Albemarle County Planning Commission
January 23, 2007

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, January 23, 2007, 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 absent.

Other officials present were Wayne Cilimberg, Planning Director; David E. Pennock, Principal Planner; Judy Wiegand, Senior Planner; Scott Clark, Senior Planner; Amelia McCulley, Director of Zoning & Current Development/Zoning Administrator and Greg Kamptner, Deputy County Attorney.

***Call to Order and Establish Quorum**:*

Ms. Joseph called the regular meeting to order at 6:05 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.

Mr. Jeff Werner, representative for Piedmont Environmental Council, pointed out that he had been in Richmond today listening to how our State conducts its business. Creigh Deeds submitted legislation requesting that Albemarle County be granted a special condition to establish scenic overlay districts in which the effort would be to establish some guidelines primarily for house color. This request was not trying to preclude development but to try and guide what is visible so it was not such an eyesore. It is something that the County and many residents have supported for years. It is something the University and real estate ads market as the scenery with the beautiful mountains. Others present speaking in support of the proposal were Kat Imhoff with Monticello, Mark Shore from the Visitor's Bureau and Sally Thomas representing the Board of Supervisors. After they spoke the Virginia Association of Realtors stood up to expressly state their strong opposition to this for a number of reasons. Mike Tolson, with the Virginia Home Builders Association spoke about this being a taking of property rights. A woman from the Virginia Agriculture Business Council said that this will prohibit farming. The Farm Bureau spoke against it because they feel that it would preclude farming. Most disappointing was that Tim Hulbert, Director of the Chamber of Commerce, did not speak in support of it. He felt that the legislation would probably ultimately get killed, but they are going to work to hopefully sway some of the concerns of the Farm Bureau. He noted that a lot of people are working hard to protect what is special and beautiful about this County, which gets marketed by economic groups, realtors and builders. But, when it comes down to really protecting that which these groups market, they are just not that willing to help out.

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

Regular Items

SDP-2006-081 Black Cat Road Service Station: Request for preliminary site plan approval for the construction of a service station and restaurant totaling 6,500 on 12.5 acres zoned C1, Commercial, RA, Rural Area and EC Entrance Corridor. The property, described as Tax Map 94, Parcels 38 and 39 are located in the Scottsville Magisterial District in the southwestern corner of the I-64, Black Cat Road (Route 616) interchange. The Comprehensive Plan designates this property as Rural Area. (David Pennock)

Mr. Pennock summarized the staff report.

- The applicant is proposing construction of a convenience store with associated fuel pumps. As part of that plan there are two waivers that would be necessary.
- There are two pieces of property. Both of these properties are split zoned. There is C-1, Commercial property in front along Black Cat Road and RA, Rural Area zoned property in the rear. The C-1 portion was rezoned in 1970. That zoning is carried forward even though the

property lines have since changed. So as a result both of the properties are split zoned and this proposal will be for the construction of all of the proposed uses and accessory structures within the C-1 zoned portion.

- The first waiver request is to disturb the required buffer between C-1 zoned property and any rural areas or residential zoned property. The dashed line represents the zoning boundary between the two different zoning classifications. The RA portion is the rear of the property. By Zoning Ordinance Section 21.0, the C-1 section requires a 20' undisturbed buffer between the C-1 uses and any residential district, which would have to be within the C-1 zoned property. They allow for a waiver of that buffer in cases where the screening requirements of the ordinance can be met or reestablished above minimum requirements from the ordinance.
- The current plan shows plantings along that zoning line, but they are on the RA zone side of the line. In addition, the proposed size caliper of the trees proposed does not actually meet the minimum requirements from the screening section. So as a result the waiver can't be granted as submitted. The other portion of the requirement is that the disturbance of this buffer would be required to serve the use on site. Arguably that is certainly true within this area in if they intend to develop at this scale they would certainly have to disturb this 20' buffer. But, the reestablishment of the buffer is proposed on the rural areas side, which is in conflict with the ordinance.
- The other waiver required is to disturb critical slopes. Some portions would be disturbed in the front to build the convenience store as well as the gas pumps, but there are a couple other areas in the back. There is extensive grading proposed throughout the site. The existing grades are in some cases 15' to 20' lower than the proposed grade. So there would be an extensive amount of earth work necessary to achieve this look. It is difficult to say that there are no aesthetic deteriorations based on this plan. Staff has recommended that the plan be taken before the ARB even at its preliminary stage. A certificate of appropriateness from the ARB will be required prior to final site plan approval. But, staff always recommends a preliminary review early in the process. The ARB typically requires a preliminary submittal as well as a final submittal.
- At this point based on the aesthetic concerns as well as the large amount of grading, not all of which is necessary to support this plan, staff is also unable to recommend support of the critical slopes waiver. The applicant has indicated that the slopes are man-made and as part of their presentation they will be submitting some justification for that. Staff is not allowed to grant a waiver of critical slopes based on that exemption. They have made exceptions in the past if they have an approved plan on file that actually shows these disturbances were created by a plan that was reviewed by the County. Staff has not been able to find such a plan in this case.
- The preliminary site plan is also under consideration tonight. It has been called up by a number of neighbors as well as the Planning Commission. The two waivers would be necessary in order to grant approval of the plan as submitted.
- He noted that a Tier IV Groundwater Study is required. The Tier IV Groundwater Study has been submitted and reviewed. He was unaware that it had all gone through, but that portion of his recommendation no longer is required. The applicant actually met that requirement. They would still need to have both waivers granted in order to approve this plan as submitted.
- Staff is unable at this time to support approval of the preliminary site plan as well.

Mr. Edgerton asked what has changed in the plan since they reviewed it in October.

Mr. Pennock replied that since that time the applicant has submitted the ground water study required. They have now showed the landscaping strip to be within an easement, which was not shown before. Other than that the layout and waivers requested are the same.

Mr. Edgerton asked if they have not responded to any of the concerns that were addressed in the October meeting.

Mr. Pennock replied that they have certainly not responded to all of the concerns. Staff has not heard back from the Department of Transportation. But, that is another concern on the site. He did not know if those issues have been addressed.

Mr. Edgerton asked if there has been any effort to reconfigure this layout to allow the undisturbed buffer to be on the commercial zoning side as required by the ordinance.

Mr. Pennock replied not to his knowledge.

Mr. Zobrist said that his recollection from the October hearing was that there was something to do with which off ramps from 64 were going to be developed and this was one that was not suppose to be.

Mr. Pennock replied that the recommendations in the Comprehensive Plan there is an interchange development study, which is included in the staff report as Attachment C. The Comp Plan has changed since 1970 and this area is no longer recommended for commercial use. It is still recommended for rural area in the Comp Plan. In addition, there is the interstate interchange development portion of the Comp Plan which shows that some interchanges in the County may be appropriate for commercial uses and uses supporting the nature of an interchange and others are not recommended. In the Comp Plan this particular interchange is one of the roads that are not recommended for development except as provided generally in the plan as permitted under rural areas zoning regulations. That is probably what he recalled.

Ms. Joseph said she had a question for Ms. McCulley. They received a letter from one of the adjacent owners. He cited reference in the zoning ordinance that talked about special permits required for a site within the C-1 zoning district that was not on public water or sewer and used 400 gallons per site acre per day. Also, it said something about the kind of waste or sewage that can be treated. She asked Ms. McCulley to elaborate on that. The domestic sewage was confusing.

Ms. McCulley agreed that it was confusing because there was no definition in the zoning ordinance. It is sort of written in reverse. It is listed by special use permit if one has other than domestic sewage. If one has more than the 400 gallons of water per site acre per day a special use permit is required. They don't know definitively at this point the water usage. If they do end up needing more than the 400 gallons per site acre per day, they would have to come back and get a special use permit to accomplish the site plan. In terms of the waste, she found in the County Code a section that relates to waste water and water systems. It is chapter 16. The term domestic goes beyond the residential use. The definition is water born waste normally discharging from a sanitary convenience of dwellings, office buildings, factories and institutions free from storm surface water and industrial waste. It does go beyond residential use. What it is saying in reverse is if one has storm surface water that is discharged to a septic field, which is not the case here, and is not a very routine practice, or if one has industrial waste that are discharged to the septic field that requires a special use permit. As she understands it, and staff is confirming it with the health department, the waste that they are generating that would be discharged to their septic field, are not industrial waste and would qualify as domestic. Therefore, it would be by right. It is something that staff is confirming with the health department because they may have a slightly different understanding of domestic waste. At this point, based on their email and conversation this morning, they think that it is domestic waste from the site plan. So it would be by right. That is something that staff would absolutely have to confirm before it could get final approval.

Mr. Craddock noted that it was a 2 acre site and would generate a lot of water for a convenience store. He suggested that staff check the water usage for the Pantops Amoco from the Service Authority's records since it was probably comparable.

Mr. Edgerton asked when the last time that section of the Comp Plan was amended.

Mr. Pennock replied that Mr. Cilimberg indicated that it was in 1996.

Mr. Edgerton noted that staff had mentioned in the third paragraph that talks about other interchanges that it actually lists Black Cat Road as not being recommended for development except to provide a general plan as permitted under rural areas. But, also on the next page in paragraph 4 the random individual location of highway service businesses should be discouraged. Such use should be located exclusively in clusters with common access points on sites ranging from 3 to 5 acres in area. He asked if staff applied that criterion to this in the review.

Mr. Pennock replied that staff considers this to be stale zoning that existed even though the Comp Plan has changed. If they have a by right plan staff cannot apply the Comp Plan goals to it except that it can

be a consideration in their recommendations for anything they are going for that is above and beyond by right. That is why he included the interchange plan as an attachment.

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

Eric Wooley, engineer, said that the Cox Company is the civil engineering consultants for the Virginia Oil Company and prepared the plan. Present is Kurt Hughes, local surveyor, who did a lot of the background work that he would be using in the presentation concerning the critical slopes. Mr. Hughes was present to answer any questions. Regarding the water usage and domestic effluent, it was their opinion that the sanitary sewer was not applicable for the special use permit. They also had a slightly different take on the water usage. If they read the ordinance specifically it says 400 per site acre. Granted this site is split zoned, but the site is 12.5 acres. So they think if they read the ordinance strictly he believed that means closer to 5,000 gallons per day. That might take an interpretation by the County Attorney. As a part of the Tier III and Tier IV Groundwater Studies that are required for these types of development, which they have submitted, they did outline what they would be using that was under that amount and it was approved by County staff.

Mr. Wooley presented a power point presentation and discussed the issues they tried to amend with this presentation versus the last time. He was at the last meeting and felt that all of the concerns expressed at the last Planning Commission meeting were all geared towards the final site plan level. They did not feel that it was applicable to incorporate those changes now because they were still trying to get preliminary site plan approval. Those concerns they did try to address a little differently than they did last time. The real reason they deferred the last time they were here was because they got the staff report two days before the meeting and in reading through it he found that the critical slopes were recommended to be natural and not man made. This was pretty much a 180 from their feeling having studied the site for several months. They are aware of the fact that the County does have an exemption policy for critical slopes if one can present a plan that shows that previous development was the cause and the critical slopes are a result of that grading. This site is in proximity to I-64. In discussing this with people who were around when I-64 was built they have learned that this site was a major borrow area for the construction of I-64. Anybody that studied a VDOT plan then, now and in the future knows that those plans do not show grading contours on them. They have a little area where they can't meet that exemption policy. So they decided to have Kirk Hughes go out in the field and find specifically which slopes qualified for that 25 percent or greater slope. He did, take photographs and stakes them all out. They presented this as a packet to their planner who dispersed it to the Commission. Their feeling is yes that they don't have a grading plan that shows those, but in the full nature of that exemption they are in a sense very close or the same in terms of their situation. He assumed that the Commission has had a chance to look over those. He asked to point out a couple of those starting at Area A. That was a result of grading on site where they pushed all of the tree stumps and top soil over to the side so they could get out the material for the off site borrows area. He presented several pictures from different angles. The owner would like to put the buffer on the residential side in an easement so it could remain in the future even if they were to subdivide or sell the property at a later time. The owner feels if it can't be on the residential portion that they would agree to move it back onto the commercial side as a condition of approval tonight if that would be possible.

Ms. Joseph invited public comment.

Ruth Dalksy, property owner on Mechunk Road, spoke in opposition to the request. She asked that they keep in mind the issue brought up about domestic waste. Those are 12 duel gas pumps located in that one section. Gas stations usually hose those down to remove gasoline and oil waste daily. That will part of the run off, which she did not know if that counts as domestic waste. She asked staff to look into that because it is a health hazard. Secondly, this is not designed to be a growth area. It is very rural. This road is not capable of maintaining all of the traffic, the back up and the turning off of the interchange. There are a lot of studies that must be done before this request can be approved from that standpoint. The water usage should be taken into consideration because it was not just a service station/convenience store, but also a restaurant. She reminded them that although it was on 12.5 acres, the commercial area was only 2 acres. She noted that none of the rural area neighbor's concerns have been addressed since the last meeting. The area they owned next to I-64 the owner has already denuded and clear cut it. A member of the ARB did speak at the last hearing and quite angry. She said that there would be some

action taken. As far as she knew it is still denuded and still a mess. The applicant has done nothing with putting grass seed on it to prevent soil erosion. She cautioned the County to allow this activity to go on without having the conditions being met ahead of time.

Amanda Abington, resident of Mechunk Road, spoke in opposition to the request since she shared all of the concerns of the area residents. She noted that no one wants to live next to a convenience store/gas station. She asked that the Commission turn the request down.

Zeta Knuckles, resident of Black Cat Road, said that she lived right across from this area. She asked that whoever sends out the letters from the County to send her one. She asked that the Commission to take into consideration the large amount of traffic that would be created by this use and the potential danger to the parents and school children at the bus stops. It takes over 5 minutes to get on the road if she does not leave before 7:30 a.m. in the morning. She suggested that the applicant be required to do a traffic study for a period of 24 hours. She asked that the Commission deny the request.

Jean Dalsky spoke in opposition to the request and to reiterate all of the concerns already expressed by the others. All of the residents have the same concerns. She questioned where the children would be able to safely board the buses since the close location of the ramp. The traffic would be very heavy coming off of the ramp.

Dana Tarrant, resident of 4820 Mechunk Road, said that she has lived there for 21 years. She spoke in opposition to the request. She moved to the rural areas because she liked county schools and the beauty of the rural area. She feared the additional lights in this area would destroy the beauty. Yesterday she received a tax reassessment that went up 30 percent. She asked who wants to pay that to live right across from a gas station. She felt that a stop light at the end of the road would be needed in order to get onto the road. She asked that the request be denied.

Abington Hubbard, resident of the area, spoke in opposition to the request. He voiced concerns about the increase in traffic. He agreed that the lights would harm the rural areas. He feared that this would turn into a truck stop with big trucks running all night releasing a lot of fumes. He did not think that their wells in the area would be able to handle the demand and if approved should be on public water.

David Wagoner, resident of 4813 Mechunk Road, echoed the concerns already expressed. He feared the safety primarily for the children at the school bus stop. There would be significant safety concerns with the increased traffic. The water is a real concern. Aesthetically he felt that this use was out of character with the area as outlined in the Comp Plan. The bill dozed area is not attractive and he asked that they leave it in its rural state.

Robin Ellis, resident of 1716 Union Mills Road, reemphasized that the safety, aesthetic and water concerns are also her family concerns. She urged the Commission to consider a use for this property that is more appropriate to a rural country road that is residential only. There are no other commercial developments on Black Cat Road. It is all residential. Any use on that road should be appropriate to the neighborhood.

Bill Johnson, resident of Black Cat Road for 33 years, said that in that period of time it has really growth traffic wise. When a traffic study comes through they will find that there are over 8,000 cars daily on the road. He felt that the proposed use would hurt the real estate in the area. There are existing water problems in this area. He asked that the request be denied.

Mary Beth Wagoner, resident of area across Route 250, spoke in opposition to the request. At Exit 129 it is a beautiful peaceful place in a rural area. There are fantastic gas stations at Exit 126, which is just 7 miles up the road. Also at Exit 124 there are a lot of gas stations to choose from. Therefore, she asked that the Commission oppose this request and stick to the Comp Plan.

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

Mr. Morris noted that there was a lot of conflicting figures with the water usage. He definitely felt that they need to know more about the water situation. Based upon their joint meeting with the Board he left there with a firm feeling that in the areas that are designated they are going to be extremely stingy with waivers on critical slopes. He was against any waiver on the critical slopes.

Mr. Craddock commented that at the last meeting he asked that the applicant meet with the neighbors and he did not believe that occurred either. As Mr. Morris pointed out about the rural interchanges and the critical slopes, he feels that is a major obstacle. The water usage is a real concern. Even in David's report it says that the average would be less than 2,000 gallons a day. Also, in the report it notes 900 gallons per day that is more than the ordinance is talking about. He noted that they have had water problems at Keswick Club, Running Deer and some other locations in that area. He felt that it was just asking for trouble to approve this. Therefore, he supported the motion for denial.

Mr. Kamptner asked to address a couple of issues that came up in the hearing.

- Regarding the landscaping, the landscaping needs to be on the C-1 zoned portion of the property. The best analogy is that the landscaping is an accessory use or activity and the zoning regulations require that the accessory uses be on the same lot and have the same zoning as the primary use. So the landscaping needs to be on the C-1 portion. One was regarding the buffer where the landscaping can go.
- Regarding the threshold for water consumption per day to trigger the special use permit requirement, the language refers to gallons per day. The issue is whether or not this site consists of just the 2 acres or the entire 12 acres. The only other application that he could recall where this issue came up was with the Faulconer site plan. That was industrial zoned land that had a similar threshold of the depth of the site. That parcel was a little over 27 acres. His recollection was that the calculation for water consumption was based on the entire 27 acres. This situation is a little different because it is a split zoned parcel. The RA portion of the property cannot be used for the commercial uses. In this case the site is the C-1 portion of the land. Therefore, it is roughly 2 acres. So that will be the factor by which the 400 gallons per day is determined.

Ms. McCulley, Zoning Administrator, agreed for some of the same reasons that Mr. Kamptner gave for the buffer. The well is an accessory use to the primary use and as an accessory use has to be on property zoned for the primary use on the same lot. Just in terms of trying to accommodate development on property that is zoned properly it really does not make sense that they could take some properly zoned property of some amount of acreage, such as 2 acres here, and add lots of other acres to it to increase the capacity or intensity of that commercial use just by the addition of rural areas property. That is not their intent of all.

Ms. Joseph noted that it sounds as if this will require a special use permit anyway.

Mr. Kamptner agreed that was a possibility.

Mr. Cannon noted that the Commission does not need to decide that to rule on the two things that are before them today.

Mr. Edgerton said that he had one question on the buffer. In the language of the buffer he had learned a couple things tonight. One was that along a public road they don't have to worry about a buffer even if everything around it is a totally different zoning. In reading the requirements of the buffer zone it says that adjacent to residential or rural area district no construction activity including grading or clearing of vegetation shall occur closer than 20' to any residential or rural area. Even if they move this buffer on to the 2 acre piece they could not accomplish that and still grade the rest of the site if the applicant's reason for the severe grading is because of our requirements.

Ms. Joseph asked to speak that grading aspect because she did not feel that it was because of their requirements, but because of what the applicant wants to do. In grading that site they could certainly come down with a 2 to 1 slope and hit the existing grade a lot quicker than going all the way to the edge of the property and leaving the 20' buffer at the edge of the property.

Mr. Edgerton agreed.

Ms. Joseph noted that they could put in a retaining wall or whatever. This is a classic use of putting too much on the 2 acres. The applicant is putting too much on the 2 acres if the 20' buffer will not fit on the 2 acres. She said that the applicant can grade as much as they want to on the rural area piece because it is in the rural areas. The applicant can remove whatever they want to on that. But, they can't grade on the C-1 district.

Ms. McCulley clarified that there is a provision for the Commission to waive that to allow grading in that area provided they reconstitute a substantial buffer. But, that is only within the commercially zoned 20' buffer strip.

Mr. Kamptner noted that it would include the waiver.

Ms. McCulley agreed.

Ms. Joseph said that whatever they do in removing that vegetation from the rear on the rural area district they are going to make it much more visible from I-64.

Mr. Kamptner asked for one last clarification for the record. There has been discussion about the appropriateness of the use and the portion of the Comprehensive Plan that is in the staff report. At this stage of the process, focusing on the site plan the Comprehensive Plan is no longer relevant to the consideration, but the criteria that the Planning Commission needs to apply in making the findings for the waivers does reference public health, safety and welfare. So to that extent the provisions of the Comprehensive Plan are relevant in helping the Commission make their findings for those waivers.

Motion: Mr. Edgerton moved, Mr. Morris seconded, for denial of the applicant's request for SDP-2006-081, Black Cat Road Service Station to construct a convenience store with fuel pumps and the two waiver requests for critical slopes disturbance and disturbance of the buffer between zoning classifications for all of the reasons stated in the staff report.

The motion carried by a vote of 7:0.

Ms. Joseph stated that SDP-2006-081, Black Cat Service Station Preliminary Site Plan waiver requests were denied. The applicant has ten days to appeal the request to the Board of Supervisors.

The meeting recessed at 7:15 p.m. and reconvened at 7:25 p.m.

Public Hearing Items:

SP-2006-008 SOCA South Fork Expansion (Sign #66)
PROJECT: SP 06-08 SOCA South Fork Expansion
PROPOSED: Soccer club/office with outdoor field and training courts, one indoor arena
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: 10.2.2.2 (Clubs, lodges, civic, patriotic, fraternal); 5.1.02 (Clubs, Lodges)
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre)
LOCATION: 1717 Polo Grounds Road (Rt. 643), 1.2 miles east of the intersection with US 29 North
TAX MAP/PARCEL: TM 46 Parcels 22 and 22C
MAGISTERIAL DISTRICT: Rivanna
STAFF: Scott Clark

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

- This proposal is for a club use in the rural areas. It includes an indoor soccer arena of 33,920 square feet and about 5,300 square feet of other supporting use for that building. It would be an outdoor playing field for year round use. The use for the entire site is requested from 8:00 a.m. to

11:30 p.m. on weekdays and 7:00 a.m. to midnight on Saturday and 7:00 a.m. to 11:30 p.m. on Sunday. However, the outdoor field would not be used after 9:30 p.m.

- There would be 4 exceptions to the operating hours, which would extend the hours for the indoor facilities. There are 2 outdoor training courts, a parking lot of 96 spaces and uses in the existing house to include meeting rooms and a grounds keeper residence.

Staff has identified the following factors favorable to this application:

1. The use would help to meet a need identified in the County's "Community Recreational Facilities Needs Assessment Study" of November 2003, which identifies a strong need for indoor recreational facilities and recommends partnerships with other organizations to provide these facilities. The Parks Department supports this request.
2. The applicants are proposing full-cutoff light fixtures for the outdoor athletic field.
3. The use would be adjacent to the organization's existing fields and temporary offices, thus reducing travel between sites, compared to developing the proposed facilities elsewhere.

Staff has identified the following factors unfavorable to this application:

1. This request does not conform to the Land Use Plan policy that this "critical" section of the Rural Areas "is to remain in an open state as a buffer between the Urban Area and the Community of Hollymead."
2. The soils on the site cannot support septic fields, and the proposed use could only be supported by an extension of the ACSA jurisdictional area. The "Public Water and Sewer" section of the Comprehensive Plan clearly states that "Rural Area development will be served by individual water and septic systems only." The "Alternative Uses" section of the Rural Areas chapter of the Comprehensive Plan states that such uses should be "viable with no increase in public infrastructure or services, either at the time of approval or later."
3. The proposed use includes approximately 39,220 square feet of new building space for the arena and its support facilities. This is a large structure for the Rural Areas and is not in keeping with the Comprehensive Plan intent to maintain this area as a buffer between the Development Areas. Only 15 other buildings greater than 30,000 square feet exist in the Rural Areas, and 14 of those are by-right uses.
4. With the investment needed for such facilities, they are unlikely to be "reversible" to farming, forestry, or open-space uses as recommended under "Alternative Uses" in the Rural Areas chapter of the Comprehensive Plan.
5. The existing dwelling to the east, and other existing or future dwellings on nearby properties, would potentially be impacted by noise from outdoor activities.

Based on the findings contained in this staff report, staff recommends denial of Special Use Permit 2006-008. However, if the Planning Commission wishes to recommend that the Board of Supervisors approve the permit request, staff recommends that the following conditions be added to the recommended action:

1. The improvements proposed under SP 2006-008 and the scale and location of the improvements shall be developed in general accord with the conceptual plan entitled "SOCA at South Fork New Offices, Arena and Turf Field," prepared by Stoneking von Storch Architects, and dated Jan. 1, 2007.
2. All outdoor lighting shall be arranged or shielded to reflect light away from abutting properties.
3. The area labeled on the conceptual plan as "Existing Wooded Area Cleared for New Sitework" shall be replanted with species listed in the brochure titled "Native Plants for Conservation, Restoration, and Landscaping: Piedmont Plateau," published by the Virginia Department of Conservation and Recreation. Replanting shall include 80 canopy trees (1.5 to 2-inch caliper), 80 understory trees (0.75 to 1.5-inch caliper), and 80 small shrubs or woody groundcover plants (minimum 15 inches high). The final plant layout shall resemble a random and natural pattern of plants rather than an orderly pattern.
4. All landscaping on the site shall include only native plants identified in the brochure "Native Plants for Conservation, Restoration, and Landscaping: Piedmont Plateau," published by the Virginia Department of Conservation & Recreation. The new trees shown bordering the outdoor field shall be planted as a double-staggered row of a mix of evergreen and

deciduous species listed in the above brochure, all a minimum of 5 feet in height when planted.

5. No grading or tree removal shall take place within the areas labeled "Tree Protection Area" on the conceptual plan, except for construction of the patio area shown adjacent to the existing house.
6. A tree protection plan for all "Tree Protection Areas" in accord with section 32.7.9.4 of the Zoning Ordinance and section 704 of the Design Manual (2005) shall be shown on each sheet of the site plan for this use that includes landscaping and/or erosion-control plans.
7. The existing house on the site shall not be demolished.
8. The facilities shall be used only for SOCA club activities, or by other athletic organizations. The facilities shall not be rented or otherwise used for commercial activities by other organizations or businesses.
9. Hours of operation for the arena and for non-residential uses of the existing house shall be no earlier than 7 a.m. and no later than 10 p.m. The outdoor field shall not be used, and no outdoor lighting of the field shall be illuminated, before 7:00 a.m. or after 9:30 p.m.
10. Verification of adequate fire flow by the Albemarle County Fire/Rescue Department.

Staff also recommends that, if the Commission approves SP 2006-008, they also approve the critical slopes waiver under section 4.2.3 with the following condition:

1. Adequate temporary and permanent easements will be secured with a proposed subdivision of the parcels included in the special permit application to assure the construction and maintenance of the erosion control and storm water management facilities.

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

Mr. Strucko asked if in 1992 the County approved water and sewer to the site for a church.

Mr. Clark replied that the 1992 County approval was limited to the church use only.

Ms. Joseph asked if the request to extend the jurisdictional area goes directly to the Board of Supervisors and not to the Planning Commission.

Mr. Cilimberg replied that was correct.

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

Bill Wood, Executive Director of SOCA, asked to split the time allowed with his architect who can address some of the more technical matters. SOCA is the single largest athletic provider in our area. They are a non-profit volunteer based community service organization. They made 9,200 registrations in 2006. They anticipate about 10,000 in 2007. They have 64,000 families in their data base, which means they have participated in SOCA in some way during the past three years. They have about 4,000 participants in their programs in any season. All of this adds up to the fact that SOCA is big. They give away about $21,000 in financial assistance every year to include folks who might not otherwise be able to participant. They have an active outreach program to include folks from communities that are underserved. SOCA is clearly a vital partner with the County. Mr. Mullaney, Director of Parks, has submitted a letter indicating so. They consider that partnership critical. SOCA is doing good work in the community. They have hundreds of volunteers who are working with children week in and week out. They add life to the community in such a way that helps make this County a great place to live. They are hoping to build a home, a center and a place where people meet and greet and are happy to be. It will be a place for children to come after school to be involved with healthy happy activities. It will be a place where families will spend time on the weekend both inside and outside during the cold and warm weather. SOCA has been around for 25 years. They are looking for an institution for SOCA to continue their good work. This is an expansion of an existing use. South Fork Soccer Park was built 4 or 5 years ago, which has been a tremendous addition to the community. The expansion of the use is a by right use with a special use permit. It is adjacent to their current use. It is critical to the success of the project. If they split it off in another location it will start to defeat the purpose. They will not have the home that they are looking for.

The location is central to their users. They have preserved the archeological resources on the site and have allowed unfettered access to the archeological experts. They are preserving the existing house on the hill. They are a valuable asset to the community and have proven their character and good for the community.

Steve Van Storch, volunteer architect for SOCA, said that Mr. Wood has explained very well why generally in the County it makes sense to consolidate this use. It is their contribution to growth and sprawl control. By being in the center of the population that they serve their families can come together. They have a study hall and library planned for the kids in the building and flex space where they can get connected. If they were to grant the special use permit their intentions for developing the property are reasonable and sound. This site is unique. It is in this valuable greenway that the County has identified as a resource. This ridge extends into the greenway and really separates itself from the green way. People understand this greenway as the floodplain, the land associated with it and the river and the land on the other side of the river as well. This sits above, separate and distinct from a perceived floodplain as a perceived outdoor room. Their development will not be visible from the river or the floodplain. This land carries the special use permit with it that was granted for an 800 seat church and presumably the sewer extension. He acknowledged that does not transfer, but the special use permits are granted to the land and not to the applicant legally. They have tried to local the large arena in the most appropriate place, which is down into the low area of the site. It is the only area of the site that is buildable. That will lower the building 7' on the high side from its natural grade. It will meet the building restrictions for any building in the rural area. So they are not asking for an exception there. They will preserve the house and the trees around it. They are going to preserve the large stand of trees along Polo Grounds Road that would shield this. They have relegated the parking behind the arena away from the road. They have been working on the lighting with Professor Ianna who has worked with the County on developing the dark sky ordinance. They have not gotten as far as the final fixtures yet. There is an aspect of the Code right now that does not allow lighting fixtures to be above 35'. Sports lighting does not work at 35'. So either the County Schools or SOCA will come and ask for a zoning text amendment at some point to deal with that. The critical slopes waiver was supported by staff and the engineering staff if the Planning Commission would grant the special use permit.

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

Mr. Strucko said that he had questions about the nature and arena hours of operation, which was one of his main concerns. They are proposing hours up to 11:30 p.m. for the indoor use. He asked if the lighting on the inside of the building would be visible from outside.

Mr. Van Storch replied that there would be clear windows with translucent plastic of some type on the north and south ends, but not so much on the east and west lawn sides.

Mr. Strucko asked if part of the use proposed up to four times per year was potentially for non-athletic events such as trade shows, auctions and other programs.

Mr. Wood replied that was correct. The idea there is that they would like to make the facility available to other groups who are putting on programs of community interest that are served by a large covered space. They were thinking of some of the items listed in the document. But, there was nothing specific.

Mr. Von Storch said that their intent was to supplement their revenue from the building and to provide community service. They specifically ruled out concerts and loud large promoted events. If that conversation needs to continue further with staff they are happy to do so. If there are boundaries that the Commission feels like suggesting to staff, they would be happy to continue working on that. It is just four events per year to supplement their income and serve the community in a non support specific way.

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

Steven Lavine, resident of 1601 Bentivar Farm Road, said that the present soccer fields located off of Polo Grounds Road represents an appropriate use of land in the predominantly residential area. The Polo Grounds Road has experienced an increase in traffic volume. The benefit of these facilities to the children and the families in the community far outweighs this negative consequence. Therefore, he

supports it. However, he opposes the proposed site for this project for several reasons. The proposed facility will increase the traffic on Polo Grounds Road dramatically by more than 600 car trips per day according to one estimate. The complex will also be setback from the road only enough to conform to the minimum statutory requirements. The scale of the plan is also problematic: a 39,000 square foot structure; 35' high lights that are likely to be higher in the near future depending on an ordinance change in the County; and expansive parking lots to accommodate patriots. There are other reasons to oppose the use of this site including the developer's intention to hold events as trade shows at the facility. Simply put this complex would be a large commercial eyesore and will bring in thousands of people from outside the community and result in a significant increase in traffic congestion. If Albemarle County is to maintain quiet residential neighborhood projects like these it needs to be realized near or in areas that are already developed commercially. There is no reason that they can't have facilities, such as the one being proposed and these neighborhoods. They just need to keep them separate. He appreciated the Commission making his letter part of the permanent public record. (Attachment)

Ms. Joseph said that Mr. Iachetta asked to speak for 6 minutes because the next person on the list is his wife who he will speak for. The Commissioners all agreed.

Tony Iachetta said that he has lived on this road for nearly 50 years. He agreed with what the previous speaker said and noted that he would not repeat them. They have seen it go from a dirt road with 22 vehicle trips per day to 1,900 vehicle trips a day today. This project brings another 35 percent over and above that. He had no quarrel about how good soccer is and how much of a good citizen they are. This project is a commercial project. It belongs in a commercial zone. It does not belong on a quiet residential area. The RA is only applied to the south side of this road. Everything else is going to be developed at a higher density. There is another couple hundred acres of land on this road that will become mixed use most likely. What is the impact on the residents along this road? They have the large playing field right in front of their house. They have the huge building right in front of them as they go up the road. They will have nights at night 200' from their front door. They will have vehicles coming in at night until 11:30 p.m. with the parking lot lights impending on their home. They have lived there in peace and quiet all of this time. The impact from this facility will decrease the value of their property. If they did have to sell it to go to an assisted living facility, they will probably not be able to realize its worth. He could not imagine anybody that would like to live next door to this use. He would expect the proponents of this thing would not want to live next door. He read what he considers to be one of the significant parts of the zoning ordinance: "Special use permits provided for in this ordinance may be issued upon a finding of the Board of Supervisors that such use will not be of substantial detriment to the adjacent property." He and his wife contend that this is a substantial detriment to their property. He was not a soccer fan, but it does not influence his decision to oppose this proposal. They were asked to meet with the proponents initially about a year ago. If they had told us all of the things that they had planned to do they would have made it clear to them then that they opposed it. The devil is in the details. They make the point that there are two commercial enterprises on this road. One of those is a nursery, which he felt was a very legitimate to grow trees in a RA area. The other commercial use is W.L.'s business. W. A. grew up on that site and his business was originally a home occupation. He replaced the trailer in which he and his mother lived with a very attractive house for himself and another for his mother. Neither of those operations brings a lot of traffic. Neither of those two businesses operates after sundown nor operates on Sunday. These folks are going to impose on the neighborhood an operation from 8:00 a.m. until 11:30 p.m. seven days a week virtually and including Sunday. He felt that would create an imposition on the adjacent property owner. They believe that is more than they should be exposed to. He complimented Scott Clark on his assistance with understanding the application.

Matt Howe, resident of 2248 Polo Grounds Road, asked to join his voice with the previous speakers in opposing this proposal as being inappropriate in scale and location. He was not here to denigrate soccer. There may be other places in the County for soccer, but this is not. They have heard that four or five years ago that the first application was made. Many of us were here then. They did not oppose it as a recreational facility. They asked that it be scaled back maybe to two or three fields instead of five. At that time they told us that five fields was all they need, which they got. Now the applicants are back. Let not make a mistake. This is not a public facility even if it fulfills a county need. Our neighborhood children can not wander over there and kick a ball around. It does not benefit our neighborhood. He asked to express some concerns about the impact on what are essentially a rural community and a tight knit neighborhood. First of all they have heard about traffic. On a foggy night at 11:30 p.m. Polo Grounds

Road is going to get someone killed. It is a very unsafe road even to those who know the road. This year he has picked up three deer out of his front yard from the traffic. The second concern is the litter. There had been no assistance in picking up the litter on the road. There are environmental concerns. This will increase the amount of paved area. They already have a 225 car parking lot. They are going to put another parking lot in. They area also going to put a permanent field in that will have to have an undercover of impermeable material. They are on the South Fork of the river. They are going to get significant run off and possible influents into the South Fork of the Rivanna River. There is also a circular argument here because the soil is disturbed that this is a justification for further despoiling of the area by putting something inappropriate in it. They all know how this despoiled area got in there by using a landfill. He was glad that they acknowledged that a 35' pole will not light a complete soccer field around the edges. A light can be shielded, but still emit lighting to the sides in a very dark area. The structure is located right up to road. Therefore, the road cannot be improved without moving the building. It is 75' from Polo Grounds Road. He asked that the Commission take the area residents in consideration by denying the request.

Fred Gercke, President of the Proffit Community Association, said that the proportions of this proposal with this large building, lights, extended hours of operation and rental opportunities are so overreaching that he easily forget that this parcel sits in the rural areas and is zoned RA. Its impact will be more like that of a modestly sized retail venture than the park they would be led to believe in reading this application. Even with the recently installed miles of guardrails and Montgomery Ridge Subdivision, one would still have the feel of being in the country. The two adjoining commercial ventures are of a scale and impact to escape the noise as such. Take Polo Grounds Road past this site towards Proffit and the road is so bad between Iachetta's and the Bentivar Subdivision that it forces people to slow down and proceed cautiously. The addition of more traffic at peak hours is pushing things to the edge here unless there is some remedial action taken by returning the traffic light to the one lane bridge railroad underpass. Eventually someone's patience and their good luck will run out. This section was not paved until a couple of years ago. That was not done right until just recently. That has enabled people to go faster, which they should not. Those of us who live in this area fought for over 20 years to preserve their rural live entity and way of life. They will have it degraded by the impacts of this proposal. They can dance around with the details and play semantic games with the meanings of ordinances and the intents of planning initials. But, that does not change that this project as designed does not belong on this site. The intent and impact of this project is for the region and not locally usage. If they area really going to preserve our rural areas a commitment must be made to avoid taking a cut here and a nick there. Sometimes unpopular decisions must be made if that commitment is real.

James Dean, resident of 2797 Proffit Road, agreed with all of the other speakers. He would like to say that he was not opposed to SOCA as such, but just disagrees with where they are proposing to put it because of this being a residential area. He opposed the lights, noise, traffic and the sewer problems. He opposed the site being rented out for a commercial venture. If these same people came and asked permission to put in a grocery store, the County would turn the request down. He did not feel there was not much difference in the uses. This County is spending thousands of taxpayer dollars to develop Neighborhood Models. They live in an area as Mr. Howe has said as being a tight knit committee. They have a school, churches and businesses. They have a neighborhood and almost a model neighborhood. Soon they will get a firehouse and a post office. What more could they want. They spend a lot of time trying to justify themselves from being torn apart from commercial ventures such as this. He hoped that the Commission would agree with staff's recommendation to deny the request.

James Beard, a homeowner in Bentivar Subdivision, agreed with everything that has been said so far. This is clearly not the right location for this particular use and application. The one issue is the one lane underpass on Polo Grounds Road. It is a one lane underpass with a blind curve on both sides so that one has to stop and blow your horn to get through that section of road. It is very dangerous section of road. They approached the County in order to get a stoplight put there. They had one there temporarily. Unfortunately, the County said they could not do anything about that since it was VDOT's responsibility. VDOT said that they had requirements that they could not meet, which included dealing with the railroad. This use will add more traffic to an already unsafe road. He asked that the Commission deny the request.

Jeff Werner, with Piedmont Environmental Council, said that the PEC has for the last 30 years been dedicated to protecting the rural area of Albemarle County. The rural area policies and zoning ordinances are a result of a lot of the hard work of the PEC. As of last year they were up to 65,000 acres in the rural

area in conservation easements. So they take it seriously what happens there. He did not want to say anything bad about SOCA. They are an outstanding organization. His son does play soccer. He does have some issues with this. First, when this was first proposed a couple years ago in the first special use permit they came in with a developer's interest associated with it. Their first question was is this it. They are talking about the extension of sewer into the rural area. The applicant at that time said that was all they needed. There was no more. Now they have a much larger facility proposed. It is difficult to argue with the rationale for putting something like this approximate to the growth area. But, the simple fact is that this is in the rural area. This is not an agricultural, but a commercial use in the rural area. Even with the discretion that is available to the County in the special use permit process, this proposal represents some serious concerns that he felt that they need to elevate the level of scrutiny to a much higher level. In fact, maybe the best way to solve this is by having a Comp Plan Amendment and considering a growth area expansion here. At least they would not be opening the tent for this type of activity in the rural area. There is some real concern here. There is some legislation going through the General Assembly that will probably pass that essentially removes the locality's ability to regulate the activities of farm wineries. It is currently controlled by special use permit. So here they have a large indoor facility with a lit field next to it in a non-agricultural use, so what is next. Who else will come in and say they want to do the same with farm wineries and want to build large facilities that have periodic trade shows and things like that. They don't have to worry about this site being residentially developed because the developers acknowledge that they so destroyed it that they can't put septic there anyway. There are a couple of concerns, such as traffic. There are about 11,012 vehicle trips per day. It comes out about a car every 50 seconds all going out to Route 29. What is going to be the impact at that light? Relative to the railroad bridge, the Board of Supervisors has talked about that a lot and it is an issue. There is a proper way to handle this because this being in the rural area raises some serious concerns.

Sally Civics, resident of Star Gate Lane, said that her resident was just off Polo Grounds Road. She lived in a quiet neighborhood with a cow field on one side and a goat farm on the other. She loved that the kids got to play soccer. In the evenings they hear the children cheering from the soccer field. The voices stop at sunset. Moving a 34,000 square foot sports arena into their quiet neighborhood would feel to be an outrageous invasion to the quality of their life. The possibility of 30' lights, loud speakers, a PA system, added traffic all of which would run to 11:30 p.m. week nights and midnight on Saturday would be terrible to those who go to bed at 9:30 p.m. This kind of project seems more appropriate in a commercial area near Lowe's or ACAC and not in the middle of their neighborhood. It is a wonderful thing to want to create this home for children. But, a project like this should be built in a commercial area and not in the middle of their neighborhood with a free bus system for the children. She hoped that the Commission would consider the impact that this project would have on their rural neighborhood.

Rick Van Tolli, President of the Board of Directors for SOCA, said that he was one of the volunteers of this organization. This is not a commercial organization. It is a non-profit volunteer based organization that provides community service. He noted that they were not asking for a rezoning of the land, but just a special use permit. While it is a large building that in overall footprint the height of the building is about the same height as the existing house on the property. They have done a lot on the plan to preserve the landscaped areas and to preserve tree areas so that the building will not be seen from the river or the green belt area. They will do whatever they can to meet the neighbor's concerns about screening, buffers and vegetation to preserve the character of this site. The site right now is never going to be a farm again. It is never going to be some things because of the condition of the site and what it has been used for. This project is not feasible in a commercial area for an organization such as SOCA because of the high costs of the areas and removing it from where they are operating now from their home. They will not be able to afford it or keep it affordable for those who participate in their program. Again, Bill Mueller mentioned why this site is important. Yes, traffic has increased on Polo Grounds Road for other reasons than their site. They stand by the traffic counts in the reports, which are no where near some of the traffic counts that have been mentioned tonight. Other residential developments in the area have increased traffic on Polo Grounds Road. That will probably continue. There is a great silent majority that supports this project. They came to address the technical issues of the staff report and answer questions. Many of the club members live in the residential areas that surround this site and support this project. Operating hours, use of the athletic facilities is all conditions that they are willing to continue discussion with community members in the neighborhood and the County to set those. They will go by whatever conditions are set by the Board of Supervisors for using this property. It is not a commercial property and they are not a commercial venture. When they talk about uses other than athletic organizations they are

talking about community uses. One of their staff members is a member of the Sister City Committee that does things with the Italian City that Charlottesville is a sister city of. Every year they send teams to Italy. They are one of the few organizations that maintain this city to city relationship on a regular basis. During a committee meeting they were specifically asked if they would be willing to host members or a delegation at a Gala type event on the soccer field. They replied that of course they would. Because they can only come in December, they could not use their outdoor fields and need the indoor facilities. Those are the community type of events that they are talking about. But, again all of those things are negotiable. They are more than willing to work with any community areas to set conditions that are amendable to all.

Claude Templeman, resident of 2506 Montgomery Ridge Road, said that he was not here to represent Montgomery Ridge as a community, but simply as an individual. They have tried to become working members of the Proffit Community Association. He was very happy to see people picking up trash along Polo Grounds Road a few days ago. They are an organization through the Proffit Community Association and they do that twice a year. It is coming up in the spring. There are many children in the community that are involved in soccer and swimming. It would be a great thing to have this facility, but this is not the right place for the facility of this size. It might be great to have some more outdoor fields there. It would be great to have the proposed facility in another area that would lend itself better to the traffic requirements and to the nature of the community it is in. This is not a public park.

Tom Toomey, 2268 Star Gate Lane, said that there has been a big point made here of what a good community representative this association for SOCA is. He thought that is true, but they also do charities, pick up trash and other things like that. He coached basketball for 13 years. One time the game went to 10 o'clock and the neighbors complained that the kids were noisy when they left. He just got the kids and parents together and told them it was important not to disturb the community when they left late at night. That is the kind of community spirit that they need. They are not going to get that when they have trade shows and large crowds and leaving at midnight. They should be protected from that by the County since they are a residential community.

Mr. Zobrist invited Mr. Iachetta to come forward.

Mr. Iachetta said that mention was made of the Covenant Church. At the time that the Covenant Church asked for a special use permit, they did not oppose it. They did not oppose it because Charles Hurt had bought the land because Ms. Morris could not sell it to anybody else at that. She had to have the money to put her husband in an assisted living facility. They felt that was the lesser of two evils. He made a dump out of a pretty alfalfa field, which is now not usable for septic because of the dump. There is concrete, rebar and who knows what else is on the site. They did not oppose the second church, which was turned down. Neither one of those would have brought the intensity of use that this project brings or the impact.

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

Mr. Craddock said that one of the speakers made mention of the special use permit running with the land. He asked if that was a fact as does the water and sewer.

Mr. Clark replied that the water and sewer approval was a limited service approval. The extension of service or connection is only permitted for something under a certain special use permit. While the special use permit may run with the land and be available to other owners, the sewer extension is not available to other kinds of uses or other special use permit approvals unless the Board acts again.

Mr. Craddock asked if SOCA has applied for expansion of the jurisdictional area.

Mr. Clark replied that the current applicants have applied. That will be heard the same night of the Board hearing for this item.

Mr. Cilimberg pointed out that the special use permit runs with the land and so does the conditions. So there are some conditions here that if the Board was ultimately to approve those conditions run along with

the permit itself. The conditions in this case include a reference to a particular plan and some other things.

Mr. Edgerton noted that the 1993 letter signed by Mr. Cilimberg references the church. Back to the question about the water and sewer that Mr. Craddock was asking. That special use permit even though it runs with the land would only be for the church use.

Mr. Cilimberg said that is a separate matter. That is jurisdictional area for water and sewer service. That is also explicit to this case to a limited service, which a particular functions.

Mr. Edgerton said that the earlier representation of the water and sewer being available is not accurate. That would have to be reapplied for.

Mr. Cilimberg pointed out that the applicant has made application to provide the utilities they need to support this use.

Ms. Joseph said that nobody here thinks that SOCA is not a good organization. She did not hear anybody say anything about that in any statement made. But, she felt that what she was hearing and what she felt reading the staff report is that this is just a little bit too intense for our rural areas. The size of the building itself is 39,000 square feet. An acre is 43,560 square feet. So it is very close to an acre. She felt that it is noble that they would like to do this for all of these children. She felt that it is noble that they want to provide outdoor and indoor activities for children, but she was not so sure about the size of the building and the location in the rural areas. The lighting is going to be an enormous issue. The height of the lighting is an issue particularly because this is on high ground. She felt that the impact of the lighting particularly if 35' poles were used was going to be enormous.

Mr. Strucko said that during the past week in reading the staff report he was favorably inclined to support this project. He thought that a facility like this is certainly needed in our area. He understands the desire for a year round active recreational facility like this. He was persuaded by Mr. Mullaney's letter. But, again as he was formulating his opinion going into this meeting he was hoping that they could discuss some of the intensity of uses that Ms. Joseph mentioned. He was concerned about the hours of operation and the 7 days a week from 8:00 a.m. to 11:30 p.m., which he felt was late. That is a long time, which prompted his earlier question to the applicant about what is the light visibility outside of this building. As they also know this application involves a lighted outdoor field as well. Then they heard that the applicant will come back at a later date asking for a more intense lighting use. Again, the hours of operation were a concern. He felt that the package says that the outdoor field will not be used past 9:30 p.m. His personal opinion was that might be a little too late. He also was adding to this intensity of use discussion the four special events per year for non-athletic use. Again, what was swaying him in favor of this was the idea that they would have an active recreational facility for our community for not just soccer, but for lacrosse, field hockey, etc. But, he was hoping that the Commission would get into a discussion about the intensity of use, lighting and the hours of operation and that they could weigh in on that. He did not know procedurally how they could do that here short of a deferral perhaps to recraft this proposal a bit.

Ms. Joseph pointed out that the Commission was not in a work session, but a public hearing.

Mr. Cannon said that he had a reaction similar to the Chair's. He felt that this was a wonderful organization and they do wonderful things. This is a great idea, but he was not convinced that this was in the right place. They have worked hard to protect the rural areas from large scale development. It has a scale and a character that is like commercial development, which is what most of the speakers were reacting to. Before he would be comfortable supporting the request it would need to have a different scale and a different feel closer to a soccer field and not so much like office buildings and large quasi-commercial space.

Mr. Morris felt that with the question of sewer and water and obviously the septic is not an option here that it just cannot be supported at this time. Being located where it is he felt that Jeff Werner was right on it when he said that it was a commercial nature pure and simple in a RA zoned area and is not appropriate.

Mr. Craddock concurred with the other speakers. It was probably a condition of the other fields that they would not be lighted either just like Darden Towe Park. He felt that it would be an error for the Commission to approve some lighting out here.

Ms. Joseph noted that Covesville does not have l lighting.

Mr. Zobrist felt that it would be very difficult to redesign this project and make it acceptable to what he was hearing from the Commission tonight. He would love to have a beautiful soccer facility and have lots of places for children to go play soccer. It is the right project in the wrong place.

Mr. Edgerton concurred with all of the statements. He felt that the Commission was struggling with this because they all had a deep respect for what SOCA does for our community and how valuable it is. The applicant indicated that there was room for negotiation. He thought that they should ask if the applicant might want to ask for a deferral. But, then thinking of the proposed program he questioned whether it could be scaled down to the point of traffic impacts, lighting impacts, intensity of use and over utilization and the obvious impacts it will have on the surrounding neighborhoods. It is in the rural area and he doubted seriously if there is negotiation room to make what SOCA wants to do on this site acceptable to the community. He concurred that it was a wonderful project, but in the wrong place.

Ms. Joseph asked to say something about filling in the rural areas. It is a shame that this has happened in this area. The county allows a lot of freedom in the rural areas for disturbing land because the assumption is that someone is going to use the land agriculturally and they don't want to stop them from doing something like this. It is a shame that this disturbance has occurred not for agricultural purposes. She appreciated that Mr. Clark put in the staff report the information about the salamander. It made her realize that they need to consider other things when they are looking at these things. She expected that came from the bio-diversity group.

Action on Special Use Permit:
Motion: Mr. Zobrist moved, Mr. Cannon seconded, to deny the applicant's request for SP-2006-008, SOCA South Fork Expansion, on the basis of the justification stated in the staff report with the additional comment concerning the significant danger in pulling people across Polo Grounds Road underneath the overpass by the railroad.

Mr. Zobrist pointed out that this overpass by the railroad on Polo Grounds Road is probably the most dangerous overpass in the County. It would be a serious mistake to draw people to this area since the public would take the quickest route to the facility.

The motion carried by a vote of 7:0.

Action on Waiver Request:
Motion: Mr. Zobrist moved, Mr. Morris seconded, to deny the applicant's request for a critical slopes waiver for SP-2006-008, SOCA South Fork Expansion, on the basis of the staff's recommendation in points #1 and #2 on page 10 of the staff report.

The motion to deny the waiver was approved by a vote of 6:1. (Commissioner Strucko voted nay.)

Mr. Kamptner said that the next item is making recommendations to the Board regarding the conditions.

Ms. Joseph said that the Commission does not want to recommend the conditions.

Ms. Joseph asked if the Commission wants to discuss the jurisdictional area or just assume that since they are recommending denial that the Board will assume that they are recommending denial of extending the jurisdictional area also.

Mr. Zobrist agreed that the Commission does not need to weigh in on it.

Mr. Cannon felt that it was explicit in what the Commission has done in the decision.

Ms. Joseph stated that SP-2006-008, SOCA, South Fork Expansion, will be heard by the Board of Supervisors on February 14, 2007 with a recommendation for denial.

Steve Von Storch said that each of the Commissioners probably had their list of concerns for a project like this. He asked how an applicant goes about engaging in a dialogue.

Ms. Joseph replied that the Commission holds work sessions, which comes before the public hearing. So this could have been done in a work session where they could have had that dialogue.

Mr. Von Storch noted that they have been working with the county on this for over a year. He asked if it was up to the applicant to figure that out. They have emailed all of the Commissioners asking for an opportunity for dialogue.

Ms. Joseph replied that since they have received a recommendation for denial for this that they should to ask the Board of Supervisors for a work session before the public hearing.

SP-2006-025 King Family Vineyards – Winery Expansion (Signs #41, 43)
PROPOSED: Expansion of existing farm winery to allow two special events per week (beyond the 12 events per year permitted by right).
ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre)
SECTION: 5.1.25(c)(3) - Farm winery
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: 6550 Roseland Farm
TAX MAP/PARCEL: 55-80, 55-81
MAGISTERIAL DISTRICT: White Hall
STAFF: Scott Clark

Mr. Clark summarized the staff report and gave a power point presentation. (See staff report.)

Proposal: Expansion of existing farm winery to allow two special events per week (12 events per year are permitted by right).

SUMMARY:
Staff has identified the following factors favorable to this application:

1. Additional events would help provide income to keep an existing agricultural use viable.
2. VDOT has found that traffic safety can be addressed with minor alterations to the existing entrance.
3. Health Department comments indicate that the site can support the necessary septic system.

Staff has identified the following factors unfavorable to this application:

1. Noise and light impacts on neighboring properties, both from activities within the event building and from attendees in the parking lot. The building design is intended to reduce sound impacts from the events, but outdoor sound after events (guests departing) would not be controlled. A condition regarding screening is recommended to reduce visibility and vehicle-light impacts.
2. Some area residents feel that existing traffic levels on Half Mile Branch Road are already high and increasing. However, VDOT has found that the road is within its capacity. A condition is recommended to increase safety at the entrance, which has poor sight distance for guests turning left onto the farm road.

RECOMMENDED ACTION:

Based on the findings contained in this staff report, staff recommends approval of Special Use Permit 2006-25 King Family Vineyards under the following conditions:

1. The improvements proposed under SP 2006-025 and the scale and location of the improvements shall be developed in general accord with the conceptual plan entitled "Preliminary Site Development Plan, King Family Vineyards Farm Winery," prepared by David L. King, and revised July 14, 2006, with the exception that the "Proposed Visual Barrier Plantings" shown adjacent to Tax Map 55 Parcels 80A and 80A1 shall not be required.
2. The north and east sides of the northern "Existing Gravel Parking" area shall be planted with tall evergreen shrubs a minimum of 30 inches high at planting, spaced to form a dense hedge. A double-staggered row of evergreen trees shall be planted north and east of the hedge, a minimum of 5 feet in height when planted, and spaced fifteen feet on center.
3. All special events shall occur indoors within the building labeled "Proposed Winery Building" on the conceptual plan, or on the porch at the west end of the building, farthest from Route 684.
4. Events shall be limited to two per week. No more than 150 guests shall attend each event.
5. Event attendees shall depart no later than 11 p.m.
6. No sound amplification systems shall be used outside of the central events room of the building labeled "Proposed Winery Building" on the conceptual plan.
7. Approval of entrance improvements by the Virginia Department of Transportation.
8. Approval of the septic system by the Virginia Department of Health.

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

Mr. Craddock noted that the Virginia legislation concerning farm wineries might make all of these points moot. He asked for staff's view on this.

Mr. Cilimberg noted that legislation was passed in 2001 regarding farm wineries being an agricultural use. There are 3 bills currently being considered in the Virginia legislation. One bill proposed would not allow counties to regulate wineries at all. That is the most extreme proposal. There are 2 other bills that would establish the degree to which counties can regulate wineries, one of which would be more optional for counties and the other would be more of a dictated what counties can do. This is a controversial subject at this time and the legislators are considering.

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

David King, property owner, said that he owned the property and farm winery with his wife and two sons who were all present in favor of the request. He explained the request as follows.

- He serves as legislative Chair for the Virginia Winery Association. For the last 8 days he has been in Richmond regarding the 3 bills that are currently being handled by the General Assembly. These issues are being considered on a commonwealth wide basis. If there are any questions about the proposed legislation, he would be happy to answer those. But, tonight what he was here to do is to ask for this additional use. Albemarle County's regulation currently allows 12 special events. The definition is actually up to 150 people, but there is not lower limit. It also includes the word meeting, which they take to mean if for instance if this group were to meet at that winery at no charge, as an example, that would be 1 of their 12 events. As a result they have felt compelled to come here using the ordinance that specifically states that they can ask for more special events by number and also the size. It specifically states both of those as something that they can request from this body. So that is what they are here doing tonight.
- They, of course, have been in front of the Commission before a couple of years ago about the Pink Ribbon Polo Classic. They appreciate the Commission's approval of that. That is a 1 day event in June. What they are asking for today is something completely different. That is the ability to operate the winery and have more customers. The definition of special event is so

restrictive, particularly because of the lower limit and the word meeting that it includes almost anything that they do. If someone from Western Albemarle Squad is interested in using their facility, which is 1 of their 12 special events. Of course, this is a for profit business. Therefore, that 1 of 12 significantly reduces their ability to keep it viable economically.

- Their intent as a family when they bought this farm in 1996 was to run an agricultural enterprise. They tried with what was there. The farming operation is clearly not viable. So they decided to do something else. In 1999 they planted a vineyard. In 2000 they began to make wine. In 2002 they built the current 2 winery building. It was their intent at that time to test the water of economic viability and decide what if anything could be done to allow the winery to support the farm. The farm is 325 acres. They decided in 2000 after starting the vineyard and winery operation that it looked like it was viable enough to economically support the maintenance, taxes and upkeep of the farm. Therefore, they felt it was the appropriate time to put a conservation easement on the property, which they did in 2000. One of the negotiated parts of the VOF easement was to specifically to allow the operation of a Virginia farm winery in a customary fashion. They have also heard from the VOF about that.
- What has happened in the intervening time period is that last year the legislature took away 1 of the 3 legs of the economic stool in the wine industry when self distribution was disallowed by the legislature effective of last July. That was a tremendous blow to the industry to the as a whole. They have 7 bills of today in the legislature about that issue in trying to come to some compromise as to restore that portion of the economic viability. He is no longer able to take his product to restaurants and wine shops, which he had the right to do since 1975 under the farm winery act. It has put an increasing level of scrutiny on their ability to remain economically viable.
- The for profit events that they do typically is a wine dinner where private parties interested in having catered food and a sit down meal. He has had weddings and receptions. They have a long list of events that they promote. They have had a couple of events with amplified music. After a neighbor's request they have stopped allowing amplified music. The purpose of the building is to minimize the impact further. It is going to cost a lot of money, but in order to continue running the winery they have to generate a larger customer base. They sell a little piece of fresh air and a view of the Blue Ridge Mountains along with the wine sales as a tourism attraction. He asked that the Commission approve the request.

Ms. Joseph invited public comment

Jay Crawford, Director of Communications with the Charlottesville Chamber of Commerce, said that he was present for Tim Hulbert. Also, he was present on behalf of King Mountain Vineyards, who were one of their 1,200 members in Albemarle County as of 2007. Our Chamber supports favorable consideration of this special use permit that has been filed by King Mountain Vineyards. They feel that it would allow them to continue its economic sustainability by permitting the King Family the ability to hold two special events per week for this important family enterprise that would be better positioned to secure and enhance its economic foundation.

Dan Kelsey, resident of Crozet, supported the farm winery in extending the number of events that they could have.

Cary Hammer, Manager of King's Family Winery, spoke in support of the request.

Dan Museum, resident of Crozet, spoke in support of the King's Family Winery.

Nickolas Duke, Senior, resident of 6486 Hillsboro Lane, strongly opposed the request due to traffic and safety concerns. He felt that the roads were not adequate to handle the increased traffic. If approved, the events should end by 11:00 p.m. He questioned who would monitor the noise and light levels at the events.

Barbara Westbury, spoke against the request due to the large number of events and the increased traffic on roads that were already unsafe.

Karen Arch, resident of Crozet, spoke in opposition due to the loud music and road safety concerns.

Bob Miller, resident of Jarmans Gap Road, spoke in opposition to the request. He asked that there be some limit on the time of the events so it was in the daylight hours if approved and that a uniformed officer be on site to defer people from driving while intoxicated.

Kathleen Jump, resident of 1006 Half Mile Branch Road and an adjacent property owner, spoke in opposition. She felt that the winery and any expansion adversely affected the neighborhood, specifically her property that surrounds the King Family on three sides.

Peter Jarman, spoke in opposition to the request.

David Wayland, resident of Crozet, did not oppose the request, but felt that it was a matter of too much intensity. He was not opposed to allowing more events in order to survive in the agriculture business today, but it was an excessive amount of events requested to go from 12 up to 100. He asked that it be modified to allow up to 50 events per year.

Neil Williamson, Free Enterprises Quorum, said that as a policy they do not endorse projects and therefore, are not endorsing this project. He encouraged staff to examine the zoning code to see if it encourages the amount of tourism Albemarle County wants in the Rural Areas. He also serves as the President of the Trellis Group, which is a wine marketing consultant firm serving a number of Virginia wineries. But, the King Family Vineyards is not a client.

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

The Planning Commission discussed the proposal and noted the following concerns about the proposal:

- The character of the area should not being changed by the proposed use.
- The use should be in harmony with other uses in the area. There is a potential for substantial detriment to the adjoining property owners, particularly with the hours of operation, noise, lighting and traffic problems.
- There are concerns about the impacts on the roads with the large amount of traffic generated, particular after dark.
- The number of events was a concern. A suggestion was made to log the events for a year and revisit it. The large number of events was difficult to manage and there was a concern expressed about how to negotiate the details.
- The size of the events and hours was a concern.

Mr. Zobrist crafted a potential motion for discussion. He would be willing make a motion that they permit the applicant to put on 2 special events per week during the months from April 15 through October 15. That those events be defined pursuant to statute, but that they be a group larger than 10 to 12. Therefore, the applicant would not have the down side figure. The events could run concurrently with the other operations of the winery and that the public portion of the event would end one hour after sundown. In addition, the applicant shall submit a log within ten days of each month as to the actual events that were handled in the prior month to the zoning administrator. That will be attested to and certified as being true and correct. The special use permit shall be through October 15, 2007 and then they can come back and talk with the Commission if they want to do 2008. If they increase the number of events, they need to do it responsibly and slowly. That is a tremendous increase in the number of events, which would be every Saturday and Sunday during the season.

Mr. Craddock said that they would be validating the two events and it looks like those two events would be Friday and Saturday. They would still have polo on Sunday. Therefore, there would be three events per week. He supported the applicant keeping a log of events for a year to bring back for discussion. He opposed giving a blanket approval to increase the number of events from 12 to 60.

Mr. Zobrist suggested that the special use permit be limited to a year. He requested that with respect to the polo, they should include the condition that they stop any public advertising of any events other than events that are called special events. If there is public advertising of polo matches, they are going to have to count them as an event.

Mr. Kamptner noted that before the Commission gets into the polo matches and addressing that, it is possible that zoning had made an independent determination that the polo matches are allowed in conjunction with the agricultural use or because the King Family has a number of horses on their property anyway. He felt that they need to check with zoning.

Mr. Zobrist asked Mr. Clark if he had said that zoning had asked the applicant to remove the advertising.

Mr. Clark recalled that zoning had said that as long as the polo events were not advertised through the web or however to invite people to come so that it was only happening by personal invitation.

Mr. Zobrist said that no general members of the public can show up.

Mr. Clark replied that was correct in that the only people coming were those that were invited by the land owners. Therefore, it was just a private unregulated function akin to any other polo matches on the property unrelated to the farm winery. But, if it was advertised it becomes a different kind of use.

Mr. Craddock asked if that was what it would be in what they were talking about or is that what was suppose to have been going on all along.

Mr. Clark said that he did not know what had been happening in terms of polo matches. But, staff clarified what the character of the use should be.

Mr. Morris asked the secretary to read the motion back.

Ms. Taylor said that Mr. Zobrist made a motion to permit the applicant to have up to two special events per week from April 15 to October 15, 2007. Those events to be been defined pursuant to the statute. The group is no larger than 10 to 12 persons.

Mr. Zobrist said that less than 10 persons do not count as an event.

Mr. Kamptner suggested that not be included because that would change the definition in the ordinance of a special event. They may need to deal with that some other way.

Mr. Zobrist said as defined by the ordinance.

Mr. Kamptner said that should be struck.

Ms. Taylor said that it could run concurrently with other events of the winery. The public portion of the event would end one hour after sundown. In addition, the applicant shall submit a log within ten days of the month of the events of the prior month to the zoning administrator and it will be attested that it is correct. The special use permit shall be for a period through October 15, 2007 and then come back to the Commission to discuss.

Mr. Morris seconded the motion.

Ms. Joseph assumed that the motion included the other conditions recommended by staff, particularly the one from VDOT, but that some of the conditions were superseded.

Mr. Zobrist agreed.

Ms. Joseph said that the Commission could assume that the conditions will be crafted more closely to what they have been talking about. Some of the conditions have been superseded.

Mr. Kamptner agreed.

Mr. Zobrist asked that staff redraft the conditions in the finished form and bring it back to the Commission.

Mr. Cilimberg noted that the Commission could defer action, but they need to get the agreement of the applicant to defer action.

Mr. Zobrist asked if the wording of the conditions could be bought back to the Commission.

Mr. Cilimberg replied that there would be nothing that the Commission could do with it once they act on it.

Ms. Joseph pointed out that this request will go forward to the Board. What the Commission has done in the past is ask staff to recraft some of the conditions according to their action.

Mr. Zobrist agreed.

Mr. Cilimberg noted that condition #4 would be changed because it refers to the number per week. Condition #5 will be changed because it refers to the ending time. The rest of the conditions will stay as they are and then staff will be adding the conditions that refer to the monthly report and the period in which this special use permit would be in effect.

In summary:

Motion: Mr. Zobrist moved, Mr. Morris seconded, to approve the applicant's request, as amended, for SP-2006-025, King Family Vineyards – Winery Expansion, subject to the conditions recommended by staff, as amended and added to.

1. The improvements proposed under SP 2006-025 and the scale and location of the improvements shall be developed in general accord with the conceptual plan entitled "Preliminary Site Development Plan, King Family Vineyards Farm Winery," prepared by David L. King, and revised July 14, 2006, with the exception that the "Proposed Visual Barrier Plantings" shown adjacent to Tax Map 55 Parcels 80A and 80A1 shall not be required.
2. The north and east sides of the northern "Existing Gravel Parking" area shall be planted with tall evergreen shrubs a minimum of 30 inches high at planting, spaced to form a dense hedge. A double-staggered row of evergreen trees shall be planted north and east of the hedge, a minimum of 5 feet in height when planted, and spaced fifteen feet on center.
3. All special events shall occur indoors within the building labeled "Proposed Winery Building" on the conceptual plan, or on the porch at the west end of the building, farthest from Route 684.
4. Events shall be limited to two per week during the months April 15 to October 15, 2007. No more than 150 guests shall attend each event. Events can run concurrently with normal customer business hours at the winery.
5. The public portion of the event shall end one hour after sundown.
6. No sound amplification systems shall be used outside of the central events room of the building labeled "Proposed Winery Building" on the conceptual plan.
7. Approval of entrance improvements by the Virginia Department of Transportation.
8. Approval of the septic system by the Virginia Department of Health.
9. The applicant will submit a log to the Zoning Administrator by the tenth of the month detailing the events of the prior month, which will be attested to be correct.
10. The special use permit is for a period ending on October 15 2007 and then the applicant shall come back to the Commission.

The motion to recommend approval of the special use permit with the modified conditions as noted was approved by a vote of 6:1. (Commissioner Edgerton voted nay.)

Ms. Joseph stated that SP-2006-025, King Family Vineyards – Winery Expansion, will be heard by the Board of Supervisors on February 14, 2007 with a recommendation for approval with conditions.

Old Business:

Ms. Joseph asked if there was any old business.

CPA-2006-03 Willow Glen – Resolution of Intent) (Judy Wiegand)

Ms. Wiegand presented a power point presentation and summarized the proposal.

The Willow Glen proposal actually covers the parcels shown in red. As the staff put this resolution together and looked at the overall proposal they felt that it made sense to look at the entire area with the same reasoning that the Commission had applied to its suggestion to amend the plan for the Willow Glen parcels, which would also apply to the others. In particular, tax map 32, parcel 49B that is surrounded by Willow Glen would also be reclassified as a part of this. Then there are 4 parcels, one of which is very small, that are north of the Willow Glen property, west of Deerwood and east of Dickerson Road. The resolution includes all 10 of those parcels.

Mr. Cilimberg noted that this is a resolution of intent, which means that this will officially allow for the amendment to be considered. The Commission is not deciding tonight that these parcels will or will not change in their designation. They are deciding that they should all be looked at. The Commission will have the opportunity to decide specifically what changes they want to make at the time of the amendment to the plan.

Ms. Joseph said that they could assume that all of this language concerning affordable housing would be in the Comprehensive Plan Amendment.

Mr. Cilimberg replied that it would be part of the analysis that they do. It is part of the amendment consideration.

Mr. Edgerton asked if tax map 32, parcel 49B would be included in this CPA. He asked why they would include more parcels than was part of the Willow Glen request.

Ms. Wiegand replied that all of the highlighted parcels would be included. Staff looked at the reasoning that the Commission gave and feels that 32-49B is basically surrounded by the Willow Glen parcel. The other parcels total about 6 acres or just slightly more and there would be no reason to leave those as an industrial area because it is such a small area. It is completely at that point surrounded by residential and the street.

Mr. Cilimberg reiterated that the Commission is only looking at the change. If it comes through to the Commission and they decide to keep the parcels residentially, then they can do that. This is not keeping them industrial.

Motion: Mr. Zobrist moved, Mr. Morris seconded, to approve the language of the resolution of intent with respect to CPA-2006-03, Willow Glen, including all of the recommended parcels in addition to the Willow Glen property.

The motion was approved by a vote of 5:2. (Commissioners Joseph and Edgerton voted nay.)

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

New Business:

Ms. Joseph asked if there was any new business.

Mr. Zobrist asked that the Commission put on a future agenda holding a retreat.

Mr. Cannon noted that he would be absent next week.

There being no further new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 10:58 p.m. to the next meeting on Tuesday, January 30, 2006 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.)