Albemarle County Planning Commission
December 12, 2006

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, December 12, 2006, at 6:00 p.m., at the County Office Building Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Eric Strucko, Calvin Morris, Vice-Chairman; Jon Cannon, Marcia Joseph, Chairman; Bill Edgerton; Duane Zobrist and Pete Craddock. Julia Monteith, Senior Land Use Planner for the University of Virginia, representative for David J. Neuman, FAIA, Architect for University of Virginia was present. (She left the meeting at 8:16 p.m.)

Other officials present were Wayne Cilimberg, Planning Director; Gerald Gatobu, Senior Planner; David E. Pennock, Principal Planner; Judy Wiegand, Senior Planner; Scott Clark, Senior Planner; Sean Dougherty, Senior Planner; Elaine Echols, Senior Planner; Bill Fritz, Chief of Current Development; Amelia McCulley, Director of Zoning & Current Development/Zoning Administrator; Glenn Brooks, Senior Engineer; Jack Kelsey, Transportation Planner and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum*:*

Ms. Joseph called the regular meeting to order at 6:06 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.

Rhett Ripplinger, a Keswick resident, emphasized the tragedy of the continued deterioration of the quality of life in Albemarle County due to the lack of funding for upgrading of infrastructure. The Comprehensive Plan outlines the County's objectives in the process of growth. Perhaps the Commission should reread the Comprehensive Plan, which is without a doubt the finest that our tax money could buy and a consultant could write. The following comments were made:

- The tragedy starts very innocently with a few dollars of campaign contributions, a few meals, a few tickets and a few tickets to the boxes at the football stadium. These very above board legal and well deserved gifts come from the most prominent and wealthy citizens of our County. The gifts go to our over worked elected, appointed and hired public servants. What do these prominent folks get in return? These very prominent folks get nearly 80 million dollars in subsidy per year from the working and retired lower, middle and upper class people in the County who pay these subsidies year in and year out with their hard earned, but easily spent taxes.

- What form do these subsidies take? The first subsidy is under collected proffers. They allow nearly 1,000 new homes and a million square feet of commercial space per year to be constructed. In the other parts of the United States that is as desirable as Albemarle County this would create an impact fee proffer of nearly 40 million dollars per year. The second subsidy is in the application of land use tax penalties and the incredible under-assessment of marked up value of land use land. Nearly 60 percent of the County's land is in land use. This misapplication is another 40 million dollars subsidy.

- Tonight a very prominent and professional group is going to ask the Commission for the privilege/right to add another chunk of housing and commercial space. Without growth so many of our people would be unemployed and under employed. Therefore, someone would have to be a fool not to be in favor of growth. Hopefully this group has done their homework and can pass along their recommendations. However, since this request will be for a cumulative 1,500 dwelling units that $60,000 worth of cumulative proffers should accompany the request. If this is not the case, the Commission should delay the process and go back to the woodshed.

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

Review of Board of Supervisors Meeting – December 6, 2006.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on December 6, 2006.

***Consent Agenda**:*

SDP 2006-076 Boars 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 59D2-01-2 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)

Mr. Edgerton asked to pull SDP-2006-076, Boars Head Inn Pavilion – Major Amendment for discussion.

Mr. Gatobu presented a power point presentation and summarized the staff report.

- It is a major site plan amendment for the addition of a meeting pavilion at the Boars Head Inn, including a waiver to disturb the buffer between the proposed development zoned Highway Commercial and Ednam Village Subdivision zoned Planned Residential Development. This item came before the Planning Commission in September and the applicant chose to defer. It has just been put back on the schedule and called from the consent agenda this past Monday.

- There have been several meetings between the applicant and the Ednam Community Association. He went through some of the discussions and the letters received. The adjacent owners were not notified. It was not required since the request was on the consent agenda. Dr. K. K. Wallace called him today about his concerns that he would express at the meeting today.

- The distance between the mechanical well for the air conditioning unit to the nearest property line and the nearest neighbor was 63 feet. The biggest concern of the neighbors was about the noise and the visibility in terms of the aesthetics. The UVA Foundation hired an acoustical engineer and has gone through geothermal studies to see whether it would be feasible.

- There has been ongoing contact between the Ednam Community and the UVA Foundation. They came up with a planting plan. They have agreed on various plantings within the buffer zone. They have shared with the Foundation on what they would like to see on the buffer itself. Staff has a geological drawing showing the well locations and a letter from the Ednam Community Association sent to Mr. Missel accepting the planting plan as shown on the slide.

- Mr. Edgerton called up the item and wanted more information on the geothermal study that was done and the visibility. The applicant will go into more detail and how it will look on site.

Mr. Edgerton noted that he had a lengthy discussion with Mr. Missel about this. The applicant has worked hard to make the geothermal work, but he would not go into the detail on that. The other issue is one that he would hope that the applicant could talk to a little about having tried to not only acoustically but visually to shield the rooftop units. If that is the case, he would like some elaboration on that as well.

Ms. Joseph invited the applicant to address the Commission's questions.

Fred Missel, Director of Design and Development for UVA Foundation, said that others present tonight include Tim Rose, CEO of the UVA Foundation; Mike Strumbaugh, Project Manager and Yourd LaPunier, the General Manager of The Boar's Head Inn. He made the following comments:

- At the prior Planning Commission meeting they were focused on two issues. Essentially, the buffer was the main issue. But, the buffer was including the issue of the noise and the deferral of the noise. That was the second issue. From that they began discussions concerning the geothermal well approach and the geothermal approach to HVAC. He would like to talk a little bit about that today as well. They have had many meetings with the Neighborhood Association. As Mr. Gatobu pointed out, they have the President of the Neighborhood Association here this evening.

- The Foundation has worked with them closely on two aspects. One is the buffer area. As Mr. Gatobu mentioned, they have spent time with them walking around, taking a look at several vantage points at the views that would be seen from the community both from their open space and also from their homes. They came up with strategic locations for additional plant material, which was shown on the planting plan. They believe that the planting plan is something that was jointly agreed to. The Neighborhood Association has sent a letter in support of the planting plan and has adopted it. They feel that would be effective. They did the planting plan in two phases. The first phase would be installed prior to the commencement of the construction and the second phase would be installed once construction has been completed. They wanted to make sure that the plants were located as strategically as possible, which they would not know until the building was constructed.

- On the subject of noise mitigation, as Mr. Edgerton pointed out, they have spent a lot of time and resources on looking at the geothermal approach to heating and cooling. They began by doing preliminary engineering studies to try to identify options. The option that rose to the surface was the geothermal well option. They took that to their contractors and asked for a preliminary cost estimate, but were not satisfied with the clarity of the cost estimate. So they went to their engineers, Hanover Engineers, and asked them to do construction drawings. They carried this through design and development from schematic to design development and reworked the drawings themselves. One of those drawings was seen this evening showing the geothermal wells. They sent this document to their cost estimators or construction managers and asked them to get a price from the subcontractor, who at that time was the low bidder for the project. The cost came back twice what they expected so they decided that it would be best to bid this competitively. They went to a second mechanical engineering contractor company and asked for a cost estimate. The second cost estimate was more than the first one.

- Therefore, they found themselves in a position of trying to decide whether this was a feasible option for the project. They actually hired the same mechanical contracting firm that did the design to do a cost benefit analysis to determine how long it would cost to pay off the system. They took into consideration the pay back of the time and savings on utilities, etc. and the bottom line was based on a very aggressive use of the pavilion that a minimum of a 15 year payback time would occur. A less aggressive use was used and it was calculated to be a 40 to 50 year payback time. It was determined that it was not financially feasible for the project to support what would end up being nearly a half million dollars in additional costs. They then focused back on the use of a conventional system knowing that noise and the buffer were the primary issues as well as visibility to the neighbors and to the Boar's Head as well.

- They looked at it with their acoustical consulting firm for design enhancements that would enable the conventional system to be quieter. This served two purposes. They raised the peak of the roof, which reduced the cone of noise so that it would not extend out across the neighborhood. It also provided a visual screen to the rooftop units and to the roof well itself. That is shown in the profile. The second thing they did is that inside of the mechanical well they increased the density of the walls to help with the noise dampening. The third effort was to install sound panels inside that well on those increased density walls. In the fourth effort they intend to install chiller noise control kits, which include quieter fans and acoustical jackets. All of those efforts they feel will result in a very satisfactory sound emission. The acoustical engineer returned a study that took into consideration those four alternatives. What they found is that they meet or exceed County ordinance at the property line. The property line is approximately 75' from the chiller units. The closest dwelling is over twice that distance. In addition, the distance to this dwelling unit is approximately 380' compared to the location of the property line, which is much less than that.

- In summary, he respectfully submits that the issue before the Commission this evening is the disturbance of a buffer. They intend to disturb approximately 8' of that buffer and they have mitigated noise in four ways as mentioned. They have also mitigated the visibility in a way that is acceptable to the Ednam Community, as noted in their letter. He appreciated the Commission's consideration.

Ms. Joseph invited public comment.

Jim Holden, resident of Ednam and also President of the Ednam Community Association, said that the Boar's Head planning for this has been done very constructively. Boar's Head is a good neighbor. The Ednam Community appreciates Boar's Head. They like the way they are handling this particular issue. They are satisfied that Boar's Head has done all they can to address their concern by exploring the geothermal heating option. They are satisfied that the Boar's Head has done all they can with regard to geothermal heating and it is probably not cost effective. They are not opposed to going back to the conventional system. But, that does bring them back to the original noise and visibility issues. On the other hand they are satisfied on the visibility issue with the work that has been done today with this diagram. The higher residences will not see the air conditioning units. The other units are much lower and don't have the same sight down on the roof area. Ms. Moore will only see the side of the building and the planting screening will help. With regard to the noise issues, the work done by the acoustical engineer indicates that the noise should be at a totally acceptable level. The issue, of course, is will things as built be at the same level as projected. There is no way that they can know that until the building is constructed. They will continue to push the project to get the noise level at the acceptable level. They can no longer say that is a condition. He talked to Doctor Wallace this evening and he reports that he and the others in the row that were concerned about this are satisfied that the applicant has done everything that they can do at this point. With that the Community Association supports the project and recommends that the Commission approve it.

Ms. Joseph asked if there was any other public comment. There being none, the public hearing was closed and the matter before the Commission.

Mr. Zobrist said that apparently the diagram the applicant showed us today about the well and the screening was just drafted today. So it is obviously one of the documents that they have. He asked how that gets to where it needs to be as a document that can be followed up on by staff if the Commission does not add a condition.

Mr. Fritz noted that the document submitted was considered part of the site plan application.

Mr. Edgerton said that with that and the additional information that he had heard that he was in support of the request.

Mr. Zobrist asked how the ARB fits into this. The ARB has not weighed in on this request. He asked if Mr. Missel could answer that question.

Ms. Joseph noted that it all depends on how far this is located from the Entrance Corridor.

Mr. Missel replied that the ARB would want to have over-sight of the overflow parking to make sure that it meets the requirements of the ARB guidelines. But, the actual structure is not visible from the Entrance Corridor.

Mr. Fritz said that the ARB will have to review the site plan for those portions of the development that are visible from the Entrance Corridor. Any portion of the development that is not visible from the Entrance Corridor is not subject to ARB review, even though the entire property is within the Entrance Corridor District.

Mr. Zobrist noted that his question was a procedural question. He asked if the Commission could act before the ARB acts.

Mr. Fritz replied yes.

Ms. Joseph said that before the applicant could get a building permit or approval of a final site plan, they need a Certificate of Appropriateness from the ARB.

Motion: Mr. Edgerton moved, Mr. Morris seconded, for approval of SDP-2006-076, Boars Head Inn Meeting Pavilion – Major Amendment subject to staff's recommended conditions.

1. Zoning & Current Development Planning approval to include approval of screening adjacent to Ednam Subdivision and Approval of Boundary Line Adjustment for Boars Head Inn.
2. Zoning & Current Development Engineering approval.
3. Albemarle County Fire Rescue approval.
4. Albemarle County Service Authority approval.

The motion passed by a vote of 7:0.

Ms. Joseph said that SDP-2006-076, Boars Head Inn Meeting Pavilion was approved with conditions.

Regular Items

SDP 2006-071 Gillispie - Preliminary - Critical Slopes waiver/ curb and gutter request: Request for Preliminary Site Plan to allow the construction of two (2) residential condominium units totaling 16,023 s.f., and 7 total dwelling units on 1.71 acres, and is zoned R4 (Residential). The property is described as Tax Map 61K, Parcels 10-0A and 10-0A2, and is located in the Jack Jouett Magisterial District at the end of Inglewood Drive, near its intersection with Hydraulic Road (Route 631). The Comprehensive Plan designates this property as Neighborhood Density in Urban Area 7. (Gerald Gatobu)

Mr. Gatobu summarized the staff report and presented a power point presentation.

- Request by Brian and Jennifer Gillispie for a Preliminary Site Plan to allow the construction of two (2) residential condominium units totaling 16,023 square feet, and 7 total dwelling units on 1.71 acres, zoned R4 (Residential). The property is described as Tax Map 61K, Parcels 10-0A and 10-0A2, and is located in the Jack Jouett Magisterial District at the end of Inglewood Drive, near its intersection with Hydraulic Road (Route 631). Preliminary site plan approval will require two waivers; a curb and gutter waiver, and a critical slopes waiver. The applicant has requested a waiver of Section 32.7.2.7 of the Zoning Ordinance, which requires the use of curb and gutter within sites in the development areas requiring 8 or more parking spaces, and a waiver of section 4.2.3.2 which restricts earth-disturbing activity on critical slopes.
- The by-right use if R-4, Residential. The Comp Plan designation is Neighborhood Density in Urban Area 7
- There is an existing house on the property that the applicant intends to remove.
- The proposed development is 2 condominium buildings, Building A and B. He displayed the general layout of the site plan of what they intend to do. Critical slopes are shown overlaid on the site plan. That is why the applicant is asking for the critical slopes waiver along with the curb and gutter waiver, which will go down towards the property next door.
- He pointed out the existing conditions standing at Inglewood Court. The entrance to the site is right by the trees going in. There is a neighbor that parks her car right at the entrance, which creates the need for the curb and gutter waiver. The neighbor could actually park her car in her driveway. That is one of the reasons staff is recommending denial of the curb and gutter waiver.
- In acting on the critical slopes waiver Section 4.2.5.b is what the Planning Commission looks at. In this case they look at whether there are any proposed alternatives presented by the development. In this case there are actually no proposed alternatives presented. There are some areas referred to as conservation areas on the site, which would work to a certain degree. But, nothing specifically is proposed as an alternative that would satisfy the purpose of Section 4.2 at least to an equivalent degree.
- Looking at the unusual size, topography, shape and location of the property or any other unusual conditions, engineering had a lot of issues with this project. One of them is that there will potentially be drainage concerns for the adjacent property owners. Engineering has also noted that the applicant cannot provide adequate perimeter erosion and sediment control measures; therefore, granting the critical slopes waiver could result in sufficient degradation of adjacent properties. Granting such modification or waiver would serve a public purpose of greater import than would be served by strict application of section 4.2. There are no immediately identifiable reasons that would be considered of greater import.
- In looking at the curb and gutter the section that applies is 32.7.2.7 that requires on site parking and it should be designed and constructed in accordance with Section 4.2.2. Any section of 32.7

can be modified, waived or substituted in an individual case by the Planning Commission as shown. For the first modification or waiver proposal there is no proposed alternative. The retention of the parking area as shown does not solve the safety and welfare of the neighbor and it would be a safety hazard. Having people come in with 2 condominium units and having a parking space there would be more of a safety hazard. The neighbor could park in her driveway as well.

- The size, shape and topography of the property with the requirements of the curb and gutter in this case would not result in significant degradation. If the requirement is waived the decision will go against sound engineering practices. The parking to the entrance of the site will be detrimental to public safety. In this case staff is more concerned about the neighbor's safety at the entrance. Requiring the curb and gutter is not an unusual thing. Requiring the curb and gutter also helps enhance the development area and neighborhood model district principles.
- Staff's recommendation based on open space and the critical resource plan is for denial of the curb and gutter waiver and the critical slopes waiver.

Mr. Strucko asked if there is an engineering justification for the curb and gutter, which was to handle the run-off from the site.

Mr. Gatobu replied yes, and noted that an engineering staff person was present to answer those types of questions.

Glenn Brooks, Senior Engineer, said that he was speaking for Allan Schuck, who was the engineer that actually reviewed the plan, but could not be present tonight. When engineering staff looks at a waiver like this they are not looking for reasons that it has to be there. The ordinance says that it has to be there. They are looking for reasons it cannot be there, what the alternatives are and what it should not be. Therefore, engineering staff needs to prove why it should not be there. It does handle drainage, but it would not on the proposed plan for the road system. The applicant would have to put in an inlet and do some more work in able to handle the drainage.

Mr. Strucko asked what dictates the extent or the length of the curb and gutter from this parcel.

Mr. Brooks replied that basically the curb and gutter could stop at their entrance because the ordinance requires it to be on site. The parcel line would end where the hydrant is or fairly close to it.

Mr. Craddock asked if the intent letter had come in from the neighbor down stream.

Mr. Gatobu replied that it had not.

Mr. Brooks pointed out that the applicant had indicated in a meeting that they disagreed with staff on that. Therefore, they were not going to get it.

Mr. Craddock asked if that was the same person that would have to move their car.

Mr. Brooks replied yes that it was the same person. From a drainage standpoint staff is looking at this just like they look at other projects with this same type of situation.

Mr. Cannon said that he wanted to make sure that he understands the basics. This is a proposed condominium construction on an existing lot, which now has one house on it.

Mr. Gatobu said that actually it was two lots that are owned by one person.

Mr. Cannon said that it was two lots owned by one person with one dwelling on one lot and none on the other. The lots are currently zoned R-4, which accommodates condominium construction. This is a by right use if the waivers were to be granted and consistent with the Comprehensive Plan at that density.

Mr. Fritz replied that was correct.

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

Bill Daggett, representative for Daggett and Grigg Architects and a citizen of Albemarle County, said that he was representing the request for Clark Gathright, who was the author of this plan, because he had knee surgery and could not be here.

- First, he wanted to talk about the curb and gutter request. In the first site review meeting Ms. Cowan's representative had asked that the parking area be left as is so that she could continue to use it. That is why it is shown on the plan. In their drainage review they realized that if they curbed the other side, which they plan to do, the water that flows across that natural vegetated area and then across the road would end up in the drainage structures just as it does today, but more directed through the curb. They have made several submissions. They started this process on July 10 and now it is December 12, which is 5 months later. They addressed this issue with engineering multiple times through multiple submissions.
- Review of modification of Section 32.7.2.7, Curb and Gutter, it says in the staff report that the neighbor's concern is the retention of the parking area; and, that is the reason they are showing it this way. In the staff report it says that this is an unsafe location and with the intensification of use the parking area should be removed. This is the first time that has been stated by staff. He was appalled on behalf of the applicant and the citizens of this county that in 5 months of multiple efforts to resolve this issue that this comes up now when it is coming before the Planning Commission. They have no objection to the curb and gutter whatsoever and never did. But, they were doing it on behalf of Ms. Cowen.
- This is essentially part of the public right-of-way. It has been paved for years. It has been used for a parking space for years and whatever restrictions the Commission might want to put on it, the applicant would be happy to accommodate it in any way that they can. But, it is disconcerting and dismaying to have this thrust at them at the eleventh hour and not discussed once in the meetings. He was absolutely willing to respond to the safety issue and say that this amounts to, if it is used properly, essentially parking space on a street. For that reason they think it is totally appropriate. If it really is an issue of safety, then absolutely let them put in the curb and gutter and be done with it.
- The second issue has to do with the critical slopes waiver. Clark Garthright wrote a letter to Mr. Cilimberg requesting the critical slopes waiver and noted several points. Basically, the letter says that they believe that the concern of critical slopes are adequately addressed with this site plan in the following manner:
    - The project area is not within a drinking water supply watershed or in a floodplain.
    - There are no septic drainfields in the vicinity of the critical slopes.
    - Soil Erosion will be minimal since the impacted area is at the top of the slope and will not be exposed to concentrated run-off.
    - New landscaping will provide additional protection of the existing steep slopes.
    - Large scale movement of slopes is not likely given the limited size and natural vegetative cover of impacted critical slopes.
    - There is a small wet weather ditch down gradient from the critical slopes. The run-off eventually flows to the existing storm system of the City of Charlottesville. This situation is not a concern as far as the slopes are concerned.
    - Aesthetic resources will be enhanced by the proposal by the proposed landscaping and water quality pond associated with the project. In addition, they could put these buildings on the area that is now noted as the parking lot and avoid the critical slopes. They could put the parking in front of the buildings, which would give all of the neighbors a grand view of a parking lot with a building behind it. It was their intention to hide the parking from the neighbors as much as possible.
    - In addition, they have opted to gain one unit to go to a conservation plan for 25 percent of the site. That means that they have to propose a plan that will be enacted with this site plan that future owners of the property will have to uphold that will preserve 25 percent of this property in perpetuity. This will save trees and improve the neighborhood over the long period of time. The landscape plan is not part of the preliminary process, but the process for final site plan.
- To explain some of the concerns that were stated in engineering's dismissal of approval for the waiver they talk about:

    1. Movement of soil and rock – They note that adequate perimeter erosion and sediment

control measures to protect the neighboring properties will be needed. They agreed with staff. That is done with the erosion control plan, which is done at final site plan. They fully intend to do that.

2. This new development will increase the volume of water discharging onto the property. This is the request for the down stream easement for drainage of Ms. Cowan. He read from the Virginia Erosion and Sediment Control Regulations to show the Commission that they were not capriciously suggesting that this be let go, but that their situation is not going to have much impact on the land because of the conservation easement.

   In Chapter 1 under Minimum Standards from 1 through 19 its says, "Properties and waterways downstream from developments sites shall be protected from sediment deposition, erosion and damage to the increases in volume, velocity and peak flow, rate of storm water run off for this site and frequency storm of 24 hour duration in accordance with the following standards and criteria: Concentrated storm water run off leaving a development site shall be discharged directly into an adequate natural or man-made receiving channel pipe or storm sewer system." Further down it reads, the applicant shall demonstrate that the total drainage area to the point of analysis within the channel, which is where they are, is 100 times greater than the contributing drainage area of the project in question or there are a series of remedies and ways to go about maintaining the ordinance's intent. This is a pretty big size drainage area with a lot of paved area. The water that is running through there now is probably very close to 100 times greater than what they will contribute to it with this site. As a result even if they slightly more it is going to be on the very low side. So they are being asked here to get a waiver for something that they don't know is necessarily going to be necessary.

   Given the intuitive nature of this and the size of our property versus the overall area they are asking the Commission to put that off until they can make reasonable calculations as demanded by the Erosion and Sediment Control Ordinance and do this empirically and the seat of the pants. Those final calculations are due at final site plan. They are asking the Commission to let them get to the final site plan stage. They have no intention of being on someone else's property. This should work just fine. They want to do it in the order that the ordinance says to do it and not have to bring forth that kind of information before they know where they are. They will be happy to do it at the final site plan.

Mr. Zobrist said that he was a little bothered that he wants to dump a 30" drain pipe down on the neighbor when they don't have an easement.

Mr. Daggett replied that there was a stream that runs through there now. It is not a permanent stream, but a wet weather stream. Clark Gathright went down stream to look at what is there.

Mr. Zobrist asked what right he has to dump water on the neighbor's land.

Mr. Daggett replied that they were not dumping it on the land, but showing it to have dissipation on our land and go back into the channel that goes onto her land. They have to use the drainage that is available.

Mr. Zobrist said that if it is on her land what gives them the right to channel it into a 30" pipe and dump it on her land.

Mr. Daggett replied that they don't have to do that and could do it by other means.

Mr. Zobrist said that he was suggesting that they asked for a letter of intent to grant a drainage easement and she has not responded.

Mr. Daggett replied that to his knowledge she is not there because Mr. Gillispie has tried to contact her and she is out of town.

Mr. Zobrist pointed out that when someone starts putting water, pipes and sediment somewhere you have

to have the right to send it where it is going. That is his question.

Mr. Daggett said that if Mr. Gathright were here he could help him. They are not ending the pipe and dumping it on to her property. They are ending the pipe on the Gillispie's property and dissipating that water in the natural channel as it is today.

Mr. Zobrist said that once they channel it and put it into a pipe it tends to go differently. If he understands Virginia law correctly that there is natural drainage and artificial drainage that is created by development of the property. Once you put it in an artificial conduit it becomes your water and not hers. They cannot just dump it on to her property without her consent.

Mr. Daggett said that if what he read in the ordinance is true, however it is done they have to meet that ordinance.

Mr. Zobrist agreed that he had to meet the ordinance. But, stepping back they still have to have the ability to go on her property to dissipate their water there is they don't have some kind of an easement. That is a common drainage law.

Mr. Daggett asked if anyone down stream has to give a waiver to anybody upstream.

Mr. Zobrist said that anybody downstream has the right to stop him from developing their property if they have to dump the water on their property without adequately disposing of that water in accordance with the ordinance.

Mr. Daggett said that their point was that this was a preliminary plan. All of the calculations and all of the engineering that goes with that are done at final site plan level.

Ms. Joseph asked if he was asking to come up with the easement at the final site plan phase.

Mr. Daggett said that if the easement is necessary at final site plan because the calculations show it to be. Then Mr. Gillispie would be happy to talk with her then, but he thinks that this is premature.

Ms. Joseph asked if there any other questions for Mr. Daggett. There being none, she asked Glenn Brooks to come back up and explain the drainage situation to the Commission.

Mr. Brooks agreed with Mr. Zobrist. They can tell at this stage that concentrated water in a 30" pipe and dumping it on the neighbor is going to be a concern. They can talk about detention and adequate channels, but these are all mitigating things they can do as engineers that don't solve the problem, but help it. If someone develops a property and disturbs the land they create asphalt and increase the volume of water, which cannot be avoided. The water can be held back and release it slower. The discharges can be played with, but they still have more water that you have to get rid of. If there is no where for the water to go but the down stream neighbor that is the situation. What they are talking about is an ancillary issue. What they are talking about is a curb and gutter waiver and a critical slopes waiver and the easement will be needed for the approval of the final site plan.

Ms. Joseph said that the two issues that the Commission is dealing with here are the curb and gutter to be placed in the existing right-of-way and then the critical slopes waiver request.

Mr. Brooks pointed out the requests were required by the ordinance. He had difficulties scheduling meetings. There has been some hostility.

Mr. Strucko asked if the disturbing of the critical slopes exacerbates this problem with drainage.

Mr. Brooks replied certainly. If they did not disturb as much area they would not have as much problem.

Ms. Joseph asked if he was just talking about area in general if they did not disturb the area including the critical slopes.

Mr. Brooks replied that one of the concerns in critical slopes is handling storm water and how that will be affected. That is what brings them into that topic.

Mr. Edgerton asked for Mr. Brook's response to the applicant's statement that the first that they heard about this issue on the curb and gutter was this week.

Mr. Brooks said that he only met with the applicant once. They have meetings scheduled in engineering every Thursday for anybody that wants to come in and talk about the plan. He knew that they repeatedly asked this applicant to come to one of our Thursday's meetings to talk about the plan. Instead they chose to go the Director and try to get the plan approved. The Director sent the applicant back to staff and asked them to meet with them first. Then they finally met with the applicant and discussed these issues and he said that he could not support them. He did not know if the applicant was talking about a specific phrase that he wants to hear about safety, but that was certainly on the table with Mr. Gathright. As far as Allan Schuck, he was sorry if it did not get across in a clearer way. But, they had difficulty in getting meetings together.

Ms. Joseph pointed out that there is a letter in the staff report dated November 13 that is from Mr. Gathright and he talks about the curb and gutter.

Ms. Joseph opened the public hearing and invited public comment.

Katrina Kiefar, resident at 1715 Solomon Road, said that the house that is going to be removed looks straight across into her home. In the winter time the house is visible, but in the summer time there are trees on the property that screen the house. She understands that this property is zoned appropriately for this. On the issue of critical slopes there is a natural water way where the run off goes. Her concern is that is a pretty fragile area and a lot of rain water stays around on those slopes. She was very concerned about the erosion of the property if those slopes are played with in any fashion. She was not happy with things like the gentleman's point that large scale movement of slopes is not likely. She would like to have something more than not likely in this plan. It seems like this plan has a lot of not likely and may be. She understands that the plan is in the preliminary stage right now. But, she would like to see all of these issues dealt with so that engineering can recommend it. She could not see recommending a plan that engineering does not recommend.

James Myers, resident at 312 Bennington Road, said there is a drainage easement going through the back of his yard that crosses Solomon Road. There is a drainage easement that comes out of his property on Bennington Road that crosses at a diagonal down towards these properties. There were a lot of natural springs in the easement in his backyard. The natural springs are constantly running and there is always water in this facility. It is never dry. Storm water goes in here off of Georgetown Road and other roads coming into this area. During heavy rains it is not uncommon to have 3 ½' going through this drainage area. It crosses Solomon in an underground conduit and then drops going through this property. This property may also have springs in it because springs have been encountered in numerous homes throughout this area. He was concerned that if the critical slope was violated they may uncover springs underneath that may not be able to be dealt with adequately.

Butch Houchins said that he previously lived on Solomon Road on the north end of this project in the duplex. He assured the Commission that this is a constant wet area. There is drainage that runs off of Solomon Road. He now lives across the street in a house on the other side of Solomon Road. That drainage runs down the side of his house. There is a 30" pipe that runs under Solomon Road, which is inadequate for the water there during storms. There are times when there is 8" to 1' of water crossing Solomon Road that cannot get through that existing 30" pipe at the creek. He was concerned that the wetlands are constantly wet and it does take all of that run off that needs to be dealt with. He asked that the development be done within the existing slopes management that is intact. There is already enough water and run off coming down through that area. He asked that the Commission stick with the guidelines.

Tom Szuba, resident of 1703 Solomon Road, said that he was present with several of his neighbors who live on the left side of map. They are members of the Hessian Hills Neighborhood Association. The president could not be here this evening. As a community they are a neighborhood of single family homes and a few duplexes. They all deal with sloping backyards and the issues of leaves. He would characterize

the land in question as a ravine and he agreed with the comments of the earlier speakers. He suggested that if it was a smaller project it would be much more in character with the neighborhood. Also, it might not have the same degree with the issues they are talking about tonight with the drainage. They are talking about 16,000 square feet of developed land. He would submit that the houses in that neighborhood probably range 1,800 to at most 2,000 square feet. So they are talking about a tremendous different look and feel to the neighborhood. So in addition to the drainage issue there is a neighborhood feel issue and a concern about how would this change their neighborhood. They are fine with development, but at first they thought they were talking about 1 or 2 single family residences that would be put in that area. Certainly that project has grown to what they originally thought it would be. Given the run off concerns Berkshire Road, which runs to the bottom of this drainage area, has a history of drainage concerns. There was one house that had enough drainage back up that it was abandoned. There is already concern there. He would submit to the applicant that they are open to some development, but perhaps it would be a better fit if it was not quite as expansive and a little more receptive to the land that they wish to build upon. He encouraged the Commission to stick with the ordinance regulations.

Dale Cheadwade, of 101 Inglewood Court, said that he was present to speak for Ms. Cowan and himself. He felt that the parking issue has nothing to do with the request at all. They live in the basin or where the water is. He pointed out that the point was the driveway and not her parking.

Al Wooten, resident of 1714 Solomon Road, said that he lived across the street and upslope from this property. He reaffirmed what the others have said. There is a tremendous amount of water during any major rain storm that comes through the region. He agreed that it is a ravine as the previous speaker. He was very worried about the storm water and run off in this area because it is a very critical slope.

Brian Gillispie, owner of the property, said that he did not care about the curb and gutter. He would build it. He was just doing that because Ms. Cowan had come to him and asked him not to build it. As to the water, there is already a pile of water that comes through there. That is why they will deal with it. They are increasing the rate of water from their site, but they are still not in the 1/100 of that. But, with their retention basin and their piping system they are decreasing the rate that goes on to her property.

Walt Kouchensh, resident of 1715 Solomon Road, reiterated his agreement with Mr. Houchins that there does seem to be a constant spring there. It is not just run off. He considered looking at this property to buy it and see what he might consider for it. He saw no feasible use down below because it does not seem reasonable to consider construction on it. Of course, now since he did not see any reason for any type of construction he wanted to keep it as it is.

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

Mr. Strucko said that he was not inclined to grant either waiver, particularly the critical slopes waiver. Increasing impervious surface in this area and disturbing critical slopes would exacerbate the water run off, which seems to be an issue already in this particular area.

Mr. Morris said that he was sympathetic with the applicant's point of view that this is a preliminary site plan. However, the critical slopes just make this untenable. Therefore, he could not support the request.

Mr. Edgerton concurred.

Mr. Cannon concurred noting that the burden was on the applicant to establish entitlement to a waiver from the critical slopes ordinance and that requires a showing that can assure us that there will be no adverse impacts or no significant adverse impacts from there. On the basis of the evidence that he has heard he could not be assured of that.

Mr. Craddock agreed with staff's recommendation. He suggested that the applicant might want to defer the request and come back at a later date so they can look at it some more.

Ms. Monteith concurred.

Ms. Joseph said that normally when the Commission sees a request like this there is some mitigation and there is nothing on this. The buildings themselves are placed pretty much on the critical slopes. There are areas on the site that are not critical slopes that are not being used either for building or parking. She felt that this area could be used differently and maybe the configuration and the amount are too much for this site to handle.

Motion: Mr. Strucko moved, Mr. Morris seconded, for denial of the applicant's request for SDP-2006-071, Gillispie – Preliminary – Critical Slopes waiver and the waiver for curb and gutter request for the following reasons stated by staff in the report:

- This request is not consistent with the criteria of Section 4.2.5a for granting a modification.
- Additionally, the waiver does not conform to sound engineering practices.

The motion for denial passed by a vote of 7:0.

Ms. Joseph stated that SDP-2006-071, Gillispie – Preliminary – Critical Slopes waiver and the waiver for the curb and gutter request was denied. The applicant has ten days to appeal the request to the Board of Supervisors.

WPO 2006-075 Town and Country (Ph. 2) and Olympia Drive (Ph. 2) - Critical slopes waiver request: This proposal is for a waiver of Section 4.2.1 of the Zoning Ordinance in order to construct additional segments of roadway on 16.1 acres. The property, described as Tax Map 78 - Parcels 9 and 11 (in part), is zoned Highway Commercial (HC) and Entrance Corridor (EC). This site is located in the Rivanna Magisterial District on the north side of Richmond Road [State Route #250] and will extend from the terminus of the existing Olympia Drive to the end of Town and Country Drive. The Comprehensive Plan designates this property as Regional Service in Urban Area 3. (David Pennock)

Mr. Pennock presented a power point presentation and summarized the staff report.

- This is a critical slopes waiver request in order to accommodate a public road construction project. Glenn Brooks and Jonathan Sharp put the power point presentation together and both are present.
- The proposal is for an extension of road. Existing Olympia Drive is in the Fontana Subdivision. This proposal would extend it down the hill behind the Car Max site, Tiptop Restaurant, Kia Dealership and Free Bridge Auto all the way with its intersection with an extension of Town and Country Drive. Town and Country Drive does not exist yet, but phase 1 was recently approved along with the Guadalajara Restaurant. There are site plans and subdivisions that went forward for that project. That site was the former Town and Country Motel, which is currently under construction.
- A portion of the area for critical slopes is also Tax Map 78, Parcel 11, which is also owned by this applicant.
- A stream runs along the northern boundary of this property. That stream and the associated critical slopes are shown in the Critical Resources and Open Space Plan as a major or a locally important stream valley and associated critical slopes. Portions of that area are also shown as important wooded areas. Some of the important areas have previously been disturbed for residential construction and parts of it for previous road construction.
- Staff was not able to recommend support of the road through this area. It could be possible to avoid some critical slopes disturbance, although in this area behind the Kia Dealership and Free Bridge Auto would require m moving the road into what little is left of a buildable site. As this property is zoned Highway Commercial and Entrance Corridor that would basically take away the last buildable portion of this section.
- The other major issue that came up is the ultimate alignment of the intersection of Town and Country Drive and Olympia Drive. The Pantops Master Plan is currently under development. Route 20 and 250 connections are being revisited and there is a possibility of a future connection somewhere in this area. An Eastern Connection Study will be done.
- Staff's recommendation is two parts. Overall the recommendation is for denial based on the critical resources shown in the Open Space Plan. If the Planning Commission feels the potential for development in the recommended development area in the area behind Free Bridge Auto and Kia site outweighs the concerns the Open Space Plan, then staff would still recommend at least

deferral of the portion shown in pink. That is ultimately what sets that intersection for future extension.

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

Mr. Cannon asked what the justification for this road would be.

Mr. Pennock replied that the road was not submitted as part of a site plan or subdivision. It was based on the amount of disturbance that came in as a WPO file, which is the Water Protection Ordinance. It basically includes the storm water, erosion control and that sort of thing that was submitted. A road can be built without an application for something else. In some cases it is this situation because of the area that they are disturbing they are required to submit erosion and storm water plans, etc.

Mr. Cannon asked if there was no particular development here or future use of the site that is part of the justification for the road.

Mr. Pennock replied not at this point. The only thing that has been approved on this site is the Guadalajara Restaurant, which is part of Town and Country Phase 1. The rest is zoned Highway Commercial and Entrance Corridor, but there are not proposals submitted.

Mr. Fritz pointed out that frequently staff tells the Commission that roads are exempt from the critical slope provisions provided that there are no reasonable alternative. Because this was not tied to any particular by right development staff did not grant that exemption in this case and why it is before the Commission.

Mr. Morris asked if this road was spelled out in the proposed Pantops Master Plan as a parallel route along 250.

Mr. Pennock replied the latest illustration was received from Juan Wade and Rebecca Ragsdale on the Pantops Master Plan. The intersection is still under consideration.

Mr. Fritz noted that as a positive factor it is consistent with something providing connection and a road system in the Pantops Area. Therefore, there is a mixed finding as explained in the staff report.

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

Katurah Roell, representative for Dominion Development Resources, said that he was representing the applicant. This road has been considered and studied for 8 to 10 years. VDOT and the County are now considering it. They hope to build this road as a parallel road to 250 and make connections to Fontana and Rolkin Road.

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

Ms. Joseph questioned what would have to happen in this area to allow this road to be used for future connections. The community could use some other ways of getting back and forth through the area. The Eastern Connector Study and Pantops Master Plan are being pursued.

Mr. Edgerton noted that staff has given a reasonable approach to this. If the section of the proposed road, as suggested by staff, could be reconfigured to represent a closer parallel route, it would be more consistent with what they were hoping. That would be the best of both worlds. The applicant could still have the potential commercial development of his property and the County would have a true parallel road as opposed to one that skirts around a portion of the development on 250. It would direct traffic more in a parallel way to Route 20.

Mr. Craddock felt that the Commission needs to move forward with at least the green area this evening. There is a lot of traffic in that area.

Mr. Cannon asked would the green area be of any utility for the road.

Mr. Brooks replied that it would serve to connect Fontana, Pavilions and those areas to the commercial

development along the 250 Corridor. It would not be as useful if it connected. There were going to be some very large slopes and retaining walls that will make any future connection difficult. The cost to making that portion of the road work is high and will likely not occur for years.

Ms. Joseph noted that the question is whether they are setting themselves up for a very expensive connection in the future.

Mr. Edgerton questioned if a deferral of that section would allow staff and VDOT to work with the applicant to come up with something that is more consistent with the long range Master Plan of the vision of the parallel.

Mr. Pennock agreed.

Ms. Monteith pointed out that one of the issues was not just the broader master planning context, but the immediate context. It was mentioned earlier that this is just a road that they are looking at. There are a couple of challenges in that they cannot see the immediate context or the master planning context. It would seem that part of the challenge is a timing challenge.

Mr. Edgerton asked if the applicant would consider building a portion of it if they did not allow for the through connection all the way to Town and Country Drive. He asked the applicant to come forward and respond.

Mr. Roell said that part of the intent for the road and the reason for the alignment simply was from that point and sometimes even all the way up to Rolkin traffic backs up on Route 250 currently. The idea to try to relieve traffic in the main stream of flow of some 35,000 trips a day was to make the main flow line of traffic from 250 heading towards the Eastern Connector and allow for that someday. They would be happy to make the intersection either way. It does not serve them one way or the other. The intent was to provide for a good connection to 250 and an adequate flow that does not back up something 300' on a blue line that has to run into another intersection to make a left to head to the Eastern Connector. It would allow the Eastern Connector to roll off of 250 and flows continuously in an ongoing stream of traffic. They were figuring that the less than 4,000 trips a day that might come out of Pavilions and Fontana could afford to stop while 250 is trying to relieve itself and head east. The intent was to create a direct line of flow of traffic from a major artery to another major artery. Approving something partially and not allowing either connection entirely defeats the purpose because there would be no connection to 250 and serves no purpose. Trying to connect the neighborhoods to some future connection to 20 already has that through Fontana. To connect to 250 and relieve its impact towards an Eastern Connector as a continuous alignment both VDOT and he concur as to that alignment.

Mr. Cannon asked if his answer was that he would not build a road that did not connect to Town and Country.

Mr. Roell replied that a road to nowhere serves no purpose.

Mr. Zobrist suggested that the request be approved with the appropriate findings and force the issue on how it will be hooked up to Route 20 to the Master Plan process.

Motion: Mr. Morris moved, Mr. Zobrist seconded, for approval of the applicant's request for WPO-2006-075, Town and Country (Ph. 2) and Olympia Drive for a waiver of Section 4.2.1 for critical slopes in order to construct additional segments of roadway on 16.1 acres.

Mr. Strucko noted that the motion was for approval of the project in its entirety and not following staff's recommendation for a partial granting of the critical slopes waiver.

Mr. Kamptner said that the basis would be that the Commission was finding that the portion being approved would serve a public purpose of greater import than would be served by strict application of Section 4.2. The Commission has to make 1 of 3 findings and that appears to be the one appropriate in this case.

The motion passed by a vote of 5:2. (Commissioner Cannon and Edgerton voted nay.)

Ms. Joseph stated that WPO-2006-075, Town and Country (Ph. 2) and Olympia Drive (Ph. 2) – Critical slopes waiver request was approved.

Ms. Moneith left the meeting at 8:16 p.m.

Public Hearing Items:

ZMA 2006-018 Forest Ridge (Lots 1 & 22) – Signs #81, 82:
PROPOSAL: Rezone 9.9 acres from property zoned R-10 (10 units/acre) with proffers to reduce reserved right-of-way, provide utility easement, and allow building setbacks. Currently has 38 duplex units, rezoning would permit 4 more.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Property designated Urban Density Residential (6.01-34 units/acre) and supporting uses such as religious institutions, schools, commercial, office and service uses in Development Area.
ENTRANCE CORRIDOR: No
LOCATION: Property is located on southeast and southwest corners of Proffit Road/Moubry Lane intersection, approximately 1800 feet east of US 29 in Hollymead Development Area.
TAX MAP/PARCEL: TMP 46B4-03, Parcels 1, 22, B, and C.
MAGISTERIAL DISTRICT: Rivanna
STAFF: Judy Wiegand

Ms. Wiegand presented a power point presentation and summarized the staff report.

- The purpose of this zoning map amendment is to change two of the proffers from the previous rezoning to enable the developer to complete the residential neighborhood as allowed under the original rezoning in the same spirit and character as the existing units. The owners of the development are Craig Builders of Albemarle. The applicant is represented by Rob Cummings and Kirk Hughes. This is tax map 46B4, Parcels 1, 22, B and C. The land use designation is Urban Density Residential. The current zoning is R-10 and it would stay R-10 under this proposal. The development area is Hollymead. The magisterial district is Rivanna.

- The four parcels are located at the end of Mulberry Lane right where it joins Proffit Road. One of the reasons they are here is that there are presently plans to improve Proffit Road in three segments basically running from Route 29 to Worth Crossing. That section is intended to eventually be 4 lanes. From Worth Crossing into this area is to be a 3 lane section. Then as one goes around the curve towards Baker School that would be a 2 lane section.

- It is basically a duplex residential development. There are duplexes either under construction or built on all of these parcels along both sides of Mulberry Lane except for lots 1 and 22. There are 19 buildings and 36 units. There is open space at the southern end. There are connections to property on both the east and west side.

- This is a zoning map amendment to adjust two of the four proffers from an earlier zoning map amendment that was approved in early 1992. They are referring to proffers #3 and #4, which are given in the staff report. Proffer #3 said that the applicant would agree to dedicate a 30' strip across the Proffit Road frontage and then to reserve a second or additional 30' strip for future road improvements by the County of Albemarle or the Virginia Department of Transportation. They also agreed at that time that the 30' dedication would take place at such time as this site plan or subdivision was submitted to the County. In addition to the dedication and the reservation Proffer #4 covers 9' beyond both of those for construction of a bike path. They are talking here about the total of 69'.

- The current proposal is to change this. There would be the same 30' dedication, but they want to take 6' along here out of the 30' reserved originally and add it to that 9' bike path and then call that a 15' bike path and landscape easement or open space that would be owned by the

homeowner's association and would be maintained by them. It would become part of the neighborhood's property. The reason that they would like to do that is if they had that 15' the current building both on lot 22 and the same is true on lot 1, which would give them a 10' setback that is required from the building to the side property line. It would also give them a 25' setback from that building to the edge of the right-of-way. So they need that 15' in order to get that 25' setback.

- The issue that staff has with this is that they would be taking 6' out of that reserved right-of-way. This could have a potentially significant impact on Proffit Road. She was referring to what the County Engineer has said that the Proffit Road improvements that they are designing in here have not been designed or been subject to public comment and they have not yet been reviewed by the County and approved by the Board of Supervisors, which is the normal course for a road design like this. In fact, the final design of the street cross section won't be fixed until after the Virginia Department of Transportation holds a location and design public hearing. So the status of those improvements is it is a 3 lane section right now, which is one lane in each direction and a turn lane in the middle is adjacent to the Forest Ridge Development. These improvements are not in the current six-year plan. They have several projects such as the Meadow Creek Parkway, Jarman's Gap Road and Georgetown Road improvements that according to Juan Wade are ahead of the Proffit Road improvements. So there is no date yet set for the VDOT public hearing.

- In summary, factors favorable to this zoning map amendment:
  - It would enable the developer to complete this development as allowed under the original rezoning in the same spirit or character as the existing units. This means that he would be able to build a duplex on each of those lots with the proper setbacks.

- Factors unfavorable are:
  - Deleting 6' from the reserved right-of-way for Proffit Road reduces the flexibility that the County and VDOT may need to ensure a good design for the widening of Proffit Road in the future. There is a lot of uncertainty about the amount of traffic and the number of cars that will be going in the proximity of different intersections. For example, Spring Field Road is about 200' away and they are going to need right hand lanes and tapers eventually.
  - A potential bike path is more appropriately located in a Proffit Road right-of-way than in an open space or in an easement on private property.

- Staff does not recommend approval of this rezoning to change the proffers because of the need noted by the County Engineer to preserve the flexibility on Proffer Road and because they think the bike path should be as a potential public facility would be more appropriate in the Proffit Road right-of-way.

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

Mr. Edgerton asked if the current setback for the two lots next to the road could be honored leaving the easements the way they were now if they had a narrower duplex unit.

Ms. Wiegand replied that staff asked the applicant if they would consider making a smaller duplex and they said that they were already using their smallest model.

Mr. Edgerton said that they were being asked to conform to a stocked plan that they want to use, but physically they would be able to get a duplex on this new site with the existing right-of-way.

Ms. Wiegand replied that was something that the applicant should answer, but that was the answer that they were given.

Mr. Cannon asked if the issue here is whether the bike path should go on public property or on an easement on private property.

Ms. Wiegand replied that was one of the two considerations. The other one is the need for the width to ensure the flexibility for the Proffit Road improvements, which would be lane width, number of lanes and things like that.

Mr. Cannon said that if they took this 6' and put it on their property effectively as an easement on their property would that action affect the amount of space available to deal with the Proffit Road situation.

Ms. Wiegand replied that they need the whole 15' so that they can put in the bike path. In order to get the 15' they need to have both what would be the 9' bike path and the 6' in ownership as part of the neighborhood property rather than in the right-of-way.

Mr. Cannon noted that they would be taking 6' away from what would otherwise be available for Proffit Road right-of-way notwithstanding their willingness to move the bike path onto their property.

Ms. Wiegand replied that was correct, but the bike path actually stays in the same place.

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

Kirk Hughes, representative for the applicant, said that the original proffers on this were done with kind of the same concept they were struggling with on the Eastern Connector Road. It is something that has not been designed yet. It has been talked about since back in 1991 during the first time that this proposal was before the Commission. In this case in 1991 he felt that they gave a very generous amount of land when they dedicated the 30' right-of-way, but they also proffered an additional 30' for a future right-of-way without a design. Then there was another 9' for the bike path, which gave a total of 69' from the existing center line of the road. Now since then the project has developed out except for the last two lots, which are before the Commission tonight. The developer assumed wrongly that the side setback line for that lot would be 10' instead of a front setback of 25'.

Mr. Hughes noted that in the original proposal lots 22 and 1 were both on a double fronting lot, but the frontage had not been dedicated yet and was only reserved. Speaking with the original applicant for that proffer they thought that was going to be a 10' side setback. When it came time for a building permit the County imposed a 25' setback. He reminded them that parcel A and parcel B have been reserved and have not been dedicated. There is a note on the plat that area will become dedicated to the County upon their demand. So ultimately whatever the design of that road comes out to be is how much land that incorporates in that design they have 39' to work with as far as dedicate. They might not dedicate all of that property. Some of that property may not be required for right-of-way. He did not think that was something that they had thought about because they don't have a design.

Mr. Hughes asked if staff has the exhibit of the overall of what everything looks like along here with all the other properties. He asked staff to go back to that slide. He questioned if the Commission received that exhibit in their packet because it would give them more insight into what has happened. Since their project that was done in 1991 there have been two other plans on Proffit Road with one on the west side of their project for the church and another on the east side for Forest Lakes Block P. In those cases the amount of right-of-way that was proffered and dedicated was far less than what was across this property. For instance, in the Forest Lake Subdivision they dedicated 30' from the existing center line of the road and then put a 9' future bike path across those two lots. Whereas on the property to the west on the site plan that was approved just a couple of years ago there was a 30' dedication prior from the center line of Proffit Road and the Planning Commission required another 18'. So coming down Proffit Road past the church they are accommodated for a total width of 48' to our property, but across our property they accommodate 69'. Something does not make sense as far as what the plan is going to be here. The owner of the property asks that the Commission rethink this. What they are proposing is to reduce the future reservation by 6'. That is giving a total of 54', which is far greater than any other section that they have through there. That would allow under this proposal by moving that potential right-of-way away 6' further would allow the County to use a 25' side setback, which they could meet for the plan. The homeowner's association would also proffer and maintain the open space until such time that the County demanded it for the bike path if that was truly where the bike path needed to be located. The Highway Department reviewed this proposal and supported it. There should be a letter from the Highway Department in the Commission's packet.

Mr. Hughes felt that the ultimate design for Proffit Road is in three different phases. These phases are not more than a pencil sketch. He felt that they have adequate enough room to accommodate a reasonable alignment in there. If the alignment that goes through here is a 3 lane section that would be 36' wide. If that is centered on the existing Proffer Road, which would most likely be one of the most preferred alignments because of the church and cemetery to the west. There would be adequate enough right-of-way left here to accommodate this.

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

Mr. Zobrist asked if he was referring to the letter from VDOT where they recommended that the easement be changed to a 15' bike path. But, he does not address the 6' give back or is that what he is doing by adding the 6' on to it.

Mr. Hughes replied that what he was saying here was that he feels as though 30' plus 24', or 54' is adequate enough. The only thing that he is asking is that they also allow for a utility easement to be within that if they need that additional for a utility easement to be able to place it in that bike path.

Mr. Zobrist asked if he was not opposed to that.

Mr. Hughes replied that the applicant is not.

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

Forest Swope said that his main concern was if the road was widened that the school bus stops be assessed for potentially safety issues for the children waiting on the side of the road.

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

Mr. Strucko asked if staff concurred with the picture on Attachment B.

Ms. Wiegand replied yes, that as accurate.

Mr. Edgerton noted that the letter from VDOT referred to option one. He asked which plan that was.

Ms. Wiegand replied that the VDOT letter was on page 12 and option one was on page 13, which was labeled as Exhibit C1.

Mr. Edgerton asked if he just wanted the language of what can go in that easement changed.

Ms. Wiegand replied that she believed that was what Mr. Tomlinson was talking about. He wants to make sure that he can get the utilities relocated in there so it is the utility easement as well.

Mr. Edgerton said that in reading the letter it does not sound they will need more land. He asked if staff has any more input on his opinion.

Ms. Wiegand asked Jack Kelsey to come up and address that issue.

Jack Kelsey, County Engineer, said that in the review of this particular application, of course, his recommendation was to leave what they have because of the uncertainties that they are dealing with. Places 29 is looking at the various corridors and there is a lot of traffic forecasted and they were trying to determine how much traffic was going to be traveling through this area and what type of character this road should be. The Eastern Connector Study should be started this Friday. Then within about a year they will have the final alternative report telling us where this Eastern Connector will tie in. One of the concerns is if Proffit Road ends up being a connection for the Eastern Connector what type of traffic volume will be on this roadway. That becomes really important because the traffic volume and speed of the roadway determines the trend movements and the length of the turn lanes. As Ms. Wiegand

mentioned, they propose a 3 lane section through here with the center lane serving as the turn lane. But, it is not shown very clearly on the diagram where Mosby Lane intersects Proffit Road and then to the east about another 200' down the road is Springfield Road. So if they have left hand turn movements going in to Mosby Lane and Springfield Road and if they have a minimum 100' turn lane for each one of those and then an 100' taper to transition that into the turn lane, they don't have 300' between these two intersections. Depending on the number of turning movements that will be made into these two streets and the amount of stacking that will be required to hold those there is a potential that this road section between these two intersections could end up being wider. Even though there is additional right-of-way on the frontage of this particular property it may be needed. They won't know until they know where the Eastern Connector will be going and how much traffic is going to be forecasted for this particular roadway. Then they can refine a little bit better what the design will be of this roadway, specifically between Mosby Lane and Springfield Road. That is why his recommendation was to wait and see what goes on even if they came back within a year they would have a lot more information to make a better educational decision. At this point in time he could not determine the exact amount of right-of-way needed.

Mr. Edgerton asked if the applicant could request a variance to reduce the setback, which would solve the problem.

Ms. Wiegand replied that she had discussed this with the Zoning Department today and they said that because this is basically a self-imposed hardship they would not qualify for a variance.

Mr. Edgerton felt that staff has made a convincing argument that they should not give up what they may need. From a planning point of view the Commission has to listen to that. If the Board considers the sort of justice factor, that would be for them to decide. But, from a planning perspective he felt that they should consider staff's recommendation very strongly.

Motion: Mr. Edgerton moved, Mr. Morris seconded, to deny the applicant's request for ZMA-2006-018, Forest Ridge (Lots 1 & 22) as per staff's recommendations as follows:

- The proffers should not be changed because of the need noted by the County Engineer to preserve maximum flexibility for Proffit Road improvements and because a bike path, as a potential public facility, would be more appropriately located in the Proffit Road right-of-way.

The motion carried unanimously (7:0).

Ms. Joseph stated that ZMA-2006-108, Forest Ridge (Lots 1 & 22), will be heard by the Board of Supervisors on January 10 with a recommendation for denial.

The Commission took a ten minute break at 8:55 p.m.

The meeting reconvened at 9:10 p.m.

***Work Sessions*:**

SP 2006-031 Glen Oaks Stream Crossing (Sign #22)
PROPOSED: Fill in the floodplain of Limestone Creek for a road crossing over the creek to provide access for residential development.
ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre); FH Flood Hazard - Overlay to provide safety and protection from flooding
SECTION: 30.3.05.2.1(2), which permits water related uses such as boat docks, canoe liveries, bridges, ferries, culverts and river crossings of transmission lines of all types.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre)
ENTRANCE CORRIDOR: No
LOCATION: Running Deer Drive [Route 808], approximately 1.1 miles from its intersection with Richmond Road [Route 250].

TAX MAP/PARCEL: Tax Map 94, Parcels 15, 16, 16A
MAGISTERIAL DISTRICT: Scottsville
STAFF: Scott Clark

Mr. Clark presented a power point presentation and summarized the staff report.

- The proposal is for a special use permit for fill in the flood plain of Limestone Creek for a road crossing the creek to provide access for residential development. There is a slight issue in the location. This is rural area land on the southeast side of the Rivanna Village development area. It is located at the end of Running Deer Drive along the Rivanna River.
- There are significant areas of forest on the site as well as open pastures. There are large areas of valuable resources identified in the Comp Plan, such as areas of 100-year flood plain. There are also wetlands shown in green/blue cross hatch. The orange areas are critical slopes. Property to the east in the green diagonal hatched is conservation easement held by the Virginia Outdoors Foundation on Limestone Farm.
- The basic proposal is for a stream crossing, although the majority of what they are going to be talking about for the rest of the session about the form of development accessed by that crossing. There are two possible sites. One is located downstream on Limestone Creek across an existing dam. The one is upstream to the northeast that is immediately adjacent to the land under conservation easement.
- To this point staff has determined that the lower crossing slightly is preferable for natural resource protection reasons and to avoid impacts on that property under easement. The remainder of the technical details about crossing choice will be brought to the Commission in the public hearing on this item, which will be scheduled later.
- In May, 2006 this property was before the Commission for a Rural Preservation Development proposal. They followed staff's suggestion as far as the location of the development lots. Unfortunately, there was a complication with the issue of groundwater availability and the existing groundwater availability problems in the Running Deer Subdivision to the north end. Following the discussion at the Commission meeting, this proposal was denied. It went on to the Board for an appeal and the applicant has since agreed to rethink their proposal and approach this in a different way and tried to avoid the groundwater impacts on Running Deer while still achieving their development goals and attempting to protect some of the resources staff has identified.
- The applicants have shown that they can achieve 24 lots on this property without needing special use permits for crossing the creek. Basically they would have driveways to two separate crossings as drive ways accessing two lots each. Given that layout they can achieve 24 lots.
- This form of development could be achieved without any review by the Commission or the Board and would not require any special use permits. Although it does show some fairly large lots on the east, none of this land would be under conservation easement.
- This is the current proposal being brought forward to the Commission tonight to determine if this is a preferable approach to development on this property. The applicant has proposed the same number of lots, which are 24 lots. After extensive discussions with staff the applicant has agreed to place the portion east of Limestone Creek in an RPD, Rural Preservation Development so that they would have some important features here. By right lots would be located on the west side of the creek. Lot 10 is intended to be an open space lot. The proposed trails are marked on the proposed plat, which will be a greenway dedication to the County of an 100' wide strip in the flood plain along the Rivanna River. That would extend the existing route of the greenway in the area identified in the greenway plan. On the side of the creek is the development lots and most of the preservation tract for the Rural Preservation Development.
- There are essentially three options for this property to be developed. One is the by right that the applicants showed 24 lots. It could be approved as an administrative act that does not particularly well protect these resources that are shown in the preservation tract and does not fully achieve the goal of keeping the development away from Running Deer and avoiding that groundwater problem. Another option that is not shown here is to have the stream crossing, but still have conventional development that places all of the property in a mix of medium size and large lots. The third option is this proposal. Although it requires something that staff would not normally recommend approval for, which is a stream crossing to access development, it does achieve the goal of getting a lot of the development away from the ground water problem in to a

better area for groundwater supply and provides some opportunities for protecting the important resources on the site.

- There are several complications with this proposal, as mentioned in the staff report. The proposed lot 10 fragments the proposed preservation tract into three pieces. One is to the southeast. The second is between the development lots and the creek. The third is adjacent to Running Deer Subdivision. There is a significant area in preservation, but it is not contiguous and complicates the management somewhat. Also, because this northern most piece is an isolated piece with no road frontage it cannot be approved in this form according to the Subdivision Ordinance.
- While staff supports this idea of achieving the development through partial rural preservation development and approving this stream crossing, this particular form of the preservation tract has some problems and would need to be revised.
- Regarding the proposed greenway dedication, the applicants are still trying to find a way to make that happen. Staff is still working with the Zoning Division to figure out exactly how they can make that happen. That is an item that will be brought before the Commission in more detail during that public hearing.

- There are three questions listed in the staff report for the Commission to address:

    1. Is the applicant's current proposal for an RPD on the east side of Limestone Creek the preferred approach for residential development on the site given what the potential is?
    2. Does the proposed RPD design meet the Commission's expectations under the ordinance's design standards, or for some other modified form as a potential condition of approval of the stream crossing planned?
    3. On lot 10, if in fact it is created, one option is to eliminate lot 10 and just have one much larger preservation tract. If lot 10 was created would it be appropriate to have that only for trails or could that also include some sort of clubhouse or other recreational use? Should lot 10 be created? Staff discussed the idea of including it all in the preservation tract and having trails on the preservation tract with the Chair of the Public Recreational Facilities Authority, which is the body that would hold that easement. Her initial reaction was that she believed that it was a reasonable approach given the proposal is to have no dwelling on that tract, but to have some sort of trails as long as the scope and the design of those trails is limited in the easement. The authority could definitely consider holding an easement with those terms.

Ms. Joseph asked if there were any questions for staff. There being none, she asked if the applicant wanted to give a presentation.

Don Franco, of K. G. Associates, said that he was present on behalf of the owner of the property, Glenmore Associates. He made a quick power point presentation. To put this in context, they have a number of work sessions they are about to have in series. They are starting down on the lower end with Glen Oaks and plan to work through the Leake property to the Livengood property on to Rivanna Village.

- The first question that they want to deal with on the Glen Oaks is the form of development. Access is going to come up in the discussion. It is important that they discuss it. But, it is really tied to the Leake property. So when they make that transition in the growth area is when they area hoping to deal with that issue. With respect to the Glen Oaks piece, they were here six months ago. They ended up going to the Board. The direction they received from the Board was that they would consider a special use permit, but they had to come up with reasons for the special use permit. The Board was willing to consider moving some of the residential units from this area next to Running Deer to the other side of the creek and in such grant the special use permit depending on the form of development and how it worked. This plan shows 24 proposed lots, which are achievable by right in a conventional form of development and need no special use permit. So it establishes the base line for the rest of the scenarios that they look at. What they have done now is reduced from the original plan seen last time, which had 21 lots in the area towards Running Deer. It reduces it down to about 15 lots.
- The next form that they look at stays conventional, but takes advantage of the special use permit. There is not open space. They have clustered most of the lots on one side. They still have 24

lots. They have reduced it down to about 5 lots being adjacent to the Running Deer area. It does not achieve the overall goal of trying to preserve as much of that open space as possible.

- The plan before the Commission now, they have worked the concept out with staff and reduced the lots from 21 to about 4 lots in this area. Those are the conventional lots. They have clustered the lots in other areas. There was some discussion about the lot 10 area that mainly covers the trail, the lake and the greenway. Their goal with that is to make it as simple as possible with the Rural Preservation Tract with the standard easement. They see active recreational going on in this area. There remains this potential conflict between the standard easement for the Rural Preservation Development and trails, particularly in active things like a ball field, etc. down in the lower flood plain area.
- It will be decided later on, depending on the direction they get, how this will be owned and operated. If it ends up being open space and common area and Glenmore Community Association decides they want it and see the advantage of owning this open space and having access to these trails, then that may affect how it all lays.
- But, the core question before the Commission is does this form satisfy what they are looking for. There are several environmental constraints that are in there, which includes the flood plain, critical slopes and the block of wooded area. The striped area shows the area that they preserve as a corridor link in the significant wooded spaces. They have tried to stay out of those areas as much as possible. They are basically consolidating their residential development to about 30 percent of the project and preserving roughly 70 percent of the project as open space. They are happy to do that depends on how the association feels about the project either as common area or as a preservation tract. They can even attach it to one of the parcels and give up one development right or leave it as shown as one or two parcels in and through there.
- They would like the Commission to address the same questions as posed by staff. If the Commission agrees with the special use permit and the special use permit location, then they are ready to go to the next step. Then they will bring the technical information forward and have the public hearing with respect to that. He asked that the Commission understand as part of that with a road over a dam they are going to be looking at private roads in order to deal with the VDOT situation. VDOT will not take a road over a dam. So if they believe in minimizing the impacts to the flood plain and only having the dam and a road across it as opposed to two structures down there, then they are going to be talking about the use of private road in and through there.
- One of the big questions that are out there is if there is a precedent that is being set here that if they allow Glen Oaks to be developed through Glenmore that there is a potential that they could come back later and develop it as a development area. He wanted to be clear that in their minds they can't do that. This is not changing the Comp Plan. This is not changing the zoning. It is just allowing it to be accessed through that other direction in and through there.

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

Mr. Edgerton asked if access has anything to do with those by right options.

Mr. Franco replied that it will definitely be tied to how it is accomplished.

Mr. Franco noted that the next set of slides talk about how the form will change depending on whether it is part of Glenmore or not part of Glenmore. Basically on the Ridge Road in this area there will have to be a parallel road network to make it look different. So the quick answer is that yes it is dependent on access. It is going to look different it is not according to what was shown here.

Mr. Edgerton asked if he had legal access across Running Deer Drive to access this property.

Mr. Franco replied yes. This property has frontage on Running Deer Drive. Therefore, it could access in that direction.

Mr. Edgerton asked if it was a state road of which he has legal access across.

Mr. Franco replied that was correct.

Mr. Strucko asked if it is considered part of Glenmore.

Mr. Franco replied that right now what they were proposing was that it would be part of Glenmore. It is by zoning that it would be part of Glenmore. It would simply have access through Glenmore. Part of the debate that they will have on the other work sessions to follow this will be what happens up and through here. Again, if this is the big issue he would be happy to start going into how the access affects the layout and the design. Or, they can push this off a little bit further and just get input on the layout as is.

Mr. Strucko asked if this proposal assumes access to Running Deer.

Mr. Franco replied that it does not. What is shown here is the same thing that they saw last time, but the lot layout has changed a little bit. But, it is showing an emergency access to Running Deer from their loop road. Again, depending on what they get out of this work session, they are willing to bow to the input that they get from the Commission and the public.

Ms. Joseph asked if lot 10 was a buildable lot. She asked if they expect to have a residence on there.

Mr. Franco replied that their intent is not to, but to create a lot that they could do something besides rural preservation. As they look at the overall Master Plan for Glenmore they see the potential for ball fields extending down in the flood plain area and active recreation. They see the potential conflict with the Rural Preservation development. So if all the open space were Rural Preservation, then it becomes difficult to assure that they can provide that recreational space.

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

Richard Wagaman, President of the Glenmore Community Association, asked to address a couple of overarching issues associated with the four projects that comprise this work session. The roads shown in the slides connected to their community. The Association was developing a 5 year plan complete with funding to how to maintain their roads and so forth. So these things hit their Association in the pocketbook. There are a lot of people at the meeting that he represents. He asked for all persons from Glenmore to stand up. After the last work session they put out a survey to the community. They had an 85 percent return that said that they did not want to have Glen Oaks as part of Glenmore. The majority of the people he talked to said they came from northern Virginia and other areas where they have seen this type of an act used to expand a development area and they did not want that to happen. They felt that if this were allowed it might be the wedge for that to occur. He encouraged the Commission to consider tonight that K3, which staff has presented, is in fact the best alternative. If they move off Ridge Road it makes no sense. (See letter dated 12/12/06 from Richard T. Wagaman, President of the Glenmore Community Association.)

Kat Imhoff, Vice President of Monticello, said she was present tonight to ask one question to staff and the developer. She asked how they were finding conformity with the Comp Plan goal of making sure the view shed from Monticello is protected. She did not see it addressed in the staff report and questioned if there would be conditions in the approval of the special use permits and rezoning. She asked if there would be tree retention formulas used for some of the fantastic wooded lots or if there has been a view shed analysis of any type on the color or the massing. She was present to remind them that it was a goal and very important to protect a rural area heritage site in order to get the most blended amendable development in that area. She asked for this comment to stand for all of the requests that follow. She appreciated the Commission paying attention to Jefferson's sea view.

Jeff Werner, of Piedmont Environmental Council, noted that they were proud of the Johnson's conservation easement just to the east. It was a very nice protected edge for this subdivision. This is an attempt to vest some scale of development with an eye towards future growth area expansion. That is how Glenmore got in this area a decade ago. He asked that some consideration be given in the special use permit review of the adjacent conservation easement. If preservation is truly an objective here then as a condition of approval of this special use permit he would like to know if the designation of that conservation easement can be done corresponding to that approval. They were granting the ability to access these sites. It is unfortunate that these sites will need to be put where it needs to cross streams and steep slopes to get to them. But, that is the way the regulations are being interpreted now. He asked that the easement be recorded now and not later.

There being no further public comment, Ms. Joseph noted that the Commission would go through the questions staff has proposed. (See summary for the Commission's responses to the questions.)

In summary, the Planning Commission held a work session on SP-2006-031, Glen Oaks Stream Crossing. Staff requests that the Commission affirm staff's finding on using the RPD approach on the site; design of the proposed RPD; and the range of uses to be permitted on Lot 10, or provide alternate direction. The Commission took public comment from the applicant and others and provided input on the following questions staff posed in the staff report.

1. **Question for the Planning Commission: Is the applicant's current proposal for an RPD on the east side of Limestone Creek the preferred approach for residential development on the site?**

   The Commission's reply to staff's question was yes that the preferred approach for residential development on the site was the applicant's current proposal for an RPD on the east side of Limestone Creek.

2. **Does the proposed RPD design meet the Commission's expectations under the ordinance's design standards?**

   The PC preferred that the applicant add the portion of Lot 10 north of the proposed stream crossing to the RPD preservation tract, and keep the portion south of the crossing for future recreational uses, not to be included in the RPD.

3. **What types of activities other than trails should be allowed on Lot 10?**

   See #2. As long as Lot 10 was designed as described above, the PC had no specific direction on the activities.

ZMA 2006-016 Glenmore Section K2 (Leake) – Signs #31, 32, 44, 69
PROPOSAL: Rezone 110.94 acres from RA - Rural Area zoning district which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre) to PRD - Planned Residential District - residential (3 - 34 units/acre) with limited commercial uses to allow for 110 dwelling units. This proposal is an expansion of the Glenmore PRD and does not include commercial uses.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential - residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses.
ENTRANCE CORRIDOR: No
LOCATION: 1.25 miles south of the intersection of Route 250 East and Hacktown Road, North of the Rivanna River, west of Carroll Creek, and east of the Development Area boundary.
TAX MAP/PARCEL: Tax Map 94, Parcel 16, 74, and 16A (portion thereof) and Tax Map 93A1, Parcel 1
MAGISTERIAL DISTRICT: Scottsville
STAFF: Sean Dougherty

AND

ZMA 2006-015 Glenmore Section S5 (Livengood) – Signs #26, 30
PROPOSAL: Rezone 32.24 acres from RA - Rural Area zoning district which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre)to PRD - Planned Residential District - residential (3 - 34 units/acre) with limited commercial uses to allow for 42 dwelling units. This proposal is an expansion of the Glenmore PRD and does not include commercial uses.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential - residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses.
ENTRANCE CORRIDOR: No

LOCATION: 2000 feet south of the intersection of Route 250 East and Hacktown Road, North of Pendowner Lane (in Glenmore), and east of Carroll Creek
TAX MAP/PARCEL: Tax Map 80, Parcel 48 and Tax Map 94, Parcel 1
MAGISTERIAL DISTRICT: Scottsville
STAFF: Sean Dougherty

Mr. Dougherty presented a power point presentation to provide background information on the two rezoning proposals to expand the Glenmore PRD - ZMA-2006-15, Glenmore – Section S5, Livengood Property and ZMA-2006-16, Glenmore – Section K2, Leake Property.

- On October 17, 2006 the Planning Commission first provided guidance to the applicant.

The Commission is asked to consider the appropriateness of the applicant's proposal to increase density on each property and provide guidance on transportation constraints and options through responses to questions posed by staff. (See Staff Reports)

Don Franco, of KG Associates, was present to represent Glenmore Associates in this rezoning.

Ms. Joseph invited public comment.

Tracy Walker, resident of Running Deer, said that she was joined tonight with her neighbors to express concerns about the traffic, roads, groundwater issues, their rural way of life, promises already made and their health and safety. Running Deer and Route 250 cannot safely and realistically support the traffic that 110 more homes would create throughout their neighborhood. Included in the further plans for Glenmore is a stop light at Glenmore Way and not at the end of their subdivision. Therefore, this added traffic should be kept as part of Glenmore. The increase in traffic will decrease the safety of their children. She asked that all of the residents of Running Deer stand to express their agreement with her concerns.

Cindy Burton, resident of Running Deer, expressed opposition to a Glenmore back gate at Running Deer Drive. She supported an emergency vehicle access gate as the existing one already at the end of Running Deer. Connecting an existing rural development with a gated community is essentially connecting it with an exclusive gate to a private road. This is not a true interconnection nor does it achieve the goals of the Comp Plan Neighborhood Model. A connection will not offer Running Deer an alternative route, emergency access or access to facilities. There will only be negative impacts to Running Deer and it will jeopardize their healthy, health and quality of life. The bottom line is that a gated connection suggests discrimination by not offering both developments the same benefits of a connection. It implies that their quality of life is not valued as much as Glenmore's. Only Glenmore will benefit from a back gate onto Running Deer Drive. The main concern she heard from Glenmore residents was that they did not want the construction traffic coming through. An unbiased traffic study after the development is done might indicate that another gate is warranted. However, it would be more in accordance with the Comp Plan to situate a back gate to connect with Rivanna Village. This would alleviate the traffic on the already over crowded Route 250 by allowing access to village shops and a park and also keep traffic out of rural neighborhoods. The proposal to route undesirable traffic through the heart of their established neighborhood is unacceptable.

Paul Accad, an 11 year Glenmore resident, agreed with staff on the Leake rezoning. It is time for a traffic study in Glenmore leaning towards the question of whether Glenmore needs another gate. In the staff report it says that the Glenmore roads were approved and designed for 750 single family homes. They are currently at 800 homes. If the rezonings are approved without another gate or a traffic study they will be close to 1,000. It is problematic for 1,000 residents to use one gate. He felt that the support for a second gate is very strong. It has to do with expectations. If you moved into Glenmore, which is a growth area subdivision, you would read everything about growth areas, rural areas and subdivision. A reasonable expectation, especially after reading the covenants and restrictions of Glenmore, would be that Glenmore could and would expand in the growth area. He did think anyone could ever have expected that Glenmore would expand into the rural area. Tied to that is a precedent that is going to be set if they allow a growth area subdivision to expand into the rural area. It is not going to have County water and sewer. He did not think this would be a good precedent for the County.

Richard Wagoner, President of the Glenmore Community Association and a Glenmore resident, noted that the two previous ladies that spoke have genuine concerns, which he understands. But, the Glenmore residents have concerns as well. Where the road connection crosses Powell Creek it is marshy and flood plain. It is going to take at least 6' of good solid soil to make that road passable. They are interested in how Glenmore residents would maintain the road with the additional traffic without access to Running Deer. This development area is the last of several development areas to be addressed by the Planning Commission and Board. These development areas were selected to help limit the growth in the rural areas. Glenmore residents agree with that. Their area is very different than the other special development areas in that 70 percent is already developed and contributing significantly to the tax base. He said that comments he makes tonight will focus on the near term win/win/win situation for the County in terms of increased tax revenues, for the developer in terms of near term return on their investment, and the Glenmore community in terms of stronger healthier community and club. There could not be a better time to extend Glenmore and develop the Leake and Livengood properties with Glenmore style quality.

Robert Goldstein, resident of Devon Pines, voiced concerns about the construction traffic. The volume of construction and residential traffic grows monthly. The road is not equipped to handle the development on the Leake property. This is an environmental, safety and economic issue for the residents. The safety of their children is a big concern since it is unsafe to play in their front yard due to the dump trucks, cement trucks and other construction vehicles. Often these large vehicles cannot pass each other and drive on residents' yards killing the grass. Vehicles accelerate down New Bridge leaving the present development area endangering pedestrians, cyclists and the wild life. It is just a matter of time before a pedestrian, a child on a bike, a parent with a child in a stroller is hit either on the path adjacent to Paddington Circle, which is separated from the road way by 12" of mud, or on the roads in any portion of Glenmore, especially along New Bridge and Devon Pines. The addition of over 100 homes and that traffic being directed and the associated construction traffic and residential traffic coming through Devon Pines would be overwhelming. It would overwhelm the existing roadway. It will adversely affect the home values in their area and negatively impact the environment. But, most importantly it would endanger the lives of the residents of Glenmore and Devon Pines.

Jeff Werner, of Piedmont Environmental Council, reiterated the concerns about the Monticello view shed on this issue. This is a road that runs along a ridge with houses built along it. It has a potential to be more visually prominent than some of the other things being discussed. There have been some interesting comments about the traffic on these internal roads. People tend to fail in present day planning practice to look at the cumulative impact. They hear people in the rural area say they are only doing 10 houses or 20 houses, etc. The net result is that everyone living in the rural area screams and yells because the roads are not wide enough. They wonder why the State of Virginia is in the transportation mess it is in because everybody wants to live where they want to live, but they want their road paved, wide and plowed when it snows. He suggested that the Commission look at the cumulative traffic impacts from the proposed developments in the special use permit and rezoning on Route 250 East. The hard edge between the growth area and the rural area is very important and should be preserved.

Sharon Wood, resident of Running Deer for 18 years, spoke in opposition to the requests and asked that their neighborhood not be allowed to be destroyed by other developments. Since the beginning of development the residents of Running Deer have requested that their neighborhood not be connected to Glenmore in any way. She asked the Commission to do the right thing.

Dennis Odinov, head of the Master Planning Steering Committee in the Village of Rivanna, said that his house was on the other side of Carroll Creek and golf course. His property faces directly to the Leake property. When he bought his house he knew there was going to be development in the area. He understands that the developer is not intending to build on critical slopes. But, it is very close to being critical slopes where it is being built. He questioned where the storm water from all of these houses would go. He felt it would go into Carroll Creek, which has overflowed many times. By increasing the density it would make the situation worse. He asked that as many of the existing trees are preserved as possible.

Allan Holly, resident of Glenmore, noted that most of the Glenmore residents he knows are not excited about the proposals due to the increased traffic. He encouraged the Commission to consider strongly

how the traffic is routed through Glenmore. It does not seem to be a logical way to connect the road through. He opposed this to be connected only through Glenmore. He did not care if it was developed outside of Glenmore. But, please look carefully to the route the road would take to 250.

Papas Carla Dusty, a resident of Running Deer, said that she chose to live in the rural area. She spoke against the rezoning requests due to the extra traffic on the roads. She did not want the road to be widened to add any more commercial or additional houses. If the extra gate was put in all of the residents of Glenmore would use it.

Tammy Hall, resident of Running Deer, asked that the Commission consider the residents of Running Deer and their concerns about not adding any additional construction traffic on their little road or depleting their ground water.

Scott Gardner, resident of Devon Pine in Glenmore, asked that the Commission look at all of the different levels within the community and give it fair consideration. The residents of Glenmore have the same concerns regarding their families as the residents of Running Deer. He asked that the Commission look at the options and treat everyone fairly and not affect their quality of life. He suggested that there be two access points.

Mary Winn, resident of 1720 Running Deer Drive, said that her family has lived here for 19 years. She asked the Commission to take their concerns to heart and preserve their community. She opposed the access from Glenmore into Running Deer to accommodate development.

Shelly Payne, resident of Devon Pines, noted that the roads were not sufficient to handle the increased number of dwellings proposed. She was greatly dismayed to hear that the Planning Commission actually asked for greater density on the Leake property. She felt that everyone in the room would be happier with a much less dense development. The roads would be able to handle it. It would be a better decision all the way around. She asked the Commission to consider that as well.

There being no further public comment, Ms. Joseph noted that the Commission would now go through staff's questions. (The following is a summary of the Commission's comments on the two requests.)

In summary, the Planning Commission held a work session on **ZMA-2006-016, Glenmore Section K2 (Leake)** to consider the appropriateness of the applicant's proposals to increase density on each property and provide guidance on transportation constraints and options through response to questions posed by staff.

Leake Property – Questions for the Commission

1. ***Is the applicant's approach to density appropriate?***

The Commission agreed that the applicant's approach to providing a number of smaller, cottage style lots, mixed with larger lots, was appropriate. This increased the number of residential lots proposed from 86 to 110.

2. ***Should the applicant's proposal be acceptable to the Commission, should the development take access through Glenmore, Running Deer Drive, or both?***

The Commission agreed that access to this property should be provided through Glenmore, but needs to be analyzed with a traffic study.

3. ***Which of the applicant's proposals for providing access to Glen Oaks through the Leake Property is acceptable, if any?***

The Commission agreed that the applicant's Option 1, which provides access to Leake and Glen Oaks along a road that runs along the ridge delineating the Development Areas from the Rural Areas, was acceptable.

In summary, the Planning Commission held a work session on **ZMA-06-15, Glenmore Expansion: Livengood** to consider the appropriateness of the applicant's proposals to increase density on each property and provide guidance on transportation constraints and options through response to questions posed by staff.

Livengood – Questions for the Commission

1. Should the applicant attempt to bring a vehicular connection to Rivanna Village across the common boundary line with the Livengood property?

The Commission agreed that it would not be appropriate to provide vehicular access to Rivanna Village across the only available common property line because it would involve impacts to critical slopes, an intermittent stream and a long proposed road in a circuitous alignment. The Commission felt that a stub out for future connection to Rivanna Village not abutting the Livengood property could allow for access and potentially a second gate in the future.

2. Which scheme or what parts of individual schemes work best to achieve an acceptable density based on the adjacency of Rivanna Village and Glenmore?

The Commission agreed that all of Livengood should become part of Glenmore, but there was no consensus on which of the schemes (41, 42, 51, and 57 lots) was most appropriate in terms of density.

ZMA 2001-08 Rivanna Village at Glenmore (Signs #16, 17, 19, 20, 21)

PROPOSAL: Rezone approx. 94.5 acres from RA -- Rural Areas which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre) residential (3 - 34 units/acre) with limited commercial uses and PRD Planned Residential District which allows residential (3 - 34 units/acre) with limited commercial uses to NMD Neighborhood Model District which allows residential (3 - 34 units/acre) mixed with commercial, service and industrial uses. A maximum of 500 dwellings is proposed with an overall gross density of 5.29 units/acre.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential - residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses and Community Service - community-scale retail wholesale, business and medical offices, mixed use core communities and/or employment services, and residential (6.01-34 units/acre) in the Village of Rivanna.
ENTRANCE CORRIDOR: Yes
LOCATION: (address/intersection/route number and street name) and Rural Area or specific Development Area
TAX MAP/PARCEL: a 4.583 acre portion of Tax Map 93A1, Parcel 1 and a 0.741 acre portion of Tax Map 93A1-1 zoned Glenmore PRD; Tax Map 93A1, Parcels 2, 3 & 4; Tax Map 80, Parcel 46, 46A, 46C, 46D, 46E, 50, 51,and 55A all zoned RA Rural Areas; and Tax Map parcel 25A also zoned PRD.
MAGISTERIAL DISTRICT: Scottsville
STAFF: Elaine Echols

Mr. Craddock recused himself and left the meeting.

Ms. Echols presented a power point presentation and summarized the staff report. (See Staff Report)

Ms. Joseph invited the applicant to address the Commission.

Steve Runkle, representative for the applicant, noted that the Rivanna growth area was approved in 1989 at 2:00 a.m. He explained the density issue from the Code of Development. He requested that the density be calculated for 4 dwelling units per acre overall and they keep track of it on a block by block basis. He explained the affordable housing proposed in the development.

William Rieley presented a power point presentation concerning the proposed park layout.

Ms. Joseph invited public comment.

Kat Imhoff, Vice President of Monticello, asked that the Commission address the Monticello view shed and consider the type of building design in terms of color, scale, height and massing. She hoped that would come forward in future sessions.

Richard Wagaman, President of the Glenmore Community Association, supported the request, but asked that Glenmore be included in the discussions.

Dennis Ordinov supported the request.

Scott Hilderbrand, resident of Glenmore, said that the concerns tonight were about their lifestyle, families and too much traffic on the roads. An article last week in the "Wall Street Journal" said that the second biggest pain that people have in their life is their commute. Tonight the Commission entertained the idea of bringing on line 700 housing units in a footprint almost the same size as Glenmore. The infrastructure is not changing. It was 17 years ago when this whole growth plan, the Rivanna growth district, was birthed. Here they are 17 years later and they still have the same rural infrastructure, but yet they are trying to shoehorn all of these houses into it. He asked that the Commission take into consideration all of the concerns expressed tonight and that the infrastructure is dealt with before approving the requests.

Ron White, Director of Housing, said that the $16,500 is the amount of money they will provide under a down payment assistance program. The Board of Supervisors has said that is a reasonable figure to consider in lieu of affordable housing. That is the maximum that is provided with the County's program.

There was no further public comment. (The following is a summary of the Commission's comments on the request.)

In summary, the Planning Commission held a work session on ZMA-01-08, Rivanna Village at Glemore to discuss new design, overall density, affordable housing and its relationship to Livengood property. The Commission is requested to affirm these elements or suggest changes to make these elements acceptable. The Commission discussed staff's recommendations regarding the rezoning request, took applicant and public comment and provided comments and suggestions to the questions posed in the staff report as follows:

Should the Rivanna Village at Glenmore development be modified to allow for interconnections and a relationship to the Livengood property?

Staff noted that the Commission had just finished this discussion when reviewing questions about the Livengood property.

The conclusion of the Commission was that the Rivanna Village design did not need to be modified for any future connections. Connections shown on the Rivanna Village Plan provide the opportunities needed for the future.

Does the new design sufficiently address the Planning Commission's request for the park to have natural areas and potentially retain the quarry?

The Commission answered affirmatively.

Is a minimum density essential? If so, are 4 dwellings per acre an acceptable density?

While the Commission did not conclude that a minimum density was essential, they did discuss the problems related to keeping track of minimum density. The Commission said that 4 dwelling units per acre gross are acceptable; how that density is tracked was not important to them.

If the minimum density in a block is exceeded, can the minimum density in a different block be decreased by a like amount?

The Commission agreed that they were concerned about the gross dwellings per acre and that modifications such as these were fine.

Can the minimum density be based on the total area minus the assisted living facility?

The Commission answered affirmatively.

Is the affordable housing proposal appropriate for Rivanna Village at Glenmore?

The Commission said that the proposal for affordable housing in substance is acceptable.

Old Business:

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

New Business:

Ms. Joseph asked if there was any new business. There being none, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 12:35 a.m. to the joint Board of Supervisors meeting on Wednesday, December 13, 2006 meeting at 4:00 p.m. at the County Office Building, Second Floor, Auditorium.

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V. Wayne Cilimberg, Secretary

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