Albemarle County Planning Commission
May 30, 2006

The Albemarle County Planning Commission met on Tuesday, May 30, 2006 and held a meeting and a public hearing at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Eric Strucko, Bill Edgerton, Pete Craddock, Jo Higgins, Jon Cannon, Marcia Joseph, Chairman and Calvin Morris, Vice-Chairman. 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; Bill Fritz, Development Review Manager; Rebecca Ragsdale, Senior Planner; David Pennock, Principal Planner; Amelia McCulley, Director of Zoning & Current Development/Zoning Administrator; Jan Sprinkle, Manager of Zoning; Louise Wyant, Zoning Enforcement Manager and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Ms. Joseph called the regular meeting to order at 6:00 p.m. and established a quorum.

Other Matters Not Listed on the Agenda from the Public:

Ms. Joseph invited comment from the public on other matters not listed on the agenda.

Lynda Harrill, resident of Ivy, stated that she understands that the Planning Commission does not appreciate her sense of humor so this evening she would like to address a very serious issue, ethics in planning.

- The American Planning Association's ethical principles in planning state that planning issues commonly involve conflicts of values and often there are large private interests at stake. These insinuate the necessity for the highest standards of fairness and honesty among all participants. Those who practice planning need to adhere to a special set of ethical requirements that must guide all who aspire to professionalism. The APA statement goes on to say planning process participants should

1. Exercise fair, honest and independent judgment in their roles as decision makers and advisors.
2. Make public disclosure of all personal interest they may have regarding any decision to be made in the planning process in which they serve or are requested to serve as advisor or decision maker.
3. Define personal interest broadly to include any actual or potential benefits or advantages that they, a spouse, family member or person living in their household might directly or indirectly obtain from a planning decision.
4. Abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which they have a personal interest. Leave any chamber in which such matter is under deliberation unless their personal interest has been made a matter of public record. Their employer, if any, has given approval the public official, public agency or court with jurisdiction to rule on ethic matters has expressly authorized their participation.
5. Seek no gifts or favors under circumstances which might reasonably be inferred that the gifts or favors were intended or expected to influence a participant's objectivity as an advisor or a decision maker in the planning process.

- Case in point, in 2001 an application for a mixed use development known as Rivanna Village at Glenmore was filed including a CPA, ZMA and ZTA. The Planning Commission approval process for CPA-2001-03 started with a work session in May, 2001 and ended with Board of Supervisor approval in May, 2002. Dennis Rooker was Chairman of the Planning Commission during 2001. Mr. Rooker was a candidate for the Board of Supervisors in 2001 and was elected to the Board in November for a term beginning in 2002. It is not unusual for a candidate to solicit and accept campaign contributions. However, Mr. Rooker, while he chaired the Planning Commission in

2001, accepted campaign contributions from the applicant for the Rivanna Village at Glenmore and related parties while the active application for CPA-2001-03 was before the Planning Commission according to the Board of Elections itemized monetary contribution's report.

Ms. Joseph advised Ms. Harrill that she was given three minutes to speak and that the time had expired. She asked if there was any one else present to speak on other matters not listed on the agenda. There being none, the meeting moved on to the next item.

Consent Agenda:

a. **SUB 2006-084 Charles Frankfurt 2 Lot Subdivision – Access Waiver Request** - Request for a waiver of Section 14-404(A), which requires that each lot have access from only one street, established at the time of the subdivision. (Francis MacCall) (Tax Map 082, Parcel 3)

b. **Approval of Planning Commission Minutes** – January 24, 2006.

Ms. Joseph asked if any Commissioner wanted to pull an item from the consent agenda.

Mr. Edgerton suggested that the Commission pull item a) SUB-2006-084, Charles Frankfurt 2 Lot Subdivision – Access Waiver Request from the consent agenda for discussion.

Motion: Mr. Edgerton moved, Mr. Craddock seconded, to approve the consent agenda item b.

The motion passed by a vote of 7:0.

Ms. Joseph stated that the consent agenda has been approved for item b., the minutes of January 24, 2006.

Regarding the Frankfurt subdivision, Mr. Edgerton asked staff if there was any particular reason that lot one needs to be configured the way it is so that it has no other access except across critical slopes.

Mr. MacCall stated that lot one would have access off of the proposed 150' private street off of Route 686. It is the residue that would be required per the ordinance.

Mr. Edgerton stated that the 30' X 50' private street easement.

Mr. MacCall noted that it should be 30' X 150' because it actually shows 150'.

Mr. Edgerton asked if that touches lot one.

Mr. MacCall stated yes, that it does touch lot one.

Mr. Edgerton noted that he was having trouble with the drawing because it was hard to read.

Mr. MacCall pointed out where lot one was touched by the road.

Ms. Joseph pointed out that page 6 was a blown up version of the plat.

Mr. Edgerton acknowledged that it touched lot one. He asked if staff was recommending that the Commission waive the mandate that it continue across the terrain because that will be a critical slope.

Mr. MacCall stated that actually it was the residue and it actually would just be the driveway that basically would have to access. The way that the ordinance reads is that it needs to access the building site. The current building site on the residue is where the house is that is shown across the stream.

Ms. Joseph asked if there was any reason why they did not create this lot with the 250' of road frontage. It seems that it was deliberate to not have the road frontage on this.

Mr. MacCall stated that it would have totally cut the entire residue off. If they had done that the 150' would still be necessary to provide frontage for both the proposed lot one and the residue. So that still needs to have access from that road, which is the street that would be approved, which is that 30' X 150'. Thus, it would still need to cross even if the residue was given that 250' that does exist there. The proposed lot one was given the 250', and then the residue would no longer have the street frontage which gets provided by the new private street that is shown.

Mr. Edgerton noted that they were reserving that for future development.

Mr. MacCall stated that would be something that the applicant would have to speak to, but there is a potential for that. That application for future development has not come forward.

Mr. Edgerton asked how many development rights were left on the rest.

Mr. MacCall replied that on the residue there are 7 development rights total. They did some parcel reconfigurations, but they have 5 development rights from the original parcel 3 and then 2 additional development rights from some reconfigurations that were done. But, those are located on different portions of the property.

Ms. Higgins noted that at that point basically the gravel road that exists would be upgraded as a road before that is done, which would be entirely separate.

Mr. MacCall stated that the applicant would have to build a whole new road for any further divisions. He believed that the applicant was aware of the implications of that if they were to come in and do that.

Ms. Higgins stated that lot one only has one development right.

Mr. MacCall stated that looking at page 6 he was talking about reconfiguration and there is a portion called parcel V, which was an approximate 2 acre portion, and that the way the ordinance is written they have to allocate the development rights. That was part of a reconfigured lot. So that portion has the development right that theoretically could be divided off again and then thus would leave a 21 acre parcel out of that 23 total if they were to do that.

Ms. Higgins stated that this plat adds parcel V to lot one.

Mr. MacCall stated no, that parcel V has already been added to the whole parcel and they are cutting off parcel one. It just happens that the history shows the line. It is very difficult sometimes to try to tract these development rights and where they are located.

Mr. Edgerton asked if the reason for recommending the waiver was to avoid crossing the stream in the critical slopes.

Mr. MacCall stated that it was the critical slopes and just basically the overall disturbance that would be required technically to basically access an already existing driveway that is currently utilized not only for the residents, but also for some legitimate foresting purposes.

Mr. Edgerton asked if they need access from both Routes 600 and 660. It looks like that driveway continues all the way.

Mr. MacCall stated yes, that the main access for the house typically is considered from Route 600. But, they have had that access off of Route 686 there as well that was established for some of their forestal purposes, which is used. The applicant might speak to that. But, he did not believe that it is used for the main purposes of the residence. But, it does connect. What the engineer had spoken to in the report was that since the distances between the entrances for the private street and the existing one on Route 686 there really was not much consideration in looking to close that off since there were legitimate agricultural purposes that they were using the road for.

There being no further questions for staff, Ms. Joseph asked if the applicant was present on this project and if he would like to speak to this.

Charles Frankfurt, applicant, stated that he would answer any questions.

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

Motion: Mr. Morris moved, Mr. Cannon seconded, to approve SUB-2006-084, Charles Frankfurt 2 Lot Subdivision – Access Waiver Request.

The motion passed by a vote of 5:2. (Commissioners Edgerton, Strucko voted nay.)

Ms. Joseph stated that the waiver request from Section 14.404a had been approved for SUB-2006-084.

Deferred Item:

SP 2005-029 PRO Distribution (Sign #9)
PROPOSED: Retail tire sales/service
ZONING CATEGORY/GENERAL USAGE: LI - Light Industrial - industrial, office, and limited commercial uses (no residential use)
SECTION: 18.27.2.2.13 Subordinate retail sales exceeding 15% of floor area of the main use.
COMPREHENSIVE PLAN LAND USE/DENSITY: Crozet Master Plan designates CT1 Development Area preservation of open space, CT3 Urban Edge: single family residential(net 3.5-6.5 units/acre) supporting uses such as religious institutions and schools and other small-scale non-residential uses, and CT4 Urban General: residential (net 4.5 units/acre single family, net 12 units/acre townhouses/apartments, net 18 units/acre mixed use) with supporting uses such as religious institutions and schools and mixed uses including retail/office
ENTRANCE CORRIDOR: Yes
LOCATION: Tax Map 56, Parcel 87, located at 5155 Three Notched Road/Route 240

MAGISTERIAL DISTRICT: White Hall
STAFF: Rebecca Ragsdale
DEFERRED FROM THE MAY 23, 2006 PLANNING COMMISSION MEETING

Ms. Joseph noted that the Commission had received an email this afternoon from Elaine Echols regarding this project. (See Attachment A Email dated May 30, 2006 from Elaine Echols to Planning Commission in reference to Pro-Distribution at PC tonight.) She asked Ms. Echols to make sure the applicant received a copy of the email. She asked staff to go over the email.

Ms. Ragsdale said as mentioned there is an email that updates the Commission on the status of this application. There was a staff report sent out for this special use permit for the applicant's request to allow subordinate retail sales. This particular provision in the ordinance is very specific as far as main or primary uses that are allowed in the Light Industrial District and the provisions by which subordinate retail sales may be allowed. The staff report was sent out last week, which reflected the square footage break down of uses on the site of both the primary use and the subordinate use as referenced in the report. But, the square footage break down in the report does not match up with our field verifications. So staff is not in a place where they can recommend approval any longer based on the break down of the square footage of the buildings on the site. That is what the email references. It includes some comments from Zoning regarding the site visit last week by Zoning and Planning staff. Zoning staff is here tonight.

The illustrations show what was referenced in the staff report as far as existing conditions and what the proposed uses of the site are on the bottom. There is a site plan pending. The site is in transition right now. Primarily trucking was the main use and now they are phasing in self storage units. Staff has suggested to the applicant and Commission that the best course of action to take would be a deferral.

But, the applicant is here tonight and would like to speak regarding the application. The public hearing has been advertised. That is where staff's recommendation is now in regard to the proposal.

Ms. Joseph asked if the property was zoned Light Industrial and Ms. Ragsdale replied that was correct.

Ms. Joseph said that retail was allowed in Light Industrial, but it was a percentage of the space that they were using for wholesale distribution. She asked if that was the way that it worked.

Ms. Ragsdale replied yes that there was a provision where they could do up to 15 percent of the floor area of the main use, which would be wholesale tires in this case. If they wanted to go beyond that it would still have the retail subordinate or accessory and that is where the special use permit is required to go above the 15 percent. So the square footage, percentages and the break down of the buildings becomes very important.

Ms. Joseph said that when the inspectors went out they found that 60 percent of the space is being for retail and 40 for wholesale. Is that correct?

Ms. Ragsdale replied yes. Zoning has a marked up copy of the floor area of Building F, which is the purple building on the illustration. It is in the middle of the site. This site is along Route 240, Three Notch'd Road adjacent to the Martha Jefferson Medical Office Building near Western Ridge in Crozet. The Rural Areas is across the road.

Ms. Joseph asked if there were any other questions.

Ms. Higgins said in the email staff talks about SP-90-118. She asked if no where in the background or history of this does it say anything about any other previous special use permit for the site. So is there a special use permit active on the site?

Ms. Ragsdale replied yes, there are prior special use permits for the trucking business known as Gemini Trucking, which is now Pro Distribution that went along with the trucking aspect of the site. The blue and red buildings go along with the trucking business.

Ms. Higgins asked which building SP-90-118 applies to.

Ms. Ragsdale noted that she was not sure.

Ms. Joseph asked Ms. Sprinkle if she knew.

Jan Sprinkle said that when ERB Trucking originally came in it was 1986 and they got the original special permit. They used the front building as the office and then the next two buildings as the trucking terminal. Then in 1990 there was an expansion with the Gemini Transit proposal.

Ms. Higgins asked if under this scenario if that still exists and they would co-exist.

Ms. Sprinkle said that it still exists today, but she was not sure what the plan is. Until she went out in the field last week she had not seen the second plan. That plan is pending in Current Development. Therefore, she was not sure what the plan is with that. It appears that the buildings are going to be gone so she would assume that the trucking terminal will be gone also.

Ms. Higgins said that Building F from the staff report she thinks that might look like 30 percent. That is where an office exists now that would be for the retail.

Ms. Sprinkle said that she marked up what she saw in the field on Wednesday, which she passed out to the Commission. (See Attachment B labeled Building F Crozet Tire & Auto – 2003-1576.) There was some office area and then three bays that have access from the front of the building on the 240 side. Then there were two other bays that had overhead doors on the back. The one on the end was used by Clear Channel Communication. The other one was locked and they did not gain access. She was

assuming that was part of the wholesale business, but she was not really sure. She included that as part of the wholesale tire business for calculations.

Ms. Joseph asked what the violations were on the site. Is it part of what they were looking at here?

Ms. Higgins noted that she sent an email, but she was not in the office to get the email.

Ms. Sprinkle said that there have been a number of violations, but most of them have been abated now. There are three new ones. The previous ones from the time they started were the mini warehouses. They had a lighting violation, sign violation and a use violation with U-haul trucks. Those have all been abated. Currently, from our site visit last week they found that the site is not in compliance. It is missing some landscaping, sidewalk, curbing and there has been a porch added to the front building for which there has been no building permit. There is a new use in there for which there is no clearance. They don't believe that there is adequate parking for all of the uses that are on the site. So that will have to be addressed with this site plan revision that is pending.

Ms. Higgins asked if there was a bond posted for landscaping, sidewalks and curbing at the time of the Certificate of Occupancy.

Ms. Sprinkle replied no, but staff would like to get that now as part of the plan.

Ms. Joseph asked if there were any questions for Ms. Sprinkle. There being none, she opened the public hearing and asked if the applicant would like to address the Commission.

Bill Masselli stated that he was a little bit lost for words tonight. He has been working on this special use permit since October. Four days ago he received a favorable recommendation from the staff in the mail. Then at 4:00 p.m. today Ms. Ragsdale calls up and asks if they can cancel this meeting because if they didn't the staff would give us an unfavorable recommendation tonight. They are a new business and they are going and actively seeking new customers. Large amounts of their money cannot be tied up in inventory. Some of our square footage 14' X 35', which is 490 square feet, is temporarily being rented as storage overflow. The storage facility is full and so they have utilized a little bit of the end of that building and have rented it to somebody. Then when the new buildings are built they will make arrangements for that person to then go into the new buildings. But, someone needed storage at the time that they did not have any. They offered him that until they can make other arrangements and they would further need more space as a business group. His impression is partially that Ms. Ragsdale is taking back her positive recommendation on 490 square feet that is being temporarily rented. She has been to the site numerous times since the beginning of October. They have jointly very cordially and business like worked through these numbers and they have been working through these numbers together for six months or so. So it just came at a surprise at 4:00 p.m. today hearing let's cancel the meeting. He would like to address other violations that Ms. Sprinkle has probably brought to their attention. If she had done further investigation when she came out to their site three or four days before this meeting was to take place, she would have found that these are, in fact, not violations. The first you probably noticed that she has colored these trees green saying that they are non-existent on the property. She might have gone to the wrong property because those trees are there. He checked them this morning and he put red tags on about 85 to 90 percent of the ones that she could not find. The other 20 percent that she marked that he could not find was just because he did not feel like getting poison ivy today. She probably did not want to get poison ivy herself either. But, he could guarantee if the Commission went there tomorrow they would see a bunch of trees with red tags on them that she overlooked when she came to the site. She was very quick with the green pen to mark down that those trees were not there without even coming in his office to ask for his help to find them. Furthermore, she has probably cited that parking area. He has a letter from Keene and Associates, who are working on the new project, that shows that has been cured and rectified as of May 4 with Mark Chambers. Furthermore, the parking area that she claims they don't have a sidewalk and gutter, if you read the print closely it says that parking area to be relocated. The parking area has been relocated and that stuff did not need to be put there any more. That was one of the final site revisions that they did in doing the project. So the majority of her violations that she is citing are not violations. He did not believe that she did her homework. He wanted to pass out the letter from Keene and Associates to show them that was rectified. On the site plan it says parking area to be relocated.

They feel that this is going to be a good thing for the community. They have made big improvements in their facility over the years and will continue to do so. They are not a big time operation. They are just people in Albemarle County just looking to make a living and trying to enhance our county. One more issue about the numbers. He mailed Ms. Ragsdale a letter a long time ago when they did these numbers explaining to her what all these buildings were. It was with he and Ms. Ragsdale together she told him when they do all these calculations her distribution is the building and this other building. So they used all of the numbers in the calculations of all the buildings that they store tires.

Ms. Joseph asked if he could reference the buildings that he was talking about. She asked if he was talking about building F.

Mr. Masselli stated that it was building F and the building on the top left corner, which is the red square existing building. It will be building G. Right now they have a site plan in to build more storage units. Eventually that would be unit G or H. Everything was going fine until the visit by Ms. Sprinkle who tried to find these violations that don't exist.

Ms. Joseph noted that there was another aspect here. The special permit that he was requesting has to do with allowing more space for retail for the tires. It sounds like as if they found that they have 60 percent of the space that they are using for sales now and only 40 percent for the warehousing. She felt that was where the numbers that they are all talking about came from.

Mr. Masselli said that was not correct because they also use that big metal building, which is 3,000 square feet. If she had read the letter he wrote the reason why they were asking for the special use permit is because some day those buildings are going to come down. They hopefully are going to build some more storage units there, and those buildings will come down. When the buildings come down that will change the percentage and make it go from 13 percent to 26 percent. Therefore, at some point in time what they are saying that they want a special use permit. When that site plan gets approved he knew that their percentage is in accordance with the building that they are in with those buildings no longer being there. Basically, what they are trying to do is incorporate the new site that is coming down the pipe with what they are doing now. In conjunction with that they have also sent where the new parking will be once the buildings are up and those kinds of stuff. They have done a lot of this work and everything was perfectly in place until last Wednesday or Thursday when they thought that they found trees that are there not there. He felt that is what triggered everything including finding a parking space that was not made right when in fact it was dealt with here. He was very confused. He was disappointed. He was not really sure why things abruptly turned like this.

Ms. Higgins stated based on the staff report and their explanation there was some confusion here. She asked if the applicant wanted to request a deferral at this point or does he want the Planning Commission to take action. The Commission cannot sit here and sort this out. She felt that maybe a meeting with Zoning and going through this one by one might be helpful since she was confused. The rule is that someone has to have the site plan in place today and not the one that they are trying to work toward. So that is the one that the Commission has to look at. They can't look at the site plan in the works. They want to cooperate, but want him to understand their limitations. The Commission has to use the existing site plan. She drove by the site and the front of that building looked different, but she was not sure about the bays on the back because she did not go in. She had questions about parking. When talking about more retail they are talking about more customers versus trucks. How do they separate the customers from the trucks? Then there were the normal questions that go with the special use permit. But, they have expanded it beyond what she could sort through today. So her question was whether he wanted to request a deferral.

Ms. Joseph said if they do have a current site plan in the process that should be what is before us and how that is going to affect what they are asking for. Right now they are looking at all sorts of things.

Mr. Masselli agreed that was generally the jest of it. He suggested that they wait until that site plan gets approved and then come back and review this.

Ms. Joseph stated no. He needs to bring the site plan of what he is proposing to do so that they can see. Right now he was in violation of the zoning ordinance because he has more retail space out there than he was allowed. That is what is happening right now. It is confusing the issues. They don't expect any of these items that Ms. Sprinkle brought up to be something that they are going to discuss at the next meeting if he agrees to a deferral. What they hope is that it will all be clear what is going on with his site plan and where he anticipates putting the new stuff, where he wants to put the tire sales and warehousing and what percentages he agrees to as far as the sales and where it is going to go on the site and whether or not he has got the parking. Also, they want to know what the history of the site is. If he has existing special use permits out there what sort of effect it will have on those, albeit, those will be abandoned, modified or whatever. They just need to get their ducks in a row on this one. She did not think they were there yet.

Mr. Masselli said that he felt that it is because basically when they shift through everything what he was asking for is to be able to use 30 percent of building F for retail and increase it from 14 percent. He suggested 26 percent, but Ms. Ragsdale was nice enough to say give him 30 percent.

Ms. Joseph noted that the problem with what they have been reviewing and looking at is the top one and not the bottom one. They did not know what his intent was to do. They need to make sure that this is something that he wants to do and it works for him. Also, that it works for the community. It is not something that they want to deny and want it to go away. They really want to work with him, but they want to make sure that everybody is clear on what is happening. Right now it is really not clear. She asked Ms. Ragsdale and Ms. Echols how long it might take for them to clarify some of these things and have him come back to the Commission again. Staff has heard what some of the Commission's questions are and it just needs to be addressed. They need to see the current site plan. They need to know what is going on. They need to have the parking addressed. They need to know what the old special use permits are and what the effect on this is going to be to those special use permits.

Ms. Higgins noted that they have had other applications when they had zoning violations we had basis to say that those at least had to be clarified or rectified. There is a recommendation about the condition about the zoning, which she felt was different from what they have done before. But, staff can work that out for consistency with their application.

Mr. Morris said that what he was hearing was that a lot of these are not actual violations. It just needs to be clarified.

Mr. Masselli invited the Commission to visit the site to review the tags on the trees. In all fairness, it has been very time consuming and has been a long process. His site plan for the additional storage units has been going on since September or nine or ten months. All he is adding is two storage buildings to that. He realized that right now there is a shortage of engineers in Engineering and that is part of the problem. But, he has not called up the County building complaining hard about it. He has been patient with that. He understands that if they are missing two engineers that it is going to take longer. He discussed it with Keeney and Associates who told him that they have to be patient. He has been patient. He preferred to put closure to this because of having two projects going on for such a long time.

Mr. Joseph said that they just want it all clear on what he is doing and what is going on because there is a lot going on.
They want to get him in to compliance. She asked if it would take a couple of weeks.

Ms. Echols suggested that it be an indefinite deferral. Zoning is indicating that it may be a little longer than that. It may take up to two months. With an indefinite deferral as soon as they can them squared away they can bring the request back to the Commission. It will need to be readvertised. An indefinite deferral would give staff time to work with Mr. Masselli and get these things resolved.

Ms. Joseph preferred putting a date on the deferral. She did not want the applicant feel like he was hanging out there indefinitely.

Ms. McCulley suggested deferring it for four to six weeks. She felt that was the quickest that they could do it. They would like to meet with them on site and walk the property together within a week. Then they could discuss where they go from there and get a site plan that shows the phasing that he is talking about, get the building permit for the porch, get the clearance and talk about parking, etc. This could take some time. It would also involve some site plan design work on his designer's part.

Ms. Joseph said that it was part of the applicant's responsibility to get the information to staff.

Mr. Masselli said that in all fairness the people who built that porch did call up for a building permit and was told that he could go ahead and build it. Then he went down there and asked for a permit and they would not give it to him. But, he did make the place look nicer. He noted that he should have known better, but he did not.

Ms. Higgins asked if the ARB would review this project.

Ms. Ragsdale said that originally before the red porch was placed on the building there were no physical changes to the site for the special use permit and no ARB review required. Staff will check with the ARB about the porch change.

Mr. Morris suggested a deferral of four to six weeks.

Mr. Masselli said that he did not know what more could be learned. He questioned what the purpose was.

Ms. Joseph said that the purpose was that they were looking at the site plan that he was proposing so that they all know where this is going, where they are selling the tires, what is happening on the site and where the parking will be located because they were proposing to have more customers on the site. Those issues have to be addressed and clarified. She suggested that he consider a deferral for four to six weeks to work these issues out.

Ms. Higgins pointed out that parking five trucks in front makes it look like there is not enough parking on site.

Mr. Masselli noted that he was asked to show more parking spaces on the site. He submitted a plan showing 19 parking spaces. He asked if the Commission got that information.

Ms. Joseph said that the Commission did not.

Mr. Masselli felt that he had done everything possible to get this done in a reasonable time. He said he was confused which way to go with a deferral or to say go ahead and vote nay and maybe the Board of Supervisors will see it differently. He felt that going out and counting the trees was like a witch hunt.

Ms. McCulley asked to go back to what Ms. Ragsdale said and that is for this use to qualify for a special permit it still needs to be a subordinate use. So the primary use, the majority of the square footage of the tire business, wholesale tires, needs to be in that use. Then the minority or less than 50 percent as they have consistently administratively applied it needs to be in a subordinate use or the retail tire sales.

Ms. Higgins noted that the reason is that the property is zoned Light Industrial and not where retail is allowed by right.

Mr. Masselli pointed out that the drawings concerning the uses has gone back and forth many times since October and now. He did not know where everything fell through the cracks. He protested the results of the recent inspection and indicated that the new information from the Zoning division was not correct and should not have an influence on the decision.

Ms. Joseph asked if he wanted to request a deferral or a vote.

Mr. Masselli asked for two minutes to think about it.

Ms. Joseph asked if there were any one else who would like to speak to this item.

Mr. Masselli, Sr. stated that it seemed like the Commission has a lot of selective information. The Commission only has certain things from staff, but not everything that they sent. Therefore, it appears that the Commission only received selective information. They had a meeting at the end of April with Mr. Fritz, Ms. McCulley and Ms. Ragsdale. At that meeting everything was fine. Ms. McCulley advised me what had been done wrong. When they walked out of that meeting the only thing needed was Mr. Fritz needed the parking situation that they were going to do. That information was given to Ms. Ragsdale on the 23, which was late. This was supposed to be heard on the 23. If this had been heard on the 23 these people would never have been out there and none of this would have come up. Around noon today he talked with Ms. Ragsdale and she asked if the meeting was on today and he said yes and everything was fine. At 4:00 p.m. Ms. Ragsdale called and everything was in turmoil. This email was put together at the last minute. Regarding the violations, they had a temporary sign violation for two weeks. Also, they had U-hauls out there in the middle of December. Mr. Wright came down and asked them to take the sign down and get rid of the U-hauls. He took the sign down before he left. But, he questioned why they were singled out from the other obvious sign violations in the area. He got the U-hauls off the site within a couple of days.

Ms. Joseph asked Mr. Masselli if he had made a decision.

Mr. Masselli asked if he could have until tomorrow morning to decide so he could think about it some more.

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

Mr. Kamptner stated that the time line this applicant has left has reached the 90 day limit. Therefore, a deferral request has to be made by the applicant or some action taken tonight. If the Commission takes the action of denial, then they need to state the reason to give direction to the Board of Supervisors.

Ms. Higgins said that according to the email it says that it is not subordinate in terms of use. Therefore, it does not meet the criteria. She asked if they can even consider it if it does not meet the criteria to apply for a special use permit.

Mr. Kamptner replied yes, because what the applicant has applied for is a permit that would allow them to have more then 15 percent and up to 49 percent of retail sale. Based on what staff's field information from last week the current operation does not meet that. They would have to change their operation to come into compliance with their special use permit. Once they do that they will immediately be in violation of the new special use permit.

Ms. Higgins said that she had several issues that have nothing to do with this. She questioned the memo about the traffic island. Her questions to staff center on the change from wholesale to retail and how do they handle more customers entering where she thought Gem's Transfer buildings are. There is some history about the traffic circulation to separate the cars from the tractor trailers. Her issue was where the individual customers are going. She did not know that the office was in the end of Building F. She had questioned how the people could get in and out without interfering with the tractor trailers. It is something that needs to be addressed. It is not a matter of traffic spaces, but a matter of traffic flow. It is just an open area where the trucks are coming and going. If there is an existing special use permit, SP-90-118, she would like to know what that says and its conditions and whether there was any condition about separating traffic. It appears that it will stand with the self storage. The percentage of use and how that would work is a good idea and workable with the site. But, she did not know about putting mom and dad in their cars to get their tires changed in conflict with Gem Transfer. She asked that the Commission be provided with some break down on that.

Ms. Joseph said that they need to look at the old special use permit and how this new one would affect that. Also with the new site plan submittal there was a new circulation pattern that is going to be

established. She asked how that was going to affect this retail space.

Ms. Higgins felt that to approve any site plan change with a special use permit attached to it the applicant would have to come back and amend the special use permit because that changes the building usage. Those were issues since it was more about traffic circulation than parking.

Motion: Mr. Cannon moved, Mr. Morris seconded, to recommend denial of SP-2005-029, PRO Distribution based on the information provided by staff that the business is not eligible for such a special use permit because the retail use exceeds the wholesale use of the property. In addition, Ms. Higgins offered a friendly amendment that the site plan provided by the applicant with the request does not clearly provide for adequate traffic circulation and parking. Mr. Cannon and Mr. Morris accepted the friendly amendment.

The motion passed by a vote of 7:0.

Ms. Joseph stated that SP-2005-029, PRO Distribution had been denied and it will go before the Board of Supervisors on July 5.

Regular Item:

SUB-2006-046 Glenoaks – Preliminary Plat: Request for preliminary plat approval to create 19 lots (18 cluster lots and one (1) preservation lot) on 305 acres as a Rural Preservation Development (RPD), as well as 11 lots (5 approximately two (2) acres and six (6) approximately 21 acres in size) on 115 acres through a by-right division. The property is zoned RA (Rural Areas). The property, described as Tax Map 94, Parcels 15, 16, and 16A is located in the Scottsville Magisterial District at the terminus of Running Deer Road [Route # 808] approximately 1.14 miles from Route 250. The Comprehensive Plan designates this property as Rural Areas in RA-4. (David Pennock)

Mr. Pennock summarized the staff report.

- This is a request for a preliminary plat review of a 30 lot subdivision, which is being referred to in two parts. One part is an 11 lot by right subdivision proposal of 136 acres. The other is a 19 lot Rural Preservation Development proposal on a total of 305 acres. Both lots would obtain access from the extension of Running Deer Drive. Those are located in the Scottsville Magisterial District.

- The Site Review Committee has reviewed the proposal as shown. The Rural Preservation Development criteria are listed in the ordinance. This property was previously the subject of a RPD proposal back in 2001, which was eventually withdrawn, based on various comments from staff including two that that required special use permits. However, some of the recommendations made by the Rural Area planners at that time were taken into account on the current proposal. There is a handout that he put in front of the Commission earlier tonight. (See Attachment C of Glenoaks RPD.) It is a map overlay of some of the critical resources that Rural Preservation options can detect. That includes floodplains, stream buffers, green ways as well as critical species protection. In this case it also includes prime agricultural soils. The larger preservation lot is now closer to the Rivanna River southeast corner of the property, which has taken into account some of the recommendations from the previous proposal.

- One of the biggest concerns that have come up in the review of this project is groundwater. Several of the adjacent property owners have had problems with their wells either going dry or slowing down significantly. Many have had to have their wells redrilled. The applicant submitted a Tier III groundwater report with this proposal that was reviewed by staff. Among its conclusion it does indicate that there are some concerns with groundwater in the area closest to the existing Running Deer development. Another issue with this subdivision as presented is the greenway dedication. The Comprehensive Plan requests the dedication of the greenway trail along the Rivanna River all the way to the Fluvanna County line. At this point the applicant is more than willing to do that, but just not at the expense of any of the lots. This is not a requirement, but it is something that staff has been working hard to try to get. Staff will continue to do so.

- Third, traffic was another issue that came up. Both groundwater and traffic is the subject of petitions from neighboring property owners. The traffic concerns had mostly to deal with additional residential traffic, but also construction traffic based on the extension of Running Deer Drive. Since this is a public road proposal the construction plans will be reviewed following preliminary plat approval. The Virginia Department of Transportation will be the key figure in the review of that. At this point VDOT's only comments has been that they are going to have to take another look at it when the construction plans come in and that the road needs to be designed to subdivision standards. It is an ongoing issue and will be addressed later.

- Staff recommends approval of both portions of this subdivision and approval of the Glenoaks Subdivision with the conditions listed in the staff report.

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

Mr. Cannon asked what consideration of groundwater availability, if any, is appropriate under the sections of the ordinance that control approval of this Rural Preservation Development.

Mr. Pennock stated that in the Rural Preservation sections 10.3.2 and 10.3.3 it nonspecifically tie back to the groundwater sections of the ordinance.

Mr. Cannon asked if his recommendation for approval reflects his determination that groundwater availability is not a relevant criterion to that approval.

Mr. Pennock replied that his recommendation was based strictly on the section. He would not necessarily say that the groundwater is an irrelevant issue, but yes it is based on the items that are there.

Mr. Cannon said that it is not an irrelevant issue, but it is irrelevant for purposes of the legal criteria applicable for our review. He asked if that was a fair statement.

Mr. Kamptner said it applies to criteria in Section 10.3.3.2. Although the end section of that refers to water supply protection the criteria do not deal with groundwater supply. The water supply protection that is referenced in the end section really deals with elements of areas adjacent or near public water supplies.

Mr. Edgerton said in following up on Mr. Cannon's question the Commission spent a long time in the last couple of years coming up with this whole groundwater assessment. The idea being that they were going to try to steer development away from bad areas. What he is hearing now is that even though Section 17 of the County Code specifically lays out responsibilities for the Commission and for the Program Authority, which he supposed was the Engineering Department, that what he is hearing from staff is that they are not allowed to pay any attention to it. He asked if that was correct.

Mr. Kamptner replied that is pretty correct. He actually went back and pulled out that section.

Mr. Edgerton asked how the Commission could ignore a section of the Code.

Mr. Kamptner replied because what the Groundwater Protection Ordinance that was adopted at the end of 2004 was intended to do was to impose requirements for the groundwater assessments, which are intended to provide information to the applicant so that subdivisions are designed in a way that best protects, preserves and uses groundwater identified. But, there is no mandate that if a particular design follow the recommendations of the assessment. He could read from the executive summary. There is a reason why the ordinance did not go that far. They are fully in the process of collecting groundwater information. The technical committee that worked on this for several years and other staff in other localities that have dealt with this issue have not yet reached a point where the information is of value for the liability that subdivision decisions can be based on this kind of information. So this ordinance does not go that far. The other companion to this ordinance was the requirement for groundwater monitoring program. That program is just starting up as well. Going back to the minutes the estimate was that it

would be 10 to 20 years before they would have enough information that firm decisions could be made or reliable decisions could be made to approve or deny a subdivision plat based upon that information.

Mr. Edgerton asked how the Program Authority could approve something that says that they are going to have a problem and are going to cause problems to other problems. He studied this afternoon the language of Chapter 17 talking about the Tier I, II, III and IV assessments. On page 36, prior to approval of a preliminary subdivision plat creating four or more lots where at least 3 lots are 5 acres or less mandates a Tier III assessment. Unless he was mistaken that would mandate it to a Tier III assessment on the by right portion of this as well as the Rural Preservation portion. The next page states under Section 17.4.3, if the groundwater management plan identifies special areas of concern such as off site resource of high groundwater sensitivity or a previously unknown source of contamination, then the Program Authority may require additional groundwater assessment data prior to the preliminary subdivision plat or site plan approval. If he was not mistaken the Program Authority can require more information. He asked if that was what that says.

Mr. Kamptner replied yes, that is correct.

Mr. Edgerton said that it goes on to say the Program Authority may require a Tier IV assessment to be submitted instead of a Tier III assessment if special areas of concern are identified in Subsection a. that have not been adequately addressed by additional groundwater assessment data. That means if they can't solve the problem with Tier III that they could ask for a Tier IV assessment if the Program Authority decides to do this. He could not understand why they wouldn't decide to go to a Tier IV. It says the groundwater management plan must demonstrate to the Program Authority's satisfaction that the site's groundwater conditions have been considered with the subdivision or site plan layout and design. The aquifer testing and work plan must be approved by the Program Authority before the owner may conduct aquifer testing as part of Subsection b. Then it says that the final groundwater management plan plat and groundwater assessment report must be approved by the Program Authority prior to final subdivision plat or site plan approval. So he was saying that they could not do anything about this for 20 years because they don't have the data, but what does that language say. That language is in the Code right now.

Mr. Kamptner stated that Article 4 was intended as an information collecting ordinance. The information is used long term and is also used for the particular application. As he was reading the Tier IV requirements that the Tier IV assessment has to be considered. That language was discussed at the Board level in what does it mean to be considered. It means that the applicant has to consider it in how they design their request, but not the Board.

Mr. Edgerton said that the particular report the Commission got said that the applicant did not consider the concerns.

Mr. Kamptner replied that if it was a Tier IV they need to consider it. It does not mean they have to follow it. They are not bound to design their subdivision in a way that matches the groundwater assessment.

Mr. Cannon asked if the consideration required in that language that Mr. Edgerton just quoted for consideration by the applicant or by the reviewing authority or both.

Mr. Kamptner replied initially it falls on the applicant. They get the information. The purpose of the ordinance was to generate information that the applicant with their proposal would use to design their subdivision.

Mr. Cannon asked if it also carried the implication that the reviewing authority would consider that information in assessing the application.

Mr. Kamptner replied that it was considered as far as staff level, but as to whether or not staff or the Planning Commission could deny a subdivision plat because the plat did not follow the assessment does not go that far. It nether intended to go that far. There was a lot of discussion of the technical overview committee all the way up to the Board meeting when they adopted the ordinance that it was not going to go quite that far yet.

Ms. Higgins noted that this also applies to cases that are not by right. In a rural preservation consideration she just looked at the other side of it. This is the same number of lots to be created, but does it mean that they should spread the lots out more and not do rural preservation.

Mr. Edgerton said that the groundwater assessment will be required regardless of whether it is by right if they want that many lots.

Ms. Higgins said that when they give it consideration if it was not by right and before the Planning Commission it could be the factor that is considered if it affects the number of lots. That was the point that she was trying to make. Does that mean that they now don't do rural preservation and that they spread the lots out in a more typical by right plat? She noted that they weigh all of that. But, the bottom line is that when a permit is pulled the applicant has to dig a well and the Health Department has to approve it. The well has to give 1.5 gallons per minute or the applicant is not approved to build a house there. One of the other considerations is the water there.

Ms. Joseph asked if there were any other questions for Mr. Pennock.

Mr. Cannon asked if in terms of determining not only what the criteria are but the Commission's role, if any, in reviewing these decisions that he takes it that the approval of a RPD is under existing State legislation considered to be ministerial, and therefore assuming that the RPD meets whatever criteria are applicable, there is no further authority on the Commission's part to second guess that approval. Is that correct?

Mr. Kamptner replied yes, since July 1, 2004 the County was authorized to approve RPD lots as a ministerial review.

Mr. Cannon asked if that same limitation on their review authority also applies to the by right subdivision.

Mr. Kamptner replied that subdivision plats are ministerial.

Mr. Cannon asked if it was correct to say that unless they determine that applicable criteria have not been met they have no discretion to reject either of these subdivisions.

Mr. Kamptner replied that is correct. The applicable criteria in Section 10.3.3.2 and if the Commission decides that none of that criteria are unmet it needs to be based upon provocative evidence and cannot be arbitrary or capricious.

Mr. Cannon asked if they have determined based on his opinion that those criteria do not include what account, if any, the proponent of the subdivision that has taken of groundwater resources.

Mr. Kamptner replied that was correct. That criterion applies County wide for every type of subdivision.

Mr. Craddock said reading through here there is a 2006 addendum that they did not get for the water assessment.

Mr. Pennock noted there was an addendum that basically summarized the 2003 report. He thought that he was correct that did not go out with the previous attachments.

Mr. Craddock pointed out that when it talks about Section 11.0 and 12.0 in the water assessment that those sections are not in his report. That is talking about central and individual water supplies and the conclusions. So he would suspect that conclusions would be somewhat important. The groundwater assessment materials stop at number 7.

Mr. Pennock said that was brought to his attention this morning that there was a missing page 8 that contained Section 12.0. Staff followed up with an email to all of the Commissioners that had the full document in it. That was left out of the original packet.

Mr. Craddock noted that if that was sent to day he had not read his email and did not see it.

Mr. Edgerton noted that he had read it, but it does not matter any how.

Ms. Joseph opened the public hearing and asked the applicant if he wanted to speak.

Don Franco, representative for Glenmore Associates, stated that they absolutely considered the groundwater. In study that was initially done with the groundwater ordinance this was the test site. What it says is that the other side of the creek, the eastern portion of the property, is where the better wells would be and where the better groundwater would be. They submitted in 2001 a RPD that utilized that in the site. But, it requires crossing Carroll Creek to do it. The judgment that they received from staff was that they would rather have the development on the western side of Limestone Creek. It has been considered. The outweighing considerations are preservation of the agricultural land on the other side despite the fact that this side is heavily wooded and despite the fact that this side has poorer groundwater resources and will take extra attention to do this. But, it was all considered in and through there. So he just wanted to make sure that is clear. He had not intended to have a lot of conversation about this project tonight, but they did consider it. In 2001 the advice that they got was put it on the other side of the creek because these factors outweigh everything else. So the plan before the Commission today reflects that information. With respect to how does it protect the resource, as part of this tiered study in the new ordinance they will be drilling wells before the building permits are issued. They will demonstrate that there is adequate water there. If it is a low yield well there will be design factors that are put into place to ensure that the house can be supported on that. They don't need a well that produces 15 gallons a minute to have a house on it. They could have something produce one-half a gallon a minute, but it has to be a deeper well and have to provide for storage for a house to be supported on that site. So they have considered that information and the plan before the Commission reflects that. With respect to the greenway, this has been the biggest issue in trying to figure out how to provide for the greenway. That is the issue that they took forward to staff in 2001. In order to do it as part of the subdivision plat they end up losing at least one or two lots to provide the greenway. As a rural preservation there still is no guarantee of a greenway because the preservation tract has to have an easement on it and it will be something that is different by providing a greenway easement across that preservation tract. So there is no guarantee on how to do that. There are a number of tools before them and they ask which is the best tool for providing the greenway, preserving their development rights and developing on this parcel. This is the direction and input that they got. Therefore, that is why they are moving forward at this point in time. It is step one in a series of things that the Commission will see. Ultimately, their goal is to come back after they resolve the layout discussion and after they resolve the greenway solution by taking this plat to final plat. They would come back to look at adding this to Glenmore and accessing this through Glenmore. That is their goal in the end. The roads are designed so that they can be added to Glenmore and the access will not be through Running Deer Subdivision. In order to get these other things resolved so it does not confuse the rezoning aspect of the adjacent growth area property they felt that this was the best way to go through the process. He would be happy to answer any questions.

Mr. Craddock asked where the construction traffic was going if this was to be part of Glenmore.

Mr. Franco replied that it was their opinion that it develops through Glenmore the same way all of the rest of Glenmore is developed. There have been the representatives of the Rivanna Citizen's Committee and a bunch of the others that have brokered a deal apparently with some of the residents of Running Deer saying that they will use Running Deer for all of our construction traffic and all of the residents will come through Glenmore. That is not something that they have brokered. That is not something that they have participated in. Their intent has been to access this and develop it through Glenmore. So he felt that was part of the confusion that was going around. The deal that was brokered by this individual said that if you let us use Running Deer it has nothing to do with Glenmore Associates or KG Associates, our development company, if you let us use Running Deer that they will hook them up to water. They have gone so far as saying that will apply to both sides of the road including things outside of the jurisdictional area and outside the growth area. There has been a lot of confusion in respect to this. But, their intent is to develop it the same way that they developed Glenmore. Now if when they come back to the Commission at the next phase and if they should decide that they will not be able to include this as part of

Glenmore, then it will have to access Running Deer. But, their intent has been when they come back in for the adjacent subdivisions, which is the larger residue tract and part of the growth area, is to have these as large estate lots access through Glenmore.

Mr. Cannon said that he had a question about the issue with the passage way along the Rivanna. The issue there is that if they grant such a passage way that would require them to have fewer lots on the property.

Mr. Franco replied as submitted as a rural preservation development the preservation tract, which is the bigger piece all the way down the Rivanna, will have a preservation easement on it. The standard easement is for agricultural purposes and does not make a provision for recreational uses such as the greenway on it. So it takes a special action by the Public Facilities Recreational Authority to do that. In the past there have been instances where they decided not to allow that to occur. So he has conflicting public goals that he did not know how to resolve. Since their sole task is the preservation of farm land it makes this a conflicting aspect.

Ms. Higgins noted that the staff report recommends the condition of VDOT approval of all public roads and entrances. This condition as written and based on the applicant's future plan if it is accessed through Glenmore, then these will not be public roads. She asked if that was correct.

Mr. Franco replied yes, that was correct. They recognize that they will have to come back at that point. But, they have been going around on the greenway issue for quite a while. It is their opinion that the only way to put that to bed finally is to take this all the way through. They want to eliminate some of the complications by having private roads extend.

Ms. Higgins asked if that condition could be structured to say or.

Ms. Joseph noted that was another kettle of fish to get their hands on what this would be like with public roads versus private roads.

Mr. Franco agreed that was going to be a debate later on that they would have. They wanted to simply that to assume that it was going to be public roads.

Mr. Edgerton noted that he was having trouble trying to figure out how they would access this through Glenmore with the information that the Commission has.

Ms. Joseph asked that staff put up the big plan for the Commission to review.

Mr. Franco said what this plan shows is what their ultimate goal is. He explained the plan noting that there is a road in phase Q-2 that is stubbed out that has existing emergency access through this off site parcel to Running Deer. It is a gated emergency access. The road to the wastewater treatment plant extends across Carroll Creek to this point. He pointed out the property line at Glenmore. There is a residue piece that is part of the subdivision which is part of the growth area and the Leake property. The idea would be an extension of the road that goes past the waste water treatment plant to tie in through there and create a loop to tie into the road that attaches to Q-2. It will take some redesign, but it would be an emergency access back through there. But, the rest of this would be accessed internally through Glenmore at that point in time. Within Glenmore there are approximately 62 lots that are remaining within Glenmore's lot cap that exists. Everything on the plan is roughly 111 new lots being added, 30 of which are rural lots. The bulk would be in this other area. The road is basically the boundary in and through there. There have been a lot of considerations on how best to do that. Where you see the preservation tract is where the groundwater study showed the better area for the wells. But, then they would be conflicting with the other uses.

Ms. Joseph asked if there were any additional questions for Mr. Franco. She invited comment from other members of the public.

Sterling Proffit, resident on Whitetail Lane, said that he has been living in Running Deer Subdivision for approximately 22 years. He was not here as an obstructionist to this development at all. He was not anti-growth. He admitted that he was cautious in reasonable growth. He sent a letter to staff dated March 16, 2006. It is attachment C in their packets. He has some concerns. Regarding groundwater, he felt that the County's groundwater ordinance is benign. It does not give the Commission the authority they should have. Bottom line it is well known that Running Deer residents have groundwater problems. They did a survey through word of mouth, telephone and email and his letter points out 15 houses that have groundwater constraints. A lot of those 15 houses have had subsequent wells drilled. Two had to hook onto public water because they were fortunate enough to be on the eastern side of Running Deer Drive. He abuts Glenoaks on tax map 94, parcel 80. He was one of the fortunate few, however, that his well has performed nicely for 22 years. He would submit that the groundwater report of 2003 speaks to him very clearly. The worse part of that groundwater is in the northern section. That is where 18 of those 30 lots are to be clustered. It gets better in the central portion and then better in the southern portion. There is no two ways about it. Mr. Franco is right that the better water is east of Limestone Creek. They will have 18 lots that will be in the worse area for groundwater. Again, how is that going to impact the existing wells that are already having trouble and those wells not having trouble in Running Deer Subdivision? He felt that was a distinct possibility. He could not tell them that it will, but they can't tell them that it won't. But, bottom line he does have a concern about that. Groundwater is a very precious resource. He noted that they have the Leake property that is going to come before the Commission in the near future. He believed that will have 80 more lots. He believed that part of that will be on public water, but some lots will have wells. So they will be doubling their trouble when they look at Glenoaks. He felt that these were real concerns that they all should have.

Ed Imhoff, resident of Glenmore, said that he was present to talk about surface water. If Glenoaks is attached to Glenmore he would be interested in the surface water in the reservoir. That is not mentioned in this report. Five of the lots are contiguous to it. He asked if anyone has looked at the reservoir. The spillway is just a knolled hole and it was not an open channel with a flow. The water capacity is over 15 acre feet. If they were over 15 acre foot in capacity and 25 foot in height the dam will fall under the State rule on dam safety, but he was not sure if it was quite 25 feet. He was talking about the lake here. It is in sad need of repair. The residents are going to depend on it. Most of the lots are going to be looking down on it. It is going to be another water body added to Glenmore and it will be great. But, he would like to see an inspection of the dam and spillway. The spillway is a bunch of rubble. He has seen a lot of reservoirs and managed a lot of waterways and channels, and he could say that is not going to last if they get a Fran. Every time they have a problem with surface water or groundwater and it happens on private property back it comes to the County. Those always come back just like in Key West and Peacock Hill. That will come back. So he would like to see some professional engineering work done on that spillway and an inspection of that dam.

Cyndi Burton, resident of Running Deer, asked if everyone received her email of this morning. If not, she had copies to pass out. She was here tonight to appeal to their common sense. If the Commission has read her email and their petition they were aware of the critical groundwater issues in their area. So she would just list a few of the special points that she wants to be included in their minutes. First, the addition of 29 new wells will impact our already compromised groundwater situation and our health and safety. They live in the County with the least amount of available groundwater. She felt that there is a lot more to be learned about that. The groundwater assessments provided by the developer did not include the data collected in Running Deer. So it should be revisited. In fact, our groundwater experiences contradict the theories and assumptions upon which the assessments were based. The impact of septic systems can be an environmental health hazard, which is something that they can't ignore if they have less water. She prays that they will start planning now for the potential groundwater emergency in our rural area. As described in her email the contingency plan needs to be in place before they are in a dire state. If they must approve the application she hopes the Commission will recommend a central well or water line for Glenoaks to minimize the impact to their groundwater. She did not say this lightly. They strongly oppose any growth area expansion. So they request the former be done within the provisions allowed by the Comprehensive Plan for health and safety concerns. This situation as it is should be a wake up for the County. The Comprehensive Plan's general principle is to protect the County's surface and groundwater supply to ensure continued safe portable water for County residences. Its objective is to protect the availability and quality of groundwater resources. Albemarle County's Land Use Policies should

encompass a comprehensive view of future needs that includes protecting existing wells from new development. They are depending on the Commission to protect our rights to have available water resources as directed by the Comprehensive Plan.

Jeff Werner, of Piedmont Environmental Council, stated that there appears to be little that the Planning Commission can do but approve the application. It is another unfortunate and disappointing reality to the County's so called rural area regulations because Albemarle's regulations allow for a suburbanized fragmented rural area. These 441 acres will be lost to suburbia. If this year the County can't adopt meaningful rural area regulations it should at least be honest with the community and change the rural area plan to the suburban area plan, which is a far more appropriate title. Glenoaks is not being developed so that a farmer can sell off a few lots and continue farming or even for a farmer to create lots and retire on the windfall. This is a speculative development by a speculative developer and not a farmer. No doubt these parcels will be marketed for their rural location and spectacular views, ironically the very things when groups like PEC try to protect they are criticized by the developers. However, let's be fair. The developers are only following the rules. Despite the approval of over 1/3 of the 15,000 units that are roughly in the growth area pipeline right now, they still hear complaints that it is too hard to develop in the growth area and too easy to develop in the rural area. That is the case in point. They are told how costly and difficult rezonings are and how this makes houses unaffordable. They will be interested with that argument to hear how many affordable units they will see in the by right component of this project. They see in the staff report that there are concerns about traffic, but there is little that the County can do. No doubt in a few years the people who move to Glenoaks will be right here complaining about all the traffic on 250 east. If nothing else the County's rural area regulations provide us with abundant irony. They hear about concerns for groundwater supplies. How long until an unwary buyer on one of these parcels complains to the County that they can't find a well site. Again, there is more irony from our rural area regulations. Just to the east of this property actually abutting it lays Limestone Farm. It is several hundred acres that is permanently protected by a conservation easement. To the north lies the Northwest Mountains Historic District where private landowners have permanently protected a significant amount of that landscape. It is fortunate for the developers for Glenoaks that there are land owners that value the country side with more than how many lots it can produce. After all without this private stewardship they know that the County's current regulations do very little to preserve the scenic views and rural settings that will no doubt be used by this developer to sell their new lots.

There being no further public comment, Ms. Joseph closed the public hearing to bring the matter before the Commission.

Ms. Higgins said that she had a question for the applicant. She asked if Mr. Franco could address the spillway and dam. She asked if that was something that was covered under this and was it looked at before.

Don Franco said that it was his understanding that it was not a regulated structure. It needs help. It is on what was the Leake property. So it is something that they just recently acquired. So they have not taken care of it. Our intent would be to take care of it as part of this development. He would prefer to see this added to Glenmore with this and common area so that it is ensured and maintained by a greater community than just the individuals. Because it is in the rural area it will be located on four lots. He did not know if they would have a requirement because they are talking about large lots. For a storm water management structure they want small BMP's close to the source as opposed to down in this area. He thought that they would maintain the lake, but did not think it was going to be a requirement. He was aware that it needs help and they were going to do that repair as part of this process. One big question was is it a driveway and is it going forward in what form so they know what kind of repairs to make.

Ms. Joseph invited David Swales to come forward and talk with the Commission about his strong statements in the staff report that the water is not where these lots are going, but more likely on the other side.

David Swales replied that is general correct. It is a poor groundwater area. The eastern area has much better potential. Most of his comments were taken from or paraphrased in a large part very much in agreement with the consultants they hired. Going back to 2003 and the 2006 addendum they pointed out

that the eastern area has strong groundwater potential and he agreed. They mentioned that it is the lowest relative availability area, and he agreed. He did point out one of the comments that sparked a little bit of discussion amongst people on whether groundwater was considered. From what he has seen are these two reports and the plat, and based on that he did not see evidence of considering the groundwater. He was not here during the time when they may have resubmitted other things. The intent of the ordinance is to work with the developers as opposed to provide yes or no. There were a lot of comments during the groundwater committee meetings when they were in front of the Commission and the Board about whether they are going to be working in the design of the subdivision area or the approval of the lots. The consensus amongst all of the notes that he has looked at since he came to the County was let's work with the developers, which is the essence of what the ordinance wants to achieve. There have been various discussions. He spoke with their geological consultant and he certainly hoped that he was in contact with the people who employ him about the possibility of central wells or different lot location. That has been mentioned. He has regular contact with planning staff and he has put this issue on the table that other places would be better. He felt that a Tier IV would not give them any useful information. A Tier IV tests a well site in one place at one time. Here they are looking at 29 or 30 wells and about 12 or 14 that are within 1,000 feet of the Running Deer neighborhood. Any one of those wells could connect underground through fractures to another location. A Tier IV is a well test that would be time and money that would not give him any data to make an educated decision. If they could in an affordable way to a whole bunch of tests at the spots where the wells will actually be as opposed to just a couple of sites it would be helpful. If they test a well there and plug it and then drill a well even 30 feet away the data is irrelevant because of the cracks and fractures. That is the very difficult part of this area.

Mr. Morris asked if the development were to go as they see on this plan in the northeast section is there any way for monitoring to take place as to what effect it is having in the Running Deer community.

Mr. Swales replied that it was possible. What he would propose in monitoring wells there in working in a development scenario by being on an easement, which is something that has to be reflected on the final plat. Under certain circumstances he would like to negotiate in monitoring wells if possible. They have data from a couple other sites in the County. If they could put a couple of monitoring wells where Running Deer and Glenoaks abuts and get current water table data and engage them with other County wide existing water table to see if they are coming and going in sequence. As development comes if it goes down quicker they could draw a statistical correlation. Of course, that is not until wells are drilled and water switched on.

Ms. Higgins said that was the whole discussion of the monitoring wells in the formation of the ordinance was how much do you spend to put in wells to get the data and how they use the data. It is long term and very expensive. There is no way to say that one affects the other. It is not definite data.

Mr. Swales agreed that it was not definite.

Ms. Higgins noted that was all weighed when the ordinance was structured the way that it is.

Mr. Swales stated based on groundwater alone the eastern area has better water well potential. There are not guarantees, but much better potential.

Ms. Higgins noted that stream crossing have been very significantly considered.

Mr. Craddock said that he had a question for Mr. Kamptner about contingency plans. What is the scenario because Mr. Swale's report says there appears to some risk of sufficient groundwater to support the lots as planned and they are hearing from some of the folks that it might be more problematic to do a stream crossing than it is to worry about the existing wells in Running Deer going dry. So does the developer have to come up with a contingency plan or can the County tell him that he has to bring one to us. How does that work?

Mr. Kamptner said that although they have had central well failures in the past they could truck in water or extend the public water lines. It is a public need and they extend the jurisdictional area in some cases.

Mr. Cilimberg noted that there is also a central well system, which is a County approval by the Board of Supervisors.

Mr. Craddock said that if they did have to go to something like a central well, then the County would truck in water until the wells were dug and lines put in. He asked how long a person would have to wait for a central well if his well went bad. He just wanted to note that a contingency plan would have a time frame involved.

Ms. Higgins noted that in this area it had a close proximity to public water, but that is a Board decision.

Mr. Craddock noted that it would be easy on the west side because it was in the development area. But, in Running Deer that abuts up to Glenoaks is in the rural area.

Mr. Cilimberg pointed out that the Board of Supervisors grant jurisdictional area approval. They have done it in the rural area where there has been a well problem.

Ms. Joseph noted that it would still take time and public funds.

Mr. Cilimberg stated that in the case of jurisdictional area approvals it is not typically for public funds to be expended it. It is the private beneficiaries that pay. He noted that when there was discussion about the cluster being on the other side of Limestone Creek it was not just crossing the creek. It was also its location. Under the criteria for rural preservation development approval because they were next to the floodplain, to a conservation easement plus they were crossing wetlands and a stream valley to get there. So then they don't have the grounds for rural preservation approval of that cluster.

Ms. Higgins noted plus on this side if the back up plan was to extend the public water line that is in proximity to the last section of Glenmore versus crossing the creek with public water.

Mr. Cilimberg agreed that it was closer.

Mr. Edgerton pointed out that he was going to vote no. They are in an advisory role here.

Mr. Kamptner stated that the Commission was the actors on this request.

Ms. Joseph felt that the Commission needs to make the determination of what is worse putting it over next to a conservation easement or crossing the stream.

Mr. Cannon felt that the issue was whether there are a set of criteria available to be implemented here that prevents overdevelopment of the rural area. He was convinced in this experience that those criteria are not complete. Therefore, they are not empowered to protect the rural area on the terms that they understand that to be appropriate. But, given that he will vote yes because he feels he is constrained to do that. But, he will vote with that statement.

Mr. Edgerton felt that something was missing here if they can't use the Groundwater Ordinance in this situation. He felt that they were putting the burden on tax payers to deal with the problem.

Mr. Strucko said that this is why they put development in the designated growth area where there is public water and sewer. This is why they don't put development in the rural area where the water supply is simply inadequate.

Ms. Higgins said that this is a by right development with development rights. So that is a whole criteria that is beyond the preview of what her appointment on the Commission is about because they can't take the development rights away based on the criteria before them.

Mr. Strucko said that the development rights go with the parcel and the limitations of that particular parcel. This particular parcel has some limitations.

Ms. Joseph noted that a parcel in the flood plain does not have a development right. There is a comparing capacity of the land. If it does not have the water and it has steep slopes then someone should not be living there.

Mr. Edgerton said personally he is concerned about the water and wanted to figure out a way to solve it. But he acknowledged that they might end up with a by right development.

Mr. Craddock pointed out that in David's report he observed on a preservation tract the federally threatened bald eagle. He questioned what that means in this development.

Mr. Pennock noted that there was a bald eagle nesting site up river. So really anything within a 1.5 mile radius or along the river could potentially be part of the nesting and feeding habitat of the bald eagle. That really says that the areas closer to the river are more valuable. It does not prohibit development in that ring, but is just another criteria that rural planners look at when they look at development plans.

Motion: Ms. Higgins moved, Mr. Morris seconded, to approve SUB-2006-046, Glenoaks Preliminary Plat subject to conditions 1 – 6 in the staff report.

1. Engineering has reviewed the conceptual storm water management plan proposed for this subdivision. The following items need to be adequately addressed with the SWM plan: [14-302A13, 14-305]
    (a) The proposed stream buffers need to be 100' on each side of the stream, not 50' as shown on the conceptual SWM plan.
    (b) The pipe outfalls for the road drainage need to provide SWM detention for the 2-year storms and address MS-19 concerns at each location to protect the proposed stream buffers.
    (c) The steam buffer locations will be shown outside of the limits of disturbance.
2. Road name approval by E-911 review for all proposed roads.
3. VDOT approval for all public roads and entrances.
4. Development of a groundwater plan, in accordance with Chapter 17, Article IV.
5. Health Department approvals for all drain fields.
6. Public Recreational Facilities Authority acceptance of easement for preservation lot.

The motion failed by a vote of 3:4. (Commissioners Craddock, Strucko, Joseph and Edgerton voted nay.) (Commissioners Higgins, Cannon and Morris voted aye.)

Mr. Cannon stated that he felt compelled to vote for the reasons that they have already talked about in the affirmative on this. However, he thought that it represents an example of over development of the rural areas and he would urge further deliberations by the Commission and the Board of Supervisors in order to address that situation.

Mr. Morris echoed Mr. Cannon's comments.

Mr. Edgerton stated that this project argues rather stringently for the Commission and Board to put our energies into tightening up the ordinance so that they can provide some protection to groundwater. He noted that they need to do this now.

Mr. Morris stated that it was critical.

Ms. Joseph stated that SUB-2006-046, Glenoaks Preliminary Plat was denied. She stated that the applicant could appeal this to the Board of Supervisors within ten days or seek legal remedy through the Circuit Court.

The Planning Commission took a five minute break at 8:15 p.m. and reconvened at 8:20 p.m.

Mr. Kamptner stated that because the subdivision plat was denied, the Planning Commission needs to identify the reasons for the denial and what the applicant can do to correct the deficiencies. That would be put in a letter from staff to the applicant.

Ms. Joseph stated that the deficiency that she found was in the section that talks about using the information from the Tier III assessment to lay out the subdivision plat. It seems in this case that information was not considered. The Commission heard that the better groundwater supply was over on the other side of the creek and that is not where the development lots are proposed.

Mr. Morris asked if that was a Tier I or III.

Ms. Joseph stated that it was a Tier III.

Mr. Craddock noted that was in Chapter 17, Article 4.

Ms. Joseph stated that she also felt that it was extremely important that there are adjacent properties that have had groundwater problems. While this may not be something that the Commission is supposed to consider, she did not know how they could ignore it.

Mr. Kamptner asked if there were any criteria in Section 10.3.3.2 of the Zoning Ordinance that were not satisfied and what can the applicant do to address the deficiencies.

Mr. Edgerton stated that there are development lots shown in areas of critical slopes and Section 10.3.3.2 (e) says that development lots shall not encroach into areas of critical slopes.

Mr. Kamptner stated that while the subparagraph criteria themselves are written in absolute terms, the introductory section says more specifically that the RPD be in accordance with design standards of the Comprehensive Plan that are deemed reasonably practical by the Commission.

Ms. Higgins stated that they would have already had to submit a plat showing their 30,000 square foot building sites in less than 25 percent slopes.

Ms. Joseph stated that under Section 10.3.3.2 (i.) the proposal does not forward the purpose of the Rural Preservation Development and that the public purpose to be served would be fully or better served by conventional development. If they spread the lots out it is more likely that they would find water. But it is unfortunate that it has to do with developing in the rural areas.

Mr. Cannon stated that they are saying that they should come in with a by-right development.

Ms. Higgins noted that this would mean with conventional lots.

Ms. Joseph said that she was saying that it was more likely that it would be less stress on the land itself and the groundwater resource if that is what they did because, otherwise, all of the RPD lots would be adjacent to an existing subdivision that is already known to have groundwater problems. She asked if any of the other Commissioners had anything else.

Mr. Craddock noted that it covered it.

Ms. Joseph asked Mr. Kamptner if there was anything else that he needed from the Commission.

Mr. Kamptner suggested that staff use Ms. Taylor's notes for the action letter.

Public Hearing Item:

ZTA 2006-002 Civil Penalties – Public Hearing to amend Section 37.2, Civil penalty, of Chapter 18, Zoning, of the Albemarle County Code, to combine the two civil penalty schedules for zoning violations in Section 37.2(A) and Section 37.2(B) into a single civil penalty schedule, and increase the civil penalty for the first violation from one hundred dollars ($100) (current Section 37.2(A)) and fifty dollars ($50) (current Section 37.2(B)) to two hundred dollars ($200), and increase the civil penalty for each violation subsequent to the first violation arising under the same operative set of facts from two hundred fifty

dollars ($250) to five hundred dollars ($500). (Louise Wyatt)

Louise Wyatt, Zoning Enforcement Manager, summarized the staff report.

- Before the Planning Commission tonight is a zoning text amendment that would amend the zoning ordinance relating to civil penalties. Right now the use of civil penalties has been a really effective enforcement tool on zoning violations. It is both a deterrent and a consequence for non-compliance. At the moment they are seeking civil penalties for about 45 percent of their unresolved zoning violations. Consistent with a recent revision to the State Code the proposed ordinance would increase the civil penalties for an initial zoning violation from $50 to $100 to $200 and it would also increase the penalty for subsequent violations from $250 to $500. The ordinance that currently exists has two schedules for zoning violations. One, with a $50 penalty and the other has $100 penalty for the initial violation. The rationale for this originally was those zoning violations falling under the $50 penalty were relatively insignificant and proofed to be unintentional, and therefore a lower fine imposed.

- At the time the ordinance was drafted staff did not know how civil penalties would actually work in practice. Staff's vision was that perhaps it would go a little faster than it works in reality. Most violators have five months or so to come into voluntarily compliance before staff seeks out these civil penalties. For this reason staff recommends that the significance and whether the violation was intentional could really no longer be relevant to the fine amount. That is why staff is recommending eliminating the two schedule system entirely. Finally, raising these penalties would greatly assist the County in its enforcement of the zoning ordinance. Unfortunately, many violators do not cooperate with the County until they receive that warrant in debt for the civil penalty, which is served by the Sheriff's Department. They believe that these higher fines will help encourage swifter cooperation. It will also allow staff to come closer to recoup some actual staff cost.

Ms. Joseph asked if there were any questions.

Mr. Morris asked if they were setting the bar high enough.

Ms. Wyant noted that this is actually based on what they were allowed by State Code. They are raising the bar as high as the state would allow.

Ms. Higgins noted that it talks about violation and penalty. On more than one occasion last year site plans and special use permits have come before the Commission when they have active violations on site. The Planning Commission, previous to one case this evening, actually told the applicant to be in compliance for 30 days before they came back. She did not think that it was in the ordinance to enable the Planning Commission to do such a thing. She asked if there is an appropriate way because it is a penalty to tell someone to do that. It would be somewhat persuasive. If there can be a sentence or something in here that says that you can't be in violation to have a site plan or a special use permit considered that is not about putting you into compliance. In other words, if it is one that brings someone into compliance it is one thing. But, to do something entirely separate is different. She questioned where it would be put in the ordinance.

Mr. Kamptner said that the question is approached with the violator who comes in for the permit in a number of different ways. He was comfortable with the way the Commission just deals with it on a case by case basis as part of their encouragement in their decision making process.

Ms. Higgins stated that the applicant spends many months in the process and a lot of money. Then they stand up here and they tell them they have violations that they have not resolved. Why isn't there a way that staff can tell the applicant they have an outstanding violation and that they have to conform or resolve the violation before the applicant comes before the Commission? It seems that there are a lot of mad people to come this far and this long and not have a way for staff to say we can't accept this or they are denied because of a violation. She felt that there is a disconnect here.

Ms. McCulley asked if it would be possible for the Commission to adopt a resolution or a policy statement that says that. If the Commission wants to consistently apply that in every case they could not get much clear than that. She felt that may be more appropriate than putting it into the ordinance.

Mr. Kamptner said that the Commission could probably given an indication that these applications won't get favorable review, but if someone submits a complete application they are required to process it all the way through to approval or denial.

Ms. Higgins asked even if it is in the ordinance if there is an outstanding violation it is either suspended or in some way cannot proceed until it is resolved.

Mr. Kamptner replied that they were not allowed to stop the processing of an application. They could thank the General Assembly. Looking at it just from the enforcement standpoint the number of violations that they process compared with the number of violators who come down to get the permit approval is probably 50 to 1 of the violators who don't have something that needs to come through the process. This is a factor that the Commission can consider with a special use permit.

Mr. Edgerton noted that he thought that site plans were not allowed to be taken into consideration if there were violations.

Mr. Kamptner replied that they have dealt with site plans by imposing conditions at the preliminary site plan approval that requires them to come into compliance within a certain period of time. Often it can be quicker than the formal enforcement process assuming that they meet the deadlines that are imposed.

Ms. Joseph opened the public hearing and asked if there was any one present to speak regarding this application. There being no one, the public hearing was closed and the matter placed before the Board.

Motion: Ms. Higgins moved, Mr. Strucko seconded, to approve ZTA-2006-002, Civil Penalties.

The motion passed by a vote of 7:0.

Ms. Joseph stated that ZTA-2006-002, Civil Penalties would go before the Board of Supervisors on July 5 with a recommendation for approval.

Work Session:

Crozet Station Pre-application Work Session

PROPOSAL: Conceptual redevelopment proposal for approximately 42,000 square feet of commercial uses and 72 residential units that would likely require a rezoning of approximately 8 acres from C-1 Commercial (retail sales and service uses; and residential use by special use permit (15 units/ acre) to NMD Neighborhood Model District (residential (3 – 34 units/acre) mixed with commercial, service and industrial uses).
PROFFERS: No
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Crozet Master Plan designates CT 6 (Urban Core) in Downtown Crozet. CT 6
ENTRANCE CORRIDOR: Yes
LOCATION: Community of Crozet, north side of Three Notched Road from Route 240/Crozet Avenue to the Crozet Shopping Center.
TAX MAP/PARCEL: Tax Map 56A1, Section 1, Parcel 65; Tax Map 056A2, Section 1, Parcels 27, 28, 28A, 28B, 28C, 29
MAGISTERIAL DISTRICT: White Hall
STAFF: Rebecca Ragsdale

Present for the applicant was the owner of the property, Sandra Everton and Bill Atwood, architect.

Public comment was taken from the following residents of Crozet: Barbara Westbrook, Mike Marshall and George Novey. Several concerns raised were: lighting concerns from adjoining residences, keeping the

historic nature of Crozet, adequacy of parking, traffic congestion and preserving the view of the mountains.

In summary, the Planning Commission held a pre-application work session on Crozet Station to provide direction and guidance on several topic areas and questions to guide discussion. The Commission reviewed and discussed the proposal with staff and the applicant, took public comment, and then responded to the preliminary questions posed by staff. The Commission provided the following feedback on the issues mentioned in the staff report as follows:

Historic Preservation

Should contributing structures to possible future historic district be demolished for new development?

Generally, the Commission felt that there should be a major effort toward preservation of the buildings in the area proposed for redevelopment. If the buildings could not be saved, a "tribute" to the buildings should be provided. The intent was to maintain the "feel of historic downtown" and its charm. If they could be preserved, the buildings from Crozet Pizza to the corner should be the main focus. The design of the old train depot is a type of design that might be worth emulating as part of this project. The most important part of the project visually is the buildings and areas along Three Notch'd Road. What is behind those buildings is not of as much concern. Staff is expected to work with VDOT to try to minimize widening of Three Notch'd Road in order to retain the look and feel of the existing block.

Mix of Uses & Residential Density

Is the mix of residential and commercial/retail uses appropriate?

Generally, the Commission felt that the mix of residential and commercial/retail uses was appropriate with the increased amount of 56,000 square feet if they keep affordable residential units in the mix.

Design and Layout

What features of the design and layout does the Planning Commission find appropriate? What would the Planning Commission suggest to improve the layout and design?

The Commission suggested that the part of the project containing the existing IGA and the large parking area be addressed to reorient the buildings differently towards Route 240. The applicant needs to work on better solutions to relegate the parking on the eastern portion of the property, particularly at the grocery store, and to provide a buffer. The topography of the site was noted as a concern to have to be dealt with. The western end of the project should be kept looking "Crozetish". If this moves forward, details should be provided to show how the green area relates to the rest of the site. If there are residential units information on urban open space or amenities should be provided as well as an interconnection to the east

***Old Business**:*

Ms. Joseph asked if there was any old business. There being none, the meeting moved on to the next item.

***New Business**:*

Ms. Joseph asked if there was any new business.

The Commission received a letter from Thomas Temple Allan that talked about fill going in next to a guard rail. Mr. Edgerton was concerned that the guard rail is going to go away. The Commission asked staff to follow up on this and the possibility this also involves putting a bridge across a tributary of Ivy Creek.

There being no further new business, the meeting proceeded.

***Adjournment**:*

With no further items, the meeting adjourned at 9:50 p.m. to the June 6, 2006 meeting.

V. Wayne Cilimberg, Secretary

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