Albemarle County Planning Commission
September 19, 2006

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, September 19, 2006, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Bill Edgerton, Eric Strucko, Calvin Morris, Vice-Chairman; Pete Craddock, Duane Zobrist, Jon Cannon 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 Wayne Cilimberg, Planning Director; David Pennock, Senior Planner; Rebecca Ragsdale, Senior Planner; Bill Fritz, Chief of Current Development; David Benish, Chief of Planning & Community Development; Amelia McCulley, Director of Current Development/Zoning Administrator; Mark Graham, Director of Community Development; Francis MacCall, Senior Planner 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.

Review of Board of Supervisors Meeting – September 13, 2006.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on September 13, 2006.

Consent Agenda:

a. **CPA 2004-002 Pantops Master Plan:** Summary of work session discussions on the Pantops Master Plan draft elements. (Rebecca Ragsdale)

b. **Places29 Master Plan Update:** Brief update on the status of the Places29 Master Plan. (Judith Wiegand)

Ms. Joseph asked if any one would like to pull an item off of the consent agenda. She asked that CPA-2004-002, Pantops Master Plan, be pulled off of the consent agenda for discussion. She had a question about the one Rivanna Ridge Shopping Center/Luxor area on Route 250. She asked that the Planning Commission direction on center-types and recommendations for these areas be clarified and whether or not they had all agreed to move the Community Center from Rivanna Ridge to the Luxor area. She acknowledged that the Commission talked about it, but did not know that they had come to that conclusion. It was on the bottom of page 5 of the staff report.

Mr. Strucko recalled that the Commission discussed that Route 250 is a barrier for pedestrians to cross and that most of the residential development is north of Route 250, which would require crossing that road. Encouraging more pedestrian access to the commercial centers is very important. Right now the situation is such that residents have to get in their vehicles to cross Route 250 because there is no pedestrian access. That was the scope of his comments. As the Pantops area evolves and as opportunities for redevelopment occur, consideration should be given to moving the commercial areas closer to the residential areas. They should facilitate more pedestrian access to them and to help alleviate the traffic congestion along Route 250 if the more regional commercial activities are going to be to the west of this area because of the Monticello view shed. That was his recollection.

Ms. Joseph recalled that the Commission talked about if the zoning of Giant stays the way it is and they encourage more intensive zoning across the street are they going to have these two centers battling each other. That is the only thing that she remembers. If the Commission agrees that it should stay as it is

stated on page 5 that these things are switched, she just wanted to make sure that they were all good with that because she remembered that part of the conversation also.

Mr. Edgerton noted that he had read the minutes and felt that Ms. Joseph was right on target. He also wanted to discuss the Route 250 Commercial Corridor. On page 6 in the bottom blue box, it says that the Commission has concerns about the wide range of land use possibilities allowed with the recommended land use designation. He recognized that there was a need for some of those types of uses in the County. He recalled that this was referring to the red zone that was open to Highway Commercial uses. He felt that they need to come up with some stronger language because there was a lot of concern expressed about not being able to restrict that corridor in such a way and that more intense land use would make the traffic situation worse. Certainly, he did recall talking about how that was down lower to the west from the Montessori School and out of Monticello's view shed. It is probably an area where more intense development should occur. He remembered a lot of concern about not directing in the Master Plan uses that would add a lot more regional traffic to the corridor.

Mr. Morris agreed. He recalled that they were concerned about the size of the red block and they were hoping to move it, but where are they going to move it.

Ms. Joseph agreed. They all recognize the need for some of these activities in this area.

Mr. Cannon asked if there was a question of certain land uses that generate more trips or generate more traffic impacts to Route 250. He was trying to determine whether it is a question of intensity of use or more specifically traffic related and ingress and egress related.

Mr. Edgerton said that his concern was to be directing the kinds of commercial activity that would have a regional impact that would actually be drawing traffic in from outlying regions that would then become our problem. He did not know what the designation would be, but certainly it was not a Neighborhood scale.

Mr. Morris said that it was a regional scale.

Mr. Cannon asked if there were different classes of regional or non-neighborhood scale.

Ms. Joseph asked if Mr. Benish if he could come up with some language that would reflect that.

Mr. Benish noted that what the Commission was providing staff with was guidance. Staff wants to be clear what their recommendations are. Then staff would come back with their response to some of these concerns. He understands that there is an intensity of activity that the Commission is concerned with and they may be able to address through a recommendation for types of forms or regional draws as opposed to more community oriented draws, but they are still relatively large scale. He was not sure how exactly they would respond to it. But, he understands what the general concern is.

Mr. Edgerton said that they certainly do need some place for commercial activity to occur whether it is directed to the Charlottesville/Albemarle community or to the central Virginia community. There needs to be a distinction there because the latter will bring in a lot of regional traffic, which will then start to choke our corridor as well.

Mr. Benish said that the Commission also addressed the form, which they understand is the built environment. But, also related to the form is the issue of accessibility. So traffic generators and ones that create a lot of in and out activity, such as auto deliveries, the importance of a parallel road system may be a way to address the intensity of activity there. Staff will see how they can address that in what they come back with to the Commission. Staff is trying to come to a consensus of what the Commission's advice to staff is as they move forward with the next version of this plan and draft the text for it. There are some changes that staff would like to come back and revisit with the Commission, particularly regarding these centers. Staff will think through what the Commission's recommendations are and maybe bring back some other points. Staff just wants to understand where the Commission would like them to go with it. But, staff will revisit some of these center issues and make sure they are comfortable with where they are going, including the shopping center areas.

Ms. Joseph asked if there were any other comments or suggestions.

Mr. Morris asked to state publicly to Ms. Ragsdale and Mr. Benish that they have done a wonderful job in really bringing together what they have heard at the public sections and what they have done for the last three weeks. It is well done.

Ms. Joseph asked to say one thing about the relationship of the river to this area. She felt that staff touched on it in the very first staff report. She did not know whether they want to get real detailed in that and say things like they want cafes that relate to the river or that they want to have places that rent canoes or whatever. She questioned how detailed they need to get. But, she felt that it was real important that they not turn their back to the river not just for recreation, but for the aesthetics of the river.

Mr. Benish said that staff would definitely try to address that.

In summary, the Planning Commission held a discussion with staff to clarify several items discussed at the previous work sessions prior to approving the consent agenda.

- The Commission discussed how Route 250 acts as a barrier for pedestrians, who may need to cross from the more residential area north of Route 250 to the commercial area. As opportunities for redevelopment occur, consideration should be given to locating commercial areas closer to the residential areas and pedestrian access to them should be greatly improved and to help alleviate traffic congestion along Route 250. This is especially important if the more regional commercial activities are going to be to the west of this area because of the Monticello view shed.
- One Commissioner noted concerns that if the zoning of Giant remains and they encourage more intensive zoning across the street, are they encouraging land uses too intense for both sides of Route 250 with what is shown on the Framework Plan.
- It was suggested that staff needs to further address recommendations for the Route 250 Commercial Corridor and to include stronger language in the Plan to address this. There was a lot of concern expressed about not being able to restrict land uses in the Route 250 Commercial corridor (red block) in such a way that would not result in more intense use and cause the traffic situation to worsen.
- A concern was raised about how the Master Plan would address the river, from both the land use and aesthetics aspects. The Commission recommended that the importance of the River should be noted in the Plan.

Staff will come back with their response to some of these concerns. Staff understands that there is an intensity of activity that the Commission is concerned with. They may be able to address this through a recommendation for types of forms or regional draws as opposed to more community oriented draws, but they are still relatively large scale.

Ms. Joseph asked if the Commission wanted to go ahead and address the consent agenda.

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

The motion passed by a vote of 7:0.

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

Regular Items*:*

SUB 2006-224 Rolling Meadows – Request for Private Street to serve 4 lots: Request for preliminary subdivision plat approval to create 4 lots on 18.62 acres zoned RA. The property, described as Tax Map 56 Parcels 112 is located in the Whitehall Magisterial District nine hundred (900) feet west of Normandy Drive and two hundred (200) feet off the Rockfish Gap Turnpike (US. Route 250). The Comprehensive Plan designates this property as Rural Areas in Rural Area 3. (Gerald Gatobu /Bill Fritz)

Mr. Fritz pointed out that all of the items that remain on the agenda tonight were finished by staff where another staff person started the review. He summarized the staff report.

- This is an application for a division of an 18.5 acre parcel to create 4 lots. The issue before the Commission is the creation of a private street. The property is located behind Greenwood Motel just east of the Blue Ridge Shopping Center on the south side of Route 250. It is in the Rural Areas. The applicant is proposing the construction of a private street to serve all of the lots. It is located over top of the existing driveway and basically is an enhancement of that existing driveway.

- Staff has reviewed this request for its environmental impact and found that it does have a significant environmental impact. The difference between a public and private road is a significant difference. Staff has outlined and given some information on the findings that the Commission needs to make under Section 234C. Staff is recommending approval of this private street request.

Ms. Joseph asked if there were any questions for Mr. Fritz. She asked if the parcel adjacent to 250 would be using this.

Mr. Fritz replied that there is an existing drive. The applicant did a boundary line adjustment. The plat is in the staff report. They will be building over top of the existing driveway and this lot will continue to use the road. The driveway will serve the remainder of the development. This lot has the option to discontinue the use of it and access directly to Route 250. This lot is not part of this subdivision in any way and just happens to be an adjacent property. The fee for this portion of the road is actually owned by this parcel. There is no easement across this lot, which is why this lot is not engaged in the subdivision in any way.

Mr. Edgerton asked if VDOT would not allow 12 percent grade.

Mr. Fritz replied that typically they don't.

Mr. Edgerton asked if they don't grant the private road, then they can't develop the four lots.

Mr. Fritz replied no. It was staff's opinion that they could build the road, but they would just have to grade down farther. There would be a significant grading difference. Staff believes that it is constructible as a VDOT road, but with a significant volume of earth work.

Mr. Morris noted that the earth work difference is unbelievable.

Mr. Fritz agreed that it was a significant difference between the 10 and 12 percent.

Ms. Joseph asked why the applicant did not use the other development right, and Mr. Fritz replied that he did not know and that she would have to ask the applicant.

Mr. Edgerton noted that there use to be a road standard allowable in the rural area called the Mountainous Road Standard where they did not need to do as much grading and it would serve up to four lots. He was curious why they did not do that because it is a lesser standard that allows for a steeper grade.

Mr. Fritz replied that VDOT does not typically grant that request in the County for public roads built to Mountainous Terrain Standards. But, private roads by our own ordinance and Design Standards Manual can be approved at Mountainous Terrain Standards. VDOT only approves that for the western part of the state or the mountainous part of the state.

Ms. Joseph asked if the applicant has approached VDOT, and Mr. Fritz replied that they would have to ask the applicant.

Mr. Craddock asked if it was the same number of lots whether it was a public or private road.

Mr. Fritz replied that they actually have five development rights. They have not used one of the development rights. There are two lots that are over four acres, being lot 4 and 3. So in the final platting process they will have to assign the development right somewhere. It could be either lot 4 or 3. He did not know why they did not use it. It could have been because of the lay of the land or it may have been difficult to find a really good building site due to the critical slopes shown on the plat.

Ms. Joseph opened the public hearing and asked if the applicant wanted to address the Commission.

Dustin Green, representative for Dominion Development Resources and C.W. Hurt, said that they wanted to get the private street approved. They meet the guidelines for the rural areas zoning. They also meet the guidelines that it would alleviate demonstrable danger on the environment because no more lots are proposed by this horizontal alignment and the total grading is less significant. The application is pending the approval of the private street.

Ms. Joseph asked if there were any questions for the applicant. She asked if they have approached VDOT and asked if they would accept the design with the 12 percent grade.

Mr. Green replied that they have submitted an application to the County. There are a certain number of copies that they gave the County, but he was not sure if they have related that directly to VDOT or whether they need to do that.

Mr. Fritz replied that staff only forwarded to VDOT the request that the applicant made, which was for a private road and not for whether or not they would grant a modification to allow Mountainous Terrain Standards in this particular case. VDOT has commented only on the impact of the entrance onto Route 250 and that it is an adequate entrance.

Mr. Craddock asked about the one development right that was brought up.

Mr. Green replied that Mr. Fritz brought up the fact that there are a lot of critical slope areas and it was difficult to get the lots. He felt that the owner would just like to have larger lots for this subdivision.

Mr. Craddock asked if this was by-right.

Mr. Fritz replied yes, with the exception for the modification for private streets.

Mr. Craddock asked if there has been any consideration for any contribution to the County as far as volunteering contributions for schools or roads.

Mr. Green said that he could recommend that to the owner. He noted that the Historical Society was suggesting a tree buffer between the lot on the east side and the motel.

There being no further questions, Ms. Joseph asked if there was anyone else present that wanted to speak to this item. There being none, she closed the public hearing to bring the matter back before the Commission for consideration.

Mr. Edgerton said that he was going to vote against staff's recommendation. The staff report is very well written and clear. It keeps a narrow focus on what the ordinance says. There is no question that this proposal as shown for the private road will require less grading. It will also make it much easier for the applicant to develop this property. This is the exact sort of thing that he wished would not be happening in the rural areas. He did not want to help the development of this property. He felt that by allowing for a private road they would be doing just that. The applicant has gone to a great deal of trouble to set this up. If it is a by right development they need to do more engineering and more grading. He did not want to relieve them of that duty and encourage the development of this property.

Mr. Morris said that simply due to the level of disturbance between the two he would have to support staff. It is substantial and 3 to 4 times the amount of earth would be disturbed.

Mr. Cannon said that he had a question for staff. There are two different views. One view is that granting this would allow the applicants to protect the environment. The other view is that granting this would allow the applicant to save a lot of money. He asked which it was or whether it was both.

Mr. Fritz said that there was no question that they would be moving less earth and with the moving of less earth there is less expense involved. The road standard is the same. They still have to meet VDOT standards. So they are still designing it to a public standard. It is really the issue of earth work here. Obviously, if they are moving less dirt, there is less expense.

Mr. Edgerton noted that staff said that VDOT will not allow mountainous terrain standards in this area. So they would force more severe grading and not allow 12 percent slope. That is pretty steep slope.

Mr. Fritz said that if the private street request is denied, then the applicant can come back with a public road and put it in. It would cost more because they would have to do more earth work. But, he felt that was the question asked.

Mr. Cannon asked if they know how much more it would cost.

Mr. Fritz replied that he would not answer that.

Mr. Cannon asked if that cost would prohibit the development or would it add an additional penalty if you will on the cost of the development.

Mr. Fritz replied that he was no in the position to answer that question.

Mr. Cannon asked if the applicant could answer that question.

Mr. Green replied that one of the main reasons that they were trying to achieve this private road was to not have as much earth work affected by the proposed road. But, there was also a ten foot grading easement that would be in place pending the approval of the private street, which was to avoid going up on to the Campbell property. They have already given us the right-of-way in between. Having a private street approved narrows the alignment of the road. So instead of 9' on either side of the center line of the road it was 7'. That was another reason why wanted the private street approval. It was both for the reduction in costs and to be able to fit it in the alignment and not be as much up on the Campbell's property.

Mr. Edgerton asked if they would have to go back and get another easement from the Campbell's to go for the public road.

Mr. Green replied yes, but that he would like to avoid that.

Mr. Cannon asked if he had made an estimate on the costs.

Mr. Green said that he had not done a personal cost analysis. But, he was assuming that they would have to possibly acquire land from the eastern side of the proposed road and maybe give a division right to whoever is going to give the extra bit of land to make a public road.

Mr. Cannon noted that it would not just be a matter of moving more earth, but they would have to acquire additional property in order to make this work.

Mr. Green replied that is correct.

Mr. Strucko said that his concern was expressed earlier by Mr. Morris in that this project would involve significant amounts of earth work. But, the staff report says that in this case the environmental impacts and the volume of earth work will not be significantly different between a public road and a private road. He would also vote against this request because of the fact that he would like to keep the public road standards available for a variety of reasons especially in this area. This area right next to the Greenwood Motel is within striking distance of what is potentially going to be a lot of commercial activity with a new

supermarket not too far down the road, the Blue Ridge Homeowner's Supply and the commercial activity across the street. Therefore, he did not see the environmental impacts really entering into this particular area that significant as opposed to other environmentally sensitive areas around the County. So he would like to maintain the public road standards in this instance.

Mr. Craddock said that the floating right bothers him. He asked since there is one development right that is sitting out there if he had to go back and do the public entrance can he assign that right to some adjacent land or does it have to stay with this land.

Mr. Fritz replied that the development right has to stay on parcel 112. It is not a floating development right because right now it is currently unassigned. Before staff would sign the final plat the applicant would have to assign it to parcel 3 or 4.

Mr. Edgerton asked if the applicant could assign the development right to parcel 3 or 4 and then do a boundary line adjustment later to create a parcel.

Mr. Fritz replied no, because the kernel rule requires the applicant to get 2 acres and a building site from parcel 112 in order to use the development right. They can then add land to it, but you have to get at least 2 acres and a building site from the parcel that has the development right. They would not be moving the development rights from parcel 112. The lot has to be developed on the parent parcel, but they can add additional land to it after that. There is a boundary line adjustment as described on the property to the west.

Mr. Craddock agreed with Mr. Edgerton noting that he would vote against it also.

Mr. Zobrist asked if this was beyond the turn lane. He thought that the turn lane was back at the crest of the hill.

Mr. Fritz pointed out that the third lane is at this location.

Mr. Zobrist said that his concern was due to the steep grade and the safety of the people trying to get in there if they increased the use of the driveway. On Route 250 there are a lot of problems with people slowing down to turn in. He was concerned with the steepness of the grade and the safety factors of trying to access it off of Route 250. He was also concerned about a pretty long standing policy of the County not approving a private road unless they meet the public standard.

Ms. Joseph expressed concern because the plat was created in 2005 and it creates a 40' right-of-way. She felt at that point in time there was an opportunity to add some more right-of-way in that area. They are looking at a 28.89' setback, but there could have been a little more wiggle room if the intent was to put in a road back there so that they would have enough room for a public road. That was only last year when that happened. She was also concerned that nobody talked with VDOT whether or not a public road could get in there. They could have had some sort of email or something from VDOT that would have helped to make this decision. But, again she was not in favor of private road for a number of reasons. A lot of it has to do with getting people back and forth with the rescue squad. If the roads are not maintained properly in the winter time because they were being privately maintained she did not want to put anyone in jeopardy.

Motion: Mr. Strucko moved, Mr. Edgerton seconded, to deny SUB-2006-224, Rolling Meadows – Request to allow a private street to serve 4 lots.

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

Ms. Joseph stated that SUB-2006-224, Rolling Meadows – Request for Private Street to serve 4 lots was denied.

Mr. Kamptner noted that the action could be appealed to the Board of Supervisors within ten days.

SDP 2006-076 Boar's Head Inn Meeting Pavilion - Major Amendment: Request for major site plan

amendment approval for the addition of a Meeting Pavilion at the Boars Head Inn. The property, described as Tax Map Parcel 59D2-1-2 and 59D2-01-17 is located in the Samuel Miller Magisterial District Approximately 470 feet east of the intersection of Ednam Drive and Berwick Road on the North side of Berwick Road. The Comprehensive Plan designates this property as Highway Commercial in Urban Area 6. (Gerald Gatobu /Francis MacCall)

Mr. MacCall summarized the staff report.

- This is Boar's Head Inn Meeting Pavilion – Major Site Plan Amendment. The application is before the Planning Commission because a number of adjacent property owners have called this application up. There is also a buffer disturbance waiver required for the application to move forward.
- Staff handed out some additional information. Residents of Ednam had apparently talked to Mr. Gatobu directly and had given him some information. He was unable to find that information at the time when the report was generated. That is the first letter that was sent to Mr. Gatobu. Apparently, they also sent that letter to the University of Virginia Foundation. The third attachment is one of the items requested, but staff only has one copy of that. It was another item that was requested before the meeting. The first item was the plant, landscaping and the pallet that the applicant is proposing for the buffer. The second item is the detail of the timber retaining wall that is also within that buffer.
- Staff is recommending approval of this application with conditions.

Ms. Joseph asked if there were any questions for staff.

Mr. Edgerton asked staff to provide some history on the buffer. He asked when the buffer was created and what the conditions of it were.

Mr. MacCall replied that it was probably created with the establishment of the commercial zoning that is there. He noted that he did not know the history specifically when that property was actually zoned commercial. But, that is a standard buffer that is in the ordinance. Whenever that ordinance was enacted, which he did not have the specific date, they have that 20' undisturbed buffer that is required now. The buffer probably happened with the development of the property. He suggested that the applicant might be able to speak to the actual establishment of Boar's Head and when it came about and when all of these parking lots were installed and the like.

Mr. Edgerton said that to do this project the Commission would have to give permission for the applicant to disturb the buffer. That is what they are being asked to do.

Mr. MacCall replied that was correct. The applicant plans to use a 2' to 4' retaining wall with some replanting to basically establish more of a vegetative buffer.

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

Fred Missel, Director of Design and Development for the University of Virginia Foundation, said that with him this evening were Mr. Fuller, General Manager for the Boar's Head Inn and Hal Jones, Civil Engineer for the Cox Company who has helped with this plan. He asked to also introduce the public because a lot of these folks here are community members who he was sure will be speaking on behalf of this project. They have enjoyed their response and involvement. This project that is before the Commission goes through basically two levels of review in our house before it comes out into the public. That is the Design Review Committee of the UVA Foundation is one level and the second is the Office of the Architect. They work very closely with David Neuman and his folks on the design of the building as well as the design of the site. The third level, which they have benefited from, was the input from the general public. They are committed to provide a high quality site and facility. They don't want to do anything that can harm the existing nature of the Boar's Head Inn in the pedestrian friendliness and the high quality of the four-diamond resort that they currently operate. That is their commitment and they would do nothing to harm that.

Mr. Missel continued that the location of this is a little bit tricky. Generally speaking the location of it is on an existing parking area. It is currently what they deem as parking for all of our staff and the folks that work at the inn. It is impervious surface now and obviously will become the pavilion along with the drop off area. The overflow parking is shown on the plan to the left of Village Green Circle. That has been called the balloon field. They launch quite a few balloons off of that. As a matter of fact two balloons went up on Saturday. They have very carefully located the overflow parking area. Incidentally, that area is used quite frequently for overflow parking currently. Often times it will tear up the grass and leave it looking awful. So they have actually been very careful in two ways. One is that they can continue to launch balloons there. The second thing is that they have been very careful to maintain the view as you enter the resort off of 250. It is hard to describe. But, as you come in off of 250 you look across the lake, which is in front of the Amvest Building. They felt that it was very important to maintain that view. It is a strong entrance to the inn and to the neighborhood. They did not want to do anything to affect that. They have actually had the parking lot laid out so that they could see and confirm with the balloon operators and our view point that it was in keeping with our desires.

Mr. Missel continued that the 20' buffer that was discussed was established in approximately 1965 when this was established as a resort. He did not think that it was added in the meantime. The buffer is currently planted. To the north there is an existing retaining wall adjacent to the office complex, which is similar to what they are planning to do here. The transportation with the vehicular access back there will not change and will continue to exist. The reason for the wall was for obviously reasons of grade. They have worked very closely with the neighborhood and had one neighborhood meeting that was open to the entire neighborhood. All of the Ednam community is the adjoining property owners. They have also had several subsequent meetings with individual property owners. Most recently on Friday they met with a group of folks that represent the Ednam Village Homeowner's Association to discuss a planting buffer and actually increasing the buffer on the actual Ednam common area between the Ednam Village and the proposed Meeting Pavilion. The other concerns that were raised by the neighbors, that have made this a better project, were noise primarily from the air handlers and from the emptying of dumpsters during off hours. They have done a study and actually hired a consultant to do an acoustical study of the inn both from the interior transmission of sound during events and also listening to the roof top units. There have been suggestions that they will actually assist in making the decibel level minimum. They are planning to implement those changes. There have been concerns about light spilling off. There are very strong cut off fixture requirements by the County, which they will obviously comply with. The service area was another issue. Again, the service area for this building admittedly is against the rear property line. They are allowing that travel way to continue to exist and will as he had discussed with many of the neighboring land owners continue to work with them on delivery times and schedules and so on. They think that it is important to note on this project that the primary intended use of this is for mid-week conferences. Rooms will be sold during mid-week and the folks that are parking in front of their rooms will be attending the conferences. That is the primary use of this pavilion. Obviously there will be the occasional weekend event. That will be scheduled during times when folks are not in the office buildings and are not close by. They are very focused on parking. They can't have an establishment that does not have enough parking, but they also understand that they don't want more parking than they really need to have. So it is really a balance. The fortunate thing is that he thought that they have been able to do a good job of hiding the parking in this overflow lot so that when it is not necessary it really does disappear. He felt that they really have to see it to fully understand that. Those are the main items. But, they are very committed to continuing to work with the neighborhood. They feel that they are as much a part of then neighborhood as the neighbors are. They have been told by many of them that they are an amenity to the neighborhood. There is nothing that they are going to do to make this less of a quality resort than it currently is. He would be happy to answer any questions.

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

Mr. Cannon asked what the relationship of the University of Virginia Host Properties, Inc. is with the University of Virginia.

Mr. Missel replied that the University of Virginia Foundation, which is what he is a part of and which is the owner of the Boar's Head Inn and property, has a for profit subsidiary. That for profit subsidiary is Host Properties. They are the ones who are funding this and not the University of Virginia.

Mr. Cannon asked counsel if he was okay to participate since he worked for the University of Virginia.

Mr. Kamptner replied that it was okay.

Mr. Edgerton noted that in a number of the letters from adjoining property owners and neighbors there was a strong suggestion for considering a ground source heat pump that would not have any air handler units that would generate a lot of noise. He asked if the applicant has pursued that.

Mr. Missel replied that they have looked at ground source heat pumps and it is cost prohibitive.

Mr. Edgerton asked if they calculated the energy savings because it cuts their energy by about a half.

Mr. Missel replied that they have done that. He believed that they have a ground source heat pump in the Ednam building, which adjoins this. What they have done is taken the units on the roof and sunken them into a well so that the units are invisible.

Mr. Edgerton noted that they would still make a lot of noise.

Mr. Zobrist said that he stated that the overflow parking would be invisible.

Mr. Missel replied that it would not be invisible, but they feel that it is well camouflaged**.** As you enter the property there is a significant grade change between the elevation of Ednam Drive and the parking.

Mr. Zobrist noted that he understood that, but was concerned about everybody else that was around there that have to look at it every day from their offices.

Mr. Missel said that they would comply with the planting requirements. He believed that this falls under the Architectural Review Board review.

Mr. Zobrist asked if they had gone before the ARB yet.

Mr. Missel replied no that was their next step. He was actually on the County Architectural Review Board, but did not realize that was the next step. They were not sure if it was going to be reviewed by the ARB.

Ms. Joseph said that looking at the plant list and she assumed that they were going to plant at 6' to 8'. She asked if that was the plant size.

Mr. Missel replied that was correct.

Ms. Joseph asked if they had worked on this list with the neighborhood.

Mr. Missel replied no, that this planting plan because of the phasing the submittal of the site plan it was not submitted as a final landscape plan. Just in the last two days they have taken what were just circles on a plan and applied names and species to them. The planting plan from a massing standpoint has been designed by Nelson Byrd Walsh. They have not finalized that. What will be added to that plan will be a plan that will include landscaping on the Ednam Village common area. They did not think that had to be part of the site plan submittal primarily because they were still in the process of working that out with the neighborhood.

Ms. Joseph said that the unfortunate thing is that they are here for a waiver request for the buffer so they need to know what is going in the buffer.

Mr. Missel replied that is accurate from the standpoint of what is going in to the buffer. What were not shown on there are plants that they have committed to putting in that are not on their property. So the buffer is correct and it is the other areas that are not shown.

Mr. Cannon asked if there is an intrusion into the buffer zone.

Mr. Missel replied that is correct in the form of grading and a low retaining wall.

Mr. Cannon asked what would be the consequences of avoiding that intrusion. Would they be able to build this facility? If so, what would they have to do to it to accommodate the limitations?

Mr. Missel said that from what he understand the travel way or access way would essentially be pinched on the back side. That wall enables them to have a travel way that is a standard width. They would still be able to build a facility, but he thought it would cause access problems for folks going to the Ednam rooms and circulation problems for folks who are dropping off at the pavilion and going to the overflow parking areas and some other areas. He could not tell them how many iterations they did for the access and drop off for this. It is a very complex setup.

Mr. Cannon said that he would take it that there was not the opportunity to reduce the size of the structure or other components of the site.

Mr. Missel replied no, that actually there is a 50' setback and they are right up against that 50' building setback.

Mr. Cannon said with the size of the building now, and Mr. Missel replied that was correct.

There being no further questions for Mr. Missel, Ms. Joseph invited other public comment.

Thomas J. Kelly asked to correct one thing that Mr. Missel said which was that they are Ednam and not Ednam Village. If they are familiar with the three Ednams they are the one in the middle. If they refer to the photograph, in the upper right hand corner they will get some idea of why they are concerned about noise, lighting and all these other items because that is Ednam. It is flat, but it continues to rise. Many of the folks that are here tonight live in residences that are at the top of that hill. Noise, as you know, does rise also. That is why they are very much interested in those things. They agreed that Mr. Missel and the entire group have worked very hard with the neighbors. Last Friday they got together and went over placing of plantings on their property, but to help shield this property. So they are happy with their arrangement and they have been good neighbors. There are some issues that they are trying to work with. They have not seen the results yet because they have not had time to develop the entire plan. But, they continue to do that. They learned something tonight about this buffer that he would like to pursue a little more because it is going to be right up against their property there also. They have built a wall in the placement of some of the dumpster, which is an issue. With regard to the placement of the dumpsters, that is a whole service area back there. So noise is a factor. He recognized that this is a management situation and not a construction situation. They are concerned about it in the short run and the long run. In other words, during construction that is one issue and then later all of these issues come to bear. But, they are very happy to work with Mr. Missel. He has been great in that regard. He has responded to our people and he is still delivering material to them. They could not ask for a better neighbor in that regard.

K.K. Wallace, resident of 549 Dryden Place, said that they live approximately 200' from this proposed project. Mr. Kelly mentioned the property elevation. Their home is 3 stories high and the bottom floor of their building is higher then the top of Ednam Hall. So they look over top of all of that and look down on Ednam Hall with no intervening building. They are very concerned about the site and the sounds associated with this proposal. His letter is the one Mr. MacCall referred to that the Commission just received. When Mr. Missel talked about the sound, as he understands it, in the staff report staff is talking about measuring sounds from inside the building radiating outward. But, not the air handling that is going to be on the roof. Although this will be in a well on the roof, they still are concerned that it will look like an industrial site with them looking down on air handling equipment on the top with the noise emanating from that. That is their main concern. Mr. Missel and the general manager of Boar's Head Inn did visit his home and saw what they were talking about. That has yet not borne any fruit that they can tell. They are very concerned about the disturbance of a quiet residential neighborhood immediately adjoining this.

Edgar Heiskell, resident of 553 Dryden Place, asked to endorse what the neighbors of Ednam have said tonight and add a couple of comments. He lives just a couple of houses up the hill from Doctor and Mrs. Wallace. There are a couple things that Mr. Missel said that he thinks they should shine a bright light on what their concerns are. He twice spoke about being concerned about not doing anything to impair the

quality of the Boar's Head Inn guests. They are concerned about the impact on the neighborhood and the neighbors who have been there adjacent to the Boar's Head Inn, particularly the noise issue. They have seen no disclosure whatsoever since they first inquired two months ago about what acoustical studies have been done. They have heard the assurances tonight that they have been done. They have heard the assurance that this is not cost effective to go to the more environmentally friendly means of the heating and air conditioning. They are deeply concerned that this application would be approved without disclosure of exactly what the acoustical studies reveal and what the impact is going to be on the people that live in that cone of noise that is going to be emitted from the rooftops. They think as a matter of public duty there ought to be an inquiry as to what those studies have revealed and just how seriously they did look at alternatives. There is no need to pollute with noise when a viable alternative is available, especially one that is going to be energy saving. They think that it is extremely important to require disclosure here. They have not made the disclosures to the neighbors, although they made their inquire two months ago. They have seen nothing in the public record to indicate that they have made disclosures to the staff. They think that is a minimal requirement other than just blanket assurance that yes they have looked at this and are going to take care of it. Right now for the Commission it is just a planning problem, but it can well become an enforcement problem later if the Commission does not at least require these disclosures. So they would urge the Commission to require the disclosures so that they can see.

Tom Hurst said that although the Boar's Head is a wonderful asset to our community he was appalled to hear tonight that they were considering paving the area that has been referred to as the balloon field. Because after all what is the Boar's Head Inn. It is a wonderful hotel/inn with wonderful dining and sports facilities. It is also the wonderful feeling when you drive into the inn and you see to the right the wonderful lake and the beautiful green space. He has had the opportunity to go up briefly in a balloon from that balloon field. He thought that was something essential about the Boar's Head Inn in that feeling that you get when you drive in and see that wonderful space. He was appalled that was being considered tonight to be a parking lot. He had thought that underground parking was something that they should be considering whenever possible. He felt that the letter from Mr. Heiskell says it best. They value the Village Green quality of the entrance to the Boar's Head and are distressed that this bucolic area of land would be paved thus impinging on one of the most beautiful and rare green spaces in the region. It is one of your most precious assets that in our opinion should not be impacted. He fully endorsed these comments. He thought that the owners of this facility do need to come to their senses and realize what is essential about their property and at what point do they lose the nature that they are also attracted to. Due to lack of laser point tonight, he did not know where this area they were talking about was, but he was also concerned if there was impact on motorists on 250 if trees or other buffering along 250 would be removed. He would be very opposed to that.

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

Ms. Joseph said that the major item before the Commission was the disturbance of the buffer. Since Ms. McCulley is here she would ask her about this. The ordinance has all kinds of regulations on sound and sound emission. So if there is excess noise because of whatever is out there that is when the County can come into play and go out and read some decibel levels and find out if they are within the County's noise ordinance regulations.

Ms. McCulley replied that is correct. It is measured at the property line. The maximum for the adjacent receiving zone, which is residential, would be 60 decibels in the day and 55 decibels at the night. The County would measure it if there is a complaint.

Mr. Edgerton asked what would happen.

Ms. McCulley replied that they would have to take measures to attenuate the sound to keep it below the maximum levels, whatever that may be. There are a lot of different options. But, it is not something that they would require as with the Certified Engineer's Report for an industrial use that they have to actually proof that they meet that level before they construct. That is in terms of how the ordinance operates. It is not a requirement prior to construction for this kind of use. It is required for things like commercial kennels and so forth.

Mr. Strucko said that the primary concern here among the residents is noise, and yet there is a buffer zone that is in existence and this application is requesting a waiver to enter into that zone. He asked if that was correct. They would be moving the potential source of noise closer to the residents.

Mr. Edgerton said that this structure does not exist. This is going to be a huge physical building and topographically the concerned neighbors are all above it looking down on it. The applicant has said that they have looked at ground source heat pumps, which was one of the suggestions. In ground source heat pumps there is no outside air compression at all. Therefore, there is no noise. All of the heat transfer occurs underground and it is done with a series of wells or trenches. It cuts the energy cost by 65 percent. The national average of pay back with energy is about 6 years. Frankly, he did not buy the applicant's suggestion that it is not cost effective. This is real technology that is available today. The applicant is choosing not to spend the money. There is additional up front costs. That would be one solution for the sound issue and the visual pollution of looking down on a rooftop full of compressors, which is what this will be. It will be like looking down on the top of any flat office building. It is a viable alternative and it is available right now. He noted that he had one on his own home and they work beautifully.

Ms. Joseph said that if they were not encroaching on this buffer they could do whatever it is by right. The only reason that they are here is because they are encroaching into the buffer. Adjacent owners can call up an item before the Planning Commission, but that is why this item is here.

Mr. Edgerton noted that on the plan within the 20' buffer it appears that the cutouts are already there that are paved, gravel or whatever. He questioned how that work has been done without encroaching into the buffer. The buffer appears to continue all the way and yet this drawing shows a paved area here. He presumed it was a path that somebody has cut in. So obvious there has been an encroachment on the buffer previously with all of this. If he heard the applicant correctly this, which is currently a gravel parking area, they need that space to provide this service to this facility. Without the buffer they are pushing right up against the edge. So he was curious and would like to know what concern anybody has about the fact that it appears that the buffer has been violated already. He asked if staff has any knowledge about that.

Mr. Fritz said that to the best of his knowledge it predates any regulation and there has been no violation cited in all of the information that they have.

Mr. Edgerton asked if the buffer continues along that area.

Mr. Fritz said that the buffer still technically exists there, but it is a nonconforming use.

Mr. Cannon said that in the staff report it says that the Commission can waive this requirement if it has been demonstrated that the grading occurring is necessary and will result in improved site design provided that screening requirements are met and existing landscape is substantially restored. He asked if there is any further grasp or information on the demonstration mentioned here that grading or clearing is necessary or would result in improved site design. Is there any further loss? Have they had cases or opinions on that standard previously or has it been applied previously?

Mr. Kamptner replied that the Planning Commission has approved the waiver in other circumstances where entry into the buffer area to do some improvements resulted in a better design and better screening was provided.

Mr. Cannon asked necessary for what to accommodate a by-right facility.

Mr. Fritz noted that the Commission has approved it for a number of reasons including that it improved the circulation on site and allowed better building location or additional recreational facilities. There are a number of different things, but the Commission needs to make that finding on each individual case. There is no standard answer.

Mr. Strucko said that he was going to make a connection between this buffer issue and the concern about noise. He felt that the two are related. A buffer can be screening visually and he believed for noise as well. It is the distance between a particular use and another use. In this instance a meeting pavilion and

residential use. He said he was hinging his decision on the concept that there is a viable alternative to alleviate the noise concern. Short of the applicant demonstrating the adoption of this alternative he was not inclined to grant a waiver into the buffer.

Mr. Morris said that if they were going to have the units on top of the roof it was going to increase the possibility of noise pollution to the residents around there. So in that is going to be the case for construction he was reluctant to do anything to the existing buffer.

Mr. Craddock said that he would like to see some information about the noise of those units on the roof and the effects into the buffer and to the adjoining property owners as the sound would be easier to attenuate it now than later. If there was some study done and they came within the acceptable County levels right from the beginning would be best. He thought that the geo-thermal was obviously a cost savings and more energy efficient way to do it, but he was sure that with screening, wells and things like that they can make the units on the roof hidden. He was also concerned about paving over the balloon lot. He wondered if they could have some kind of pervious treatment in there as opposed to asphalting right next to that lake that has had such a history with Charlottesville Oil across the street.

Mr. Fritz noted that the applicant could propose any variety of surfacing materials as long as it meets the design standards of being a stable dust free surface, but they could not require that.

Mr. Craddock agreed that was really not part of this, and Mr. Fritz noted that there was no direct relationship between the waiver request and the surface material for the parking area.

Mr. Zobrist felt that the application was a bit premature. He felt that the business interests have outweighed the community interests and the aesthetic interests that he thought to be one of the great gems of our County. He was inclined to not facilitate this development without further study and without further looking at it.

Ms. Joseph said that they need more information.

Mr. Cannon noted that he had some questions because he did not know anything about heat pumps. He did not know anything about paving techniques for grassy knolls for balloon landing sites. The balloons are beautiful when they fly over his house. The Boar's Head Inn is a quality establishment that contributes a lot to the community and has preserved the landscape of considerable beauty and appeal. He would trust them as a general matter that they would continue to do that in their own self interest. But, there are issues raised by the neighbors that he felt were legitimate issues and that he did not see fully resolved on this record. It would be nice to have more time and see this developed a little further before taking action.

Mr. Morris said that he felt that he heard the applicant state that they had done the acoustical studies and they had that report. He asked if this would be a perfect opportunity if they chose to ask for a deferral so that they could bring those forward.

Ms. Joseph said that might be because she agreed with Mr. Zobrist that this is a little premature. There is not information and they just received the planting plan today and the neighborhood has not really talked about the planting plan and how that might affect them. She asked Mr. Missel to come forward so they could talk about whether they might want to request a deferral at this point.

Mr. Missel thanked the Commission for recommending that. A lot of the questions raised by the neighborhood have already been answered and with the communication back and forth just time has not allowed them to share those. To be honest they would like to look further into the ground source heat pump. If they could make that financially work. He supported sustainability and that was one of the things they were striving to do on this building and in other areas as well. So he would like to spend some more time looking into that. He asked to defer, but would like to ask what that means as far as the delay. How long would it be before they come back?

Ms. Joseph replied that it is usually based on how quickly they could get something back before staff. So it could be an indefinite deferral.

Mr. Missel asked what the shortest amount of time it could be.

Mr. MacCall replied that it all depends on how long it takes the applicant to get the information back to staff.

Mr. Fritz said that the shortest amount of time would realistically be two to three weeks just to get a report pulled together and get them the information.

Mr. Missel said that they would probably need that much time too to communicate with the neighbors. He made a formal request for a deferral.

Motion: Mr. Strucko moved, Mr. Morris seconded, to accept the applicant's request for indefinite deferral of SDP-2006-076, Boar's Head Inn Meeting Pavilion – Major Amendment, which included the waiver request of Section 21.7.3 to allow the disturbance of the buffer.

The motion passed by a vote of 7:0.

Ms. Joseph stated that SDP-2006-076, Boar's Head Inn Meeting Pavilion – Major Amendment was indefinitely deferred to allow the applicant time to provide additional information to staff and the neighbors regarding the buffer and the alternative methods of dealing with the noise concerns of the proposed rooftop units.

SDP 2006-083 ALLTEL / Christian Aid Mission Site (Tier II): Request for approval of a treetop personal wireless service facility with a steel monopole that would be approximately 107 feet tall (10 feet AMSL above the height of the tallest tree within 25 feet), with ground equipment in two 5-1/2-foot tall cabinets. This application is being made in accordance with Section 10.1.22 of the Zoning Ordinance, which allows for Tier II wireless facilities by right in the Rural Areas. The property is described as Tax Map 59 - Parcel 20 (no acreage specified) and is zoned RA, Rural Areas and EC, Entrance Corridor. (David Pennock)

Mr. Pennock summarized the staff report.

- SDP-2006-083 ALLTEL/Christian Aid Mission Site (Tier II) is a request for a treetop personal wireless service facility. It is located on the John Adams property, but the application is also known by the Christian Aid Mission. The site location map shows the proposed location, which is just north of Route 250 and east of the West Leigh Subdivision. The site is within the Entrance Corridor. There is an existing tower on the site. As a Tier II review the applicant is requesting a height of 10' taller than the reference tree, which is the tallest tree within 25' of the proposed location for the tower. That would be it at 670.5' above ASML or 107' tower. The referenced tree is 10' shorter than the proposed pole. The top of that tree is about the same height as the existing tower that is out there.
- The Architectural Review Board has taken a look at this site. They attended the balloon test. They don't have any concerns about the visibility from Route 250. So there are no Entrance Corridor issues with the site. The ordinance has provisions that allow by Tier II review approval of a facility up to 7' higher than the referenced tree with a demonstration that there is no material difference or no additional impact. They can ask then ask for approval of 10' higher, which the Planning Commission can approve. That what the applicant is asking for in this case.
- Staff does not have any concerns with the visibility from Route 250. The Ivy Road Entrance Corridor seems to okay. Pages 25 and 26 of the staff report have some pictures from the balloon test that were taken along the roads leading into West Leigh Subdivision. Staff did have some concerns. His understanding was that the balloon was flown at the height of the full 107'. As shown in the photographs, it is sky lighted to some extent. Staff was unable to demonstrate that there were no additional impacts based on the additional 3'. Staff is not able to recommend the approval of the full 10' above the referenced tree because staff believes that it meets the provisions of the ordinance at 7' above the referenced tree.

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

Mr. Edgerton asked if the balloon was at the 7' or 10' height during the balloon test.

Mr. Pennock replied that it was at the 10' height.

Mr. Edgerton asked if it would still be visible if it were dropped down 3'.

Mr. Pennock replied that was correct.

Mr. Cannon noted that there were three pictures taken during the balloon test.

Mr. Pennock replied that there were three photographs. One was taken on the site itself. The other two photographs were taken from the roads leading into West Leigh Subdivision. The one with the guardrail just visible in the bottom left hand corner is just about at the intersection of Route 250 and West Leigh. The photograph on page 26 is a bit farther up that same road, which is called West Leigh Drive. The other structure shown is the existing tower.

Mr. Morris asked if there were a possibility of co-locating with the existing pole been looked at by the applicant.

Mr. Pennock replied that by the applicant's request letter it makes reference to the fact that they've explored several options in this area. He has not had any conversations about specifically co-locating on that tower. His understanding was that as arrays are added down a tower the effectiveness of additional arrays below a certain point they might not get the coverage that they want. He noted that he did not understand that completely. The applicant referenced the fact that they have explored many options. There is an additional property down the road that they had approval to build on, but there were some technical difficulties there. That has led them to this site. But, he did not know the answer to that question.

Mr. Fritz noted that the wireless policy does actually consider this as a horizontal co-location as opposed to a vertical co-location. In that they are making use of the same access roads, utility lines and the like. So it is a form of co-location.

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

Pete Caramanis, representative for Alltel, said that when Alltel initially looks for a place to locate a tower they identify a search area that is necessary to put their tower in. Typically especially in areas where there is rolling terrain it is a pretty small search area or a circle of a quarter of a mile in diameter. The center of this search area was the Christian Aid Mission property. Originally Alltel did submit an application for a flag pole on the Christian Aid Mission property. That was deemed at the Planning Commission not to be consistent given the height of the pole and it would not look like a normal flag pole. The County did not like that idea. Therefore, they went back to the drawing board and came back.

The first application was done 2½ to 3 years ago. They came back again with another application to replace a power pole on a property across the street from Christian Aid Mission, the Linda Ford property. That was a special use permit that was granted, but unfortunately after that they ran into some technical problems as far as separation from the power lines. The power company basically determined that they were not going to be able to go forward with that one. So they had to find another location. A lot of that search area is under conservation easement. It does not allow for towers of this type. So where they are proposing now, as stated, is adjacent to an existing tower. It is actually outside of the Alltel search area. They are taking a hit on this one. It is not going to provide the coverage that they intended it to provide. The Christian Aid property is located at a crest of a hill. At this point going west they would be going down hill pretty significantly. So the point where this will enhance the coverage it is not going to do everything that Alltel had hoped for. He wanted to provide that information by way of background in how they got here and why it is on the Christian Aid Mission site. In the proposal before the Commission it has been mentioned in a lot of discussion about the 10' above and the 7' above. He appreciated Mr. Pennock's attempt to summarize this, even though he was not involved in it. He did have the discussion with Mr. Tugwell when he asked whether they could come down to 7' rather than 10' knowing that is

probably what the Commission would want. He could say tonight that they would be willing to go down to what would be 7' above the referenced tree in order to lessen the visual impact from the West Leigh Subdivision.

Mr. Caramanis continued that one of the pictures was zoomed in and that these pictures were taken from the areas of greatest visibility. No one has taken a picture where it can't be seen. In fact, in one of the photographs a fairly large tree is seen right next to the tower. Moving down the road a bit the tower would not be visible because that large tree would be right in front of it. These pictures are from the isolated locations along West Leigh where the tower was visible. The tower was not visible from any other locations on the other three sides of the site. Those locations where it was visible from West Leigh the Commission has the pictures of. Alltel believes that it is a good site. He thought that the tower that is there has existed pretty harmoniously with the surroundings. Also, the process for getting there was pretty thorough for that site. He did not think that this site would have any additional impacts that one does not already have. In fact, Margaret Maliszewski and Steve Tugwell that were out at that site said why they didn't pick this site to begin with. He took that to mean that they thought that it was a good site. The reason they did not pick it in the beginning was that the location was not in the original search area. But, hopefully on the third try they have a site that will get approved and actually work and get constructed. He would appreciate a recommendation for approval.

Ms. Joseph asked if there were any questions for Mr. Caramanis. She asked what happened with the Dominion Power site because she felt that it was a really good site where they were working hard to co-locate on that power pole. It seems as if it was something that would work. She asked what happened.

Mr. Caramanis replied that it was still confusing why that could not go through because Alltel has located on power poles in other places. Whether they are distribution poles or transmission poles there is a different group that reviews it on behalf of the power company. In this case it had something to do with the power people that would service the pole and the requirements of radio frequency and how close they would be if they were up near the poles. It was not necessarily the interference with the way the pole would do with interfering with the power going through the lines as much as it was a personnel OSHA type thing. The curious thing is that they have done this in a lot of other places and never run into that problem before. Therefore, he did not know why it was a problem on this particular pole because it has not been on others. Alltel had talked with the power company prior to submitting the application and was told that they would be able to do it. Obviously, going through those months of getting that approved for Alltel is not an expense that they would have wanted to go through if they knew that it was not going to work. It was a surprise to everybody after the fact when somebody said that they could not do it. He thought that it was a good project too and was sorry that they were not able to do it.

Mr. Fritz said that staff thinks that is a very isolated case based on their knowledge. Neither Virginia Power nor any other power company has changed their policies towards wireless facilities at all. They are still very receptive to it. It was the peculiarities of that particular site and not a change in policy. It has nothing to do with this application. But, he wanted the Commission to know where it is going in terms of wireless policy in general.

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

Mr. Morris said that he would be more comfortable if it was 7' rather than 10'.

Ms. Joseph noted that the applicant said that he was willing to do it.

Motion: Mr. Morris moved, Mr. Strucko seconded, to approve SDP-2006-083, ALLTEL / Christian Aid Mission Site (Tier II), to allow the monopole to be 7 feet AMSL above the height of the tallest tree within 25 feet as offered by the applicant.

The motion passed by a vote of 7:0.

Ms. Joseph stated that SDP-2006-083, ALLTEL / Christian Aid Mission Site (Tier II) was approved as discussed.

SUB 2006-188 Ingleside – Final Plat - Request change from Public to Private Street: In accordance with Section 14-212.2D of the Subdivision Ordinance, the applicant is requesting approval to vacate a previously recorded public street right-of-way. Concurrent with this vacation is a request for authorization by the Planning Commission to allow creation of a private street in the Rural Areas, in accordance with Section 14-232A(3). The property, described as public street right-of-way and known as Ingleside Drive, is approximately 5.01 acres. Ingleside Subdivision is zoned Rural Areas (RA) and Entrance Corridor (EC). This site is located in the Jack Jouett Magisterial District on the northeast side of Garth Drive [State Route #601]. The Comprehensive Plan designates this property as Rural Areas in Rural Area 1. (David Pennock)

Mr. Pennock summarized the staff report.

- This is a private street authorization request. It is actually for two roads being Ingleside Drive and Ingleside Lane, both of which are within the existing Ingleside Subdivision. Normally private street authorizations that come before the Commission are for proposed roads, but in this case it is an existing street. The subdivision was approved in the early '90's and these streets have actually been in place for about 15 years.
- The applicant in this case is the Ingleside Homeowner Association and they currently are maintaining these roads. They are requesting the conversion of the dedicated public right-of-way to a private street. At this point the roads have never been accepted into the state system. He noted that in the staff report he had incorrectly said that the bonds have been released. The bonds are not released until the state system has accepted these roads. So the County still has outstanding bonds. Over the years there have been inspections at various times, but there have always been some outstanding issues.
- The findings necessary for any private street request are all spelled out in the staff report. The key points here are that the requirements for this request for a private street are no different than what would be required for a public street. Based on the number of lots served the road plans would look nearly identical and the road alignment construction and everything would basically be the same as what was already reviewed and approved. So as such it was difficult to find any clear criteria as they are spelled out in Sections 232 and 234 that would allow staff to make the findings that would demonstrate a specific need for a private street versus a public street. As such, staff was unable to recommend approval. However, staff spelled out a few points in the recommendation section regarding what the consequences of each type of maintenance might be.

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

Mr. Edgerton asked if the property to the west of Ingleside Drive and Ingleside Lane was all part of the Crutchfield property.

Mr. Pennock replied that he was not sure which property was the Crutchfield property.

Mr. Edgerton said that in one of the letters that the Commission received that in one of the comments from the applicant there was some concern if this was dedicated as a public road that any property adjoining that could access that. If that property did have development rights and decided to develop that it would make it easier for them to have access on to this road because it would be a state road. He asked if that was correct.

Mr. Pennock replied that could be the case. There are two large pieces of property that have frontage on Ingleside Lane and/or Ingleside Drive, which are in the name of various holding corporations. He pointed out the location of the two properties. By making it a private street it would make it more difficult to access directly onto Ingleside Drive or Ingleside Lane if those properties were to develop. On the flip side, if the properties were to develop they would likely be required to have new entrances on Garth Road instead of onto an existing public street.

Mr. Edgerton said if the roads became state roads that would provide frontage to these large parcels of land on the state road, it would then give those properties an opportunity to access that. They still may want to go out to Garth Road. Topographically it might be a better situation. He wanted to make sure that

the Commission understands if they insist on it continuing to be a state road he sees an opportunity to be encouraging a lot more development. That is one of the things that he is concerned about.

Mr. Pennock said that is correct, but that he did not know of any proposal for anything on either of these properties. They are just sort of speaking theoretically what each maintenance type would allow.

Mr. Morris asked if staff has any idea why the existing roads have not been taken into the state system after nearly 15 years.

Mr. Pennock replied that he did not, but that he had gotten a bit of the most recent history from one of the road inspectors, Greg Cooley, but he has only been with the County a few years. Currently there are some drainage issues with the road. Now that it has been 15 years the road might need to be resurfaced before the state would accept it. That is based on the last year or so. He did not have the history of the last 14 years of inspections. That would be a question for the inspections division.

Mr. Edgerton said that he has done this and this is not an unusual amount of time. It is not even allowed to be considered for state dedication until you have at least 3 homes built. Then they come out and inspect. It takes forever to get through this process.

Ms. Joseph asked what design standards this road was designed for and how many units. There are different standards for a road depending upon how many units are going to come off of this road.

Mr. Pennock replied no, that the standards that were referenced in the subdivision file from that time just reference that it was state standards. He did not know how those standards have changed since then.

Mr. Fritz pointed out that it was probably category 1, rolling, but he did not remember the exact number.

Ms. Joseph asked how many units that would serve.

Mark Graham replied that a category 1 road in the 1990 design standards were 18' pavement with 2' shoulders, which could serve up to 400 vehicle trips per day. With 10 trips per dwelling would be 40 dwellings.

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

Richard Carter, representative for the Ingleside Homeowner's Association, said that this request is particularly different from the first one the Commission had before them tonight because there they were asking for private roads and these were roads that have not been built. They have a road that has already been built. The current status of the roads is that the roads are built to state standards. The current status is that the roads are maintained by the Homeowner's Association. That was in the restrictive covenants. So when they bought their houses there even though the roads were built to state standards the Homeowner's Association agreed to maintain the roads and the people who live in these 12 houses there have been maintaining the roads ever since the subdivision was put in and the houses were built and sold. That is the current status. The status if the Commission grants the request to vacate the plat where the public roads are and make these private roads are that the roads would remain built to state standards. The status if the Commission grants the request is that the Homeowner's Association will continue to maintain the roads. Therefore, nothing is going to change. What is going to change is that they have something that flows behind and around this subdivision called Ivy Creek. If they have the private roads they can control the amount of traffic. There is more traffic on public roads than on private roads. They can make sure that there is not more runoff, pollution and degradation to the environment if the roads are private. The Homeowner's Association can control the volume of traffic on private roads and cannot control it on public roads. The close proximity to Ivy Creek makes this very important. One of the homeowner's that will speak in a few minutes one side of his lot is bordered by Ivy Creek. The property on the other side of the road may be developed. If these are public streets, then that development is going to come out causing more traffic on this road that these 12 homeowners who are maintaining the roads cannot control. That is what they want to do. They have 12 houses in this little neighborhood and the people are concerned about traffic, safety, development and Ivy Creek most of all.

If the streets are private, then they can control it. No more lots could be created in that case. Ingleside Subdivision contains only 12 lots. By having the roads private it is never going to contain more than 12 lots. Who pays for maintaining the roads if the roads are taken into the VDOT system? Everybody would maintain them through our tax dollars. These people are willing to step up to the plate now and say they will continue to maintain it. The staff report says that there is a perceived risk that the homeowner's association will not be able to maintain the roads. He did not know whose perception that is. They have been maintaining them for 15 years so there is no reason for them to quit maintaining them now. The staff report says by requiring review and approval of maintenance documents the risk of default is minimized. He asked that the Commission listen to these people as they speak tonight. They have their own little neighborhood and they want to take care of their neighborhood and their environment. They will present to the Commission if this is approved a road maintenance agreement. Actually, they will have to go back and amend the subdivision restrictions to make sure it is clear that these are private roads and that anyone buying in the future would know that and what the maintenance requirements are. This is an unusual request, but is very important. These people have found a small slice of privacy in the County. They want to maintain it and are willing to maintain it. He hoped the Commission could see that and approve this request. He asked that all of the residents of Ingleside Subdivision stand and be recognized since all of them were not going to speak.

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

Mr. Morris asked if all 12 of the homeowners in agreement with this.

Mr. Carter replied that they would have to have all 12 in agreement. They have one homeowner that they cannot find. He pays his dues and gets notice to all of the meetings. But, he does not live in state. It is an unimproved lot. But, in order vacate this plat should the Commission approve this request they are going to need to have all 12 sign. There is no question.

Mr. Cannon asked why the road has not been taken into the state system.

Mr. Carter replied that the contractor has never completed the roads to the final satisfaction of the Virginia Department of Transportation. He understands that has now been accomplished or almost accomplished, but the contractor knowing that this was coming up has continued to pay the bond premium and hold off on asking VDOT to take the roads into the state system.

Mr. Cannon asked if his representation was that the road finally after 15 years at a technical level able to be accepted into the system, but given the wishes of the residents here that step has not taken place.

Mr. Carter replied that was his understanding. But, he would not say it was 100 percent in, but it is very close to it.

Mr. Cannon said that he would like to be assured that there is nothing badly wrong with this road that would create a danger to the residents or create a long term liability to that community that is the reason that it has not been accepted into the system.

Mr. Carter replied that is correct since that is not the situation.

Mr. Fritz noted that the County still holds the bond and whether it is a public or private road, with any subdivision they get the bond and have to ensure that the road is built to the right standard. They have the bond in place and they still need to ensure that the road is built to the right standard before the bond is released.

Mr. Cannon said that staff could still enforce the standards even though the road was shifted to be a private road.

Mr. Fritz replied yes, that they do that with private roads already.

Mr. Edgerton asked if the homeowner's association be willing to commit long term to maintaining it to the class 1 standards as quoted by Mr. Graham.

Mr. Carter replied yes.

Ms. Joseph asked if there were other members of the public who would like to speak to this request.

Vince Derr, resident of 1455 Ingleside Drive with his wife Sandra, said that he brought his own exhibit to help point out the location of the subdivision. They own the biggest lot in the subdivision of 31 acres. They refer to their lot as the snake lot because it snakes along Ivy Creek for approximately ¾ of a mile. He felt that the purpose of the creating the lot as such was to try to put a buffer between the road and Ivy Creek. The rest of the subdivision goes along another ½ mile along Ivy Creek. There is a total of a mile and a quarter of Ivy Creek, which is within a mile of the reservoir that basically they harbor. To the extent that they believe or not believe that public traffic or a more intense access could have an impact on Ivy Creek he would suggest that in the interest of the County, the water supply and the environment would be benefited by the road being allowed to be private. He also is the Executive Vice-President of Faulconer Construction Company. The owner of Faulconer Construction Company was the developer of this back in the early '90's and is the bond holder. He had personal knowledge that they have been working to release the bond. It has been a long process as Mr. Edgerton addressed earlier. They are very close. The only point they have in delaying the release of the bond was the fact that his fellow homeowners had asked for the opportunity to ask that this road be private. So they are not there yet and the bond is still in place. If not granted, they would then proceed to take final actions to get the bond released. All of the physical inspections, the guard rails and all of the major check list items have been accomplished. They have a few paper work hurdles to overcome, but he could generally assure the Commission that the roads and drainage easements are up to snuff and there should not be any safety issues.

Frank Barham said that he and his wife were one of the land owners of the subdivision. He had prepared a lot to say, but between Mr. Carter and Mr. Derr they have said it all. Although the road was dedicated to be public, it has been private all these years and they had the right to restrict the use of it. Rather than burden all of the tax payers, there are 12 tax payers who would like to take over the responsibility of the road maintenance. He said that they would be willing to do that, which had already been said. That use to be Old Garth Road where it intersected with Barracks Road. When the road was straightened out the state abandoned that portion of Old Garth Road. So Ingleside Lane and Ingleside Road have only existed since 1991 when the subdivision was built. They would like to keep the road private. He thanked the Commission for considering their request.

Michael Alexander, a land owner in Ingleside Subdivision, said that he was the President of the Homeowner's Association. He pointed out that everybody in their neighborhood was in support of keeping this thing private, except for the one individual who has not signed the proxy. But, he pays his dues every quarter. He moved to North Carolina about 5 years ago. He maintains his property once a year. But, they will get him to sign off on this if the Commission approves their request for a private road.

David DeViese, resident of Ingleside Drive, said that his wife and he have lived in the neighborhood for about 12 years. On behalf of the land owners he would like to say they have been exceptionally good stewards of the little space that they occupy. When he first moved here it was a regular place for people to travel down on the weekends in the back there and have parties, drink and leave trash. It had to be cleaned up and they paid to clean it up as well as to have the roads repaired. When mention was made on working on the back part of Ingleside Lane there was about 10 years of accumulated dues that they have been saving towards making the road at a higher grade than they would expect. The home owners who have inherited the job of taking care of that space have done a very good job. He felt that they deserve a chance to continue to be good stewards of the area.

Bruce Flohr said that he was a home owner with his wife who moved to this area three years ago from Los Angeles, California. What he liked about the private road is that it is not what he was used to. He felt that it was important for the Commission to allow them to keep what they are doing because it was a beautiful part of the County. He supported being allowed to keep the area as it was and to prevent it from changing.

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

Mr. Morris said that he did not understand why they wanted to keep it private, but that they are doing a great job. Living on a private road and having just paved it he was just not sure. It is saving the tax payers a lot of money.

Mr. Craddock asked if it stayed private could those big lots still access it or if they would have to come off of Garth Road.

Ms. Joseph said that there will be more pavement out there and more entrances on to Garth Road.

Mr. Craddock asked if the large 31 acre lot was subdivided could it access the private road.

Ms. Joseph said that it depends on the way the private road maintenance agreement is written.

Mr. Edgerton asked staff to help with that question since he felt that it was really important.

Mr. Craddock said that the subdivision is not going to stay 12 lots forever.

Mr. Pennock said that was one of the questions he had previously on whether or not all of the development rights had been used. As far as this subdivision goes the 2 pieces that were combined when the subdivision came forward have used all of the development rights. The only potential for the lots that front on to those two streets would be the one on the far side and possibly the 31 acre piece. But the owners noted that there was a significant stream buffer along that property and other issues that may make it difficult to develop. One of their requirements in the road maintenance agreement would be to state specifically whether there would be a potential for further subdivision. In this case it would be difficult and it may only be one opportunity for that. But, that is something they could cover in their amended covenant.

Mr. Kamptner said that when the subdivision plat is vacated, that which is currently public right-of-way would go to the lots in Ingleside.

Mr. Edgerton asked if the lots would actually extend out into that right-of-way.

Mr. Kamptner replied that it would go to the center line of the road.

Mr. Edgerton asked if the largest holding to the west would not have access to this road if it was a private road.

Mr. Kamptner said that they would not have the right of access to it unless all of the owners granted an easement.

Mr. Edgerton asked if it became a through road it would.

Mr. Kamptner replied yes, assuming that VDOT would permit that.

Ms. Joseph noted that she stands corrected. May be there would not be more entrances, but there would be more pavement out there if access was denied to this by the adjacent properties.

Mr. Edgerton said that he had been struggling with this request. He read the staff report and could not understand the staff recommendations. According to those sections of the ordinance there really is not a justification for this request because this request, as Mr. Morris says, why would anybody make a request like this. It is going to cost them money. But the reality is if they force this to continue on as a paved road they are not going to get a better road. The road is already there. They have already committed to keeping it at VDOT's standard. They will be adding state road frontage to a very large parcel of land that has not been developed. That will make it easier to develop that parcel of land.

Mr. Strucko asked if Ingleside Farm Lane is a private road.

Mr. Fritz replied that it was not a private road by our definition. It is a driveway that serves 3 houses. It is not part of a subdivision that has ever been approved. When there is a driveway that serves 3 or more houses it gets a street name even if it has not been subdivided. That is the case there.

Mr. Pennock pointed out that the restrictive covenant in the existing subdivision has a restriction against any further division of the lots that are part of their subdivision. If they amend as they intend to these documents that is something that they could keep in there as a means of restricting any possibility within the subdivision.

Ms. Joseph found it amazing that the home owners have been maintaining it and not the developer.

Mr. Cannon said that the road has been built. By granting this request the Commission would not be allowing a subdivider to cut corners or costs. He was impressed by the level of commitment and concern addresses by the residents here in their presentation on why they want the road private in their agreement.

Mr. Kamptner noted if the Commission was looking for a justification, one of the subparagraphs that authorizes the Commission to approve a private road, which has been rarely used, is the general welfare standard: "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 than by the construction of public streets."

Mr. Cannon said that the Commission actually has a legal basis for taking that position.

Mr. Zobrist said that he liked the bonds staying in place. If they release the bonds it would be a nightmare if one of the owners out there did not contribute. The default issue is raised in staff's presentation.

Mr. Fritz said that the bond will only stay in place until such time that an inspection is done and verified that the road has been built to the proper standard. At that point the bond will be released.

Mr. Zobrist noted that it was the owner's risk. But, he was in favor of the request.

Ms. Joseph said that her only concern was that when she looked at the adjacent property and sees the big ring there and all the other agricultural activities and hopes that it stays that way. But, the only concern was putting more pavement out there. But, she understands what Mr. Fritz was talking about.

Mr. Edgerton noted that they would basically be giving the adjacent property more frontage and possibly encouraging future development. Unless they have a crystal ball about development, they would not know how it would work. If they let this go to state, then they were basically giving them more leverage on how to develop it. They might find a Garth Road address more marketable than an Ingleside Lane address.

Motion: Mr. Zobrist moved, Mr. Edgerton seconded, to approve SUB-2006-188, Ingleside – Final Plat – request change from public to private street, as discussed among the Commission.

Mr. Kamptner asked to put in the record that it includes a finding that converting to private roads promotes the general welfare and to make the five findings under Section 14-234 as outlined in the staff report.

Motion: Mr. Zobrist amended the motion to include Mr. Kamptner's addition, which was seconded by Mr. Edgerton.

The motion passed by a vote of 7:0.

Ms. Joseph stated that SUB-2006-188, Ingleside – Final Plat – request change from public to private street was approved.

Old Business:

Ms. Joseph asked if there was any old business.

- **Current Development Staff Reports** (Mark Graham)

  Mr. Graham noted that there was a staff shortage in Current Development. Two staff members have left and Francis MacCall is looking at making a shift within the department to a new position entitled Counter Planner. Right now the work load is very high. Between those factors they are having a hard time keeping up. They have been trying to figure out if there are ways that they can modify the staff reports that might help us a little in that regard while still providing the Planning Commission the information that they would need. He distributed a sample of an abbreviated staff report for the Commission's review. He asked for their comments.

- The Planning Commission reviewed the abbreviated staff report and made some comments and suggestions.

  - It was the consensus of the Commission to use the abbreviated staff report during the month of October. At that time they will provide comments back to staff. The Commission asked staff to include the factors favorable and unfavorable in the staff reports.
  - Staff encouraged the Commission to continue emailing questions to staff prior to the meeting.

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

New Business:

Ms. Joseph asked if there was any new business.

- The Planning Commission discussed the Board's discussions on the MOD and phasing and clustering. Since it is such an important issue it was suggested that they catch their breaths and try to come up with other solutions or other alternatives because there is a real need to protect the rural areas.

- It was called to staff's attention that they should organize a meeting with a couple members of the ARB, Planning Commission and Board of Supervisors to talk about some common issues of concern. It will not be a committee, but a one time meeting.

  - It was the consensus of the Planning Commission that the Chair, Marcia Joseph and Calvin Morris, Vice-Chair would attend this meeting.

- There are no items scheduled for the Planning Commission on September 26, 2006, therefore this meeting has been cancelled.

There being no further old business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 8:56 p.m. to the Tuesday, October 3, 2006 meeting at 6:00 p.m. at the County Office Building, 401 McIntire Road.

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V. Wayne Cilimberg, Secretary

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