Albemarle County Planning Commission
November 9, 2010

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, November 9, 2010, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Russell (Mac) Lafferty, Duane Zobrist, Vice-Chairman; Ed Smith, Thomas Loach, Chairman; Linda Porterfield, Don Franco and Calvin Morris. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Other officials present were Eryn Brennan, Senior Planner; Summer Frederick, Senior Planner; Elizabeth Marotta, Senior Planner; Bill Fritz, Chief of Current Development; Wayne Cilimberg, Director of Planning and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Loach, Chairman, called the regular meeting to order at 6:00 p.m. and established a quorum.

Committee Reports:

Mr. Loach invited committee reports from the Commissioners.

- Mr. Morris reported that the Pantops Community Advisory Council met last week. The council decided to keep moving on as planned and see where it goes.
- Mr. Lafferty reported that CHART met and had presentations from the City of Charlottesville, University of Virginia, and Albemarle County on mobility plans, particularly for bicycles and pedestrians.
- Mr. Loach noted the Crozet Streetscape has started and proceeding well with no major problems.
- Mr. Franco reported the CIP Oversight Committee met earlier today to begin the process to prioritize the recommendations of the Technical Review Team for which projects should be funded for the upcoming year.

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

Other Matters Not Listed on the Agenda from the Public:

Mr. Loach invited comment from the public on other matters not listed on the agenda.

Neil Williamson spoke in recognition of the Marine Corps anniversary.

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

Review of Board of Supervisors Meeting – November 3, 2010

Mr. Cilimberg reviewed the actions taken by the Board of Supervisors on November 3, 2010.

Consent Agenda:

a. <u>Approval of Minutes</u>: June 8, 2010, August 24, 2010, and September 28, 2010.

Mr. Loach asked if any Commissioner would like to pull any item from the consent agenda.

Motion: Mr. Zobrist moved and Mr. Franco seconded for approval of the consent agenda.

The motion passed by a vote of 7:0.

Mr. Loach noted that the consent agenda was approved.

Public Hearing Items:

a. AFD-2010-0012 High Mowing District Review
b. AFD-2010-0009 Blue Run Additions
c. AFD-2010-0011 South Garden Additions
d. AFD-2010-0013 Hardware Additions
e. AFD-2010-0014 Keswick Additions
f. AFD-2010-0015 Fox Mountain Addition
g. AFD-2010-00017 Sugar Hollow Additions
h. AFD-2010-00018 Buck's Elbow Mountain Addition
(Eryn Brennan)

Ms. Brennan presented a PowerPoint presentation and summarized the requests.

- The first proposal is for the ten-year district review of the AFD-2010-12 High Mowing Agricultural/Forestal District Review.
- The parcels in this district are located roughly south of Batesville and bound by Plank Road along the West, Heartwood Road along the South, and Stillhouse Road along the East. The parcels are primarily forested with some large tracts of open space. The district was created in 1999 and originally included 598 acres. In 2009, one parcel was added. Currently there are seven parcels in the district with 661 acres. The district is entirely designated as Rural Areas in the Comprehensive Plan. The parcels around and in the district are zoned RA, Rural Areas.
- Landowners were notified of the renewal by certified mail on September 14, 2010. As of this date, no landowners have requested withdrawal from the district.
- On October 11, 2010, the Agricultural and Forestal District Advisory Committee recommended renewal of the district for an additional ten-year period, which is set to expire on January 16, 2011.
- Staff recommends the Planning Commission recommend renewal of the High Mowing Agricultural and Forestal District for a period of ten years from the date of the Board of Supervisors action.

Mr. Loach opened the public hearing and invited the applicant and public comment. There being none, the public hearing was closed and the matter before the Planning Commission for discussion and action.

Motion: Ms. Porterfield moved and Mr. Morris seconded to recommend approval of the renewal of AFD-2010-00012, High Mowing Agricultural/Forestal District for another ten-year period.

The motion passed by a vote of 7:0.

Mr. Loach noted that AFD-2010-00012 High Mowing Agricultural/Forestal District Review would go to the Board of Supervisors on December 1, 2010 with a recommendation for approval of the renewal for another ten-year period.

Ms. Brennan reviewed seven proposals for 16 parcels to join 7 different districts totaling roughly 472 acres. All of the parcels requesting to join the Agricultural/Forestal Districts are zoned Rural Areas and identified as Rural Areas in the Comprehensive Plan.

- One application has been received to add two parcels to the South Garden Agricultural/Forestal District, which total approximately 38 acres.
- One application has been received to add four parcels to the Blue Run Agricultural/Forestal District, which total approximately 231 acres.
- One application has been received to add two parcels to the Hardware Agricultural/Forestal District, which total approximately 60 acres.
- One application has been received to add one parcel to the Fox Mountain Agricultural/Forestal District, which is 120 acres.
- One application has been received to add four parcels to the Keswick Agricultural/Forestal District, which totals approximately 31 acres.

- One application has been received to add two parcels to the Sugar Hollow Agricultural/Forestal District, which totals approximately 9 acres.
- One application has been received to add one parcel to the Bucks Elbow Mountain Agricultural District, which totals approximately 21 acres.

Staff recommends that the Planning Commission recommend approval of all the proposed additions as identified in the staff reports. The Board of Supervisors' meeting has been changed to December 1.

Mr. Loach invited questions for staff.

Mr. Lafferty asked what conditions would exist that staff would not recommend an application other than it not being in the Rural Area.

Ms. Brennan replied that the requirements to join an Agricultural and Forestal District include that the parcel has to be adjacent to a parcel already in the district or within one mile of the core. A core parcel is identified as a parcel that was part of the district when it was originally formed. The parcel also has to meet the minimum acreage requirement.

Mr. Loach opened the public hearing and invited the applicants to address the Commission. There being none, he invited public comment. There being none, the public hearing was closed, and the matter was before the Planning Commission for action.

Motion: Mr. Morris moved and Mr. Lafferty seconded to recommend approval of all the requested additions for AFD-2010-0009 Blue Run Additions, AFD-2010-0011 South Garden Additions, AFD-2010-0013 Hardware Additions, AFD-2010-0015 Fox Mountain Addition, AFD-2010-0014 Keswick Additions, AFD-2010-00017 Sugar Hollow Additions, and AFD-2010-00018 Buck's Elbow Mountain Addition.

The motion passed by a vote of 7:0.

Mr. Loach noted that the seven requests would go to the Board of Supervisors on December 1, 2010 with a recommendation for approval.

SUB-2009-00062 Wickham Pond

The request is for preliminary plat approval to create a total of 49 lots (48 single-family lots, one (1) lot with a multi-family dwelling containing 8 units, on 12.2 acres zoned Neighborhood Model Development (NMD) and Entrance Corridor (EC). The property, described as Tax Map 56, Parcel 91A is located in the Whitehall Magisterial District on the south side of Three Notched Road [State Route #240] 0.14 miles from its intersection with Park Ridge Drive [Route #1250]. This property is within the Crozet Community, and is designated as Urban Density Residential - residential (6 - 12 units/acre in Crozet) and supporting uses such as religious institutions, schools, commercial, office and service uses. (Summer Frederick)

Ms. Frederick presented a PowerPoint presentation and summarized the staff report for SUB-2009-62 Wickham Pond – Phase II – Block 1 Critical Slopes Waiver Request.

The applicant's proposal is to modify Section 4.2.3.2 to allow disturbance of approximately 0.03 acres of critical slopes for the infrastructure for fifty-five (55) residential lots to do mass grading and construct the roads. The Neighborhood Model zoning was received through ZMA-2005-18, Wickham Pond Phase II, which was approved September 13, 2006.

Favorable factors:

1. Application meets technical criteria for disturbance of critical slopes; and,
2. Disturbance of critical slopes allows for development in line with current zoning, comprehensive plan designation, and an approved re-zoning application plan.

Unfavorable factors:

1. None indentified

In staff's opinion, favorable factors outweigh unfavorable factors. Therefore, staff recommends approval of this request.

Mr. Loach invited questions for staff from the Commission. On page 3, it says the disturbance of critical slopes is needed to grade the site for buildings, roads, and driveways as well as to install a sanitary sewer line. If this request was not approved what would be the effect on the potential development of the site.

Ms. Frederick replied that the development would have to change. In order to develop the site the applicant would have to reconfigure the lots and relocate the roads.

Mr. Loach questioned if his support or denial of this had to be predicated on critical slopes or could it be based on another policy decision. In other words, with the situation in Crozet right now where they don't have funding for the library, the park or the roads why should he want to essentially maximize another site by approving the critical slopes since it would exacerbate the situation that they already have in Crozet.

Mr. Kamptner replied that the decision should be based on the critical slope issue in the analysis, which should be tied to the standard of whether or not approving the critical slopes waiver is consistent with the public health, safety, and general welfare. In this particular case, the Board of Supervisors in approving the application for this plan has already legislatively decided that the overall scheme of development is consistent with public health, safety, and general welfare. Getting back to the question, his analysis, and consideration of the application should be limited to the critical slope issue and the development of this particular site.

Mr. Fritz pointed out in the rezoning proffer statement there is a cash proffer to mitigate impacts, which includes schools, libraries, fire/rescue, parks, or other public uses serving the Crozet community. Some of those impacts have been addressed by the prior proffer and accepted by the Board of Supervisors. The proffer totals $405,000 or $4,500 per unit for 90 units for purposes of mitigating impacts from this development.

Mr. Loach questioned what the current standard would be.

Mr. Zobrist noted that the $4,500 was the standard at the time the rezoning was approved. The current standard is about $17,000 for townhouses.

Mr. Fritz pointed out that he had been told it was about $12,700.

Mr. Loach noted that they were at about one-third of the cost of the standard.

Mr. Lafferty noted in the write up it said that staff underestimated the critical slopes. He asked if staff has a percentage of the amount underestimated and whether staff missed it by 10 percent or 300 percent.

Ms. Frederick replied that she did not believe the engineering percentage was 300 percent. As Mr. Custer states, the difference is the applicant did not include the northern side of a swale that he would have included in his calculations

Mr. Fritz noted that staff analyzed it, but the numbers are not there in terms of the percentages. Staff still looked at it in terms of impact.

There being no further questions, Mr. Loach opened the public hearing and invited the applicant to address the Commission.

Frank Pohl, with Pohl Consulting, noted the project was approved by the Board in 2006. The preliminary plat was processed and approved, but the applicant pulled the project because of obvious market conditions. At this time, the applicant has a potential party interested in this project. The property has been used for the past six or seven years for farming and cattle. The open field has basically been used for cattle. The line down the middle of the property was determined not to be a stream by Tamara

Ambler when they initially went for the plat. In addition, she determined the other stream existed, which they have a buffer around. There is also a buffer in the top corner that was determined to constitute a stream. The roaming cattle in this area have tracked around in the low spot, which helped deteriorate the stabilization that has over time contributed to the "critical slopes." The critical slopes on the south east side of the property against the buffer will be behind home lots. They are trying to minimize as much grading as they can in that area. Everything in the front is an open pasture. He would be happy to answer questions.

There being no questions for the applicant, Mr. Loach invited public comment.

Neil Williamson, with The Free Enterprise Forum, said while they don't have any position on this specific application in front of the Commission, they raise the question again in regard to an administrative approval. It seems as though there is clear information and standards that could be applied that would not require this board to act. In addition, he was slightly concerned with some of the questions that have been raised and perhaps the critical slopes waiver should be a part of the actual rezoning. The situation where they are considering the number of units is actually an opportunity to make a change rather than to come forward at this point with what is really an administrative approval if they meet the standards. He urged staff to move forward with administrative approval of a Neighborhood Model District in the growth area that is looking for a critical slopes waiver.

There being no further public comment, Mr. Loach closed the public hearing to bring the matter back before the Planning Commission for further discussion and action.

Mr. Loach said he wished there was a way they could balance their ability to pay for infrastructure with their ability to accept new growth. To some extent, he actually agreed with Mr. Williamson that this probably should be an administrative approval. However, at this time under the existing conditions he felt that putting more development in Crozet would be a detriment to the community. It is a matter of how do they maintain a balance in growth so that the current residents don't see degradation in their quality of life. With that said, he heard what Mr. Kamptner was saying that this has to be based on the critical slopes and that is how it will be judged.

Motion: Mr. Franco moved and Mr. Morris seconded to approve SUB-2009-62 Wickham Pond – Phase II – Block 1 Critical Slopes Waiver Request upon finding that the request satisfies the requirements of section 4.2.3.2 as outlined in staff's report.

The motion passed by a vote of 7:0.

Mr. Loach said that SUB-2009-62, Wickham Pont – Phase II – Block 1 Critical Slopes Waiver Request was approved. This item does not require Board approval.

SUB-2010-00115 The Preserve at Glenmore
PROJECT: The Preserve at Glenmore Preliminary Subdivision Plat.
PROPOSED: 144-acre subdivision and private street request to allow 11 single family lots, 1 private street right of way, and 1 residue parcel.
ZONING CATEGORY/GENERAL USAGE: Rural Areas (RA)
SECTION: 14-206; 14-232
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Area 4 in Rural Areas.
ENTRANCE CORRIDOR: No.
LOCATION: The intersection of the eastern terminus of Farringdon Road [private] and Carroll Creek Road [private].
TAX MAP/PARCEL: 94-15
MAGISTERIAL DISTRICT: Scottsville.
(Elizabeth Marotta)

Ms. Porterfield disclosed the fact that she lived in Glenmore and was a part of at least a group of three or more persons owning real property within the vicinity of the transaction who may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the transaction. She is able to participate

in this transaction fairly, objectively and in the public interest. (Attachment: State and Local Government Conflict of Interests Act Transactional Disclosure Statement Dated 11/9/2010)

Ms. Marotta presented a PowerPoint presentation and summarized the staff report.

This is a request for Private Street Authorization in conjunction with SUB-2010-115 The Preserve at Glenmore, which has also been called up for Planning Commission review.

The subject property is tax map/parcel 94-15 that has frontage on Carroll Creek Road. The proposal is for the following:

- 144 acre subdivision to create 13 total lots:
  - 11 single family lots (5- 21.6 acres)
  - 1 residual (60.33 ac)
  - 1 parcel for new private street to be maintained by Glenmore Homeowner's Association
  - Private street authorization requested is to allow one new private street with a 50 foot right-of-way. The request is being made under Chapter 14-232.A.3, General Welfare.
- The property is zoned RA and is a by-right proposal.
- There are no zoning proffers attached to this property.
- There is a special use permit with conditions that applies to this property for a stream crossing over Limestone Creek Crossing. To date the crossing has not been built. If the applicant chooses not to build the crossing, then the conditions of the special use permit won't apply. The configuration of the subdivision proposed does not match the conditions of the special use permit. If the subdivision is approved and platted as it is proposed today, the applicant will never be able to make use of the special use permit, and it would exist as it exists today.
- The private street does not facilitate more development or lots than could be built by-right with no new street. The property has enough frontage and development rights to plat 15 lots by right with no discretionary actions.
- Sec. 14-232.A.3- General Welfare Provision:

  One or more private streets may be authorized if the general welfare, as opposed to the proprietary interests of the subdivider, would be better served by the construction of one or more private streets than by the construction of public streets.
- In this case, the applicant has not provided a public street alternative because Carroll Creek Road was approved as a private street in conjunction with a rezoning approval. Direct access to Running Deer, which is the closest public street, is prohibited.
- For purposes of reviewing this request staff has found that there is no viable public street alternative. Staff's analysis focused on whether the public interest would be better served by the private street or no new street at all.
- Approval of the private street would not facilitate more development or lots in the Rural Areas than could be built by-right. The property has enough frontage and development rights to plat 15 lots by right with no discretionary actions. By right, the applicant could plat 15 lots arranged in a row along Carroll Creek Road. If this were to happen the lot configuration would likely be long narrow lots with minimum frontage along Carroll Creek Road. The resulting disturbance of installing the length of driveways needed to access the building sites would likely be more than if the private street were approved.

In summary, staff found that the preliminary plat meets the requirements of Chapter 14. Additionally, because approval of the private street will not result in more lots being created than could be done by right and because approval of the private street would likely result in less disturbance in order to access the building sites, staff recommends approval of both the private street request and the subdivision plat. Staff does not recommend any specific conditions, but will remind the Commission that final plat approval is subject to Chapter 14. This includes approval by all reviewing agencies and departments as well as any supplementary information such as maintenance agreements for the private street.

Mr. Loach invited questions for staff from the Commission.

Mr. Zobrist asked how they are getting so many small lots when it is supposed to be 21 acres if this is a by-right development.

Mr. Fritz replied that this is a result of parcels that existed prior to December 10, 1980. For any plat in the Rural Areas, particularly when there have been divisions since December 10, 1980, staff goes back and looks at what the parent parcel boundaries were and at the plat to see how the development rights were allocated to make sure they meet the "kernel rule." In this case, the applicant has properly allocated the development rights.

Mr. Lafferty asked by putting in a private road if there are any provisions for bicyclists or pedestrians. It seems that they are bypassing the state's desire to have pedestrian and bicycle access.

Mr. Fritz replied no, because those design standards exist only within the development areas. Even if this were a public street in the Rural Area, there is no requirement for sidewalks or bicycle paths.

Mr. Lafferty suggested they should think about that in the future.

Mr. Zobrist asked if this was the tract they approved as a by-right when they approved the stream crossing because it is Rural Areas.

Mr. Franco replied as staff mentioned there was a special use permit that came through several years ago that had a Rural Preservation Development associated with it. This proposal is not consistent with that. What he understood staff to say was that if this is executed the special use permit goes away and cannot be executed because it is a different plan. However, it is the same dirt.

Mr. Zobrist noted that they still have the other two subdivisions that were approved at that time.

Mr. Franco noted that both the Leake and Livengood requests still exist.

Mr. Zobrist noted that this request was the Rural Preservation Development previously approved by the Commission.

Mr. Franco replied that was correct.

Mr. Fritz pointed out that the approved special use permit had a different lot layout with the lots fronting along Carroll Creek with a road across Limestone Creek for the lots to the east. If the property is developed as shown on the subdivision plat, they can't meet the conditions of the special use permit. Therefore, the applicant could not use the special use permit.

Mr. Morris asked if they would be on public water.

Mr. Fritz replied no, the property is outside the jurisdictional area.

Mr. Morris noted that the residents on Running Deer have occasional problems with their well water. There was a ground water assessment that had to be done for the water requirement.

Mr. Loach said on page 3 it says Planning Commission action on this subdivision application is non-discretionary and is based on whether the plat does or does not meet Chapter 14 of the Code of Albemarle. The next paragraph goes on to say the Site Committee has reviewed it and says it meets the requirements under Chapter 14. Therefore, what does that mean as far as what the Commission's action is since staff has already told them it meets the conditions.

Mr. Kamptner replied for the subdivision plat the Commission's approval is going to be ministerial based on the Commission first considering the private street. The plat is dependent on the private street being approved. With respect to that, the Commission has discretion to determine whether or not the facts support meeting the findings for the granting of the private street. Once the Commission makes that decision all of the evidence that has been presented so far shows that this plat meets the requirements of

the Subdivision Ordinance. Therefore, the Commission has no discretion to deny it since it is a ministerial function at that point.

There being no further questions for staff, Mr. Loach opened the public hearing and invited the applicant to come forward to address the Commission.

Bill Leadbetter, engineer with Roudabush and Gale, offered to answer questions. He thought that staff has covered everything.

There being no questions for the applicant, Mr. Loach invited public comment. There being no public comment, the public hearing was closed and the matter before the Commission for discussion and action.

Ms. Porterfield said this has been an interesting study in finding out what can and can't be done. She thanked Ms. Marotta for her assistance. She explained her reason for calling up the request as follows.

- There was consternation and the need for a study because the Glenmore homeowners were not aware of what was being done when the application was submitted. One of the reasons she called the request up was because they needed to make sure everybody understood all of the facts. Staff put together a good meeting at which some of the officers from the
- Glenmore Homeowner's Association in attendance. She thought a lot of good information was disseminated and then follow up questions went on. She wanted to give the applicant credit because he has been doing his best to work with the community.
- As Mr. Zobrist said, it is the same dirt as was approved with the special use permit. When the special use permit was approved in 2006 there were numerous promises made to the Glenmore community by the developer at the time. Those promises were reasons why the community was willing to let this piece of Rural Area be accessed through Glenmore. As proposed, there is no other way for this area to be accessed except through the main gate of Glenmore traveling over the private streets. The Carroll Creek Street, which is actually under construction at this point, was a part of the Leake proposal. It is now being used to access this Rural Areas development from Farringdon Road in the Q section. This access is includes all of the construction traffic. One of the agreements in 2006 was that there would be no access to the public street, which is Running Deer, which she was sure accessed this dirt way back when.
- The community is not necessarily thrilled that they have lost part of the promises from 2006, including common areas and trails. Unfortunately, the current development is so far down the pike that these are not available and they have to accept the fact that common areas and trails are lost. The current developer is doing his best to do a good job on building the streets. He is doing a good job on making an amendment to a supplemental declaration that was filed by the previous developer. The current developer is going to make that much better and more reasonable for the 750+ lot holders who currently live in Glenmore who are going to accept these roads. That is going to be done.
- At this point, she wanted to say that she believed that both the private street and plat should be adopted. Staff indicated a few conditions for the adoption. The only thing she would like to add so there is no confusion is that the maintenance agreement be worked out between the developer or the developer's company and the Glenmore Community Association. That should be the piece that the County is looking at prior to signing the plat. She wanted it to be clear because the Glenmore Homeowner's Association has to maintain these roads and need to make sure that the actual agreement is what has been discussed between them and the developer. She did not think there was going to be a problem, but just wanted the County Attorney to know what he is looking at so he knows what is coming in. She did not think Mr. Sansovich sees that as a problem. It can be just a letter or something on top of their supplemental declaration that says that they both agree and have the Homeowner's Association representative to sign it along with the developer. She asked if that was all right with the applicant. She would like to add that as a condition. That way it is very clear and they don't have any confusion like they did on a previous application. Based on that she would offer to make a motion in support of the requests.

Mr. Zobrist said he recalled that the Homeowner's Association has virtually nothing to say about these lots because the prior developer reserved all rights of passage over those roads anyway. He asked if that was correct.

Mr. Franco noted that the former developer had the right to add property to the association and had executed that right on this particular property. As such, as he understands when it was sold that right was transferred to the current developer. Therefore, he has a right to utilize the private road system irrespective of what the Homeowner's Association says.

Mr. Zobrist noted that was a little different from what he heard said. Ms. Porterfield wanted to put a condition in that makes them come to an agreement with the Homeowner's Association. He asked that if they assume that they can't come to a conclusion, then could they have their own maintenance agreement among these 11 lots and exercise their by-right ability to pass over the access that they have acquired in the purchase of the property.

Mr. Kamptner replied that the Subdivision Ordinance already requires that this subdivision would have to submit a maintenance agreement that meets the ordinance's standards.

Mr. Zobrist said that he thought that Ms. Porterfield is asking for a condition that they have to agree with the Homeowner's Association and he is suggesting that they don't.

Mr. Kamptner said there would be a concern if they could not reach an agreement. He asked if this is already subject to the Glenmore Declarations.

Mr. Fritz suggested that questions be asked of the applicant. He pointed out the only private street that is under review is Grey Heron Road since all of the other private streets that get them back out to Route 250 have already been approved and have maintenance agreements.

Mr. Zobrist said his question is a little bit different. He wants to make certain that the condition is that the developer reaches an agreement with the Homeowner's Association. He understood what Mr. Franco said. The way he understood this when they looked at it last time the developer retained the rights irrespective and did not need the Homeowner's Association to have the right-of-way. Ms. Porterfield is suggesting that now the Homeowner's Association has the ability to restrict the right-of-way if they can't come up with an agreement.

Ms. Porterfield said that she did not say that. What she said was there needs to be a maintenance agreement in place. The maintenance agreement at this time is essentially between this developer, not the prior one, and the people who are going to do the maintenance, which is at this point the Glenmore Homeowner's Association. She did not believe that the applicant has any problem with that because they have already agreed to it. It is just a question of getting it drawn up. She just wanted the County Attorney to understand what piece is coming into him. That is all she was trying to say.

Mr. Franco said in response to the question, he thought it is going beyond any requirement that is out there now.

Mr. Fritz said that staff's advice would be the only maintenance agreement open for review or debate was Grey Heron Road.

Ms. Porterfield noted there is also Limestone Crossing, which is a very small cul-de-sac, that she believed was part of it. She questioned if Limestone Crossing is going to be maintained.

Mr. Fritz replied that Limestone Crossing was done with a prior action, which was also approved with Leake.

Ms. Porterfield asked even though it has been shortened, and Mr. Fritz replied yes.

Mr. Kamptner asked to go back to the question if this land would be subject to the Glenmore Declarations.

Mr. Leadbetter, the applicant, replied yes it is.

Mr. Kamptner said that the Declaration provides that residential lots will contribute to maintain the private improvements. Therefore, if that is correct, then they will be contributing to the cost of the Glenmore roads.

Ms. Porterfield pointed out that the Supplemental Declarations that were filed by the previous developer in approximately March of this year gave buyers of lots in this area the ability not to pay any homeowner's dues until they had a building permit. That would be different than what is affecting all of the rest of the homeowners in Glenmore. Her understanding is that Mr. Sansovich is willing to amend that Declaration to put in the same line as what the current residents of Glenmore are doing. The Homeowner's Association is 100 percent behind Mr. Sansovich in making that change. That is what she needs everybody to understand would be coming in.

Mr. Fritz noted his advice to the Commission, as the agent for the Subdivision, would be to encourage that to occur. He hoped that the applicant follows through with that and it is to everybody's satisfaction. However, his advice to the Commission would be that they don't have the authority under any provisions of the ordinance to make it a requirement or a condition of the approval. Certainly, they can encourage it and outside of a condition do what they can to facilitate that. However, his advice to the Commission would be that they don't have the authority to do that. Mr. Kamptner can offer his interpretation of it.

Mr. Kamptner said the condition language they used for the other subdivision for the Equestrian parcel subdivision provided the maintenance agreement complies with 14-317 unless or in the alternative if the land is already subject to contributing to private improvements under a recorded instrument. In this case, it was the recorded declarations that was sufficient. They do have subdivisions that expand or add lots over time and the standard maintenance agreement that they typically see recognizes that there may be a reshuffling of obligations when the plat is approved. However, sometimes the obligations are already imposed. In the recorded declarations they reviewed for the Equestrian parcel subdivision those obligations were already addressed. In that case, the obligation to maintain the roads was picked up by the Country Club and not the Equestrian parcel. However, there was a conscious decision as to how contributions for private improvements were going to be done.

Ms. Porterfield said she felt that he needed to know that there is no maintenance agreement at this point between the Equestrian Center and the Glenmore Community Association. That information has been transferred to Ms. McCulley to see whether there is anything that can be done about it. She did not see the documents and had no idea. However, she believed the owner is refusing to enter into a maintenance agreement.

Mr. Zobrist suggested that they go back to Grey Heron.

Ms. Porterfield said what she is trying to say is that this developer is willing to do this. The people in Glenmore were burned by the fact that in 2006 there was a special use permit that did not put all the promises made into it. Because nothing was put in the special use permit about the trails and the open space, which was the trade off for the connection into Glenmore, the people in Glenmore have lost a great amount of benefit to having this land connected into Glenmore. The current developer is doing his very best to do this right under the circumstances of what he got himself into. She was sure it had not been fun for him the last eight to nine weeks when they have been trying to find out what can and cannot be done. She just did not want to see another problem if they can avoid it. That is why she was simply suggesting to avoid future ramifications that the maintenance agreement included the Supplemental Declarations. It does no good to bring in a road that has to be maintained by the Homeowner's Association and then potentially have lots back there that don't get a building permit for years and years. The private roads would be used to access the lots, but there would be no money coming in to maintain the roads

.

Mr. Franco said it sounds like an agreement basically has been made between the developer and the community association and they are just waiting for it to be finalized. In the best interest of the County, he believed it would not be appropriate for them to be involved in that private matter. He did not see the benefit of the Commission getting into contractual things between the private parties when it is not part of

what they are reviewing in this case. He thought they were reviewing something for private roads and there needs to be a maintenance agreement. Beyond that, he did not think they should condition it. The biggest problem that they could run into is similar to the previous plan that came forward where this plan is abandoned and then they start over. They should leave the private matter between the private parties.

Mr. Loach asked for direction from Mr. Kamptner.

Mr. Kamptner said that Mr. Fritz and Mr. Franco have stated it pretty well. There needs to be an escape that allows this subdivision that meets all the County's requirements to proceed if that agreement is not reached.

Mr. Zobrist said that it would still need a maintenance agreement for those lots and then they were okay.

Mr. Fritz said it is a requirement of the ordinance and they don't have to say anything about it because it has to happen.

Mr. Kamptner said that he says that fully recognizing what the Glenmore's concerns are. That is part of the issue with private streets. He knows that there may be people who are entering the roads. Glenmore is an exception because it has a gate, but private streets are private only to the extent that they are maintained by private funds and not by state funds.

Ms. Porterfield said if she was hearing him correctly, he was looking for either a maintenance agreement amongst Mr. Sansovich's 13 lots for Grey Heron Road, which means it would be removed from the Glenmore Community Association's group of roads. Alternatively, he was looking for what he and the Glenmore Community Association have been talking about in a Supplemental Declaration amendment for Grey Heron Road, so it will become part parcel of all the rest of the Glenmore roads.

Mr. Fritz said that either of those options would be acceptable as long as it is maintained privately whether the 11 lots on Grey Heron Road chose to maintain it outside of the Glenmore Homeowner's Association or Grey Heron Road is brought into the Glenmore Homeowner's Association. Alternatively, there could be a third option that he does not know. However, the issue for the County is not the County and not the State.

Ms. Porterfield said the only thing she could say about all of this is if in the future there were promises made, it would be a good idea to try to codify those promises so that they don't run into the problems that they have run into with this one. That way if the developer changes, the new developer knows what was asked and what was agreed to. The people in the area also would know what was asked and agreed to.

Motion on Private Street Proposal - Section 14-232.A:

Motion: Ms. Porterfield moved and Mr. Zobrist seconded to approve the private street authorization as requested in the applicant's justification letter dated 9-28-2010 and associated with SUB-2010-00115 The Preserve at Glenmore Preliminary Plat, as the request satisfies the requirements of Chapter 14.232.A.3 and furthers the general welfare as outlined in the staff report.

The motion passed by a vote of 7:0.

Motion on Preliminary Plat:

Motion: Ms. Porterfield moved and Mr. Zobrist seconded to approve Preliminary Plat SUB-2010-115 The Preserve at Glenmore with the conditions outlined in the staff report, as the plat satisfies the requirements of Chapter 14.

The Current Development Division shall not accept submittal of the final site plan for signature until tentative final approvals for the following conditions have been obtained. The final site plan shall not be signed until the following conditions have been met:

1. Current Development Planning approval
2. Current Development Engineering approval
3. Albemarle County Building Official approval
4. Fire and Rescue Division approval to include:
   a. Must comply with the Virginia Statewide Fire Prevention Code. Final approval is subject to field inspection and verification.

The motion passed by a vote of 7:0.

Mr. Loach said that the Planning Commission approved a waiver from Section 14-232 to allow a private street for SUB-2010-00115 as well as SUB-2010-00115, The Preserve at Glenmore Preliminary Plat, subject to the conditions recommended in the staff report. The items do not require Board approval.

Old Business:

Mr. Loach asked if there was any old business.

- The request was made to have staff continue to write their recommendation out in a form on a separate piece of paper that can serve as the Commission's motion

- Mr. Fritz regretfully announced this was Elizabeth Marotta's last Planning Commission meeting since she was moving to Social Services as part of the County's restructuring. The Planning Commission thanked Ms. Marotta for her services and wished her well.

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

New Business:

Mr. Loach asked if there was any new business.

Ms. Porterfield pointed out that she noticed the County was currently advertising vacancies on the Places29 Community Advisory Council. She thought that the County is being discriminatory in how they are treating development areas and it was very wrong. Currently they have three development areas that actually have master plans, two of which, being Crozet and Pantops, have advisory councils. The Village of Rivanna does not. Now there is going to be an advisory council for Places29 and that master plan has not been adopted yet. She thought that it was unfair and needs to be looked into. She thought that they need an advisory council for the Village of Rivanna or they need not to have advisory councils for the other three development areas.

Mr. Loach said that he could actually see Ms. Porterfield's point. Just seeing the value of the advisory committee to the Crozet community from having sat on the advisory council along with Mr. Lafferty, he found it to be a vital part of the master planning process for both the original one and then for any of the updates and in between. Development is a dynamic process and they have to deal with it that way.

Mr. Morris pointed out when the changes in the advisory council were briefed to the Commission there was an assumption that the stakeholders were going to take over. He heard Ms. Porterfield's objection. It was clear that the Village of Rivanna needed an advisory council that was set forth just like the other two and now the third. He agreed with Ms. Porterfield a thousand percent.

Mr. Loach noted that in the first quarter of next year there was going to be a general meeting of all the advisory committees and obviously, Village of Rivanna should be represented.

Mr. Cilimberg noted that it was intended for the Village of Rivanna to be represented through the stakeholder's group, which was going to be the group asked to attend.

Ms. Porterfield noted that she has never heard from anybody since she raised this concern at a previous PC meeting.

Mr. Cilimberg replied that it was a Board decision and he would carry the message back.

Ms. Porterfield said that she had talked to her Board member and having seen the advertisement for Places29 intended to send an email to all the members of the Board of Supervisors. However, she would like to think she could say that the Planning Commission believes that this should be equitable across the board. She asked if all Commissioners were in agreement.

Mr. Franco said that he was still a little confused on what the role of that committee is going to be. He understood when the master plan came forward that the advisory committee would be the conduit between staff or the government side and the community. He thought during implementation there was a role to continue to participate. He has heard different things from time to time. Ms. Porterfield has talked about a need to see anything that goes through Rivanna to be brought to her attention. If the intend is that these committees become the Planning Commission he was not sure that is the right role. Therefore, he would like to understand better what that role is intended to be when the master plans have been adopted.

Mr. Loach noted that he was not sure what he means by they were intended to be a Planning Commission. What advisory councils are intended to be is to try to get voices from the public to see what the consensus is on how the master plan is being implemented and how anything coming up for development relates to the master plan. Otherwise, the Planning Commission and Board are the only two voices to get to hear about it versus the three minutes they get. He thought it is important. They have seen it in Crozet repeatedly where issues have come up in between the five-year planning cycle. He would also point out that the five year cycle takes about a whole year or longer to go through to get everything done. It is actually kind of a constant thing.

Mr. Franco said without a doubt it is a good thing to have the public input. Anything they can do to create a better conduit to the public and to understand what their thoughts and feelings are is great. That is especially important when they create the Comp Plan. Once they create the Comp Plan, it is used as our guide. There will be gray areas or interpretations and other things like that. However, if it were taking on a new role during that period of time he would like to understand it better before he blindly says he supports the idea.

Mr. Lafferty noted that the council was advisory.

Mr. Zobrist agreed that they were advisory, but they were not limited. He understood when the advisory council was formed in Crozet that they wanted them to be the eyes and ears of the community to the Board of Supervisors on any issues with respect to the County and community. He thought it was a wonderful idea. He was sure that there was just some oversight and that somewhere along the line they would figure it out if they want to have somebody out there or not. The Commission cannot tell the Board whether to have it or not. He certainly supports citizen voices with respect to any issues that involve the County.

Mr. Franco said that he did too. What he understood early on was that it was a mechanics issue that they could not staff it. Therefore, it was going to become less official. In order to be official they had to keep minutes, and had to be staffed along with a whole lot of other things that had to occur. Even as an informal group it could still be recognized and continue to have that voice.

Mr. Zobrist said advisory councils have done a marvelous job for this community. He thought every community ought to have one. He was sure that the Board listens to them.

Ms. Porterfield said that the whole point to this is they can't do three and not four. Either they don't do any of them or they do every single one of the master planned development areas because that is what has been started. They did Crozet, Pantops, and should have done the Village of Rivanna after the master plan was adopted. It is interesting that they are doing Places29 before it has been adopted. That is her point. It would run exactly like she had heard the input coming in from both Crozet and Pantops. It has been very useful for the people bringing applications here because they have people they could actually talk to who are in the community.

Mr. Morris said one of the greatest values is that the Commissioners gets advanced information and feedback about upcoming development. He felt it was extremely valuable.

Mr. Cilimberg pointed out in the discussion with the Board part of that discussion was about what staff would be able to support and what the role of the master planning councils would be. One item discussed was the advisory council would not have a formal role in the review of every project that comes to the Planning Commission. It was not intended to be a planning commission locally that is feeding into a Planning Commission appointed by the County Board of Supervisors. The biggest role was for the advisory master planning councils to work in particular on implementation items. They don't have much money to cover the expenses in the capital program, as well as for other matters that they may identify that are in the spirit of trying to accomplish the master plans. In Crozet, as Mr. Loach knows, the master planning council is continuing to meet on a monthly basis. Staff will provide support periodically or quarterly, which is what they said staff would try to do. With Pantops there is somewhat of the same kind of an arrangement. He would expect that any of the other master planning councils would be like that. He thought the biggest reason why there was not a recommendation for a Village of Rivanna master planning council was because they did not have any projects identified that would be in the implementation that they could foresee in the next few years. If the Planning Commission feels this is something that needs to be revisited by the Board, staff would certainly make sure they do that.

Ms. Porterfield noted that she thought there are a number of projects on the horizon and that a lot of stuff has been going on in the Village of Rivanna over the past year and a half or so. Tonight was a good example and there were probably more to come.

Mr. Cilimberg said that tonight was an example of a development proposal. When created the master planning council's purpose or actual charge was not to review development proposals.

Ms. Porterfield said no, but they are the eyes and ears of the community. She thought that it was the equitability or fairness. If they are going to have three other ones, then they should have four. If they can't do four, they don't do any. If they are not going to be equitable, then they are not treating every citizen within this county the same way.

Mr. Loach agreed with Ms. Porterfield. He asked that they go back to the advisory councils, which allows the community to respond rather than react. Obviously, they did not see the advisory committee making a decision about the applicant being compliant tonight. These are things that have a global impact on the community that the advisory committee themselves thinks are important enough to take to discussion or that people bring to the advisory committee for discussion. It goes both ways. However, he agreed with Ms. Porterfield that if they are going to have one that they should have one for each master planned area. If this is the direction they are going, then he approves having the citizens of growth areas deal with master plans. Again, the advisory master plan councils were to allow the citizen input to guide the development within their communities in concert with the Comprehensive Plan.

Mr. Morris noted that it was a member of the advisory council that picked up if they were going to have a fire station in Pantops that it needed to have a meeting area as part of the master plan. The advisory group found it and not staff.

- In summary, it was the consensus of the Planning Commission that Village of Rivanna should have a master planning council. The Commission felt that master planning councils are important to the master planned areas and, to be equitable, all master planned areas should have councils.

- **No Meeting on November 16, 2010 and November 23, 2010**
- **Next Meeting: November 30, 2010**

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

Adjournment:

With no further items, the meeting adjourned at 7:15 p.m. to the November 30, 2010 meeting at 6:00 p.m. at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

_____

V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)