Albemarle County Planning Commission
August 22, 2006

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, August 22, 2006, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Pete Craddock, Eric Strucko, Jo Higgins, Jon Cannon, Bill Edgerton, Calvin Morris, Vice-Chairman and Marcia Joseph, 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 David Benish, Chief of Planning; David E. Pennock, Principal Planner; Rebecca Ragsdale, Senior Planner; Gerald Gatobu, Planner; Allan Schuck, Engineer; Judy Wiegand, Planner; Bill Fritz, Chief of Current Development 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. There being none, the meeting moved on to the next item.

Regular Items:

SUB 2006-162 Cismont Reserve - Request for preliminary plat approval to create 19 lots on 121.96 acres. The property is zoned RA, Rural Areas. The property, described as Tax Map 66 Parcels 14, 27, 27A, and 27B, is located in the Rivanna Magisterial District on Louisa Road [Route #22], across from Sipe Court [Private] near Cobham. The Comprehensive Plan designates this property as Rural Area in Rural Area 2. (Gerald Gatobu)

Mr. Gatobu summarized the staff report.

- Request for authorization to allow a private street to serve two (2) lots. The applicant intends to create 19 lots on 121.96 acres with 17 lots served by a public road and 2 lots served by a private street.
- The site is wooded with no buildings. A stream, Daniel Branch, forms the eastern boundary of the property. This stream has floodplain.
- Factors Favorable: The general welfare, as opposed to the proprietary interest of the subdivider, will be better served by the construction of the private street than by the construction of a public street. Additionally, requirements outlined in Section 14-234(c) will be met.

Mr. Edgerton asked if 19 was the maximum number of lots allowed, and Mr. Gatobu replied that it was.

Ms. Joseph questioned how the parcels access the road because it appears landlocked.

Mr. Gatobu noted that the property was currently vacant and wooded.

Ms. Joseph said that the private road will only serve the two lots in the back and it will not serve the lots that the easement runs through.

Mr. Gatobu replied that was correct because those lots have their access off the internal public road.

Ms. Joseph asked if there would be some type of engineering review for the road itself.

Mr. Gatobu replied yes, that it would have to be approved with conditions. He had talked with the applicant and the road has to be 30' according to County standards. So staff would have to look at that.

Ms. Joseph noted that the topography looks questionable in that area.

Mr. Fritz pointed out that since the road only serves two lots that the road standards is simply reasonable access by a motor vehicle. It is a driveway that needs to be reasonably accessible.

Ms. Joseph said that she was looking for a reasonable review to ensure that the driveway can be accessed.

Mr. Fritz noted that there would be an erosion and sediment control plan to go along with it. That would be the tool that staff would use.

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

Bragg Clark, contract owner and applicant, said that he would be happy to answer any questions or concerns.

Mr. Morris asked if he currently had access to this property.

Mr. Clark replied that currently they had the existing state road. The property has 1,800' of state road frontage on Route 22. There was never a land lock issue because the lots were being sold by the same owner. There is an old timber road that has been used for timbering. There is an old part of the farm house and outbuilding that is still there, which will not be disturbed.

Ms. Joseph asked if he used an existing road bed to lay out the road.

Mr. Clark replied no, that they had to center the road to accommodate the layout and acreage of the lots.

Ms. Higgins asked if there was a reason why the easement of the two lots is lined up with lot 15.

Mr. Clark replied that it would end up being a bit better than that with a cul-de-sac. To address the location of it they were going to move it back.

Ms. Higgins noted that if it was a joint easement and she would think that it would have to touch both properties.

Mr. Clark said that the easement will touch both properties. He assured they would do a plan on it so that the standard would be higher than the County requirement.

Ms. Joseph suggested that they use a hammer head so there would be less pavement.

Mr. Clark replied that was something that would prevent emergency vehicles or somebody turning around from going in the ditch. There are also drainage issues that they have to take care of.

Mr. Edgerton asked why he wanted to go to a private road to serve these two lots.

Mr. Clark replied that it was for economic purposes. Also, VDOT requirements for drainage are very detailed for that amount of road. With the BMP and everything that is required it would end up with a lot more impervious surface. They are trying to preserve as many trees as possible. The width for VDOT would be 20' wider. He was sure that they would end up with 1 or 2 BMP ponds. He felt that was the other big issue. They were trying to do as little clearing as possible.

Mr. Edgerton asked if the Commission chose to deny the use of a private road, what would be his options at that point.

Mr. Clark said that the land is already divided. Unfortunately, a long time ago there was an easement back through this other land as shown in the tax records. It is very confusing. To be honest, he did not know what he would do.

Mr. Fritz pointed out that he could combine the two parcels into one lot or put in a state road.

Mr. Edgerton said that there is no way to reconfigure it and get the 19 lots without using this as a separate parcel.

Mr. Fritz replied that was correct because those 2 development rights come just in those areas and cannot be moved elsewhere.

Ms. Joseph invited public comment. There being no public comment, the public hearing was closed and the matter before the Commission.

Ms. Higgins said that one issue that she looked at was the narrowness of this lot and that it was fully wooded. The environmental degradation being what it is to do a public road that in the past this would have been a perfect candidate for a private road. It would have minimized the cuts and fills, tree removal and that sort of thing. A private road would limit the impact to the land. But, it is before the Commission as just a private road for one section. Based on the parcels as they are put together it is no more a development right to allow it. There is no compelling reason to increase the impervious area to serve the two lots with a public cross section. As long as it is adequately reviewed according to the County's standards for servicing two homes, it is an appropriate request.

Mr. Edgerton asked staff for a clarification on the comment on page 10 where it talks about one or more private streets may be authorized if the general welfare as opposed to the proprietary interest of the subdivider would be better served by the construction of one or more private streets for shared drive ways. He was having a hard time how this does anything but serve the proprietary rights of the developer. He asked if staff had other reasons.

Mr. Strucko asked why it could not be a shared drive way.

Mr. Fritz noted that it was technically a private street and not a shared drive way. The reason is that it has to be a private street in order to allow those lots to get frontage. The lots cannot have frontage on a shared drive way. It is just the wording in the ordinance. The effect is that the design is essentially the same, but it is a specific definition that it has to be a private street, which kicks in the need for Planning Commission approval. There are other lots in this development that are on this public road. If they chose to, for whatever reason, they can have shared drive ways and that does not require any Planning Commission approval. They would just be shared drive ways. The standard is just reasonable access. It is a specific distinction, which is why he was pointing it out.

Motion: Ms. Higgins moved, Mr. Morris seconded, to approve the waiver for the two lots to be served by a private street in SUB-2006-162, Cismont Reserve.

Mr. Fritz noted that there was some discussion about a potential condition for the turn around. He asked if the Commission wanted to limit the size of it. He suggested the following language: Emergency turn around to be provided at end of Private Street. The turn around is to be a K turn or a hammerhead style.

Ms. Higgins added to serve emergency vehicles and amended the motion to include that wording.

Mr. Morris seconded the amended motion.

The motion failed by a vote of 2:5. (Commissioners Morris and Higgins voted aye.) (Commissioners Edgerton, Cannon, Joseph, Strucko and Craddock voted nay.)

Ms. Joseph said that this request was denied. She asked Mr. Kamptner if there was an appeal process.

Mr. Kamptner replied that it could be appealed to the Board of Supervisors within ten days of the action. He suggested that someone make a motion that articulates the reason why this is not passing and state the grounds. He assumed that it was because those who voted against it are unable to find that the private street would better serve the public. He suggested the wording that the Commission found that the proprietary interest of the subdivider was the paramount basis to approve the private street rather than the public's general welfare.

Motion: Mr. Edgerton moved, Mr. Strucko seconded, to deny the waiver for the two lots to be served by a private street in SUB-2006-162, Cismont Reserve for the reason articulated by Mr. Kamptner that the Commission found that the proprietary interest of the subdivider was the paramount basis to approve the private road to the public's general welfare.

The motion passed by a vote of 6:1. (Commissioner Higgins voted nay.)

Ms. Joseph asked Mr. Kamptner to explain the appeal process.

Mr. Kamptner said that it can be appealed to the Board of Supervisors within ten days from today.

SUB-2005-347 Sherwood Farms - Request for preliminary plat approval to create two (2) lots on 4.225 acres. The property is zoned Rural Areas, RA. The property, described as Tax Map 76N, Subdivision 3, Parcel M, is located in the Samuel Miller Magisterial District on Mountain View Drive [Private] in the Sherwood Farms Subdivision. This proposal includes a request for authorization of a waiver to Section 14-234 to allow additional lots to access off of the existing private street. The Comprehensive Plan designates this property as Rural Area in RA-4. (David Pennock)

Mr. Pennock summarized the staff report.

- This is a request for a private street authorization. In this case the request is to allow additional lots to access off of an existing private street. Sherwood Farms Subdivision has existed for a long time. The proposal is to further divide one of the lots, which in this case would require the use of the existing private street, Mountain View Drive. That street, based on the engineering analysis, does not meet current private street standards or current VDOT requirements. So this request would involve a waiver of those private street standards in order to allow this additional lot.
- The meat of the staff report is the engineering analysis. Again, the road is not officially adequate to meet the existing standards in our ordinance. So the necessary findings that staff had to go by in this case included that it would be adequate to carry traffic volume which may be reasonably expected. It is hard to make that finding with the existing condition of the road.
- Another potential concern would be the environmental impacts. In this case they are not proposing any upgrade. But, in order to upgrade this to a public street that would be a counter argument. But, upgrading this road would require some significant improvements.
- In general, because the road does not meet today's standards it was impossible to make findings that this met the requirements in the ordinance. So staff was unable to recommend approval.

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

Beth Pratt said that she has lived in this subdivision for 14 years. Currently, she lives at the end of Mount View Drive where it meets Overlook Drive. There is a private road maintenance agreement that has been in effect for a number of years that serves the 20 existing lots on Mountain View Drive. She did not realize that Mountain View Drive was a private road. Some of the streets in Sherwood Farms are public, which includes Overlook Drive and Chestnut Oak. So she was not sure how this would impact what they would like to do with the lot. It is a 4.2 acre lot, which was currently wooded. They would like to build 2 homes on it if this subdivision were approved. The road is a cul-de-sac and there is adequate space to turn around at the end. If there are any questions, she would be happy to answer them.

Mr. Cannon asked what she would do if they denied the waiver request.

Ms. Pratt replied that a duplex would be permitted in the Rural Areas. A duplex was also permitted in the covenants and restrictions in Sherwood Farms. So by actually subdividing it they would not be increasing the amount of road traffic on Mountain View Road because a duplex is already permitted.

Mr. Fritz replied that a duplex was permitted in the Rural Areas. The applicant would not be able to sell the two units separately. Since no subdivision would be occurring there would be no review of the provisions of the Subdivision Ordinance. They would simply apply for a building permit. A duplex is permitted by Section 10.2.1.2 of the Zoning Ordinance. Side by side duplexes subject to provisions of Section 10.4 provided that density is maintained and provided that buildings are located so that each unit could be provided with a lot meeting all of the requirements for detached single family dwellings, except for side yards at the common walls. Other two family dwellings shall be permitted provided density is maintained.

Mr. Edgerton asked if he said that they could not be sold as separate units.

Mr. Fritz replied that was correct unless they got a private street or meet the other requirements of the ordinance.

Ms. Higgins said that they could be sold as condos.

Mr. Fritz replied that was correct.

Ms. Joseph invited public comment.

Norma Diehl, an adjacent property owner of 108 Mountain View Drive, noted that the Commission had received her letter in their packet. First of all, she would not reread the letter since the Commission has an opportunity to read that. She did want to question the item that just came up because in Sherwood Farms they have deed restrictions on the type of homes that can be built. She thought that only single family homes were allowed according to the deed restrictions. Therefore, she really questioned the idea that a duplex or something of that nature could be built there. As stated in her letter, she was asking the Commission to deny the waiver as suggested by the Planning Department and the Engineering staff. As they ascertain there are no justifiable rationale for allowing this waiver. It would be a financial benefit and a convenience to the investors. They feel that it would impact their neighborhood to divide this lot, which has been there longer than she has lived there. She has lived there for about 25 years. To divide this lot would double the value with respect to the investors. But, it would also double the amount of future traffic on an inadequate private road. It would also double the amount of logging vehicles that would be removing logs in the development of two lots rather than one. It would double the construction traffic and the heavy equipment that would impact their road. As it is a road that is maintained at private expense they are very concerned about the issue of doubling the density on this particular parcel.

Mr. Edgerton asked if there were other lots in the development that would be large enough to be subdivided.

Ms. Diehl replied that she had been told that there are probably three other lots on that road that could if this is approved go through the same division process. That concerns them. As stated in her letter, if that occurred they could increase the traffic on that road by about 20 percent.

Mr. Strucko noted that was a question that he had for staff in whether there were potential development rights on other lots.

Mr. Pennock noted that these lots predate 1980. In December, 1980 existing Rural Area zoned lots that were greater than 2 acres in size or basically any lot greater than 4 acres had 2 development rights if it meets all of the other requirements. Theoretically the lot would have 3 development rights. There are several other lots that are plus and minus around that 4 acre number. He suggested that the adjacent owners might be able to speak to that.

Norman Dean, an adjacent property owner, said that his recollection was that if they started the subdivision process on that street they could potentially face an additional 16 lots. There are 18 lots currently. That is the can of worms that they are opening in that direction in principle. As far as the road issues go, it is substandard. They made a serious effort 20 plus years ago to get the road taken into the state system, but it could not be done. That is what forced them into the road maintenance agreement in the first place. They simply don't have the money to upgrade it even to the VDOT Mountainous Standards. For himself, he could say that he has hit the ditch many times on some very tight corners. They have poor sight distances and it is not going to get better in the foreseeable future. Needless to say, he is somewhat against the request.

Mr. Edgerton asked if he knew if the covenants prohibited duplexes.

Mr. Dean said that his recollection was that it said single family dwellings, but he had not looked at it in a few months.

Ms. Higgins pointed out that it was a private matter.

Ms. Joseph agreed, but noted that it was an interesting concept. What they were trying to say if it was in their deed it was nothing that the Commission could do about it.

Mr. Edgerton said that if the covenants prohibits the development of duplexes in this project, then it was his concern because he was trying to get a handle on whether by denying the subdivision they were in fact denying the number of users. That is the issue.

Ms. Higgins noted that situation had just happened in Inglecress.

Teresa Culver, an adjacent property owner, said that she believed that there is a stipulation on how many non family members can live in any dwelling. There are also stipulations about private business. But, that is independent of the covenant standards. The other issue she wanted to stress was that the road was not up to standards. Since she lived right across the street from the subject lot she wanted to point out that there is no line of sight vision on the road on either side of this lot. You really cannot see whether there are cars coming. They have to be very careful for walkers, children and animals on the street. They are very concerned that driveways not be packed into this area where there is no line of sight.

Ann Bernard, a neighboring property owner, supported her other neighbors against the request. She opposed the increased traffic on the road, particularly due to having a young child and the potential safety concerns of walking on the road. She preferred that the Commission not approve the request.

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

Ms. Joseph invited Allan Schuck, Engineer to come forward to answer some questions. She was assuming that a lot of the information in the staff report came from him. She asked if his opinion was that it was substandard currently.

Mr. Schuck said that the road was currently substandard as it exists. It does not meet the VDOT Mountainous Terrain Standard. It does have existing pavement. The pavement width varies throughout the sections. They have some sections up to 15 percent slopes, which is less than the 16 percent Mountainous Terrain. Where they propose to come out with October Lane the sight distance is questionable because of a steep vertical drop heading out of the site. Further down the road the potential for an opening would provide adequate sight distance coming in and out, but at October Lane it would be tough. Any private road recommendation, as previously stated, from an engineering standpoint they would recommend updating the road to the current VDOT's standards. It would constitute significant upgrades. They would have to move some easements around to make the grading and drainage work. The potential of being approved by VDOT is very unlikely because where the road starts there is an existing pond or dam on the east side and it overflows the road. It has a current pipe going through at

about 15" to 18", but he would assume that in a 10 to 25 year storm it would go over top of that. But, no analysis has been done. From that standard, staff would recommend that it be upgraded.

Ms. Higgins asked if this was a state road and someone wants to put in a residential driveway would they have to go to VDOT and apply for a residential permit. Then someone would come out and measure for sight distance and issue a permit for a residential driveway. Since it is a private road what is the procedure with the County even if they go to building the one house.

Mr. Schuck said that to the best of his knowledge they would still have to get a VDOT permit coming out on the public road. For the private roads, he did not know if they have a process.

Ms. Higgins noted that VDOT would not go out on a private road. They won't check any existing private road entrance onto a public road. She asked if the County has done anything about private roads. If they came in tomorrow for a building permit there is no check on how the driveway connects to the private road.

Mr. Schuck replied that to the best of his knowledge that is correct. They don't have any internal checks or balances.

Mr. Fritz noted that there are no sight distance requirements for drive ways entering onto private streets.

Ms. Higgins asked if there a requirement in the building permit process for safe and adequate access, which would mean that they would check the entrance.

Mr. Fritz said that there is something about adequate access, but he was unaware of there ever being an issue.

Ms. Higgins noted that two houses could be on one drive way and they still don't have to meet the residential requirement. But, the County never implemented a permitting process for private roads.

Mr. Schuck replied that they don't.

Mr. Pennock said to clarify what Mr. Schuck said that the proposal is not to access on to October Lane, but actually access on to Mountain View Drive, which happens to be adjacent to the existing October Lane. Again, that would just be drive ways serving individual lots.

Ms. Higgins requested to ask Mr. Fritz a question for clarification. What he was reading from was that if they have a division right in the Rural Areas, then they could use it to put a second dwelling on the property and it does not have to be a subdivision. Big farms do it if they have multiple division rights as long as they can meet all of the other requirements. So it does not have to be a duplex. It can be another single family residence as long as the lot is not subdivided.

Mr. Fritz replied that was correct, but they could not sell it off separately.

Ms. Higgins clarified that it only happens if they have a division right that they can demonstrate is available and then they can put in a second dwelling. That is the only way they could pull a second building permit.

Mr. Fritz said that they could not divide this property and apply for two building permits for single family dwellings or one building permit for a duplex as far as the County is concerned regardless of the road condition.

Ms. Higgins noted that in her internet check most of the acreage of the lots was 3 acres. So they would need to have at least 4 acres to have an additional development rights.

Mr. Fritz noted that from looking at it, there were probably 3 or 4 parcels that were pretty close to that 4 acre minimum.

Ms. Higgins noted that every house on this road could do an accessory apartment without any approval as long as they met the conditions.

Mr. Fritz agreed that was possible theoretically.

Ms. Higgins pointed out that several months ago in Inglecress this matter was pursued by the Homeowner's Association. It went to court and the court upheld that the Homeowner's Association had to allow that subdivision. But, she did not know if it was being appealed. She pointed out that unless the Homeowner's Association pursues it that it does not matter if it is a covenant or not. The rest of the homeowners have to join together and dispute it.

Mr. Strucko asked staff what the applicant could do without the waiver.

Mr. Pennock replied that it would be impossible to subdivide this lot without this waiver or upgrading the street. It is a buildable lot today, but they can't subdivide.

Mr. Morris noted that based on the engineer's report he would feel very ill at ease in adding more traffic than is currently allowed. Therefore, he could not support the request.

Motion: Mr. Edgerton moved, Mr. Morris seconded, to deny the request for authorization of a waiver to Section 14-234 to allow additional lots to access off of the existing private street in SUB-2005-347, Sherwood Farms for the reasons set forth in the staff report and the safety reasons stated by members of the public.

The motion passed by a vote of 7:0.

Ms. Joseph said that the waiver was denied and could be appealed to the Board of Supervisors within ten days from today.

SUB-2006-163 Lake Ridge - Preliminary Subdivision Plat Review, Request for Waiver of Second Point of Access, and Request for Waiver of Curb and Gutter Requirement. Request for approval of a preliminary plat to allow the creation of 104 lots (7 Rural Area lots and 97 Development Area lots). The property, described as Tax Map 78, Parcel 57, contains 252.72 acres zoned R-1 (Residential), RA (Rural Areas) and PRD (Planned Residential Development), adjacent to the Franklin, Ashcroft West, Cascadia, and Fontana subdivisions. This site is located in the Rivanna Magisterial, with proposed access from Fontana Drive [Route #1765]. The Comprehensive Plan designates this property as, in part, Neighborhood Density in Development Areas Neighborhood 3 and, in part, Rural Areas in Rural Area 1. (David Pennock)

Mr. Pennock summarized the staff report.

- This is a proposal for the creation of 104 lots. It is split zoned and crosses over the boundary between the Rural Areas and the Development Areas. Ninety-seven of the proposed lots are in the Development Areas and Zoned R-1. The other seven lots are in the Rural Areas and are zoned Rural Areas.
- Access to this parcel is proposed through the existing Fontana Subdivision on Fontana Drive. Due to a sequencing issue there was originally a request that was suppose to go last week for Fontana Phase 4C, which did not go forward and was deferred. The portion of Fontana Drive that will serve this subdivision does not exist. If this preliminary plat does go forward that would be something that he would add as a condition that road would have to be approved at some point.
- There are seven requested actions. The first four are waivers of the Subdivision Ordinance for the installation of curb and gutter, sidewalk and planting strips. The fourth is for the interconnection of streets, which is a requirement to coordinate connections with existing or planned public streets in the area. It is also a waiver of the Subdivision Ordinance for the disturbance of critical slopes. Then an action for the approval of open space is requested. Finally, the approval of the preliminary plat is being requested.

- There are previous versions of this plan where staff has seen Lake Ridge Subdivision. Typically, it was for a similar number of lots that had some of the same issues. But, staff does not believe that any of those plans have gone before the Planning Commission. This particular lot is a large lot. So there is other history on this property that ended up being phases of Fontana as well as all the way out to the Montessori School. So this was a particularly large piece of property that was zoned in waves and then subdivided in waves. There has been a lot of action on this parcel. But, the particular zoning action that is relevant to this review was done in 1994, which zoned the R-1 portion of this property.
- In the curb and gutter waiver request the applicant is requesting to use a rural section for the roads. Staff's analysis was based on findings in the ordinance for the number of lots, the length of the street and the proposed density. In this case 104 lots would be served by this street. The length of the street would be about 8,900 linear feet. The overall density in the R-1 portion is about 1.25 dwellings per acre. A couple of other findings in that section is that:
    - Based on the engineering analysis, the Neighborhood Model principle site planning respects the terrain. He felt that was where our engineering analysis was critical here. Alan Schuck did a good job of analyzing this. But, in addition, there have been previous analysis done. One was done by Jack Kelsey, County Engineer, as well. In summary, with the higher density of lots and a larger number of lots in the Rural Areas, particularly on steeper terrain, it is difficult to handle the run off that is expected particularly during construction of the project so that the division of the grass swales controls the run off. , Mr. Kelsey has a slide show to that effect. But, staff has summarized that. One of the attachments speaks to that as well.
- Finally, the density recommended in the Land Use Plan. Included in the staff report is a quote from a report that Elaine Echols put together. In short, the list of considerations for waivers of this type building to the proposed density in the Land Use Plan was a waiver that could be considered. In this case the proposed density according to the Land Use Plan is between 3 and 6 acres. Because this is short of that, her analysis in similar situations has been that could be a reason not to consider the waiver.

Ms. Joseph asked staff to go back to the density question again. Staff said that it was 1.2 dwelling units per acre.

Mr. Pennock noted that was in the Development Area.

Ms. Joseph noted that the average size of these lots is ½ acre. Then there is a road and other areas.

Mr. Pennock noted that there is open space proposed in this case as well.

Ms. Higgins asked what the average frontage is on these ½ acre lots. The drawing is so small it is hard to read.

Mr. Pennock replied that it was about 90' to 100'.

Ms. Joseph pointed out that there was one at 80', 100', 117' and 88'.

Ms. Higgins said that all of the lots were more than 50' or 60'.

Mr. Pennock replied exactly and that the lots were all fairly narrow. He continued summarizing the staff report.

- The sidewalks requirement is also out of the Subdivision Ordinance. One of the findings for this one is dependent on whether or not a rural cross section has been granted. So right away that dominos off of the first proposal. The other consideration was the length of the system of sidewalks. There are pedestrian paths on their current proposal, but they are not sidewalks. So it was questionable whether or not this sidewalk would be reasonably expected to be used. There is no sidewalk in Fontana, which is adjacent. Would this be worthwhile having? Because there is a large number of lots served and with the other pedestrian paths that are proposed it

could create a circuit. It would probably be 2 miles of paths if they counted sidewalks on both sides of the road as well as the pedestrian paths through the areas. The road itself is 8,900 linear feet. He thought that it was a potential that it could be useable, particularly because there are such a large number of lots. Again, with the Neighborhood Model principles that is one of the recommendations for walkable communities, interconnections and that sort of thing.

- Regarding the planting strip waiver, the applicant is proposing street trees along the road so it is not an issue of the trees. The definition of planting strip is a 6' wide strip between the paved travel way and the sidewalk. So if the first two waivers are granted their request is to modify the planting strip requirement such that they would provide individual easements basically around each tree as sort of a spot easement. He was not sure if that was clear from the staff report.

Ms. Joseph questioned if it was the drip line.

Mr. Pennock replied that the idea was that our definition of having it between the road and the sidewalk did not apply if those first two waivers were granted. So the applicant is saying that they have no problem with providing trees, but the easement that they would use to maintain those trees did not need to be as large. It is a modification rather than a complete waiver of that section. He continued the staff report:

- The next waiver is interconnection. Different versions of the previous Lake Ridge plans have shown different extensions. But, in general one that was shown was usually called Bash Lane continuing to Franklin Road. He explained the various interconnection locations on the composite map. The current proposal shows the stub out at the property line. They would basically extend it back through the adjacent property to Franklin Drive.

Mr. Schuck said that Bash Lane is currently a private drive that serves this property.

Ms. Higgins asked which ones are proposed to be stubbed out and which ones are they looking to waive.

Mr. Pennock replied that the only connection that they were making was at Fontana Drive, which is the connection that serves the property. There are no extensions to off-site properties. One of the comments staff gave the applicant was that more than 50 lots required a second point of access. But, that is a site plan requirement now.

Mr. Fritz noted that was removed from the Subdivision Ordinance in June.

Ms. Joseph noted one of the things that the Commission looked at in the site plan for C is that there were many outstanding road bonds that the County was still holding because there were problems on that rural section out there. She asked if he could recall what those problems were.

Mr. Schuck noted that some of the roads are in the State system. He distributed some photographs of the roads. He asked that the Commission go to page 5. They can see how heavily the rip rap is in the front and it was not designed for rip rap. He noted that they can see some of the drainage problems in the photos. Regular ditch line sections were proposed by VDOT. Because of the steep terrain the existing problems with the erosion and sediment control issues and water going into people's residents and the washing out of driveways they had to come in and rip rap the channel. The previous page shows another existing channel and what they had to do on some of the existing driveways to handle the run off. The County is still holding bonds because of issues with drainage and trying to maintain this by getting easements. The water is going where originally it was not suppose to be going because they can't control the drainage.

Ms. Joseph said that these were bonds from the early 90's and not more recent.

Mr. Schuck agreed that there were some bonds from the late 1990's still out there from all of the original phases that exist for roads, storm water and erosion and sediment control. Staff wants overlot grading plans and is recommending curb and gutter to try to curb an existing problem. The photographs give the

Commission some sense of the existing conditions that they have with Fontana against the neighboring proposed subdivisions.

Mr. Pennock continued summarizing the staff report.

- The critical slopes waiver is next in the report. A lot of the points that he is discussing there also applied in the analysis of the critical slopes waiver. There are mixed findings. This is a site in the Development Areas and it is not shown on the aesthetic resources plan and the open space plan. It is shown as a tree preservation area. They are proposing some tree preservation, but in general the erosion problems that Mr. Schuck is talking about were significant enough that the potential of those problems that they were not able to recommend approval of the critical slopes waiver either. Attachment E on page 34 of the report indicates that if the waiver for the curb and gutter requirement is granted, then he has an additional condition about the overlot grading recommendation. In other words, that would potentially make the problem even worse. Staff is not recommending approval of the critical slopes waiver either way, but he is further tying two of those waivers together.
- Finally, the last action, except the plat itself, is the approval of the open space. Staff's analysis had to do with what is proposed within the open space. Again, the applicant is proposing tree preservation areas within the open space. Some of the storm water management is shown in the open space. They are proposing paths in the open space. But, in general about 30 percent of the R-1 zoned property is proposed for open space. The location provides somewhat of a buffer between the Rural Area lots and the Development Area lots in several pieces. It does not apply to all of the lots. There are a couple of Rural Area lots that back up to Development Area lots. But, there are several other areas where this provides a buffer. Staff is recommending approval of the open space.
- The last action is the review of the preliminary subdivision plat. There are a number of waivers requested. Obviously, there are still some issues to be ironed out. Based on staff's analysis, staff is not recommending approval of the preliminary plat.

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

Ms. Higgins said that back to the interconnections based on the staff report that staff supports a connection to Bash Lane. The applicant is asking for a waiver to not connect, but that the road would be stubbed out for a future connection.

Mr. Pennock replied that the applicant's current proposal that the Commission has in front of them has a cul-de-sac right there at the property line.

Ms. Higgins asked if it could be extended in the future.

Mr. Pennock replied yes.

Ms. Higgins asked what is happening on the Bash Lane side.

Mr. Pennock replied that at the moment there is no proposal.

Ms. Higgins asked if that already has residential lots on it.

Mr. Pennock replied yes.

Ms. Higgins said that would be a stub out that potentially, unless that property is redeveloped, would never happen.

Mr. Pennock replied yes, that it was difficult to say what might happen. But, she was correct that it would take some action on that side.

Ms. Higgins asked if Bash Lane was in the Development Area.

Mr. Pennock replied that was correct that most of Bash Lane was in the Development Area. Again, it was arguable depending upon the way that the road meanders.

Mr. Craddock asked if it was the same property owner.

Mr. Pennock replied that it was not.

Ms. Joseph noted that they were not taking the stub out to the Rural Areas, but to the Development Areas.

Mr. Strucko pointed out that Bash Lane was going to Franklin.

Mr. Morris noted that Franklin was rural.

Ms. Higgins said that they would be putting the traffic from this Development Area into the Rural Areas. She asked if Franklin Lane and Bash Lane was a public or private road.

Mr. Morris said that is correct. Bash Lane right now is a drive way, and the original thought was to improve it.

Mr. Pennock replied that Franklin Lane was public.

Mr. Cannon said that regarding the request related to curb and gutter, sidewalks and planting strips he would like to ask if staff understood the purpose of those. He asked if it was primarily to reduce the costs of development because the developer sees no particular benefit to the project being in compliance.

Mr. Pennock noted that the applicant had several justifications. Most of them had to do with compatibility with the other subdivisions in the area. Existing Fontana was developed without curb and gutter, sidewalk and that sort of thing.

Ms. Higgins said that they drive through a lot of rural roads and all of a sudden they would come to an urban section.

Mr. Pennock said that was exactly true.

Mr. Cannon asked if there was any potential interconnectivity with trail systems within the regions. He asked if there were particular trail systems that exist or are planned that would relate to these sidewalks.

Mr. Pennock replied that the only connection here would be with Fontana. But there is an existing path system that theoretically could tie in with this connection.

Ms. Joseph asked if any of those trails in Fontana had been built or they still holding bonds for them.

Mr. Pennock replied that some have, but he did not think that any of the ones adjacent to this particular portion have been built.

Ms. Joseph asked can the ones in Fontana be built.

Mr. Pennock replied that Fontana 4C, the portion of Fontana that was scheduled to be heard last week, was deferred. That is sort of the missing link between the existing phases of Fontana and this portion. There is a gap there.

Ms. Higgins asked Mr. Schuck if in the new Subdivision Road Book dated 2005/2006 is there a volume or criteria where it requires that a typical section be curb and gutter versus rural section.

Mr. Schuck replied that there are no criteria. The VDOT standard gives criteria both ways. They base it on traffic counts and the anticipated daily traffic. They give it the same for a rural section as well.

Ms. Higgins asked if they could handle the same volumes of traffic.

Mr. Schuck replied yes, that they can.

Ms. Higgins asked if character wise from a development standpoint a neighborhood character might be urban or rural, but there is really no design reason for it to be one way or the other.

Mr. Schuck replied that the design would be different in this particular case from County staff review. Curb and gutter is imperative to take care of the drainage because of the existing terrains with what they have seen in the neighboring Fontana Subdivision. So with curb and gutter they can direct where the water is going. They can put the inlets in place, the pipe system underground and get it to the facility.

Ms. Higgins said that there is no criteria or design requirement that VDOT imposes that says a road has to be curb and gutter or rural. In other words, some people perceive that when you get up to a certain traffic level, then it becomes urban. But, that is not the case.

Mr. Schuck agreed that is not the case.

Mr. Edgerton noted that it was the drainage and their standards are not focused on that.

Ms. Higgins said that they have to meet all of the drainage requirements.

Mr. Schuck said that staff does have issues with the proposed trail system in Fontana because they don't know if they can be built now with the way things are in certain sections of Fontana. There are existing issues out there that have not been resolved.

Mr. Cannon asked if staff does not know if they can be built because they are not designed well or not placed well.

Mr. Schuck replied that they cannot be built where they are shown on the plan because of whatever the issue may be. There are trail issues in Fontana that have not been resolved, which is probably part of the bond situation. To the best of his knowledge, they do have a bond on some of those improvements.

Ms. Joseph reiterated that the reason that the Engineering Department is concerned about that is because it is adjacent and they are thinking that the soils are going to be the same and that they will have the same sort of problems that they see on the existing terrain in Fontana.

Mr. Schuck replied that is correct. Staff anticipates the same grades with the rolling terrains.

Ms. Higgins asked if an overlot grading plan solve those issues.

Mr. Schuck replied that it was going to solve an issue from the standpoint of Fontana. He was going to compare the two. Fontana had individual lot grading plans. So each lot had their own erosion and sediment control plan. The problem was if you were the lot above if something leaked it took care of all of the rest. With an overlot grading plan you could grade everything to make a buildable lot, put the sediment basins where you need them and get them ready for a building pad as opposed to doing it lot by lot and maybe affecting it piece mill wise. So an overlot grading plan would allow them to build on all the lots at one time and get it prepared.

Ms. Higgins noted that it would identify the drainage path and all of that so it is built before all of he houses get there.

Mr. Schuck agreed. It also allows them to take care of all of their existing terrain to make the road grades work in anticipation before starting to put individual houses on the lots and piece milling it in.

Ms. Higgins said that a rural section could work as long as there was an overlot grading plan.

Mr. Schuck replied that was correct. On the preliminary plat approval one of the reasons for the denial recommendation from engineering is that they are proposing their existing storm water management facility over a fiber optic line, an easement that currently existed. County policy does not recommend storm water facilities over existing easements. The other issue is that staff received a letter last week that Fontana C wishes to use this facility for their preliminary plat and staff has not recommended this for approval. He asked that the Commission keep that in mind.

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

Charlie Armstrong, representative for Southern Development, said that David Jensen, of WW Associates and Frank Bailiff, of Southern Development were also present. He noted that Mr. Jensen could answer the technical questions. There are obviously a lot of different issues with this request. They are the contract purchaser of this parcel now from the owner who has owned it for 30 plus years. Therefore, they were a new group in this project. But, they are local and have built for some time in Albemarle County. They are not new to the area. (Attachment C – Lake Ridge, Albemarle County Road Section Impact Exhibit Fontana Drive Extended dated 8/22/06 by WW Associates)

First, Mr. Armstrong asked to start with the curb and gutter issue. It seems like everything sort of falls into place after that one is answered. The first reason that they are proposing to go rural section rather than urban section is because that is what the neighboring subdivision or Fontana wants from this. They don't want to drive up through Fontana and go from rural section to all of a sudden to curb, gutter and sidewalk into an urban community at the top of the hill at the base of a mountain. It does not make sense to any of them to do it that way. He hoped that they were all in receipt of a letter from the Fontana residents to that effect. They feel that curb and gutter, contrary to what staff wrote, is actually detrimental to overall water quality and quantity for two reasons. One, when you go into a grassed ditch on a street you would get some treatment of the water there naturally through infiltration and filtration by the grass. This would be rather than going into a gutter where there is oil and whatever drips out of cars that is picked up and carried straight through a pipe to the creek or to a sediment basin or storm water pond in this case. Quantity wise it also provides more infiltration so to reduce quantity at the source of the runoff rather than piping it to a big basin where it is reduced less naturally, in his opinion.

Mr. Armstrong continued that another big reason is the required disturbance of land area through grading through the two sections. He passed out Attachment C. Using an urban section road with curb, gutter and sidewalks at a minimum on flat ground requires 16 percent grade of disturbance of land. At a maximum on some of the fill areas that they are talking about it is 40 percent grade or disturbance of land to do that road versus the rural road. They have a unique subdivision here because they are at the edge of the growth area adjacent on three sides by rural character if not rural area subdivision. Most of them are actually rural areas. Franklin is a rural area zoned subdivision as is the area to the far north at the top of the mountain, Ashcroft. They don't want to disturb any more land to get this road in here than they have to. The road as a rural section can meander in there and get into the landscape a little better than in an urban section. The big issue is that it seems that overlot grading would solve all of the concerns. Tonight whether or not it is required they will do an overlot grading plan. He felt that would address the water runoff problems and the same issues that Fontana may have had. They feel that with an overlot grading plan they can engineer those problems out. Continuing with sidewalks, the plan did not have any sidewalks along the road. But, they did have paths for pedestrian use of open space. They would be happy to have a condition for a sidewalk on one side of the road all the way on every road in addition to their paths through the open space. So they can connect the roads to the open space all the way throughout the subdivision.

Ms. Joseph said that when he was talking about providing sidewalks on one side he was just talking about sidewalks and not curbing.

Mr. Armstrong replied that was correct. It would either be an asphalt path or a concrete path, which will probably set back from the road a little. It may meander across the road in places to take advantage of topography and things like that. But, that is why they would like to have it on one side of the road. They think by doing that in addition to the two miles or so of open space trails that they would add another two

miles of road trails for a total of about four miles of sidewalks and trails. To address the issue of connecting to Fontana, they would be happy to do that at whatever point their site plans can meet. He felt that would be a benefit to everybody. Doing sidewalks that way as opposed to doing them up against the curb or with a planting strip in between would also enable the sidewalks to meander up and down a little bit more with the topography and with the road. Therefore, they would not have to grade and disturb a whole lot more area to do that. They think that would be a great benefit. The planting strip issue does not seem to be an issue, but it is the definition of a planting strip. They want to put trees in there every 50' just like is intended by that section of the ordinance. That is proposed in their plan. Interconnection is an interesting issue. Ashcroft West was proposed as one interconnection point. That does not make sense for a lot of reasons and now it can't actually happen. Bash Lane is now the only other point of possible interconnection. In engineering and looking at what would be required it is actually not possible. There is an easement in place for that road to follow. It could stay within that easement. The grading for that road could not stay within that easement. This is private property on both sides of that easement and actually under easement. The driveway is for one individual owner. They would have to go down his driveway for this road and grade onto his property on the down hill side of the road. The other issue is that Franklin Subdivision does not want any part of this connection politically. Also, practically they can't make the connection because VDOT requires a sight distance easement that they can't get from that person. They won't even talk to us because that is how badly they don't want this connection to happen to their rural area subdivision.

Ms. Joseph asked if he was talking about the site distance easement where this connects with Franklin.

Mr. Armstrong replied that was correct on the down hill side. So they have tried, but it is just not possible to get it done without acquiring all of the parcels surrounding the road that are not for sale, which would change the character of the neighboring subdivision. So given he felt that it is probably not in their best interest to try to make the connection.

Ms. Higgins asked if their design would have a cul-de-sac so there would be a potential connection if it redeveloped in the future. It is so there would be nothing between the end of the cul-de-sac and the property line that would be dedicated.

Mr. Armstrong stated that the right-of-way would go to the property line with 50' all the way through to that easement. They would make it so that something could be done if an agreement could be worked out on the other side. Regarding the critical slopes waiver, they feel strongly that this plan respects the critical slopes as much as could possibly be done. There are large areas of critical slopes on this site that don't come anywhere near. They tried to stay within the topography of the road and follow the contours and stay out of the critical slopes. They feel that the multiple engineers over the years that have worked on this plan have done a very good job to make that happen. He would be happy to answer any questions.

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

Ms. Higgins asked if there was any bonus density.

Mr. Armstrong replied yes, noting that is an interesting point.

Ms. Higgins said that it is mentioned in the staff report that they are disturbing 6 ½ acres of critical slopes. She asked where the bonus density computation comes in.

Mr. Armstrong replied that they have bonus density for street trees, green space preservation and for internal roads totaling 25 percent bonus density. So they are trying to put as much density in the part of this that is in the growth area as they possibly can while still respecting the topography and not coming in there and clear cutting and mass grading the whole site. Of course, the upper portion of that site is Rural Area.

Mr. Craddock asked if the applicant has considered the affordability issues for these lots and homes or any voluntary proffers.

Mr. Armstrong replied no, that they have not considered affordability because it is by right.

Mr. Craddock said that regarding interconnection it says in the engineering requirements for coordination and connection that it can be made easily to Franklin Drive and he was saying that it can't be made easily.

Mr. Armstrong felt that staff was either going by the older submittal or they were not aware of the site distance problem with the neighbor at the corner of Franklin and Bash Lane. They were probably not aware that to get this road in here and grade it inside that easement that the grading will go significantly outside on the downhill side. If the area was already graded out there would be plenty of space. But, it is not.

Ms. Higgins asked if someone condemned that other side could he put the road in.

Mr. Armstrong replied that it could be done that way.

Ms. Joseph suggested if they built a retaining wall they could put the road in.

Mr. Armstrong replied that was true, but it did not solve the sight distance problem.

Mr. Cannon said that the density associated with their development was 1.2 dwelling units per acre overall. That is less than the density that they might claim meaning that they could go higher.

Mr. Armstrong referred the question to staff. He said that the 3 to 6 units per acre is the Land Use Plan designation and is not the by right density. He thought that they were maximizing density including the 25 percent bonus.

There being no further questions for the applicant, Ms. Joseph invited comment from the public.

Ken Webster, resident of 505 Fontana Drive, spoke in support of the request. He presented a letter in support of the road design in the SUB-2006-063, Lake Ridge Subdivision application and requested that a waiver is granted to accept the proposed design for "rural roads. (Attachment B – Letter dated August 14, 2006 to Albemarle County Community Development Department from Fontana Owners Association, Inc. signed by Kenneth H. Webster, Community Liaison – Fontana Owners Association, Inc.) First, rural roads, with pedestrian walking trails, are an ideal match for the Fontana road system. Since the primary access into and out of Lake Ridge will be through Fontana, they feel it is critical that the Lake Ridge road system closely match the width and character of Fontana roads. It is an important safety consideration for Fontana residents and will create harmony between the two neighborhoods. Secondly, the design reduces the site grading requirements and percentage of canopy that will be destroyed by road construction. Finally, they wish to underscore the environmental benefits of a rural road design. Curb and gutter roads concentrate water run off and sends roadway pollutants directly into streams. A rural road design, with reduced hard pavement area and grass-lined ditches, provides for direct soil absorption on site and an opportunity for natural filtering when runoff does go into the ditches. This in turn means that water that does make its way into streams and rivers is much cleaner. He asked that the Commission not let the County's experience with the Fontana's developer color their judgment with the Lake Ridge project. He noted that this firm has a full time staff that will be on site during the construction. They have said that they will prepare an overlot grading plan that will address the drainage issues. He asked for the Commission's support on this project.

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

Mr. Strucko said that he would have to apologize to Mr. Webster because he would use Fontana as the reason to deny these waivers. In February, during the hearing on Cascadia, the Fontana residents came out and said that the rural cross section road in their neighborhood that is built in an area where there are steep slopes is dangerous not because of through traffic, but because of the traffic generated by the development itself. Here they have a 100 dwelling unit development that could be facing those same

dangers if they don't provide sidewalks and adequate road width. It is a safety issue. He was going to use the well presented arguments that the Fontana residents made in February to back up his belief that sidewalks and growth area width streets need to be involved in this neighborhood.

Ms. Higgins said that the rural standards will have the widths of pavement that are dictated by the new subdivision road standards. So it is really not a difference in what the standards are as far as safety goes. This is a community at the end of the development area. It is the last one before you go into the rural areas. From her perspective, if you drive in the area the standards that Fontana were done under a different standard. She did not blame the people in Fontana because if you drive into a dead end community that is curb, gutter and sidewalks it will actually make Fontana feel like a lesser desirable area in comparison. Also, there is a character issue of making them consistent. One thing that they have heard in all of these hearings is that they are trying to create neighborhoods that are interconnected, but they are not thinking about the quality of the neighborhoods and how cohesive they appear. VDOT standards will require the road to be built and bonded to be adequate for safety. They can do pathways. There are other areas in the County done this way that work. But, she is totally sympathetic with staff and has been out on drainage complaints. There are certain examples staff has given of extreme circumstances. Overlot grading plans are intended to solve and direct the drainage before a builder gets in there and is a way to make a cohesive drainage system. She felt that it was not a safety issue, but an issue regarding the character of the neighborhoods. They should make the overlot grading plan a requirement so staff can work out these issue.

Mr. Strucko disagreed with Ms. Higgins about the character issue because he felt that sidewalks are a safety issue. He felt that drainage was a key issue and crossed over into the neighborhoods. He did not want to make the same mistakes twice and wanted to stick with the standards. This is a by right development, but they were asking for all of these waivers. He agreed with staff's recommendations.

Ms. Joseph noted that it was not by right the way that it was built.

Mr. Edgerton agreed with Mr. Strucko and disagreed with what Ms. Higgins said. The Engineering staff is recommending denial of these waivers. If they trust them, then they should deny these waivers.

Mr. Cannon asked Mr. Schuck to what extent would the requirement of an overlot grading plan mitigate some of the concerns that he had related to the absence of the curb and gutter or other design features that would be dispensed with if these requests were granted.

Mr. Schuck replied that in their engineering analysis of this project they recommend the overlot grading plan with the disturbance of critical slopes. So an overlot grading plan comes into play when they are doing the actual construction work. So they are not going to come in and build one house here and another house here and come in and do all of the grading for that and put measures up between that house and the next property. It is going to be done as a mass grading. It will time the construction so that they can set the grades, get them close enough so that they could stabilize everything and proceed on with their project. Where it does not come into play is after the project is finalized and now the roads are in place going to the storm water facilities. That is where curb and gutter comes into play from an engineering analysis because now they actually have their impervious surfaces and where is the water going to go. With curb and guttering engineering staff feels that in this case they will be able to direct the water better and make sure they know where it is going. But, the overlot grading plan in this analysis was done for the disturbance of critical slopes. If they want to disturb the critical slopes that is fine, but they recommend the overlot grading plan to accommodate that. That way they can put the measures where they need to protect the down stream areas. They have an existing stream that they are going to cross. So that is where the overlot grading plan will help. It will give more control with a mass grading plan that includes the individual lots than with a conventional grading plan.

Mr. Morris echoed Mr. Strucko's concerns that sidewalks are a safety issue and should be required.

Mr. Craddock felt that the interconnection was needed between the neighborhoods. He was frustrated that the applicant had not considered providing anything for affordable housing or voluntary proffers to help ease 104 houses and the potential for the number of children coming as well as police and roads.

Ms. Joseph said that since there was a 50' right-of-way in Fontana that the possibility is there. At some point in time the County may decide that they were going to have some funding available that they could put sidewalks in and move that water through some of these areas. It is going to be difficult, but it is possible to get the standard size all the way through. Therefore, they could get the children off of the streets and onto sidewalks and handle the drainage problems as they are. Therefore, she could not support the waiver requests.

Frank Bailiff, of Southern Development, said that they would like to request a deferral to have a little more time to work with staff and to try to answer some of these other questions.

Mr. Morris asked if it was an indefinite deferral.

Ms. Joseph replied that it was an indefinite deferral so that the applicant could come back when they get the things figured out.

Motion: Ms. Higgins moved, Mr. Morris seconded, to accept the applicant's request for deferral of SUB-2006-163, Lake Ridge Preliminary Subdivision Plat Review, Request for Waiver of Second Point of Access, and Request for Waiver of Curb and Gutter Requirement in order to work on this application with staff and bring it back before the Planning Commission with a potentially more satisfactory application.

Ms. Joseph stated that the request was deferred. The applicant will work with staff and figure out a date to come back with this.

The Board took a ten minute break at 8:10 p.m., and the meeting reconvened at 8:22 p.m.

SDP-2005-141 Commonwealth Townhouses - Request for Critical Slopes Waiver and Request for Waiver of Interparcel Connection Requirement - Request for preliminary site plan approval for construction of 14 townhouses on 1.044 acres zoned R15 - Residential. The property, described as Tax Map Parcel 61W-3-14 is located in the Jack Jouett Magisterial District on Commonwealth Drive [Route 1315] approximately 0.1 miles from its intersection with Peyton Drive [private]. The Comprehensive Plan designates this property as Urban Density in Urban Area 1. (David Pennock)

Mr. Pennock summarized the staff report.

- Request for preliminary site plan approval for construction of 14 townhouses on 1.044 acres zoned R15 - Residential. The applicant is requesting two waivers. One is for critical slopes waiver and the other is for a waiver of the interparcel connection.
- The critical slopes waiver was somewhat of a mixed finding. The plan shows critical slopes that are pretty significant. There is a swale and drainage area on site with steep slopes. The way to make this development work is that there are a lot of retaining walls proposed with significant fill. From the engineering standpoint that is a long term maintenance nightmare potentially. It is a hard justification to make. On the flip side, it is in the development areas and in an area recommended for high density residential development, which is exactly what is being proposed. Overall, it is inconsistent with the criteria for granting critical slopes, with the exception of # 3 that this might serve a purpose of greater importance.
- The second waiver requested is for the interparcel connection. In this case it is a mixed finding. Staff has not heard specifically from the adjacent property, Trophy Chase Apartments. But, the connection that could be made would be in some way impacting their current plan. Although, based on the maps and the plan provided it looks as though there is already some encroachment of the existing access through the Trophy Chase Apartments. It may be that there is already a connection sort of unintentionally at the back of this property. Requiring an actual paved connection of this plan there is not engineering concern such as environmental or critical slope concerns that would prevent this connection from being made. Staff had to recommend denial of that request.

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

Lane Bonner, representative for the applicant, requested the Commission to approve their request because it would improve the existing circumstance. Trophy Chase is not interested in interconnection and says they cannot give them an easement due to financing reasons. It is a tough site and will require retaining walls.

Tom Muncaster, engineer, said that in regard to interparcel inconnectivity where the dumpster pad it is 5' higher than the adjacent parcel. It has to be that high because the sewer has to go that way to connect. It would create some significant grading issues if they tried to do the interparcel connector.

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

Mr. Edgerton asked for a clarification on one point. The Commission heard from the applicant that it can't be done and from staff that it can be done. They have heard arguments both ways on whether it makes sense for long term planning issues versus whether it makes sense with the existing privately owned property next door. He asked if they could meet in the middle in asking the applicant whether he could dedicate an easement across that property for a future connection if it made sense.

Ms. Higgins asked if it would be like a road.

Ms. Joseph said that it was not a road, but just an easement.

Mr. Edgerton noted that the easement would make sure that at some point later that connection could be made. When the apartment building is redeveloped and all of a sudden it is a different thing that at least they would have the opportunity. He invited the applicant to come back up to the podium.

Lane Bonner, applicant, said yes that was great and he would offer to provide that easement.

Ms. Joseph asked if that was the case if the waiver was still needed.

Mr. Pennock replied that the waiver would be needed to allow the applicant not to build it. Typically, it would go to the property line.

Mr. Fritz noted that this provision is worded differently than the Subdivision Ordinance. It says the agent or the Commission may require interparcel connection. Therefore, the Commission could take an action or staff could do it administratively. He recommended the Commission to go ahead and take an action since they are already here.

Ms. Joseph asked if the Commission should specify the width of the easement.

Mr. Fritz pointed out that the ordinance says what the width needs to be.

Mr. Kamptner said that the easement must be 20'.

Action on Critical Slopes Waiver:

Motion: Ms. Higgins moved, Mr. Morris seconded, to approve SDP-2005-141 Commonwealth Townhouses - Request for Critical Slopes Waiver with the recommended conditions, as follows.

1. Temporary off-site easements for land disturbances where necessary on abutting properties are required prior to approval of final plan. These easements must accommodate both construction access and erosion control measures.

The motion passed by a vote of 7:0.

Ms. Joseph stated that SDP-2005-141, Commonwealth Townhouses – Request for Critical Slopes Waiver was approved.

Action on Waiver of Interparcel Connection Requirement:

Motion: Ms. Higgins moved, Mr. Strucko seconded, to approve SDP-2005-141 Commonwealth Townhouses - Request for Waiver of Interparcel Connection Requirement provided that the applicant at least has an access easement recorded for a potential future connection to the adjacent property owner, Trophy Chase Apartments.

The motion passed by a vote of 7:0.

Ms. Joseph stated that SDP-2005-141, Commonwealth Townhouses – Request for Waiver of Interparcel Connection Requirement was approved.

Work Session:

CPA 2004-002 Pantops Master Plan – Work session to discuss the preliminary draft recommendations and maps of the Pantops Master Plan. (Rebecca Ragsdale)

In summary, the Planning Commission held an informational work session to discuss and get input on the preliminary elements of the Pantops Master Plan, which include Public Input Themes and Preliminary Recommendations, the Framework Plan (Land Use), Green Infrastructure Plan, and Transportation Plan. Staff presented a power point presentation to introduce the draft Pantops Master Plan and that included a suggested approach for the Planning Commission to review the Master Plan. This was the first of a series of three work sessions that the Planning Commission would discuss the preliminary draft Pantops Master Plan. This first work session provides a broader overview on the plan elements goals, including a review of the guiding principles that the public established as part of the master plan process. Staff presented the history of the planning process and what the next steps would be following this series of three work sessions. Staff asked for the Commission's initial reaction to the work session approach. The Commission reviewed the preliminary draft plan and maps and provided comments and suggestions such as that staff provide them with larger 11" X 17" maps. The next work session will be held next week on August 29. The meeting will begin at 4:00 p.m. in Room #235.

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.

- Regarding the second quarter building report, Mr. Cannon asked staff to provide some type of forum so that the Commission could discuss this with the people who could help them interpret what these figures mean regarding the status and trends of new development units in the County. He suggested that it include the base rate of growth in the County and the base rate of growth in the rural areas versus the development area to see if the Commission is influencing that with the decisions they are making. He asked if that is making any difference and to what extent.
- Mr. Benish pointed out that staff has not developed or produced in the past year a more comprehensive report that is a little bit better report card for the development, the Development Activity Report; because they were trying to make sure that the data from City View, our new land use data management system, is accurate. So staff hopes to be doing that report again soon. It provides a more comprehensive picture development trends than the building activity report. Also related to this topic, the County Executive's Office and several Community Development Department individuals, and the County Attorney's Office is in the process of responding to a Board request to discuss rate of growth issues. Staff is trying to prepare information on that issue for the Board of Supervisors for their October meeting, I think. He will speak with Mark Graham

and Wayne Cilimberg about including the Commission's request, and see if this information going to the Board will be useful to the Commission, or possibly included them in that discussion.

- Mr. Strucko said that he liked the idea of having a comprehensive assessment of where they stand.

- Ms. Higgins pointed out that Julie Monteith did a presentation at the PACTECH Committee regarding the University of Virginia's work on developing a master plan. She suggested that it would be extremely beneficial to ask Ms. Monteith to come and make that presentation to the Planning Commission, particularly concerning the transportation and development issues on Fontaine Avenue.

- Ms. Joseph asked if there would be a quorum next week.

    - Ms. Higgins noted that she would be absent next week and the following week. Actually this could likely be her last meeting because she was actually moving out of the County. Dave Wyant is appointing a new person that will probably be appointed by the Board during the first week of September.

    - Mr. Morris noted that he would be late next week at the 4:00 p.m. work session.

There being no further old business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 9:55 p.m. to the Tuesday, August 29, 2006 meeting at 4:00 p.m. at the County Office Building, Room 235, 401 McIntire Road.

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V. Wayne Cilimberg, Secretary

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