Albemarle County Planning Commission
April 17, 2007

The Albemarle County Planning Commission held a meeting on Tuesday, April 17, 2007, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Pete Craddock, Duane Zobrist, Jon Cannon, Bill Edgerton, Eric Strucko and Marcia Joseph, Chairman. Calvin Morris, Vice-Chairman was absent. Julia Monteith, Senior Land Use Planner for the University of Virginia was absent.

Other officials present were David Benish, Chief of Planning; David E. Pennock, Principal Planner; Joan McDowell, Principal Planner; Amelia McCulley, Zoning Administrator/Director of Zoning & Current Development; Glenn Brooks, County Engineer; Allan Shuck, Engineer; Elaine Echols, 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.

Moment of Silence

Ms. Joseph asked that everyone stand for a moment of silence in recognition of the Virginia Tech tragedy.

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 the Board of Supervisors Meeting – April 11, 2007

Mr. Benish summarized the actions taken by the Board of Supervisors on April 11, 2007.

Regular Items:

SDP 2005-083 Rio Truck Repair - Request for preliminary site plan approval to allow the construction of an 8,000 square foot building to be used for truck repair on property described as Tax Map 61 Parcel 146. The subject parcel contains approximately 1.428 acres and is zoned C1 (Commercial). This site is located at the end of Rio School Lane approximately 370 feet east of its intersection with Rio Road (State Route 631). This site is located in the Rio Magisterial District and is designated as Neighborhood Service in Urban Area 2. (David Pennock)

Mr. Pennock presented the staff report.

- The preliminary site plan was submitted in 2005. One of the review comments from staff is the requirement that the roadway serving the property be upgraded to the standard of the ordinance, which is a 20' paved travel way with curb and gutter on each side. The applicant has requested a waiver from this requirement. The main justification is due to the inability to obtain necessary easements to allow that construction to take place. Staff has been on site numerous times and has met with the applicant and at various times has suggested some design alternatives. The engineering analysis of the existing conditions is that there are some drainage issues there that have caused some significant wash outs occasionally topping over the road there. The existing condition of the roadway is deteriorated partly as a result of that. In addition, there is parking along there

that is not very well defined. It goes from pavement to gravel and back again. There are a lot of things going on there that staff feels would be improved with the addition of the curb to more clearly define the roadway. But, it would also more clearly direct the rain water and all of the drainage generated from at least most of the construction of this site as well.

- The applicant in order to request this waiver also requested the review of the whole site plan. As part of the site plan review the waiver comes into play. There are two actions being requested. The first is the waiver of the standards for the private street known as Rio School Lane. The other request is approval of the preliminary site plan.
- Staff's analysis is that the existing conditions are inadequate to serve the uses that are back there. The additional use generated by this construction would exasperate problems that are already evident. Staff was unable to recommend approval of the waiver requested. As a result staff was unable to recommend approval of the preliminary site plan.
- Some of the neighbors have indicated that there is some storage of containers on the property. Pictures of that were included in the emails. A zoning inspector visited the site this week and the violation action should be pending on that.

The public hearing was opened and the applicant invited to address the Commission.

The applicant was represented by Mr. Corban Klug, attorney for van der Linde Homes. His comments included the following:

- The applicant is requesting a waiver from the zoning ordinance curbing requirements. This road meets the minimum requirement for width of the travel isle under the applicable zoning ordinance and VDOT requirements. That is it is 20' in width. At this point there is also a curbing requirement that was for sometime discretionary on the part of landowners and the County. Now it is mandatory. It was amended to be mandatory only a few years back.
- This commercial subdivision dates back to roughly 1960. It is a unique situation because there are four existing parcels that once were one whole contiguous parcel. Three of the parcels have been developed. One parcel has never been developed, which is his client's parcel. For 40 years this parcel has essentially had residences built that have been abandoned and been used by vagrants for illegal activities. When his client bought the property a couple of years ago he was forced to clean that up.
- At this point he has been attempting to create on that parcel a permissive use under the C-1, Commercial zoning ordinance. The applicant wants to build a truck repair facility. It is lawful. The difficulty is because this subdivision was created when the creators had no concept of zoning. It was at a time where there was no understanding that 40 years later there would be a minimum travel isle width plus a required curbing. They merely created a 20' travel isle by easement across the two neighboring parcels. One property is owned by DeButts with a building and on the other side the Church of Our Savior owns a thrift store. At the time this subdivision was created these buildings were not in existence. There was no understanding at that time what these parcels would be used for. Clearly there was no zoning ordinance at that time.
- This is an interesting situation. They have a zoning ordinance that was adopted 20 years after this subdivision was created. It was never in the mind of the subdivision creators. It imposes a requirement that essentially blocks his client from using his parcel. He says that with all of the legal gravity that he can. In reality the Constitution of the United States and of Virginia requires that his client either be able

to use this parcel for some economically viable use or be compensated justly for being deprived of that use.

- The difficulty is that the curbing requirement adds 6" of width on either side of a minimum 20' travel isle. Without an easement from both landowners and one conceivably of a foot they cannot put curbing where the County requests it. His client does not dispute that curbing generally is a wonderful requirement. It makes sense. The Neighborhood Model and the Comprehensive Plan are sensible statements of priority. They don't dispute them. They are, however, stuck between the proverbial rock and hard place in this situation. They cannot go forth with a permissible use to develop the property, which they have a right to develop, simply because there is a regulation that generally is perfectly sensible for all new developments and for those developments that existed prior to 1980 and the zoning ordinance that have enough width. At this point, however, the adjoining property owners have been unwilling to grant us any additional easement. They have been attempting for the last 1 ½ years to come up with an agreement. They actually about 1 ½ years ago the attorney for the DeButts, Bud Treakle, told the Planning Commission that an agreement had been reached for an easement. That has been their understanding.
- For the last 1 ½ years they have been putting documents in front of them and they have been unwilling to sign them. That is their prerogative under the law, but unfortunately they have been dragged through what they feel is a grand waste of time. So now they are back here because they have not been able to get an easement from them. They have been denied even a temporary construction easement from the Church that would prevent them if the County grants a waiver they are unable to put in the curbing because they can't step foot on their parcel. They are stuck with a situation where this parcel that lies at the end of Rio School Lane cannot use this parcel for anything. The C-1 zone allows a lot of different uses, but because of the curbing requirement there is nothing that the applicant could do without a waiver or without additional width.
- They have a number of options here. Globally speaking this is not a problem that is going to go away. This problem needs to be dealt with because his client needs to be able to under the Constitution of the United States to be able to use his parcel for some economically viable use. He cannot put a florist shop back there because any additional vehicular traffic is going to require curbing. There is no room for curbing. If the Planning Commission does not waive the curbing requirement, then the County generally is going to be stuck in a very difficult situation. They have a waiver opportunity here. The Commission could waive a requirement that would cause some safety problem and some degradation to the surrounding neighboring parcels. He wanted to argue that.
- The last option they have is to sue on the basis of a taking. He has done the research and he finds that it is a real colorful issue there as far as the regulatory taking. They don't want to go there and want to work this out in a sensible way.
- A waiver would be appropriate: There are two existing uses that are quasi-industrial, on of which is very industrial. The existing use, Associated Steel, is a lawful nonconforming use. They have an industrial park essentially back there. They already drive tons of big trucks back there and park them. They have I-beams. The difficulty of putting curbing in would be that these trucks would be constrained in way that would make them have to park on the travel isle and obstruct vehicular traffic. No matter what they would do at this point there is space on either side of the travel isle that is used for parking and also for these trucks to maneuver. If the curbing were put in these trucks for the existing uses, including R.E. Boggs, these trucks that back in would not have room to maneuver. There is a problem there with the large

trucks already. They assert that the trucks would be a problem both for the safety of any traffic for any use back there. The existing uses would be impeded by curbing.

- Moreover, the other option for the County that there really is space for this road to be reoriented and be widened. But, it would require an imminent domain use. It require condemning a little strip of property on the left side on the church side and also on the Debutts side to reorient this road and allow his client to use this property. They would have to take the matter to the Courts.

Applicant response to specific Commission questions:

- The applicant acquired the property in 2005 with the knowledge that there had never been a problem with the existing use.

- The curbing requirement which they find limiting here was that in effect since 1980 as a discretionary requirement. The mandatory requirement predated the purchase of the property.

- The property is not supposed to be used now. There are pictures of containers on site. He discussed that matter with the applicant and if there is a notice of violation forthcoming they will make sure that whatever is there is cleaned up.

Public comment was invited.

James E. Treakle, Jr. "Bud", attorney representing Bill and Ann DeButts, presented a series of photographs (12). (Attachment) They are here about concerns and the degree of use. They are dealing with School House Lane, which is a 20' private road lane. His client owns the property located on the right side going in. There are two commercial businesses or two offices. At the street level below there is R.E Boggs, which is a heating and air conditioning business. Then beyond his client's property to the left at the end of the road is where Associated Steel is located. That is a grandfathered use. They are concerned about public safety under the circumstances because they were talking about a heavy industrial use. One of the comments they heard from part of the discussions, which they have been dealing with for the last 1 ½ years, is as many as 10 trucks coming in and out in the morning and evening. That is 20 daily trips for heavy commercial vehicles or basically semis. He presented a series of photographs. The large trucks because of the necessity of making a wide turn if they are east bound on Rio Road they swing around and come through the parking lot for his client's building. If they are coming out they make a wide sweep to turn to the right because of a telephone pole. The photos show that more than the existing 20' travel way is now being used by the existing trucks. The second set of photos show a vehicle parked in a location that the large truck would have struck if it had been there. The third set of photos shows 10 to 12 containers that are now being stored on the property. Basically, they are concerned if they grant this waiver and they have 20 semi-tractor trailer loads going in on a daily basis they are putting our tenants and children who play behind the School House Thrift Shop in jeopardy. This road was not designed for this heavy of an industrial use. It is just a matter of safety. If they were coming in for some other proposed use for some other site plan other than what they are proposing they might not be here arguing. They are concerned that as a matter of public safety this waiver should not be granted.

David Stoddart, Director of Church of Our Savior, said that they had not received notice about this hearing. Therefore, he was present on short notice about this hearing with members of their governing Board. He asked that the members of the Board stand in recognition. They are strongly opposed to granting this waiver. They are the owners of the School House Thrift Shop. The building was built in the 1800's. It is an important outreach ministry of their church. Every

day families use the thrift shop. Rio School Lane was never designed to be heavily used by trucks. Associated Steel is not a truck repair business and does not bring in a heavy traffic of trucks. They are very concerned about safety. The area behind the Thrift Shop is also used for parking space for the Church. As they grow they are parking more people there and using that back lot to access the Church. They are very concerned that this presents a hazardous situation for the people who come to the Thrift Shop and the Church. Therefore, they ask that the Commission decline this waiver.

Margaret Edwards, Senior Warden at Church of Our Savior agreed with Reverend Stoddart. She presented photographs that illustrate the traffic situation. She reiterated that Mr. van der Linde has every right to use his property. But, she did not think this use was compatible with the owners on either side of the road way.

Gary Albert, the State Farm Agent for Ray Cauddell, said that they talked about the impact that some of the trucks will have on the property in his office. There are three ladies who work his office. There have been several times when they were scared to open the door of their car because of some of the traffic and some of the larger trucks that come off the road. He also had safety concerns for his customers who use the front parking lot. There are already monthly accidents in this area resulting from the large vehicles turning at this intersection. It is a very serious concern. His employees have serious safety concerns in trying to park their cars. Each of his employees submitted an email today in opposition to the request. It is a safety issue and they oppose increasing the number of large trucks in this area. It is not conducive for a safe operation of this kind in this area.

Nan Massie, member of the Church of Our Savior, said that she was a volunteer at the School House Thrift Shop and a concerned citizen of Albemarle County. She asked the Commission to oppose the request for waiver. She asked that they respect the historical significance of the little building that they work in. The building was built in the 1880's and was used for a community school and then for a church until 1906. They would hate to see anything that would encroach on this property. As indicated they are concerned about the safety of their customers many of whom are there with small children. She took a picture this afternoon of a customer with a 21 month old child. The heavy trucks using that narrow lane would create a safety hazard to their customers. It would also create a hazard to the property to their building. It is an old building that they have had to do some enforcement in the structures. But, those heavy trucks are going to further cause damage to the actual foundation of their building. AS the attorney mentioned the road is already in bad repair and increased truck traffic will just add to that. They have to avoid the pot holes as they use the travel way.

The public hearing was closed and the matter before the Planning Commission.

Ms. Joseph invited Mr. Schuck to address the engineering concerns about the curb and gutter and why he felt that it was necessary there.

Allan Schuck, Engineer for Community Development, noted that he did the latest review. Mr. Brooks did the first review when the project was reviewed last year. He is also available for any questions or comments. The issue has been raised about curb and gutter and the safety issue. First, they would not recommend from an engineering perspective to shorten the width requirement from the required 20'. Obviously, they have heavy equipment and large truck traffic existing. The new use would propose new heavy vehicles. So engineering even from a safe and convenient access point would not recommend shortening the width requirement from the required 20'. Curb and gutter is required in the urban areas. It was adopted by the County mainly to assist with drainage issue to assist us with getting the urbanized areas to get the drainage under control in many areas. What this plan shows is basically in the middle of Rio

Lane it goes from existing Rio Road down into a dip with a gradual upgrade where the Rio School Lane wording is would be where the upgrade would go. Then it turns to the right. With the use of curb and gutter it is very simple to control the drainage with this. They have drainage come for both sides and put drop inlets on both sides and can pipe it out. They can easily control that. They would be able to control any potential flooding issues. The other thing with curb and gutter they do have vehicles that currently park along the sides of the buildings. So there is more than the 20' access easement being use by the existing patrons and the people who use the facilities. So by putting the curb and gutter in would potentially create a safer environment for this lane because they were going to create a safe path for the vehicles to use. So curb and gutter from that aspect would potentially lower the results of accidents because it would limit the access to the existing buildings because they use them for parking on both sides of the commercial buildings, for the Thrift Shop and the buildings to the south.

Ms. Joseph asked if staff thought that the current erosion problems would be stopped with the installation of curb and gutter.

Mr. Schuck replied that there are some existing erosion problems. It has washed out with recent storms. There is bare soil on the south side of the road where there is existing drainage that washes down and creates gutters. There is a potential problem there right now with the erosion control. This would help with that existing problem. There would be heavier run off if the 20' was paved. It would potentially create more of a problem. With the raised section the drainage would be taken off the 20' easement onto the adjacent property owners where they were not able to get the easement.

Mr. Cannon said that he was opposed to the granting of the waiver based on what he heard and read. He was opposed for the reasons that by granting the waiver they would subject folks in the area to truck traffic, which there is evidence to show would be dangerous. In opposing this waiver he would not be suggesting that there is no permissible use for this property. If it were used that did not involve heavy trucks it might be more amenable to a different configuration for the road then may be a waiver could be considered or may be folks to be in the position to negotiate some expansion of the easement would be more inclined to do so. Given this proposed use the waiver is ill advised. He did not think that the claim of taking is convincing here given fact that the property is already being used apparently and that other uses might be available if they were brought forward and developed by the applicant.

Mr. Strucko agreed with Mr. Cannon in not being in favor of granting this waiver. He did not see a compelling reason to change the County standards here for safety and drainage issues as the engineers stated earlier. That does not preclude the use of this property. Therefore, he would not vote in favor of this waiver.

Mr. Zobrist agreed with Mr. Strucko and Mr. Cannon. Also, he did not think that the applicant comes before the Commission with clean hands. He thought that the applicant was using that for an illegal use. It is clear from the photographs that big trucks belong to applicant. He runs a container business out of there. He recommended that the zoning department keep a close watch on what he is doing.

Mr. Craddock asked if there is a violation being processed.

Ms. McCulley replied based on what staff heard from neighbors related to this item they went to the site and found that containers are there. They also see that in the photographs provided. They find that is not a permitted use. Therefore, it is a violation and a notice of violation to the owner is forthcoming.

Mr. Edgerton agreed that the waiver request should be denied.

Ms. Joseph noted that there is consensus with the Commission. She asked staff to write up a decision for us after hearing everything that they have talked about and what staff has talked about and bring it back to the Commission next week so they can have a formal motion and vote on this with a written decision from staff.

Mr. Kamptner said that would be fine. If the applicant is willing he would request that they come back in two weeks. He would like to further research the taking issue. Therefore, with applicant's consent he would suggest that they bring it back in two weeks.

Mr. Corban Klug, attorney for van der Linde Homes, said that he would be out of the country in two weeks. He asked that they move it back another week or two. He would be back in the country on May 10. He asked if Mr. Kamptner would be submitting something in writing to the Commission about those issues.

Mr. Kamptner replied that he would probably do so and would be happy to share it with him. He asked that Mr. Klug provide copies of his research. He asked if they would have an opportunity to comment on that.

Ms. Joseph replied that they would be able to comment on it.

Mr. Klug requested a deferral of the decision of the Planning Commission until after May 10.

Ms. Kamptner noted that for the public present the Commission should defer to a date specific.

Ms. Joseph noted that the date was set for May 22 at which time public comment will be taken.

Motion: Mr. Craddock moved, Mr. Zobrist seconded, to accept the applicant request for deferral of SDP-2005-083, Rio Truck Repair, to May 22.

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

Ms. Joseph said that SDP-2005-083, Rio Truck Repair, was deferred to May 22.

WPO 2006-048, Belvedere Rough Grading Plan - Request for a critical slope waiver in conjunction with grading required for residential subdivision development within the area known as Belvedere - Phase I, a 86.712 acre portion the 267 acre development known as Belvedere. The property is zoned NMD, Neighborhood Model District. The property, described as Tax Map 61 Parcels 154, 157, 158, 160 (portion) and 161, Tax Map 62 Parcels 2A (portion) 3, 5, and 6A, and Tax Map 62A3 Parcel 1, is located in the Rio Magisterial District on the east side of Rio Road (Route 631) immediately east of the Southern Railroad. The Comprehensive Plan designates this property as Neighborhood Density in the northern portion of the property (3 to 6 dwelling units per acre), Urban Density in the middle and southern portions (6 to 34 dwelling units per acre), and Community Service adjacent to the railroad, in Neighborhood Two. (Summer Frederick)

In the absence of Summer Frederick, Mr. Pennock summarized the staff report. (See Staff Report.)

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

Chris Schooly, with Stonehaus Development, asked to take tonight as an opportunity to present some components of Belvedere. He gave a power point presentation to refresh what they have done. They will rest on condition 3 regarding reasons to approve the critical slopes waiver, which will be to the overall community benefit. He explained proposed layout of the development. As staff indicated all the critical slopes are not man made. On a technical note there are less than 3 percent critical slopes in the plan.

Ms. Joseph invited public comment.

Kent Peterson, MD, resident of 1314 Dunlora Drive, noted that he had many questions about the proposal since he lived adjacent to the area in discussion. He questioned the impacts of the grading on the creek and the existing trees. He asked that the sensitivity be increased on behalf of the residents of Dunlora and that more information be provided to the homeowners. In the interest of the existing property owners he asked that they protect the water shed since they feel that it is a treasure.

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

Ms. Joseph invited Mr. Schuck to address the grading plan. She noted that the creek Mr. Peterson was referring to was Town Branch. It looks like there is a buffer designated on either side of it.

Allan Shuck, Senior Engineer, said that currently there is a mass grading plan for block one. The road plan is being reviewed with this waiver request. There are some stream buffers proposed. He explained that the mass grading plan was in conjunction with the waiver request. The mass grading plan will do all the grading for phase one and all the perimeter. It does not show any tree planting or time intervals.

Mr. Cannon questioned if they could include a condition that must be here.

Mr. Schuck replied that conditions would affect the review of the plan that is currently under review and on his desk.

Mr. Edgerton asked that they spend a few minutes reviewing the plan.

Mr. Schuck reviewed the plan. He suggested that they take into consideration what they want to see at final site plan. Any conditions would need to indicate when the mass grading would take place and where the trees would be taken out.

Ms. Joseph noted that it would either be now or at the site plan stage.

Mr. Strucko suggested that they summarize their concerns and how to go about fixing them.

Ms. Joseph noted concerns about the specific area adjacent to Town Branch which intrudes into block one into the critical slopes. She would like to see some revegetation there that can be done in the site plan stages.

Mr. Edgerton noted that they were not just asking for grass, but trees.

Ms. Joseph said that they wanted trees of a reasonable size of at least 1 ½ “caliper.

Mr. Strucko said that they want to protect the integrity of Town Branch.

Ms. Joseph said that the Commission would leave it up to staff to pick the caliper and type of trees.

Mr. Strucko agreed with Ms. Joseph.

Mr. Schuck noted that this condition will affect the review of the mass grading plan, which is currently being reviewed.

Ms. Joseph said that staff could apply the condition to the final site plan. They are assuming that the mass grading means exactly that the 89 acres is going to be cleared.

Mr. Schuck replied that is correct. For this plan there is no phasing associated with this mass grading plan. They are going to the limits of disturbance and they are putting perimeter control measures in accordance with State law. Staff has not given final approval of the plan, but they are very close to approval of it.

Ms. Joseph apologized for confusing the issue. She asked if the applicant had any suggestions or comments at this point in time.

Chris Schooly replied that hopefully he had a compromise that might help us. He sees their concern. The rest of Phase 2 of Belvedere has a wide variety of a number of small trees, which is a little bit bigger than this. They are going to transplant some of those into the bio-filters. They can compromise and say they will put 50 trees within 50' of either side of Town Run that would be transplanted on site within the fall or spring after they begin construction. He asked if that is a reasonable compromise.

Ms. Joseph replied yes, that is fine. They are sustainable and can add that to their list. The condition for the critical slopes waiver request would read transplanting 50 trees that are two fingers wide, 15' on center within the first planting season.

Motion: Mr. Cannon, Mr. Craddock, moved for approval of the critical slope waiver request of Section 4.2.3 for WPO-2006-048, Belvedere Subdivision Phase 1 Rough Grading Plan with the tree planting condition as stated by the applicant and rephrased by Ms. Joseph.

1. Applicant agrees to revegetate denuded areas within 50 feet of Town Branch creek by transplanting at least 50 trees that are at least two fingers wide, to be planted 15 feet on center within the first planting season, in addition to other required plantings for purposes of stabilization of the site

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

Ms. Joseph said that WPO-2006-048, Phase 1 Belvedere Rough Grading Plan, was approved with conditions.

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

Mr. Pennock summarized the site plan and gave a power point presentation. (See Staff Report.)

- Staff finds that this request is consistent with the criteria presented in the Subdivision and Zoning Ordinance. If the waivers and modifications as requested are granted, the current layout appears to meet the requirements of the Ordinance. Thus, staff recommends approval to the Commission of the preliminary subdivision plat and waivers with the conditions listed in the staff report.

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

Keith Lancaster, representative for the applicant, clarified the tree preservation. The tree preservation area has additional plantings in that area as open space. There have been a few major changes made to the plan since the last meeting. They have redone the streets to meet the Neighborhood Model 6" sidewalks and planting strips. They have met the recommended VDOT distance. They have met with Dan Mahone about the trail system and are working to link the trail system. They are working with the Service Authority in regards to the infrastructure on Pantops. They are proposing a parallel line that will come down to a 12" main that will be below the water tower tank in Ashcroft. It will be served by 2 main lines and that is an issue. It will help upgrade the network system. That is a recommendation that they made to us and they are willing to work on it. It will help with the water pressure and the overall quality of the system. They are also implementing measures for storm water management and grading planting for sheet run off before it hits the ponds. They are also implementing bio swales and piping to shorten it back 200' for bio swales for water quality and quantity. They have worked with the engineering staff and tried to work out the tree protection issues. They are proposing a buffer to the tree preservation area and will show that on the plan as wall. They have gone to the Public Recreational Facilities Authority and agreed to help mitigate the impact of this site. All of the exterior lighting will meet the Dark Sky regulations and be down lighted. Kat Imhoff came and spoke to us about the view shed from Monticello. They are willing to accept staff's recommendations.

Ms. Joseph invited public comment.

Ken Webster, resident of Fontana, asked the Commission to approve the proposal. He has spoken to the developer over the past year and liked the current plan.

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

Mr. Edgerton thanked the applicant for working so hard in trying to respond to the concerns expressed earlier. This is an example of an applicant who has listened hard to some of the Commission's concerns in former meetings and has responded directly to them.

Mr. Strucko and Mr. Zobrist agreed.

Ms. Joseph noted that normally she would be fussing about the 12' high retaining wall. But, what they were trying to do was preserve more trees in that area. So there is a purpose behind that 12' wall.

Mr. Lancaster noted that they agree that they would stagger that. He noted that in the City they are currently on a project using a green retaining wall that actually interlocks and then it planted so that it looks like a steep hill instead of that ready rock. It does soften the appearance, which will be facing the tree preservation area and the trail system. That faces the Moore's Creek Trail System on the site in the City. He will bring photographs for the Commission to review.

Ms. Joseph said that she appreciated the applicant working with the neighbors. It was very impressive to see all of the positive letters.

Motion: Mr. Zobrist moved, Mr. Edgerton seconded, to accept the staff recommendation to approve the preliminary subdivision plat, the critical slope waiver and the open space waiver for SUB-2006-163, Lake Ridge subject to the conditions recommended by staff.

1. The provided conceptual overlot grading plan does not show the required disturbed area needed for the required E&SC basins, especially the area to the west of Lots 1-6. The final E&SC and SWM plans need to address this concern on the final plans to the satisfaction of County staff.
2. The retaining wall located at Lots 57 and 58 must be staggered as two or three walls in series as opposed to one 12' retaining to provide a safer rear yard area to these lots. These walls are to be built within the proposed limits of clearing and grading
3. Current Development Engineer approval to include review of all applicable items as specified in the Design Standards Manual, as well as:
4. The applicant needs to provide SWM facilities at the rear of Lots 1-6.The locations of the SWM facilities need to be as far removed as possible from the buildable area of each residential lot.
5. Written VDOT approval of the proposed street design is required.
6. The land shown on the preliminary plat as PRD and Residue is not included in this approval.
7. A conservation plan checklist must be completed and incorporated into the site plan with notes to show how any individual trees and groups of trees designated to remain will be protected during the construction of this project. The location of any tree protection fencing that coincides with the limits of clearing and other methods of protection from the checklist must be shown on the plan for clear identification during field inspections.
8. Fire and Rescue Department approval is subject to field inspection and verification.
9. All accesses and roadways shall be designed in accordance with the current Subdivision Street Standards, The Minimum Standards for Entrances to State Highways and the Road Design Manual through the Virginia Department of Transportation.
10. Current Development Planner approval of final computation for density bonus. Bonus amounts to be listed on the final plat.

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

Mr. Joseph stated that SUB-2006-163, Lake Ridge, was approved.

The Commission took a break at 7:48 p.m.

The meeting reconvened at 7:59 p.m.

ZMA 2004-00018 Fontana Phase 4C (Signs #37, 45)

PROPOSAL: Rezone 17.146 acres from RA Rural Areas which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre), R-4 Residential zoning district (4 units/acre) and R-1 Residential zoning district (1 unit/acre) to R-4 Residential zoning district which allows residential uses at 4 units per acre for 34 dwelling units at a gross density of 1.98 units/acre.
PROFFERS: Yes.
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential - (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses in Neighborhood 3 – Pantops.
ENTRANCE CORRIDOR: No.

LOCATION: At the intersection of Fontana Drive (Rt. 1765) and Via Florence approximately 0.5 miles from the intersection of Fontana Drive and Stony Point Road (Route 20 North).
TAX MAP/PARCEL: 78E-A.
MAGISTERIAL DISTRICT: Rivanna.
STAFF: Elaine Echols

Ms. Echols summarized the staff report and presented a staff report.

- This request was accepted for processing less than the normal time. As a result there was a lot of exchange between the applicant and staff. Therefore, all of the corrections that needed to be made to the staff report after the final check with the applicant were not included.
- The critical slopes waiver attachment dated 4-17-07 was distributed tonight. The staff report says that it was requested, but staff omitted it from the final packet of information.
- Staff has done an analysis for the Commission's consideration. But, staff does not want the Commission to feel pressured to do it tonight. If the Commission does not feel that they can process this request, staff can bring the request back at a later time. If the Commission feels comfortable, staff recommends approval.
- On page 5, the report indicates that the owner agrees with the County's cross section for Fontana Drive and later in the report it contradicts it. It is otherwise since there is a waiver requested.
- Although staff has requested additional comments from the Service Authority, they have not given additional comments. The original comments stand that the water and sewage that is out there is adequate. But, staff has not gotten any further information.
- In August of 2006 the Commission received a deferral request from the applicant.
- Fontana 4C is the last phase of Fontana, which is located in the Pantops area east of Route 20 and north of Richmond Road, Route 250. It is adjacent to Lake Ridge. This is a rezoning from RA, R-1 and R-4 to R-4 with a proffered plan and proffered. It is a proposal for 34 single-family lots on 15.471 acres. It is slightly less than 2 units per acre and adjacent to the existing phases of Fontana. Public streets are proposed. Fifteen percent of affordable housing in the form of cash for five (5) units is proposed. For the CIP $3,000 per unit has been proffered.
- The connecting road is Fontana Drive. This is coming in with 2 pieces. The piece to the far right contains 2 proposed cul-de-sacs. The cul-de-sac to the north contains a number of lots. Then there are some existing lots and undeveloped parcels on the Via Florence that are also proposed to be included. It is heavily wooded and has steep topography.
    - A portion of the property was zoned R-4 in 1994. The property zoned R-1 was left for future rezoning. The property zoned RA was left until the property could be served by public water. There was a preliminary plat approved for Fontana in 1997, which has expired. The preliminary plat included this area for 9 lots. Now the applicant would like to get it rezoned and get 34 lots. Water service has improved since that original approval of the preliminary plat and from the rezoning. There have been several rezoning applications that have been reviewed. A staff report was distributed in August, 2006. The applicant has been working with staff fairly regularly since then to try to bring this project to completion.

- There are proffers submitted with the plan.

    - **Proffer 1: Conformity with Plans** – The applicant is proffering the rezoning plan. This proffer is appropriate and will need to be updated with the last revised version of the rezoning plan.

- **Proffer 2: Final grading plan:** An overlot grading plan is proffered which is acceptable to staff.

- **Proffer 3: Affordable Housing:** The applicant is proffering to provide cash in lieu of affordable housing units which is acceptable to the Housing Director. Although the proffer is not written correctly, the applicant has indicated he will be providing $2427 per unit which equals which is equal to $16,500 for 5 units (15% of the total units proposed). The Housing Director believes that it would be more advantageous to the County if half of the money was provided up-front at the time of building permit and the other half when the 16th unit is permitted; however, it is acceptable as proffered.

- **Proffer 5: Trees:** As indicated in Attachment F, a prior proffer required that five trees per lot with approximately ten trees per acre be provided or retained on all lot designated areas on the final plan. The purpose of this proffer is to try to provide for visual buffering from Monticello by retaining or replanting trees. It is acceptable.

- **Proffer 6: Pedestrian Paths:** The owner has indicated he will build the pedestrian paths shown on the rezoning plan according to standards in the Design Standards Manual. The proffer says that the owner will not request a building permit for the 9th house until the paths are completed to the reasonable satisfaction of the Department of Community Development. This proffer will need to be wordsmithed; however, it is generally acceptable.

- **Proffer 7: Cash Proffer:** The owner is proffering $3000 per unit for 34 units for parks, fire, rescue and police. The proffer value would be $102,000.

- There is a proffer that the applicant will not make application for grading in 4C until improvements in phases 1, 2, 3 and 4A are completed.

- There are some outstanding engineering issues that keep staff from recommending approving. There is a drainage issue that the County Engineer, Glenn Brooks, will speak to that needs to be addressed. That is in an area that is off site from the proposed rezoning, but in Fontana itself.

- There is another issue related to bonds. Outstanding improvements are needed. Proffers for phases 1, 2, 3 and 4A say that the applicant will not do any additional grading until he has completed all of those improvements, which includes the pedestrian paths as well as other improvements. Phase 4B has not been proffered to be completed. The applicant has said that the lots have been sold to another builder and the bond is still being held in the owner's name.

- The Fontana Drive cross section is an extension to Lake Ridge. The County standard section is curb and gutter, sidewalks on both sides of the street and a planting strip for street trees. The applicant has requested at Fontana Drive that curb and gutter, sidewalk and street trees be on the east side only and a rural section be on the west side. The applicant's justification for that request is in the staff report. Again, the County Engineer can speak on that issue more.

- Staff is recommending several waivers on this rezoning.

WAIVERS

With this development, the applicant is requesting waivers for curb and gutter, sidewalk and street trees on two short cul-de-sacs and curb and gutter and sidewalks on one side of Fontana Drive. The applicant is also asking that the interconnections to the south and to the north be the only required interconnections.

Waiver to Section 14-409 for interconnections:

Waiver to Section 14-410 for curb and gutter for Cortina Way and Belluno Lane and one half of Fontana Drive.

Waiver to Section 14-422 of the Subdivision Ordinance for sidewalks. The applicant has asked for a waiver to provide an asphalt path on one side of the street instead of sidewalks on both sides of the street for Belluno Lane and no sidewalks on Cortina Way. The applicant has proposed a sidewalk on the east side of Fontana Drive only.

Waivers to Section 14-422 D of the Subdivision Ordinance for planting strips are requested in for Cortina Way and Belluno Lane. The following analysis is provided for both areas on the plan:

If the engineering issues can be resolved staff can recommend approval of the rezoning with the following changes:

- The application plan be modified to reflect the same not that exists on the Cascadia plan for right-of-way dedication and construction of emergency access way and pedestrian path. The applicant has agreed to do this, but needs to be noted on the plan.
- The proffers need to be corrected to remove the emergency access proffer.
- The ADU amount needs to be corrected and remove the slope protection proffer.
- The proffers need to be worded to meet legal requirements. The applicant has agreed to make proffer changes requested by the County Attorney's office.

Staff has reviewed the critical slopes waiver request. The County Engineer has made an analysis of it. When building on steep terrain, as with Lake Ridge, there is just not way to do density and protect all of the slopes. The measure generally used for whether or not slopes should be disturbed relates to the open space plan. If there are systems of critical slopes that are shown on the open space plan or relate to a stream buffer they want to protect those. Where they have other bands of critical slopes, staff is not as worried about them in the development areas. For the sake of density in the development areas they can recommend approval of the critical slopes waiver. There is a proffer for an overlot grading plan, which should help with the re-grading of the lots.

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

Steve Driver, of Terra Engineering and Land Solutions and representative for the applicant, said for the last three years they have been working towards getting approval for the final phase for Fontana. Based on the staff report there are three areas that require some discussion tonight.

- Regarding the storm water issue, the 11 lots to the east are draining Via Florence down to a natural ditch that goes into a storm water management basin located in the Luxor development. This has been discussed with the applicant and Glenn Brooks. The applicant has agreed to extend the storm drain, which currently stops at the end of the

cul-de-sac on Via Florence. He has agreed to extend the pipe from the end of Via Florence down to the rear of the two lots, 96 and 97. That should handle and address the outstanding drainage concern.

- The other issue concerned completing phase 4B construction prior to approval of the grading plan for phase 4C. That phase has been sold to Hauser Homes. All of the general construction work has been completed. The infrastructure is in place, which includes the sewer and water lines, ditches, the road section and so forth. All that remains to be done in that phase is to build the homes. That is beyond the control of the applicant. So he would ask to be relieved of having to complete that phase as a condition of Phase 4C approval.
- The third issue deals with the typical section on Fontana Drive Extended. All of Fontana was originally designed in 1997 and Fontana Drive specifically was designed to be extended into Lake Ridge in the future. There was a provision for that. Several lots have been platted and have been sold along the corridor road, specifically lot 120. Lot 112 would be the immediate lot to the right where the new road would begin. Then behind lot 112 would be lot 113. Further to the rear would be lot 118 where the applicant currently resides. All of these 4 lots were platted and sold based on the original road way and right-of-way section that was proposed and approved in 1997. That right-of-way was intended to be 50' wide with a rural section. The problem with providing a full section in accordance with the current standards is that the right-of-way width between lots 112 and 120 is 50' wide. The right-of-way width proposed with the Lake Ridge plan is 54' wide. That includes curb and gutter, a 6' planting strip and a 5' sidewalk. So that is an issue that needs to be discussed. It appears that a waiver will be required of some sort to this current standard section.
- The applicant would also request the Planning Commission's consideration of not requiring curb and gutter on the west side of Fontana Drive. The length of road between Verona Drive and the first intersection in Lake Ridge is about 1,100'. Along that section of road there will never be more than 2 lots that front along that 1,100'. It does not seem to be a need for a sidewalk on that side. That is something that the applicant would like the Commission to take into consideration in addition to the problem with fitting the right-of-way within the 50' width between lots 120 and 112. Beyond that a wider right-of-way section could be provided. However, it would be necessary to have variable width right-of-way 54' or wider because the mathematically there are not tangent sections in the alignment. It is all a series of horizontal curves. So it is not possible to fit a 54' right-of-way in a 50' designated area for previously platted lots without providing for a variable right-of-way. It would affect to a minor extent the alignment in Lake Ridge if they use the typical section proposed. The applicant has met with the Lake Ridge developer who indicated that the alignment is not a major issue for them and the mathematical alignment is something they can accommodate within Lake Ridge.
- The applicant has agreed to allow the connection to Cascadia to the same condition that the Planning Commission recommended for approval for that development. That would be providing the right-of-way and also grading that road in so it could be used as an emergency and pedestrian connection.
- Some of the requests from staff regarding the proffer revisions have been completed. A note has been added to the rezoning plan in regards to the Cascadia connection. So a lot of these revisions have been made. They do not see any problems in resolving any remaining issues to move the project forward.

Ms. Joseph asked if there were any questions for Mr. Driver. There being none, public comment was invited.

Ken Webster said generally he was in favor of the request. But, after reviewing the details he had one concern. Proffer 9 in the handout says that the owner shall not submit application for erosion and sediment control until all improvements in phase 1, 2, 3 and 4A for Fontana have been completed. He was concerned with the removal of 4B from this. Phase 4B does provide some pedestrian paths. The Home Owners Association would want to be assured that any public space, a walking trail or land that would eventually be turned over to the Fontana Home Owners Association as common area would be taken care of. The 4B properties already sold should not be a reason for the applicant not to be obligated to complete the public space requirements for 4B.

There being no further public comment, the public hearing was closed. Ms. Joseph invited Mr. Driver to address Mr. Webster's concern.

Mr. Driver noted that the pedestrian paths are part of the phase 4B site plan requirements. A bond is in place for construction of the pedestrian paths. It is the applicant's intent to complete those. It is the applicant's obligation to do so as part of 4B construction.

Ms. Joseph invited Mr. Brooks to address some engineering concern. In looking at the urban section the applicant has estimated that it takes 53' to do this 12' wide and then 2.5' for curb and gutter with a 6' planting strip and 5' for the sidewalk. Then there is another foot, which she was not sure what that means. She asked what the other foot was for on the end past the sidewalk.

Mr. Brooks replied that it is usually ½' on either side. If VDOT is going to accept the sidewalk for maintenance they want to have a little more area than just the edge of pavement.

Ms. Joseph asked if there is a way they could fit the urban section within a 50' right-of-way.

Mr. Brooks replied that it was, but the area is a very narrow constriction right at the intersection where this property comes in. The applicant does not own one piece of property. It is a 10' or 15' length of road and at that point the planting strip would be narrowed a bit. It is only in an area of 2' to 3'. There are 6' planting strips on either side of the road and it could all be fit in.

Ms. Joseph noted that they could do that within the planting strips. Therefore, there would not be a tree at the intersection, which is probably not a bad thing anyway.

Mr. Brooks noted that the applicant might not be permitted a tree there for sight distance purposes anyway.

Mr. Zobrist said that he got the impression that it would not match up.

Mr. Brooks pointed out that there is no sidewalk on the Fontana development. So it ends at that intersection. There is a sidewalk on the new road that ends at the intersection. He pointed out on the slides that past this point everything will match up. Before that point there is an existing rural section road with no sidewalk and just ditches.

Mr. Zobrist asked if the sidewalk would just end at that point, and Mr. Brooks replied that was correct.

Mr. Strucko said that was a source of his concern with this proposal. The Commission considered Fontana as a subdivision when they looked at the Cascadia rezoning. They heard and agreed conceptually that Fontana Drive in that rural cross section is simply inadequate for the existing traffic on it now, and they just added 138 units with Lake Ridge. Now they are

considering adding 34 units with this request. The reason it was inadequate was that it was not wide enough and did not have sidewalks for all of the pedestrians and children and families that live along there. This is the same developer that developed Fontana. He was inclined not to be in favor of this along the grounds that he was not seeing any jester for improvements of Fontana Drive to handle those inadequacies. Fontana is going to be connected to other developments through Verona and Olympia Drive as well. So he was hoping that at least when they were looking at a rezoning in this area that there would be some suggestion for improvement to Fontana Drive to make it less dangerous and he did not see any of that here. He liked what Lake Ridge did by holding that road standard to avoid the same dangerous conditions that Fontana currently faces internally so that internally within Lake Ridge pedestrians can move around safely. But, they are still sitting with the circumstance of this rural cross section road in Fontana. There is nothing listed in the proffers that address that issue.

Mr. Edgerton concurred with Mr. Strucko's comments. He had been struggling with the request and was surprised with staff's recommendation. He did not see any value in what had been proposed to the community. If he read the staff report carefully enough it appears that previously this residue property was designated as open space. That plan has expired. It was designated as open space because of water concerns. There is also a significant concern about the elevation and its impact on the community at large. He was looking for some argument for increasing density. At 34 units they are getting less than 2 units per acre overall. They have held firm with good reason by requiring other projects to meet current ordinance for urban cross sections and he did not see any reason to make an exception here. He remained a little confused about the factor unfavorable #5. In staff's report it says although the bonds are being held in the applicant's name the applicant has not agreed to complete all of the improvements in phase 4B before beginning phase 4C because he has sold the lots in phase 4B and no longer controls the ownership. He did not understand how that legal responsibility disappeared when he sold the property. Personally, he thought that this is a case where not granting a rezoning would be in the best interest of the County. Therefore, he could not support this request

Mr. Craddock agreed with Mr. Edgerton's concerns about proffer 9 about basically just walking away from some obligations in there. He questioned if this is another phase or was this designated open space.

Ms. Echols replied that a portion of it was designated as open space. There was an area zoned RA that was designated as open space, but it was not intended to be permanent open space. A small portion of it was open space on the plan because there was really not much else they could do with it at the time. There were no open space requirements of the Subdivision Ordinance for the residential districts. There was only a very small portion of R-4. They really could not develop it under R-4 zoning because it was such a narrow piece. It was not all open space and was shown for 9 lots on the original preliminary plat.

Mr. Craddock said that there were comments on page 5 about Monticello and the view shed. He questioned if the view shed requirements would be in effect now. The view shed was not part of the prior approval.

Ms. Echols replied that the design standards are recommendations and requests from Monticello and not requirements. The tree proffers is a result of the concerns for the view shed, but the applicant did not proffer any architecture. If it is something that the Commission feels should be included for the 34 lots, then that is something that could be requested.

Mr. Craddock said that he was not sold on the subdivision. But, with this being up as high as it is he would suspect that at least in Monticello's view shed that it should be in with their color suggestions.

Mr. Cannon said that this is a patch work of different zonings at present. He asked if the request is to rezone to R-4.

Ms. Echols replied that is correct.

Mr. Cannon asked what would be the maximum density achieved under the existing zoning.

Ms. Echols replied that theoretically according to acreage they could get 34 lots. Realistically they can't get that many lots because the way the road system is currently laid out. The applicant has said they could not get more than 9 lots on it right now under the existing zoning.

Mr. Cannon asked if the original 9 lot proposal was the maximum that could practically be achieved under the existing zoning, and Ms. Echols replied yes.

Mr. Cannon asked in addition to the density through this rezoning what else would they be getting.

Ms. Echols replied that they would get $3,000 per unit, excluding the affordable units, for the equivalent of 15% affordable with 5 units with cash.

Ms. Joseph noted that the cash is not $16,500, which is what they normally get.

Ms. Echols replied that it is. It is just the way it is stated. They are saying $2,475 per unit for the 34, which ends up being exactly the same as $16,500. The applicant just stated it a little bit differently. The applicant is meeting the 15 percent.

Mr. Edgerton asked if the applicant is not going to build affordable unit, but were just giving cash

Ms. Echols replied that is correct. That is something that Ron White has said he believes is acceptable with this small subdivision.

Mr. Cannon asked if the applicant has considered the issue of Fontana Drive in how the current Fontana exists, what its limitations are, how that would relate to the new portion to be constructed and whether there would be a possibility for improving some past portions.

Ms. Echols replied that has not been a subject of consideration. There was no indication from VDOT that was something that was needed. Mr. Brooks may want to speak more on that. But, going back and retro-fitting a road can be very difficult.

Mr. Cannon asked if all of this is in the growth area, and Ms. Echols replied yes.

Mr. Brooks said that it has not been a topic. It came up at a previous Commission meeting where the Fontana residents brought up the issue of feeling safe and having a place to walk on the road. VDOT is only looking at whether it is a servable road for cars and does it get them through quickly.

Ms. Joseph noted that it is supposed to be multi-modal.

Mr. Brooks said that particular road and subdivision was approved 10 years ago. With the size of the rezoning staff put some practical limits on how far off the property they go asking for improvements for existing neighborhoods.

Mr. Zobrist said that he was absent at the Cascadia discussion, but was swayed by the problem with Fontana Drive. If they can't get the road fixed, perhaps the developer should build their 9 houses and be on their way.

Mr. Brooks said that he was here when the original Fontana Subdivision was approved in 1997. In 1997 there was a big debate on whether to provide curb and gutter for that subdivision. It was not a mandatory part of the ordinance as they have heard in earlier topics. The ditch section won out at that time 10 years ago.

Mr. Zobrist said that his issue is that it is probably not fixable to develop at this density even thought they would like to see the density in that area. He suggested that they leave the community looking half way decent and not mess it up.

Ms. Joseph said that the reason they are doing this is because it is single family and it is difficult to build the units for single family unless you build something small. But, it would be really nice if they would build something small. She felt that they need to have sidewalks out there. They need to have the drainage work properly and not cause problems in the future. Therefore, she cannot support the request at this point.

Mr. Zobrist suggested that the request be denied.

Ms. Joseph asked if the applicant was interested in any sort of deferral at this point or do they want to move forward.

Mr. Driver declined to defer the project. The applicant would like to move forward to the Board of Supervisors. If the only issue is that of the road section on Fontana Drive, he believed that the owner would be willing to put curb and gutter, sidewalk and street trees on both sides of Fontana. But, a waiver would still be necessary to vary the planting strip where it connects to the top of the hill.

Mr. Edgerton asked if the applicant would be interested in improving Fontana Drive as suggested.

Mr. Driver replied that he can't speak to that. That question has not been raised before for the existing Fontana Drive.

Mr. Edgerton noted that it has been discussed before.

Mr. Driver felt that might be a question for Mr. Brooks because he did not know if that would be a possibility at this point.

Mr. Edgerton noted that he would not suggest that it would be easy. It would require some effort. He asked if he understands the concern there.

Mr. Cannon asked Mr. Driver if he would be willing to take a deferral to consider that possibility.

Mr. Driver replied that he was speaking on behalf of the applicant. Therefore, he was not in a position where he can say whether he would want to do that or not. He may choose just to develop it by right if this is not approval by the Board of Supervisors and just go with the 9 units.

He was just speculating. But, he felt that he would be willing to make the section of Fontana Drive to the Lake Ridge property consistent with what Lake Ridge is doing with the exception of where he can't do that because of the right-of-way limitations.

Mr. Edgerton pointed out that the applicant had said no.

Mr. Cannon said that he hates to give up possible additional density here because every lot they don't put in the growth area they were eventually putting somewhere else where they don't now want it. There seems to be consensus that there are existing infrastructure problems that make the density really not desirable or on balance here. Based on that unless the applicants were willing to defer to consider that further, he would be opposed to the rezoning.

Motion: Mr. Zobrist moved, Mr. Strucko seconded, to deny the application for ZMA-2004-00018, Fontana Phase 4C due to the unfavorable factors listed in the staff report.

In summary, the Planning Commission expressed concern that the owner was not appropriately mitigating impacts. In particular, the following issues were discussed:

1. Fontana Drive is not sufficiently wide nor does it have sidewalks or paths, to support the additional traffic of Cascadia and Fontana Phase 4C. To add more lots would be to place more pressure on a street that the residents in Fontana feel is inadequate now. Fontana Drive should be upgraded where it is currently a rural section.
2. Curb and gutter, sidewalk and street trees are needed on both sides of Fontana Drive.
3. Architectural standards should be included with the project in keeping with the Monticello Design Guidelines.
4. A commitment to complete improvements in Fontana Phase 4b prior to beginning grading for Fontana Phase 4c is needed.
5. Drainage improvements at the end of Via Florence are needed, in keeping with the recommendations of the County Engineer.

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

Ms. Joseph said that ZMA-2004-00018, Fontana Phase 4C will go before the Board of Supervisors with a recommendation for denial on July 18.

Mr. Kamptner pointed out that there are a number of waiver requests. The Commission could make a motion to deny the waivers because they are related to a plan that the Commission has recommended for denial.

Ms. Joseph noted that the waivers are described on page 19.

Motion: Mr. Edgerton moved, Mr. Zobrist seconded, to deny the waiver requests as listed on page 19 of the staff report for ZMA-2004-00018, Fontana Phase 4C, including the critical slope waiver request.

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

Ms. Echols asked for one piece of clarification on their original action. The Commission said that for the factors unfavorable that were listed in the staff report. One of the things that the Commission mentioned, which was not included in that, was off site improvements to Fontana Drive. She asked if those were intended to be part of that motion.

Amended Motion for Clarification:

Mr. Zobrist moved, Mr. Strucko seconded, to amend the motion to deny the application for ZMA-2004-00018, Fontana Phase 4C to include the traffic conditions that have been pointed out to the Commission on previous occasions as not being addressed in this report that needs to be addressed in order for it to be further considered along with the unfavorable factors listed in the staff report.

1. The "form" is not in keeping with the Neighborhood Model; however, it is similar to the previously approved Fontana subdivision and is the last phase of that development.
2. The density is not in keeping with the Land Use Plan, but, it is similar to the previously approved subdivision and is the last phase of the development.
3. Curb, gutter, and sidewalks on the west side Fontana Drive extended are not proposed.
4. Off-site drainage improvements in the developed part of Fontana are not appropriately provided to deal with run-off from this new section.
5. Although bonds are being held in the applicant's name, the applicant has not agreed to complete all improvements in Phase 4B before beginning on Phase 4C because he has sold the lots in Phase 4B to a builder and no longer controls the ownership.
6. Traffic conditions on Fontana Drive have not been addressed.

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

Ms. Joseph stated that ZMA-2004-00018, Fontana Phase 4C, would go before the Board of Supervisors on July 11, 2007 with a recommendation for denial. The motion was made to deny the rezoning because curb, gutter, sidewalk and street trees were not proposed on both sides of Fontana Drive, off-site drainage improvements were not appropriately provided, there were no commitments to finish Phase 4b of the development before beginning Phase 4c, and traffic conditions on Fontana Drive had not been addressed. None of the waivers was granted because the rezoning was not supported.

SP 2007-00009, Little Keswick School Amendment (Signs #101, 102)
PROPOSED: Amend SP 06-13 to increase the size of the New Dorm from 45' X 90' to 56'8" X 100'. No additional students or staff would result.
ZONING CATEGORY/GENERAL USAGE: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre).
SECTION: 10.2.2(5) Private School.
COMPREHENSIVE PLAN LAND USE/DENSITY: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre).
ENTRANCE CORRIDOR: No. LOCATION: 505 Little Keswick Lane; Rt. 731 1/10th of a mile SE of Rt. 22.
TAX MAP/PARCEL: TM 80 Parcels 110, 110A, 110A2, 112, 117A, 118, 119.
MAGISTERIAL DISTRICT: Rivanna.
STAFF: Joan McDowell

Ms. McDowell summarized the staff report.

- A special use permit was approved last year to allow the relocation of a dorm to an existing dorm for offices and storage. The applicant has requested a modification of a condition of approval for that application to allow additional square footage for the new dorm due to changes in the architecture. In its approval the Board of Supervisors increased the enrollment from 31 to 35 students. The dorms increased square footage would not cause a further increase in students or staff. The new dorm would have limited visibility from Keswick Road, the nearest public road. The height would not be affected.

- Staff's opinion is that amending the square footage from the condition would allow some flexibility for minor changes in the future should they occur without compromising the findings of Section 31.2.4.1 of the Zoning Ordinance. Staff recommends approval of SP-2007-09 subject to the conditions of approval contained in the staff report.

- Staff has identified the following factors favorable to this application:
  1. The proposed square footage increase would not increase traffic.
  2. The increase in square footage would not adversely impact visibility from neighboring properties.

- Staff has not identified any factors unfavorable to this application.

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

Mark Columbus, Head Master of Little Keswick School, thanked staff for helping them to push this minor change through to allow them to get before the Board. They already had a builder in line upon the first approval. When these minor changes were made it set back the building process. The minor change as indicated is as indicated that after approval of the first one is simply a dorm located in this area that originally had the dimensions of 45' X 95'. His understanding is that when looking at the modifications and the architectural plan that fits the boys of the school it came out to be 56'8" by 100'. So the concept plan now shows that, which is indicated by the change of the new dorm. That is the only change that they have made to the Little Keswick School Concept Plan.

Public comment was opened. There being none, the public hearing was closed and the matter before the Commission.

Ms. Joseph asked Mr. Columbus to come back to address a question concerning an email received by the Commission from Mr. Rintel who lives next door. She also received a phone call from Mr. Rintel.

Mr. Columbus noted that since the Commission received that email that he had talked to John Rintel. He used to be the President of the Foundation of their School. So they have good relationships with them. Some of the things that they talked about were visually providing some Leyland Cyprus to provide a buffer. They have already planted some Spruce trees along this line. Another property that they have is in back of the soccer field and for their view and protection they have already planted Leyland Cyprus. Their plan is to certainly work with John Rintel and provide a buffer there. Although, if you look at the visual height of the building this sets down a good 40 '. So the actual profile of the building is very low. It is lower than the actual gymnasium. With the Leyland Cyprus and the Spruce that they have already planted it will give adequate protection.

Ms. Joseph noted that Mr. Rintel was saying something about the soccer field, too.

Mr. Columbus noted that there are some existing Pine trees along this drive. It is sort of a right-of-way. Mr. Rintel has put up a lattice fence there. They would be happy to plant some Spruce or Leyland Cyprus.

Ms. Joseph asked if he could accept as a condition of approval some screening trees being planted between the school and the adjacent neighbor.

Mr. Columbus replied yes, that they can. They have already had an arborist that has planted some trees along there. They certainly can plan some trees.

Motion: Mr. Strucko moved, Mr. Cannon moved for approval of SP-2007-00009, Little Keswick School Amendment, with that additional condition of screen plantings.

Ms. Joseph asked staff if that was specific enough.

Ms. McDowell suggested Leyland Cyprus.

Ms. Joseph asked staff to figure out the type of species to be used. She asked if staff wants spacing. She suggested that staff allow the applicant to figure out what he can buy at a good price that will work in that location. She asked staff to suggest the size and spacing.

Ms. McDowell replied that she had also talked with the adjacent neighbor. He is interested in some screening to be provided as quickly as it can grow. She suggested starting off with something around 3' to 4' tall and she would leave it up to the Commission as to how close they should be.

Ms. Joseph asked that the trees be 15' on center.

Mr. Benish asked if the intent is to block the view with the vegetation.

Ms. McDowell replied yes.

Ms. Joseph suggested planting the trees 15' on center in a double staggered row.

Mr. Benish noted that it would depend on the species. So maybe the intent of creating that sort of obscured view is what the Commission needs to identify such as planting Leyland Cyprus, White Pines, etc.

Ms. Joseph asked staff to work out that condition before it goes to the Board.

Mr. Benish replied yes, if the Commission could just direct staff to do that and meet that intent they will provide something.

Mr. Strucko asked staff to provide the language of that condition.

Mr. Craddock asked if they wanted the screening down that side and also to make the turn at the soccer field.

Amended Motion: Mr. Strucko moved, Mr. Cannon seconded, to approve SP-2007-009, Little Keswick School Amendment, subject to the conditions recommended by staff, as amended, to provide language of that condition concerning screening to be worked out by staff prior to the Board of Supervisors hearing. (includes SP 06-13, as approved, with strikethroughs to delete reference to exact size and underlines for new information).

1. Special Use Permit ~~2006-13~~ 2007-09 shall be limited to the ~~construction~~ use of a maximum two-story ~~45' by 95'~~ residential facility the "New Dorm" for students enrolled in the Little Keswick School and for the conversion of the existing "Barn Dorm" to non-residential uses, such as office, recreational, storage, meeting area, or other similar uses. The "New Dorm" shall be located and developed in general

accord with the concept plan, titled, "Little Keswick School, Concept Plan" (Attachment A.) ~~and~~ dated ~~June 22, 2006~~ February 16, 2007 (last revision date) (the "Concept Plan"). However, the Zoning Administrator may approve revisions to the ~~c~~ Concept ~~p~~ Plan to allow compliance with the Zoning Ordinance.

2. Maximum enrollment of students shall be limited to thirty-five (35). Any increase in enrollment shall require an amendment to this special use permit and may require entrance improvements subject to Virginia Department of Transportation requirements.
3. The existing dorm, labeled "Barn Dorm" on the concept plan (Attachment A) shall be subject to review by the Building Official prior to conversion of the existing use to any other use.
4. Construction shall commence within five (5) years of the date of approval of ~~the special use permit SP-2006-013~~ SP 2007-09.
5. The screening condition to be worked out by staff prior to Board of Supervisors hearing.

Mr. Driver asked for a quick clarification concerning Mr. Craddock's comment about providing screening at the turn of the field. When talking with John Rintel this morning about this the substantial Leyland Cyprus that he sees there he likes. The turn here is not the problem. It is really these two other areas. He did not feel that Mr. Rintel could see the property in that corner.

Ms. Joseph felt that was something that they needed to work out with staff and Mr. Rintel before May 2.

Mr. Craddock said that would be fine because it does not show any trees on their property. It looks like it is all on Rintel's property.

Ms. Joseph agreed.

Mr. Driver said that in fact if they look at this most of the trees are in a culvert on their side of that. He did not think that this was really indicative of the vegetative of tree growth.

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

Ms. Joseph stated that SP-2006-009, Little Keswick School Amendment, would go before the Board of Supervisors on May 2, 2007 with a recommendation for approval, but with a change to the conditions to allow for the planting.

SP 2004-00050, Flow Automotive Companies Sales and Display (Sign #60)

PROPOSED: Expansion of the Flow Volkswagen-Audi-Mazda dealership, including outdoor display and sale of automobiles in the Entrance Corridor.
ZONING CATEGORY/GENERAL USAGE: HC - Highway Commercial - commercial and service uses and residential use by Special Use Permit (15 units/acre); EC Entrance Corridor Overlay District - overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access.
SECTION: 30.6.3.2 (b) which allows for outdoor storage, display and /or sales visible from an EC street in the EC Entrance Corridor zoning overlay district.
COMPREHENSIVE PLAN LAND USE/DENSITY: Regional Service - regional-scale retail, wholesale, business and/or employment centers, and residential (6.01-34 units/acre).
ENTRANCE CORRIDOR: Yes.
LOCATION: 1307-09 and 1313 Richmond Road, south side of Route 250 East, approximately 1060' east of Riverbend Drive. TAX MAP/PARCEL: 78/15E and 78/15D.
MAGISTERIAL DISTRICT: Rivanna.

STAFF: David Benish

Mr. Benish summarized the staff report.

- This is a request for a special use permit to allow for sales and display associated with a proposal to expand the existing Flow Auto Dealership. The existing Flow Auto Building is being expanded in some reconfiguration of the outside vehicle sales and display area.
- On the adjacent parcel it is currently vacant, but a new dealership show room building is being constructed with new sales and display on that site. There use to be a stone resident on the adjacent site, which was demolished about two years ago. The site is rough cleared. It has some gravel and is used as temporary parking.
- The intent of the special use permit requirement is to review the potential impacts of the Entrance Corridor for outdoor sales and display activity related to the dealership operation. Other activities related to the auto sales is considered a by right use. The ARB has reviewed the proposal and its impacts with the Route 250 Entrance Corridor and has not objections. The ARB has provided some conditions, which have been reflected in the conditions for the special use permit. As a general rule both the ARB staff, Planning staff and the ARB feel that overall the proposed improvements on this site improve the conditions that are currently there at this time, particularly for the existing auto dealership.
- The report indicated that there is no planning or zoning history on this site. Obviously, there was development on this site at some point in time. There was a site plan approval that took place in the early 70's. There is no information at that time. But, technically there was a site plan approved.
- Factors Favorable:
  1. Motor vehicle sales use is a by-right use in the Highway Commercial District;
  2. ARB recommendation for approval (with conditions). There will be no detrimental impacts to the entrance corridor as recommended by ARB.
- Staff found that no unfavorable factors to the sales and display request.
- Staff recommends approval with the six conditions as provided. Condition 2 should be corrected to April 2 from April 4.

Mr. Edgerton asked when the request was reviewed by the ARB. He questioned why the ARB's conditions were not attached.

Mr. Benish replied that the ARB reviewed the request on March 19. He passed out copies of the ARB's action memo.

Ms. Joseph noted that the reason for the special use permit is because the site is in the Entrance Corridor and the use requested was outdoor sales and display.

Mr. Benish noted that the auto dealership use is a by right use. The review is primarily the impact of the display area. There are 21 display parking spaces on the site to the west, which is the new building. On the existing site there are 25 display parking spaces.

Ms. Joseph noted that they were putting in a new lane in the front of the site.

Mr. Benish said that as a general rule the frontage treatment is a vast improvement over what is there particularly on the new site. The enlarged structure and the new building actually provide a little bit of enclosure for that site enough though it has parking in front of it. There is a large retaining wall. It is actually integrated into the building. The retaining wall and the building itself

arguably is the by right aspect of it. What the Commission is primarily looking at is the visibility. But, the ARB did comment on the retaining wall and construction and is comfortable with the design. He noted that there is actually a ravine there. The Crown dealership is also built up, which has a small retaining wall. This would be more of view that would be seen from down in the drainage area. The adjacent development actually obscures some of the height of the retaining wall.

There being no further questions for staff, Ms. Joseph opened the public hearing and invited the applicant to address the Commission. There being no one representing the applicant, she noted that the Commission could still act on the request. She invited other public comment. There being none, the public hearing was closed and the matter before the Commission.

Mr. Kamptner noted that there was one correction in condition 2 to change the date to April 2.

Motion:
Mr. Edgerton moved, Mr. Craddock seconded, for approval of SP-2004-00050, Flow Automotive Companies Sales and Display subject to the conditions recommended by staff, as amended.

1. Vehicles shall not be elevated anywhere on site.
2. Vehicles shall be displayed only in areas indicated for display shown on the site plan entitled "Flow Automotive," prepared by the Collins Engineering, dated April 2, 2007.
3. Display parking shall be only in designated striped parking spaces as identified on this plan.
4. Final site plan approval is subject to ARB approval of the landscape plan (submitted with the site plan). Landscaping shown on the plan may be required to be in excess of the minimum requirements of ARB guidelines or the Zoning Ordinance to compensate for the negative visual impact of the proposed use, particularly regarding the retaining wall on the west side of the property.
5. Final site plan approval is subject to the recordation of easements for ingress/egress, as well as the installation, maintenance and use of parking spaces, planter islands, and landscaping on adjacent parcels (Tax Map 78, Parcels 15D and 15E).
6. Final site plan approval is subject to ARB approval of the lighting plan (which shall be submitted with the site plan). Maximum light levels on site shall not exceed 30 foot candles. *Maximum spillover lighting requirements must also be met.*

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

Ms. Joseph stated that SP-2004-050, Flow Automotive Companies Sales and Display would go before the Board of Supervisors on May 2, 2007 with a recommendation for approval.

Old Business:

Ms. Joseph asked if there was any old business.

- Regarding the retreat, the Commission asked staff to provide copies of the maps and spreadsheets on Friday night.
- On Saturday morning, the Commission should bring their own drinks and refreshments if they so desire.

- Mr. Strucko will be absent next week.

- Staff needs to reschedule the work session for the Pantops Master Plan. There was a suggestion that be a 4:00 p.m. session. Staff has not finalized that yet. It looks like it may be as early as the second or third week of May.

- The City Planning Commission would like to meet with the Commission on May 15. The Commission can discuss Friday night what type of topics they would like to discuss.

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

New Business:

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

Adjournment:

With no further items, the meeting adjourned at 9:14 p.m. to the Friday, April 20, 2007 retreat meeting at 6:00 p.m. at the Three Notched Grill at 5790 Three Notched Road in Crozet.

V. Wayne Cilimberg, Secretary

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