Albemarle County Planning Commission
May 1, 2007

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, May 1, 2007, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Bill Edgerton, Jon Cannon, Eric Strucko, Duane Zobrist and Marcia Joseph, Chairman. Commissioners absent were Pete Craddock and Calvin Morris, Vice-Chairman. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Other officials present were Wayne Cilimberg, Planning Director; David E. Pennock, Principal Planner; Amelia McCulley, Zoning Administrator/Chief of Zoning and Current Development; John Shepherd, Chief of Current Development; Allan Schuck, Senior Civil Engineer and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Ms. Joseph called the meeting 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.

Committee Reports:

Ms. Joseph invited comments on committee reports.

- Mr. Strucko reported that the Fiscal Impact Committee's report will be delivered to the Board of Supervisors tomorrow morning at 11:00 a.m. The staff report is available online for those who cannot attend the meeting.

- Mr. Edgerton reported on the following:

    - At the University of Virginia Master Planning Council Julia Monteith and David Neuman presented the master planning work, which was presented to the Planning Commission several weeks ago. It contains a wonderful series of overlays.
    - In addition, the ACE Committee has prioritized and narrowed down the properties that they are going to seek appraisals on for the ACE Program this year. The real question is how much money will be available to spend because the property values have increased so much that they are concerned that there might be as few as two or three properties that they can afford. The state has established a fund that the County can apply for in support of this program, which may bring somewhere between $700,000 to another million dollars to the program this year. There is no guarantee that the County can get this money, but they are pursuing it.

- Ms. Joseph noted that the other item that the Board is going to look at tomorrow is the report from the Development Review Task Force. The Task Force is making the following recommendations.

    - A two-step process with the rezoning – Step one would be looking at the actual land use and seeing what the feasibility was in terms of how it affects the schools, roads and other infrastructure.

    - The second step would get more into the details of the placement of buildings, amenities, etc.

    - The other suggestion has to do with modifications and waivers. There was a strong urge to change the ordinance to allow modifications and waivers by staff approval. That means that they would be coming up with some performance standards for the

modifications and waivers. It would not be unlike what they were talking about with critical slope waiver requests in the rural areas. Any change in the ordinance usually comes before the Planning Commission with public hearings.

- Another suggestion was figuring out where the Board, ARB and Planning Commission fit into the process in terms of rezoning and special use permits. Sometimes they are never quite sure who goes first and what kind of information they need. Included in that suggestion is that an educational session be held to give us an idea of what State and local legislation says about what the powers, duties and responsibilities are for the various boards.

- The other suggestion was making more information available to the public. There is a series of ways that will be done online and in the new Community Development area. There was a lot of discussion about getting the public more involved.

- Out of all the suggestions she still had concerns about the waivers and modifications. There is a recommendation that site plans would not be able to be brought up for review by the Planning Commission.

- The Board will be hearing those recommendations tomorrow at 10.45 a.m. This information is available on line.

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

Consent Agenda

a. **AFD-2007-001, Hatton Agricultural/Forestal District Additions** – Planning Commission to refer applications to the Agricultural/Forestal District Advisory Committee. (Amy Arnold)

b. **AFD-2007-002, Hardware Agricultural/Forestal District Renewal** – Planning Commission to accept applications. (Amy Arnold)

c. **AFD-2007-003, Nortonsville Local Agricultural/Forestal District Renewal** - Planning Commission to accept applications. (Amy Arnold)

Ms. Joseph asked if anyone wanted to pull any item off of the consent agenda.

Motion: Mr. Edgerton moved, Mr. Strucko seconded, for approval of the consent agenda as recommended by staff.

The motion passed by a vote of 5:0. (Mr. Craddock and Mr. Morris were absent.)

Ms. Joseph noted that the consent agenda was approved.

Deferred Item:

SDP-2007-00031, Korean Community Church – Critical Slope Waiver Request:
Request for waiver of Section 4.2 building site requirements in order to construct a two-story church with 6,090 square feet footprint – portions of parking and drive aisles, as well as associated grading on critical slopes. The parcel, described as Tax Map 59, Parcel 23G, contains approximately 3.851 acres and is located 350 feet from Ivy Road (Route #250) approximately 0.28 miles from its intersection with Broomley Road (Route #677). The Comprehensive Plan designates this property as Rural Areas in Rural Area 1. (David Pennock)

Ms. Joseph noted that SDP-2007-00031, Korean Community Church – Critical Slope and Curb and Gutter Waiver Requests was deferred from last week. The applicant said that he did not realize that it would not be on the consent agenda and asked for deferral until tonight. She asked if there was anything new since last week's staff report.

Mr. Pennock summarized the staff report.

- Since last week staff met with the applicant and the applicant's engineer. The applicant has submitted a revised justification, which was emailed on Friday, which lists some of the reasons for asking for the waiver. Staff worked with Tom Muncaster and Johnny Drumheller to try and analyze what is out there a little more in depth.
- This is a proposed relocation of the Korean Community Church from the adjacent property where it is currently located next to the Christian Aid Mission to this site. It is located on Route 250 west of town just behind the existing Volvo dealership. There are two waiver requests: critical slopes waiver and curb and gutter waiver for private streets in the development areas.
- This item was before the Planning Commission last June for a waiver in order to disturb critical slopes for the installation of the parking areas as well as for parts of the building and the grading associated with that. Since that time there have been some changes. They had to reorient the building and parking locations in order to accommodate the drain fields. It caused some shifting to both the parking areas and the buildings, which flip flopped. The overall disturbed area of critical slopes has gone up a little bit. Staff's recommendation will stay the same given the items in the critical resources and open space plan and the engineering review. Staff is willing to still recommend approval of the amendment to the critical slopes waiver, which was approved last year.
- The second item is that now that the final site plan has been submitted the applicant is requesting a waiver from the requirement for curb and gutter on the travel way or access serving the site. There is an existing access easement down the eastern property line of the site, which is used to get to the rear portion. That access also serves the Kirtley property, which is east of this property. The Kirtley Warehouse in the rear gets access from the easement. It is the intended entrance to serve the proposed church. There is also parking for the employees of the Volvo Dealership located along the side of the access easement. There is a 30' access easement down the middle, but the paved area is considerably wider than that. It basically skirts the eastern line of the Volvo site. The applicant is willing to provide curb and gutter in the parking areas and the drive isles on the site itself, but has asked for a waiver of the provision to require curb and gutter on the rest of the access that staff considers a private street serving the property. That waiver is typically done as an administrative review. He presented some pictures to help explain the request in the power point presentation.
- Staff's analysis found that it was a fairly steep property of about 11 percent slope. The ditches on both sides of the road show some signs of erosion. Staff was unable to administratively approve the request. Therefore, the item has been appealed to the Planning Commission for review. Again, the main items that staff looks at in their review have to do with the existing conditions of the road, the proposed improvements and whether or not the alternative standard would adequately serve the run off from the site. About a third of this site would run off onto the roadway. As mentioned, there are currently signs of erosion. Given the potential of making that problem worse as well as the goals in the Neighborhood Model speaking to orderly development and control of run off, staff is unable to recommend approval of this waiver request.

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

Mr. Edgerton asked if the extra parking lanes has been approved on a site plan or is it just an informal arrangement.

Mr. Pennock replied that the Volvo area parking was approved by a minor site plan amendment several years ago by the County. In the case of the Kirtley Warehouse he knew that the entrance was on a site plan. But in the pictures where there trucks are parking he felt that was more of an informal type of situation.

Mr. Edgerton asked if the actual 30' right-of-way was on the Kirtley property.

Mr. Pennock replied that his understanding was that it was kind of one-half on either site because the property line between Volvo and Kirtley goes down the middle.

Ms. Joseph noted that it was more of an easement.

Mr. Pennock suggested that question be asked of the engineer since he was not sure.

Tom Muncaster, engineer for the applicant, said that the easement was actually all on Volvo.

Mr. Cannon asked staff to summarize the basis for his recommendation for denial on the curb and gutter waiver request. He assumed that there were drainage issues there that are considerable and would not be addressed in the absence of curb and gutter.

Mr. Pennock replied that is the main concern. The drainage currently is just sort of a sheet flow down that road way. From an engineering standpoint the biggest concern was along the western side. There has been some erosion along the edge of pavement that has rutted out a little bit. It is very unusual for staff to be able to recommend approval of waivers like this particularly in the development areas with the drainage and the goals of the Neighborhood Model for orderly connections and development. Those are the two main reasons for the recommendation.

Mr. Zobrist asked how this differs from the request last week.

Mr. Pennock replied that the two differences from here and the Rio Truck Repair request were that the existing conditions of this road were much better in this case. The other potential difference could be the type of traffic. The biggest concern that the neighbors had in the previous case was concerns about heavy truck traffic and that sort of thing. In this case it will be more passenger type vehicles than anything else. The other request had a church, daycare and an existing steel manufacturing or assembly business in the area.

Mr. Cannon asked if insisting on curb and gutter in this situation renders the proposal otherwise not able to be executed. Would it impair the development of the church and so forth? Or is it just a matter of expense?

Mr. Pennock replied that it could be a combination of factors. They have also indicated that they would have a great deal of difficulty getting additional easement if necessary to accommodate the curb and gutter.

Mr. Cannon asked if it has been determined if additional easements would be necessary. Or, is it that just a possibility,

Mr. Pennock replied that it was a possibility. Most likely a portion of the erosion would go outside of the existing easement area. So likely they would need additional easement. Their attempts at other types of easement, such as water lines, were difficult and unsuccessful.

Mr. Edgerton noted that this was a 30' wide right-of-way and the other one was 20'.

Mr. Pennock replied that was correct.

Mr. Edgerton said that the new information included the previously worked out parking arrangements. In a 30' right-of-way there is plenty of room to get the 20' and the 6' for the curb and gutter. It would negate the parking that has been there. There are differences.

Mr. Zobrist asked Mr. Schuck what would be the effect of running curb and gutter if they could get permission coming down that right side. Would that take care of that erosion problem? If they put curb and gutter part ways along the right side would that pick up the run off and dispose of it properly.

Mr. Strucko asked if he meant from the parking area down.

Ms. Joseph noted that it would be places wherever the problems are.

Mr. Pennock replied that he did not know the answer to that question. He referred the question to Mr. Schuck.

Allan Schuck, engineer, said that he did the review of this project. He asked that the question be repeated.

Mr. Zobrist asked if they could handle the disposal problem by providing for drainage on the west side of the street from the point where the parking ends downward. It looks like they have an extensive storm water system on the property.

Mr. Schuck replied that the area that is shown in the picture has several things that are shown. The traditional design of curb and gutter is to cover the travel way to get one from one place to the other. Within this area to cover the travel way if they put curb and gutter in they were going to eliminate the parking spaces. It is true that they have an erosion problem if they look at the right side of the picture where the car is located. There is a ditch in front of that parking area. It has blown out the area a little bit. There are some erosion problems with some exposed trees and things of that nature. But, he did not know if that was within the 30' easement or on the Volvo property and if they would even give permission to the applicant to put curb and gutter in, and if so, if the curb and gutter is applicable by the applicant to even do so. There are steep grades in this area. When it rains they need to have something to do with the water. He pointed out that the Code explicitly says that the only way that the County engineer can waive the requirement of curb and gutter is for storm water management or the BMP to serve the accommodations only. In this particular case, it is already an impervious area to the site so storm water management is not required. That is why engineering cannot recommend approval to this design for this waiver. The applicant in this case would not be required under the County Code to provide storm water management for this access way with their plan because it is already impervious area. They are not adding impervious area to treat the pollutants.

Mr. Zobrist asked why they need curb and gutter if they can't require it anyway.

Mr. Schuck replied that curb and gutter is required in development areas per the County Code. In this particular case if they put curb and gutter in within the 30' easement the argument can be said yes, they are controlling the drainage better and they may solve the erosion problems and they can control the drainage to the facility and can treat it for storm water management. But, it is not required with the site plan. Do they have room to put the curb and gutter and would they be using the existing parking spaces.

Mr. Zobrist asked if the applicant could get a little more space to get partial control of the erosion, then he would assume that engineering wise they could control their erosion problem on that hillside.

Mr. Schuck replied that yes, he would assume so. But, if they want to do a partial waiver or a full waiver that was something that he could not decide. Engineering should be able to take care of those erosion control problem areas.

Mr. Cannon asked if they could do that without full curb and gutter as would otherwise be required.

Mr. Schuck replied that was correct.

Mr. Edgerton said that even though it was not required, can they solve the erosion problem within the 30' right-of-way without requiring curb and gutter.

Mr. Schuck said that he did not believe that the problem erosion control areas are within the 30' wide easement.

Mr. Edgerton asked if curb and gutter was required along the back parking area if it would require more right-of-way.

Mr. Schuck replied that was correct.

Mr. Zobrist noted that it would be very difficult to solve the problem only going part of the way up.

Mr. Schuck agreed.

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

Dr. Yong Kim, Elder and Trustee of Korean Community Church and a faculty member at the University of Virginia Medical School and Engineering School, introduced the other persons from the Korean Community Church in Charlottesville. Their church was established 30 years ago in Charlottesville. Since then they have grown to a congregation size of about 200 congregational members including the Sunday school. Our congregation consists of many naturalized U.S. citizens with Korean heritage including many visitors and students studying in the central Virginia area. Many of the church members live in Albemarle County and have been long time residents and have raised their families and children in the community. The mission of their church is to preach the gospel to many Korean descendent residents in this area. The construction of their new church building is important and has been in their prayer for a long time.

Dr. Kim continued that he wanted to give his viewpoint on the private road regarding the University of Virginia's plan. He met with Gary Lowe, who is the Senior Project Manager at the University of Virginia Health Service Foundation, on February, 2007. The University of Virginia is in the process of acquiring the property on the other side of the Volvo Dealer on the private road. At that meeting Mr. Lowe informed them of their tentative plan to install a retaining wall along the right side of the access road. This plan is in conjunction with their new construction of the hospital unit in the future. Actually they were reluctant to provide any kind of an easement for us to connect the water line from the 250 highway to the church site. They might have a conflict or a predicament if they tried to install the curb and gutter on the side where the University of Virginia is going to build the retaining walls and hospital buildings. He noted that their engineer would continue.

Tom Muncaster, the applicant's engineer, noted that he had sent an email to the Commissioners. He was familiar with the other item that the Commission had before them with curb and gutter a couple of weeks ago, the Rio Truck Repair. He wanted to point out some of the differences. In that particular case the applicant was required to put in curb and gutter 20' to face of curb to face of curb and 6" of curb beyond that. To fit that within a 20' right-of-way is impossible. In this case they have a 30' access easement. So there is plenty of room to put the curb and gutter in. The problem is that they would effectively block off the parking that the adjacent parcels have. This road is in much better shape than that one. There are not the safety issues and the truck traffic on this. The erosion that they saw is outside of the 30' easement that they have control over. If they got the email, it showed very clearly on the PDF where the 30' access easement is and how much the parking extends beyond that. He would be happy to answer any questions.

Ms. Joseph asked Mr. Muncaster if he has worked with any of the adjacent owners about what could be done to solve some of the current erosion problems.

Mr. Muncaster replied no, that they had such a time trying to get water line easements from the adjacent properties and that finally just gave that up. So they did not go and talk to them about the erosion issues. He did not know if they would give them permission to work on that or not.

Ms. Joseph asked if curb and gutter were not place in there are there other measures that could be taken now that would stop that erosion.

Mr. Muncaster replied that the erosion down at the end between the parking and the Korean Church site would allow curb and gutter to be put there, but as seen on the plan there is a ditch behind there. So they would have to fill in behind there to get that drainage to come out to the curb and gutter or else they would be faced with putting a drop inlet in. They would still have to keep the culvert under the entrance to the Korean Church property they would have two different things. They would have a drop inlet to pick up the drainage from the curb and gutter and then they would have to have a culvert to pick up the ditch drainage. Again, both of those are outside of where the Korean Church has any control. So if Volvo gave us permission they would definitely be willing to work on that.

Mr. Edgerton asked if all of the erosion was on the west side of the right-of-way.

Mr. Muncaster replied yes, that it was his understanding that it is.

Mr. Cannon asked if nothing was done to install curb and gutter and the church was built would the use of the road for the church exasperate the erosion problem there or would the situation simply continue to be the same as it is today.

Mr. Muncaster replied that in his my opinion it would be the same as it is today. If nothing is done about it would continue to get worse.

Mr. Strucko asked if there would be a major problem in the not too distance future with erosion in that section.

Mr. Muncaster replied that it would just erode more and more over time if nothing is done.

Mr. Strucko questioned what potentially could happen there.

Mr. Muncaster replied that it would end up with a big gully there.

Mr. Strucko asked if the integrity of the road way be compromised in any way.

Mr. Muncaster relied that he would doubt it.

Mr. Edgerton noted that the asphalt would hold up longer than the dirt.

Mr. Schuck pointed out one of the existing conditions in the photographs now was that it was under rooting some of the trees that are there. There is some significant debris there with the leaves and soil. At worse they would have some trees falling over on the access way creating more of a gully.

Ms. Joseph asked if there is an approved site plan on this site for Volvo. If there is no approved site plan on the site aren't they in some sort of violation if they have erosion happening.

Ms. McCulley replied that she was not familiar with the site plan so she could not answer the question. If there is a site plan that does actually approve parking down that road, then that could potentially be a violation. She did not know if the site plan includes the parking down that road though without looking at the site plan.

Mr. Edgerton noted that staff had indicated that Volvo had come in and gotten permission from the County several years ago to do this. They would have had to show some kind of a plan he would presume.

Mr. Pennock noted that it was probably an amendment of some sort.

Mr. Edgerton said that he was struggling with how it was nothing about the Korean Church's proposed activity that is going to make this problem worse. The County when they approved the parking there should have been some concern about this. He felt that there was some information missing.

Ms. Joseph suggested that staff do some research on that. She asked Mr. Kim what he thought about this issue.

Dr. Kim pointed out that the Volvo parking lot was built only a few months ago. There is evidence that they are still continuing some work to avoid the erosion. He had seen them continuing construction. This is a fairly recent construction. It is his opinion that they are trying to control that erosion.

Ms. Joseph asked what the time frame was on this site plan. She asked if there was a clock ticking here for approval.

Mr. Pennock replied that it started on March 23. He believed that it had a 60 day deadline although each revision is 45 days after the first submittal of the final site plan.

Ms. Joseph noted that it looks as though there is some missing information that might be helpful.

Mr. Kamptner asked to expedite this process. This is a troubling application for a couple of reasons. One, staff is talking about an off-site improvement. The improvements that they are asking are essentially uphill. As one of the Commissioners concluded from their questions the project to which this site plan pertains will not impact this at all. I raised this issue last week with staff and it was not brought up tonight. The other concern is that staff is applying VDOT standards. The only linchpin to those VDOT standards is in 32.7.3, which states, "In any case of any site plan involving multiple uses, including multiple dwelling units, the principal means of access thereto shall conform to the standards of the Virginia Department of Transportation or in the case of a private road to the applicable standards for private roads set forth in the Subdivision Ordinance." So staff is talking about those requirements applying when they have multiple uses and multiple dwelling units. They have been through this before in other applications and other litigation when this section has been invoked where they don't have that situation actually applying. The church use is the only use that is at issue here. So he was struggling to find how 32.7.3 applies to this particular application.

Mr. Cannon said that he was struggling with how a denial of this waiver which could prevent the church if it is not able to get concessions from its neighbors from carrying out its plans which would not fix the problem is a wise decision.

Mr. Kamptner said the final point to close the loop is that, in his 12 years here, when the County has had this issue with off-site improvements, the standard that applies is that the need for those off-site improvements has to be substantially generated by the project. Really the opposite is the case here. Staff is asking the church to correct a problem that is pre-existing. It is not fair.

Mr. Edgerton said that it is not only pre-existing it is something the County, even though they don't have the information they need, they have been told that the County approved this parking area, which is precluding the application of the curb and gutter. There is plenty of room in the right-of-way for the curb and gutter. This is unlike the Rio Truck site plan. There is plenty of room to put the curb and gutter all the way up, but there is parking on either side.

Mr. Stucko asked if curb and gutter is required during request for the parking.

Ms. Joseph replied that they don't know.

Mr. Strucko noted that either way it has nothing to do with the church.

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

Motion for Critical Slopes Waiver:

Motion: Mr. Strucko moved, Mr. Edgerton seconded, to approve SDP-2007-00031, Korean Community Church – Critical Slopes waiver request.

The motion passed by a vote of 5:0. (Mr. Morris and Mr. Craddock were absent.)

Motion for Curb and Gutter Waiver:

Motion: Mr. Strucko moved, Mr. Cannon seconded, to approve SDP-2007-00031, Korean Community Church – Curb and Gutter waiver request.

Ms. Joseph said that it makes her feel sad that the applicant had tried to work with the neighbors and had no respond from them for putting the water line. She had hoped that they could have worked together to

solve the existing erosion problems in the area. But, if they can't get on the land then it makes it very difficult. She thanked the Korean Church for trying to work with their neighbors.

The motion passed by a vote of 5:0. (Mr. Morris and Mr. Craddock were absent.)

Ms. Joseph stated that SDP-2007-00031, Korean Community Church waiver requests for both curb and gutter and critical slopes were approved.

Regular Items:

SUB-2006-375, Ashcroft West – Preliminary: Private Street Waiver Request:
Request for re-approval of a preliminary plat to allow the creation of 28 new lots. The property is described as a portion of Tax Map 78 - Parcel 57, which contains 253.7 acres zoned R-1 (Residential), RA (Rural Areas) and PRD (Planned Residential Development) adjacent to the Franklin, Ashcroft, Fontana, and the proposed Lakeridge subdivisions. This site is located in the Rivanna Magisterial District on the PRD portion of the parcel and proposed access is from the east through the Ashcroft subdivision. The Comprehensive Plan designates this property as being split between Neighborhood Density in Development Areas Neighborhood 3 and Rural Area 2. (David Pennock)

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

The applicant has requested preliminary plat approval to create 28 lots on an 89 acre Planned Residential District (PRD) zoned portion of a 253 acre parcel. The property, described as Tax Map 78, Parcel 57, is located in the Rivanna Magisterial District on Summit Ridge Trail [Private] at the end of Lego Drive [Private] in the Ashcroft Subdivision. This request is for authorization to allow improvement and extension of the existing private street, Summit Ridge Trail. In addition, the current proposal includes portions of open space, which must be approved by the Planning Commission.

The Planning Commission will need to act on the waiver request, and make findings on the appropriateness of the proposed Open Space. This staff report is organized to address the issues separately. The Commission must act on both items. The items to be addressed are:

Subdivision Ordinance
1. Section 14-234 – waiver to allow private streets

Zoning Ordinance
2. Section 4.7 - approval of Open space

This item has previously been before the Planning Commission on two occasions, most recently on July 26, 2005. At that meeting, the preliminary subdivision plat was approved, including a waiver to allow private streets and a finding by the Planning Commission that the proposed open space was appropriate. The previous approvals expired July 26, 2006 because no final subdivision plat or street construction plans were filed within one year. The applicant has resubmitted the preliminary subdivision plat with substantially the same layout as the previously approved version.

The applicant has demonstrated that the total volume of grading for construction of a public road would be thirty (30%) percent more than that of a private road in the same alignment. The engineering review recommends approval to the private road request.

The access is going to come through the existing Ashcroft Subdivision. Lego Drive is an existing private street. At the end of Lego Drive there is a T intersection and this would be continuation of that T along that ridge line to serve these lots.

A portion of property within Lake Ridge is an easement held by the Public Recreational Facility Authority. It is an unusual piece of property because it is zoned three different things. There is a R-1 portion. Then at the 600' contour the property goes out of the development area into the rural areas. Then there is a portion for Ashcroft West, which is zoned PRD based on the zoning from 1978 that has been modified several times since then.

The applicant is proposing open space for large portions of this project. That was shown on one of the original concept plans. It was a condition of one of the rezonings. The road itself runs along the high point and then the building sites are close to the road in the flattest areas. The rest of the property falls away pretty much in each direction. The open space areas are going to include at least three storm water facilities. It is going to be some type of bio-filter type of design. Their access easements propose to get to those. There is also a water line easement that could come through the Lake Ridge development, which was one of the latest proposals that he has heard. There is a fiber optic easement. Otherwise, there are no encroachments into the open space area. It is not intended as a recreational area. The open space is intended to preserve the vast majority of the critical slopes on the property.

Staff's analysis of the open space found that it meets most of the criteria as presented in the staff report. Staff is able to recommend approval of the finding of appropriateness for the open space.

The other item requested in this case is to allow private streets. This subdivision was originally approved with the idea of private streets in mind. Since that time it has actually been before the Commission just a few years ago. In 1995 a private street waiver was approved along with the preliminary subdivision plat, but the preliminary approval was only valid for one year. It has since expired. This is almost the exact same plan that they saw last time. The issues regarding private street review in this case includes that the only access to this parcel is by an existing private street. It would require upgrading and dedicating miles of road along Lego Drive from the end of the cul-de-sac all the way up to this point. Last time this was before the Commission the neighbors spoke out against that.

Staff's analysis is that engineering had no major concerns with the private street concept. It will be designed as close as possible to the Mountainous Terrain Standards. There are profiles provided. Mr. Schuck's analysis includes the difference in the environmental impact between the constructions of a public road along the same layout. Staff is also recommending approval of the private street request.

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

Mr. Cannon asked if there was no requirement for a critical slopes waiver.

Mr. Pennock replied that there is a proffer that speaks to critical slopes. There are no disturbances allowed on critical slopes within this development other than those that might be necessary for the road construction.

Mr. Cannon noted that they are not now covered by the ordinance. They are not prohibited.

Mr. Pennock replied that actually the building sites and the road itself won't be disturbing critical slopes in this case.

Mr. Cannon asked if this proposal goes along the ridge top.

Mr. Pennock replied that is correct. It was a little over 900'.

Mr. Cannon asked if it was relevant what the effect would be on the view shed.

Mr. Pennock said that in the Comprehensive Plan there is a critical resources plan that shows this as a mountain area and the Comp Plan speaks to mountain protection. But, those concepts were added to the ordinance and Comp Plan after the approval of the PRD zoning on this property, which included an application plan. This is a piece of the critical resource's plan. Everything above the 700' contour in this case is considered to be mountain area by the open space plan. All of this development is within the purple area of the mountain protection area on the critical resources and open space plan. But, again the approval of this predates it.

Mr. Edgerton said that he was struggling to get a handle on it. The previous approval has expired. If this came in from scratch right now staff's recommendation would be entirely different.

Mr. Pennock replied that is correct. PRD can be reviewed under the ordinance in effect at the time the planned district was created versus today's ordinance. Certainly if this was a brand new subdivision proposed from scratch without that existing zoning there would be a very different set of circumstances that they would look at.

Mr. Edgerton said that it was the zoning driving it and not the fact that there had been a previously approved plat.

Mr. Pennock replied that was correct that the previous subdivision approval is more of a point of note. The zoning is more of what drives the layout in this case.

Mr. Edgerton noted that this gets back into this whole argument that they got into with the Gazebo Place, which under a previous ordinance and the law allows them to choice which ordinance to be reviewed under. The old one did not have any concern about view shed.

Mr. Pennock replied yes, that again the mountain areas were added later in the mid 80's.

Mr. Edgerton noted that on page 3 of the staff report in the chart in the second row it has the width of section feet; it says 20 plus 4 plus 4 which is 26.

Mr. Pennock replied that it was 26 in both cases.

Mr. Edgerton asked isn't it 28.

Mr. Pennock replied that they were rounding down.

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

Tucker Hurt, representative for the owner Pantops Lake Ridge, LLC, said that he was present to answer any questions. Others present are Tom Muncaster and Katurah Roel who can answer questions on the technical aspects of the development.

Ms. Joseph asked if there were any questions for Mr. Hurt. There being none, she invited public comment. There being none, she closed the public hearing to bring the matter before the Commission.

Ms. Joseph asked if there was a way that they could be guaranteed that these houses would not be on critical slopes and that there is not going to be a whole lot of grading going on around the houses. What she was looking for was so that most of the trees would be preserved up there. Is there any method to do that, which is connected with the proffer for not disturbing the critical slopes?

Mr. Shepherd replied that there were two agreements that were associated with the rezoning of 94-16 that covers this. One is that no grading or clearing for street construction shall occur within any area until the final storm water detention drainage plans for the subject sub-drainage basin have been approved for concurrent construction. That means the grading associated will be first subject to an erosion and sediment plan or a storm water management plan. That plan would include limits of grading. That is one point. Another agreement states that there shall be no grading or construction on slopes of 25 percent or greater, except as necessary for road construction as approved by the County engineer. It would also be caught on the road plans which would assure that no grading for the road could only be within the limits of the grading shown on the road plan. They could not do additional grading next to the road by this agreement. That speaks directly to the private road request that is before us. There is always the option at the building permit stage. Typically a plat is required and erosion control is addressed through what is known as an agreement in lieu of a plan. In cases of difficult terrain it is possible to require a plan to show the grading associated with the construction. In this case that might be appropriate where the building permit could be required to include a plat showing topo and the building site and that the disturbance to the site would be confined to that building site that would be off of critical slopes.

Ms. Joseph asked if that would be based on the proffer saying that they will not build on critical slopes.

Mr. Shepherd replied that there is no critical slope waiver available for this property. They want to be careful that they are speaking to the issue at hand to the road construction and not bringing up a new issue. That would be an option.

Mr. Edgerton reiterated that without some sort of requirement of that sort since there are no critical slopes being disturbed, then there is no waiver required that there is a disconnect at the building permit stage that if there is an issue that the building inspector can work that out with the applicant on site without any control. But, they can require before hand the kind of engineering that would hopefully ensure some protection of the property off the private road area.

Mr. Shepherd said that there are building sites shown on each of these lots outside of critical slopes. But, they are close to critical slopes.

Mr. Cannon said that this would be to enforce an existing agreement. He asked if they could hook that to the waiver approval or to the approval of open space or is that a separate item.

Mr. Kamptner replied that they were separate items. The authority in the Subdivision Ordinance for imposing conditions for private streets requires that the condition pertain to the private street itself. But, requiring an erosion and sediment control plan instead of an agreement in lieu of a plan is always at the option of the County. The Commission can simply send direction to staff to please require an erosion and sediment control plan in lieu of the plan for the subdivision.

Ms. Joseph closed the public hearing

Mr. Edgerton asked if this request does not go to the Board.

Mr. Pennock replied that was correct.

Mr. Edgerton said that the Commission had a lengthy conversation several weeks ago at their retreat about things like this. He was really struggling. Under current plans this would not stand a chance of getting any recommendation for approval. He felt that it was bad planning. He was wondering about their responsibility as advisors to the Board. If it does not go to the Board if they deny it they could appeal it to the Board. Then it would become the Board's decision. He was very uncomfortable approving something of this nature that will have such a significant impact not only on the entire Pantops area, but certainly on Monticello that they are trying very hard to protect. Pantops Master Plan went to great length to try to protect it. This sort of makes a mockery of all of that effort.

Mr. Cannon said that he had the same reaction. He was struggling with the legal discretion they have to do anything but approve this on the terms that it has been proposed and recommended for approval. The relative perimeters have been set as a matter of zoning code amendments that are still applicable. He asked if they have any discretion at all.

Mr. Kamptner replied that the zoning is set and the use has already been determined. The discretion that the Commission has is in making the findings under the Subdivision Ordinance with respect to approving the private street and under section 4.7 of the Zoning Ordinance in determining consistency with the open space regulations

Mr. Strucko said that he shared the same concerns. He wanted to look at this from the technical point of view. He questioned the connection with Lake Ridge. He asked staff to explain why they are not pursuing an interconnection with Lake Ridge

Mr. Pennock replied that one of the main reasons was that proposal was part of a previous version of both Lake Ridge and Ashcroft West Plan. At that time one of the main reasons that staff recommended against it ultimately was the connection of the development area with a road connection into the rural areas basically as the residents concerns that this would be another outlet for all of Ashcroft. It would become a 250 by pass of sorts. It was a combination of those two factors. Ultimately the plan was modified with staff's consent to take that connection out.

Mr. Strucko asked which neighborhood they want to try to appease. The only access for Lake Ridge is through Fontana. For this particular development the only access is through that private road, Lego Drive. The question road before us is public road versus private.

Mr. Zobrist felt that it might be narrower. The way he reads the ordinance they don't have to approve a private road. They have to make findings if they approve it. He asked Mr. Kamptner if that was correct.

Mr. Kamptner replied that was correct, that they were not compelled to approve a private road.

Ms. Joseph pointed out that the one thing missing tonight from a couple years ago was the negative public comment expressed by the adjacent owners in Ashcroft who lived on private roads. They were loud and clear that they did not want this to happen because it would take part of their property to put in public road standards for the rest of the existing roads. .

Mr. Cannon asked if denying the request for a private street require that connecting streets be upgraded to a public road standard.

Mr. Pennock replied that in order to have the public street extend all of the way to this point certainly they don't and VDOT does not allow private streets to serve public streets. In other that interim piece of private street would not be allowed to be the access to this public street if this portion were upgraded to public.

Ms. Joseph noted that this could be by right if it was a public road. The only reason they are here before the Commission is that it is private.

Motion:
Mr. Zobrist moved, Mr. Edgerton seconded to deny SUB-2006-375, Ashcroft West – Preliminary Private Street Waiver Request.

Ms. Joseph asked Mr. Kamptner if they need to have a list of reasons why they are denying the request.

Mr. Kamptner replied that it would be very helpful for the Board because they will have only the minutes and the staff report with the staff report recommending approval. If they can articulate reasons why the Commission does not think it should be approved it should be stated.

Amended Motion:
Mr. Zobrist moved, Mr. Edgerton seconded, to amend the motion to deny the private street waiver request for SUB-2006-375, Ashcroft West – Preliminary based on the reasons outlined by the members of the Commission.

- Staff recommended approval because they thought that they did not have any other choice, but the Commission disagreed because they have a choice. It is a development that would not be approved today. They have an obligation in the County to keep these rural places rural. Even though it has a separate zoning right now they don't have to make it easy to develop it. The Commission should do everything they can to keep the pristine parts of the County pristine and push development in the appropriate development areas that would be designated under today's standards as opposed to standards in 1978 prior to the current by right zoning ordinance.

- Considering the development occurring in this area the private road standard is not in the best interest and the service of the community. The public road standard is the best course of action here.

- Staff's recommendation for a private road approval relates to a difference in the amount of construction disturbance. Certain grades could be lessened to eliminate a sufficient amount of cut and the earth work differences are exaggerated. There would be at least some redesign measures that could be taken to minimize the potential environmental difference between the

public and the private road. The difference in impact between the private and public road was less than what was stated in the current plan.

The motion passed by a vote of 5:0. (Mr. Craddock and Mr. Morris were absent.)

Ms. Joseph noted that the private street waiver request for SUB-2006-375, Ashcroft West – Preliminary was denied. The applicant has ten (10) days to appeal this decision to the Board of Supervisors.

Motion on Open Space Appropriateness:

Motion: Mr. Zobrist moved, Mr. Cannon seconded, to approve the appropriateness of the open space use for SUB-2006-375, Ashcroft West – Preliminary as recommended by staff.

Amended Motion: Mr. Zobrist moved, Mr. Cannon seconded, to amend the motion for approval of the appropriateness of the open space use for SUB-2006-375, Ashcroft West – Preliminary by adding the six (6) reasons listed in the staff report on page 7.

(1) There is no flood plain in the open space or on the property.
(2) Very large areas of critical slopes are shown in the proposed open space.
(3) Water lines and drainage easements are proposed through portions of the open space.
(4) Three small storm water management facilities are proposed in the open space.
(5) Recreational areas are not required or proposed.
(6) The open space for this project circles this development on three sides to a depth of at least 500 linear feet. This provides a reasonable buffer to all other adjacent subdivisions and other portions of Ashcroft.

The motion passed by a vote of 5:0. (Mr. Craddock and Mr. Morris were absent.)

Ms. Joseph asked if the Commission wants to take action if the Board upholds their request that require each of the lots to have an erosion and sediment control plan.

Motion: Mr. Edgerton moved, Mr. Cannon seconded, to require each of the lots to have an erosion and sediment control plan if the Board upholds their request.

The motion passed by a vote of 5:0. (Mr. Craddock and Mr. Morris were absent.)

Ms. Joseph noted that the motion passed to require each of the lots to have an erosion and sediment control plan if the Board upholds the request.

Old Business

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

New Business

Ms Joseph asked if there was any new business.

- **Crozet Downtown Update – The question was asked when that project was instigated by the County and what our contract was for that project.**

Mr. Cilimberg noted that the Board of Supervisors passed a resolution of intent on September 6, 2006 to pursue this downtown zoning amendment. From that point on it was a process of developing a scope of work, going through the procurement process, interviewing and ultimately negotiating and hiring a consultant. The consultant is now on board and has begun work under a contract for $75,000.

Ms. Joseph asked staff to elaborate because staff had indicated that this zoning classification or district may be able to be used in other areas.

Mr. Cilimberg replied that this will provide an analysis as to what kind of district best works for a town center or downtown kind of setting. It may be a base district or an overlay district. But, it certainly has the potential of being used in other similar circumstances. They don't have any existing downtowns per say in the County, but as in Places 29 as an example, there is an uptown and a mid-town proposal. It may very well be a district that can be used in those cases or in some varied form. This is a good exercise to go through. Obviously, they have a place where there is a defined need expressed by business owners who, along with the Crozet Council, requested that the Board authorize and have staff pursue this particular district.

Mr. Strucko asked what the advantages of this district would be.

Mr. Cilimberg replied that it was going to deal with a variety of aspects of zoning that are not available in conventional districts, such as the relationship of buildings to streets, parking requirements and potentially height and setbacks. It would potentially be different from what the conventional districts would allow. Most of the downtown zoning is conventional commercial, which would require a rezoning of property to Neighborhood Model District under current provisions. This particular district will be more suited to a downtown center type of situation. It also will include a recommendation as to whether or not this is a rezoning that the County wants to go ahead and pursue independent of having individual property owners seek rezoning . Essentially the district could be put in place by the County for use by businesses and properties that are in the downtown area without having to go through a rezoning process. That will be part of the outcome as to the recommendation.

Ms. Joseph noted concerns with that aspect. If the County does the rezoning, then everything is by right and any help with proffers for infrastructure would be gone.

Mr. Cilimberg said that it is really interesting because the County has not typically done that in the past. Whereas, the city does that all of the time because they want to encourage the type of development they are getting. It is something that has to be decided in the outcome of this particular district's approval and whether that is something the County wants to apply as an initiative of the County or wait and have it applied for by applicants.

Mr. Zobrist said that they were trying to master plan what they do there and then bring in zoning to conform it at the initiative of the County to tell people exactly what they expect and to get it to look and feel the way they want it to.

.

Mr. Cilimberg replied that the recommendation of the Crozet Master Plan was to do that.

Mr. Kamptner asked if the boundaries of the downtown have been defined yet.

Mr. Cilimberg replied that he was not sure if they have. It is very early. But, that is part of what the consultant needs to provide their recommendation on. They have talked about CT-6 and potentially some of the CT-5 areas that are around the downtown, but it was not actually specified in the scope of work.

- **Rivanna Village Master Plan.**

Mr. Cilimberg noted that the Rivanna Village Master Plan was the next one in the order of things. The expectation in the work plan was that they would be getting Rivanna started at the time they were concluding their work on Pantops so that they would have the staff resources to devote to the master plan. They are going to utilize the Thomas Jefferson Planning District Commission for this particular master plan. They will have a contract with them. It looks like it will be no more than $85,000, but probably somewhat less than that. There is funding actually for that in the budget and through a proffer that they received with one of the earlier rezonings for Glenmore. They are hoping to bring the Commission an overview with the processing schedule for that work by June. The kick off normally with master plans is the planning academy. It is now very close at hand to begin.

- **Joint City/County Planning Commission Meeting.**

Last week Mr. Cilimberg and Ms. Joseph had a meeting with City staff, Ms. Creasy and Mr. Fink, the Chair of the City Planning Commission. The joint City/County Planning Commission meeting is scheduled for May 15 at 6:00 p.m. in Room 320, which is a third floor conference room. Last week they concluded that for this first joint meeting they would have it information based rather than issue based and to allow discussion after staff makes some fairly short presentations on the city and County land use plans and the activities in particular that are in the border areas of the city and County. It will basically be on what is going on in those areas. Therefore, they could get a view of what is happening in the city that may have a relationship to the County and the city commissioners will get the same from County staff. They would talk in general about the land use plan and what is being proposed. Advance information will be available online regarding the City/County Comp Plans and master plan information underway. The city has a Comp Plan review underway. Maps will be on display at the meeting of the land use plans, zoning and entrance corridor locations. Ms. Joseph and John Fink will frame the discussion for the Commissioners. It will be a fairly informal setting.

- **Biscuit Run Hearing on May 29.**

The values for the proffers that had been added to the Fiscal Impact Study were questioned previously. Staff is going to do an update of that for the Commission's staff report for May 29.

The suggestion was made that the City Planning Commission be invited to the public hearing on May 29 to give input on the proposal.

- **Scheduling Concerns.**

The Commission asked staff to work on the schedule so that when there was only one item on the agenda that it could be moved to another meeting to allow that night off.

Mr. Cilimberg replied that staff was going to work on seeing how they can do that. The problem with site plan and subdivisions is that they are on a fairly specific time line. In the reviews done by staff it does not allow time to get the information to the Commission a week earlier and normally a week later would be beyond the 60 days in which a site plan or subdivision needs to be acted on. He would talk with Current Development staff about this issue. Each week staff plans to give the Commission a two month view of what is on the schedule. If there are any comments or suggestion, please let us know.

- **Commission Request Regarding Erosion Issue.**

The Commission asked Ms. McCulley to check on the erosion issue discussed with the Korean Church application and if the site plan for the Volvo Dealership and Kirtley property was approved to include the supplemental parking along the access. It has nothing to do with the church, but is a problem that needs to be pursued.

- **Commissioners to be absent next week on May 8.**

Ms. Joseph and Mr. Cannon will be absent at next week's meeting.

Adjournment:

With no further items, the meeting adjourned at 7:53 p.m. to the Tuesday, May 8, 2007 meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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