Albemarle County Planning Commission
February 20, 2007

The Albemarle County Planning Commission held a meeting, work session and a public hearing on Tuesday, February 20 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 and Duane Zobrist. Absent was Pete Craddock. Julia Monteith, Senior Land Use Planner for the University of Virginia, representative for David J. Neuman, FAIA, Architect for University of Virginia was present.

Other officials present were Wayne Cilimberg, Planning Director; Amelia McCulley, Director of Zoning & Current Development/Zoning Administrator; Brenda Neitz, Budget Analyst and Melvin Breeden, Director, of the Office of Management and Budget; Patrick Lawrence, Planner; Rebecca Ragsdale, Senior Planner; Summer Frederick, Senior Planner; Sean Dougherty, Senior Planner; David E. Pennock, Senior Planner; Scott Clark, Senior Planner; Judy Wiegand, Senior Planner and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum*:*

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

Other Matters Not Listed on the Agenda from the Public:

Ms. Joseph invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved on to the next item.

Review of Board of Supervisors Meeting – February 7 and February 14, 2007.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on February 7, 2007 and February 14, 2007.

Consent Agenda:

SUB 2007-00005 Clark, Neil – Section 14-404(A) Waiver Request (Summer Frederick) – Tax Map 102, Parcel 37

SDP 2001-00124 Albemarle Winery - Final Site Plan Extension Request
(Summer Frederick) – Tax Map 27, Parcel 20

Ms. Joseph asked to pull SDP-2001-00124, Albemarle Winery – Final Site Plan Extension Request for discussion. She invited Ms. Frederick to explain what happened with the conditions or the notes that were on the site plan as described in the email.

Summer Frederick distributed copies of the letter that was attached to the email. (Attachment – Letter dated February 20, 2007 from Tara Rowan Boyd, Esq. to Summer Frederick) The proposal on the consent agenda is for an extension of the final site plan that was approved March 4, 2002. In order for the site plan to remain valid the applicant has requested a 24-month extension. In reviewing the final site plan Ms. .Joseph had some questions regarding parking and some notes that were included on the site plan. The final site plan copies were included with the staff report. After consideration of those concerns that were raised staff is now recommending approval of the extension with 3 conditions. Those conditions are agreed to in a letter that has been submitted by the applicant's attorney.

Ms. Joseph noted that a normal site plan has a life of 5 years. Is there any reason why this site plan could not be extended for 5 years instead of the 2?

Ms. McCulley replied that staff has not typically extended the life of a site plan for that long of a time period. One reason is there are limits that as regulations change staff wants the opportunity to review the proposal under the current regulations. If it is the Commission's desire, then she was sure that they would not object.

Motion for SDP-2001-00124 Albemarle Winery – Final Site Plan Extension Request

Motion: Mr. Cannon moved, Mr. Morris seconded, to approve SDP-2001-00124 Albemarle Winery – Final Site Plan Extension Request subject to the conditions that have been added.

1. A note shall be added to the approved site plan to explain that the applicant is aware that further approvals are needed by the County for festivals and special events in excess of 150 attendees. The applicants are willing to comply with any applicable laws.
2. The parking note on the first page of the approved site plan should be corrected to read, "Festivals & Events: 1 space per 2.5 customers (1,000 per day max.)."
3. The applicant shall provide a plan designating the area of overflow parking that meets staff approval.

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Ms. Joseph asked to pull SDP-2007-0005, Clark, Neil – Section 14-404(A) Waiver Request for discussion. She invited Roger Ray to explain how this situation came about initially.

Roger Ray, representative for the applicant and property owner, said that he could only make an educated guess of how this happened. First, this is a unique situation that he has not encountered in 35 years of doing similar types of work. Mr. Clark, the present property owner, received this property in a will from his grandfather in 1962. His grandfather purchased the land in 1938. But, the most recent survey of the outside perimeter of that property dates back to 1877. It is a survey of record. In 1992 Mr. Clark deeded a 2-acre tract of land to his son. When the situation arose there was a fence built and Mr. Clark said that fence was there when he received the land from his grandfather. Therefore, the fence has been there forty to sixty years. When the 2 acres that was surveyed off, which is Attachment B in the packet, by a most reputable surveyor did that in 1992. The surveyor surveyed off the 2 acres that Mr. Clark's son wanted to build on. To show how that 2 acres fit within this larger boundary of the land he relied on the placement of a fence. Now it turns out after he had been employed to survey that missing corner and establish those boundary lines exactly by the old surveys it was a misconception that the fence was not the property line. The fence was some 100' from the property line. When they established the boundary lines, in fact, the 2 acres of land physically separated the rest of the property that Mr. Clark has. It has just been discovered and it was one of those situations that occurred that is just really unique. Now they are asking for the waiver due to the unique condition that is there. They cannot serve both parcels from one single driveway because they do not connect to each other.

Ms. Joseph asked Mr. Kamptner how they were going to deal with the fact that property line is shown between buildings. There is a building that actually straddles that property line. What happens next?

Ms. McCulley replied that the building was built since the County adopted zoning and perhaps even since that property line was put in. There was some mistake over where the property line lay. So as she understands it, this shed is actually used and owned by the adjoining property owner. There are two options that she could think of right now. One would be when they do the subdivision plat they jog the property line and actually add that portion. It only has to be a little triangle to the adjoining property to fix the straddling and to give it a 6' side setback. The other option is to move the building. She did not know anything about the construction of the building. But, they have at least 2 options available to them.

Mr. Ray noted that Mr. Clark and his son both are here. Both of those buildings are not on permanent foundations and can be moved. If it is a question of having to move the buildings to get the subdivision plat approved, they have indicated that they would do so.

Ms. Joseph said that there is a solution. She thanked Mr. Ray for his input.

Motion for SDP-2007-0005, Clark, Neil – Section 14-404(A) Waiver Request

Motion: Mr. Morris moved, Mr. Edgerton seconded, to approve SDP-2007-005, Clark, Neil – Section 14-404(A) Waiver request.

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Presentation:

FY 08-12 REVISED Capital Improvements Program and FY 13-17 Capital Needs Assessment (Brenda Neitz)

Ms. Joseph noted that due to the size of the agenda tonight the Commission would only receive a presentation on the Capital Improvements Project. If the Commission has any questions then they can email them to staff who could come back and talk further about the questions. This is going to the Board in March. It would not be inappropriate if the Commission did have questions to bring them up to forward to the Board at a later date.

Brenda Neitz, Budget Analyst, and Melvin Breeden, Director, representing the Office of Management and Budget, provided a brief overview of the FY – 08-12 Revised Capital Improvements Process and the FY 13-17 Capital Needs Assessment. (Attachment – Capital Improvements Program Presentation to Albemarle County Planning Commission Tuesday, February 20, 2007) Ms. Neitz presented a power point presentation.

- To explain the CIP process thus far - The process started in the summer of last year when departments submitted their requests along with updating the existing projects in the 5-year plan. The projects were then reviewed by our General Services Office who oversees the construction piece of our Capital Improvements Program. Their comments were then forwarded on to the first review team, which is the Technical Review Team. That is a staff level team represented by local government and school division staff members. The task of the Technical Review Team is to look at the technical aspects of the project, the timing and so forth and make recommendations on to the second level review committee, which is the Oversight Committee. The Oversight Committee, which is comprised of executive senior level staff as well as one Planning Commission member, Mr. Craddock, is involved in this process. There are 2 School Board members, 2 Board of Supervisor members and 1 citizen representative. The committee was tasked with conducting an overview of the 10-year total CIP Plan and preparing a recommendation for the County Executive's Office. That is where they are at right now. The School Division projects were also approved by the School Division Long Plan Planning Committee in September and adopted by the School Board in December. So that is where they are right now in the process.

- An overview of the Revised CIP Expenditures was given.

- It was not noted that there was an $8,000 increase in the 5-year total from the document received in preparation. This increase deals with the ACE contribution.

- Next Steps:

    - March 2, 2007 - County Executive's Recommended Budget, including FY08-12 CIP and FY13-17 Capital Needs Assessment presented to the Board of Supervisors.

    - March 7, 2007 – Public Hearing on County Executive's Recommended Budget.

    - Comments and Questions can be emailed to staff.

***Item Requesting Deferral*:**

SP 2004-00050 Flow Automotive Companies (Sign #60)
Request for special use permit to allow outdoor display in accordance with Section 30.6.3.2 (b) of the Zoning Ordinance which allows for outdoor display and/or sales in the EC Entrance Corridor zoning overlay district. The property, described as Tax Map 78, Parcel 15E contains .69 acres and is located in the Rivanna Magisterial District on the south side of Route 250E, at 1313 Richmond Road. The property is

zoned HC, Highway Commercial and EC, Entrance Corridor. The Comprehensive Plan designates this property as Regional Service in the Neighborhood 3 (Pantops) Development Area. (David Benish) ***APPLICANT REQUESTS DEFERRAL TO THE APRIL 10, 2007 PLANNING COMMISSION MEETING.***

Ms. Joseph noted that the applicant has requested deferral of SP-2004-00050, Flow Automotive Companies to April 10. She opened the public hearing and asked if there was any public comment. There being none, the public hearing was closed to bring the matter before the Commission.

Motion: Mr. Morris moved, Mr. Cannon seconded, to approve the applicant's request for deferral of SP-2004-00050, Flow Automotive Companies, to April 10, 2007.

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Ms. Joseph stated that SP-2004-00050, Flow Automotive Companies, was deferred to April 10, 2007.

Regular Item:

SDP 2006-00113 UVA Research Park, Towncenter Office Buildings (3 & 4) – Final Site Development Plan: Request for Final Site Plan Approval prior to preliminary site plan approval for two (2) - three story office buildings on 477.67+/- acres zoned PDIP, Planned Development Industrial Park. The property, described as Tax Map 32 Parcel 6A is located in the Rio Magisterial District on south side of Lewis & Clark Drive off U.S. Route 29 in the North Fork Research Park. The Comprehensive Plan designates this property as Industrial the Hollymead Community. (Patrick Lawrence)

Mr. Lawrence summarized the staff report.

- This is a site plan for the UVA Research Park (formerly known as North Fork Research Park - ZMA 95-004), which includes a town center area that is to be developed in phases. Town Center One was approved in 1999 (SDP 99-115), and Town Center Two was approved in 2000 (SDP 00-070) with amendments in 2002 (SDP 02-110) and 2005 (SDP 05-102). Town Centers will be in close proximity to one another

Proposals:

1. Request for waiver of Sec. 4.17. 4 (a), Outdoor Lighting in order to allow a light that is not a "full cut-off luminaire".
2. Modification of 4.2.3.2 to allow activity on critical slopes.
   - A light fixture in use in Town Center One was approved as part of the site plan for that project. The light met the definition of "full cut-off optics" that was included in the Zoning Ordinance at that time. Since then, that definition has been removed from the Zoning Ordinance (ZTA 01-014). The current ordinance requires all lights to be "full cut-off luminaire". The previously approved light does not meet the requirements as a "full cut-off luminaire". The lights in Town Center One were approved under the previous definition and have been installed. However, because of the change in ordinance, the same type of light cannot be approved in the other phases. The applicant wishes to have a uniform type of lighting fixture throughout the Town Center area. Thus, rather than replace or retrofit lights previously installed with Town Center One, the applicant is requesting a waiver of the ordinance requirements again, based upon redesign of the lighting fixture in order to continue to use this type of light in Town Center Three and Four. The applicant has made a formal written request and provided substantial design amendment. A similar lantern style fixture was proposed for Town Center Two. That fixture was reviewed and denied by the Planning Commission at their November 28, 2006 meeting. Since then, the applicant has provided substantial changes to the design.
   - In addition, the applicant requests final site plan approval to provide for two additional office structures as shown on the previously approved Master Plan. The applicant seeks relief from the critical slopes requirement found in Section 4.2.5 of the Zoning Ordinance. The applicant indicates that some disturbance of critical slopes is necessary to minimize overall grading and earthwork for the entire site and the overall area to be disturbed is relatively small.
   - Since that time the applicant has redesigned the fixture in an attempt to address this issue, as presented below. On January 9, 2007 the applicant submitted manufacturer's shop drawings and

photometric reports detailing a new design. The changes, which include placing the bulb in the upper part of the fixture, enclosing the lighting box with a flat glass lens, and removing the glass from the sides of the lantern structure [see diagram below], bring the design closer to the definition of "full cut-off luminaire." Previous designs were non-compliant to the "full cut-off'" criteria. The proposed fixture more closely approaches compliance and retains consistency with the "look" of the previously approved (Town Center One) lighting fixtures. Please see detail of the January 9th revised [proposed] fixture below. The applicant states, "The proposed fixture more closely satisfies the full cut-off luminaire criteria by isolating the light source within the cap and the effect of the lamp is casting a shadow downwards rather than a reflection upwards." Shop drawings and photometric reports are included.

RECOMMENDATIONS:

1. Staff is not able to recommend approval to a modification of Section 4.17.4 (Lighting).
2. Staff recommends approval of the critical slopes waiver.

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

Todd Marshall, project manager with the UVA Foundation, said that other present include Fred Missel, Director of Design and Development for the UVA Foundation; Eric Wooley, Civil Engineer with the Cox Company and Pat Morvan, the lighting consultant with Illumination Concepts. He presented a power point presentation, which included the master plan for the UVA Research Park that shows the section of the town center district.

- Section 1 and 2 of the town center are complete and occupied. Town Centers 3 and 4 are for the future development. Tonight they are requesting two waivers for the Town Center 3 and 4 site plans for the critical slopes and the site lighting waiver. The goal is to provide fixtures are the new town center buildings to match the Town Center 1 light fixture. This provides for aesthetic consistency throughout the town center district.
- The UVA Foundation came before the Planning Commission last fall for a lighting waiver request for Town Center 2, which was not approved because it did not fully meet the ordinance requirements. Since that time they have worked closed with the Cox Company and Illumination Concepts to develop a fixture that meets the County ordinance and still maintains the look of the Town Center 1 fixture. This fixture being presented tonight is a new fixture and is different from the one that was presented in November for Town Center 2. It was designed specifically to meet the County Zoning Ordinance. Please note that they are not asking for the County to relax the ordinance, but only to approve this new fixture that they have come up with. At this time he would like to turn it over to their Civil Engineer, Eric Wooley, to address this in more detail.

Eric Wooley pointed out that Town Center 2 was under construction. The plan before the Commission tonight is for Town Center 3 and 4. He presented a power point presentation.

- One of the things that they tried to do with this plan was to tie into all of the existing features that are on the site now including the roads. They also want to try to match the approved master plan as best as possible. They tried to minimize the filling of this area as greatly as possible and still meet the master plan purpose. They feel that they have laid the site out the best as possible. The project could not go forward and meet the master plan without disturbing these small portions of critical slope.
- The other waiver requested tonight is for the lighting. The lighting fixtures in Town Center 1 were approved prior to a change in the Code language for the full cutoff fixtures. In trying to implement further phases of the project they have run into a difficulty in trying to propose this same light. That light is not longer acceptable. So they have been working on trying to find a new fixture. One was presented to the Commission in November, which was denied. They have made some good progress in the later two months and would like to show the Commission what this new fixture prototype will look like.
- The new fixture has a couple of big changes to it. One is that the lens or glass that is normally attributed to a lantern of this type has been removed. That is a crucial piece that eliminates up lighting. The other main function is that the bulb, which sits inside the housing, is oriented horizontally as opposed to vertically as the previously light that was presented. He displayed a

picture of the prototype. The glass is now entirely inside the housing and the bulb extends below the bottom of the housing. From a visual standpoint all of the lighting is being directed downward and not upward. A photometric report by the manufacturer has been submitted to staff. It shows that on the horizontal plan 90 degrees right from that fixture that the full precision of this instrument can only measure to the tenth of the foot candle.

- Staff's response was that when reading the full definition in the Code that it states that all light from the fixture, whether directed from the lamp or indirectly from the fixture itself, would therefore not qualify for a full cut off and for this they need this modification or waiver. They are talking about a minimum amount of light that can't even be measured, which were not even .1 foot candles. Because of that they had to come to the Commission for a modification or waiver.
- They looked at the modification or waiver language that basically says if they can find a proposed alternative that will satisfy the purposes of the regulations at least to an equivalent degree, then they would have something to stand on. So they tried to locate the most typical fixture that is around the County, which is a shoebox fixture. They had the same study done and got 0.0. They went out to a site and set up a light meter to measure the actual light bouncing off the pavement. What they got was .4 of a foot candle coming off that white paint and 0.2 foot candles coming off of the pavement. So it was their realization that in fact their light fixture reflects less light into the air than a typical fixture that can be approved. Pat Morgan has brought a prototype fixture and can answer any of the specifics of what he found.

Ms. Joseph invited public comment

Philip Ianna, Professor at the University of Virginia Astronomy Department, said that he had been involved with lighting for a long time through the International Dark Sky Association as well as the Illuminating Engineering Society. He came down to hear how bad the proposed lighting fixture might be. But, he was assured that this was not so bad. In general he felt that the North Fork is one of the worse lighting installations that he has ever seen in his live. It is high angle glare that goes everywhere in the initial ones that went in. There have been complaints by near by neighbors and so on. Those were just awful fixtures. It is very nice to see something that is dramatically better than what is there. As far as the ordinance is concerned about the reflective light is that any light reflected off the ground is not relevant. The point is what the performance of the fixture is. Any fixture no matter how good or bad is going to put light up into the sky a little bit. They can't avoid having some reflections. They could paint everything flat black, but that would not be very attractive. From the point of view in worrying about the quality of the lighting, he just has to say that he was pleased to see a much better fixture proposed.

There being no further public comment, the public hearing was closed and the matter before the Commission. Ms. Joseph asked that the Commission be able to see the fixture.

Pat Morvan, the lighting consultant with Illumination Concepts, presented the proposed light fixture that he had developed to meet the criteria. The light fixture still has some decorative type of element. The reflector can come in different beam patterns. It can come in a type 3, 4 or 5 distributions, which determines where the light goes that comes out of the fixture. It either goes in one direction or outward. It can come in 3 different styles.

Mr. Strucko asked how this light fixture does not precisely meet the definition of full cut-off luminaire.

Mr. Pennock felt that the presentation showed it pretty well. They are talking about fractions of a percent at this point. At some point the definition of the luminaire actually includes everything down to below basically where it is mounted. In that case they are talking about areas that are more or less flat and are painted flat black. So the upward reflection is something that if one was to round it off comes to 0.0, but it is just fractions of a percentage. That is what they are talking about.

Mr. Strucko asked how staff determined that it did not meet it. Those results showed that it did meet it.

Mr. Pennock replied that the determination was made on what defined a full luminaire. As he was showing where the area of glass in the cap of the fixture that addition of glass there basically makes everything from there up, which includes the housing for the bulb, to be similar to what would be in a shoebox fixture. If they were to stop there it would meet the definition completely. But, since they

consider the arms even with the glass taken out down to basically the mounting portion to be part of the luminaire of the official fixture that includes just pieces that are basically metal painted flat black to reflect some small percentage of back support. So it is a very small amount.

Mr. Cannon asked when he said small if he means not measurable.

Mr. Pennock replied that by his definition they are not measurable. He did not know if he could measure it. But, someone made the determination that it was something greater than zero, and therefore did not meet our definition.

Mr. Cannon noted that it sounds like they are talking about diminutive levels if they can't be measured. If they can't quantify them, then he did not know how much significance they should attach to it.

Mr. Edgerton pointed out that he voted to deny the last request. But, he was now inclined to support it. He felt very reassured that if all the applicants put the effort into trying to meet the spirit of the Lighting Ordinance as they have they will not have a problem with a precedent if they approve this waiver request.

Motion on Lighting Waiver Request of Section 4.17.4:

Motion: Mr. Edgerton moved, Mr. Morris seconded, to approve the modification of Section 4.17.4 lighting waiver request for SDP-2006-113, UVA Research Park, Towncenter Office Buildings (3 & 4).

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Ms. Joseph stated that the lighting waiver request for SDP-2006-113, UVA Research Park, Towncenter Office Buildings was approved.

Motion on Critical Slopes Request:

Motion: Mr. Zobrist moved, Mr. Morris seconded, to approve the critical slopes waiver for SDP-2006-113, UVA Research Park, Towncenter Office Buildings (3 & 4).

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Ms. Joseph stated that the critical slopes waiver for SDP-2006-113, UVA Research Park, Towncenter Office Buildings (3 & 4) was approved.

Public Hearing Items:

At the staff's request, the Commission deferred SP-2006-00042, Charlottesville Day School – Amendment to hear SP-2006-00041, Gray Television first.

SP 2006-00041, Gray Television (Signs # 62 & 64)
PROPOSED: Amendment to conditions of SP 2005-014 in order to allow placement of one additional antenna on an existing tower and to allow greater flexibility for future anticipated changes
ZONING CATEGORY/GENERAL USAGE: RA, Rural Area - Agriculture, Single Family (incl. modular homes)
SECTION: 10.2.2 (6) Special Use Permit, which allows for "Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances, unmanned telephone exchange centers; microwave and radio-wave transmission and relay towers, substations and appurtenances".
COMPREHENSIVE PLAN LAND USE: Rural Areas in Rural Area 4
LOCATION: Tax Map 91, Parcel 28I, located on Carter's Mountain Trail [private], approximately 1 mile south of its intersection with the Thomas Jefferson Parkway [State Route 53]
MAGISTERIAL DISTRICT: Scottsville
STAFF: David Pennock

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

This proposal is for three (3) amendments to the conditions of SP 05-014.

1. An amendment to Condition #1 to allow a change to the configuration of the antennae on the tower
2. An amendment to Condition #1 to provide more flexibility for future modifications as changes in technology necessitate
3. An amendment to Condition #10 in order to extend the period of time the Channel 27 antenna can remain on the PBS tower

- The lease area for the tower is within Tax Map 91, Parcel 28, a 234.16 acre parcel (Attachment A) zoned RA, Rural Areas. It is located in the Scottsville Magisterial District on Carters Mountain Trail, 1 mile south of Thomas Jefferson Parkway [Route #53] at the top of the mountain.
- There was special use permit approved in 2004, which authorized the construction of this tower as a replacement to an existing tower. At that time it was authorized for 2 antennas, one for CBS and one for ABC. That special use permit was amended in 2005 to authorize the installation of a third antenna, which was intended to be a FOX analogue antenna that was being relocated from an adjacent tower that was just down the hill.
- Since that time there have been a few changes most notably with a change to the FCC legislation that requires that all broadcasts be digital by January 1, 2009. As a result the applicant has scrambled to try and accommodate switching all of their carriers to digital format. This special use permit amendment is intended to accommodate that in a couple of ways.
- The existing ABC analogue antennae will be replaced by a digital FOX antenna. The area originally reserved for an analogue FOX antenna will instead accommodate a digital ABC antenna. Ultimately there will still be 3 antennas on this tower. There will be a different configuration and a different type of broadcast from each. In addition, this special use permit amendment is intended to allow small changes of this type in the future at the discretion of the zoning administrator. There are still conditions in place that would go in the maximum width of the tower or a maximum distance from the center as well as a maximum height of the tower. But, there is a proposed amendment to condition 1 that would allow similar or like style antennas to replace each other as well as some of the other smaller satellite dishes that are currently on the side of the antennae.
- Third, there is an amendment proposed to condition 10 of the original special use permit, which was added in 2005. That would have a 90 day limit after the FOX antennae was installed on this antennae that the existing antennae would be removed from the PBS tower, which is the adjacent tower. This modification would allow that to stay in place longer while they transferred from their analogue to their digital service, which would be an overlap for a bit longer. There is a mistake in the staff report in condition 10, which says that antennae shall be removed by August 1, 2007. The applicant intended that to be August 1, 2009. Therefore, staff wanted to make that clear.
- Condition 1 in the staff report has been revised at the request of the applicant. The wording of the condition in the staff report does not include the zoning administrator discretion, which he believed was the key part of that condition. Staff agrees with the applicant in that makes more sense. Staff emailed out the amended condition this morning.

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

Valerie Long, representative for Gray Television Group, Inc., noted that Roger Burchett, station manager for Gray Television's stations in Charlottesville, was also present. She presented a power point presentation.

- Gray Television owns and operates three television stations in Charlottesville and the surrounding communities, WCAV, CBS Channel 19, WVAW ABC Channel 16 and WHAU Fox Channel 27. The board first approved a special use permit for the Gray Television stations in 2004 when it authorized an existing Gray Television tower to be replaced with a slightly shorter tower that was more structurally sound and supportive of the antennas that were required for the CBS Channel 19 and ABC Channel 16 antennas. The following year in 2005 when Gray had the opportunity to acquire the FOX affiliate locally they amended the permit with the board's support to permit the addition of a third antenna to the tower. That was for the FOX channel 27 station.

- The FCC has an upcoming deadline in February, 2009 by which all stations must be broadcast exclusively in digital format. So Gray Television is working hard to meet those FCC requirements. There are two ways to transition a station from analogue to digital.
- One way is to have implemented a flash cut technology where one has an existing analogue antenna that is replaced with a second digital antenna. There would be two separate antennas, which would not operate at the same time. The analogue antennae would be turned off and then as soon as possible afterwards one would turn on the digital antennae. That is the method that will be used for the ABC Channel 16 station.
- The second method of transitioning to digital is called a digital companion station. They would have 2 separate stations with one being analogue and another that is digital. That is the method that will be used for the FOX station transition. The FOX station is currently broadcasted in an analogue signal on Channel 27 and they just obtained FCC approval to broadcast digitally on channel 40. So that is the companion station. They can actually operate simultaneously and prior to the February, 2009 deadline they can literally turn off Channel 27 FOX and leave Channel 40 operational.
- For the Commission's knowledge it is not an issue for the CBS Channel 19. The antennae located at the top of the tower will not have to be replaced at all. They designed it and ordered it so that it could operate both in analogue and digital format. Therefore, they only have to deal with two of the three stations.
- They are requesting three modifications to the conditions as described by Mr. Pennock. The first one will enable Gray Television to comply with the FCC deadline and will permit some reconfiguration of the tower antennae and equipment. The second is an amendment to Condition #1 to provide more flexibility for future modifications as changes in technology necessitate. The third is an amendment to Condition #10 in order to extend the period of time the Channel 27 antennae can remain on the PBS tower

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

Mr. Strucko said that they were not increasing the height of this antenna, but just reconfiguring the existing antenna around the base of it.

Ms. Long replied that was exactly right in that they were not increasing the height of the tower or the height, length or size of any of the antennas. The proposed antennas ultimately are slightly smaller antennas than what was approved in 2005.

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

Motion: Mr. Strucko moved, Mr. Zobrist seconded, to approve SP 2006-00041, Gray Television, subject to the conditions recommended by staff, as amended.

1. The facility including the tower, its attachments and the ground equipment building shall be sized, located and built in general accord with the construction plans and schematic drawings initialed SBW and dated May 5, 2004 and revised tower elevations and antenna schematic drawing dated October 20, 2006 and initialed DEP, subject to maximum height and width restrictions in conditions three (3) and five (5), "except as may be modified by like or similar antenna and other equipment, which such antenna and other equipment may be of equal or smaller size (except as may be approved by the Zoning Administrator), and provided that no additional antenna or other equipment (other than the existing Channel 19 antenna and lightning rod) is mounted above the top of the tower).
2. Prior to the issuance of a building permit, the applicant shall submit the final revised set of site drawings construction of the facility. Planning staff shall review the revised plans to ensure that all appropriate conditions of the special use permit have been addressed.
3. The height of the tower structure shall not exceed one hundred fifty (150) feet and the top of the antenna, including the lightning rod, shall not exceed one hundred ninety (190) feet above

ground level. No equipment, with the exception of any FAA required flight safety lighting, shall extend higher than the tallest portion of the top-mounted antenna.

4. Antennas supporting services other than television broadcasting shall not be attached to extend above a total height of the tower itself.
5. The width of each side of the tower shall not exceed fifty (50) inches in width.
6. The existing guyed tower that currently supports this facility shall be removed within sixty (60) days of the completion of the new tower. ***This condition has been met as of 6/28/05.***
7. The short existing tower, owned by Adelphia Cable Company shall be removed within ninety (90) days of the discontinuance of its use and in any case no later than October 31, 2004. ***This condition has been met as of 6/28/05.***
8. The new ground equipment building shall be painted a natural, dark brown color, and screened on its eastern and western sides with evergreens or a mixture of trees deemed acceptable by the County's Landscape Planner. ***This condition has been met as of 11/28/06.***
9. No building permit for additional antenna installation or modification shall be issued until the unauthorized microwave dish is removed. ***This condition has been met as of 11/28/06.***
10. The existing Gray TV antenna on the PBS tower located on Tax Map 91, Parcel 28E shall be removed on or before February, 2009. -

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Ms. Joseph stated that SP-2006-00041, Gray Television, would go before the Board of Supervisors on March 14, 2007 with a recommendation for approval.

SP 2006-00042, Charlottesville Day School – Amendment (Sign # 76)
PROPOSED: Request for special use permit to increase number of students at existing school from 85 to 250.
ZONING CATEGORY/GENERAL USAGE: Planned Unit Development - residential (3 - 34 units per acre), commercial, and industrial uses
SECTION: 20.4.2(i) private school
COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential - residential (6-34 units/acre) and supportive uses such as religious institutions, schools, commercial, office and service uses in Neighborhood 1.
ENTRANCE CORRIDOR: No
LOCATION: 200 Four Seasons Drive, approximately 1450 feet from intersection of Four Seasons Drive and Rio Road West.
TAX MAP/PARCEL: 061X2-4D, 061X1-4A, 061X2-4B
MAGISTERIAL DISTRICT: Rio
STAFF: Judy Wiegand

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

- The purpose of the special use permit is to increase the maximum number of students now permitted to attend the Charlottesville Day School from the current 85 to 250. The hours of operation are recommended to be conditioned as follows: The normal operating hours of the school shall be from 7:30 a.m. to 6:00 p.m. with occasional uses in the evenings and the weekends.
- Staff has identified the following factors favorable to this application:
    - Provides opportunities for additional students to be enrolled in the school.
- Staff has identified one factor unfavorable to this application:
    - Concern has been expressed by owners of nearby properties that there may be some additional noise, but staff believes that the request is comparable to the number of students that have previously been approved for the site.

- Based on the findings contained in this staff report, staff recommends approval of Special Use Permit 2006-042 Charlottesville Day School, with the conditions listed in the staff report.

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

Mr. Cannon said that there was an earlier approval for 220 students. He asked when did that occur and what was the nature of it.

Ms. Wiegand replied that was back in the early '90's with a request for a nursery school.

Mr. Edgerton asked when it dropped back to 85.

Ms. Wiegand replied that it went back to 85 in 2003 when this school first came in.

Mr. Edgerton noted that on the property uses map there were two listings. The one at the bottom says season summer daycare for children occupants 270 per day. That would exceed the number they are talking about here. Then the outdoor water park lists 300. Those are both greater numbers. He asked if those are in addition to that and if the outdoor water park is relevant.

Ms. Wiegand said that these are different. The camp happens during summer and does not coincide with the time that the students are in school. The water park goes from the spring to the fall missing the winter season and much of its after school activities. Staff did not feel that this creates a problem.

Mr. Edgerton asked if those uses were covered under separate special use permits.

Ms. Wiegand replied yes.

Mr. Morris noted some concern because by increasing the percentage of students up to nearly 300 percent they were saying that will not have any impact as far as noise, traffic and so on.

Ms. Wiegand replied that they were saying that there will be more cars dropping off students and picking them up, but staff feels that can be accommodated within the existing parking area without causing any problems. The concern that the County Engineer had in looking at it at first was if the cars had been backing up out into Four Seasons Drive that it would create a problem. But, because parents don't stop in front of the school to drop off students and actually drive in and park it won't be a problem. There are 196 parking spaces. Even after the staff for 850 students is parked there are still 156 spaces. So there is more than ample parking. Also they have a long period of about an hour in the morning when students are dropped off. All of the students are not coming in at exactly the same time. Staff felt that dropping off the students or picking them up in the afternoon was not going to cause a problem. Regarding the noise, most of the students are in the classroom or building. The only time there is noise is when the students are outside at recess. It was her understanding from the school that they will not have more children outside at one time than they have now.

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

Chris Crater said that he represented the property owner, Four Seasons LLC, and ACAC. Also present were several members of the staff, parents and Joe Wallace, of Dominion Development Services, who performed the traffic study on the property in conjunction with this application. He made a power point presentation and explained the request.

- The current home of ACAC encompasses the water park as well as the summer camp, which was mentioned on the property usage report. The total size of this facility is 30,000 square feet. It is important to note that when the previous approval for 220 students was granted to the Charlottesville Catholic School the building size was 18,000 square feet and the parking was reduced by the factor of 50. Last summer the new field house was built, which is 12,000 square feet. In conjunction with that project they added over 50 parking spaces to the facility. He presented photos of the water park facility and 50 meter field. Also, there are 7 tennis courts located on the property.

- During June through August the facility serves over 230 children per day. In the summer camp it lists 270. This year it will be reduced to a smaller amount. Unlike the school traffic these children are actually dropped off and picked up at relatively the same time each day. From a traffic perspective they have actually handled more traffic at key times of the day than they will be under the school, which has a staggered pick up and drop off. One important note of the school is that the preschool children only stay for one-half the day. Some of the preschool children also participate in after school, but the majority are dropped off early in the morning and picked up at some point during the middle of the day. Currently the preschool component of the school is over 50 children.
- ACAC also supports tennis members on the property. They are there primarily between April and October. There are higher usage rates during the summer months. The water park is also used primarily during the summer months between Memorial Day and Labor Day. Although it is open on weekends during the month of May as well as in the afternoons after the children are released from school.
- Currently they service 85 children per day, which is the maximum allowed under their special use permit. Additionally, they also bus in children for an after school program in the evening. The maximum right now is 180 children. They are not exceeding this maximum. But, over the course of the school growing they are actually seeing the number of children being bused in decreasing as the number of children who participate in after school will actually become a higher percentage from our own school located on the premises rather than being bused in from other schools in the area.
- A variety of youth programs also happen on a year round basis on site. Those include birthday parties and other sports specific training. These happen again while children are out of school.
- The school currently serves preschool children from ages 2 to 4 as well as kindergarten, first and second grades. The increase in enrollment will occur over a time period and not immediately.
- The success of the school is a strong indication of fulfilling a need in the community for this type of education. Even more families will be able to benefit from the Charlottesville Day School if this request is approved.

Ms. Joseph asked if there were any questions for the applicant. There being none, she invited public comment.

Krzysztof and Barbara Sliwinski, owners of Four Seasons Learning Center, presented the following letter to the Commission. (Attachment B – Letter dated 2/20/07 addressed to the Albemarle Board of Supervisors with Tax Map 061X1 and a copy of their special use permit application)

> "Four Seasons Learning Center has no objections to ACAC Day school's request to upgrade their student count, but we have a concern. We want to make sure that the increase to ACAC Day school's student does not hinder our chances for an upgrade as well. Our concerns come to light because the ACAC location is within 300 yards of our business. We simply don't want the increase to ACAC's student count to weigh our chance to upgrade as well and hope the approval for ACAC has no negative affect on our application. If the ACAC approval takes place before ours, we would like some kind of written statement that this will not affect our application for increase in student count for Four Season Learning Center."

Stacy Brums, the head of the Charlottesville Day School, spoke in favor of enrolling more students in the school. Currently they have preschool, kindergarten, first and second grade. They were at a maximum of 85 children per day in their first year. They have siblings and family members that would like to attend the school as well as children that are going to age up to be in the third, fourth and fifth grade. They are a family based school and have a real need for an increase in enrollment. Their increase will be with older children whose play may be less noisy.

Ms. Joseph invited public comment.

Linda Terry, resident of 261 Lake View, said that her property abuts the parking lot of ACAC and the school. It turns out that the buses that are used to pick up the children for the after school care are parked right against her property and at 263 Lake View, which is owned by Sherry and Bob Zack. She was concerned about the growth of this school, the traffic and the buses, particularly because of having her

office at home that faces that parking lot. She does hear the noise and the buses start up everyday. They run their buses from about 1:05 p.m. to 1:50 p.m. before they go pick up the children with the diesel fuel fuming into her house, which gives her a headache. She is very concerned about this. She appreciates that they have a good school and provide a great service for the community. She is also concerned that her property abuts right up against that parking lot. What she sees every day are the buses and the fumes from the buses with the traffic coming and going. If there is a way to solve those problems, then maybe she would be more willing to go along with their request to go to 250 students.

Deanna Sheedy, Secretary of the Four Seasons Townhouse Association, asked to comment about the comment that older children are not as noisy. Being a mother she could promise that older children are not less noisy. The proposed increase means three times as many children. To property owners that means three times as much noise and traffic. This does not serve the neighborhood. Their first concern is noise. The townhouses are perpendicular to the property line, which means that they channel the noise through the development. ACAC has already heard complaints from home owners over current noise levels. A possible solution would be for ACAC to install a sound barrier. The other concern is inadequate parking. ACAC often refers overflow parking to adjacent lots at Four Seasons Apartments and along Four Seasons Drive next to Lake Drive. This causes an inconvenience to home owners and is also on our common area grass and has been damaging. Whether or not that is because they are having events simultaneously she did not know. But, it does happen and does need to be addressed. They could also consider placing no parking signs or a chain where parking is prohibited. That may be a possible solution. The third concern is whether Four Seasons Drive can accommodate the increase in traffic. Four Seasons Drive is a major school bus route. So not only is the safety of our children a concern, but drop offs and pick ups at the day school will slow down traffic, including public school buses on their way to and from school. Would ACAC be willing to compensate home owners for the traffic and noise increase? One way may be to offer property owners and their immediate families a 15-day pass every year to use their facilities. Her argument was not to forbid ACAC to increase the size of their day school, but that they must meet the needs of the neighbors that they affect.

George Delagan, President of the Four Seasons Townhouse Association, reiterated what Deanna Sheedy had to say. The Four Seasons Townhouse Association is an association with moderate income families. The people that live there are retired and live on a fixed income. There are young families who are living in their first homes. There are also working class families. The people that live in Four Seasons Townhouse Association are not served by this facility. While it is a neighborhood school the people who live there cannot afford to go to that school. The students coming in there are not students from Four Seasons Townhouse Association. So he would like to dispel the perception that this school is serving this particular neighborhood. It is serving people that are outside of this neighborhood. They are having an impact on the neighborhood. That impact is on the streets where they have people parking, particularly in the evenings during the summer time when events are taking place at the facility. There is a lot of parking that spills out onto other areas and down Four Seasons Drive. There are no walkways along Four Seasons Drive. Therefore, they are creating a dangerous situation as well. Then there is the noise issue. Some of those parties run fairly late at night. It impacts our neighborhood. Those are the concerns of the neighborhood. There are probably ways to solve those issues. The school does provide a service that sounds like it is a positive service to the community at large. So they don't necessarily want to oppose the school, but the neighborhood wants their concerns addressed.

Mr. Morris asked if they have met with the school folks.

Mr. Delagan replied no that they have not met with them.

Sherry Zack, resident of 263 Lake View Drive, said that her property, along with Linda Terry's, is directly behind the ACAC parking lot. She was not opposed to the school, but was opposed to the buses and wished that they could find another way to deal with the bus situation. Currently there are four school buses parked directly behind their property. Every afternoon the buses are started up and ran for a certain amount of time because of being diesel. The fumes at times have rolled in like fog banks into their back yards. It is a health concern. ACAC has been a very good neighbor. But, suddenly they have these big buses in the back that is unsightly. The diesel fumes are not good. In the summer time the buses are not parked there, but are parked at the Albemarle Square facility. She questioned why the buses could not always be parked there. She asked if they could address parking the buses somewhere else. It would be

a lot healthier for everyone in the neighborhood. There are a lot of houses that abut that parking lot. It is a health concern.

Rachael Willview, a resident of Four Seasons, said that she lived close to the playground area. She has met with the school people and they are very nice. She has toured the school and offered suggestions. She was concerned with the noise level. With the current enrollment of 85 students the noise was unacceptable. The noise is loud all day long and really gets on her nerves. They need something done about the noise before adding more children. The number and ages of the students does not matter because when they get outside they just scream. She understands that children need to play, but the screaming level and the noise level heard by the residents was just too much.

Robin Rosa said that her son was enrolled at the Charlottesville Day School. It is a wonderful opportunity for him to go to school there. Being in a small classroom was a very nurturing environment. She hoped to continue that through the 5th grade. The parents drop their children off and don't use the buses. That should not be part of the issue. The school tries to take into consideration the neighborhood and wants to be good neighbors. It would be a terrible thing not to have the school there. It has been a life changing experience for her family. It has worked out to be a really incredible experience. It would be great if the Commission would consider giving them the ability to increase their numbers because they are providing a great service for the community.

Lance Risen said that he has two daughters that go to Charlottesville Day School. One of them is in preschool. The demand for preschools is growing. He suggested that there were some things that could be done to address the noise. It is a great facility and service that he supports.

Angela Oakley said that she comes as a Charlottesville Day School parent and a concerned citizen of Albemarle County. Children are the future of our community. Due to this fact they all benefit from the value of educating our children well. The demands of the school are great and they have already maxed out their current allowed capacity. She asked that the Commission allow expansion of Charlottesville Day School's enrollment. The entire community will benefit from this growth.

Keith Roots said that he has a 3 year old son that attends Charlottesville Day School. They have been incredibly pleased with the school. It has a small neighborhood school feel. Therefore, he is in favor of the expansion of the school. He has two other children that he hopes can attend the school.

Mr. Crater asked for a rebuttal. The goal is not to extend the discussion any further than necessary. However, he feels like he should respond to the adjacent neighbors. ACAC wants to be a good neighbor. Some of the issues such as the buses and the parking are not related to the school application per say. But, he also believes that it is important that they address those. He offered his hand as a form of willingness to work with the neighbors to determine a way that they can be good neighbors. This is for either during the summer when school is not in session and they have large swim meets, or during the school year when after school buses are running to see if there are ways that they can mitigate their concerns irrespective of this increase in enrollment.

Mr. Cannon asked if the buses producing the fumes were school buses and used to bus some of the children to school.

Mr. Crater replied that the school buses are used to bus the after school children to the facility after the local county, public and private schools have been let out.

Mr. Cannon asked if those buses were not implicated in this request.

Mr. Crater replied that they were not.

Mr. Cannon asked if ACAC controls those buses and if they can do something about them.

Mr. Crater replied that is correct and that they can do something about the buses. That is why he felt it was important that they work together with the neighbors to address the concerns.

Mr. Strucko said that there are a number of uses going on here. There is an athletic and fitness club, summer camp and the Charlottesville Day School. What is the program that during inclement weather or for some other reason people can purchase for a fee day care, which is like a day camp? He asked if that is correct.

Mr. Crater replied that is correct.

Mr. Strucko said that the pools are open during the summer and asked if there is a swimming team or swimming athletic events going on there as well.

Mr. Crater replied yes, during the summer months.

Mr. Strucko asked if the parking was adequate for the peak use of the cumulative effect of all of these activities.

Mr. Crater replied that they have secured parking from the apartment complex across Four Seasons Drive from their facility to handle overflow parking during those events. They also staff that parking with paid attendants from ACAC to guide folks into this area to park. They also do their best to instruct folks not to park on the grass adjacent to the Town home Association. Hearing that is an issue they will do their best to relief that this summer as the events come back. As far as the genesis of the site it is important to note that it no longer serves as an athletic facility. It is primarily for the children in the community with 99 percent of the activities there being child related. The reason that the school fits so well in this is that during the school year the facility was in fact empty because all of the children who typically populated the site during the summer months for the water park and/or summer camp obviously were in school and now they were on the school property.

Mr. Strucko asked if the events were staggered in terms of scheduling daily and seasonally so that parking is adequate and there is no detrimental impact to the neighborhood.

Mr. Crater said that the school events will not be interfering in any way with what would be happening in the summer. The swim meets are the highest use of the facility and would not occur during the school year itself. It would not interfere in any way with the school parking requirements.

Mr. Morris said that one individual brought up the fact that the increased traffic on Four Seasons Drive is hitting right about the time people are going in, school buses are going out to the public schools and so on. He asked how is this not going to affect the traffic with increasing the number of students at the school.

Mr. Crater stressed that a number of their students would in fact stay on at the school for after school programs beyond the close of school. So even though 250 children may be coming in during the morning they will be leaving at different times. The children arrive any time from 7:45 a.m. to 9:00 a.m. and may leave at 12:30 p.m., 3:30 p.m., 5:30 p.m. or 6:30 p.m. So although there will be an increase in the traffic flow from having more children it will be interspersed during the day so not to be detrimental to the neighborhood.

Mr. Morris asked that the traffic engineer address this issue.

Joe Wallace, with Dominion Development Services, said they prepared the traffic analysis for the school for the existing and proposed condition. Referencing their last question about the increase in traffic, their analysis or study looked at the maximum of 250 students. If they use the same breakdown of students with teachers or administrators, students that come 2 to 3 to a car or siblings plus the single occupant students, they are looking at an increase of vehicular trips of about 175 to 200 vehicles during those periods. Those periods are as Chris Crater mentioned from 7:45 a.m. to 9:00 a.m. That is an hour and 15 minute period in which they have their morning movers that get in to use the facility for the before school program. They do have a peak time where they have the most that come in. But as they found based off of existing conditions and the fact that the school does not employ the stop and drop method of delivering the child to the school and picking them up that the parking is adequate. The additional vehicles on Four Seasons Drive and the adjacent roadways will not have a measurable impact to the traffic that is already there. The parking lot has enough spaces.

Ms. Joseph closed the public hearing to bring the matter before the Commission.

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

Mr. Strucko noted that in the spirit of full disclosure he has to say that his family is in use of this facility. His son goes to the summer camp. They just celebrated his birthday party there on a Sunday. They use it during those days when the public schools are either closed or snow days, which was why he asked about the daily fee. He was not sure how the Charlottesville Day School factored into all of the uses that go on in this facility. It is quite busy. Through his own experience he has not seen the traffic problems that he would expect to see given the size and scope of this facility. The only time it was difficult was during the months when the swimming pool was being used for a youth swimming league. The present of that group, the folks that are members of the pool that use the water park, and the closing of the summer camp all coincide at the same time, which was when the overflow occurs. Then there is a flock of geese that cross the road that just snarls traffic on Four Seasons Drive. His concern was the intensity of use here and is there enough facility. He was hearing from the applicant and the traffic study that it is. He still harbors concerns about the impact of this on the adjacent neighborhood. It sounds like some of the problems have easy fixes, such as the diesel problem with the relocation of the buses away from the proximity of the residents. That would be a good neighborly gesture from the facility. The decimal level of children playing is a legitimate concern with the doubling or tripling of the number of students. With the phasing of the children in and out of the play area, it could be a constant noise. He did not know how to mitigate that. That might be a fact of life due to the close proximity of the homes and school. But at the very least he hoped that the applicant will at least make the easy gesture of relocating the buses. But, generally speaking he is impressed with the business and operation there. He was favorably inclined to support this request.

Mr. Morris said that there needs to be a much closer liaison with the Homeowner's Association. That is only being a good neighbor and makes sense.

Mr. Cannon said that it sounds like a great institution and like it could be more fully utilized and that there is a demand for that. It is a good thing for the community, which makes him want to support this application. There are some effects that Mr. Strucko has mentioned that may or may not be related to the school, but need to be addressed. That includes the fumes and the problems with overflow parking, which are related to other events. The parties with overall responsibility for the site need to address those to the extent that they can with the homeowners. That is fair and the right to do. But, he did not think that can affect the Commission's decision on the application here. Children will make noise and there are ways to manage it, but there is no way to make impacts for it to go away or disappear entirely.

Mr. Edgerton agreed with most of what has been said by the other Commissioners. The noise issue during the summer around the water park is probably worse than during the school hours. But, that is not before the Commission tonight. It is two different seasons that the children will be outside even though during the milder months the children will be outside more during the school year. He was hopeful that the applicant will work with the neighbors to try to address some of these issues. It sounds like there is reason to believe that they will. Therefore, he supported the application.

Mr. Zobrist was in favor of the application.

Ms. Joseph noted that it was clear that the applicant needs to work with the neighbors regarding issues not directly related to this special use permit. If there is any way that the school recess can be scheduled so that there is some quiet time outside for the neighbors it is something that she felt that the neighbors would appreciate. She suggested that before they go to the Board of Supervisors that they sit down with the neighbors and make sure that they discuss some of these issues. It would not look good if this item goes to the Board before they talk with the neighbors. She suggested that the applicant might also consider some of the aspects of helping out the neighborhood in some of the other ways that were mentioned.

Motion: Mr. Strucko moved, Mr. Morris seconded, to approve SP-2006-00042, Charlottesville Day School – Amendment, subject to the conditions recommended by staff, as amended.

1. Maximum enrollment will be two hundred fifty (250) students;
2. Normal hours of operation for school shall be from 7:30 a.m. to 6:00 p.m. with occasional uses in the evenings and weekends; and

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Ms. Joseph stated that SP-2006-00042, Charlottesville Day School - Amendment, would go before the Board of Supervisors on March 14, 2007 with a recommendation for approval.

Ms. Monteith left the meeting at 8:06 p.m.

The Planning Commission took a break at 8:08 p.m.

The meeting reconvened at 8:17 p.m.

SP- 2006-00038, Montessori Community School - Amendment (Signs # 49 & 50)
PROPOSED: Special Use Permit (SP) request to amend an existing special use permit for a private school to allow for replacement of modular trailers with permanent buildings for 40,700 square feet of total building area on a 6.71 acre site.
ZONING CATEGORY/GENERAL USAGE: CO Commercial Office - offices, supporting commercial and service uses; and residential use by special use permit (15 units/ acre)
SECTION: 23.2.2.9 Private School
COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential - residential (6.01-34 units/acre) and supporting uses such as religious institutions, schools, commercial, office and service uses in Neighborhood 3 (Pantops) Development Area.
ENTRANCE CORRIDOR: Yes
LOCATION: 305 Rolkin Road, adjacent to the NW of the intersection of Rolkin Road and Richmond Road (Route 250)
TAX MAP/PARCEL: TMP 78-12A and 12A1
MAGISTERIAL DISTRICT: Rivanna
STAFF: Rebecca Ragsdale

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

- This is a special use permit request from the Montessori Community School to replace the existing modular trailers with permanent buildings in a revised campus or site layout plan with no request for increase in the enrollment at the school. The applicant plans to phase the plan.
- The property is zoned CO, Commercial Office. The surrounding uses are commercial on both sides. To the rear of the property or north is residentially zoned property. There are pavilions and townhouses at various stages of approval that are proposed adjacent to the school site. That was considered during the review of the plan.
- There are no proposals to remove the main house. But, all of the other structures will be removed and replaced with permanent structures.
- There are two waiver requests. One is relative to critical slopes. The other is for the screening and buffer requirements adjacent to a residential property line that is a requirement of the commercial zoning district of the property. The Planning Commission can modify that.
- The plan shows the uses proposed. The requirement is that there is no disturbance within 20' of the property line. Staff is recommending that the screening requirements be in place, but that they are allowed to do some grading to put in the trails and the outdoor features.

- An ARB application was submitted as part of the SP and the ARB reviewed and provided advisory comments to the Planning Commission at their meeting on February 5, 2007. The ARB did not have any objections to the proposed concept plan and offered the following comments, which planning staff feels can be addressed at the site plan stage:

    1. There is insufficient information to comment on architectural design, compatibility of scale, or the impact of blankness in building design on the EC.

2. Regarding fencing:
    a. Remove the existing chain link and wooden fence that parallels the EC and remove the length of chain link fence on the west side of the site that extends from the southwest corner of the site 160' north to the "wooded area to remain" shown on the concept plan; and
    b. Add a black picket style fence, or alternate style fence as approved by the ARB, along the side of the site that parallels the EC, and extend it from the southwest corner of the site 160' north to the "wooded area to remain" shown on the concept plan, and
    c. This fence removal and replacement shall be accomplished as part of Phase 1 construction or by the end of August 2008, whichever is sooner.
3. Regarding the inconsistencies in the submittal regarding landscaping:
    a. Coordinate the proposal regarding the wooded area at Building E; clarify if the trees in this area are to remain or are to be replaced.
    b. Include in each phase of construction the proposed landscaping adjacent to the area of construction.
4. No building shall be constructed higher than the existing administration building.

- There were no factors unfavorable identified

- Staff has identified the following factors favorable to this application:
    1. The private school will continue to provide expanded educational opportunities to the community.
    2. The Land Use Plan suggests residential and residentially supportive uses in this area of Pantops.
    3. There will be no detrimental impacts on surrounding properties.

- Additionally, staff notes that there is a zoning violation on the property regarding fencing; however, the applicant is currently working to abate the violation.

- Based on the findings contained in this staff report, staff recommends approval of Special Use Permit 2006-38 with the following conditions, which replace those previously approved:

    1. Maximum enrollment shall be 300 students.
    2. The site shall be developed in general accord with the plan entitled "Montessori Pantops Mountain Community School Sheets SP01-SP-03", prepared by Neal R. Deputy, Architecture & Master Planning, last revised January 16, 2007.
    3. Fencing shall be provided at a minimum around the perimeter of the Central Lawn, Lower Elementary Playground, and Children's House Playground, or at other locations as required by the County to ensure safety of children adjacent to Route 250 and Rolkin Road. Final design of the fence shall be subject to review and approval by the Architectural Review Board. However, to address safety concerns, the fence details shall include:
        - At least 48'' tall
        - No more than a 2" gap under the fence
        - Openings shall be small enough that a 4" sphere will not pass through
        - No ornamental indentations that can be used as a ladder
        - Maximum mesh size for chain link fences is 2-1/4''
        - Maximum mesh size for diagonal lattice fences is 1-3/4''

- There are no engineering concerns with the critical slopes waiver request. Staff recommends approval of this modification of Section 4.2.3.

- Staff recommends approval of the waiver of Section 21.7.3 to allow construction activity including grading or clearing of vegetation closer than twenty (20) feet to the adjoining residential property line, in accordance with the concept plan provided as Attachment H. Provided that:

1. Screening requirements of Section 32.7.9.8 are met.

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

Mr. Edgerton asked staff to give a little more feedback about how things went with the February 5 ARB meeting.

Ms. Ragsdale said that the ARB basically reviewed the plan or layout that is before the Commission and discussed the fencing issue. They are recommending that the fencing be addressed during the first phase of development of the site. The comments in the staff report are in regard to some of the issues staff felt could be addressed at the site plan stage or when the applicant comes back when they are further along in the design process when they would have architecture and fence details to show the ARB. The conditions on page 6 of the report are the feedback they got from the ARB. There was a comment regarding building height and keeping the proposed buildings below the existing house on the property.

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

Neal Deputy, the concept planner for the Montessori Community School, made the following comments.

- The Montessori Community School has been operating on the current site on Pantops Mountain since 1991 on 6.7 acres of Commercial Office zoned property under a special use permit granted by County. At this time it is the school's intention to seek an amendment to their existing special use permit to allow for the erection of permanent structures to replace the aging trailers that are currently populating the site. He began work on the concept plan in May of last year. They worked diligently with the Building and Grounds Committee and various staff, etc. for about six months to develop a phased campus redevelopment plan. The plan will primarily do three things:
  1. It will provide a road map for replacement of temporary structures over time and in line with the school's financial protections and current financial capabilities.
  2. To provide a phasing sequence that would allow for the school to continue their ongoing daily operations during the respective phasing and construction cycles.
  3. Ultimately to produce a legible and cohesive campus that would further their thoughts and dedication to environment stewardship and sustainability in building design and in site development.

- To highlight a few goals and features of the concept plan:
  - They are retaining historic structures on site and removing the existing trailers by the dates of their installations in a way that would embrace the terrain and natural topography of the rather hilly site on top of Pantops.
  - To consolidate the new structures around the central lawn to ease access between the various buildings and programmatic functions and allow them to share common facilities.
  - To connect the new buildings with colonnades and provide scale, protection and transitional areas not unlike Mr. Jefferson's design of the lawn.
  - To orient the new and existing buildings in such a way as to shape and create legible outdoor spaces, such as lawns and court yards, the amphitheater, playgrounds and outdoor function areas, nature trails and the like, as well as provide appropriate orientation to the Entrance Corridor.
  - To relegate the parking to the rear of the site out of the view of the Entrance Corridor and be assessable to all of the new site functions they are planning.
  - To reforest the site as much as they are able to create an area for reforestation to further their plan for wildlife habitats and to provide a greatly improved experience from within the physical bounds of the site as well as the view of the campus from its exterior.

- Others present include Wendy Fisher, Head of the School and a representative from McKee Carson, Bridge Costmary and the Chair of their Building and Grounds Committee, Janice Chapman, their Facilities Coordinator and Manager, Elli Greenspun as well as other educators and members of the Building and Grounds Committee such as Bryan Fisher, Sue Alston, Jan Elmore, etc.

Ms. Joseph asked if there were any questions.

Ms. Joseph asked if any of these buildings would be Leeds certified.

Mr. Deputy replied that there has been discussion among their group about Leeds certification. There are really two camps. There is a certain value to being a Leeds certified building. However, with that goes associated costs for the certification process. He is yet to make up his own mind. He did not believe that Leeds invented sustainable design. He felt that many of the principles that are reflected in the Leeds system are in fact inherent in any responsible design that respects the landscape that tries to be a steward to the environment and is in fact sustainable with respect to the topography, the vegetation, and the landscape, the orientation of the sun and how they reuse products. Sustainability is a life style choice that he believes expands to much more than actual building design and construction. He felt that the Montessori School is at the forefront of that kind of sustainability in education. They are a certified Audubon Sanctuary there on that hill. He said that he did not know the answer to the question at this time.

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

Mr. Morris supported the proposal, but voiced concerns about clearing the vegetation closer than 20'. But, it looks like the applicant is taking every precaution to make sure that it does not impede upon surrounding areas.

Ms. Joseph pointed out that the re-vegetation was going to occur on the critical slopes, which is something that the Commission has looked at in the past.

Motion for Special Use Permit, SP-2006-00038:

Motion: Mr. Morris moved, Mr. Cannon seconded, to approve SP-2006-00038, Montessori Community School - Amendment, subject to the conditions recommended by staff.

1. Maximum enrollment shall be 300 students.
2. The site shall be developed in general accord with the plan entitled "Montessori Pantops Mountain Community School Sheets SP01-SP-03", prepared by Neal R. Deputy, Architecture & Master Planning, last revised January 16, 2007.
3. Fencing shall be provided at a minimum around the perimeter of the Central Lawn, Lower Elementary Playground, and Children's House Playground, or at other locations as required by the County to ensure safety of children adjacent to Route 250 and Rolkin Road. Final design of the fence shall be subject to review and approval by the Architectural Review Board. However, to address safety concerns, the fence details shall include:
    - At least 48'' tall
    - No more than a 2" gap under the fence
    - Openings shall be small enough that a 4" sphere will not pass through
    - No ornamental indentations that can be used as a ladder
    - Maximum mesh size for chain link fences is 2-1/4''
    - Maximum mesh size for diagonal lattice fences is 1-3/4''

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Motion for Screening Buffer Waiver:

Motion: Mr. Edgerton moved, Mr. Morris seconded, to approve the waiver of Section 21.7.3 – 20 foot buffer zone adjacent to Residential/Rural Districts for SP-2006-00038, Montessori Community School - Amendment, subject to the condition recommended by staff, as amended.

1. Screening requirements of Section 32.7.9.8 are met.

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Motion for Critical Slopes Waiver:

Ms. Joseph noted that there were 2 reasons she could support approval of the critical slopes waiver. One is that they were man made quite recently with site plan approval and that they were mitigating this by putting in a lot of extra vegetation.

Motion: Mr. Morris moved, Mr. Strucko seconded, to approve the critical slope waiver request of Section 4.2.3 for SP-2006-00038, Montessori Community School – Amendment.

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Ms. Joseph stated that SP-2006-00038, Montessori Community School – Amendment would go before the Board of Supervisors on March 14, 2007 with a recommendation for approval.

SP 2006-00039, Pantops Veterinary Hospital (Signs # 54 & 55)
PROPOSED: Special Use Permit (SP) request for Veterinary Hospital at Rivers Edge Offices in a 6,600 total square foot building on a 1.32 acre parcel.
ZONING CATEGORY/GENERAL USAGE: C-1 Commercial - retail sales and service uses; and residential use by special use permit (15 units/ acre)
SECTION: 22.2.2(5) and 5.1.11
COMPREHENSIVE PLAN LAND USE/DENSITY: Regional Service - regional-scale retail, wholesale, business and/or employment centers, and residential (6.01-34 units/acre) in Neighborhood 3 (Pantops) Development Area.
ENTRANCE CORRIDOR: Yes
LOCATION: West side of Stony Point Road (Route 20), 0.1 miles north of its intersection with Richmond Road (Route 250)
TAX MAP/PARCEL: TMP 78-58G3
MAGISTERIAL DISTRICT: Rivanna
STAFF: Rebecca Ragsdale

Ms. Ragsdale summarized the staff report and gave a power point presentation.

- This site is on Pantops along Stony Point Road adjacent to the McDonalds and where the Charlottesville Power Equipment rezoning was approved. It is part of the Rivers Edge Office Park. The entire office park is between Free Bridge Lane and Stony Point Road. The building is already under construction for the veterinary office, which will be on the first floor. The parking for the vet will be to the side.
- This is commercially zoned property. There is residential property nearby, but there are not residences within close proximity.
- The applicant is proposing a veterinary hospital within the 3,300 square foot ground floor of a 6,600 total square foot office building that is currently under construction. The applicant has indicated that there will be minimal outdoor activity, with occasional dog walking but no other outdoor activities or kennels. Operating hours are proposed between 7:30am and 6:00pm, Monday through Friday and 7:30-12:00pm on Saturdays. The expected number of employees will be 6-8, and there may be additional interns or summer employees. There will be no boarding services provided, except for those animals at the vet for treatment. A proposed floor plan is provided.
- The 1.32-acre site of the proposed vet building, along with most of Rivers Edge Office Park has been designated C-1 Zoning since 1980 and commercially prior to that. The site plan for the proposed vet office building was approved June 2006 and this site plan showing the building for vet use is provided as Attachment F.

Staff has identified the following factors favorable to this application:

1. The Land Use Plan is supportive of the vet use.
2. The vet use will be located in the ground level of the building and separated from surrounding uses.
3. There will be no detrimental impacts on surrounding properties.

Staff has identified not identified unfavorable factors to this application.

Based on the findings contained in this staff report, staff recommends approval of Special Use Permit 2006-39 with the conditions listed in the staff report with one recommended change to condition 4. Staff heard from the applicant regarding condition 4 for the outside area for the walking of animals, which previously said should be separated from access by the public and shall be limited to the floodplain area adjacent to the building as identified on Attachment F. The Vet clients would come down the walkway and then have access to that area. Therefore, staff did not feel that it was necessary to have it separated from access by the public when they were already defining the area. The applicant was concerned that meant that they were going to require that it be fenced, which was not the intent. Staff felt that what was before them was adequate. The applicant provided some pictures of existing vets around the county demonstrating where they were located in more strict commercial areas and that they don't have the fenced in walking area..

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

Dr. Helen Stuart presented the application for a veterinary hospital that is within an already approved office building. There are no changes to the existing site plan. This is a use by special use. Therefore, she was here today to ask for the Commission approval. She has addressed all the provisions in Section 5.1.11 of the zoning ordinance as far as hours of operation and the separate entrance to the building. Staff has addressed the one concern she had about the possible fencing.

There being no questions for the applicant, public comment was invited. There being none, the public hearing was closed and the matter before the Commission.

Motion: Mr. Strucko moved, Mr. Morris seconded, to approve SP 2006-00039, Pantops Veterinary Hospital, subject to the conditions recommended by staff, as amended.

1. The plan shows the building to be 3,300 square feet. Any additional square footage of the veterinary office and hospital use will require an amendment to this Special Use Permit (SP-2006-00039).
2. No overnight boarding use, other than for those animals under medical care shall take place at the veterinary hospital.
3. The building shall be sound-proofed and air-conditioned.
4. The outside area for walking of animals shall be limited to the flood plain area adjacent to the building as identified in Attachment F.
5. A separate entrance and exit shall be provided for the clinic in accordance with Section 5.1.11d;
6. No outdoor exercise area shall be permitted.

The motion passed by a vote of 6:0. (Mr. Craddock was absent.)

Ms. Joseph stated that SP-2006-00039, Pantops Veterinary Hospital, would go before the Board of Supervisors on March 14, 2007 with a recommendation for approval.

ZMA 2006-00011 Whittington PRD Amendment (Sign #70)

PROPOSAL: Rezone 182.58 acres from Planned Residential Development (PRD) to PRD with an application plan (see Zoning Ordinance § 8.5.5.5). The PRD district allows residential uses at a density range not to exceed 35 units per acre. The proposed application plan would allow 96 residential units and a residential density of approximately 0.53 residential units per acre.
PROFFERS: Yes
EXISTING 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: Yes
LOCATION: Old Lynchburg Road [Route # 631] approximately 500 feet north of the intersection with Forest Lodge Drive.
TAX MAP/PARCEL: 89-95, 90-3, 90-45, 90-46, 90-47, 90-48

MAGISTERIAL DISTRICT: Samuel Miller
STAFF: Scott Clark

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

- This rezoning request is an amendment of an existing planned residential development located in the rural areas. It is 182 acres located on Old Lynchburg Road south of the City of Charlottesville in the southern neighborhood of the development areas.
- The property was rezoned to PRD in 1977. One of the conditions of that rezoning was changed in 1980. That remained in that zoning, but undeveloped up until 2004 at which point 14 acres from the southwest side of the property were removed from the PRD zoning and returned to the Rural Areas zoning district.
- Recently the applicants came to the County with their plans to subdivide the property in accord with the PRD zoning on the remainder of the property or 180 acres. The Zoning Department issued a determination that in order to proceed they would need to have their application plan brought current with the requirements of the zoning ordinance Section 8. This request is not in fact to change from Rural Areas zoning to PRD zoning, but to simply update the application plan for the remaining 180 acres in the existing PRD.
- There were 104 lots in this development, but 8 lots were lost from the removal of 14 acres. It is now 96 lots in the remaining area of the PRD.
- He distributed a copy of the 1980 plan received from the applicant.
- The new plan shows public roads, whereas the old plan showed a mix of public and private roads.
- The development is in the Albemarle County Service Authority area for water service, but not for sewer. The applicant did request that the Board consider granting sewer service, but the Board declined to consider that option. At this point the development will be served entirely by public water, but dependent on septic fields.
- As an update from the staff report, of the 96 lots on this plan there is one lot that is not quite large enough for the 4,000 square foot requirement for any lot that is on one service either water or sewer. In this case, lot 78 is about 5,000 square feet too small. That would just have to be fixed before this goes on to the Board. That could be a part of the Commission's action on this to change that lot size so that it meets that requirement.
- The original zoning on this had an original set of conditions as noted in the staff report. Those conditions have been replaced in this case by a set of proffers that are in Attachment D. Staff will answer any questions that the Commission might have.
- The property also has 65.8 acres of open space with wooded areas, trails, pocket parks and an observation tower at the southwest corner near the highest elevation. Beyond the request for the amendment to the zoning the applicants are also asking that the Commission make a finding, as mentioned in the staff report, that this open space area be found acceptable under Section 4.7 of the zoning ordinance.

Staff has identified the following factors, which are favorable to this rezoning request:

- The proposal has been made to meet current zoning requirements, and does not propose increased development in the Rural Areas over that already permitted.
- The number of proposed lots has been reduced from 104 to 96, thus slightly reducing the amount of residential development occurring in the Rural Areas.

Staff has identified the following factors, which are unfavorable to this rezoning request:

- This proposal is not consistent with Rural Areas policy. However, as noted previously, it slightly reduces the number of lots from that allowed under current zoning.
- Staff recommends approval of this rezoning with the application plan dated 11/22/2006 and the proffer form dated February 8, 2007.
- Staff also recommends that the Commission find that the uses proposed within the open space are appropriate under the standards set by section 4.7 of the Zoning Ordinance.

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

Mr. Strucko asked by right how many units can be developed on this parcel now.

Mr. Clark replied that essentially until this application plan is approved none. The applicant needs to have that action.

Mr. Strucko said that it was 104 acres and then 14 acres were put in the rural area. Therefore, now there is 96 acres.

Mr. Edgerton asked Mr. Kamptner asked how the 1980 ordinance applies in this. He asked if this case was similar to the Gazebo issue.

Mr. Kamptner replied that this case was similar to that and what is now the shopping center on Pantops where the Giant Center is located. The way the ordinance works is that there was some lands that were rezoned to a planned development district in 1980 as part of the comprehensive rezoning that did not have application plans accompanying that rezoning. It was just part of the legislative action. So Section 8 of the zoning ordinance requires that before those lands could be subdivided or planned through a site plan the owner has to come through the process to have the application plan approved. But, the zoning is already in place. So this land already has PRD zoning. So the uses are already established. The maximum density is already established. Really all the applicant has to do to proceed to the next step is to get approval of the application plan. So the Commission's review is really determining whether or not the application plan meets the requirements of Section 8 of the zoning ordinance.

Mr. Edgerton asked if it was the old zoning ordinance. What they are looking at here would meet the 1980 ordinance.

Mr. Kamptner said that the applicant in this case has elected to proceed under the 1980 ordinance.

Mr. Edgerton asked if it was the choice of the applicants even though they have done nothing to vest this over the last 25 years.

Mr. Kamptner replied that is correct because there is no vesting requirement and the PRD designation remains as long as it remains on the property the owner has the right to choose whether to proceed under the old or the current regulations.

Mr. Edgerton asked if under that same circumstance if the zoning of a piece of rural land in the County was established before 1980 but nothing has been done, but a lot has changed in the ordinance since that time we have no authority to require the new ordinance on that.

Mr. Kamptner replied no, that the Section 8 regulations at least as far as that particular provision is concerned that it is consistent throughout. It is rural areas at the Comprehensive Plan level. The land itself has been zoned for the Planned Residential Development for 27 years.

Mr. Edgerton said that Mr. Clark's answer to the initial question was what the allowed density now with the 14 acres is. The answer to his question is whatever the maximum density.

Mr. Kamptner replied that the allowed density in the PRD District, as Mr. Clark noted in the staff report, is 35 dwelling units per acre. This is coming in around one half of a dwelling unit per acre.

Mr. Cilimberg noted that to distinguish with his example of the rural areas, the Rural Area District is not a Planned Development District. What is kicking in the opportunity to use the 1980 provisions is the fact that this is planned development that existed at the time of that ordinance change. It is a little different and kind of an apples and oranges thing there.

Mr. Edgerton said that the question asked was if he had taken a piece of rural area and established the zoning before 1980 and changed to density that stayed with it. It really surprises him that they have no obligation to move on this for a quarter of a century and somehow have the same rules applied. That does not make a whole lot of sense when they are trying to figure out how to improve the situation in the County.

Ms. Joseph asked how the critical slopes application works on this. Is that something because they were showing in the past these lots with critical slopes that is okay at this point. Do they go back to whatever application plan was approved, and yet this is a modification of that?

Mr. Kamptner replied that the critical slopes regulations were whatever existed in 1980. Whatever existed in 1980 is what would apply.

Mr. Joseph said that whatever regulations in 1989 concerning critical slopes would apply to this.

Mr. Kamptner agreed.

Mr. Strucko said that he was trying to understand fully the factors that are favorable with this to rezoning request. It says that the number of proposed lots has been reduced from 104 to 96. Is that a favorable factor? Wasn't that the result of the 2004 rezoning?

Mr. Clark replied yes. He noted that would be more neutral than favorable. The applicant is using the area that they have remaining.

Ms. Joseph clarified that when the Board of Supervisors declines to hear the request to be placed in the jurisdictional area that means no.

Mr. Cilimberg replied that at this point yes. Without a hearing of the Board there is not a jurisdictional area change that can take place. They always act initially to set a hearing. If they decline to set a hearing, it is essentially declining to change the jurisdictional area. That does not mean that they could not revisit that at any point in time.

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

Chris Schooly, Director of Land Development with Stonehaus Development, said that he appreciated the Commission's confusion in this situation. There are very few pieces of property in the County that have this type of zoning. They are trying to stand in front of the Commission today and sort this out. At the point when staff ruled that their application plan with their original rezoning was no longer valid they lost the rights to their property and are here today to present an application plan and to regain those rights. They have met the standards set forth in Section 8 as outlined by the 1980 zoning ordinance. With the staff's assistance they feel like they have met what Section 8 has asked them to do. They have made some improvements to the plan to make it a better place to live. They think that there area number of people in this community who are still looking for an opportunity to live on 1 acre lots. There are a number of quarter- acre lots that is far less through the County. They think this is an opportunity to try a marketable product that people want to live on in an interesting way. It is an opportunity for them to provide 1 acre lots where people might go out and buy 2 or 5 acre lots in the rural area. They feel that they have met Section 8 and welcome any questions.

Ms. Joseph asked if there were any questions. There being none, she asked for public comment.

Craig DeBoise, an adjoining property owner, voiced several concerns that he was sure are probably shared by a number of folks who live along Old Lynchburg Road. This first is Old Lynchburg Road itself. He presented some photographs showing the condition of the road. He questioned the wisdom of going ahead and approving this before anything is done to improve the situation with the road. The photographs were taken at 790 Old Lynchburg Road, which is ½ mile north of the main entrance to this proposed development. The curve is a blind curve where it goes from 4 lanes to 2 lanes on a downhill slope. He has seen cars out in the field many times to the left that did not make the curve. He knows of at least one person that has been killed in that curve in the last five years. This situation with the flooding occurs anytime that there is heavy rain or snow fall. What happens is that the people that are Inbound towards town just pull out in left lane, which is completely blind to the oncoming traffic. That is one concern. There are a number of blind curves and blind hills along this 1 mile section of the road. There are no shoulders on Old Lynchburg Road in that area. It is a very popular route for bicycle riders. It is common for traffic to pull out and pass the bike riders by going over into the other lane. It just seems

unconscious able to put 200 more cars on that section of road unless something is done to improve the road itself. Somebody is going to get killed and already have. There are a number of people who live along Old Lynchburg Road that would also share my concern.

Doug Arrington said that he lived off the 1100 block of Old Lynchburg Road. He noticed in reading through the staff report that there is a 55' right-of-way from the center of Route 631. It said that it would be a right-of-way if needed to the County. Then the buffer for the road would be beyond that. He was curious if this all ties into the other development along Old Lynchburg Road, such as Biscuit Run. In the TIA report it shows that as the fourth entrance into Biscuit Run. He asked if in the whole scheme of things if that section of Old Lynchburg Road could be straightened out as far as Old Lodge Road with bike lanes at least that far so that in future years there would be something to plug into. They would also be correcting a very serious defect from the 600 to the 1000 block of Old Lynchburg Road. He also addressed the Board last Wednesday concerning this section of road. Mr. Boyd posed a question. Staff indicated that something was going to happen there. He knew they were going to put turn lanes in. But, in his speaking with transportation staff there was no plan to do anything with that road. The TIA claims that 10,000 cars a day can go through there and with those criteria in mind there is no need to make any improvements. He disagreed with that. It would be very nice if in the planning of all of this they could get a right-of-way in the Biscuit Run corridor and go ahead and at least straighten it as far as Forest Lodge.

Allison Grower, a homeowner adjacent to the property, agreed that they need to do something with Old Lynchburg Road, particularly about the water problem shown in the photographs. There is traffic that turns out of Mosby Mountain that makes it even harder in that area. They have cyclists all the time up and down the road. But, she also has a personal question to the developer in the fact that it looks like there is an easement across her driveway. She wanted to make sure that she can egress into her house and that the easement would stay.

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

Mr. Edgerton said that he was really having a lot of trouble with this because of the legal issues. What right do they have to recommend denial if any.

Mr. Kamptner said that the Commission was not considering the use. That has already been established. The scope of the Commission's review tonight is only to consider whether or not the application plan meets the requirements of Section 8.5.1. Staff has determined that the application plan meets the current requirements for the application plan.

Mr. Edgerton noted that was a 30 year old ordinance. That was what he was having trouble with.

Mr. Kamptner said that when the site is developed through a subdivision plat it will be reviewed under the 1980 Subdivision Ordinance. That is what our regulations say and what the Board of Supervisors decided. This request goes to the Board of Supervisors with a recommendation from the Planning Commission on the application plan.

Mr. Edgerton asked if the Commission was making a recommendation for a rezoning.

Mr. Kamptner replied that it was really the second step of the rezoning. It is the essential step that is needed because of this quirk in our regulations and in the quirk that this property was rezoned to a planned development district without an application plan back in 1980. So the Commission is really only looking at the application plan. Once the application plan is approved by the Board of Supervisors the development is by right. It is really just the application plan that is the step between that and by right development.

Mr. Strucko noted that the Commission's is severely limited. The concern here is broader than this project. That is 1,000 more daily vehicle trips on Old Lynchburg Road as they consider the general area at large and what is going to happen there. He would take the information from this and carry it forward into other considerations for this area. They are going to have to amend a lot of the data they have been looking at now.

Mr. Cannon noted that in the Comprehensive Plan it was still rural areas, but it was zoned for the density of development as indicated here.

Mr. Kamptner replied that was correct.

Mr. Cannon said that they fight hard to keep the rural areas rural areas, but it might be that they lost that fight a long time ago on this piece of property. He was not sure what the Commission's options are.

Mr. Zobrist asked Mr. Kamptner if the Board of Supervisors decided to take jurisdiction and change the zoning on this they still could be because there is no by right to this zoning. He asked if they have done any thing to affect that right.

Mr. Kamptner replied that is what they are doing right now.

Mr. Zobrist noted that if the Board of Supervisors came in and did away with all of the grandfathered rezonings and rezoned them all, then they might have a little bit of litigation and might be able to do it.

Mr. Kamptner replied that it would have to be comprehensive in nature.

Mr. Cannon asked how that would affect what they do tonight.

Mr. Kamptner noted that the Commission needs to act on the application plan that is in front of them tonight and make the recommendation to Board for their April 11 meeting.

Ms. Joseph asked the applicant to come forward. One question she asked staff had to do with sidewalks, bike paths and street trees. Maybe it is in our Comprehensive Plan as rural areas, but that is not how this is developing. They see other things happening in the area. One of the things the Commission has been discussing it how to get people out and about using other means of transportation other than cars. In the email from staff it said that you've indicated that if the Commission feels that these are necessary, bike paths, sidewalks and street trees, that they would include them before this goes to the Board. She asked the applicant's opinion on that.

Chris Schooly replied that they would commit to street trees.

Ms. Joseph asked how about sidewalks.

Mr. Schooly replied that in a lot of ways on a site on a side of a hill like this that he was not sure if that it makes a lot of difference.

Ms. Joseph noted that in that area there was a lot of dense development that wants to happen. If Old Lynchburg Road were improved the improvements will include pedestrian pathways and bike paths. She felt that they need to connect themselves into that system.

Mr. Schooly pointed out that they have provided a system of paths. They feel that there is a place for suburban development since a lot of people would like to live on an acre and the privacy that comes with that. He did not think that the sidewalks would take away from it, but they were providing a trail system that connects every lot throughout and allows them to get outside and into trees and into nature. It is a different system.

Ms. Joseph noted that it was essentially an internal system, which sort of turns it back to the neighborhood.

Mr. Schooly replied that it attaches to the two adjacent neighborhoods, Mosby Mountain and Mountain Valley with destinations.

Ms. Joseph asked it provided easements that allow public access.

Mr. Schooly replied that would be up to the homeowner's association.

Ms. Joseph noted that sidewalks on a public street would allow anybody to walk on them.

Mr. Schooly replied that was true.

Ms. Joseph noted that was something that he would not be interested in doing.

Mr. Edgerton noted that the applicant was being very direct with the Commission in saying that he was not willing to cooperate.

Ms. Joseph asked if this subdivision only complies with the 1980 ordinance then the idea of sidewalks and any kind of interconnectivity is gone. The current ordinance requests interconnectivity with adjoining property.

Mr. Kamptner replied that he did not recall that the 1980 ordinance requires that.

Mr. Cilimberg noted that there were provisions about Interconnectivity in the old ordinance, but he can't tell the Commission all of the particulars. They were not going to be dealing with the application of the most recent subdivision ordinance amendment language.

Mr. Strucko made a motion that ZMA-2006-00011, Whittington PRD Amendment, complies with Zoning Ordinance Section 8.5.5.5.

Mr. Kamptner asked that he include that the application plan meets the requirements of Section 8.5.1.d.

Mr. Strucko said that he would include that in the motion.

Mr. Morris seconded the motion.

Mr. Zobrist asked that the motion be restated.

Mr. Strucko moved that this application complies with those sections of the Zoning Ordinance.

Mr. Zobrist asked if that was all that they were doing.

Mr. Strucko asked if that was what staff was recommending to be done tonight.

Mr. Kamptner replied yes.

Ms. Joseph supported the motion, but not the plan.

Mr. Kamptner asked that the motion be amended to include recommending acceptance of the proffers.

Mr. Zobrist asked which lot had to be reconfigured to meet the requirements.

Mr. Kamptner replied that it was lot 78.

Mr. Strucko amended his motion as Mr. Kamptner stated.

Mr. Morris seconded the motion.

Ms. Joseph felt that it was a shame that the applicant did not feel enough for the community that they could make this connect in other ways.

The role was called.

The motion carried (5:1) (Mr. Edgerton voted nay.) (Mr. Craddock was absent.)

Note: Mr. Zobrist, Mr. Strucko and Mr. Cannon voted aye with the reservations that Ms. Joseph expressed in supporting the motion.

Motion on ZMA-2006-00011, Whittington PRD Amendment:

Motion: Mr. Strucko moved, Mr. Morris seconded, that ZMA-2006-00011, Whittington PRD Amendment comply, inclusive of the application plan dated 11/22/2006 and the proffer form dated February 8, 2007, with Zoning Ordinance Sections 8.5.5.5.and 8.5.1.d.

The motion passed by a vote of 5:1. (Mr. Edgerton voted nay.) (Mr. Craddock was absent.) Note: Mr. Zobrist, Mr. Strucko and Mr. Cannon voted aye with the reservations that Ms. Joseph expressed in supporting the motion.

Motion: Mr. Strucko moved, Mr. Morris seconded, that the uses proposed within the open space are appropriate under the standards set by section 4.7 of the Zoning Ordinance for ZMA-2006-00011, Whittington PRD Amendment,

Ms. Joseph noted that if the applicant took out the observation tower that she might be able to support the motion. But, she could not support it with the observation tower. She did not know what it would look like or what it was supposed to do. She would rather see a sidewalk than an observation tower.

Mr. Strucko withdrew his motion. He asked Ms. Joseph to explain her concern.

Ms. Joseph replied that she did not know what an observation tower is or whether it was appropriate in an open space because she did not know what it is doing. She questioned what it looks like. Its purpose is to observe, but she did not know if it was necessarily appropriate.

Mr. Strucko asked what the Commission's discretion is here.

Mr. Cannon asked if the observation tower part of the open space proposal.

Ms. Joseph replied that the applicant has it under open space. On page 4 it has passive recreation and it talks about the proposed open space includes trails, pocket parks and an observation tower.

Mr. Cilimberg suggested that the finding could be the consistency without the observation tower if that is what the Commission should chose.

Amended Motion Regarding Open Space Meets the Requirements of Section 4.7:

Amended Motion: Mr. Strucko moved, Mr. Morris seconded, that the uses proposed within the open space are appropriate, excluding the observation tower, under the standards set by Section 4.7 of the Zoning Ordinance for ZMA-2006-00011, Whittington PRD Amendment.

The motion passed by a vote of (5:2). (Ms. Joseph and Mr. Edgerton voted nay.) (Mr. Craddock was absent.)

Ms. Joseph stated that ZMA-2006-011, Whittington PRD Amendment, would go before the Board of Supervisors on April 11, 2007.

Work Session

ZMA 2006-022, The Commons at Albrecht Place (Signs # 83, 84, 86, 87, 90)

PROPOSAL: Rezone 3.398 acres from PDSC, Planned Development Shopping Center which allows shopping centers, retail sales and service uses; and residential by special use permit (15 units/ acre) to NMD, Neighborhood Model District which allows residential (3 - 34 units/acre) mixed with commercial, service and industrial uses; and to rezone .967 acres from C-1 Commercial zoning district which allows retail sales and service uses; and residential use by special use permit (15 units/ acre) to) to NMD,

Neighborhood Model District which allows residential (3 - 34 units/acre) mixed with commercial, service and industrial uses; and to rezone .938 acres from R-2, Residential (2 units/acre) to NMD, Neighborhood Model District which allows residential (3 - 34 units/acre) mixed with commercial, service and industrial uses. The proposal includes up to 56 dwelling units.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Community Service - community-scale retail wholesale, business and medical offices, mixed use core communities and/or employment services, and residential (6.01-34 units/acre) in Neighborhood One.
ENTRANCE CORRIDOR: Yes
LOCATION: 400 feet west of the intersection of U.S. Route 29 and Shoppers World Court, directly behind the Shoppers World shopping center; and 2118 and 2121 Dominion Drive.
TAX MAP/PARCEL: Tax Map 61 M, Block 1, Parcel 6; Tax Map 61M, Block 2, Parcel 1; Tax Map 61M, Block 12, Parcel 1E; Tax Map 61U, Section 1, Parcel 12 and Parcel 13.
MAGISTERIAL DISTRICT: Rio
STAFF: Sean Dougherty

Mr. Dougherty summarized the staff report and gave a power point presentation.

- The applicant would like to rezone five parcels, three of which are contiguous and total 4.365 acres and is referred to as Parcel A in this report. The proposal for Parcel A includes 8 apartments above commercial uses and up to 48 condominiums. 14 of these condominiums, designed to be constructed over parking, are directly adjacent to the Berkeley Neighborhood at the parcel's edge. 34 other condominiums are proposed to be included on roughly one acre with the potential for up to 80,000 square feet of commercial. Parcel A provides a pedestrian connection from Williamsburg Road where it ends in a cul-de-sac. This application also includes two existing single-family lots along Dominion Drive: Parcel B and Parcel C. Parcel B, at 2118 Dominion Drive, is contiguous to Shoppers World. On this parcel, the applicant proposes a vehicular interconnection from Dominion Drive to the existing rear service area of Shoppers World. This connection proposes demolishing an existing structure, crossing of an urban swale that bounds the property on the western side, cooperation with the Shoppers World owner, and provides a similar function as the Dominion Drive entrance to Shoppers World, which is located 200 feet to the south along Dominion Drive. The existing structure on Parcel C, at the corner of Dominion and Commonwealth Drive, is proposed to remain but be converted into a two-family dwelling with the basement becoming a second dwelling unit within the house. This, in part, is to address the Board's goal for affordable housing in conjunction with other affordable housing proposed with this rezoning and discussed later in the report. A location map is Attachment A and an illustrated Application Plan is Attachment B.
- The Places 29 Consultants examined Shoppers World, Parcel A, and B as part of a case study for how a property such as Shoppers World could redevelop in a number of ways over time. The applicant has worked to incorporate some of the concepts from the case study on their property. However, this case study looks toward a long range approach to land redevelopment in existing commercial centers and includes the redevelopment of the existing Shoppers World. Some concepts may not be as appropriate in the immediate future, though they demonstrate the potential for a phased and coordinated approach to the existing center. The Shoppers World owner has been receptive to the concept of redevelopment, but does not foresee any significant move toward redevelopment until the multiple-year leases of existing tenants have expired. Further, the concepts proposed with the case study were not influenced by and vetted through residents of the existing neighborhood. See Attachment C for the redevelopment case studies performed by the Places 29 consultants. The Places 29 study and master plan is still in the development stage including further public input in February and March 2007.
- This work session provides the Commission with an introduction to the project, the opportunity to hear and consider public comment in order to provide the applicant direction with the following major considerations:
  - The appropriateness of the applicant's proposal to maximize uses on the properties.
  - The viability of layout and vehicular connections proposed
  - The appropriateness of type and amount of open space amenities proposed.
  - The suitability of the applicant's proposal to fill a storm water swale and disrupt a buffer shown in the Open Space Plan
  - The exhibits needed to determine the impact of this proposal on the Berkeley neighborhood.

- The Commission is asked to provide guidance on this rezoning request by answering a number of questions posed by staff.

SUMMARY

Staff has identified the following factors, which are favorable to this rezoning request:

- The proposal has been made to meet current zoning requirements, and does not propose increased development in the Rural Areas over that already permitted.
- The number of proposed lots has been reduced from 104 to 96, thus slightly reducing the amount of residential development occurring in the Rural Areas.

Staff has identified the following factors, which are unfavorable to this rezoning request:

- This proposal is not consistent with Rural Areas policy. However, as noted previously, it slightly reduces the number of lots from that allowed under current zoning.

Ms. Joseph invited the applicant to address the Commission.

Steve Edwards, of Terra Concepts, noted that others present were Sue Albrecht, the applicant; Woody Parrish, the architect and Allan Franklin, engineer. He presented a power-point presentation and explained the proposal.

Public comment in opposition to the request was received from the following persons:

- Joan Graves, of 2208 Dominion Drive, asked that Berkley Subdivision be protected from the detrimental impacts of the proposed development.
- Kenneth Young, resident of Berkley Subdivision, asked that the access road not be approved due to safety concerns so that there would not be an increase in the traffic cutting through the shopping center.
- Adrian Bleed, of Williamsburg Road, noted concerns about the significant impact of the proposed developed on an already established neighborhood.
- Kenny Thacker, of 2200 Dominion Drive, spoke in opposition because the removal of the house is senseless to put a connector road through this area across the channel. There is an entrance road into the shopping center already. They don't feel that the rezoning of the two lots within an already established Berkley Subdivision is necessary.
- Joel Springer, of 2704 Commonwealth Drive, noted that there is already an access road and the additional traffic is not needed in this area.
- Doug Harris, of 2203 Dominion Drive, noted concerns about the increase in traffic at the intersection.
- Cheryl Lawson, of 2312 Williamsburg Road, voiced concerns over the safety of the community, particularly the children in the neighborhood. She urged the Commission to consider the long term effects of the proposed development.
- Larry Pettit, 2615 Commonwealth Drive, said that he was a former President of the Berkley Community Association. He noted that they had an agreement with the Board of Supervisors that no access would be made into the shopping center. That was because of the safety of that neighborhood. Without any notification that access was opened, and as a result today there is a steady stream of cars that use this as a back way to get to a well known food store. The traffic is a real concern. He asked that the Commission oppose this proposal.
- Janet Martin, 2209 Williamsburg Road, asked that they not destroy their neighborhood.

There being no further public comment, the matter was before the Planning Commission.

Due to the late hour the Commission decided to continue Albrecht Place to a work session at 4:00 p.m. on March 6 in the auditorium to go over the questions posed by staff.

1. *Given existing constraints, is the applicant's approach to maximizing this parcel's intensity appropriate?*

2. *Do you support the proposed vehicular connection across parcel A?*

3. *Should the Commission agree with Staff's assessment, what sort of open space amenity is appropriate in addition to a tot lot and wooded buffer?*

4. *Do you support filling in the swale and impacting the buffer to construct townhouses?*

5. *Is the Commission comfortable with the information provided (plan view of condos shown near existing houses and renderings) or would a site section or model further the Commission's consideration of the appropriateness of the fourteen condos shown adjacent to Berkeley?*

Old Business:

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

New Business:

Ms. Joseph asked if there was any new business.

- Mr. Edgerton provided a quick update on the green buildings comp plan amendment that is being worked on by staff. He suggested that Jason Hartke, Manager for State and Local Advocacy at the US Green Building Council, make a presentation to the Planning Commission at its scheduled March 20 work session. He offered to call Mr. Hartke and ask him to give a brief presentation perhaps using the data from the Kats Study to reassure the skeptics about the minimal additional costs associated with LEED Certification. The Commission was enthusiastic and asked Mr. Edgerton to pursue this.

- Mr. Cannon asked staff to have someone knowledgeable come and explain the Building Permit Report for 2006 to help the Commission understand it.

There being no new business, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 10:37 p.m. to the next meeting on Tuesday, February 27, 2007 at 4:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

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