Cannon said that he was trying to understand the relationship between the interconnection and the rezoning proposal.

Ms. Joseph noted that it was one of the elements.

Mr. Cannon said that he did not believe that the interconnection should occur. Does that mean that he rejects the rezoning proposal or is there an alternative?

Mr. Kamptner stated that one of the alternatives for the Commission is to defer the decision if there is time and ask them to come back with a lower density proposal that does not include the interconnections that are problematic for the Commission.

Mr. Cannon said that would be his preference. The density issue is more difficult because they have a plan and the plan contemplates this density that is at the upper end. He did not have clear in his mind what was reasonable under these circumstances. Whatever they build here is going to add more traffic. Whatever traffic they add is going to complicate an existing bad situation. That situation is not in their control. So the Commission and developer are caught in a difficult situation and he is not sure how to work through it. He did not think that this interconnection should go through. The image of risk to families and children in a neighborhood can't be justified by any abstract notion of interconnectivity under the circumstances. So he would reject the proposal on that basis.

Mr. Craddock stated that this project is in a growth area just as Fontana was in a growth area. Is it too dense? Well they have been looking for density in the growth area to keep it out of the rural areas. He

felt that instead of investing in the road on Route 20 they have put in sidewalks. He felt that they should have put in three or four lanes at least to that light at Fontana. Regarding the possible connection on Route 250 out at Cascadia they have seen other folks make the road wider to accommodate their development. He felt that the larger issue about traffic is coming down the road through Fontana and Luxor is that they are going to get a lot more traffic coming from Luxor cutting through Fontana than people coming into Fontana and cutting through Cascadia or Cascadia coming through Fontana. He felt that is probably the next issue that the Fontana folks need to take a look at is the connection down that road to Luxor. Personally, he would like to see this item come back. One of the beauties of a work session is that you get a lot of stuff out on the table and then the applicant can come back and have the public hearing and get some more ideas. It seemed like the Commission had a public hearing and work session all rolled into one, which is good because now K.G. Associates knows what everybody is looking for. Personally, he would like the applicant to ask for a deferral and take another look at this and work more with the Fontana residents and the Broadus Memorial Baptist Church to make this more accommodating.

Mr. Strucko agreed that a work session would have been nice. The Commission could have talked in detail. He received his information from two residents inviting him out to Fontana. He did not think that Fontana residents would have the problem of Luxor traffic coming through them, but that it might be the other way around. The Fontana residents may be looking for a way to get to 250 other than Route 20. Again, the principle of interconnection is important because he felt that when neighborhoods are interconnected they create a wider community and they offer people alternatives to getting to and from different places. With the Neighborhood Model and mixed use with commercial presence inside the neighborhood it may alleviate the need to get into a car at all or to leave the neighborhood. He was leaning towards Mr. Edgerton's comments here tonight. He knew they could not discuss certain aspects of what is put before them, but in a work session they could have. It is an intense use along an already a densely developed area. They are trying to increase densities in the dedicated growth areas to alleviate pressure to develop the rural areas. However, in my mind there has always been a fine line. They don't want to over develop the designated growth area to the point where it no longer becomes a desirable place to live. He thought that they were getting dangerously close to that kind of situation. He did think that there are a lot of issues that they need to discuss such as proffers, road improvements, and improvements to the intersection of 250 and Rt. 20. That may not only alleviate the pressure from this development, but from all of the other developments from Key West all the way down Rt. 20. So he was not ready to go forward at all.

Ms. Joseph stated that one of the things that they thought about the Neighborhood Model was that it would make it an attractive area with a higher density. So that is what this application is trying to do. She also has for years been complaining because people never met the density that they wanted them to. Wilton Farms down below was approved at a specific density and the applicant came in years later and said that the market is calling for single-family homes. So single-family homes went in down there and they did not meet the density that they had been approved for. So they have been whittling away in the urban area doing that sort of thing. She was unsure for what reason. But, she felt that they should accommodate the densities in these areas. She stood at Montessori School and looked at the large amount of dirt being moved for Luxor. In this large of a development they were going to move a lot of dirt and it is going to be bald for quite some time. She was concerned about the run off as Ms. Wheeler mentioned. But, they do have erosion and sediment control measures, but they don't take care of everything. They know that, but it is not so wonderful to know. She also liked Mr. McClain's comment about if they were going to have interconnectivity how about if it is for pedestrians. That is what the Neighborhood Model is all about. It is about pedestrian connections. So what about making it accessible by bicycles or people until they get to the point where they figure out how to make this interconnectivity happen. How do they figure out how they can improve these streets and provide sidewalks and an area that they feel comfortable with their children? They are going to have increased traffic now with some of the Luxor traffic coming through possibly. That may happen. They need to figure out how to handle this occurring problem. There are still a lot of unanswered questions. They need to have the development areas concentrate their growth instead of working into the rural areas. There are aspects of this project that she can support, but other aspects that she was having a hard time with. There are affordable housing issues and connectivity issues. She was concerned about a preservation area with a sewer line cut through. That is not preserving anything if they cut through an area where they have said that they want to keep the trees. Another question is how significant is this stream. That is something that they

need to talk about. Is it a significant or sensitive area? What about the wooded area that is in their open space plan? What are they doing to mitigate that? If they want the density is there something that they can have in return so that they can replenish the trees at some point in time. There are some things that the maybe they can work together to make a smaller impact. Maybe they can mitigate some of the things that will be happening on the site. She was not ready to vote favorably for this, but would love a work session. She acknowledged that the applicant wanted to push forward, but if it has taken this many years to get to this point in time whether or not it wouldn't behoove us all to take a couple more months maybe and get to a place where they all feel comfortable about this project. She asked if Mr. Franco would like to speak to the Commission.

Mr. Franco stated that they would be happy to defer. He thought that some of the big issues that they have seen come out before them are the same issues that they have struggled with that they have not gotten clear direction on. They thought that the public meeting was the way to get to the heart of those matters at this point. As indicated, they have talked about the message that they have gotten in the past was to get the density in the growth area. He thought that in their plan they saw a shift in what is Fontana, which is primarily single-family, detached to something that is much more attached housing and provides for that density. He would be happy to defer. The question would be process wise how they want to proceed. Would they like for them to show up at a work session with another plan that reflects some of the comments that they have heard tonight and they begin to sit down with. Or, are they talking about a blank sheet of paper at this point.

Ms. Joseph replied no.

Mr. Franco stated that to react to some of the comments that he had heard what they see as an appropriate density here. Where in the 3 to 6 do they feel is the appropriate density to be.

Mr. Edgerton responded that when they have a range of density in the Comprehensive Plan that says between 3 and 6 dwelling units per acre for a neighborhood density he would like to think that they would let the actual property or parcel itself tell us what works there. He for one thinks that this property with the topography that exists, which is really significant, he thinks this property argues for a low end of the scale. He personally wants to put density in the growth area. He wants to preserve the rural areas because that is what Albemarle County is all about. They have to put growth in the growth area. Please do not take his statements in any way wavering from that. But, there are pieces of property that do not support the high end of the density and that are what he feels that this property is. They are dealing with a piece of property that is going to have to deal with erosion problems, which is going to be awful. It is all going to run down the hill and go across right into that creek. The only way to solve that is to reduce the density to some degree.

Mr. Strucko said that this project has great virtue because it encompasses many principles of the Neighborhood Model. That is certainly something that they want to encourage. What he was looking for was a density that does not disturb the terrain so much and does not compromise on the necessary road widths and meets the principles of the Neighborhood Model. Fundamentally, that will be one that respects the terrain of this property. He understands that there is going to have to be some earth moving. There is already earth moving going on the area. However, it needs to protect the critical slopes in the back of the property that protects that stream. That is what he is looking for. Also, that they are not repeating the same mistake twice that the road in the proposal are of a certain standard and are not 17' wide with no curb and gutter.

Mr. Edgerton stated that as Mr. Morris mentioned if this was a flat piece of land and in an ideal situation it has all kinds of wonderful things happening on it. But, as far as this piece of land in this location they have all kinds of problems with this density.

Mr. Strucko said that he was looking for a proposal that has some mitigation factors with respect to the schools and the traffic.

Mr. Franco stated that with respect to the terrain, would they entertain a private road request. Part of the issue that they have is getting up the hill and meeting VDOT standards. If they were to go Mountainous Terrain Standards or relax that it would change the form of this development. He thought that they would

have to start to look at more single-families to deal the steeper road cross section or cross right through there. He asked if that was something that the Commission would entertain. To work with the character of the land a little bit better with the standards that he cannot use if he has to create a public road through there. He thought that the public road is really important when there was a connection at the back to Fontana. But if they eliminate that connection is a private road something that they would entertain.

Mr. Strucko said that they would be connecting to the front of Fontana potentially to the church.

Mr. Franco said that they could start the private road somewhere beyond Delvaires or what comes in from Fontana Road itself. But somewhere they could start private roads to get up the mountains to work with the terrain a little bit better.

Ms. Joseph said that the only problem is if there is some way that they can fix those roads in Fontana. Then they would have this private section matching up with a public section.

Mr. Edgerton suggested that whereas they have a range in their land use recommendations and certainly they have a range of profit and the question is do they need 330 units or whatever the magic number is to make it a profitable project.

Mr. Franco replied actually not. They could do a single-family detached product here totally and probably make a better profit. Their goal was to work more with what is consistent. If their interpretation is lower density, then they would be happy to go and pursue the other plan. That is the guidance that they need. What he does not want to do is keep throwing darts up here and come in next time with something that is not at 5.4 gross density, but is at 3 and it is too low. It would not be by right density.

Mr. Cannon stated that he liked density in the growth area, but not density at all costs. There have to be considerations to plan configurations that are respectful of the land and respectful of neighboring landowners. He could see from his standpoint how vague all of this could be. From his standpoint, he would not recommend that he go back to single-family. He suggested that he maximize the density with some of the concerns that he had heard here with respect to the topography and the limitations that it might reasonable impose.

Ms. Joseph asked if what she was hearing is that he would not be adverse to deferring to a work session where they talk about this. His concerns are what they are looking for in density because he does not want to draw up something else and say do you like this and then the Commission says no.

Mr. Franco replied right, that was really it. If they look at the details of the plan the bulk of the density is down there at the single-family. He felt that they were correct if they look at the block ranges that it gets as high as 12 units an acre, but it is because they have this multi-family component that is in and through there. If they take that building off the plan and some of the live/work units off the plan and the two manor houses off of the plan, then they have reduced the density from 330 units to about 80 units. His sense is that is not the only thing that they are looking for. He would be happy to take this plan and come back to the Commission in a work session and get better direction.

Ms. Joseph noted that as they talk about the density she keeps thinking about where it is and how perfect it is to get into town. The traffic is bad on that section of 20 to 250, but that is probably it because then you would be in town.

Mr. Morris noted that it is a real nightmare getting onto 20 and 250.

Mr. Cilimberg stated that just as an observation that it is not in anybody's interest if that is going to be basically the sword that this dies on, which is the traffic situation. If the traffic is going to be an issue it is going to be an issue for any proposal that the applicant brings to the Commission. Relatively speaking in the density ranges that they are talking about it is not going to be a whole lot different. So if they are talking about the traffic being a great issue, then they are really talking about the project being done. He did not think it was fair for the developer to have to go back and redesign for what is really a traffic issue to the Commission. If they were willing to accept that they can try to address as best that they can some of those traffic issues with a scaled down project, then that is a little different. He thought that part of this

was about what is the envelope that they really need to work within for the development that they can do that is important to the Commission. He had heard tonight that they were generally not interested in the full interconnection on the east side of the project. They would like it to be potentially bicycle and pedestrian connection that could be there for the future if needed. He had heard at least one person say that the significant wooded area that the open space identifies they would like to see respected in some way.

Ms. Joseph noted that the term was respected in some way in whether it was not taking as much or whether it is adding something in there so that they still have some sort of backdrop in some of those places. She recognized that the significant wooded area was a lot of the site, which is not reasonable to ask the applicant to respect for the whole thing. It is the spirit of the site that needs to be preserved.

Mr. Cilimberg stated that it was actually in the same areas of the interconnection where the wooded areas are shown on the plan. He had not heard anyone say that they wanted to get away from the idea of keeping the more rural approach to Route 20 as shown there. They have purposely designed in their development to back off of 20 in response to some of the ARB issues. If that is something that the Commission wants to see maintained that is going to dictate the envelope that they have to work within as well as the stream valley on the east to the northern side. They have a lot of other green space shown actually on the edges. If that is what the Commission wants to see maintained, then it is within that area that is left that they could really focus on how they might downscale somewhat they have put before the Commission. He was just throwing that out as kind of what they would have left to work with essentially.

Mr. Cannon asked what would be the principle of the downscale.

Mr. Cilimberg noted that would be the Commission's point to decide.

Mr. Franco felt that they were getting some good direction here. But, his follow up questions would be to the non-residential. The smaller their project gets the less it makes sense. Are they okay with losing even more of that mixed use character of the development?

Mr. Cannon stated that he was exactly right because the density supports that.

Mr. Franco noted that he was not sure if this density supports that, but it is consistent with them model. He felt that they were getting some good direction. But, he did not hear the answer about the private roads if they were only making a connection pedestrian wise. He asked if that was something that would be entertained. He heard their comment about the spirit of the land and understands completely what they were talking about. But, the challenge is with the rules that they have to maintain that spirit. One of the things that they have gone around with staff is there a way to get up there and create some of their parks and maintain that existing landscaping. It is hard to do by the time they get up there if that park is 15 feet above us. But, if they have some kind of flexibility in there and their road could be at that grade, then he was happy to try to preserve it.

Ms. Joseph felt that the other thing that would be helpful is the grading plan so they could see where those grades are and what is happening in spots. She felt that was a hard thing to understand. The applicant has done a great job of explaining that in their documents, but it would help if they could look at that to see where the grading was going in several spots and in the preservation area and conservation area along the site. It would be helpful to see what kinds of things are happening along the site. When Mr. Edgerton was saying that there was too much going on here are they talking about the issue of what is going to happen to this site or they talking about all of the other things that would happen with that many people on the site? She requested that the applicant be prepared at a work session to talk about that issue.

Mr. Franco asked if they were coming to the work session with a revised plan in hand that is the basis for this discussion or they sawing come back with this plan so they can understand it better.

Mr. Cannon said that the Commission has identified some things that need to be changed on the plan, in particular, the interconnections and other aspects. It seems that this could be the vehicle for walking through to try to understand the plan and then the Commission can give them more guidance to work on

a revised plan based on that discussion without the applicant having to go out and take another shot on another revised plan.

Ms. Joseph stated that the Commission would take this submission and use it.

Mr. Franco stated that sounds great. He pointed out that the rest of the power point presentation that they could provide hard copies that may answer some of their round 2 questions.

Ms. Joseph asked if the Commission would like to have a presentation from the applicant and staff about these waiver requests so they would know what they are talking about. She asked if they were prepared to do that.

Mr. Cilimberg asked to make a suggestion that if they have not already it would be a good idea in preparation for the next round where there will be discussion about their basic concepts, in the Code of Development there are some cross sections in there. He suggested that the Commissioners take a look at those to get an idea of how the general layout of this plan was working with the site. He felt that was something that they had spent some time with. It may be too much density for what they want, but it was still worth looking at and understanding.

Ms. Joseph pointed out that what they were doing now is that there is a second section where the applicant has requested some waivers and modifications from the zoning ordinance. This is the detailed aspects of the plan. Staff is going to give us the staff report on this and the applicant is going to let us know a little more detail about that. There will be some discussion, but the Commission is not going to make any decisions. But, there will be a work session on this. So there will be no action taken tonight on this. They will talk about some of the other issues during the work session.

Mr. Dougherty presented an addendum to the staff report. (Attachment) There were two waivers that the applicant had withdrawn that were included in the staff report and one that was requested that was not. Those were identified through an email. Essentially the addendum will clarify what they are. He has a sheet that identifies each section of staff's position and what needs to be done with respect to the waiver. He suggested that the use Attachment I. Generally the applicant has requested 23 waivers. They can be broken into 4 categories. It is done so on the chart with categories staff supports the waiver, staff can support the waiver after an alternative is brought in the Code, staff cannot support the waiver now but may with more information at the site plan stage and finally that staff cannot support the waiver at all. A full analysis of the waiver is in Attachment I. Due to some of the specific nature of their requests or the lack of information required to make a judgment staff believes that some of these just need to wait until the site plan state. Staff requests discussion and feedback from the Commission on these different waivers.

Mr. Franco stated that they would be very quick through this process. What they reacted to from the last couple of days is that they heard why all of the waivers. So basically what they broke it down into is an explanation of what they considered administrative associated with a planned development and what is really essentially to the built form that they are pursuing. An example of the administrative would be our lot regulation or the list that is in there. The easiest example to talk about what they are talking about with waivers is the open space recreation. In the Code there is a requirement that the pool would be 125' from the nearest dwelling unit. Using a Neighborhood it is integrated into our community. This is something that is more on the order of 40' away and is something that they would intend to build the community pool first and then the house so that someone would know what they are getting. But, it is woven into the fabric of the Neighborhood Model as opposed to be set out 125' from anything else. In our opinion, it is essential to make sure that everybody buys into this. It is on our master plan and they just want to take care of that now as opposed to getting a waiver later on during the site plan process.

Mr. Barnes said moreover if they don't ask for that now it doesn't become an issue some place down the road when at some site plan stage all of a sudden we can't do that because this portion of the Code over here says that you can't.

Mr. Franco noted that is what a lot of those administrative ones are about. The pre-application, up until the last submittal they understood that was okay. They felt that there has been a lot of detail provided at

this point in time and that a pre-application meeting was not necessary. But, they would be happy to do a pre-application meeting. He asked to take that off the list as a big stumbling block. But, most of those administrative ones were there to facilitate implementation of the Planned Development and the Neighborhood Model. On the other side, things that they felt were critical to the form were things like the critical slopes waiver. They have identified the critical slopes that they are disturbing. They don't want to come back at site plan level and have to justify them. If he has to stop and change how the design works it affects the whole layout. So it is one that is critical to us. The other one that is in there is parking. This may go away, but it is worth two minutes to talk about for other Neighborhood Models. They asked for a reduction in parking for the non-residential that was 5 spaces per 1,000 versus the retail of 5.5 spaces in an office of 4. They figured that 5 spaces represented a blend of the parking requirement. They also asked for a reduction in the requirement. VDOT's requirement for single-family houses is 5 spaces with 3 spaces outside the garage. Again, the Neighborhood Model would say that they are trying to deemphasize the car. So they are saying up front that the County's requirements are only 2 spaces. If they are trying to pull the houses forward and are trying to create this different view, then those are the kinds of things that are in conflict with the County standard that they need somebody to acknowledge and say that they are going to support that. There are other numbers that are in here that will affect the form of development. He presented a couple of pictures representing this situation. So they ask for some relaxation of the standards for both the numbers as well as the location. For accessory units they asked if these could be on the street. If they are on the street can they be what they call occasional parking, which means they are on a 28' wide road versus on it. If they delineated VDOT says that the road has to go to 36'. So are the kinds of things that they think are integral to the plan. For instance, if they were to change the 28' wide roads to 36' to accommodate this off-street parking the big line on the drawing shows how it would affect the layout. He may be able to accommodate it by losing a hand full of the X'ed out units through there. But, it changes the substance and the look of the plan that he was presenting to the Commission at this point in time. So they think as opposed to the site plan level that it is very important to get these waivers now. Again, to stay brief, the spatial enclosure was the other aspect. At some point it is a valuable discussion to have. The Commission asked the question earlier if there was a way to do something to Verona Road in Fontana. It is a rural section road. If he goes to urban that road is going to become 36' wide. In the Neighborhood Model it requires a 6' drainage strip on both side and a 5' sidewalk. That thing is in a 56' right-of-way or larger. When they look at the spatial enclosure concepts of the Neighborhood Model it becomes very difficult to create that enclosure that they are looking for and trying to pursue. There was some discussion in the staff report about why don't they widen the road from 28' to 32'. That 4' becomes very important in how it affects the spacing of the houses. They are fighting to try to keep that road as narrow as possible in and through there to draw things in a little tighter. He presented several photographs as examples to demonstrate the appearance of the roads that they wanted to have.

Mr. Barnes noted that the important thing here is that they are talking about an occasional parking scenario on the internal streets that they are proposing. If they want to get a meaningful spatial enclosure they have to narrow the streets and get the utilities outside of the right-of-way. They are trying to push them and get the buildings closer and closer together. The cards are stacked against you with the County, VDOT and Virginia Power regulations that exist. Our effect in requesting some of these waivers is to try to reduce the number of County obstacles so that they only have to fight the VDOT and Virginia Power obstacles.

Mr. Franco noted that it is hard to get Virginia Power and VDOT to change. That is what the waivers are about from their perspective. He completed the power point presentation with a slide of the bullets containing the issues that they wanted feedback on. Most of the staff reports and reaction that they have had on the drawing is that it is good looking and there may be some issues whether it is appropriate here. But, in general it is a good looking plan. So the question comes are you willing to make some of these waivers in order to allow this form of development to occur. If so, now is the stage to be making these waivers versus the site plan stage.

Ms. Joseph said that it appears to be cumbersome and they all were trying to figure out what makes this process so long. She was beginning to understand that they wanted to be able to be assured that what you are presenting is something that can actually be built. In order to do that you want some of these details taken care of up front. Doing a detailed plan takes a long time. She is finally beginning to understand that it is not just the Commission saying they want more and more, but it is the applicant also

saying that I need assurance that I can do this.

Mr. Franco felt that it was a revolving thing. The more the Commission wants his big question is that when they look at that plan what are they vested in. When he talks to each Commissioner individually Mr. Strucko vested on the critical slopes by the creek and he has the density vested somewhere else. Everybody picked something different. So he really needs better commitments from the Commission on what he is vested in, which in this case is street dimension. They need their commitment that those are not going to change at some point in the future. So it is a give and take. The more they ask for the more they have to begin to ask for to make sure that they are all looking at the same picture.

Mr. Barnes said that when they come back for site plan they will be judged against that. They know that they cannot build that if they require them to put striping for parking spaces on those streets because it would be 36' instead of 28'. They feel that 28' is appropriate, but VDOT is going to make them widen it if the striping in on the streets. That is a County regulation.

Mr. Franco noted that is what the waivers are about. The only thing that is in the waiver to get the Commission prepared for the creek is the preservation area in the back is that he was happy not to provide sewer through their property to the adjacent growth area if that is the direction that they give. The reason that the sewer is in the preservation area down there is that it is trying to get to Lake Ridge. They had a plan that kept the sewer totally on their property at the top. But, the reality is that the Service Authority needs to provide service to those areas and they were keeping it out of the preservation area as much as possible. They are working with Southern Development. They are actually doing a fly over of the creek itself of 40' to try to stay out of the creek itself. But, there is not a whole lot of discretion that he has short of not providing sewer through there.

Ms. Joseph asked if the line would be aerial.

Mr. Franco replied that it would be aerial over the creek for 40'. That is the most that they could get the Service Authority to agree with. They looked at plans to bring it up higher. It is not 40' up in the air, but it is 40' across. There were a lot of issues with the Service Authority, which was what is dictating the elevations with the sewer.

Mr. Franco asked if they could schedule the work session now.

Ms. Joseph asked if it was something that they could work with staff on.

Mr. Cilimberg asked what was expected to be submitted for staff to review in order for the Commission to have a work session.

Ms. Joseph said that they wanted to look at this plan and hear the applicant's explanations.

Mr. Morris said that they don't want them to redo the plan.

Mr. Cilimberg stated that staff would work with the applicant to set a date.

Mr. Strucko asked if they expect to see some adjustments from what they are seeing here given what they discussed tonight.

Ms. Joseph replied no, because the applicant told us they did not show us the upper end of the density. They need to be shown what the density is and what is happening. One of the things that they would look at is the grading plan to see how much is going to occur on this site.

Mr. Edgerton noted that the applicant could address some of the expressed concerns schematically.

Mr. Cannon felt that if they work through the existing proposal they could identify the specific circumstances or conditions that they thought would justify a reduced density or a different configuration. They could identify that with sufficient specificity so that they could go back and do some adjustments. But, they don't know that now.

Mr. Franco pointed out that the grading plan was already in there. So is there a different way that they could present the information that would be helpful for understanding it.

Ms. Joseph suggested that they just stand and point out on the plan what they plan to preserve; here is what they think will have to happen to put this sewer line in; and here is an area that will be disturbed noting that there is a 30' easement here so there won't be any vegetation here. It would be helpful to hear about those sorts of things.

Mr. Franco said that there really is nothing for staff to react to in order to get ready for the work session.

Ms. Joseph said that she did not think so. She agreed with Mr. Cannon that they would just sit and really just go over this and then give them direction so that they would feel more comfortable about where they all stood. She felt that if they understood the plan more they would be able to give better advice. At that point it could move forward or change or whatever.

Mr. Cilimberg stated that there was only one given right now that he had heard consistently among everyone, which was regarding the interconnection on the east side of Cascadia to Fontana. So you are saying rather than sending them off in a particular direction to make changes, the Commission really wants the applicant to step them through their plan to provide more understanding of exactly how they are approaching their development, how it is impacting the land, what they need guidance on and where they might want to do something different regarding waivers. Basically the applicant will come back at the work session and step the Commission through this plan. Staff will schedule the date for this work session tomorrow.

Mr. Strucko asked what the Commission said about the connection to Fontana.

Mr. Cilimberg felt that they did not say any more than they did not want a road going into Fontana on the east side.

Mr. Edgerton said that he heard a lot of enthusiasm about providing a pedestrian linkage.

Mr. Strucko asked if they want them to grade it and pave it up to their property line as a potential connection to Lake Ridge.

Mr. Cilimberg replied that might be something that they want to discuss as part of this work session. Basically, the Commission is asking that the applicant come back and step them through this plan. Staff will work with the applicant to schedule the work session.

Don Franco requested an indefinite deferral.

Motion: Mr. Morris moved, Mr. Craddock seconded, to indefinitely defer ZMA-2002-004, Cascadia, as requested by the applicant so the applicant and staff can work together to bring back additional information at a work session.

The motion passed by a vote of 6:0. (Ms. Higgins was absent.)

Ms. Joseph stated that ZMA-2002-004, Cascadia, was indefinitely deferred.

Old Business:

Ms. Joseph asked if there was any old business.

Mr. Cilimberg reminded the Commission that their informational meeting on Biscuit Run next week will be in room A in the County Office Building on 5th Street at 6:00 p.m.

There being no further old business, the meeting moved on to the next item.

New Business:

Ms. Joseph asked if there was any new business.

Mr. Edgerton stated that he had attended a League of Women's Voter's presentation today at lunch time and the Chairman of the Loudoun County Board of Supervisors came and spoke about the run away growth that they have dealt with. He passed around a chart that had been handed out at the meeting that compared Albemarle County to Loudoun County in population change and in growth areas. He felt that they would find this interesting. Brian Wheeler of "Charlottesville Tomorrow" recorded the entire 25 minute discussion. He encouraged everyone to go to their website and listen to it. It was interesting that one comment that was made was that 2.5 percent growth annually was about the maximum growth that could be sustained economically. Loudoun County is averaging 7 percent plus annual growth (See Attachment) while Albemarle County has been about 2.0 percent.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 9:47 p.m. to the March 7, 2006 meeting at COB 5th Street, 1600 5th Street, Room A at 6:00 p.m.

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V. Wayne Cilimberg, Secretary

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