Albemarle County Planning Commission
April 5, 2011

The Albemarle County Planning Commission held a public hearing on Tuesday, April 5, 2011, at 6:00 p.m., at the County Office Building, Room #241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Other officials present were Bill Fritz, Director of Current Development; Judith Wiegand, Senior Planner; Gerald Gatobu, Principal Planner; Joan McDowell, Principal Planner; Claudette Grant, Senior Planner; Glenn Brooks, County Engineer, Wayne Cilimberg, Director of Planning; and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Zobrist, Chair, called the regular meeting to order at 6:01 p.m. and established a quorum.

Committee Reports

Mr. Zobrist asked for committee reports from the Commissioners.

- Mr. Lafferty reported the CHART Committee met and discussed alterations to the Route 76 Bike Route and looked at the preliminary data on the Long Range Transportation Plan.
- Secondly, Mr. Lafferty reported the MPO Policy Board met and discussed the Route 76 Bike Route, the Six Year Improvement Program, the Transportation Improvement Program, the Unified Planning and Work Program, and Long Range Transportation Plan.
- Ms. Porterfield reported the Historic Preservation Committee met. The Historic Preservation Committee is sponsoring a number of events during Historic Preservation Week, which is currently underway.
- Secondly, Ms. Porterfield noted the Village of Rivanna Community Advisory Committee had its first meeting last Monday, March 28th.
- Mr. Morris reported the Pantops Advisory Group met with the Chair of the Business Roundtable in attendance.
- Mr. Zobrist reported he attended the MPO Technical Meeting and the ACE Committee Meeting.

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

Other Matters Not Listed on the Agenda from the Public:

Mr. Zobrist invited comment from the public on other matters not listed on the agenda. There being no comments, the meeting moved to the next item.

Items Requesting Deferral:

ZMA-2010-0007 North Pointe
PROPOSAL: Rezone approximately 269 acres from Planned Development - Mixed Commercial "PD-MC" zoning district which allows large-scale commercial uses; and residential by special use permit (15 units/ acre) to Planned Development - Mixed Commercial "PD-MC" zoning district which allows large-scale commercial uses; and residential by special use permit (15 units/ acre) to amend the original proffers. A maximum of 893 units is proposed by special use permit at a gross density of 3.31 units/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. Urban Density Residential - residential (6.01-34 units/acre) and supporting uses such as religious institutions, schools, commercial, office and service uses. Regional Service - regional-scale retail, wholesale, business and/or employment centers, and residential (6.01-34 units/acre). Office Service - office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in the Piney Mountain Community.
ENTRANCE CORRIDOR: Yes
LOCATION: North of Proffit Road, east of Route 29 North, west of Pritchett Lane and south of the Rivanna River.
TAX MAP/PARCEL: Tax Map 32 Parcels 20, 20A, 20A1, 20A2, 20A3, 22K, 23, 23A, 23B, 23C, 23D, 23E, 23F, 23G, 23H, 23J and 29I
MAGISTERIAL DISTRICT: Rivanna (Claudette Grant)
APPLICANT REQUESTS INDEFINITE DEFERAL.

Mr. Zobrist noted that the applicant requests indefinite deferral for ZMA-2010-00007 North Pointe. He invited the applicant to address the Commission.

Valerie Long, representative for North Pointe, asked for an indefinite deferral so they could work out some issues that have come up recently.

Motion: Mr. Morris moved and Mr. Loach seconded for indefinite deferral of ZMA-2010-00007, North Pointe as per the applicant's request.

The motion was passed by a vote of 7:0.

Mr. Zobrist noted that ZMA-2010-00007 North Pointe had been indefinitely deferred.

Regular Items:

SDP-2011-00006 Walton Middle School Tower Tier II
PROPOSED: An AT&T treetop Personal Wireless Service Facility comprising of a ninety two (92) foot tall monopole and associated ground equipment.
ZONING CATEGORY/GENERAL USAGE: RA, Rural Areas-; agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)
SECTION: 10.2.1 (22) which allows for Tier II personal wireless facilities by right in the RA Zoning District
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Area in Rural Area 4 - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots)
ENTRANCE CORRIDOR: YES
FLOOD HAZARD OVERLAY: YES
LOCATION: 4217 Red Hill Road [State Route 708] at the intersection of Red Hill Road and Scottsville Road [State Route 20]. TAX MAP/PARCEL: 101000-00-00-056A0
MAGISTERIAL DISTRICT: Samuel Miller (Gerald Gatobu)

Mr. Gatobu presented a PowerPoint presentation and summarized the staff report.

This is a request to install a Tier II personal wireless service facility near the Walton Middle School. The proposed facility will consist of an 87-foot tall monopole, associated equipment and a fence. The monopole will be ten (10) feet above the reference tree. A balloon test was conducted on March 2, 2011. The balloon was flown at 10' above the reference tree. During the site visit, the balloon was launched a few feet off the proposed monopole location. The balloon was raised to the same elevation as the proposed pole, ten (10) feet above the reference tree. The balloon was visible for a short period from Red Hill Road [State Route 708]. There is a vantage point from Ms. Anderson's property, which was way up the hill that was mitigated by the backdrop. The balloon was visible from the property directly adjacent to the school, but the balloon had a backdrop and was not sky lighted. Additionally, staff drove up and down Scottsville Road [State Route 20]. The balloon was not visible along Scottsville Road [State Route 20]. Trees around the balloon provide a backdrop; therefore, the monopole's visual impact is highly mitigated along the Scottsville Road entrance corridor [State Route 20]. The monopole at the proposed elevation of ten (10) feet above the reference tree will not have an adverse visual impact on the Scottsville Road [State Route 20] entrance corridor, and Red Hill Road [State Route 708] due to its limited visibility. The ground equipment will not be visible from the entrance corridor, and the proposed "Java Brown" color of the monopole and antennas will further limit views of the facility.

The most important principle for siting personal wireless facilities in Albemarle County is visibility. The tower will be 87' feet tall and there is a critical slopes waiver associated with the installation of an entrance off Red Hill Road to the tower site. The ARB recommended approval of this request on March 21, 2011. There is no loss of historical and scenic resources related to installation of the tower. Ms. Anderson's property is in a conservation easement. Most of the surrounding properties are also in conservation easement. However, this request will have absolutely no effect on them. There will be 305 square feet of critical slopes disturbed. The critical slopes were man-made during the construction of Red Hill Road. The application meets technical criteria for disturbance of critical slopes. The tower will be a good thing for the middle school because they have technology that they needed to use. The tower will be right there to allow the school's use of the technology as well as provide service along Route 20. Those are the public purposes of greater import they are looking at here.

Staff recommends approval of the associated critical slopes waiver disturbance from Section 4.3.2.2 Staff recommends approval of the personal wireless service facility at the proposed height of ten (10) feet above the reference tree.

There being no questions for staff, Mr. Zobrist opened the public hearing and invited the applicant to address the Planning Commission.

Valerie Long, representative for the applicant, AT&T, presented a PowerPoint presentation and explained why they were working with the schools.

- The County School division actually has invested a significant amount of money in technology both wireless communication devices for their principals and administration staff as well as CPS devices for their buses among other things. Those are the two that are most significantly impacted by the fact that that at five of the County schools there is no wireless coverage to support that technology. Therefore, they are all schools that are out in the rural areas. This is one of five schools. The others are Yancey Elementary School, Scottsville Elementary School, Stony Point Elementary School, and Meriwether Lewis. At four of those sites, they are working directly with the School Division to locate AT&T equipment on school property. They made the investment in the technology. It works wonderfully at the schools where they have wireless service. It does not work at all where they don't. Therefore, the School Division actually came to AT&T and asked AT&T to rectify the problem by providing service at those schools. It has been a very good working relationship so far. They were able to find locations at all of the properties that worked well. All schools except for Meriwether where they are going to mount some antennas on an existing power pole. That application will come to the Commission in a few months. They are working with four of the schools directly on site. This is one of those sites.
- Among other things, the wireless technology can provide very effective communication services for the school staff, particularly during emergency procedures. Smart phones provide all of the student contact information in the event of an emergency and they need to contact parents and so forth. They want to have access to all of that service. There are obviously all kinds of technological benefits of having wireless services in the schools.
- Finally with the GPS tracking devices they can monitor exactly where all of their buses are at every moment and be able to make certain that the buses are stopping and picking up when they are supposed. They know exactly when the buses pull in and leave the schools. Right now, they can get this data from these schools, but not in real time. There is a delay period, which makes it less efficient for them. When schools have real time data, they see incredible reductions in expenses and increased efficiencies. Therefore, they want to apply those benefits to all the schools. That is how they got here.
- In the presentation, she presented photo simulations and photographs of the leased area noting where the tower would be located. She noted the location of the critical slopes they were proposing to disturb, which were man-made and created as part of the construction of the road. The lease area has a bit of dense undergrowth, which will do a good job of screening the ground equipment from the road and adjacent properties. They have a tree survey as required by the ordinance. There are a few trees that will need to be removed just to build the access road. Otherwise, all the trees within 200 feet will remain as well as all other trees. The pole will be no more than 10' above the top of the tallest tree. As indicated there will be wooden fence around the ground equipment shelter and the panel antennas will be flush mounted to the outside of the pole as required by the ordinance. There will be a nice backdrop of trees, which will help the tower blend in very nicely with the adjoining property. The ARB did recommend approval unanimously.
- She noted the critical slopes area that staff has evaluated it for the technological criteria and determined that it meets the criteria for the waiver. It is just over 300 square feet. She reviewed the propagation map showing the existing AT&T coverage in this area. Except for the small patch of on-street coverage, there is essentially no coverage for Route 20. Next, she noted the propagation map that is projected once this site if it is approved and constructed. She requests the Commission's approval of the Tier II facility and also approval of the critical slopes waiver.

Mr. Zobrist invited questions for the applicant.

Loach asked if they or the School Board look at any potential adverse health and safety effects.

Ms. Long replied that they have not. First, the four schools where they are proposing to install the equipment right on the school property they have met with and made presentations to the PTO organization for each school. She is going to be making a presentation to the School Board in a few weeks. That is one of the questions that always come up any time they are working on facilities, particularly when they are near schools. She can provide Mr. Loach with as much information that he wants. Two of the schools, Yancey and Stony Point, AT&T are actually proposing to mount the antennas directly on the buildings. It will be on the gym at Yancey and on the front of the school at Stony Point. Some of the families there had some questions and wanted to make sure about the health effects and safety concerns. AT&T engaged a consultant to provide an analysis and reports confirming that at each of those sites there is not a health risk based on the federally established health and safety standard. There is a threshold that is established by the FCC and all the sort of national standardizing organizations as she understands it is a threshold above which any radio frequency emissions is determined not to be safe. All the carriers like AT&T that are licensed by the FCC are required by the terms of their license never to exceed those levels at any of their sites. They had a study conducted which concluded that if those sites, for instance, were approved they would still be less than five percent of the health and safety threshold. Therefore, at a location like Walton the key issue is that the strength of the emissions dissipates very rapidly as one moves away from a facility. So the taller the tower is, the less risk there

is. Even at the sites where the poles are shorter and just 10' above the trees, the studies indicate that. There is a lot of data, which she could share with anyone at any time, that indicates even if an individual who is standing at the base of one of these poles because the signal dissipates so rapidly that by the time the signal hits the ground it is less than 1 percent typically. There was concern because of the schools the antennas would be closer to the ground than they are for instance here at Walton, so they wanted to reassure those parents that even when they are closer and right on the building it is still less than 5 percent of the health and safety threshold standards.

Ms. Monteith asked if these towers generate revenue.

Ms. Long replied that they do. She added that nothing is final yet with the schools. When she makes a presentation to the school board and ultimately the school board has to vote to move forward with all of these. AT&T committed to going ahead and working through the zoning process because ideally if everything is approved they want to construct these sites this summer while the students are out of school just to keep them out of the construction area. Assuming everything is approved there would be rent revenue to the school division for each of those four schools. The details of those lease arrangements are still being worked out. However, yes it is a win/win for the schools because they get their technology to work and have a private enterprise constructing the infrastructure that is needed. Of course, the third benefit to the community is better service for everyone.

Mr. Zobrist invited public comment. There being none, he closed the public hearing to bring the matter before the Planning Commission.

Motion on Personal Wireless Facility:
Motion: Ms. Porterfield moved and Mr. Morris seconded to approve SDP-2011-00006, Walton Middle School (AT&T) Tier II Personal Wireless Service Facility at the proposed height of ten (10) feet above the referenced tree.

The motion was passed by a vote of 7:0.

Motion on Critical Slopes Waiver:
Motion: Ms. Porterfield moved and Mr. Morris seconded to approve SDP-2011-00006 Walton Middle School (AT&T) Tier II Personal Wireless Service Facility critical slopes disturbance waiver as shown by staff based on finding that the request satisfies the requirements of section 4.2.3.2 as outlined in the staff's report.

The motion was passed by a vote of 7:0.

Mr. Zobrist noted that SDP-2011-00006, Walton Middle School (AT&T) Tier II Personal Wireless Service Facility and critical slopes waiver were approved.

SUB-2010-00156 Willow Lake – Preliminary
PROPOSED: Request for preliminary plat approval for the creation of ten single family lots, and one common space lot on 7.42 acres. This application includes a request to modify Section 4.2.3.2 of the Zoning Ordinance to allow activity on critical slopes.
ZONING CATEGORY/GENERAL USAGE: R4 Residential SECTION: Chapter 14 Section 206 of the Subdivision Ordinance; and, Chapter 18 Section 4.2 of the Zoning Ordinance
COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density in Urban Area 4
ENTRANCE CORRIDOR: Yes
LOCATION: Southeast side of Willow Lake Drive, approximately one quarter mile from its intersection with Route 20S.TAX MAP/PARCEL: 77E1-01-00-01700, 77E1-01-00-000B0, 77E1-01-00-000C0, 77E1-02-00-000A0,
MAGISTERIAL DISTRICT: Scottsville (Bill Fritz)

Mr. Fritz presented a PowerPoint presentation and summarized the staff report.

The proposal is to create ten single family lots on Willow Lake Drive. The Planning Commission reviewed a proposal to subdivide this property at its meeting on January 25, 2011. At that time, the proposal was to create 10 lots (6 single family and 4 duplex lots for a total of 14 dwellings). The Planning Commission also considered a critical slopes waiver. The Planning Commission deferred action to allow the applicant and the residents of Willow Lake to meet and attempt to resolve any differences.

The applicant has submitted information to the Willow Lake residents. As of the preparation of this summary, no formal response has been received by the County stating the position of Willow Lake residents. The revised plan contains the following significant revisions:

1. The development is now for only single family lots. The total number of units has been reduced from 14 to 10.
2. The relocated pedestrian access to the lake has been increased from 5 feet wide to 15 feet wide.
3. The lots on Willow Lake drive make use of shared driveways. The two lots at the end of Willow Lake Drive

have individual entrances.
4. Grading is shown for all dwellings.
5. Dwellings and grading are located 100 feet or more from the edge of Willow Lake.

The grading shown on the plat adequately addresses previous concerns raised by staff. The grading is minimized and is located at least 100 feet from the edge of Willow Lake. Staff has re-analyzed Willow Lake and verified that the lake is not subject to the buffers of the Water Protection Ordinance (WPO). The grading proposed by the applicant meets the standards of the WPO even though the WPO does not apply to this property. The proposal by the applicant to restrict the location of the grading satisfies the intent of Section 4.2. Glenn Brooks, County Engineer, is present to answer questions. These units could be moved down out of the critical slopes. Driveways are exempt from critical slopes. Therefore, driveways could be placed on critical slopes to reach the area that is not critical slopes. It is staff's recommendation that granting the waiver, which would allow the units to be moved farther from the lake, is better than allowing development to occur closer to the lake. It basically establishes an area of no disturbance next to the lake.

Staff recommends approval of the waiver of Section 4.2 to allow the disturbance of critical slopes, subject to the following conditions:

1. All grading shall be in general accord with the grading shown on the plat titled "Willow Lake View Preliminary Subdivision Plat" last revised March 23, 2011. Grading for lots C1 and C2 shall be performed at the same time. Grading for lots C3, C4, C5, and C6 shall be performed at the same time. Grading for lots C7 and C8 shall be performed at the same time. Grading for lots A1 and A2 may occur individually. This condition shall be noted on the final plat.
2. The final plat shall show easements necessary to allow grading to occur in accord with condition 1.
3. The final plat shall include the new 15 foot wide access to the common area shown on lots C1 and C2.
4. Access to the parcels shall be in general accord with that shown on the plat titled "Willow Lake View Preliminary Subdivision Plat" last revised March 23, 2011.

In essence what these conditions do is say that the grading for these two units will occur at one time, the grading for the four units will occur as one project, and the grading for these two units will occur as one project. They could lump them together. Staff did not see a tie between all of the units and why they broke it up like that. That is one part of the condition. The other part of the condition is that the grading needs to be in general accord with the grading they see on this plan. There are some easements necessary to allow that to occur. They are also requiring a condition of approval that this easement be provided, which is regardless of whether or not there is any negotiation to abandon the easement. The condition requires this easement. Condition 4 ensures the joint shared driveways.

Mr. Zobrist invited questions for staff.

Ms. Porterfield asked how they can be sure the grading will be done as described since she understood they intend to sell these lots to individuals.

Mr. Fritz replied the conditions require the notation to be placed on the plat and staff would not issue the grading permit unless it was consistent with the conditions.

Ms. Porterfield said he was saying in order for anybody to build a house on C-1 and C-2 both houses have to be built at the same time.

Mr. Fritz replied no, the grading has to be done at the same time. One of the other conditions requires that the necessary easements be placed on the plat. The most likely scenario is that one person will buy lot C-1 and lot C-2 and develop them together. It is not a guarantee. The grading for C-1 and the grading for C-2 have to be done at the same time. They won't issue a grading permit for just C-1 or just C-2. Both must be done simultaneously.

Ms. Porterfield asked once one site is built how they will control run off from the other graded sites.

Mr. Fritz noted that it would be one erosion sediment plan for both. Part of the erosion sediment control plan includes stabilization. Therefore, the lots have to be stabilized according to the ordinance.

Ms. Monteith noted that the language refers to what happens to the critical slopes, but not the percentages. Because the applicant is not proposing to disturb any critical slopes according to the staff report what they got was that zero percent of the slopes are being disturbed. At what point, if this were passed this evening, would they be voting on these critical slopes.

Mr. Fritz replied that critical slopes are being disturbed in the plan.

Ms. Monteith agreed.

Mr. Fritz said that is why they are here and that is what the plan clearly shows. The Planning Commission would be voting on the waiver for critical slopes this evening based on the conditions and plat before them.

Ms. Monteith said they did not get updated criteria. Are they to use the criteria that they got from the previous staff report.

Mr. Fritz replied that 50 percent of the site is critical slopes. They did not recalculate the area of critical slopes that are being disturbed. That is information that they did not provide in this case. They just did not do the calculation. However, they can see where the areas are that are being disturbed.

Mr. Lafferty said just so he was clear about this – in lot C-3 the retaining wall on the right hand side is up to 10' high.

Mr. Fritz replied that he would have to take a look at it to give him the numbers. He would come back with the answer.

Ms. Porterfield asked if staff has been out on site to see exactly where the easement is running and what it is running into.

Mr. Fritz replied that the easement was just running to the property line. He had not walked that easement.

Ms. Porterfield said that it actually runs down in her view to an area that is going to be hard for the Homeowner's Association to access into the dam because it comes in below it and would require vehicles to go up and over the dam. It would be hard if they had to bring down any trucks, tractors or anything like that. It just seems kind of an odd place as opposed to bringing it across a little bit higher on the applicant's property so it could run into a point where it could access the dam.

Mr. Fritz said the existing access on the property is the only deeded access that they are able to find. The only other access is directly off Route 20.

Ms. Porterfield noted that she understands that it is. However, obviously from the previous owner of the property, they were allowing access across the property that was flatter and much more direct and took them directly to the dam site. That has been going on for about 20 years.

Mr. Lafferty noted that the easement on the left looks like it would go through the proposed house.

Mr. Fritz noted that he had scaled it off and it does not. The easement goes over top of the storm drain pipe.

Mr. Zobrist asked if it was a deeded easement.

Mr. Fritz replied yes.

Mr. Zobrist asked how they would abandon it.

Mr. Fritz replied only with the consent of the Homeowner's Association. That is why he is saying it is there.

Mr. Zobrist noted the easement would stay there unless there was an agreement, and Mr. Fritz replied that was correct.

Mr. Zobrist invited Mr. Brooks to come forward and discuss questions about the Water Protection Ordinance and the buffers.

Ms. Porterfield said it was her understanding that when a project for this property came in during the 90's there was a look at the property and it appeared at that time that things that are in today's Water Protection Ordinance would be valid at that time. She was wondering why now the Water Protection Ordinance simply is not in play.

Mr. Brooks replied that there was a comment made on the preliminary plat application by David Hirschman and Jack Kelsey. He signed the memo as collective review in the Engineering Department at that time. That does not mean the buffer was applied. It was a comment made during the review and the mapping later did not carry that through. From his recollection, it was Hauser or someone who was making that application who proved that the pond was not connected to Cow's Branch. Therefore, they basically said that comment was addressed and to move it forward. The mapping is the same as it always has been in this area. That is what he is going by. The mapping does not include a buffer on Cow's Branch. There has been a lot of discussion about him making a decision. He has not made a decision. If his inaction is a decision, then he guessed they could refer to it in that way. However, he was

goes to the USGS and County mapping to figure it out, which basically is where the buffers are taken from. He does not personally do that. It is done in the GIS Division from the aerial photos and the old USGS maps.

Mr. Zobrist asked if there is no Water Protection issue if they stay behind the red line.

Mr. Brooks replied that is correct. In fact, it is better than he could get with the Water Protection Ordinance because if he did agree that there should be a buffer here if they did a stream assessment and came to that conclusion, then they could move 50' into it. It is a development area.

Ms. Porterfield said at the last meeting there was some discussion about potential blasting to be able to build one or two of these houses. She asked if blasting was used what kind of effect that could have on that earthen dam.

Mr. Brooks replied that it was hard to say. He did not think they could predict.

Ms. Porterfield asked could blasting be precluded.

Mr. Brooks referred the question to the County Attorney if there is a mechanism to preclude blasting.

Mr. Kamptner said as part of a critical slopes waiver he did not know the answer off hand. He would think about the question while they were discussing it.

Mr. Zobrist asked if the applicant could proffer there be no blasting.

Mr. Kamptner replied yes, if they want to limit their options and the mode of their construction. If they are willing to offer it as a condition of the critical slopes waiver, that is fine. Whether the County can compel dictating a mode of construction if there is a connection that can be made to the critical slopes and if the blasting is essential in the critical slopes areas, he did not know.

Ms. Porterfield said that she did not know either. However, it was a concern that came up. It would be nice to know which way it could be handled.

Mr. Zobrist suggested the Commission ask the applicant when he comes up. He thanked Mr. Brooks.

Mr. Fritz asked to respond to Mr. Lafferty's question. There will be a 10' retaining wall along the highest point.

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

Janet Mathews noted that she owned the property with her partner, Jim Bonner as the principals in BD Land Properties, LLC. They are actually property owners with property in their own neighborhood and not developers. She presented a PowerPoint presentation with their amended preliminary plat proposal.

- In the original plat details they had ten lots to be created from four existing lots. They had 14 dwelling units, 4 duplex and 6 single-family homes. They had 6 curb cuts along willow Lake Drive that fronted the lake. Approximately 4 acres was to be dedicated to open space.
- The critical slope waiver they were talking about was 50 percent or 1 of the 4 parcels they own. Sixty percent of what they own will actually be dedicated to open space and the critical slopes will remain undisturbed.
- They have offered a 15' pedestrian and vehicle easement to provide access to the lake. It used to run along the northern most property line, which is included in the plat. The actual northern most boundary fronts the lot that is already included in Willow Lake HOA. They have moved that access point based on the topography and long conversations with the Willow Lake Property Owner's Association. Concerns were expressed by their neighbors about the impact of Willow Lake view; about the lake; the architectural standards, and access easements. At the last meeting the Commission suggested they mediate the issue and try to find mutually beneficial solutions. They requested the deferral and have done so. They requested a special meeting of the property owner's association to be called as soon as the Planning Commission meeting was adjourned.
- A lot of these issues have been covered in a letter the Commission received from the Willow Lake Property Owner's Association this evening. They got the letter 12 minutes before they left home for the meeting. At the special meeting of the POA the architectural renderings and first revised plat were presented and the list of the questions were written down and answered. They addressed the issues brought up by the neighbors. They took careful note of the concerns and revised the plans. They have spent $30,000 on this plat so far. They had field run topography done by Brian Ray and Roger Ray. They have adjusted the grading plan to provide the 100' buffer, which means it is within the WPO standards. The lake belongs to the homeowner's association that they hope to join. These are not things they were required to do, but just wanted to. No duplexes can be built because there are less than one-half acre lots. In order to build a duplex it required at least a one-half acre lot. The curb cuts were reduced to three.

- They presented their second revised plat and grading plan. The creation of Willow Lake View POA with covenants and restrictions were actually borrowed from the Willow Lake POA covenants and restrictions that exist and apply to the neighborhood they live in. That includes the environmental restrictions that protect the lake, habitat and the architectural controls. They are identical. They offered to have a Willow Lake board member join the architectural review committee to address the architecture concerns. They agreed to have the new homes become part of the Willow Lake Homeowner's Association after the construction process was completed. They did not want to do that in advance because it has been a little difficult.
- The amended plat detail has ten single-family home lots. Duplexes have been eliminated. Their curb cuts have been reduced by a half. The majority of the property they own will be dedicated to open space. It will have no road access. It can never be developed and protects habitat. It increases the common area to be held by Willow Lake Property Owners' Association.
- The 15' pedestrian/vehicle easement she was not sure what Ms. Porterfield was talking about. It is almost identical to the access that they enjoy today. Therefore, whoever showed her the easement was mistaken as to its location. It does not put one out behind the dam, but takes one straight to the edge of the lake. According to their engineer's calculation it was nearly identical.
- Their revised grading plan addresses the issues that were brought before the Planning Commission at the last meeting. It does a good job in dealing with the topography. It is a careful and thoughtful solution that our engineer came up with. The side elevation shows the grade and retaining wall. In considering the critical slopes waiver she asked that they realize the houses have to be a certain distance from the street. The actual ground disturbed on the critical slope will not be the entire house sitting on the edge of the critical slope. There is a driveway that will occupy two parking places. There will be an amount of fill.
- In summary, they have fewer homes going from 14 to 10, which are all single-family homes. There will be new homes similar in size and proximity, shared driveways, improved lake access, creation of covenants and restrictions, 100' setback from the lake, environmental protections governed by C & R's, and the majority of the critical slopes will be preserved as open space. The homes will be included in the Willow Lake Property Owner's Association if they so chose. She asked for a favorable decision from the Commission since they have addressed the concerns from the previous meeting.

Mr. Zobrist invited questions for the applicant.

Ms. Porterfield asked the applicant to show where the easements come in so it can be cleared up.

Ms. Mathews pointed out the easement goes where the existing curb cut is. As one walks into the curb cut the driveway will turn right and go directly down to the edge of the Willow Lake Property Owner's Association.

Ms. Porterfield asked if it is taking it into the swampy area below the dam or is it taking it up to the point where the dam can be accessed on a level field. There are a lot of trees down there.

Bryan Smith, applicant's engineer, pointed out there is a group of trees in the common property line between lots C1 and C2. The shaded area shown is the access easement that comes down to the property line. Where the access easement dumps out at the property line there is a wide sanitary sewer easement. There is a manhole there that is kept clear. It leads them into the level area there. From there they would have to go to the left a little bit in back of lot C2 to get to the crest of the earth and dam. It does not line up directly with the earth and dam.

Ms. Porterfield asked if he was saying they could use the current sanitary sewer easement as opposed to being led.

Mr. Smith replied yes, that it was still their property but was kept clear. That is the option.

Ms. Porterfield asked if that would bring them over to the edge of the dam so they could drive up on the dam as opposed to going further down to the edge of their property, which is in those trees.

Mr. Brian Smith replied yes, that was correct. They thought that was a better choice. Since there was already an easement there they wanted to utilize the Albemarle County Service Authority sanitary sewer easement.

Ms. Porterfield noted she thought there were some misconceptions.

Mr. Brian Smith noted that it was not exactly where they walk today.

Mr. Lafferty asked if she could delineate the dedicated open area.

Ms. Mathews replied that she could dedicate the delineated open area.

Brian Smith pointed out that 99 percent of that area was critical slopes. Therefore, they were staying away from that.

Ms. Mathews noted that 60 percent of their property holdings have been dedicated.

Mr. Zobrist said he assumed they would be deeding that to the existing HOA when they start to build. That is not clear on the plat since it was shown as common open space.

Ms. Mathews replied yes, that is correct. That is something they need to accept. She did not know what their process is. That is not clear. They have offered to dedicate the open space and all of the lots as soon as construction is complete.

Mr. Zobrist asked staff if that would be made clear on the plat.

Mr. Fritz replied that he would have to discuss it with Mr. Kamptner. However, that would have to be a condition of approval. It has to go to an association, but it could go to a Willow Lake View Association as opposed to a Willow Lake Homeowner Association.

Mr. Fritz said he would craft a condition.

Ms. Mathews pointed out the reason they had the Willow Lake View Association created was to bridge that process. In the C & R's it clearly says that the open space will be given to Willow Lake POA.

Ms. Porterfield asked if the Willow Lake View Association had no responsibility for the lake.

Ms. Mathews replied that is not true. They have identical covenants and restrictions to Willow Lake View as are shown in Willow Lake's HOA's with protections and restrictions.

Ms. Porterfield asked about financial responsibility if there was a need, such as the dam breaches, and they have to put the dam in again. She asked about an assessment and how would that be handled on the easement property. She asked if their ten lots or houses have any financial responsibility to the maintenance of that lake.

Ms. Mathews replied that they don't own the lake. Therefore, they can't have any financial responsibility for it.

Ms. Porterfield asked if that is why she is not willing to put it into the master homeowner's association.

Ms. Mathews replied that has nothing to do with it.

Ms. Porterfield asked if it would seem fair.

Ms. Mathews replied without getting into too detail it was recommended to them by their attorney that they create C & R's because the county requires it for any subdivision. They did so based on the fact that this process has been incredibly difficult. Dealing with the Willow Lake Property Owner's Association has been in many ways a very positive experience, but it also has been very drawn out in terms of trying to make progress. Their main concern was to have the identical restrictions in place without having to go through getting hammered by their neighbors.

Mr. Zobrist asked that the discussion not go into their relationship with the neighbors since it was not relevant. He asked if there were further questions for the applicant.

Ms. Porterfield asked the engineer if he feels that these houses if they are given the critical slopes waivers can be built without blasting.

Brian Smith replied he did not know and that it was questionable since they are cutting wedges into the slope for the basements. If they do digging and find rock there it would have to be analyzed. If the rock could not be jack hammered it might have to be blasted. Blasting may not be the worst thing. Anybody doing blasting would be insured. If there is any damage to anything they would be the ones accountable for the mistake. Another choice could be if they found a little rock near Willow Lake Drive that rather than have a full basement they might decide to have a one-half basement.

Ms. Porterfield said she was hopeful he would say it could be done without blasting.

Brian Smith said he wished he knew what was underneath the soil.

There being no further questions for the applicant, Mr. Zobrist opened the public hearing and invited public comment.

The following members of the public spoke expressing their concerns and respectfully asked the Planning Commission in making their decision and recommendation to the Board of Supervisors they take into serious consideration the numerous concerns presented that have occurred over the last two months and are hereby reflected in their letter.

Kim Olsen, Willow Lake Property Owner's Association Board Member, made the following comments.

- In an effort to prepare and present an adequately represented response to share with the Planning Commission at tonight's meeting the Board decided to summarize the views, opinions and concerns of those members of the Willow Lake POA who have registered their preferences by email, petition and in person to date. Of those responding the majority of Willow Lake Property Owner's members opposed the following: the waiver of the critical slope ordinance, the subdivision and development of the four undeveloped parcels, and relinquishing the existing lake access easement. Of those responding the majority of Willow Lake Property Owner's members favored the following: the inclusion of the subdivided lots within the existing Willow Lake POA before the land is sold by the applicant, enforceable measures by which to ensure continuing access to Willow Lake for POA members and its members, favored equally shared responsibility for lake, and stream, and favored watershed health, berm maintenance and strict erosion and sediment control measures.
- The reality exists that zoning and land use regulations allow for the development of this land zoned R-4, residential. The reality places the applicant, future builders, and home owners of Willow Lake View in direct conflict with the neighbors and members of the Willow Lake POA and community over the following issues: protection of Willow Lake, Willow Lake Impoundment and potentially impacted creeks, rivers and watershed; access to use of and future responsibility for Willow Lake; protection of Willow Lake entrance corridor and existing property values, legitimacy of development; erosion of Willow Lake community and fiscal impact for Willow Lake POA.
- They are reminded that the owners plan to sell the property in question for development to one or more developers. The future enforcement of the proposed Willow Lake View conditions, covenants and restrictions will potentially depend on expensive private legal action, which could be required in ten or more individual cases. This leaves the Willow Lake POA with little realistic recourse if developers or future homeowners refuse to comply. The board is concerned that the impacts of development on these critical slopes will pose risks to Willow Lake and the Willow Lake POA that could erode ultimately more than merely the soils of Willow Lake.
- While understanding and appreciating the development rights of the new owner of these parcels the board is concerned with the prospect of the longer term demise of what has become a stable and desirable community in which to reside and own property. During the first quarter of 2011 approximately five to ten homes in the subdivision have gone on the market all or none of which may be the result of the proposed development. Community relations have become strained. The Board of Directors of the Willow Lake POA recognizes and acknowledges the specific scope of the application before them to rule on the request for a waiver of critical slope. In making their decision and recommendation to the Board of Supervisors they respectfully request that their decision take into serious consideration the numerous concerns presented that have occurred over the last two months and are hereby reflected in their letter. The number of POA persons in attendance at these meetings speaks volume as to their concern and discontent. If the Commission's decision is to grant the request they request their decision provide current and future Willow Lake POA members and its residents means by which to hold all parties whose actions will affect Willow Lake and the community built around it equally responsible for providing county oversight and/or enforcement assistance that does not rely exclusively on private legal action.

Rick Piccolo, resident of Willow Lake, said in the county's Comp Plan it states that critical slopes require protection to maintain the existing balance between slopes, soils, geology, and vegetation. They are asking for this protection. The information tonight is not as clear as it has been presented particularly on joining the homeowner's association and the graphic representation of how the homes will look along Willow Lake Drive. It is physically impossible to grade along that guardrail. It runs about 45 to 50 percent grade. He questioned their access to the lake since its location was not clear. Yesterday they followed the plat as accurately as they could and it takes them into the woods and up the side of the berm. He would like to see actually what they were talking about. Their Board of Directors is volunteers and it was difficult for them to have the time to work on this matter. They own the lake and it is in their back yards. He asked the Commission to take that into consideration.

Katherine Schaefer Ravan, resident of Willow Lake, asked to clarify some of the confusion about the proposed easement and the current access that the POA uses to get to the lake. The green arrows on the preliminary site plan show how they currently access the lake. They enter between the two tree lines and past the berm and along the edge of the lake. The proposed easement when superimposed actually does in fact place them right in the trees when they make their way to the lake. Until tonight there was no previous mention of using the sanitation easement to access the lake. This access was presented to the POA as essentially the same access as they currently use. It is clear that it is not in fact the same access. With the incline not only would they have to cut down trees, but also it would be difficult to get vehicles for maintenance to the dam up the berm.

Charlotte Hisey, resident of 445 Maple View Court, said as they try to come to common ground around the proposed

new development there has been a great deal of discussion concerning the critical slope waiver. It has produced dialogue. She thanked the Willow Lake Board for not only scheduling the special meeting so they could meet with Janet and Jim, but for further discussion at their spring meeting and then holding an executive working session. They have strict rules on how they meet. They acknowledge the critical slope is in a designated growth area and the property is zoned R-4. They respect by right development of the land. These things are not at issue. There are still many things to be worked out. One has to do with the buffer and the lake. There is a big difference between what she saw as the setbacks and a stream buffer, which means one can't cut down trees. They were concerned with cutting down the trees because they wanted to have as much protection of the lake as possible. Her concern was once these lots are sold and if they don't have a stream buffer intact, that the trees will be cut down by the new owners so they can see the lake better. That is why they are so concerned about the buffer versus the setback. The county understands the need for such a buffer. The Water Resources website says buffers must extend 100' perennial streams and the ponds associated with the streams. Their pond is associated with Cow Branch. During a rain storm the run off over the spill way gets very heavy.

Mr. Zobrist noted that everyone has to abide by the Water Protection Ordinance. The county had a methodology how they enforce that. It does not have anything to do with this proceeding if the limitation proposed by staff is adopted. It means that all of the development will be outside of the Water Protection Ordinance buffer. Therefore, they have no authority to do anything right now.

Brook Ravan, resident of 449 Maple View Court in Willow Lake, said he had given the Commission a copy of a letter from Janet Mathews to one of the neighborhood residents. Most of it was relevant. Essentially, the thing he wanted to point out was she claims in the letter that the proposed development prior of 27 townhomes to be profoundly disturbing. She also claims to be working with partners for an environmental program. However, he thought more can be done. They have had several property owners' association meetings where Ms. Mathews has stated her dedication to finding the best solution possible for the environment. One thing she has refused to discuss is the issue of a conservation easement. This is something that would benefit the current property owner's association and ease concerns around the community from others who have questions about how runoff will impact view sheds, etc. He would like to see a postponement of a decision in order for the BD to discuss a joint easement with their POA to see what is there. He felt that it has not been explored at all. They said they have looked at everything there is. There seems there is more that can be done as far as looking for an environmentally conscious way to go about things. It seems that a conservation easement at least from the POA perspective would be the best option there. He would like to see that at least explored.

Linda Thornburg, resident of 1243 Maple View Drive, presented part of the information put together by Dr. Joanna Curran from Civil and Environmental Engineering at the University of Virginia who has some slides. From her study they can see from the literature that the physics of sediment movement on a steep slope are different from a low slope. Slope disturbance alters interior flow mechanisms. Slope failures are larger and deeper. Failures are more common on slopes with cut and fill and suspended sediment is 4 to 8 times higher on revegetated slopes. Revegetation addresses only the surface erosion. She pointed out their concerns with the soils and slopes. The soils are deemed unsuitable for dwellings, local roads and streets, shallow excavations, lawns and landscaping by the National Resources Conservation Service. She suggested that questions should be directed to Dr. Curran.

Mr. Zobrist pointed out that the slides did not depict the actual property, but just a picture to illustrate their point.

Mr. Smith asked if the soil was the same throughout the subdivision.

Dr. Joanna Curran, from Civil and Environmental Engineering at the University of Virginia, explained when she ran the NRCS report she did it specifically for the area that fronts the lake. She did not add the parcel further apart from the lake since she was more concerned with the lake.

Mr. Fritz noted in response to the question he had the USDA report and it was similar soils.

Dr. Curran pointed out the soils included rayon clay and a clay loam. She studies storm water management sediment transport mechanics and open channel hydraulics. The county recognizes that the blue book that is used for E & S control measures is only 60 percent effective at best. She asked that they weigh that as it is. To try to add monetary values she found in one report that to clean Hollymead Lake was estimated at one-half a million, which did not add the on-going maintenance. She has not looked at the size ratios between lakes. She just wanted to find something of some value in our area. She voiced concern of potential problems with algae and sediment build up in the lake when the development comes in at Willow Lake. She addressed the amount of run-off into the lake from the houses during a storm. An increase in runoff from a development on this hillside is unavoidable.

Robert Goss, owner of the Inn at Monticello at 1188 Scottsville Road, said he had lived there for the past five years. He sent a letter this morning about the Water Protection Ordinance to the county engineer. He was an attorney in Pennsylvania prior to moving to this area. In the course of being involved in the discussions regarding the Willow

Lake View proposal he asked that the meeting that was held on February 23 he asked Ms. Mathews if they were going to insist on a 20' setback for the rear of their property. She said Mr. Brooks, county engineer, had already ruled that a 20' was required. He asked if there was a 100' stream buffer required under the WPO and she said no that Mr. Brooks had already rule don't that issue. He met with Mr. Fritz with some neighbors on February 25th. He asked Mr. Fritz to provide them with any rulings that Mr. Brooks had given on this particular subject. Mr. Fritz wrote back that he had not uncovered anything. They presented two letters to staff arguing why a WPO should require and should require a 100' stream buffer. On March 4th Mr. Brooks sent them a letter stating that in his view the WPO did not apply to the area around Willow Lake. He did not address their second part of their argument, which was the area of Willow Lake should be considered contiguous non-titled wetlands. All he did was address the issue of whether it should be part of the perennial stream at Cow Branch.

Mr. Zobrist pointed out that is not even a consideration right now because the staff recommendation limits development to about one-half way down the slopes. It is going to well over 100' away. It is something the homeowners may want to pursue for future development.

Mr. Kamptner suggested the Commission be fairly liberal in what the public wishes to discuss tonight.

Mr. Goss said regarding the 100' issue the ordinance says the stream buffer shall be no less than 100' wide on each side. So it could be more than100'. He thought that was something that should be taken into consideration. When they have a very steep slope and a lake that is sensitive to pollution such as Willow Lake certainly a stream buffer could be more than 100' wide.

Jarrett Dillard, resident of Willow Lake Subdivision at 1210 Maple View Drive, said their primary concern is if they act to waive or modify the critical slope considerations it will be an implied preliminary approval of a non-Willow Lake Subdivision concept and development. The need for true considered subdivision approval will be obviated. You will have placed the County Supervisors and staff on a path of no return in that they will have granted preliminary approval. Once having granted that preliminary approval the only permissible next step would be final approval as no one would dare to retract steps that might require the Commissioners/Supervisors to reevaluate the wisdom of one of its decisions. She asked the Commission to table consideration of the request tonight. However, she was told several hours ago that the only way they could defer action as at the request of the applicant. Instead she would ask the Commission to deny the applicant's request as information available at this juncture is not sufficient to support a positive response. They need to ask themselves whether a responsible decision can actually be made without considered review of written facts and documentation. There has been a lot that has come up today. The plats on the web site were dated March 16th. Tonight the plats were dated March 23rd. She has not had time to review what the difference is. Their major concern is that the subdivision proposed is like a donut hole within a responsible property owner association. She has heard the possibility to be proffered that the public areas being under consideration for development will be given to their POA. But that does not include the people sitting right on the lake who are overlooking the lake. There is nothing she had heard that will guarantee that those individuals that are part of Willow Lake View property owner's association will ever be a part of Willow Lake property owner's association. That is one of her major concerns.

John Sinclair, resident of 1249 Maple View Drive, noted that there are a lot of issues and concerns still on the table. He questioned the good faith of the owner since when asked to have this mediated through a third party they did not want to do so. The biggest issue has to do with the HOA and whether it would be included. Once the property was sold the developers would not be part of the situation. He would like to look at ways the county could address this in terms of fairness and balance. He suggested that there be a comprehensive site plan. He voiced concerns with the options of having to do with the overlot grading plan. Staff had indicated the overlot grading plan could be done a couple of ways and had not determined the most efficient method of applying the condition. One requires the grading plan to be approved prior to the approval of the final subdivision plat or require the grading plan to be approved prior to the approval of the first building permit. He questioned which way Mr. Fritz had decided to go. His final point was joining the HOA so there would be a plan of some kind in order to have a neighborhood. He pointed out the property has been clear cut, which is not allowed by the County Code.

Karen L. Mulder, resident at 1224 Maple View Drive and a professor, pointed out the helpful model set up by Biscuit Run in how they addressed the doughnut hole. They don't have the benefactors to do that. They want to have a chance in fighting for their property, but they have been scrambling since the first hearing just to keep up with information. Secondly, they really have heard no tenable working kind of an agreement on how they are suppose to maintain this lake even if the access is well setup and organized. Thirdly, there will be independent contractors over which they have no control other than some of the legal possibilities that are already in place. They just don't know since it is such an open ended and question mark type of situation. That is why they are struggling with it so much. They question how this will work in the future and fail on the mercy of the Commission about this tonight.

Janet Mullaney asked to read the summary from Dr. Curran's report. She says the development of the hill slope around Willow Lake will have an unavoidable consequence of an increased amount of sediment and nutrients delivered to

Willow Lake with each storm. The lake will begin to fill in. As it shallows and the water column becomes saturated the algae will grow. In large storms the lake will more likely to overflow its downstream berm as it will not have a large storage capacity any longer. Outflows from the lake will increase in volume; and suspend its sediment concentration and nutrient load. These outflows will travel into Cow Branch Creek and then into the Moore's Creek.

Susan Bird, city resident in front of Moore's Creek, said that she was actually from the county. In watching Moore's Creek she sees the city doing millions dollars worth of work on Moore's Creek to clean it up. She asked if they were going to add to that by approving this.

Mark Gebhard, resident of Scottsville Road, said he was a registered professional engineer and had worked with the federal government for the past 30 years. He has worked on a number of multi-million dollar projects. He was happy to live in Charlottesville. Of all the projects he had worked on this appears to be a very small project. Many of the concerns they were hearing this evening seemed to be something of the order of well we have enjoyed use of the property for free to be able to access the lake. He was sure it is an agreed thing to do. It appears the easements in how they have accessed the lake have been through the property. Now they have to possibly clear a new easement. It is not a big deal. They have heard about the blasting. He would be very surprised if anybody had to do any blasting. He was confident the contractors in this area could successfully build this project without destroying the environment. It can be done. He was a proponent for the development. He looked forward to the Commission approving the project.

Leslie Rittenburg pointed out she had been a member of the Willow Lake Homeowner's Association since 1986. They have had access to that lake. They have also paid the insurance and maintenance of that lake. They have not had a free ride with that lake. In the earliest advertisements that was part of their owning a home in Willow Lake. She thought that everyone else needs to consider that it would be their responsibility to take care of all of the issues that have been brought up. That means taking care of the algae. However, the persons purchasing the lots for sale will not have any responsibility. They are insuring the lake, which means if someone drowns in the lake those new purchasers would have no legal or fiscal responsibility for that. The home owners do and should have a decent access to the lake.

Mr. Zobrist invited the applicant for rebuttal comments.

Ms. Mathews asked the Planning Commission to take into consideration the letter of intent submitted, which clearly states their intentions of having these pieces of property belong to the Willow Lake Property Owner's Association. She felt that addresses a lot of the issues raised this evening. It makes a big difference in fact that there is an investment by the lots and the homes that are to be created in the Willow Lake Property Owner's Association. She read her remarks and asked the Commission to grant the critical slopes waiver based on the information before them this evening.

Mr. Zobrist closed the public hearing to bring the matter before the Planning Commission for discussion and possible action.

The Planning Commission took a break at 7:58 p.m. The meeting reconvened at 8:05 p.m.

Mr. Zobrist called the meeting back in session at 8:05 p.m. He invited discussion since the matter is before the Planning Commission.

Ms. Porterfield questioned raised whether there was a valid plan to build 27 townhomes on the property, and Mr. Fritz replied no there was no plan.

Ms. Porterfield noted she had several concerns about the retaining walls, access to the lake, how grading could be done for individual lot owners and protect the run off that goes into the lake. She would be more comfortable with the request if the applicants would be the true developers. She felt they clarified the easement. However, she believed if this is going to be adopted that easement has to be shown coming across using the sanitary sewer easement and not as coming straight down as it is currently shown. It needs to be turned to come in at a point where the access is very easy for vehicles to get onto that dam. She questioned if the Water Protection Ordinance would require them to keep the 100' with absolutely no construction of any type in it. The question is whether they can also keep the trees and those kinds of things that are helping hold the shore of that lake. She questioned the guardrail.

Mr. Lafferty said he had some concerns about the homeowner's association. However, that is not the critical slope part. The issue comes down to whether they getting a 100' easement or should they be getting a 100' buffer to protect the lake. He questioned how that would be settled. The Commission has granted critical slope waivers where a lot is almost 100 percent critical slopes. It is in compliance with the Comp Plan. He certainly sees the financial liability of maintaining the lake when the people who are closest to the lake won't have any responsibility for a number of years.

Ms. Monteith voiced concern with the amount of construction that is in critical slopes. Even though they are setting

back 100' from the lake there is a slope which is heading towards the lake. They would be disturbing 50 percent of the critical slopes in the area. Therefore, there would be an impact.

Mr. Smith pointed out when the subdivision was created the critical slopes was there and it did not destroy the lake. He felt that there was probably blasting done when the road was built.

Mr. Franco agreed that the question before the Commission was the critical slopes. The other questions coming up are ancillary to that. The overlot grading plan should take care of the issue of coordinating the grading. He was comfortable with this being done as staff has proposed it as far as the grading aspect goes. With the HOA he shares the concern. However, as a developer he probably would not be willing to make this subject to a HOA now knowing that there are a number of decisions they could help influence along the way until the house is built. There is ARB and other things they could arguably withhold simply because they don't like the design. He would hesitate wanting to join that and not having some kind of controls on here. This is just a preliminary approval. If approved tonight, there is nothing stopping the developer from going back to the HOA and asking them to find favorable terms to work for both of them for addition into the HOA ahead of time. He would like to see the access easement clarified. He would like to see the setback and buffer clarified in the back. He would like to see more than a setback.

Mr. Kamptner questioned what conditions might be considered based on comments. He went over a couple of point that would help narrow those issues. One deals with this particular subdivision's obligation to maintain Willow Lake and the dam. They don't have any authority to require that this subdivider pay for the maintenance of an off-site facility, improvement, or water impoundment under these particular circumstances. With respect to having this subdivision become part of the larger existing HOA that might be a good idea. However, they cannot require that as a condition. What that does is put this applicant in a catch-22 situation where they are at the mercy of the existing HOA as to whether or not they are allowed to proceed with their project. He was not sure if blasting concerns are still on the table. He got the sense that might have been addressed. He did not know if there was any interest in any condition related to that 100' area between what would be the disturbed area going down to the property line. He asked if the property line goes all the way down to Willow Lake.

Mr. Zobrist noted the Commission was interested in the area below the red line and what they can do.

Mr. Kamptner asked Mr. Fritz if there were any conditions that would address the concerns as to the impacts within that area.

Mr. Fritz replied that there are two things. One is already addressed because the grading will require an erosion sediment control plan. He suggested the following condition that the area within 100' of the normal pool of Willow Lake shall be treated as if it is subject to the stream buffer provisions of the Water Protection Ordinance as it exists on 4/5/11.

Mr. Kamptner agreed the condition sounds fine since it is related to protecting the public health and safety in dealing with the dam and the potential for overflow related issues. With that he did not think he needed to address the WPO appeal.

Mr. Zobrist agreed.

Mr. Kamptner said the last thing would be staff's findings in the January 25th staff report where staff reached the conclusion that the findings of Section 4.2.5(a)(3) could not be made. The application has changed since then. He would ask Mr. Fritz to explain to the Commission what has changed and which findings can now be made to support a Commission decision if they were inclined to approve the critical slopes waiver.

Mr. Fritz said the specific one staff looked at was Section 4.2.5 (a) (3b). Alternatives proposed by the developers would satisfy the intent and purpose of Section of 4.2 to at least an equivalent degree. They also looked at (d) that talks about serving an additional public purpose. They may recall that during the presentation he was discussing that it moves the development 100' away from the lake, which does not have a buffer effectively, but establishes effectively a buffer in that area. That was the significant finding staff made. That was what changed staff's recommendation from denial to approval along with the purpose served.

Mr. Zobrist asked if the Commission was comfortable with staff's recommended conditions.

Mr. Franco said if it does not apply he would hate to make it apply. He would like to know if it is protected and in what way is it protected now as proposed.

Mr. Zobrist said if the request is to go forward it needs to be protected.

Mr. Zobrist suggested that the Commission talk about how to line up the easement. He asked where that easement

is since it is a valid easement. He would also like to address the issue of the ability of the HOA to exclude them from the use of the lake.

Mr. Franco assumed this was being served from the existing sewer line. He did not think they want to create any condition that prohibits that from occurring by making this be part of the WPO. What he understood they should try to say is they want to minimize the amount of activity both for the construction and in the future for clearing as opposed to requiring additional measures to take place. In other words, if there were an100' buffer that were there now in order to disturb it they would have to have a mitigation plan. He asked if they were asking for a mitigation plan to do disturbance for installation of the sewer lines since they were keeping the grading out. Those are the kind of questions he thought they should address and make clear in their motion.

Mr. Kamptner asked Mr. Fritz to reread that condition.

Mr. Fritz suggested condition 1 say that all grading shall be in general accord, which means there would be no grading established roughly beyond that red line. If they were trenching it to put in a sewer line and restoring it to the grade that it was, they would not consider that grading. It would be a disturbance under the WPO that would require a mitigation plan if they adopted condition #5.

Ms. Porterfield felt the condition requiring a mitigation plan would ensure the protection of the area and water.

Mr. Zobrist said the nexus that they have proposed is this is the health and welfare as it relates to the critical slope waiver. Therefore, that is the nexus that gives them the ability to do that.

Mr. Kamptner agreed it was that and the physical proximity between the disturbed area and this body of water that is right below.

Mr. Zobrist noted Mr. Franco would not agree with condition #5. He asked if the rest of the Commission is comfortable with condition #5.

All other Commissioners agreed.

Mr. Lafferty asked if Mr. Franco has an alternative way of expressing what they are trying to do.

Mr. Franco replied that was why he wanted to make sure he understood what they are trying to do. If it was the long term protection, as he understands it today if this were in the WPO, it would be a 50'. He thought it was in the 50' because it was in the growth area.

Glenn Brooks noted that it would be 100', but 50' could be disturbed for development. The sewer laterals, if there were no reasonable alternative, could be considered exempt.

Mr. Zobrist said it sounds like they were all comfortable with that.

Ms. Porterfield asked Joel DeNunzio to come forward and address the guardrail issue.

Joel DeNunzio, representative for VDOT, noted that the existing guardrail is probably not necessary right now. There is parking along the existing road. They want to protect the clear zone with the guardrail if there is a hazard within the clear zone. Typically on this road it is about 8' to 10'. They can consider 7' within the road itself for the parking lane and about 5' outside of that. They get beyond the 8' to 10' and what they are protecting possibly with that guardrail is a 2 to 1 slope. However, that 2 to 1 slope exists outside the clear zone of the roadway. Therefore, they most likely don't need the guardrail now. When the subdivision was constructed it might have been overdesigned in the guardrail there. VDOT recommended putting guardrail in. However, the guardrail design is an old design and he would say it has never been hit. That leads him to believe the guardrail is not necessary since it is a low speed roadway.

Ms. Porterfield noted what she was trying to find out was whether that is something that would be taken care of when the item is coming in to be built or does it have to be a condition.

Mr. Fritz noted that it would be taken care of with the entrance permit.

Mr. DeNunzio said if the request came in and they had an end section they could not deal with they would permit the removal of the entire section of the guardrail at the same time.

Mr. Zobrist thanked Mr. DeNunzio.

Mr. Franco made a motion for approval based on the staff report with the conditions as listed in the staff report plus the addition of the 5th condition on the screen. He moved for approval of a critical slope waiver for SUB-2010-156 Willow Lake – Preliminary Subdivision Plat.

Mr. Smith seconded the motion.

Mr. Zobrist suggested they put in something about how they line up the easement so that it does not go below the berm.

Mr. Franco agreed.

Mr. Fritz noted the easement comes in and goes to the property line with the sewer easement location

Mr. Zobrist asked if that is actually on the Homeowner Association's property.

Mr. Franco noted that it comes back onto their property.

Mr. Fritz replied that it comes back on lot C2 in that area.

Mr. Franco asked that they make it match up or line up with the Service Authority easement across the back edge. He thought the dam itself is between lot C2 and lot C3. Therefore, they may need to get on to the rears of lots C2 and C3.

Mr. Kamptner said they were asking for the portion at the bottom of lot C2 to be shown as being part of the easement as well.

Mr. Franco replied that was correct for the Service Authority easement.

Mr. Kamptner said it would be part of the easement created that allows the public access.

Mr. Zobrist said the portion that is on the property owned by the applicant they are just going to turn instead of stubbing it straight into the property line. He thought they wanted the easement turned to follow the sewer easement.

Mr. Franco agreed.

Mr. Ed Smith requested to ask the applicant a question. He asked if they would have a problem with going back up the road between lots 1 and 2 about 50' to 75' and put in a 45 degree bend in the access easement to the lake. It is in that 100' area that they can't build on. It would make it a lot easier to get to the dam.

Mr. Zobrist asked what he was asking.

Mr. Ed Smith said he would like the applicant to drop back up the hill about 50' – 75' and put a 45 degree to the left there.

Mr. Brian Smith, the applicant's engineer, said the answer to that question is yes. There would be some side slopes. The vehicle was going to go down, turn and be cockeyed to go in. He did not think his clients would have any problems as a second choice of doing that. He did not think that was going to kill this project if they do that. There are other easements in that area right now, such as gas and electric. The first choice would be to extend onto the HOA property onto the Service Authority easement and then come back. They would not have any problems giving a little triangle section to match up the easements on C-2. It is not a deal breaker so whichever way they want to do it is fine.

Mr. Franco noted that the access is provided along that edge. He asked if that was enough direction for staff.

Mr. Fritz questioned if condition #3 as modified was what he was talking about.

Mr. Zobrist replied that gets what they can do. They can't give them something on the Homeowner Association's property. He agreed that the condition was sufficient.

Mr. Kamptner noted a typo to include the area that it includes. In making the motion, Mr. Franco is incorporating staff's recommended new finding under section 4.2.5(a) (3).

Mr. Franco agreed.

Restated Motion: Mr. Franco moved and Mr. Smith seconded for approval of the critical slopes waiver for SUB-2010-00156, Willow Lake - Preliminary based on the staff report with the conditions recommended by staff, as amended, with the addition of condition #5 and to incorporate staff's recommended new finding under section 4.2.5(a)(3).

1. All grading shall be in general accord with the grading shown on the plat titled "Willow Lake View Preliminary Subdivision Plat" last revised March 23, 2011. Grading for lots C1 and C2 shall be performed at the same time. Grading for lots C3, C4, C5 and C6 shall be performed at the same time. Grading for lots C7 and C8 shall be performed at the same time. Grading for lots A1 and A2 may occur individually. This condition shall be noted on the final plat.
2. The final plat shall show easements necessary to allow grading to occur in accord with condition 1.
3. The final plat shall include the new 15 foot wide access to the common area shown on lots C1 and C2 and shall include the area that includes the ACSA easement that is on lot C2.
4. Access to the parcels shall be in general accord with that shown on the plat titled "Willow Lake View Preliminary Subdivision Plat" last revised March 23, 2011.
5. The area within 100 feet of the normal pool of Willow Lake shall be treated as if it is subject to the stream buffer provisions of the Water Protection Ordinance as it exists on 4/5/11.

Mr. Zobrist made a reserved aye because he was having a tough time balancing property rights and critical slopes and the kinds of things that run with that.

Ms. Porterfield voted aye, but was doing it because she thought they had cleaned this up the best they could. It is probably better than other alternatives, and therefore she voted aye.

Mr. Lafferty pointed out the reservations hold for all of the Commissioners.

The motion passed by a vote of 7:0.

Mr. Zobrist noted SUB-2010-000156 Willow Lake – Preliminary had been approved subject to the conditions recommended in the staff report, (with reservations) as amended, and with staff's new finding under section 4.2.5(a)(3). When these lots are built out he hoped they could figure out a way to get everybody in the Homeowners Association. The request will not go before the Board of Supervisors.

Public Hearing Items:

ZMA-2010-00003 Morey Creek (Concurrent with SP 2010-09 for a parking structure)
PROPOSAL: Rezone 12.009 acres from the PRD Planned Residential District, which allows residential (3 - 34 units/acre) with limited commercial uses to PD-MC Planned Development Mixed Commercial, which allows large-scale commercial uses; and residential by special use permit (15 units/ acre) to permit 100,000 square feet of general office space, a 15,000 day care center, and parking structure. No residential units are proposed.
PROFFERS: Yes Concurrent with ZMA-2010-03, the following proposed special use permit ("SP") within the proposed Morey Creek Professional Center authorized by Zoning Ordinance § 25A.2.2(1):

AND

SP-2010-09 Morey Creek Professional Center-Parking Structure (concurrent with ZMA 2010-03)
PROPOSED: Allow parking structures; reference Zoning Ordinance § 23.3.3(4), Parking structures. (Reference 4.12, 5.1.41). The following information applies to both ZMA 1010-03 and SP 2010-09:
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Service -- neighborhood-scale retail, wholesale, business, and residential (6.01-34 units/acre) in Neighborhood 6.
ENTRANCE CORRIDOR: 76-12A is within the EC; 76-12G is not within the EC
LOCATION: Fontaine Avenue Extended, adjacent to and west of Buckingham Circle
TAX MAP/PARCEL: 76-12A & 12G
MAGISTERIAL DISTRICT: Samuel Miller (Judith Wiegand)

Ms. Wiegand presented a PowerPoint Presentation and summarized the staff report. This request is for Morey Creek Professional Center, which is a zoning map amendment, ZMA-2010-00003. There is also a special use permit for a parking structure to accompany that professional center and a critical slopes waiver. The purpose of the rezoning is to obtain approval to construct a new 100,000 SF office building with a parking structure and a 15,000 SF daycare center in a location along major commuter access routes and in close proximity to the UVA Medical Center.

Location:

- On Fontaine Avenue Extended
- Near US 29 Bypass and I-64
- Near Fontaine Research Park
- Adjacent to Buckingham Circle neighborhood

As noted in the staff report—the Comp Plan expects Neighborhood Service areas to be 1 – 5 acres in size and to have a maximum of approximately 40,000 SF of office, commercial, and services. This site, however, is significantly larger at 12.6 acres, with approximately two-thirds of the site covered by the stream, stream buffer, wetlands, and related environmental features. Staff believes that, since the site is larger and the environmental features provide a good buffer, that a 100,000 SF building, with a parking garage, and 15,000 SF daycare facility is appropriate.

The zoning for this property has been commercial since the County's comprehensive rezoning in 1980. However, in 2005, it was rezoned to PRD with a plan to construct 61 Townhomes. The applicant wishes to rezone to Planned Development—Mixed Commercial.

The application plan:

- Fontaine Avenue Extended
- Buckingham Circle
- Stream/wetlands/slopes are—environmental area
- Proposed office building—fronts on Fontaine Avenue. As noted in the staff report, will have an entrance in the back. It needs to be a secure facility due to the medical records used and stored inside. The entrance will be monitored; access from the garage. Anyone walking over from Fontaine Research Park would follow the path around to the entrance. Because of the location and surrounding uses, little if any pedestrian traffic is expected from the west.
- Proposed parking structure—three floors
- Daycare facility, with drop off and nearby parking.
- Amenities will include a pedestrian path to Fontaine Research Park, bridge over the wetlands/stream area, and loading space for the JAUNT bus.

Neighborhood Concerns:

1. Size and scale of use/buildings; need for daycare
2. Traffic impacts of proposed development
3. Lighting on the site
4. Impacts of construction on wetlands and other environmental features
5. Transit, bicycle, pedestrian issues
6. Screening between buildings and neighborhood (Buckingham Circle Neighborhood)

Two major concerns with the Morey Creek proposal are the size of the use and the potential traffic impacts. This list of concerns staff compiled from the comments made and questions asked at a neighborhood meeting held last November.

As noted earlier, staff believes that the size of this property and the presence of the environmental features mean that a 100,000 SF office building with the parking structure and the proposed 15,000 SF daycare facility can be located on the site without creating unacceptable impacts on the surrounding properties.

The applicant has paid special attention to the potential impacts on the Buckingham Circle neighborhood and has met with the neighbors to describe the project, listen to the neighbors' concerns, and answer their questions. During their presentation, the applicant will compare the relative sizes and layouts of the proposed Professional Center and the previously approved townhome project and will show renderings of night views, so the Commission can see how these concerns have been addressed.

Size and scale of the building— The residents also asked why the applicant needed 100,000 SF. The applicant is trying to co-locate more than one group of support workers to increase efficiency. They will also have some space for growth. [During the applicant's presentation, they will give more details]. The daycare is being included to fulfill a UVA policy to provide daycare near workers.

Traffic impacts—(Staff skipped over this item.)

Lighting on the site—The applicant has agreed to minimize the lighting in the building and parking garage after business hours. Some workers may be in the offices on Saturday mornings (2/month), but otherwise the workers will be there Monday through Friday during regular business hours. Staff believes that the county ordinance relating to lighting will be sufficient.

Impacts of construction on the environmental areas—The County has regulations to protect these areas. Specific techniques will be addressed during site plan preparation. In addition, federal and state regulations regarding wetlands will address that.

Availability of transit—The neighbors asked if workers could be bused from Fontaine Research Park to the site. It is not feasible, but a drop off space for the JAUNT bus will be included (proffered) and a regular CATS bus stop could be located in front of the building. The applicant has proffered to construct the same pedestrian path to Fontaine Research Park that was proffered by the townhome proposal. There is a sidewalk along the street or Fontaine Avenue Extended. There is a path that goes over to Fontaine Research Park. The bicycles could use those pedestrian paths as well.

Additional screening—The applicant will provide more detailed information about views and landscaping during their presentation. They will comply with County ordinances for landscaping and screening.

She presented one of the renderings that the applicant has provided to show the view from Buckingham Circle looking back. She pointed out the landscaping proposed and what the building would look like.

Traffic Impact Analysis - Traffic impacts—These were addressed by the TIA, including an analysis of the Buckingham Circle/Fontaine Avenue Extended intersection. If all of the road improvements proffered by Fontaine Research Park and the two improvements necessitated by the Morey Creek proposal were built, traffic on the local streets would be able to handle the traffic. The two improvements necessitated by Morey Creek are the signal at the northbound ramps and a right turn lane at the southbound ramp. In fact, it would be easier for Buckingham Circle residents to get out of their development during peak traffic times with these improvements.

Here are the TIA results.

- Study included the impacts of and improvements proffered by Fontaine Research Park
- Traffic signals would be required at both the northbound and southbound US 29 Bypass ramps to Fontaine Avenue
- Several other lane improvements are also necessary.
- Once these signals and improvements are in place, impacts of Morey Creek traffic on the local streets would be addressed.

It was mentioned that Trinity Church gets so busy on Sunday mornings that the residents have trouble getting out of their neighborhood because there is so much Church traffic. Staff pointed out that the Morey Professional Center is not expecting to be open on Sunday. Therefore, there should not be a conflict between those two uses. Staff noted that Glenn Brooks and Joel DeNunzio are present for questions.

The proffered road improvements include the following:

Proffer 1 – Pedestrian Walkway

This is the proffer for a pedestrian walkway from the Morey Creek Professional Center to Fontaine Research Park. This proffer was included in the prior townhome proposal. The Owner shall construct, at its expense, an off-site asphalt-paved pedestrian walkway and other improvements in accordance with standards for such walkways of the Virginia Department of Transportation (VDOT), as specified in the VDOT Road Design Manual, from the southeast corner of the site within the existing public right-of-way along the north side of Fontaine Avenue to the Fontaine Business Park intersection as shown on Sheet C2.0 Pedestrian Pathway and Offsite Waterline of the Application Plan. The walkway and other improvements shall be completed prior to the issuance of the certificate of occupancy for the office building.

Proffer 2—Morey Creek Bridge

This proffer is to design and construct a bridge over Morey Creek. The Owner shall design and construct a pedestrian/bicycle bridge crossing Morey Creek, as shown on the Application Plan, to a standard approved by the County Engineer, and it is to be a fully engineered clear span bridge, similar to the "Connector" bridge as manufactured by the Steadfast Bridge Company (1-800-749-7515) or an equivalent bridge approved by the County Engineer. The bridge shall be designed and constructed above the 100-year flood plain. The bridge shall be completed, as reasonably determined by the County Engineer, prior to the issuance of the certificate of occupancy for the office building.

Proffer 3—JAUNT Bus Loading Space

The Owner shall provide a loading space for the JAUNT bus to a standard approved by the County Engineer, in consultation with Charlottesville Area Transit (CAT), JAUNT, and/or VDOT. Space may be provided on the main entrance road or on the parking deck as determined by the owner at the time of site plan approval. The JAUNT loading space shall be completed prior to the issuance of the certificate of occupancy for the office building.

Proffer 4—Traffic Improvements

Staff has not included all of the wording from this fourth proffer. Each includes a reference to the standards to be followed and the timing for providing the improvement. The complete language, as signed by the applicant is included in the staff report at Attachment F. In order to be certain that the necessary traffic improvements will be in place at the time they are needed, Morey Creek has proffered all of the improvements that were proffered by the Fontaine Research Park applicant during the most recent rezoning.

The Owner at its expense shall design, bond and construct the following transportation improvements:

A. A traffic signal at the Fontaine Avenue/US 29 Northbound Ramp intersection….
B. An eastbound right turn lane within the public right-of-way on Fontaine Avenue at the US 29 Southbound Ramp intersection….
C. A traffic signal and additional lanes at the Fontaine Avenue/US route 29 Bypass Southbound Ramps intersection…according to one of two options….

In the staff report, staff noted that there were three areas still under discussion with the applicant. Two of them, the site lighting and landscaping, will be addressed through compliance with County ordinances. Staff believes they are no longer a concern.
However, the third area is compliance with the Neighborhood Model's request that "building facades facing a street shall not extend for more than 100 feet without a change in plane. The minimum change in plane is 6 feet and the cumulative total length of the change in plane shall extend for no less than 20% of the length of the building façade.

Floors shall be stepped back a minimum of 15 feet from the second story. The applicant has shown the appropriate step back for the third floor of the office building. Staff is fine with this. However, this is the first illustration provided with the initial application. Staff notified the applicant in the first comment letter that this design did not comply with the Neighborhood Model. Since then, staff has seen two different treatments of this façade.

The problem is that the side of the building faces south, which will get a lot of sun. The applicant has come back with a revision to it, which uses the continuous fascia that runs all across the front of the building as a sunshade. There is still some staggering with the windows inside, but not any variation in the continuous fascia. The applicant will explain what they wanted to do a little further. Staff wanted to ask for the Planning Commission's explanation on that.

Special Use Permit—Parking Structure
Staff indicated there was a special use permit as a part of this proposal for the parking structure.
- A three-level parking structure is more efficient
- Many of the spaces are closer to the building than they would be if surface parking were used.

Staff thinks the parking structure is a good idea.

Critical Slopes Waiver
There will need to be a critical slopes waiver. There are two types of Critical Slopes on the site:
1. There are small, isolated areas, disturbed for a stockpile and do not form parts of a larger system. These would be disturbed for buildings and parking.
2. There are areas on the east side of the site that border the stream and the pond. These slopes are part of a system and would be disturbed for crossings and the edge of the travel way into the parking garage.

Factors Favorable:
1. The proposed office building, parking structure, and daycare facility are in compliance with the comprehensive plan and are appropriate uses in a commercial area. The property fronts on a major road and is near Interstate 64 and the US Route 29 Bypass, so it is located near major commuting routes. It is also in close proximity to the Fontaine Research Park. Locating the proposed Professional Center in this area will minimize car trips that might otherwise be necessary. Having the daycare center nearby will minimize the length, and possibly the number, of car trips that parents would make to use an offsite daycare center.
2. The proffered traffic improvements will address the additional traffic issues on the local street network and will improve conditions at the Buckingham Circle/Fontaine Avenue Extended intersection for the residents of Buckingham Circle.
3. The conceptual plan preserves significant environmental features on over one-half of the site.
4. Approval of the SP for the parking garage will permit more efficient use of the site.
5. Approval of the critical slopes waiver will permit more efficient use of the site.

Factor Unfavorable:
1. Any new development in the area, including Morey Creek Professional Center, will add traffic to the regional road network, in particular the ramp junctions and weaving sections along the US Route 29 Bypass at the Interstate 64 (I-64) and Fontaine Avenue Extended/Fontaine Avenue interchanges. Road improvements to address these areas are beyond what is attributable to the impacts of this project.

RECOMMENDATION:
- Staff recommends approval of ZMA-2010-00003, with the proposed proffers, and including the Commission's direction on the building elevations.
- Staff recommends approval of SP-2010-00009
- Staff recommends approval of the Critical Slopes Waiver

Mr. Zobrist invited questions for staff.

Mr. Loach asked how many children the daycare would have, and Ms. Wiegand replied that she thought it was 200 children, but the applicant would be able to address it.

Mr. Loach asked if the daycare center would be serving the entire University and Heath Center, and Ms. Wiegand replied yes.

Mr. Loach said essentially they would be putting additional traffic coming from almost every direction and then the afternoon most of it from the University and hospital would be coming back down JPA and Fontaine.

Ms. Monteith asked to clarify that because she made some phone calls on this today. As she understands it, the daycare facility is for use of people in this building or people for the medical center, but not for the University at large. They have two separate systems. The system for the daycare for University people is a completely separate system. This has been set up only to address medical center people.

Mr. Loach pointed out they mentioned with caution the interchanges on 64 from both east and west it would be drawing people to drop their children off there and then go back up Fontaine to the Health Science Center.

Ms. Wiegand agreed that could happen.

Mr. Loach said in the afternoon it would be more practical for everybody to come down Fontaine and JPA to pick up their child and if they were east and west get back on 29 and go back that way. He suggested that they wait to see the traffic study.

Mr. Cilimberg noted that Ms. Wiegand indicated that they factored all of those trips in the traffic study.

Ms. Wiegand noted this shows that the daycare center at 15,000 square feet at this number of average daily trips that would be attributable to the daycare and then the number attributed to the office building.
Almost one-half of the daily trips are to/from the daycare center. This calculation was made using a very conservative assumption—that none of the people in the office building would be dropping off their children at the daycare—that all of the children would be dropped off by parents working at other UVA/HSF workplaces. Therefore, since it is likely that some of the children will be dropped off by parents working in the office building, the ADT for the daycare facility and the Total ADT are likely to be lower.

Day Care Center	15,000 SF	1,189 ADT
General Office	100,000 SF	1,334 ADT
TOTAL		2,523 ADT

Source: "Trip Generation Handbook, 8th ed.," Institute of Transportation Engineers

Ms. Porterfield asked what the hours of operation were for the daycare.

Ms. Wiegand replied that it was the same as the office building. The office building will be opened Monday through Friday in normal business hours. She was also told that there might be staff working in there on a couple of Saturday mornings a month in the office building because they have some reports and things that they have to get out. That would not happen every weekend and the daycare would not be open at that time.

Ms. Porterfield said even though it is catering to the medical center it is only going to be Monday through Friday. She asked if the hours were going to be basically 6 a.m. to 6 p.m.

Ms. Wiegand replied that she did not get specific hours, but that is what she would imagine. The applicant will provide any further information.

Ms. Porterfield said they got a letter from a nearby resident that indicated that there was a presentation by the applicant that 40% to 60% of the actual building will be needed by the applicant and the rest will be rented or leased. She asked if that is to these ancillary companies she was talking about.

Ms. Wiegand replied that as she understands the tenants in the building would all be part of the support staff for HSF. The applicant can clarify that further. She though where that 40,000 to 60,000 square foot number was coming from was they have about 40,000 to 60,000 square feet in the research park right now. However, they are talking about bringing in some slightly different groups of people into the proposed 100,000 so there would be more people in there and they are also talking about having room to expand if they have additional growth in the future.

Ms. Porterfield said when she was looking at this she was not expecting them to rent to other businesses in the community.

Ms. Wiegand replied no, she did not expect that. She did not know exactly what the leasing arrangements between the different people would be, but it is her understanding that it was all going to be Health Sciences support staff.

The Planning Commission took a five minute break at 9:05 p.m. The meeting reconvened at 9:13 p.m.

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

Bill Daggett, with Daggett and Grigg Architects, represented Health Services Foundation with the Morey Creek Professional Center. He thanked Ms. Wiegand for her efforts in trying to work out the details. He also thanked the Buckingham Circle neighborhood. They attended two meetings and brought up excellent questions. They have tried to address their concerns. He presented a PowerPoint presentation, as follows. There are four issues he wanted to cover in a little more depth.

Building Sizing & Scale of Development
    Basis for Building Size
Consolidation via Terraced Parking Approach
    Comparison to Approved Townhouse Development
Night Lighting
    Winter Working Hours & Overnight Impacts
Fontaine Avenue Elevation
    Response to Façade Setbacks Requirement
Traffic Mitigation
    Recommended Improvements at Fontaine Ave.

- On March 16, 2010 an analysis was done for the Health Services Foundation to determine how many square feet they actually would need, including reserve space for some expansion, and came up with a gross square footage of about 63,000 square feet. In 2008 an analysis was done for another department associated with the Medical Center that also is engaged in financial assistance to patients in that case Health Services Foundation does all of the billing for physicians. So this is a combined service. When the Health Services Foundation determined that it needed to move so that the building they occupy now could be used for medical use at Fontaine it made sense to combine these. That is exactly what they are looking to do. With the two it adds up to about 95,000 square feet. Because of the composition of the multi-story building they have to add some square footage for common travel way up and down the inside the building and so forth. Therefore, they come up to about 100,000 square feet. This is how this proposal came to be.
- When they first started they wanted to see if they could use surface parking and they could service this building. In order to service the building with required parking they had to look at obtaining this piece of property and working with the University Foundation to obtain the other piece of property for the daycare center. This is all done as a surface parking lot. This required multiple rezoning, which was problematic. It was an excessive walking distance since they were 750' from the parking space to the building. There was massive site grading. He pointed out that the two dark lines were two 10' tall walls with one on top of the other. It was much like was seen at Lowe's. The retaining wall would continue all around. There is another 10' wall at the top of the site. This is to maintain the 5 percent grade for parking. They are going to have to cut deeply into the site and then level it out. On top of that they could not fit everything because it was all taken up by parking. So they end up having to pick up this small parcel of 3.5 acres to handle the daycare center, which the University asked if they could include.
- What they did is abandon that concept and came up with the idea of building the 100,000 square foot office building in this location, but creating a terracing parking structure that was associated with it that benched into the site. That enabled them to take all of the retaining walls and put it at the back side of the parking structure and to step it so that they did the least amount of site grading. The daycare center could locate conveniently in this location. It takes care of it so they are only rezoning the one piece of property, which is designated for this use. They now have a reasonable parking distance. Actually two floors of it are under cover, which is great for the folks working in the building. The site grading is greatly reduced and they have consolidated.
- The next thing he wanted to discuss what they have today, which is the townhouse plan for 61 units. There are some units included for low income/worker housing. This occupies about the same part of the site that they do, which is the only part of the site that can be built on. He noted the wetlands and other area and reviewed the proposed plan. The proposal would step back the office building both horizontally and vertically so that they are eroding the building and presenting as small a front to the neighborhood as possible. This is their parking structure. They are tying this into the look of the building so that it really looks like an extension of the building. It is not going to look like a parking structure at all. The daycare is so far back and hidden away the folks in this neighborhood will not even see it. The only place it will be seen is from the Foundation's property.
- He compared the proposal to the previous approved townhouse plan. He noted that the townhouse plan added almost 175,000 square feet of living space. This plan proposes 115,000 square foot. They are not increasing the amount of built area actually in terms of useful space. The upper section is of the townhouses. He noted that the townhouses were shown to be a little closer to the neighborhood. He noted that the retaining wall went

from 0' to about 17'. The townhouses are three stories with two stories and a half basement plus roof. The parking structure is two stories.

- They tried to look at this with some models so they could see the imposition of both of these projects from the vantage point of the Buckingham Circle Neighborhood. He displayed a rendering of what it looks like today or actually last March. This is approximately, what it would look like with the townhouses and retaining walls. The slide showed their proposal with the same water feature, their building eroding so it showed the least amount of square footage towards the neighborhood, and their two-story parking structure, which is integrated into the façade. The next slide shows one imposed on the other. They are slightly higher at the back of the building towards their entrance and Fontaine. It is only about 5'. Right at the base of the windows is the top of the parking garage. So there is a great deal more exposure of the townhouses as a wall of buildings towards the neighborhood than what they are presenting with the parking structure.
- He presented a slide of the night view in December when people are working. Then he showed a slide of what the building would look like after dark. The building would become completely dark. All of the corridors inside the building will be at the interior. Offices will be equipped with occupancy sensors so lights will automatically go out as people are living the building.
- He reviewed the three elevations. Their rendition actually steps back as proposed by staff at 30' and then a 30' indentation that is 6' back. Then it was 60' and another 30' and so on down the building. They also stepped back the third floor at 15'. So that is now stepped back further. When they looked at this they felt it did not have as much impact being on the south elevation as it would if they continued the fascia and created deeper shadow lines. The next slide shows they are creating a much deeper shadow line, which is going to accentuate the fact that they have recessed the 30' bays. It is their feeling that is a more positive building image is going to create a more pronounced depth. They would certainly hope the Commission would agree.
- Finally, regarding traffic what has been agreed between the Health Services Foundation and the University Foundation is that whoever goes first all of these improvements are going to be made so that any new building will be occupied only after they are in place. They have worked with each other and have proffered it.

Mr. Zobrist invited questions for the applicant.

Mr. Smith asked the total number of parking spaces in the structure.

Mr. Daggett replied that it was roughly 450 parking spaces altogether. Some parking spaces are under the building. So the combination of the parking structure and under the building is between 425 and 450.

Mr. Smith asked how many employees.

Mr. Daggett replied that it was 235 plus the employees for the other medical finance group. All of the parking meets the ordinance regulations.

Mr. Lafferty asked if the pedestrian bridge would be wide enough to accommodate a bicycle and pedestrians.

Mr. Daggett replied that as he understands it that bridge has to be built in accordance with Mr. Brooks agreement, which is probably what they intend.

Ms. Porterfield asked if it would be ADA compliant so that wheelchairs could be used, and Mr. Daggett replied yes.

Ms. Porterfield asked to go back to the letter from the adjacent neighbor, which brought up a couple things she was curious about. There is no on site dining or any kind of a restaurant even though they have many people there.

Mr. Daggett replied that the finalized program has not been accepted formally. Within this program there is dining available for the folks in this building. There will be a cafeteria. They are including areas outside where they can take snacks and lunches and go outside and eat in good weather. It is intended to serve the folks in the building.

Ms. Porterfield asked if there is going to be a shuttle bus that would go back and forth from the Fontaine Campus to this so that people don't have to move their cars, and Mr. Daggett replied that he could not answer that question.

Ms. Porterfield questioned if this bldg was not to be rented to any unrelated businesses.

Mr. Daggett replied no, that the idea here is that this building is to be used by integral groups that are supporting the medical center. They will be integral financial groups. There is a certain level of security required. So this really benefits both of them. It is kind of a natural thing to put them together. Therefore, there will be better efficiency and security because they do handle a lot of money.

Ms. Porterfield asked if they are all related to the University of Virginia medical.

Mr. Daggett replied absolutely. This is not intended to be rented to anybody other than departments of the University servicing the Medical Center.

Ms. Porterfield asked if the daycare center is a Monday through Friday only, and Mr. Daggett replied as he understands it that is the plan.

Mr. Loach asked if the day care hours would be longer.

Mr. Daggett said that the daycare center was suppose to work during working hours and somewhat beyond so that if someone is leaving at 5 p.m. they will have time to pick their child up. He would say 6:30 p.m. or so. He did not know what the precise hours are, but it was not suppose to go on all night. The daycare is intended to service folks that are coming and going during the day.

Mr. Zobrist clarified that Mr. Loach was thinking that people from the University Hospital will be coming to this site. This is just for the Fontaine and the day workers.

Mr. Daggett noted that the folks at night are probably going to have their children at home.

Mr. Loach said that if, in fact, the daycare is going to serve nurses and physicians at the hospital that a lot of the nurse shifts are 12 hour shifts, like 7 a.m. to 7 p.m. They have these varying shifts at the hospitals.

Mr. Daggett said that he could not answer that question.

Mr. Loach asked if he was telling him that the daycare is just serving this facility on Fontaine, then he did not see a problem.

Mr. Daggett said that it can serve for others at the University, but its hours are intended for day workers.

Ms. Porterfield said that it makes a huge difference as to what the hours of the daycare are. Daycares the Commission has looked at there have been specific hours and that sort of thing.

Mr. Daggett referred the question to Gary Lowe.

Gary Lowe, Project Manager for Health Services Foundation, said the University is looking at numerous sites in and around the Charlottesville area for daycare centers. The ideal setting is for a 15,000 to 20,000 square foot building to accommodate 200 to 250 children. If it gets too much bigger than that, it becomes unmanageable. According to the folks they have talked to they are expected to manage these. This is all being discussed and he was not 100 percent sure. But, they do have daycare centers close to the hospital as well. He would assume night time employees would drop the children off at the more convenient place right next to the hospital where they have an existing daycare. The need is certainly during the daytime. That is why they are looking at multiple sites in and around Charlottesville to accommodate the workers of children during those hours. He would not anticipate having that facility open after normal working hours due to the fact they already have a daycare center right off of Cherry Avenue in the Eleventh Street area in existence that would be more convenient for the employees to use.

Ms. Porterfield said the normal working hours of the Fontaine and this area would be what everyone would consider sometime between 6 am and 6 pm as opposed to the shift that medicine sees.

Mr. Lowe replied that is correct.

Mr. Zobrist invited public comment.

Donal Day said that he had been a resident of 151 Buckingham Circle for the last 32 years, which was the neighborhood adjacent to the proposed center. He was appearing today to express in the strongest possible way his objections to this application.

- He felt the staff report or the written document erroneously suggests that the major concerns of their neighborhood had to do with exiting Buckingham Circle during these peak traffic hours. This could not be further from the truth. At both of the meetings, they had with the developer and his agent, where more than 30 people each time appeared, a wide range of concerns were presented. Their list of concerns was traffic, massing of the buildings, the visual and environmental impacts, runoff, and lighting all derived from a single source. That is the density and intensity of this proposed development. The creation of this dense monolith of glass and brick as presented adjacent to this rural housing development creates a contrast that will startle the observer. He will see this everyday as he drives out of Buckingham Circle.
- To get a sense of this disparity consider that there is more square footage proposed here on the 5 or so acres that Mr. Daggett says is the only part available to be built on. He was glad he said that because it is a 12 acre

parcel, but only 5 acres can be built on. There is more proposed square footage there than there are in all of Buckingham Circle consisting of 50 homes. They have 30 acres. Therefore, they go from a very quiet nearly rural established residential neighborhood complete with chickens, bee hives, and back yard gardens to something more like a space ship with hundreds of cars zooming in and out during peak hours and with night time artificial lighting that can never be escaped. No number of County ordinances can dissipate what is basically the light from an infinitely sized large building.

- This proposed structure is, in fact, a violation of the Land Use Plan, which states that the building's square footage limits it to a 5 acre parcel of 40,000 square feet. The staff report allows them to circumvent this by suggesting that, in fact, it is a 12 acre site. No one is proposing to build on the wetlands in the riparian area. Mr. Daggett said so himself. Speaking of which, not long ago the County came to his neighbors and proposed to share the cost of planting a riparian buffer to protect and purify the stream. However, now the creek and the wetlands will be used as a dumping ground for all of the pollutants streaming off the parking spaces and the roofs. To make matters worse, staff supports a waiver for disturbance of the critical slopes. The daycare center would be serving mostly people outside this development.
- It is true they met with the applicant on two occasions. The meeting was cordial on both sides. They presented their concerns, which were heard the first time. When he came back he told them exactly the same thing. Instead of a give and take, they got the brush off. This project takes property off the County tax rolls. Since the Health Services Foundation is a charitable non-profit organization that purchased this land, no property tax will be paid and none will be paid on this building development. His 1,500 square foot house on Buckingham Circle will provide more to the County than this entire project. The taxpayers of the County would be much better off if this property returned to a private profit and taxable organization.

Linda Day, resident of Buckingham Circle, agreed with her husband. She reiterated that the project is too big. It is disproportionately large for their neighborhood. It is will look like a space ship enterprise, which will be seen when they drive out of Buckingham Circle. She questioned the parking garage since nobody has said how many square feet it will be. That is never mentioned. She questioned why this project is not being constructed with the idea of parking off site, such as Scott Stadium, with shuttle buses. There is also a new parking garage proposed in the new Fontaine Research Park. She asked why people wouldn't be parking there. She asked why they needed to add this huge new footprint to what they have already proposed here for the office complex. She suggested that they go back to the 40,000 square feet and use shrubbery to hide it from their neighborhood. The Health Services Foundation needs to have a secure building particularly for those people that have some anger management issues due to declined insurance claims. She questioned that it might not be an appropriate location for a day care center in an area where they want to have a secure situation. She suggested that a day care center might be better sited perhaps in the Fontaine Research Park itself. Why add to more traffic problems by having pick-up and delivery of children throughout peak morning and evening hours. In the staff report, it says the site is bordered on the west by a large historic estate property known as Fox Haven. On the west, it is bordered by the Bias property. Furthermore, the Planning Commission should know that Fox Haven upon the death of Jane Heyward would revert to the University of Virginia. There is plenty of land out there to create something that is not going to be such an eyesore for their community. She suggested that they hold off for a few years. That is not in any disrespect to Jane Heyward who is an incredibly wonderful person. This is a big mistake in that the west is not owned by Fox Haven Farm.

Brier Gertler, resident of 141 Buckingham Circle, noted that Eric Bloomfield had to leave at 9:30 p.m. She has lived here for six years. Buckingham Circle exists in splendid isolation. Donal Day gave the statistics about the number of houses and the square footage. The square footage of all the houses in 30 acres of Buckingham Circle is less than one-half of the proposed square footage for this project. It absolutely is going to be enormous and will not fit Buckingham Circle. Buckingham Circle is a quiet neighborhood with lots of wildlife. Her neighbor had a black bear on his front porch last year. She cannot imagine a less appropriate site for a massive 115,000 square foot building with massive parking with 450 parking spaces. There will be thousands of car trips every day right by the only entrance and exit to Buckingham Circle, which is a dead end. Everybody comes and goes at the same time through that little intersection. The traffic is an unfavorable factor. There is more than one factor unfavorable. There is the traffic, lighting, noise, and the disruption of their beautiful life. She just wants to live the country. However, it has to be balanced against the factors favorable. It seems that going through the list of factors favorable that every one of those factors is favorable to HSF. She honestly cannot see a single factor favorable to Albemarle County. The one thing mentioned as a favorable factor to the County is the extended tax base. They were just told that this number of employees already works in the County. Therefore, the idea is not that they are going to have new people coming in from outside the County. They won't pay any property taxes. Therefore, she did not see how the County would get one penny of increased taxes. If the factors unfavorable were outweighed by the factors favorable, then yes by all means they should do it. The weight is only in one direction here and at the very least; she would ask that they cut this project in half. The project is too large.

Robert Miller, resident of 143 Buckingham Circle, pointed out he was in complete agreement with everything that had been said so far. He noticed that their whole neighborhood was in full bloom right now except for the wetlands. It looks like someone came through and defoliated the place. Last fall there was foliage there. It is just a big brown pit

this year. Usually this time of year the frogs almost deafening, and there are no frogs. He did not know what happened there. It seems like someone has already started this project.

Jane Bielefeld, homeowner at Buckingham Circle, noted that everyone knows each other in the neighborhood. It is a real neighborhood where they get out and walk on the Circle. She was deathly afraid that this will change their quality of life. She asked the Commission to say no to the request.

Neil Williamson, with Free Enterprise Forum, pointed out Free Enterprise Forum has no position with regard to this application. They have a process question. This is a ZMA and he questioned the purpose the ZMA. He questioned whether there is a real desire for this Commission to move forward dictating whether they will lease out space to anyone else or will be all employees of the applicant. He was concerned in so much as the restriction of trade and the idea that Albemarle County realized not so long ago that outsourcing cleaning services seemed to be a more economical solution. If they put such a restriction into a ZMA they would be prohibited from having anyone handling such outsourced cleaning services. It seems like a misplaced discussion point.

Ms. Porterfield pointed out that she did not bring it up. She just wanted to know whether the letter was accurate in the size of the building. It sounded like they were building part of the building to have rental space for businesses in Albemarle County. She wanted to clarify it and she thought it has been clarified.

Mr. Zobrist invited the applicant to speak.

Mr. Daggett said he would like to address one issue. That is that the Health Services Foundation pays real estate taxes. This building and property generates somewhere, if their numbers are correct what it is going to cost, somewhere between $150,000 and $160,000 annually. That is a fact.

Mr. Loach asked why not utilize the buses like they do for the University Hospital. In other words, have people park at the stadium and bus them down rather than having a large parking lot.

Mr. Daggett replied that the County Ordinance dictates the parking. He questioned if it is something that is negotiable.

Mr. Cilimberg said that it can be reduced, but it can't be removed.

Mr. Daggett said that they have to have property within a certain distance to replace it. For sure, the Jaunt Bus can come to the site. When the University extends its service, it certainly can service this building and help with that. The number of spaces is dictated by the County Ordinance.

Mr. Loach said it would be a consideration on the part of the University if it could be negotiated and essentially reduced so they would be generating less traffic and less parking.

Mr. Daggett replied that his sense of it was that there certainly was going to be more spaces than are going to be absolutely necessary to service this building. If that were negotiable, he would think they would be willing to do that. It would mean that they could build less parking structure. They have to service the folks who are coming to the building. At this moment, he did not know there has not been any discussion of reducing that parking on behalf of the County.

Ms. Porterfield noted that comments were made about the building being really big. It is really big and a lot of square footage. She asked if the building has to be that big.

Mr. Daggett replied that as he pointed out at the beginning, this building was sized to put these groups together in the same space and 100,000 square feet is what they need.

Ms. Porterfield asked if there was no other way to achieve that.

Mr. Daggett replied that if they want to put these groups together from the standpoint of efficiency of operation to service the Medical Center, there is no way to do it other than in the same building.

Ms. Porterfield asked if they want to do it here as opposed to at Fontaine.

Mr. Daggett replied that Fontaine is a completely different thing. HSF would remain there except that the medical center needs to expand the medical services there to try to reduce the congestion at the hospital and to provide folks with easier access to medical services.

Ms. Porterfield asked if there was any thought if they are going to have the day care center there and hidden if there was any reason why they could not hide the building more and have the smaller item out in front also more accessible. It is just a thought.

Mr. Daggett said they have tried very hard to mitigate the impact of this large building by stepping it back as best they can. Most of its bulk will not be visible from the neighborhood. The point where they took the picture and showed those renderings is the point where they are driving at the bottom of the circle. The houses as shown on the diagram go up both sides. He did not think they were going to see it from their houses, but a few may to some extent. They also offered to plant in front of them so that they had less view of it. That is something that they are still willing to discuss.

Mr. Zobrist invited other questions. He thanked the applicant for his comments. The public hearing was closed and the matter before the Planning Commission.

Mr. Smith said if he lived in Buckingham Circle, he would not want this big building over there either. However, he believed he would prefer this proposed as to having apartments and townhouses. That is 24 hours a day, 7 days a week and this request is not. He would hope that the traffic problems will have been mitigated, but it will not be completely.

Mr. Morris said when the Planning Commission heard the rezoning of this property in 2004/2005 virtually the same concerns was raised by the residents of the Circle. They were valid concerns. He thought the applicant's presentation showed that they are probably going to be less affected by the profile of what is now being proposed than what was proposed and approved in 2005. Unfortunately, it is going to affect their community no matter what.

Mr. Franco asked if this is a proffered site plan at this point.

Ms. Wiegand replied that it is a planned district. Therefore, they don't have to proffer the application plan. It is automatic. The application plan is not proffered.

Mr. Franco asked if there is an ability to reduce the amount of parking.

Ms. Wiegand replied yes, that she is going to talk with Ms. McCulley to see if they could reduce some of the parking. That could be done at the site plan. If the Commission should recommend approval when they get to the site plan, they just might have a slightly smaller building.

Mr. Cilimberg noted that the ordinance actually has provisions for a study that would be submitted for a reduction in parking. That can happen at the site plan stage. It has not happened at this point.

Mr. Franco said approving this with this application plan does not prohibit that from occurring.

Mr. Cilimberg replied no. The footprint could be reduced and if parking was reduced that is not an issue.

Mr. Zobrist asked if staff has a proposed resolution.

Ms. Wiegand noted that there were three separate motions that needed to be made. This is the first item. She asked if the Commission has any guidance for staff and the applicant about the elevations shown on Fontaine Avenue.

Mr. Zobrist replied that he did not. He thought that the architects could do it better than he. He liked the way they had done it.

Mr. Loach reiterated that the early planning should have been with transportation in mind. It should not have been how to mitigate and put another big parking lot somewhere. It should be how they can start to weave this thing into the fabric of the neighborhood. He would have thought the University would have started to take this into concern rather than push everybody down to those 29 exits, which was the one place they said there was going to be a problem. They should look to do anything that can be done about that. He agreed with Mr. Smith that he would prefer this use on a 9 to 5 five day a week basis, particularly knowing the University is going to be maintaining it and it will be maintained well. He noted that the Fontaine Park is a very nice place.

Mr. Lafferty suggested that they needed to be careful about saying the University versus the Health Foundation since they are entirely separate.

Mr. Smith said he could not see reducing the parking area. If they take 50' to 75' off the parking decks, they still have 3 elevations. They could never have too much parking. He was not saying cover the whole thing up, but it looks like it fits.

Ms. Porterfield agreed that they should not take the parking down. One thing that the University medical needs everywhere is more parking.

Mr. Loach noted he was not saying the parking should be reduced. They should be looking at incorporating mass transit with it. Not everybody is going to be coming from one spot into there. If there are other modalities available, then they could start to calculate. He suggested that she might be right on the one side, but on the other side wrong.

Ms. Porterfield noted even if they end up with extra parking and they run a shuttle bus they have people that need to park off-site that are parking off-site now down at the hospital due to the lack of parking.

Mr. Monteith noted that there is enough parking. People are making choices and there is plenty of parking.

Ms. Porterfield said they would discuss that later. She requested to talk about the daycare. She questioned if they need to put perimeters on this daycare since they always have on any other day care that comes in. If it is truly a Monday through Friday daycare, it needs to be that. If needs to have the basic real working hours and not shifts, then it needs to be 6 a.m. to 6 p.m.

Mr. Cilimberg pointed out that would have to be a proffer as to the operation of daycare. This is a commercial use.

Mr. Kamptner pointed out it is a by-right use in the PD-MC District.

Mr. Cilimberg said this is not a rural area or residential zoning, but is Planned Development Mixed Commercial.

Ms. Porterfield said that it is big and she understood what it is needed for. However, they need to try to keep as much activity there away on the weekends and the holidays. In other words, not Saturday, Sunday or holidays so at least the people living nearby could have some peace at that point.

Mr. Kamptner noted the Commission could make a suggestion for a proposed proffer that the applicant can consider when this goes to the Board.

Motion: Mr. Smith moved and Mr. Lafferty seconded to recommend approval of ZMA 2010-00003, Morey Creek Professional Center, as it stands subject to the proffers provided and commitments to building elevations, lighting, and landscaping.

Mr. Franco pointed out with respect to the day care, the existing use that is allowed there is 24/7. He did not see that this daycare would be a greater impact than the 61 residential units that were proposed. Even if it was on Saturdays, he did not think it was appropriate for the Commission to be restricting it.

Ms. Monteith added if it is appropriate for the applicant and the County to work together, they certainly have used transportation land management to reduce the parking ratios at Fontaine. There is no reason why that couldn't be applied as a formula here.

Mr. Franco said absolutely. He thought that if it was a choice of the applicant to work with the County to reduce the traffic that is a choice they are making and he was comfortable with that. He did not want to force it on them, but would support that.

Mr. Cilimberg said that would actually be necessary as part of a parking study to reduce spaces.

The motion passed by a vote of 7:0.

Motion: Mr. Lafferty moved and Mr. Franco seconded to recommend approval of SP-2010-00009, Morey Creek Professional Center - Parking Structure as recommended with no conditions.

The motion passed by a vote of 7:0.

Motion for Critical Slopes Waiver:

Mr. Kamptner noted that this was an action to approve.

Mr. Cilimberg noted that the Commission would be taking the action and not the Board. The Commission would actually be approving the waiver.

Motion: Mr. Lafferty moved and Mr. Loach seconded to approve of the Critical Slopes Waiver for the Morey Creek Professional Center, as recommended by staff.

The motion passed by a vote of 7:0.

Mr. Zobrist noted that ZMA-2010-00003 Morey Creek and SP-2010-00009 Morey Creek Professional Center – Parking Structure would go to the Board on a date to be determined with a recommendation for approval. The critical slopes waiver was approved.

SP-2010-00010 Ivy Creek Church
PROPOSED: Special use permit to bring church, Sunday school, parsonage and cemetery into compliance with zoning ordinance and demolish a portion of the existing church facility to construct a fellowship hall, offices, meeting room, nursery classrooms, and re-construct parking area on a total of 2.973 acres
ZONING CATEGORY/GENERAL USAGE: Rural Areas (RA) - agricultural, forestal and fishery uses SECTION: 10.2.2 (35) Church building and adjunct cemetery
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas (RA 1) - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources / residential density .5 units / acre in development lots
ENTRANCE CORRIDOR: Yes____No__X__
LOCATION: 674 Woodlands Road (Rt. 676) west of Green Meadows Lane
TAX MAP/PARCEL: 04400000001400 (church/cemetery); 044000000012H0 (parsonage)
MAGISTERIAL DISTRICT: Jack Jouett (Joan McDowell)

Ms. McDowell presented a PowerPoint presentation and summarized the staff report.
This is a special use permit for expansion of an existing church that was built around 1920, the Ivy Creek Methodist Church. The special use permit would bring the church, Sunday school, parsonage and cemetery into compliance with zoning ordinance and demolish a portion of the existing church facility to construct a fellowship hall, offices, meeting room, nursery classrooms, and re-construct parking area on a total of 2.973 acres. The proposal would include the following:

- Bring existing church and cemetery into compliance with the zoning ordinance
- Demolish existing multi-purpose building (Sunday School / utility building)
- Construct new Fellowship Hall
- Re-design parking, use curb stops to define spaces
- Improve alley in rear of church building
- Close existing entrance between church and cemetery
- No changes on parsonage
- No changes to the historic church
- No additional sanctuary seating

Factors Favorable:
1. Closing the easternmost driveway would remove an unsafe condition.
2. The proposed building and site improvements would be sensitive to the historic structure and the historic site context.
3. The church contributes to the surrounding community.

Factors Unfavorable:
1. The reorganization of the parking would require the removal of large trees.

RECOMMENDATION: Staff recommends approval of this Special Use Permit with the conditions outlined in the staff report.

Mr. Zobrist invited questions for staff.

Ms. Porterfield noted there was a lot of discussion about large trees on the last church site the Commission reviewed. The Board of Supervisors required many trees to be planted. She questioned if there were large trees that could be saved on this site.

Mr. Lafferty suggested that there were only two large trees.

Ms. McDowell said that there were a couple of trees that would need to be removed to do the expansion. The trees X'd out on the site would need to be removed to construct the building.

Ms. Porterfield asked if there was no way to avoid cutting those trees.

Ms. McDowell replied that staff talked to the applicant and agreed that there does not seem to be any way to avoid it.

Mr. Franco noted when they say that what is driving it is the formalization of the parking. It looks like one of the trees in the back right was in the footprint of the building. He asked if formalizing the parking is something that is driving the two trees in front being removed. He asked if that is a choice being made by the applicant or is that a site plan requirement.

Ms. McDowell replied that decision would be made by the applicant. The applicant is present.

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

Steve Driver, with Terra Engineering, said the church building was constructed many decades ago and is a well known land mark in the local community. He made the following comments.

- Over the years, a social hall was added with the addition to the back of the church. The current proposal is simply to replace this addition and to extend it slightly to the west to the social hall so folks won't have to walk out in inclement weather to go from one building to the other. About three or four decades ago, the church bought some additional land and built a church parsonage next door. The two parcels, the parsonage and the church, were recently approved by County staff to be combined into one larger parcel. The combination plat has been approved and recorded.
- As Joan pointed out the purpose of the special use permit is simply to bring the church, parsonage, Sunday school, and cemetery into compliance with the current Zoning Ordinance, which obviously did not exist many years ago. In development of the current conceptual plan, several issues were raised by County staff. Over the last several months, the applicant has worked diligently with County staff to resolve all the issues. During this process County staff also suggested so as to be efficient in the work to also request waivers that were deemed to be conducive to the rural character of the site and the site's usefulness and yet consistent with past Commission actions regarding the final site plan preparation. Therefore, waiver requests were made and County staff approved these waivers via the letter dated March 22, 2011 with conditions. Those conditions were simply that the site development is to be consistent with the conditions of this special permit and that timbers would be installed along the parking edges as shown on the concept plan.
- He expressed their sincere appreciation to County staff for their time and efforts in helping the applicant to formulate a concept plan, which not only enhanced the worse experience for the church community, but also provides an improved and safer entrance to the church site. He respectfully asked the Commission to provide a positive recommendation for approval.

Mr. Zobrist invited questions for the applicant.

Ms. Porterfield asked if there was any way to safe a couple of the gigantic trees.

Mr. Driver said that was an excellent question. He had tried to figure out how to do that. One tree needs to be removed for the new building structure to the back of the church. The other two trees are in the parking lot area. To meet the County requirements for parking space and circulation in the parking area those trees have to come down. There are a number of large mature trees on the site. Basically, to save those trees they would probably have to push some parking out in front of the church parsonage lot, which would not be conducive for walking from the parking to the church building itself. Their goal is to try to keep the parking as close to its current position as possible. That parking area currently is a graveled area and one of the waivers requested was that it remains a gravel area. There is very little grading required for that. The people who attend the church today pretty much park where ever they can find a place because there are no striped parking spaces. To meet the County requirements they have to relegate the parking a little bit and they are doing that by the proposed timbers and the concrete wheel stops.

Ms. Porterfield asked staff if there is anything they can do to try to save the two big trees in front of the Sunday school building, which are in the parking lot.

Mr. Cilimberg replied that he could not answer that since it was reviewed by the County Engineer because he has to set up aisles and parking spaces. He also mentioned if he had to avoid the trees, he might have to extend some of the parking over which gets into other areas that have trees in them itself. Where they can incorporate the trees, they certainly will. Once they are creating a parking area around the trees, they are disturbing the area underneath the canopy of the tree.

Ms. Porterfield noted that she understood, but was just trying to see if there was anything that can be done or whether they have to go by the absolute letter of the law. She asked if there was anything that could be done.

Mr. Cilimberg replied that he could not answer that question because he was not involved in that decision. That is really handled in another area. To the degree that it can be addressed during the site plan process, he was sure it

would be.

Ms. Porterfield realized that it was further away, but they would have able bodied people that could come and park behind the parsonage. There has to be enough people that could walk over from there.

Mr. Cilimberg noted from knowing the site from past applications they may be robbing Peter to pay Paul. By making the shifts, they may be end up taking trees in another location.

Ms. Porterfield said that they don't show any trees back there because that has the drain field in it.

Mr. Cilimberg pointed out that parking over a drain field has its own issues.

Ms. Porterfield agreed. She was just saying that they have these nice historic building and part of the wonderful part of them is the size of the trees that have been allowed to grow. It just seems a shame. There are four big trees on the site that are coming out.

Ms. McDowell said there is a condition of approval.

Mr. Smith pointed out that the church will add new trees and new growth.

Mr. Zobrist asked if anyone else has any questions of the applicant.

Mr. Franco reiterated what he was hearing. He was not looking to redesign the site to save the trees so much as asking a question. If they left the parking unorganized as it has been and people are just finding spaces in the lawn as they have been doing for years can they just leave it that way or would the church want to leave it that way.

Bob Pattison, Chairman of the Building Committee, said they love those trees. They realize that the trees contribute significantly to the beauty of the site. If they could save those trees and not have to organize the parking the way it is, they would be more than happy to do that. Obviously, they have to lose the one that is over where the building is going to be. If they could help them to save those trees, they would be appreciative.

Mr. Franco said from his perspective if there was a way that they could move this forward and allow the unmarked parking area to continue to provide the required parking and in that way they don't have to take the trees he would support that.

Mr. Cilimberg suggested they act on the special use permit application, and then indicate they would like a reconsideration of how the parking is being provided and if the trees can be saved.

Mr. Kamptner noted that staff could look at that issue between now and the Board meeting.

Mr. Cilimberg said that does not have to be dealt with by the Board necessarily, but it can be dealt with by the people who have to make those decisions. They don't have any of those staff persons present.

Mr. Franco agreed.

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

Jim Thornton, Pastor of Ivy Creek Church, said that they want very much to be more effective in their ministry in the community. They want to be able to offer much more to their young people and the children in a growing Christian Arts Academy, which sometimes has around 100 people involved. What they are asking for is the facility to enable them to do that. They will do everything they can to save the trees. The trees are nice, except for when they rake the leaves.

There being no further public comment, Mr. Zobrist closed the public hearing to bring the matter before the Planning Commission.

Mr. Lafferty said the desire to try to save the trees has been expressed and he was ready to make a motion.

Mr. Franco said he was comfortable making a motion as well to move this forward. Again, his goal would be to highlight to staff that a willingness as part of our motion or after their motion that if they feel that leaving the parking unmarked, if everybody is comfortable with that on the user side, and that preserves the trees, that they are willing to have that happen.

Mr. Lafferty suggested saying some consideration of saving the trees.

Mr. Cilimberg said if they make the motion on the special use permit, staff understands the Commission would like them to talk with staff about any accommodations for the trees that are there now.

Ms. Porterfield suggested that they needed to formalize it somehow.

Mr. Morris agreed that exactly what Mr. Cilimberg said is as formal as the Commission wants to get. He thought this is something that needs to be looked at between the applicant and staff in a logical quiet manner and not at this late an hour.

Mr. Franco said that he did not want to make that a condition of the approval. He would accept this if it was the only way to move it forward, but was willing to take this plan as is.

Motion: Mr. Lafferty moved Mr. Franco seconded to recommend approval of SP-2010-00010 Ivy Creek United Methodist Church subject to the conditions, as recommended by staff.

1. Development and use shall be in accord with the conceptual plan titled "Special Use Permit "Ivy Creek United Methodist Church Overall Layout and Grading" prepared by Terra Engineering and Land Solutions, PC and dated (last revised) February 3, 2011 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan

- *limits of disturbance*
- *location of buildings and structures*
- *location of parking areas*
- *permanently closing driveway closest to cemetery*

   Minor modifications to the plan, which do not conflict with the elements above, may be made to ensure compliance with the Zoning Ordinance.

2. The area of assembly shall be limited to a maximum 1, 600 square feet.

3. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval.

4. Removal of trees shall be limited to the trees designated for removal, as shown on the Conceptual Plan, and the minimum number of trees may be required to be removed by the Health Department for the septic system. Tree protection measures for remaining trees within the construction area including the alley, parking; Fellowship Hall building shall be required on the erosion & sediment control plan in accordance with the Virginia Erosion and Sediment Control Handbook. The tree protection measures shall be installed prior to any land disturbing activity prior to any land disturbing activity.

5. Approval of a site plan or site plan waiver shall be required.

6. Approval from the Health Department for the septic system and well shall be required prior to approval of an issuance of a building permit.

7. Construction of the new building, as identified on the conceptual site plan (Attachment A) shall commence on or before five years from (the Board of Supervisor's approval date), or this special use permit shall be deemed abandoned and the authority granted hereunder shall be thereupon terminate.

8. There shall be no day care center or private school on site without approval of a separate special use permit.

The motion passed by a vote of 7:0.

Mr. Franco noted in follow up that as a Commission they were in agreement that they would encourage or accept staff working with the applicant to save trees. Staff could follow up to see if a less formal parking arrangement could be done to save the large trees.

Mr. Cilimberg added if it was possible under the ordinance because that is all staff has to work with.

Mr. Kamptner recalled that a rural church within the last year or two where they had a less formal parking arrangement that was allowed.

Mr. Cilimberg noted that the first thing staff was going to do as a follow up was to get with staff tomorrow on this. He noted this may be the last time the Commission would see Joan McDowell as she is retiring.

The Commission thanked Joan McDowell for her work and service to the Commission and wished her well in her retirement.

ZMA-2010-0016 Woolen Mills

PROPOSAL: Rezone .588 acres from LI - Light Industrial zoning district, which allows industrial, office, and limited commercial uses (no residential use) to R-4, Residential zoning district, which allows residential uses and 4 units/acre. Proposed number of units is 2 for a density of 2 units/acre.
PROFFERS: No
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 and Parks and Greenways - parks, greenways, playgrounds, pedestrian and bicycle paths in Neighborhood 4.
ENTRANCE CORRIDOR: No
LOCATION: 1911 & 1913 East Market Street
TAX MAP/PARCEL: 78/21F
MAGISTERIAL DISTRICT: Scottsville (Claudette Grant)

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

The purpose of ZMA-2010-00016, Woolen Mills is to rezone .588 acres from Light Industrial zoning district to R-4, Residential zoning district. The property consists of an existing historic two-unit house. There are also two out-buildings that appear to be used for storage. The front of the house is located approximately 5 feet from the edge of the street. The Rivanna River is located to the east and approximately 150 feet from the house. This is an old, historic, industrial area, primarily consisting of residential uses. There is a mix of old abandoned industrial buildings and refurbished industrial buildings now used for residential purposes. A storage facility is located nearby. The eastern boundary of this neighborhood is the Rivanna River. The area adjacent to the river is in the flood plain. The CSX railroad track is located to the west. The applicant wishes to purchase the property and renovate the building turning it into one residential unit with an accessory apartment. The applicants wish to rezone the property so that the residential use is more consistent with the adjacent residential zoning district, and to help bring a non-conforming property into a conforming use. In addition, the rezoning may help the applicants as they obtain their financing.

Factors Favorable:

1. The rezoning request from Light Industry to R-4 Residential is in keeping with the Land Use Plan.
2. The rezoning to a residential use is more consistent with the surrounding adjacent residential properties.
3. The rezoning will make a legal non-conforming use more conforming.

Factors Unfavorable:

None
Staff recommends approval of ZMA 2010-016, Woolen Mills.

Mr. Zobrist invited questions for staff.

Mr. Franco asked if the greenway is accommodated behind these lots. He knew there was something that went on with the draining of the dam. He asked if the greenway goes past this on its own property via an easement. He asked how the greenway is dealt with in the back.

Ms. Grant replied that the greenway is an area in the back of the property. It is just considering an area that is not developed.

Mr. Franco asked if the greenway path is on their property. He asked if there is adequate land to create or maintain the greenway path.

Ms. Grant replied that it is on their property. It is just an open area that is in the back of several of the properties. She did not know if she would say it is a formal trail back there.

Ms. Monteith noted that she actually walks around this area quite a bit. The path goes from Free Bridge to Riverview Park. Then it moves on to City streets, where one would be on City streets down in front of this house. Therefore, there really isn't a greenway path that goes behind these houses.

Mr. Franco said there had been talk about wanting it for quite a while. He lived across the street from this property for quite a while. When the dam was drained part of the idea was that maybe they would get the greenway path back along Riverside as opposed to along the street. He guess when it was drained the property became attached to these properties as opposed to become vacant or the stuff that was under water. He was just asking if the greenway path is still something they are looking for back there.

Ms. Grant said that she was not sure of that. The owner of the property is present and may be able to speak a little more to that. As far as she knew, there is no formal trail in the back of the property or in the back of any of the properties. It is just an open area. She did not know if there was an easement or ownership issues.

Mr. Franco asked if there was communication with the City with the Woolen Mills Neighborhood about this proposal or the Neighborhood Planner for the City.

Mr. Cilimberg noted that they send all of their projects to the City so they are aware of the process. He did not know if there was special notification or a discussion with any staff of the City or not.

Ms. Grant noted that there was not. They do send notifications out to the City staff. She heard from the President of the Neighborhood Association.

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

Fred Wolfe, applicant, said that the staff report summarizes their intention quite well. He and his wife plan to purchase the home from Mr. Wren and turn it from a rental property into a single-family residence with the possibility of an accessory apartment. Their primary residence would be a single-family detached dwelling.

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

Motion: Ms. Porterfield moved and Mr. Morris seconded to recommend approval of ZMA-2010-00016 Woolen Mills as recommended by staff.

The motion was passed by a vote of 7:0.

Mr. Zobrist noted that ZMA-2010-00016 Woolen Mills would be forwarded to the Board with a recommendation of approval at a date to be determined.

Old Business

Mr. Zobrist asked if there was any old business.

Mr. Kamptner pointed out under the Morey Creek critical slopes waiver that Ms. Wiegand had the condition stated correctly since the Planned Development regulations were changed over a year ago. Under the current regulations, the Planning Commission makes recommendations on all of these types of waivers and modifications. If it were not part of a Planned Development, the Commission would be taking final action. However, they changed the regulations to make sure that all of these waivers and modifications that are associated with a Planned Development go to the Board so the Board can look at everything better.

Mr. Zobrist asked if the motion needed to be changed.

Mr. Kamptner replied just to be perfect he asked for a motion to reconsider. That would be followed by a revised motion itself.

Motion for Reconsideration: Mr. Franco moved and Ms. Porterfield seconded to reconsider Morey Creek Critical Slope Waiver.

The motion passed by a vote of 7:0.

Motion: Mr. Franco moved and Mr. Lafferty seconded to recommend approval of the critical slopes waiver for Morey Creek with the conditions as recommended by staff. (Concurrent with ZMA-2010-00003 and SP-2010-00009).

The motion passed by a vote of 7:0.

- Mr. Franco requested staff for an update on the status of the critical slope ordinance since it might be helpful to hear where they might be heading. Mr. Cilimberg replied that the critical slope ordinance update had been put on hold due to the staffing situation.

There being no further old business, the meeting proceeded.

New Business

Mr. Zobrist invited new business.

- The Commission thanked Joan McDowell for her work and service to the Commission and wished her well in her retirement.
- There will be no meeting on Tuesday, April 12, 2011.
- Community Advisory Council Town Hall Meeting will be held on Monday, April 11, 2011, 6:30 p.m. in Room 241, County Office Building.
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There being no further items, the meeting proceeded.

Adjournment

Mr. Lafferty moved and Mr. Morris seconded to adjourn to Monday, April 11, 2011 for the Community Advisory Council Town Hall Meeting at 6:30 p.m. in Room 241. The motion carried unanimously.

With no further items, the meeting adjourned at 10:37 p.m. to the Community Advisory Council Town Hall Meeting, Monday, April 11, 2011, 6:30 p.m., Room 241, County Office Building, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

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