Albemarle County Planning Commission
August 21, 2007

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, August 21, 2007, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Marcia Joseph, Chairman; Duane Zobrist, Pete Craddock; Jon Cannon, Calvin Morris, Vice-Chairman and Eric Strucko. Absent was Bill Edgerton. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was absent.

Other officials present were Scott Clark, Senior Planner; Allan Schuck, Senior Engineer; David Pennock, Principal Planner; Wayne Cilimberg, Planning Director; John Shepherd, Chief of Current Development and Larry Davis, County Attorney.

Call to Order and Establish Quorum:

Ms. Joseph called the meeting to order at 6:07 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.

Ann Harrod, resident of Bremerton Lane, noted that at a meeting in July at Stone Robinson School she gave a copy of a big printout to Elaine Echols of a web page from Minneapolis. The printout was in reference to a particular subject matter about traffic impacts with public comments, which was on their web page. She recommended that Albemarle County install this method on their web master. It would open up discussions just as Thomas Jefferson suggested in the past.

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

Deferred Items

Work session - ZTA2007-00003 Critical Slopes, Safe and Convenient Access (Zoning Ordinance Text Amendments and STA2007-00002 Family Divisions (Subdivision Ordinance Text Amendments)
DEFER TO SEPTEMBER 11, 2007 PLANNING COMMISSION MEETING.

Ms. Joseph pointed out that this item had been deferred to September 11, 2007 at 6:00 p.m. She invited public comment. There being none, she noted that there was no action required tonight. She suggested that the public review the Commission's agendas on the County's A-Mail web site for additional information.

Regular Items:

SUB-2006-00307 James Kettrick
Request for preliminary plat approval to create two (2) lots on 5.89 acres zoned Rural Areas, RA and EC, Entrance Corridor. The property, described as Tax Map 98, Parcel 19A1, is located in the Samuel Miller Magisterial District on Monacan Trail Road [Route 29]. This proposal includes a request for authorization of a waiver to allow use of a private street, in accordance with Subdivision Ordinance Section 14-232(A). The Comprehensive Plan designates this property as Rural Area in Rural Area 3. (David Pennock)

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

- Request for approval of a private street in the Rural Areas, with waivers of street standards, in accordance with Sections 14-232 and 14-234. The applicant requests preliminary plat approval to create two (2) lots on 5.89 acres. The property is zoned Rural Areas, RA with EC, Entrance Corridor overlay. The property, described as Tax Map 98, Parcel 19A1, is located in the Samuel Miller Magisterial District on Monacan Trail Road [Route 29], 0.3 miles south of Toco Hill [Private].

This proposal includes a request for a waiver to authorize a private street to serve these two lots. A portion of this street will also serve a third lot. The applicant has also requested a waiver of the private street design requirements to allow a steeper grade than typically allowed and to use gravel instead of a hard-surface.

- The proposed street serving the two lots in this subdivision is in the general alignment of the existing driveway to the dwelling on the property. This driveway also serves an additional dwelling on an adjacent lot. It would require some upgrade to the driveway and approval by the Planning Commission in accordance with Section 14-234 of the Subdivision Ordinance for a private street. If approved, the required standard for private streets is based on the total number of lots that the street will serve, as specified in Section 14-412. The applicant is also requesting to waive some of these standards to allow a grade steeper than 16% and gravel instead of hard-surface. Section 14-234(D) allows the Planning Commission to waive these standards during the review of a private street waiver.
- Staff presented some photographs of the site and pointed out that there appears to be some evidence of erosion problems on the current driveway. The applicant, as part of the engineering plan, submitted several versions of the road in that location. He noted the existing driveway conditions. The width of the existing driveway is less than required by the ordinance. As a result there appears that there has been some runoff in the past. The steepness of the slope has caused some erosion problems on the existing drive. The continuation of using the same entrance requires the Commission's approval. The justification for the private street waiver request was the significant environmental degradation that would result from the construction of a public street in the same alignment of a private street.
- The engineering analysis by Allan Schuck includes a comparison of the pavement width and the grading necessary for each of the types of road way in addition to estimates provided by the applicant for the fill or cut that would be required to achieve those roads. The rest of the analysis in that section deals with the environmental degradation that would be expected for the construction of the road. Again, they were talking about the alignment that is proposed on this plan. It is a bit exaggerated. There is some potential that grading necessary on the public road design would come down. But in any case it is more than the 30 percent that would be a consideration of significant degradation. However, the other considerations of that alignment that they looked at would include damage to the adjacent properties and to existing trees on the site as well as other erosion. There is no indication that would be worse for a public street in this alignment versus a private street.
- Based on that information, engineering staff could not recommend approval of the private street waiver solely on the environmental degradation question. The preferred standard would be the Mountainous Terrain Standard of a Department of Transportation public street in that location with the possibility that at the point in which the two driveways intersect today that could be the end of the public street and from that point on it could continue as a driveway serving the proposed lots. It would involve a public street at least to that point. Staff is unable to recommend approval of the waiver.
- As noted in the staff report, should the Planning Commission approve the requested waiver, staff recommends the following conditions:
    1. The private street must be designed as represented on sheet 4 of the plans last revised July 27, 2007 and prepared by Bent Tree Design.
    2. A maintenance agreement must be approved, as specified in Section 14-317 of the Subdivision Ordinance.

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

Mr. Craddock asked if there were two other lots that use that same entrance.

Mr. Pennock replied no, it was just one other lot. The handout distributed this evening was from the neighbor. The neighbor did not have an objection to the subdivision, but if the private street waiver was approved that any work necessary would need to be within the existing easement or additional approvals would be required for those easements. He noted that would be required anyway.

Mr. Cannon asked what the distance is from Route 29 to the point where the 2 driveways diverge.

Mr. Pennock replied that it was about 400'.

Mr. Cannon asked if in staff's view was that the length of public road section that would be required.

Mr. Pennock replied that was the preferred method and was similar as shown on sheet 4, but a public street rather than private.

Ms. Joseph asked if parcel 98-19A came in for subdivision what entrance would be use. It looks like this road is partially on 19A.

Mr. Pennock replied that the existing drive is on 19A. If they were to develop it would likewise have to use this entrance.

Ms. Joseph said that there was one entrance that was opposite the cross over.

Mr. Pennock said that the driveway was on parcel 19A and does serve the parcel behind it as well. If they were to further subdivide they would probably use the existing driveway. But, they would have to look at this driveway because it looks like it is not their current driveway.

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

Elliott Fendig, of Bent Tree Design, represented Mr. Kettrick. He explained the proposal as follows.

- Mr. Kettrick is asking the Planning Commission to approve a private road in this location. He wishes to subdivide his lot into two lots of which he will execute all of his development rights. The current private road serves both Mr. Kettrick and one of his neighbors. The maintenance of that road has been primarily maintained by the neighbors. They have discussed this road situation with VDOT. VDOT has stated that they do not wish to see a public road in this location. So the recommendation for a public road made by staff may not ever be executed because VDOT has stated they don't want to see that. To have the road meet public road standards would require a major amount of grading. A private road also would require some grading, but significantly less. Either of the private road alternatives that they have come up with has significantly less impact on adjacent properties than the public road alternative. Also, there would be significantly less damage because the width that would be subject to earth work would be much less, which is the reason why the earth work for the public road would be much greater than for the private road.
- This proposed division is a front and back subdivision. The current lot does not have public road frontage. If it did they would not be before the Commission because the division could have been handled administratively. The main reason they are here is the road frontage is on a private road. Mr. Kettrick has received Health Department approval on the proposed lot. He would like to build another house on the created lot.
- All of the driveways that they are considering, both the private driveway that serves 2 lots and the one that serves Mr. Kettrick's lot, is proposed to serve the new lot and currently exists. There are some possible erosion and drainage problems associated with these roads. Should they receive private road approval they could certainly work to mitigate those drainage issues during the construction of the lot and the roads.
- They put together several alternatives. They would prefer the alternative with the 3 to 5 lot private road going to the existing split followed by a 2 lot driveway. Even more preferable would be to leave the existing driveway as it is, except paved, and to mitigate any drainage problems. That would involve the least amount of earth work. Then they could bring the 2 lot private road up to Albemarle County private road standards and there would be no further subdivision of Mr. Kettrick's property. Any subdivision conceived on the adjacent property would have to be considered by the Planning Commission at a later time. One correction to Mr. Pennock's statement is that the distance of the existing split in the road would be 250' from Route 29, which would be the length of the proposed private road.

Ms. Joseph asked if there were any questions for the applicant. She asked if the road they want to build is as shown on sheet 3.

Mr. Fendig replied that sheet 3 represents a private street built to the 3 to 5 lot standards all the way to the back of the property that would probably be wider than the private driveway standard. The private driveway would serve 2 lots. Therefore, what he proposed was closer to sheet 4 that shows a 3 to 5 lot standard all the way to the private driveway.

Ms. Joseph asked if they received a copy of the letter from the adjacent owners.

Mr. Fendig replied that he did not.

Mr. Pennock gave Mr. Fendig as a copy of the letter from the adjacent property owner.

Ms. Joseph said that one thing the neighbor says is if they intend to subdivide the property they need to confine the driveway within the existing 30' right-of-way. On sheet 4 it does not look like that is what is happening.

Mr. Fendig said that these options represent the first draft road designs. What they would prefer to see would be to leave the existing driveway situation as is except to pave the road and handle any drainage problems. That would result in no grading or retaining walls and be able to keep it within the 30' right-of-way. The street, as it stands, does not meet Albemarle County requirements. That is a waiver that they would seek. If that is a possibility, then that is what they would like to see. If that is not possible there is a potential to design the road with retaining walls and other features that maintain the grading within the existing 30' right-of-way.

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

Mr. Craddock asked if staff had received comments from VDOT.

Mr. Pennock said that the official comments received from VDOT were from the Site Review Meeting about this item. The comments say that the existing entrance is adequate. But, at the time this was submittal the proposal was for a private street, so they did not review it as a private street except for the entrance. The typical practice is that a road meets 3 lots and meets their standards it is accepted. The problem is meeting the standards. If they can do it Mr. Denunzio said that is something they would have to accept. The problem is meeting the standards.

Mr. Morris asked if VDOT would want to accept it.

Mr. Pennock said that was not something Mr. Denunzio answered specifically to him, but it may have been a different conversation.

Mr. Cannon asked if the street were built to private street standards would those standards provide for the correction or mitigation of those problems.

Mr. Pennock replied typically yes. The private road standards in the ordinance would limit the grade and K Value to create situations where the run off is controlled on both sides of the road and therefore not able to generate the momentum to create runoff. One of the waivers they would need to keep the same alignment of today is the grade of the road. The grade was shown as much as 17 percent and generally they don't allow over 10 percent. If they got that waiver he was not sure. He deferred the question to Mr. Schuck.

Mr. Schuck said the existing driveway is 10' to 12' wide and graveled showing existing erosion. To upgrade to the 3 to 5 lots standard they would be required to meet the minimum width of 14'. They would have to add 3' to 4' pavement. They would also have to have appropriate shoulders and ditches. The design and construction of a private street would take care of the existing erosion problems with the driveway. To meet the private street design they would have to upgrade the existing driveway and bring

up the width of the road or cut into the grade where the trees are. It would be up to the engineer to solve these issues for both a public or private road to meet the existing 30' easement.

Mr. Cannon asked what would be the additional benefits of meeting a public road standard.

Mr. Schuck said that by upgrading to a private road standard the road would be wider so to allow two vehicles to pass for safer access. Assuming that the driveway is on the center of the issue they could either cut into the existing grade or where the trees are to

Mr. Cannon asked if that would be for a public or private road design.

Mr. Schuck replied that would be for both. They are looking at a minimum of 4' width of pavement along that that does not include the fill or grade for the slopes. The width required for a private road in the rural area is 14' and the public road standard would be 19'. They are looking at a minimum of 4' wide in pavement alone and in addition the fill to meet the grade slopes that could extend that out even further. He noted that there are two issues before the Commission.

Ms. Joseph said she could not support this request because it would aid and erode development in the rural areas. The entrance is opposite an existing cross over.

Mr. Morris said that if this did move on he would want it to meet the minimum standards as stated. Staff's point is well taken that the driveway needs to be wide enough so that two vehicles could pass.

Mr. Schuck said that one of the issues was safe and convenient access and in order to upgrade the road it was an issue. The access would be used by both property owners for this subdivision. One issue is safe and convenient access

Mr. Cannon shared Ms. Joseph's concern about paving the way for additional development in the rural area. The focus is on the road, the entrance and the adequacy. The issue is the amount of disturbance associated with additional work. It seems that the current road is not a good facility because it is causing erosion. They can not do anything about the existing lot.

Mr. Schuck noted that the current road does meet the current 2 lot subdivision standard for the road and driveway. From the engineering review to upgrade the existing driveway they would go over the 30 percent degradation. The other analysis dealt with the safe and convenient access. The trigger to upgrade this street is that they are adding another lot.

Mr. Cannon asked what 30 percent degradation means.

Mr. Schuck replied that it was the amount of grading in an area to construct a public street. He also did an analysis on a private street.

Mr. Cannon said that there was a 30 percent difference between private and public streets. There is some difference between a private street and nothing at all.

Mr. Schuck said that with any upgrade that involves improvements to the existing driveway it would cause environmental degradation.

Mr. Zobrist pointed out that the Planning Commission has gone on record several times stating that they will not approve private roads to facilitate development or growth in the Rural Areas.

Mr. Craddock supported denial of the request because the subdivision triggered the upgrade as noted by Mr. Schuck.

Motion: Mr. Zobrist moved, Mr. Morris seconded, to deny SUB-2006-00307, James Kettrick as recommended by staff.

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

Ms. Joseph stated that SUB-2006-00307, James Kettrick was denied. The applicant has ten days to appeal the action to the Board of Supervisors.

Public Hearing Items:

ZMA-2006-00015 Glenmore Livengood
PROPOSAL: Rezone 32.24 acres from RA - Rural Area zoning district which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre) to PRD - Planned Residential District - residential (3 - 34 units/acre) with limited commercial uses to allow for 43 dwelling units. This proposal is an expansion of the Glenmore PRD and does not include commercial uses. Proposed density is 1.4 units per acre.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential - residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses.
ENTRANCE CORRIDOR: No
LOCATION: 2000 feet south of the intersection of Route 250 East and Hacktown Road, North of Pendowner Lane (in Glenmore), and east of Carroll Creek
TAX MAP/PARCEL: Tax Map 80, Parcel 48 and Tax Map 94, Parcel 1
MAGISTERIAL DISTRICT: Scottsville
(Sean Dougherty)

AND

ZMA-2006-00016 Glenmore Leake
PROPOSAL: Rezone 110.94 acres from RA - Rural Area zoning district which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre)
to PRD - Planned Residential District - residential (3 - 34 units/acre) with limited commercial uses to allow for 110 dwelling units. This proposal is an expansion of the Glenmore PRD and does not include commercial uses. Proposed density is approx. 1 unit/acre.
PROFFERS: Yes
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential - residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses.
ENTRANCE CORRIDOR: No
LOCATION: 1.25 miles south of the intersection of Route 250 East and Hacktown Road, North of the Rivanna River, west of Carroll Creek, and east of the Development Area boundary.
TAX MAP/PARCEL: Tax Map 94, Parcel 16, 74, and 16A (portion thereof) and Tax Map 93A1, Parcel 1
MAGISTERIAL DISTRICT: Scottsville
(Sean Dougherty)

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

Don Franco, of KG Associates, presented a power point presentation and explained the rezoning request.

- With respect to the cash proffers they are trying to figure out the correct amount of money to proffer. He noted that Dan Mahon was present from Parks and Recreation to talk about the greenway if necessary.
- Representatives of the Glenmore Community Association are here. He said that he has worked with them to develop a general concept for a proposed pedestrian network and traffic management and offered to give money to fund their programs. He said that no one is prepared to make a proffer for improvements within Glenmore. Instead, he said that Glenmore Associates would rather give them $130,000.00 tops to use to make these connections or traffic management or whatever they want to do.
- He talked about pedestrian connections to Rivanna Village as well as the location of pedestrian paths alongside proposed streets. He said that staff wants paths on the other side of the street in places, and the owner will do that. He said they just did not want to affect the number of driveways on that side of the street.

Ms. Joseph invited public comment

Jay McClellan said that he was on the Board of the Glenmore Homeowners Association. He said he was worried about the additional traffic through the development and specifically on Darby Road. He said that the developers should provide money to help with traffic management, such as limiting hours of travel on certain roads and having traffic guards during this period as well as posting more maximum speed limit signs.

Dennis Odinov, of 2060 Piper Way in Keswick, spoke about the following concerns:

- The lack of a controlled entry point will make a security risk for Glenmore if a pedestrian connection is required to connect Livengood with Rivanna Village. It was suggested in the December work session that the developer create a stub road so that, when controlled access was available, a pedestrian and golf cart path could be put in. He said Glenmore was never approached by planning staff before they made their recommendations.
- He didn't understand how the Planning Commission could deny access to Running Deer drive but consider uncontrolled access into Glenmore through Rivanna Village. He said that this path will be used exclusively by Glenmore but he is strongly opposed to the idea of uncontrolled access.
- He liked the idea of the developer providing funding to let Glenmore make the decision on how to use it. He said that they have enough problems with Darby Rd. and he wants residents to take part in the decisions on how to use the money for solutions.

Poppy Lesli withdrew her name from list of speakers.

Neil Means said that he lives in the Village of Rivanna but not in Glenmore and noted the following concerns.

- The density of the two proposals today is 43 and 110. He said that 110 units at Leake is not the preference of the developer. The developer proposed two concepts that had lower density. The residents of the Village of Rivanna support the lower density plans. The Planning Commission has pushed for higher density.
- The Master Plan for Rivanna has finally started. In October 2006, when the Planning Commission decided to proceed on the Rivanna Village ZMA without a master plan they said they were respecting the applicant's rights. But, why is the Planning Commission pushing for higher density? He did not call this "smart growth".

Paul Accad, of 2025 Pipers Way, a resident of Glenmore for 12 years, supported the staff report on the Leake property. Staff said that in one area the applicant has not provided sufficient pedestrian access to connect the old section with Leake. The applicant indicated his contribution to Glenmore would cover the cost to build the pedestrian path if the Association wanted to build it. Staff believes that this pedestrian connection should be built and the responsibility not given to the Association. He said that he believes the connection should be provided with the rezoning.

There were no other speakers and Ms. Joseph closed the public hearing.

Mr. Strucko asked staff to explain their analysis on what is needed for cash proffers and affordable housing. After the explanation, Mr. Strucko said he agreed with staff.

The Commissioners said that it should be easy for Glenmore residents to get to Rivanna Village on foot. They discussed the pros and cons of having a road stub out where an eventual interconnection might be made. The staff report recommended that the applicant create a paved path from the cul-de-sac down to the property line and stub it out.

More discussion took place on how the cash proffers should apply to the project. Mr. Franco had asserted that the maximum number of units available in Glenmore is 813, but they would not be building on 50 of them. He said that those 50 units should not have to pay cash proffers if the maximum number of units becomes 916.

Larry Davis said that there is a legitimate discussion on whether all of the new lots should pay for impacts or if some break should be given for the 50 lots that won't ever be created in Glenmore.

Jon Cannon asked if that was a decision for the Planning Commission or is it a legal matter between the County and the applicant.

Mr. Davis said it was a policy decision on whether the added area should pay for all the future impacts.

Wayne Cilimberg said that the new total number of units in Glenmore would be 916 units which is only 103 more units than what is available now. The total of Leake and Livengood units is 153. He reiterated that the applicant is trying to use an entitlement they feel they already have to only provide cash proffers for 103 units. Mr. Cilimberg said the Commission needed to decide if the cash amount was relevant to their decision before sending it on to the Board.

Mr. Davis sad he believed that the new areas were adding density which creates impacts and that those impacts should be addressed on every new unit in the new area. He said that the Commission's recommendation on that would be helpful to the Board of Supervisors.

Mr. Cilimberg said that staff believes the full 153 units should cover their impacts.

Most Planning Commissioners agreed.

Mr. Franco asked to explain their position. He said that part of the proposal for Leake includes units already approved as part of the Glenmore Master Plan. He said that they can create those units without the rezoning. But, the County Attorney's office was asking them to include the units in the rezoning because he Glenmore Master Plan is changing.

Mr. Strucko pointed out the proffer difference is a million dollars.

Michael Barnes and Don Franco presented a response in a power point presentation. They showed the existing approved zoning for Glenmore and the location of the approved 813 units. They said that there were 751 lots in Glenmore that were platted today. He said that, with the old Glenmore Plan, about 50 to 55 lots could be developed in the pods shown on the existing Glenmore plan. He said that he could, by-right, impact environmentally sensitive areas and their more detailed design, in conjunction with the Leake property, which makes for a more sensitive design that avoids much of the environmentally sensitive areas. Ultimately, they would like to transfer those "by-right" lots into the area to be rezoned, but, not have to pay impact fees.

When asked how many lots were proposed for cash proffers, Mr. Franco answered that it would be 103 lots

After more discussion, the Planning Commission concluded that cash proffers should be made on all of the proposed units in Leake and Livengood.

Mr. Cilimberg said that the Planning Commission seems to have indicated it does not need a pedestrian connection to Rivanna Village now and that the Glenmore Community Association could work with the developer to provide the connection at a later date.

The Commission said that the asphalt path should be relocated to be on the same side of the street as the existing asphalt path.

The Commission said they are satisfied with the applicant's offer of cash to the Homeowners Association, but it did not need to be in a proffer.

The Commission said it agreed with staff's recommendations that the greenway dedication be tied down in the proffer.

The Commission said it agreed with staff's recommendation that the asphalt path near the sewage treatment plan that would connect the old section with the new section of Glenmore (Leake) be proffered by the applicant.

MOTION: Mr. Zobrist moved, Mr. Strucko seconded for approval of ZMA-2006-00015, Glenmore Livengood, subject to the following conditions:

1. The applicant provides, at a minimum, a pedestrian connection to Rivanna Village
2. The applicant meets the Board's cash proffer expectation for residential development
3. The applicant coordinates asphalt pathway locations so that they are placed on the same side of the street as residences and do not switch to the opposite side of the road between existing and proposed portions of Glenmore.
4. The applicant provides guarantee of the provision of cash to the Glenmore Homeowners Association to address pedestrian safety concerns.
5. The applicant provides a minimum greenway area dedication in a proffer.

The motion passed by a vote of 5:1. (Mr. Craddock voted nay.) (Mr. Edgerton and Mr. Morris were absent.)

MOTION: Mr. Zobrist moved, Mr. Morris seconded for approval of ZMA-2006-00015, Glenmore Leake, for 110 dwelling units subject to the following conditions:

1. Prior to the Board of Supervisors hearing the applicant will enter into an agreement with the Glenmore Homeowner Association on all issues discussed and be reduced into writing by counsel and Livengood.
2. The applicant shall meet Board's cash proffer expectation for 110 residential units including affordable housing.
3. The plan shall be amended to show a complete pedestrian connection along Farringdon, Carroll Creek Road and Piper Way and the applicant shall complete the 0.3 mile pedestrian path.

Mr. Craddock agreed with everything but the number of units due to the increased traffic on the roads.

Ms. Joseph noted that when the Commission had that discussion they looked at the fact that it was not getting close to what is being recommended out there. Comments from engineering and staff at that time said that the roads can handle the traffic.

Mr. Craddock noted that it was too intense of development on the critical slopes in that area.

The motion passed by a vote of 5:1. (Mr. Craddock voted nay.)

The next item was consideration of the waivers for both Leake and Livengood, which were covered on pages 14 and 15 of the staff report.

Mr. Dougherty pointed out that a critical slope waiver was needed for both requests. On the Leake request there were 4 acres of critical slopes and on the Livengood request 0.53 acres. Staff recommended approval of the critical slopes waiver. The applicant also requested a waiver from the curb, gutter, sidewalk and planting strip part of the Subdivision Ordinance. In order to provide the ditch as discussed and the asphalt path on one side of the road and Glenmore's paths the waiver would be required. Staff recommended approval.

Mr. Cilimberg noted that there was also a request for private streets.

ACTION ON WAIVER REQUESTS FOR ZMA-2006-00015, Glenmore Livengood and ZMA-2006-00016, Glenmore Leake:

Motion: Mr. Cannon moved, Mr. Morris seconded, for approval of the waivers for the ZMA-2006-00016, Glenmore Leake and ZMA-2006-00015 Glenmore Livengood requests as recommended by staff for the

critical slopes, to continue the private streets that exist in Glenmore on the proposed additions to the PRD, and the waivers of the four sections of the subdivision ordinance in order to extend the existing street sections and character of Glenmore into these proposed expansion, particularly for Curb and gutter (14-410.I), Sidewalk Waiver (14-422E) and Planting Strip Waiver (14-422F) as set forth on pages 14 and 15 of the staff report.

The motion carried by a vote of 6:0. (Mr. Edgerton was absent.)

Regarding the waiver requests, Mr. Craddock noted that since it was such a small area of disturbance that he would not object.

Ms. Joseph said that ZMA-2006-00015, Glenmore Livengood would go to the Board of Supervisors on October 10 with a recommendation for approval. ZMA-2006-00016, Glenmore Leake would go to the Board of Supervisors on November 14, 2007 with a recommendation for approval.

The Planning Commission took a break at 8:06 p.m.

The meeting reconvened at 8:20 p.m.

SP-2006-00031 Glenn Oaks
PROPOSED: Fill in the floodplain of Limestone Creek for a road crossing over the creek to provide access for residential development.
ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre); FH Flood Hazard - Overlay to provide safety and protection from flooding
SECTION: 30.3.05.2.1(2), which permits water related uses such as boat docks, canoe liveries, bridges, ferries, culverts and river crossings of transmission lines of all types.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre)
ENTRANCE CORRIDOR: No
LOCATION: Running Deer Drive [Route 808], approximately 1.1 miles from its intersection with Richmond Road [Route 250].
TAX MAP/PARCEL: Tax Map 94, Parcels 15, 16, 16A
MAGISTERIAL DISTRICT: Scottsville
(Scott Clark)

Mr. Clark summarized the staff report.

The applicant proposes fill in the floodplain of Limestone Creek for a road crossing over the creek to provide access for residential development.

Staff has identified the following factors favorable to this application:

a. The proposed stream crossing would not increase the 100-year floodplain elevation.
b. Permitting this crossing would allow the property to be developed in a manner (partially using the Rural Preservation Development option) that would avoid the anticipated groundwater impacts on the adjacent Running Deer subdivision while keeping a large area of the property in a conservation easement.
c. The proposed subdivision related to the crossing would include a donation to the County of a greenway corridor shown in the Comprehensive Plan.

Staff has identified the following factors unfavorable to this application:

1. The County does not typically encourage floodplain crossings for the purpose of creating development lots. However, in this case the property would be developed with or without the crossing. With the crossing, environmental resources over all are better protected.
2. Creation of a private road crossing over a dam might lead to future requests for County ownership or management of the crossing if the landowners cannot afford necessary maintenance.

Based on the findings contained in this staff report, staff recommends approval of Special Use Permit 2006-00031 with the conditions recommended in the staff report minus condition 3. Condition 3 reads, "There shall be no land disturbing activity or removal of vegetation within the stream buffer, exclusive of the dam, except as required for mitigation." Staff asked that condition 3 not be imposed after discussion with engineering staff. It could be taken differently. The control of the disturbance of the dam was covered under condition 1 and condition 3 is not necessary.

Staff also recommends that the Commission make the necessary findings under Section 14-234(C)(1-5) and approve the applicant's private roads request for the Glen Oaks subdivision.

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

Don Franco, representatives for KG Associates, said that he was present to answer any questions.

Ms. Joseph asked how many lots will this private road serve that go over the dam, and Mr. Franco replied 15 lots.

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

Mr. Craddock noted concerns about where the wildlife around the lake would go.

Mr. Franco relied that the wildlife could still live in the small pond.

Mr. Craddock pointed out that it had been a rural lake for years. He questioned where the development rights would go and whether they could resurface.

Mr. Davis noted that issue would be addressed at the time of the subdivision approval. If it is assigned to conservation it may not be used.

Mr. Cannon said that unless the easement is broken it will not be used.

Mr. Davis replied that is correct.

Mr. Cannon pointed out that when this proposal first came forward it was in a different configuration. At that time he was concerned with the ground water. Their concerns forced the applicant into new mode. The applicant was using the existing crossing that was already a disturbed area. This is a responsibility and thought out response to a set of circumstances that were identified early on. Therefore, he was in support of the request.

The other Commissioners agreed.

Ms. Joseph pointed out that at the prior hearing many folks came in and expressed concerns about the condition of the existing dam. She voiced concern about the maintenance agreement. She hoped that the private road would cover the dam itself so that the people moving into that area would understand who will be responsible for the maintenance of that dam.

Mr. Davis said that it could be done through a special use permit condition or under private road waiver standards as a condition to require funding responsibility of the private street to include the dam if they chose to do that under the private street ordinance. The issue, as discussed by staff, is how that is done, which is very important. It will require a street maintenance agreement and should include the dam depending on the cost of replacing it and if it applies to 15 lot owners or the entire Glenmore Homeowner Association. It will be a substantial cost. There was a similar situation in Key West where a great deal of

expense was placed on the general fund of the county to replace it. It was not a legal obligation to the County, but a political obligation. This could present a similar situation in the future.

Ms. Joseph invited Mr. Franco to address the maintenance issue.

Mr. Franco said that he had been working with the Homeowner's Association on whether the 15 owners or the whole Homeowner's Association would be responsible. If the preservation tract belongs to the association, then the dam should be the responsibility of the whole association. When the subdivision plat come in it will have those details.

Ms. Joseph asked Mr. Davis if he suggested that it be part of the special use permit or be part of the subdivision plat approval process.

Mr. Davis said that it could be done in either place. But, it was just as easy to deal with under the private street waiver as a condition for an adequate financial commitment to a road maintenance agreement that includes the dam.

Mr. Cilimberg agreed with Mr. Davis suggestion.

Mr. Morris requested that they definitely should let the Homeowner's Association know that they need to get involved from the beginning and take a look at it.

Action on SP-2006-00031:

Motion: Mr. Strucko moved, Mr. Zobrist seconded, for approval of SP-2006-00031, Glenn Oaks, with the conditions set forth in the staff report, as amended, as follows:

2) The stream crossing shall be built in general accord with the plan titled "SP 06-031 Application Plan," revised "Aug. 01, 2007," and prepared by Roudabush, Gale, & Associates, Inc.
3) Any subdivision on the portion of the property designated as Rural Areas in the Comprehensive Plan shall be designed in general accord with the plan titled Glenoaks, dated "8/1/07", and prepared by "kg Associates." The development lots east of Limestone Creek and Lot 26 shall be developed as a Rural Preservation Development in accord with section 10.3.3.3 of the Zoning Ordinance, with Lot 26 as the preservation tract. As part of the same subdivision, the applicant shall convey to the County a portion of Lot 10 (whose boundaries are approved by the Parks and Recreation department) for use as a greenway.
4) The dam shall allow for a continuation of the base flow in the stream.
5) The following conditions shall be met prior to issuance of a grading permit to allow installation of the stream crossing or submittal of the final subdivision plat, whichever comes first:
    a) The applicant must obtain a map revision, letter of revision, or letter of amendment as required from the Federal Emergency Management Agency (FEMA) and copy the County Engineer on all correspondence between the applicant and FEMA.
    b) County approval of an erosion and sediment control plan for the stream crossing.
    c) County approval of the final lane configuration over the stream crossing with the final road plans.
    d) Natural Resources Manager approval of a stream buffer mitigation plan in general accord with the conceptual plan shown on the plan titled "SP 06-031 Application Plan," revised "Aug. 01, 2007," and prepared by Roudabush, Gale, & Associates, Inc.
    e) County approval of final design plans and hydrologic/hydraulic computations for the stream crossing.
    f) Army Corp of Engineers, Virginia Department of Environmental Quality, and other necessary state and federal agency approvals must be obtained prior to issuance of grading permits.
    g) Approval of the final design of the dam by the Department of Conservation and Recreation, as necessary.

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

Ms. Joseph stated that SP-2006-00031, Glenn Oaks was approved and will go before the Board of Supervisors with a recommendation for approval on November 14.

Action on Waiver for Private Road Request:

Motion: Mr. Zobrist moved, Mr. Strucko seconded, for approval of the private roads waiver request for SP-2006-00031, Glenn Oaks, with the conditions set forth in the staff report, as amended, to include adequate financial arrangements in the road maintenance agreement to include the dam replacement costs.

Mr. Morris asked that the Homeowner's Association be made aware of their responsibility regarding the costs of the road maintenance agreement which includes the dam.

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

Ms. Joseph said that the Planning Commission made the necessary findings under Section 14-234C(1-5) to approve the applicant's private roads request for the Glen Oaks subdivision.

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.

Staff asked if the Commission would like to cancel their November 6 meeting due to the election. The Commission delayed the discussion to next week's meeting when Mr. Edgerton was present.

A joint City/County Planning Commission meeting will be held on September 25 at City Hall at 6:00 p.m. Mr. Cilimberg described the tentative agenda, which would be on transportation.

There being no further items, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 8:50 p.m. to the Tuesday, August 28, 2007 meeting at 4:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

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