

**Albemarle County Planning Commission
June 23, 2009**

The Albemarle County Planning Commission held a public hearing and meeting on Tuesday, June 23, 2009, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Don Franco, Marcia Joseph, Calvin Morris, Bill Edgerton, Linda Porterfield, Thomas Loach, Vice Chair and Eric Strucko, Chairman. Julia Monteith, AICP, non-voting representative for the University of Virginia was absent.

Other officials present were Eryn Brennan, Senior Planner; Gerald Gatobu, Principal Planner; Bill Fritz, Chief of Current Development; Wayne Cilimberg, Director of Planning; Mark Graham, Director of Community Development; Juan Wade, Transportation Planner; Amy Pflum, Engineer and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

Other Matters Not Listed on the Agenda from the Public:

Mr. Strucko invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved to the next item.

Deferred Items:

SP-2008-00060 Albemarle Baptist Christian School

PROJECT: SP200800060 Albemarle Baptist Christian School

PROPOSED: Private school with up to 40 students and up to 5 teaching staff on a 6.26 acre property in conjunction with the existing Albemarle Baptist Church

ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); EC Entrance Corridor - Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access

SECTION: 10.2.2.5 Private schools

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre in development lots)

ENTRANCE CORRIDOR: Yes

LOCATION: 1685 Roslyn Ridge Rd. at n/w corner of Hydraulic Rd. (Rt. 743) and Roslyn Ridge Rd.

TAX MAP/PARCEL: 061000000001E0

MAGISTERIAL DISTRICT: Jack Jouett
(Eryn Brennan)

Ms. Brennan presented a PowerPoint Presentation and summarized the staff report.

- The Albemarle Baptist Christian Church is requesting a special use permit to allow a private school in an existing church, with a maximum of 40 students and 5 teaching staff. The school would operate from September to June, and hours of operation would be from 9 am to 3:30 pm; however staff has noted in the staff report that the hours of operation would extend to 4:30 pm to allow children to be picked up from the school and teaching staff to finish out their day.
- As students would be transported by their parents, the school would not operate a bus. Students would also bring their own lunches since no lunch service would be provided. The concept plan shows the existing building, highlighted in orange, in which the school would be located. Staff parking would be located in the first row, and visitor and parent parking located in the second row. The playground and outdoor recreational area is shown shaded green, and you can also see in this slide

the concept plan is superimposed on a site plan that was approved by the Board of Supervisors in May 2002.

- In terms of conformity with the Comprehensive Plan, the Rural Areas chapter outlines the vision and goals for the Rural Areas, and recommends that land uses be consistent with traditional rural scales. The proposed private school does constitute a small-scale use in keeping with a traditional rural scale since a 40 student maximum is proposed. Furthermore, the private school would be utilizing an existing building, and therefore would not require an upgrade of the existing infrastructure.
 - Staff does not anticipate any detrimental impacts to adjacent property given the distance of the school from neighboring residents, and because there will be no site development changes or new construction on the property. VDOT has confirmed that the proposed school would not significantly impact traffic on Hydraulic Road, as the school will be limited in size to 40 students and 5 staff. VDOT has assessed that the proposed school would generate 36 additional trips in the morning and 24 trips during the afternoon from 2-4 pm, which would not impact evening peak traffic, generally from 4-6 pm.
 - In order to contextualize the scope of this proposal, this slide shows a cross-comparison of this Special Use Permit application with the Charlottesville Day School application that was preliminarily reviewed by the Planning Commission on September 16, 2008. The Charlottesville Day School was requesting permission for a private school to accommodate 185 to 228 students, and to construct two new buildings (in addition to the two existing buildings) on the site. The proposed site constituted a 21.8 acre parcel characterized by open space, creeks, and stream buffers, and the development most likely would have necessitated an intersection upgrade and new septic facility. Based on the large scale of the private school, staff determined that the proposal was not consistent with the Rural Areas chapter of the Comprehensive Plan and recommended denial.
 - In contrast, the application before us today, is significantly smaller than the Charlottesville Day School proposal, and is proposed to occupy an already existing building on the site. The site is a 6.26 acre parcel of land, with nothing in this application that would additionally impact natural resources on the site. Staff has found this application to be consistent with the Comprehensive Plan, because it does constitute a small-scale use in keeping with a traditional rural character, given the 40 student maximum and the fact that the private school would utilize an existing building. Furthermore, no upgrade of the existing infrastructure would be required.
 - The applicant is proposing a playground recreational area where the Phase 3 Building is shown on the concept plan. The applicant is aware that a playground in this area will require an amendment to the site plan, and that if and/or when Phase 3 is built; relocating the playground recreational area to another area on the site would require an amendment to this Special Use Permit.
 - Although a school on this site would increase the number of vehicles on Hydraulic Road in the morning and afternoon, VDOT has determined that the increase would be minimal and would have no detrimental impact on traffic patterns in the area.
 - Based on the school's relationship to the existing church, the relatively small scale of the school conforming with the Comprehensive Plan, and the facts demonstrating no impact on health, safety and welfare as provided by the Health Department, VDOT and other reviewers; staff did not find a legitimate basis for recommending denial.
 - Staff recommends approval of SP2008-60 with the conditions listed in the staff report, as follows. Please note that in Condition 1 – the attachment should read Attachment A and not Attachment C.
1. *The school is limited to the existing building and grounds, as indicated on the concept plan (Attachment A). Any additional building or site changes beyond those shown on the approved site plan for SP 2001-47, prepared by Dex A. Sanders and dated November 28, 2007, will require an amendment to this Special Use Permit.*
 2. *Maximum enrollment of students and staff shall be limited to forty (40) students and five (5) staff. Any increase in enrollment and/or staff shall require an amendment to this Special Use Permit (SP 2009-60) and a traffic study shall be required to be submitted with the amendment.*
 3. *Hours of operation for the school shall be from 8:30 a.m. to 4:30 p.m., Monday through Friday, from September to June; and days of operation shall not exceed 336, excluding special school events.*
 4. *No additional outdoor lighting shall be allowed without an amendment to this Special Use Permit.*
 5. *Food preparation for the private school use shall not be conducted without an amendment to this Special Use Permit.*

- ~~6. All requirements of the Architectural Review Board of Supervisors shall be met, including the site plan indicating the existing tree line and specific trees of six (6) inches or greater and retaining significant trees.~~
7. The area of assembly shall be limited to a maximum four-hundred-thirty-five (435) seat sanctuary.
- ~~8. Health Department approval of well and septic systems prior to final site plan approval.~~
9. Commercial setback standards, as set forth in Chapter 18, 21.7.2 of the Albemarle County Zoning Ordinance, shall be maintained adjacent to residential uses or residentially zoned properties.
10. Any number of parking spaces in excess of the required minimum shall not be paved.
- ~~11. There shall be no day care center or private school on site without the approval of a separate special use permit.~~
- ~~12. Construction of Phase 1 [6,800 sq. ft. sanctuary] shall commence within forty-eight (48) months or this special use permit shall expire.~~
- ~~13. All requirements of VDOT shall be met prior to final site plan approval, including approval of one entrance from Roselyn Ridge Road, with a one-hundred (100)-foot right turn lane and one-hundred (100)-foot taper lane.~~

Mr. Strucko invited questions from the Commission.

Mr. Edgerton asked how the traffic count was calculated by VDOT.

Juan Wade, Transportation Planner, replied that it was done based on the IT Trip Generation. The Seventh Addition is the book staff uses to determine trip generation during peak hours and total trip generations for various uses. That was what it was based on. That is why it is exactly 36 and 24.

Mr. Edgerton asked if the traffic count was taken out of the table and not by on site verification of what is happening.

Mr. Wade replied no.

Mr. Edgerton said that the school as noted in the staff report has been very open about the intent of ultimately expanding the school. He asked if anybody calculated what that would involve.

Mr. Wade replied no, but that staff let the applicant know that if they plan to expand past 40 students then they would have to come back and do a more thorough traffic analysis. Staff felt comfortable that the road network could accommodate 40 students without any problems. The applicant would have to come back in and do a more thorough traffic analysis to expand past 40 students.

Mr. Edgerton noted that he was a little surprised in the staff report on top of page 5 where it talks about traffic information that there were no fatal crashes. He asked if the accident involving the police officer just about a year and half ago was in this area.

Mr. Wade replied that he believed that accident was on Hydraulic Road just a little past The Rocks Store. It was in the vicinity, but it was not at this exact location. Staff can get crash data at a pretty precise location between certain points and it was not in this area.

Mr. Morris asked what grade levels are represented with the 40 students.

Ms. Brennan replied it was grades 3 through 8.

Ms. Porterfield questioned the hours of operation being September to June. She would read that to mean September 1 to June 1 and questioned if the school would really want to be done by the end of May.

Ms. Brennan replied that was what the applicant requested in the application.

Mr. Strucko suggested clarifying that with the applicant.

Ms. Brennan noted that the first day of school would be on Wednesday, September 2 and the final day of school would be Friday, June 4.

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

Mark DeLoach, Pastor of Albemarle Baptist Church, said that the school's administrator, Jim Haddock, was present. He pointed out that Mr. Haddock had been a public school teacher for more than 39 years. He thanked the Commission for their consideration of their application. He said they understand the Commission's concern for traffic. Everyday they come to the church and it is always some problems in getting in and out for everybody. That is just the way it is even without a school. Since their school will be closed enrollment and not open enrollment they do not believe it will be a major problem at all for the traffic situation there. They will strongly recommend ride shares for the school in order to lessen the traffic. In fact the Christian School community lends itself to ride shares. Of course, their goal is to be a positive influence in the community. There are only around ten or so families that are involved and two of the families already come into the property every day anyway. Therefore, they don't believe the school will severely impact the 2,200 other cars that use that road in the morning and evening. He offered to answer questions.

Mr. Strucko invited questions for the applicant.

Ms. Joseph noted in the staff report that the peak time is between 4 p.m. and 6 p.m. She asked if would be difficult for the school to move up the time from 4:30 p.m. to sometime before 4 p.m.

Mr. DeLoach replied they would plan on ending school by 3:00 p.m. and that changing the time would not be a burden.

Ms. Joseph asked if the school curriculum was directly related to the church and a function of the church.

Mr. DeLoach replied that it is. They will use one of three different kinds of curriculum which is typically what their kind of schools use. The curriculum would be connected from a Christian viewpoint although academically sound.

Mr. Edgerton noted that the staff report indicates their intention to expand the school to twelfth grade. He asked how quickly they plan that to happen.

Mr. DeLoach replied that the phase one scope is not going to be any time soon and in phase two the school would expand some. Their goal is not to have a large school, but to simply have a school mainly for their own church people. At best they hope the expansion would occur within five years.

Mr. Edgerton asked if they have any idea what their maximum enrollment might be.

Mr. DeLoach replied that their guess is that it would never be more than 100 students.

Mr. Loach noted that the staff report says private school. He asked if the school would be run under the offices of the church and directly related to church functions.

Mr. DeLoach replied yes that it was a church school.

Mr. Strucko opened the public hearing and invited public comment.

Debbie Goodman, resident of Roslyn Ridge Subdivision and a Board member of the Roslyn Ridge Homeowner's Association said she was speaking on behalf of the neighborhood. Several of their neighbors are present tonight, but several were not able to attend this meeting. There are many reasons why they oppose the proposed school at the Albemarle Baptist Church.

- Number one is traffic and safety. When she takes her child to Albemarle High School between 8:30 and 9:00 a.m. it takes 5 minutes to turn right from Roslyn Ridge Road onto Hydraulic. A left hand turn is out of the question. After dropping her son off at school it takes up to ten minutes to make a left

hand turn from Hydraulic Road back onto Roslyn Ridge Road to get back in the neighborhood. The afternoon traffic is often worse. Several years ago in the late afternoon her car was hit from behind as she waited on Hydraulic Road for a safe opportunity to make a left hand turn from Hydraulic onto Roslyn Ridge Road.

- The proposed school would add traffic to an area that is already saturated with traffic especially in the mornings and the afternoons. The four public schools in this corridor make the largest school complex in the county and Albemarle High School is the largest school in the county. These schools create traffic that includes school buses, new teenage drivers, bicyclists and children walking to school. Increasing traffic in this area is a safety issue. Anyone that travels this corridor regularly has witnessed many accidents on Hydraulic Road between Earlysville Road and Georgetown Road.
- Another concern is that the church and the proposed school are in the designated no growth area. Since more growth has already been planned and approved in the adjacent designated growth area, including the Oak Tree development, this plan growth must be absorbed by the existing already saturated road network. There does not appear to be any transportation funding in foreseeable future to improve these roads or expand the capacity. It does not make sense to generate additional traffic in the no growth area.

Jackie Bailey, resident of 1700 Roslyn Ridge Road adjacent to the school, agreed with Ms. Goodman's comments. She noted the contour of the road slopes down at the driveway where the children would be dropped off. It is not a commercial road and something that should be considered. She questioned if there would be extra curricular activities at the school. She asked if the school could be used for night events or other related school activities that would also impact the traffic. In the report it said there were about eight accidents in the past eight years. The demographics have changed dramatically. Therefore, those statistics are somewhat outdated when looking at the impact of traffic and accidents.

Tom Hubbard, resident of Roslyn Ridge, said he was saddened to be in opposition to a neighbor, Albemarle Baptist Church. He thought that this proposal is a bad idea. It is supposed to be a rural area. There are already traffic problems and the idea of adding a school here and somehow coupling it with a religious function is a mistake. He opposed the school and hoped the Commission would take that into consideration.

Sadura Hundarali, resident of Roslyn Ridge, said that of all the spots on Hydraulic Road that this spot is the least able to take on any more traffic. The traffic information indicates that the accidents are not related to the junctions of Hydraulic and Roslyn Ridge. But there have been many accidents further along the road certainly on Earlysville Road. Many of those accidents further down Hydraulic Road have been caused by the pressure of the traffic turning into and off of the Hydraulic Road with people trying to beat the turn light and trying to turn right and left ahead of ongoing traffic. At peak hours everyone is in a hurry and that just creates the possibility for future accidents. The road into the Roslyn Ridge neighborhood was built as an entrance into a residential neighborhood and not as something that could be used for commercial purposes. As Ms. Bailey mentioned it impacts the residents who go in and out of the neighborhood and they don't know what kind of extra curricular activities the school is going to engage in. As new facilities are built the temptation is always there to use them for other purposes to raise revenue by renting this facility out to other organizations. Other churches in the area rent their facilities out to others, which she acknowledged they have the right to do. But these activities do add to the pressures of traffic and the ability of the residents to enter and exit their neighborhood if the school does choose to use this facility in that way.

Kim Craig, resident in the Roslyn Ridge area, represented his parents who were out of the country. He noted that their biggest concern was growth. It starts small at 40 students, but potentially will grow. The number of students can really multiply. He grew up in Charlottesville and went to Tandem, which has really grown. He was concerned with the progress and potential growth of the school.

Mr. Strucko closed the public hearing to bring the matter back before the Commission

Mr. Loach asked if they finalized the issue about the start and end date of the school year.

Mr. Strucko noted that it was the beginning of September to the beginning of June.

Mr. Morris noted that the end date was June 4.

Ms. Porterfield suggested if the motion passes that they try to give them September 1 to June 10 because they were basing it on this year's calendar.

Mr. Edgerton said that he could not support the special use permit for the following three reasons. One of the reasons is not covered in the staff report. The other two reasons are covered in the staff report.

1. Traffic – He lived in the neighborhood and this is his district. With all due respects to Mr. Wade's calculation in vehicle trips per today he did not think it was a realistic way to analyze what is happening on this road. It is a very dangerous turning situation. The existing traffic at these hours is already in a dangerous zone. He happens to agree with a number of speakers on that.
2. Expansion – The school hopes to expand to a K to 12 in 5 years if they could raise the funds and grow that much. They may have as many as 100 students within a 5 year period. They need to realize that the intent is to expand this program. Right now they are talking about using an existing building and obviously there is not going to be any impact. If they look at the school's phase 2 and 3 plans they are intending to expand the project considerably.
3. In comparison with the school the Commission had a work session on the adjacent property over on the original Roslyn home site. There was quite a bit of discussion at that work session about the concern about having to add a sewage line on this side of Hydraulic Road. As they know the rural area line has been fairly inflexible for about 30 years along the center line of Hydraulic Road because everything to the west of Hydraulic Road drains into the Rivanna Reservoir, which is a fairly significant environmental impact. For that reason many proposals in the past 30 years that have been proposed other than by right proposals have been turned down along there. Therefore, from a planning perspective he did not think it made sense to expand the potential for future growth on the west side of Hydraulic Road. For these three reasons he was not going to be able to support this application.

Mr. Loach supported the proposal. From what he had heard religious education is certainly consistent with the mission of the church. It is a community church and he would assume that most of the students in the church would be coming from the community. He noted that this proposal is limited to the 40 students. In the conditions should they want to expand the school it would come back for a more intense traffic study. He thought that to deny this request might be in conflict with the Religious Land Use and Institutionalized Persons Act of 2000 as it is written. For those reasons he would support the request.

Ms. Joseph asked for comment from Mr. Kamptner on how this proposal fits within the Religious Act.

Mr. Kamptner replied that this application is a little bit different than the ones the Commission has seen in the past because they do have a church that is already established. He noted that probably the biggest issue that arises under the federal law is the decision that needs to be based upon substantial evidence and on what the courts have identified as legitimate concerns. They have heard the recommendations from VDOT regarding the traffic impacts here. They have also heard the statements from the citizens who have raised some traffic concerns. So it comes down to a question of the Commission on that issue weighing the competing evidence that they have heard in the staff report, Mr. Wade and the members of the public. As long as their decision in this particular case is based upon what the courts have called substantial evidence and that is creditable evidence that a reasonable person would rely upon in either way that would support the Commission's recommendation.

Ms. Joseph questioned several of the conditions. Staff struck condition #6, but she felt it was important to retain the significant trees. She felt that it was important to remind everybody that the significant trees need to stay there. She also felt it was important to get something in writing from the health department saying that this is not going to cause a problem.

Ms. Brennan pointed out that staff did get comments from the health department that said the septic would be fine.

Mr. Morris pointed out that he had seen the traffic on Hydraulic road at various times and it can be substantial. However, he thought that the evidence the Commission has been presented really leaves him with a fairly safe feeling that he can support the request.

Mr. Kamptner suggested that one condition the Commission may want to discuss is clarifying the hours of operation. There was a statement from the Pastor that they would be ending by 3:30 p.m. He assumed that was just class time and not necessarily when the teachers would be leaving the premises.

Mr. Strucko asked Pastor DeLoach to come forward and address the issue.

James Haddock said that in terms of setting the hours the school would start at 9:30 a.m. with student arrival at 9:15 a.m. In order to meet the guidelines set by the Department of Education and other operating standards the day would end at 3:15 p.m. with hopefully everybody picked up by 3:30 p.m. There has to be some allowance of time there in case there has to be other kinds of adjustments. One of the things they did when talking about hours of operation was to consider the traffic associated with other schools in the area which included Albemarle High School. He pointed out that everyday he goes to Albemarle High School from Garden Court. So he understands the concern there. They have tried to make an adjustment in that way that would make the hours fit.

Mr. Morris asked Mr. Haddock to address the issue about before and after school extra curricular activities.

Mr. Haddock replied that at this time they have not entered into any agreements with any of the Christian school associations and have no plans for extra curricular activities or any kind of athletic event. They may at one point be the one that would host a Bible quiz evening. That goes on between the member schools and would happen about once a year. It would be after joining in with other associations. At this time there are no plans for extra curricular activities in terms of any kind of sporting events or any of that. Everything would be confined to the school day.

Mr. Strucko asked if there were any other comments.

Mr. Franco asked staff with respect to the health department if they gave a maximum number of students that the existing facilities would support.

Mr. Brennan replied that the health department did not, but their comments are included in the staff report. Staff tried to ask them that question, but they could not answer that and said that the 40 students was fine.

Ms. Porterfield noted that she was having trouble with this issue because she was not opposed to the Charlottesville Day School's proposal. She felt that they need to go back and look at what the Commission as a whole said about that because it was very similar. That particular site had public water, but not public sewer. She asked if this site does not have public water or sewer.

Ms. Brennan replied that is correct.

Ms. Porterfield noted that the Charlottesville Day School proposed to construct new buildings and this proposal plans to use existing structures. The Commission's big concern was the fact that it is on the opposite side of what has been the demarcation line between the rural and development areas for approximately 30 years. That is a substantial amount of time. The Commission also was worried about impacts on the South Fork Rivanna River being with the septic and in this case also with the water usage. The Commission indicated as a whole that they were not in support of the other possibility, but would want to know more about things like quantity and possible contamination of water supply, septic capacity and impacts on the drinking water reservoir and wanted a more detailed plan for buildings on the site. These were the things that they were going to build before they started to talk about the school. She was in the minority on those things. She could see from having driven by the site today that there are a number of churches on that side of Hydraulic Road. If they open this up for one she did not know how they close it for the rest of them. Even though a church is an allowed use in the rural area, which is

obviously why they are there, she felt there is a lot of comparison whether it is a church school or another type of school. They are all schools. Personally she was having a lot of trouble with this issue.

Mr. Strucko noted that he was in general agreement with what Mr. Edgerton's has described earlier for the three reasons that he very clearly stated. He felt that Mr. Edgerton's discussion of the impact of this proposal on the road and the traffic count is an important one. But also the school's intent to expand to a greater number of students and the impact it would have on a very sensitive area in their designated rural areas is enough for him not to be able to support this. It was also for something that Ms. Porterfield said about maintaining a consistency with what they did in the past. He felt that her concerns were very valid in terms of setting a precedent for other religious institutions that are on that side of the street. But he did think that on this particular issue as Mr. Kamptner announced that they have had some creditable evidence stated that the traffic impact is a problem. For those reasons he would not be able to support this particular proposal.

Motion: Mr. Morris moved and Mr. Loach seconded for approval of SP-2008-00060, Albemarle Baptist Christian School subject to the conditions recommended by staff.

Mr. Kamptner clarified that condition 1 would be amended to refer to attachment A. Condition 3 regarding hours of operation would be amended to say something like hours of operation for student arrival shall not be earlier than 9:15 a.m. and class instruction shall end by 3:15 p.m. Monday through Friday from September 1 to June 10.

Mr. Morris asked that it be June 15.

Mr. Kamptner noted the change from September to June 15, the reinstatement of condition 6 and continuing with the rest of the conditions.

Mr. Morris agreed with the changes to the conditions as noted by Mr. Kamptner and Mr. Loach agreed.

Mr. Strucko asked for other discussion.

Mr. Franco noted that he was really on the fence on this issue. He thought that the arguments or points that Mr. Edgerton and other Commissioners have made about the expansion bothers him. That is not before the Commission right now. What was before the Commission was the 40 student version. Therefore, he was inclined to say that at that scale knowing it will use the existing facility and building that even though there are some traffic issues on that road that scale is appropriate at that location. He was stuck on the intent and did not want to set a precedent that they are approving or laying the ground work for expansion of that facility to 100 students. If that can be worked somehow into the motion he would support it. It does not need to be a condition because it is already a condition of the special use permit. He wanted it to at least go in the record that any expansion or intensification of that use is inappropriate in that location.

Mr. Morris asked if any expansion would have to come back to the Commission, and Ms. Brennan replied absolutely.

Mr. Morris agreed with Mr. Franco that it does not belong in this motion at this time.

Mr. Loach noted that they also heard from Mr. Wade that if it went larger than 40 students that it would entail a much more detailed traffic study to be done. So at that time the Commission as Mr. Edgerton said they would have more specific data to make a decision on. He agreed with Mr. Franco that at this 40 student level that he was fairly comfortable.

The motion failed by a vote of 3:4. (Mr. Franco, Mr. Morris and Mr. Loach voted aye) (Ms. Porterfield, Ms. Joseph, Mr. Strucko and Mr. Edgerton voted nay.)

Mr. Kamptner noted that an affirmative vote was required under the Commission's rules.

Motion: Mr. Edgerton moved and Ms. Porterfield seconded for denial of SP-2008-00060, Albemarle Baptist Christian School for the three reasons stated.

1. The existing traffic concerns,
2. The anticipated expansion as outlined by the applicant, and
3. The potential negative impacts on the reservoir.

The motion passed by a vote of 4:3. (Ms. Porterfield, Ms. Joseph, Mr. Strucko and Mr. Edgerton voted aye.) (Mr. Franco, Mr. Morris and Mr. Loach voted nay.)

Mr. Strucko said that SP-2008-00060, Albemarle Baptist Christian School would go to the Board of Supervisors at a date to be determined with a recommendation for denial.

SP-2008-00066 20 South Office Amendment

PROJECT: 2000800066 - 20 South (Amendment)

PROPOSED: Amend SP 200200022 (Home Occupation Class B) to allow three storage sheds for an existing catering business

ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)

SECTION: 10.2.2 (31) Home Occupation Class B

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre in development lots)

ENTRANCE CORRIDOR: No

LOCATION: 1156 Roundtop Farm; east side of Rt. 20 Scottsville Road, approx. 1400 feet north of Rt. 708 Red Hill Rd.

TAX MAP/PARCEL: 102000000017E0

MAGISTERIAL DISTRICT: Scottsville

(Eryn Brennan)

Ms. Brennan presented a PowerPoint Presentation and summarized the staff report.

- This application is to amend Special Use Permit 2002-22 to allow three storage sheds on the site for an existing catering business. The applicant was unaware that construction of additional sheds would require an amendment to the existing SP and has already constructed the sheds, so the applicant is seeking a retroactive approval.
- The parcel, zoned Rural Area, is located in the Southern Albemarle Rural Historic District, and is surrounded by large residential farms and forests. The property is hilly and heavily forested in the north portion and along the west entrance drive; while the southern portion of the property, where the house and business structures are located, has been primarily cleared.
- A special use permit, SP-2002-22, to allow a Home Occupation Class B for a catering business to operate on the site was approved on September 4, 2002. The catering business relies on local growers for its services and, therefore, supports agricultural uses in the Rural Areas, and promotes economic viability for a rural landowner, all of which are goals outlined in the Rural Areas section of the Comprehensive Plan.
- The square footage of the all the sheds totals 440 square feet, and the area of the kitchen measured internally is 1,035 square feet. Therefore, the total area of all the structures associated with the Home Occupation, Class B does not exceed the maximum 1,500 square feet allowed. Also, no plumbing or electrical wiring is associated with the storage sheds. The applicant has labeled one of the sheds as a "workshop" on the concept plan. In actuality, the space is used as a tool shed, and is only colloquially referred to as a workshop.
- Staff has not identified any unfavorable factors in regards to this application and recommends approval with the following conditions. In addition, Condition 1, Attachment C should read Attachment D.

Mr. Strucko invited questions for the Commission.

Mr. Edgerton asked how the three sheds came to staff's attention.

Ms. Brennan replied that to her knowledge she was handed this case after the initial preliminary discussion. She thought that the building inspector found it, but she was not sure. She noted that the applicant's could speak to it better.

Mr. Edgerton asked if there had been any response from the neighbors particularly those in the agricultural/forestal district, and Ms. Brennan replied that staff has not received any phone calls.

Ms. Joseph asked Mr. Kamptner how this relates to the decision made with the Belvedere properties if something is outside of the house.

Mr. Kamptner replied that what this applicant was doing is going from a Class A to a Class B home occupation. That was the case in Belvedere.

Mr. Cilimberg noted that it was a prior Class B special use permit and now they have come back essentially to amend it to include these extra structures.

Ms. Joseph asked if it was on the premises.

Mr. Kamptner replied yes, but that it was a different situation. The applicant here is adding accessory structures to the use. The issue in the Belvedere situation was where they had the primary house and the secondary dwelling with the home occupation taking place in secondary dwelling.

Mr. Edgerton noted that in that case the original home occupation was in a structure that was not the residence.

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

Pearson McCleskey, applicant, said that he did not have a presentation. To address the question about how this came about, he pointed out that he informed the county of the presence of those sheds when he approached them to get permission to build a small office behind them. That idea has evaporated. When he told the county where he wanted to place the office behind the three sheds this issue came up and brought him before the Commission today. Therefore he told the county that the sheds were there innocently.

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

Motion: Ms. Porterfield moved and Mr. Edgerton seconded to approve SP-2008-00066, 20 South Office Amendment with the conditions recommended by staff, as amended to change attachment D as opposed to attachment C in the conditions.

1. Special Use Permit SP 2008-66 20 South Office shall be developed in general accord with the concept application plan, provided by the applicant and received March 16, 2009 (Attachment D). However, the Zoning Administrator may approve revisions to the concept application plan to allow conformance with the Zoning Ordinance;
2. There shall be no on-site sales;
3. There shall be no outdoor storage of materials;
4. All requirements of the Health Department shall be satisfied;
5. No additional outdoor lighting shall be allowed without an amendment to this Special Use Permit.

The motion passed by a vote of 7:0.

Mr. Strucko said that SP-2008-00066, 20 South Office Amendment would go to the Board of Supervisors on a date to be determined with a recommendation for approval.

Regular Items:

SUB-2009-00065 Kings Grant – Waiver

In accordance with Section 14-212.2D of the Subdivision Ordinance, the applicant is requesting approval to vacate a previously-approved public street that has not yet been accepted into the public street network. Concurrent with this vacation is a request for authorization by the Planning Commission to allow creation of a private street in the Rural Areas, in accordance with Section 14-232A(3). The subject right-of-way is known as Kings Grant Drive. It is located within King's Grant subdivision, Tax Map 44 Parcel 211, which is approximately 26.2 acres and is zoned Rural Areas (RA). This site is located in the Jack Jouett Magisterial District on the south side of Woodlands Road [State Route #676]. The Comprehensive Plan designates this property as Rural Areas in Rural Area 1. (Elizabeth Marrotta)

Mr. Franco noted that KG Associates has provided services to Woodlands Road LLC for the development of Kings Grant. He declared that he was disqualifying himself for participation in this transaction and request that this fact be recorded in the appropriate public records for five years. He left the meeting at 6:51 p.m.

Mr. Fritz presented a PowerPoint Presentation and summarized the staff report. (See Staff Report)

- The existing subdivision was approved with public streets in 2007. The applicant is now asking that the public streets be converted to a private street. The request is for authorization to convert an approved, but not yet accepted, public right-of-way to a private street, in accordance with Sections 14-232 and 14-234. There are eight lots in the subdivision with an existing internal public street. The street has been built but not yet accepted into the VDOT system. The applicant wants to have that be privately maintained. Two (2) of the eight (8) lots are owned by the Elizabeth Allen Revocable Trust; the remaining two (2) lots are owned by Woodlands Road, LLC. The owners are investigating an easement for these six parcels which may require them to be combined into two lots so that there would be four lots within the subdivision.
- Staff conducted some research and found that there were two similar requests that have been reviewed by the Planning Commission to convert public streets into private streets that are similar situations. Both of those requests were ultimately approved. In the staff report there are some quotes that indicate that there were some public purpose to do that in reducing the cost and minimizing the future potential exercise of development rights or future division of the property. Converting this from a public to a private street does not facilitate any additional development. They don't pick any additional area that would allow for additional lots to be created.
- Based on the prior approvals, staff is recommending approval of this request.

Mr. Strucko invited questions for staff.

Ms. Joseph asked if this subdivision had been submitted to staff as a private road initially it would have come before the Commission. But because it was presented to staff as a public road it was approved administratively.

Mr. Fritz replied yes that the subdivision was approved administratively.

Ms. Joseph noted that in the other instance that he was saying was similar they had a room full of people. They have one person here and she was not sure if the other owners of the other lots have agreed to make this a private road.

Mr. Fritz replied that ultimately all the property owners have to sign the plat to convert it to a private street. He would have to pull the file to see who signed the application, but the applicant present can tell us.

Ms. Joseph asked if anybody has talked to the people who own the other lots.

Mr. Fritz replied that Elizabeth Marotta processed the application and he would have to look at the file.

Mr. Strucko asked if there were two owners of all the parcels, and Mr. Fritz replied that was correct.

Mr. Edgerton asked if the easement has been agreed to.

Mr. Fritz replied that the applicant told staff that they have agreed to the easement, but it has not yet been signed and finalized. The applicant can speak to that detail.

Mr. Edgerton noted that the staff report makes a very convincing case about that and he would like to know where that easement is.

Mr. Strucko invited the applicant to address the Commission.

Steve Runkle, representative for Woodlands Road, LLC, said that Mr. Allen was supposed to be here. The easement has been agreed to, but it has not been executed. The reason it has not been executed is essentially tax reasons. Since it has not been executed there is no absolute guarantee that will occur. The yellow highlighted lots are all owned by the Allens. The easement will allow two parcels. The other two lots are still owned by Woodlands Road, LLC that developed the eight lots. The Allens have agreed to the private road. In fact he has exchanged emails with Elizabeth Allen and they have indicated by email that they agree with everything in those. He assumed that those documents have been made available to the Commission. But basically it indicated that all parties were in agreement to the private road. In fact it may be their intent ultimately to terminate the private road just past the second lot and once the easement is executed treat it as a private drive from that point on. Obviously a maintenance agreement has to be developed, a plat has to be created because the right-of-way has to be vacated and everybody has to sign the plat. There will have to be agreement before this thing can ultimately be executed.

Mr. Edgerton asked if the Outdoors Foundation is willing to take these easements.

Mr. Runkle replied yes the Outdoors Foundations has agreed to take the easement but it has not been executed.

Mr. Edgerton noted that they were worried about what kind of tax credits they would get, and Mr. Runkle agreed noting that it will probably not be executed until 2010.

Mr. Strucko opened the public hearing and invited public comment. There being none, he closed the public hearing to bring the matter before the Commission.

Mr. Morris said living on a private road that has over 20 homes on it which has been that way for 23 years he fully understands how the applicant feels. He noted that they do their own maintenance and it gets done.

Mr. Edgerton said that there was another reason for wanting a private road. With a private road they have some control over who uses it. Especially with a cul-de-sac that comes in very handy because children like to play in those areas. This property was actually in the agricultural district for many years and was taken out right before the original subdivision was approved. It was a disappointment to him because the agricultural land around the reservoir is fairly significant. He thought since there has not been a formulation of the commitment they need to look at this as eight lots being served by a private road. If they approve this he would note that they have built it to the same standards that it would have been built as a public road. The only debate is who will maintain it in the future. Frankly if it would help encourage the owners to proceed with the easement he thought that the County would benefit from it. Then also based on the history in the staff report that they had recommended to the Board before that this sort of conversion not occur on another project and they took the position that by making this conversion they got the road built to the same standards and by making this conversion they are taking the burden off the taxpayer to take care of it. For those reasons he felt that the request was worth supporting.

Mr. Strucko noted that Ms. Joseph was responsible for pulling this off the agenda. He asked if all of her concerns had been answered.

Ms. Joseph noted that she wanted to make sure that she understood what she was looking at before it was just a blanket yes or no on the consent agenda. Her questions have been answered. But she was having a hard time with this because normally they would be looking at a subdivision if a private road was proposed. She did not know that everybody was going to do this and she was not accusing Mr. Runkle of anything, but she would hate to get subdivisions approved with public roads and then convert them into private after administratively approving them with public roads. It is very encouraging to think that someone is considering putting this land in easement that is adjacent to the reservoir.

Mr. Kamptner noted that the Commission can make their approval subject to reasonable conditions, which is what the Subdivision Ordinance says. I they want to tie it to the recordation of the conservation easement. He was not sure whether or not the private street status has to come before VOF will sign off on the easement. That can be worked out.

Mr. Loach said that he was not sure if that condition is needed. He agreed with Mr. Edgerton to some extent that this is saving the tax payers money if it was going to be a private street. They know the situation VDOT is in and don't want to throw them into maintaining this as a public road. He agreed with Mr. Edgerton that even at eight lots he could probably support this without the condition.

Mr. Edgerton noted that before this subdivision was laid out there was a previous proposal. There was a previous proposal that was going to require substantial stream crossings that was originally going to come before the Commission, but was withdrawn. This is a lesser impact. This was something that could be done without getting a lot of input from the Commission. This was a by right development, which probably explains some of the shapes of the lots. He favored approval of the request with staff's recommended conditions.

Mr. Fritz noted that there were no conditions. It would just convert to private and then the subdivision plat would be processed. Part of that would be the maintenance agreement would have to come in and be approved prior to the signing of the subdivision plat.

Mr. Edgerton noted that one of the things a lot of people don't understand about these easements, having just gone through it, is that even if you don't have the personal need for the tax benefits there is quite a market for them. Therefore, he suggested that Mr. Runkle convey that to the owners. It is not hard to sell these tax credits if one cannot use them.

Ms. Porterfield said that when this is done two of these lots are not owned by private individuals. She asked if there is going to be something that indicates to somebody who might want to buy one of the lots that they are going to be partners of the maintenance agreement.

Mr. Fritz replied that the maintenance agreement is recorded with the plat.

Motion: Mr. Edgerton moved and Mr. Morris seconded to approve SUB-2009-00065, King Grant – Waiver as recommended by staff.

The motion passed by a vote of 6:0. (Mr. Franco abstained.)

Mr. Strucko said that SUB-2009-00065, Kings Grant – Waiver was approved.

The Planning Commission took a break at 7:13 p.m. and the meeting reconvened at 7:21 p.m.

Mr. Franco returned to the meeting at 7:21 p.m.

SDP-2009-00009 Arden Place

The request is for preliminary site plan approval of 186 multifamily residential apartment units and a club house on the R15 residential zoned portion of Tax Map 61 Parcel 124 which consists of 11.287 acres.

Associated waivers include section 4.2 (critical slopes) and section 21.7.c (disturbance of a buffer zone adjacent to a residential district). The subject property is located in the Rio Magisterial District on Rio Road East [State Route #631], about 900 feet from the intersection of Rio Road East [State Route #631] and Seminole Trail [State Route #29]. The Comprehensive Plan designates this property as Community Service in Urban Area 2. (Gerald Gatobu)

Mr. Gatobu presented a PowerPoint Presentation and summarized the staff report. (See Staff Report)

Staff noted that the staff report was resent due to comments from the County Attorney's Office.

Staff has laid out the issues that the Planning Commission is requested to act on tonight in the staff report. There are at least five items, as follows:

- **Waiver of Section 4.2.5** – disturbance of critical slopes – Staff recommends approval of the critical slopes waiver.
- **Waiver of Section 21.7.c.1** – buffer zone adjacent to residential and rural area districts – The Architectural Review Board has reviewed the preliminary site plan and will be working with current development staff to make sure that the entire 50 foot buffer/setback is landscaped in excess of the minimum requirement. Staff recommends approval of the 20' buffer disturbance waiver.
- **Waiver of section 32.3.10** – Waiver of two points of access to a public street. Based on this the agent called up the preliminary site plan.
- **Waiver of 32.7.2.4** – Second Point of Access. Request is to limit proposed Woodbrook Subdivision access to a pedestrian access only. Staff recommends approval of the waiver of 32.7.2.4. Staff recommends approval of the waiver of Section 32.7.2.4 but asks the Commission to consider the emergency access. It does not have to be a full blown road as long as the emergency vehicle can get through.
- **Preliminary Site Plan Review** – Staff recommends approval of the preliminary site plan based on the information they have and with the advice from the County Attorney.
- **Recommendation of open space dedication to Board of Supervisors for increased density** - The open space dedication has to go before the Board of Supervisors for which the Planning Commission is requested to provide a recommendation. The applicant is requesting a density bonus as a result of the open space dedication. Also, they are preserving additional wooded area to get an additional 5 percent bonus density. That will enable the applicant to get to the 206 units.

Mr. Gatobu noted that Joel DeNunzio and Amy Pflaum are present to answer questions.

Mr. Strucko invited questions for staff.

Ms. Joseph asked why the access has to come from Putt Putt Place, which is private. Why can't the development have its own entrance onto Rio Road?

Joel DeNunzio, VDOT representative, replied that there was enough room for the development to have its own right-in and right-out entrance onto Rio Road. None of the proposals reviewed thus far have had that connection made. From VDOT's perspective the least amount of connections to Rio Road is the most desirable situation. Looking at it preliminarily they do have the distance to get a right turn lane and get that connection. It would have to be a right-in and right-out. There is no median break in front of their entrance on Rio Road. If that proposal were to be presented to VDOT it would probably require revision to the Chapter 5-27 Study that they reviewed. That is the traffic impact analysis that was submitted by the applicant. This site generated enough traffic that put it into the 5-27 Study, which means that they are required by State law to provide a traffic impact analysis.

Mr. Loach noted that staff said that would throw it into a failing status. He asked if that was true.

Mr. DeNunzio replied that the current status on Putt Putt Place where it connects to Rio Road is that the left movement from Putt Putt Place to Rio Road is currently failing. They have not seen any plans for improvement. The traffic study recommended some striping to have two egress lanes for a right and a left turn lane, but it still has a failing left turn movement from Putt Putt Place. When they reviewed the traffic impact study they recommended that it be a requirement for the connection to be made over to Albemarle Square where there is a signal and that left turn movement could go to the signal. Now it is his understanding that they can't get an agreement to get that connection made. U-turns would have to be studied in the future.

Mr. Strucko asked if all of the roads proposed in the development are private, and Mr. Gatobu replied that is correct.

Mr. Gatobu noted that several members of the public could not be here and sent letters opposing the second connection that included Sharon Meadows, Ms. Hobson and Mr. Huckstep.

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

Valerie Long, representative for the applicant, Coleway Development LLC, introduced the development team present that included the main applicant Andrew Megente, Scott Collins with Collins Engineering, and Erich Strohacker with Ramey Kemp Associates who is the traffic engineer for the project. She thanked staff for the time spent to address the issues. She presented a PowerPoint presentation and explained the proposal.

- Arden Place is a 206 unit apartment complex. They are working on a luxury or a market rate type of community, which will be a benefit to the area. It is already zoned R-15 which allows up to 15 dwelling units per acre. There are a lot of amenities proposed which includes 2.7 acres of open space to be dedicated. There is also a swimming pool and club house, which are typical amenities for an apartment complex of this style.
- There are a lot of positive benefits to this proposal. From the pedestrian orientation it meets a lot of the goals of the Neighborhood Model. This area is extremely walkable to a variety of destinations, which includes retail, office, professional and medical offices, recreational facilities and the public library, etc.
- There is a market demand for a luxury rate apartment complex of this type in the area. There will be preservation of open space and dedication of a public use trail of 10' width. There is a large tree preservation area.
- She asked the Planning Commission to act favorably on the five requests, which includes the recommendation of open space to the Board of Supervisors. She offered to work on the outstanding issues on the preliminary site plan if it were approved.

Mr. Strucko opened the public hearing and invited public comment.

John Gallenger, resident of Woodbrook, noted that he and most people in Woodbrook are not against the development, but object to being connected to it. He made the following comments.

- Recently when plans were made to reconfigure a local stream they received postcards and were invited to a meeting at Woodbrook School. At the meeting the residents received a lot of information. In contrast there was virtually no contact from the County about this proposal to add a second entrance to the Woodbrook Neighborhood. If Mr. Powell had not received a letter from the County the Woodbrook community would not have known about this meeting. Several residents gave Mr. Gatobu their names and email address as representatives for the Woodbrook Community, but they are yet to receive any correspondence. The residents found out about this meeting by accident. There seems to be traffic concerns on Rio Road, from Putt Putt Place and through Albemarle Square. There has been no evidence for the concern for Woodbrook residents until tonight.
- The road is being proposed into Woodbrook that has no street lights, sidewalks and the intersection at Woodbrook and Route 29 is already a stressed or failed intersection. But no one seems to care about the additional traffic and how it will back up to the elementary school or jeopardize children from walking to school. Any connection into Woodbrook would cause safety issues. Fifteen years

ago the County had Lloyd Wood make Putt Putt Lane wide enough to accommodate the apartments and proffer for the stop light. They could get the developer to proffer money for the intersection, too. He suggested that they use the money to improve Putt Putt Lane now by working with VDOT.

- Since they have been excluded he suggested that the Commission defer the decisions in order to allow work sessions to be held by Mr. DeNunzio with the community. If they are compelled to vote on a bad plan and exclude Woodbrook from participating in this process then they should grant the developer the waiver so he only needs one emergency entrance. Putt Putt Lane is certainly big enough to handle the traffic and they already have the money for the light. He personally volunteers to assist the County, VDOT and to work on the committee. He asked the crowd to stand if they agreed with him. (THE MAJORITY OF THE PUBLIC IN ATTENDANCE STOOD.)
- He noted that Woodbrook circulated some flyers recently that had some incorrect information on it. They said that Lloyd Wood and Wendell Wood were involved. They are not involved and they apologize. They printed retraction flyers and he would like to apologize once again.

Ms. Joseph asked that after public comment she would like the public process explained because Mr. Gatobu does a fine job and has done what County policy requires. If they need to change County policy that is one thing, but please don't malign County staff.

The following persons spoke in opposition to the request:

Charlie Tractra, resident of Woodbrook, suggested that the planners talk with the community as well as the lawyers. There is opposition to the planned connections between the two communities. He suggested that they do a traffic study. Woodbrook residents should have the right not to be connected.

Jerry Pedension, a Woodbrook resident for 9 years, spoke in opposition because he did not want the neighborhood road turned into a connector between the two neighborhoods. He liked it the way it is now.

Steve Wilson, a Woodbrook resident for 33 years with his wife, asked to make two points. First the project had developed quickly certainly under the Woodbrook residents' radar. The current proposal is a big improvement over the first plan that included a road connection. But he thought that there were still a lot of problems of which the discussions tonight has exposed many of those. More time is needed to find solutions. Though he was strongly opposed to a public road connecting through Woodbrook he supports a pathway for several reasons: It does support the County's wish for better interconnectivity among neighborhoods for pedestrians. It provides additional routes for commuting, recreation and shopping on foot and bicycle. It provides a possibility at least for children to be able to walk to Woodbrook School. Issues of safety and criminal activity have been raised, but certainly remain to be seen. It is not necessarily something that is related to the complex under development any way. Overall he regards the proposed pedestrian path as an interesting solution and one that brings positive good to the community.

Eugene Powell, resident of 271 Brookmere Road for 34 years, noted that he had been through a lot of Board of Supervisor meetings to protect his property. There has been a lot of development such as the church, the lagoon, the theater and Albemarle Square. So he had been through it all. He did not know how they could put a road into Woodbrook because it would destroy the place where he lived. It would be a disaster to put a road through Woodbrook. He did not see how they could put that much traffic in Woodbrook due to no sidewalks and the existing school. He hoped the Commission would disapprove putting a road through Woodbrook.

Matalie Grimes, resident of Idlewood Drive and Brookmere, noted that her family would be directly affected by this road which would essentially come out at her driveway. One of the main concerns is the safety of her family and neighbors. She questioned if they could guarantee that her family would not get struck by traffic from this road when coming out of their driveway or that children walking home from Woodbrook Elementary would not be hit by cars speeding off this road. She asked what kind of measures could be put into place to guarantee their safety. They have no sidewalks. Therefore, they have no place to walk but in the road. They have existing problems with speeding not to mention the many U-turns that take place right in front of her house. She questioned who will pay for the costs associated with the accidents and what happens when someone realizes that it will be a shortcut. She was opposed to the Woodbrook residents paying for a road that they don't want that would endanger

them. The fact that these apartments will be luxury has no bearing on the congestion and the safety issues this road will cause. She opposed the request.

Robert Bennington, resident of Woodbrook at the corner of Idlewood and Brookmers next to the Powell's, spoke in opposition to the request for the road. They want to keep their neighborhood quiet and peaceful.

Monica Pulewenski, resident of Wood since 1975, said that her family moved to Woodbrook so their children could safely walk to school and use the neighborhood to grow up in. She opposed the road for the #1 reason of the safety of the pedestrians. She feared that the road would become another shortcut to Route 29, which would be a big impact. She heard a number that there would be another 1,250 trips per day. That would be another 600 extra trips through Woodbrook every day, which is too many. Her other concern is that Woodbrook needs to be kept green. The road would go over what is now the lagoon. The County has a program which hopefully would restore the wetlands and legume. The creek that starts there ends up behind her house. Even now they get litter from Carmike Cinema, 7/11, and everything. If they put a road in with the runoff and the additional trash that lagoon is going to be polluted even more. The runoff and drainage is going to have a big impact on the creek in the back of Woodbrook that runs into the Rivanna, which is going to hurt their watershed. She spoke with the principal of Woodbrook Elementary School who informed her that Woodbrook has received a BAMA grant from the Dave Mathews Foundation. She did not know the dollar amount of the grant. The grant was to build a nature trail around the perimeter of the school about 9' wide. She was concerned about the safety of the persons using the nature area. She encouraged the Commission to grant that waiver and to stop the road going into Woodbrook.

Ann Hobson, Woodbrook resident for 39 years, noted that the lagoon being referred to was behind her house. She was appalled at the idea of a road coming into Brookmere and Idlewood. There is only one exit out of Woodbrook. They are talking about 400 or 500 more cars in this development now spilling out onto Route 29 and Rio. She asked how much they think that these little roads can continue to bear with in the way of traffic. Not only are they dealing with cars but also 18-wheelers are beginning to cut in to hook into the Bypass with Lynchburg. Route 29 is becoming more and more dangerous. She noted that her son thinks that the area has become unsafe and that she is going to be killed and wants her to move out of Charlottesville. Since this is going to affect the entire community she felt that the county should have given the residents some prior warning. She noted that the residents inadvertently found out that this development was proposed. She was very disappointed with the county and felt let down in this proposal.

Dan Gould, a Woodbrook resident for over 20 years, supported the developer's request for a footpath in place of the roadway at the southern intersection of Berkmere Road and Idlewood Drive. He believed that the effect of the proposed road on Woodbrook is two fold. First, the Woodbrook connection at the intersection of Woodbrook Drive and Route 29 was designed to serve 200 homes. Adding traffic from an additional 206 homes at Arden Place doubles that demand on that already congested congestion. Second, impatient drivers on Rio Road wishing to avoid the congestion at traffic lights at Rio and 29 have been using a popular shortcut through Albemarle Square to by-pass that intersection. The proposed road would create a new shortcut through Arden Place and Woodbrook on to the Woodbrook Drive traffic light. He believed that the increased congestion due to these two factors would conceivably extend the already heavy cue of vehicles waiting for traffic at the US 29 light all the way back to the intersection of Idlewood and Brookmere Road creating a traffic grid lock. It is a serious safety issue for the Woodbrook Elementary School children as they have to navigate these streets traveling to and from school. He believed that attempts to address this traffic issue primarily through the construction of sidewalks would damage the beauty and serenity of their neighborhood by the removal of many of their 40 year old trees. A foot path in this location is a minimal environmental impact and requires minimal grading. A road on the other hand requires extensive grading, the construction of a bridge and culvert and extension erosion and soil control. A foot path is more environmentally friendly. He believed that the establishment of a paved 5' foot path complete with non-removal barricades barring vehicular traffic and properly maintained would enrich the lives of the residents of both Arden Place and Woodbrook. In summary, he and his wife support the applicant's waiver request to construct a foot path in place of the proposed road way. His experience with the county and the planners has been nothing but positive particularly with Mr. Gatobu.

Kathy Welch, a Woodbrook resident for 18 years, noted that she had originally planned to come in support of the two waivers for vehicular access points. As soon as she heard Ms. Joseph's initial question she was now here to ask the Commission to deny the entire thing since it was too preliminary. Her question to VDOT is why the applicant does not go through their own property instead of through Albemarle Square, Mr. Wood's property or Woodbrook. She noted that the applicant did not know because they had not asked VDOT to consider that option. Section 32.3.10 does not require that you substitute this pathway. It requires that you either modify or waive the requirement or accept a modification. They are perfectly free to say sorry no access whatsoever. They are required to look at the public health, safety and welfare to see if those considerations would be furthered by having this pedestrian path as opposed to a vehicular path. She questioned what this path really is. Sometimes the path is 5' and sometimes 10', but allows a fire truck to go over it. It is hard to visualize this urban trail with fire trucks. She asked that the Commission ask the applicant to start over since they have not even considered using their own property as an access way.

Lee Forsberg asked that page 9 of the map be put up since he was going to explain how the traffic pattern works in Woodbrook. In terms of interconnectivity if they look at the Places29 Comprehensive Plan Woodbrook Subdivision was specifically excluded from requiring interconnectivity due to exactly the layout of the neighborhood as has been described. It is totally inappropriate for any kind of through traffic. With the access circling the school he felt that the additional 1,250 cars given the estimated population of the apartment would be insufficient. The enactment of this plan would be devastating to the safety and the environment of this neighborhood. Another point was made earlier describing the interconnectivity, which would be one way because Woodbrook would not have the right to use the private drive to get access out to Rio Road. He noted that they did not want the access and asked the Commission to please keep it closed.

Susan Diehl, resident of Woodbrook for 38 years, said that her three children were all walkers to Woodbrook Elementary School. She had been very encouraged and hoped they could continue to work towards a pedestrian walkway if that turns out to be necessary. It looks to be more preliminary because she has more questions now than before she came. There are some things that have not been considered. The circular route goes past the school ground. The Woodbrook Association was formed 37 – 38 years ago to address the lagoon and the Idlewood access on either end and here they are again. There has not been a traffic impact study done on Woodbrook either the direct route or circular route. She was encouraged that there might be another emergency entrance available. She asked what does a path mean and look like. She encouraged the conversation to continue and they really work together to come to some agreement that is feasible for everybody.

The Planning Commission took a break at 9:16 p.m.

The meeting reconvened at 9:24 p.m.

Madridge Eskom, resident in Woodbrook for 6 years, said that it was beautiful perfect neighborhood. He agreed that the applicant's proposal looked very nice as shown in the pictures with the units, exercise area and pool. The applicant has spent a lot of money on this. But no money has been spent on how this access road will be and the problem it is going to cause. The problem is safety issues. As all the neighbors have been saying the children walk to school and want to continue. The traffic will provide more access to criminals. He asked that the Commission stop this road and let the applicant spend money on some other access road on their property to Rio Road.

Bill Nuckolls, resident of Woodbrook for 16 years, said he originally moved to Woodbrook because of the one road in and one road. Many other residents also moved to Woodbrook because they wanted safety and security. It is a convenient location. But certainly the safety is what concerns him the most. Woodbrook is a walking neighborhood and making car access with another road would ruin it. He was opposed to a walking trail because of safety issues. There would be no advantage to the residents to having that access. The advantage would be to the developers. He asked that the entire proposal be denied.

Michael Jours, resident of Woodbrook since 1999, said that he moved from California because it was a quiet neighborhood and his children could live and play in the area. He thanked Mr. Loach and Ms. Joseph for their questions about why the applicant has not thought about putting the road through their own property and the other access points onto Putt Putt Lane. He noted the adjoining property in the green band of property goes straight down. He questioned how the 20' buffer was measured and whether it was straight down or air space. The grade in that area is terrific. He felt that the good works of the wetlands project would be nullified by this project. There was a lot of wild life that would be affected. He was not opposed to the applicant building a building if it increases the level of income in that area since it might treacle down next door. He was opposed to the walking trail but not the building itself. Whatever waivers the Commission needs to grant to allow two access points into Putt Putt Lane would be a good compromise.

Mike Mural said that he and his wife Jennifer moved to Woodbrook a year go. They have four small children and moved to the neighborhood due to its affordability and safety. Over the last year they have seen an economic downturn and seen their house value decrease and taxes increase. Through it all they thought it was okay because they love walking in the neighborhood. This proposal if approved will change the total nature of their neighborhood. He opposed opening up the neighborhood because the street would destroy the neighborhood. He opposed the trail and road.

Abby Diehl, a 19 year old Woodbrook resident, distributed copies of an accident report from three years ago. On Dec 4 2006 she was in a car accident when a male high school student ran a stop sign at the intersection of Idlewood and Brentwood. Her sister sustained a serious concussion and she walked away with three pelvic fractures, broken teeth and whiplash. She felt that her crash in this area where this road and path will go is relevant to the discussion this evening. The driver of the car was not a resident of Woodbrook and was in a hurry. She noted that many people will use the proposed road or cut through to save time by avoiding the intersection of Rio and 29. She reiterated what everybody has said and asked that the Commission not allow the road or bridge to be constructed.

Jeff Diehl, father of Abby and three other children, noted that his family had lived in Woodbrook for 14 years and all walked to Woodbrook Elementary School. He pointed out that the staff report pointed out that the traffic impact analysis was required by Code. He questioned whether the standards have been met at Woodbrook Drive and Route 29. He noted that the proposed volume of traffic in the neighborhood was significant. It has been noted several times that there is a platted right-of-way in that area. He did not know that until recently. That was done 45 or 50 years ago when standards were different. If that neighborhood were being platted today it would have sidewalks and the road would probably be laid out differently. But they were not. By today's standards and the configuration of the neighborhood it does not make sense to put a road in there. He asked that they not gate the road for emergency access because in future years they would be back here with a request to open it up entirely.

Susan Reid, Woodbrook resident for 22 years, said she moved to Woodbrook because it was a quiet enclosed neighborhood. She reiterated what others had said about the safety of the residents, particularly the children walking in the neighborhood due to no sidewalks due to the increased traffic of putting in the road or path. She opposed the request for the road and cautioned against the foot path. Their roads are already in bad shape and inadequate for the increased traffic for a cut through.

Lisa Nuchols, a 16 year two time home buyer in Woodbrook, agreed with the other residents that they don't want a road or the walking path. The Woodbrook residents want nothing and to be left alone as they are.

Donna Entersome, a 13 year Woodbrook resident, agreed with the other speakers. She strongly opposed any of the current proposals to bring any additional traffic into the neighborhood. She was concerned about the lagoon that runs across the street from her property. She had safety concerns about allowing additional traffic flow into their neighborhood. They have had property stolen out of their yard and feared that it would only get worse with increased traffic into the neighborhood.

Tricia Branch, a 21 year Woodbrook resident, agreed with prior comments about the increased traffic. She noted that there was a four way stop sign at the front of the neighborhood at the front of the

neighborhood before getting to the light at 29, which would cause traffic to back up. She suggested that the Commissioners visit the neighborhood to view the current situation. She asked if the children in Woodbrook would be offered school bus transportation so to be able to get back and forth to school safely. She was a state certified real estate appraiser and questioned the impact this proposal would have on the property values. She asked that they not allow the road to go through and not allow the pedestrian bridge for most of the reasons already given.

Joy Elision, a 22 year Woodbrook resident, opposed the request because of the quiet neighborhood with its woods and wildlife. Sometimes it is nice to have a little bit of country in the city.

Sandy Saunders, a 15 year Woodbrook resident, noted that she was attempting to raise two children. She enjoyed walking in the existing woods with her dog. The children also play in the wooded area. She was concerned with the stream in the back of the property that runs into the Rivanna. She feared with additional development that the run off would get worse. They had been evacuated from their home in the past due to petroleum in the stream. She was very concerned about the health of the water that runs behind their house and that this would make it worse. She was concerned with the erosion because she had seen chunks of ground start to fall in that would be made worse with another development. She asked that these concerns be considered in reviewing the project as a whole.

Laurie Campbell, a 12 year Woodbrook resident, asked that their neighborhood not be disrespected by allowing disruptive things. She asked that the request be denied.

Virginia Canning, a Woodbrook resident since 1976, spoke in opposition to the request. She asked why these points or obstacles have not been considered by the applicant. She thanked the Commission for listening to their concerns.

C. J. Tractor asked the Commission to not look at the speakers as individuals but as one big community asking to not be hurt by outsiders. He asked the Commission to please help the community.

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

Mr. Edgerton said he had been listening to everything said. He thanked everyone for coming out tonight because he felt it was important to hear from the community since they were the ones that would be impacted the most. He had been thinking about it long and hard and listening to the applicant. The applicant, through Ms. Long, was asking the Commission to grant multiple waivers and the preliminary plat and assured that they would continue to work to resolve the many issue. The Commission has the authority to say no to all of the waivers and no to the preliminary plat regardless of the zoning on the property. The request is ill conceived and he will not be able to support the request for the waivers or approve the preliminary site plan. His recommendation is to deny the waiver requests and the preliminary site plan. He would suggest to applicant if they want to develop the property that they go back to the drawing board and design the project to meet all of the provisions of the ordinance or if waivers are needed present a proposal that would at least benefit the community and not degrade it.

Mr. Loach noted that usually he supports interconnectivity between neighborhoods. It is part of the Comp Plan and Neighborhood Model. But interconnectivity has to be made on an equal basis. That is not the situation that they have tonight. There are not sidewalks and the infrastructure is not there in Woodbrook. He did not think they should use their children as traffic calming measures. He could not support the secondary entrance into the Woodbrook neighborhood. He agreed with several residents who spoke in favor of the pedestrian connection. He heard a lot tonight about people who like to walk and he would assume that if this proposal comes back in a form that they can accept that those neighbors would like to have the same availability ability to walk. He did not see that as a problem or a threat to the neighborhood. His concern is not only with the Woodbrook neighborhood but the people in and along Rio Road. Regarding public health, safety and welfare he looks at the entrance on Rio and does the 17 year old test. Would he feel safe with his 17 year old son using that road? From what he heard tonight he could not. Therefore, he can't support the single entrance waiver. He felt that they need two points of access with two entrances particularly with the road configuration. That should probably be done via the

Rio Road access. He did not support the bonus density that is not mandated. One speaker stated there are a lot of steep slopes there and he was not sure what they were going to get for their bonus for more homes particularly given the traffic conditions. He agreed with Mr. Edgerton in not supporting the waiver requests and preliminary site plan.

Ms. Joseph agreed with Mr. Edgerton and Mr. Loach in what she heard. She believed that they should have interconnectivity, but did not think that this neighborhood benefits as a result of it. She was perplexed that they came up sort of a convoluted method without using an entrance off of this site itself. She could not understand what is going on there.

Mr. Strucko agreed even though he acknowledged that there was a contract pending. He asked why they did not go directly through Rio Road. He had a question for Mr. Kamptner. He was concerned about the traffic. If they require a dual access but not through Woodbrook even though there is a public right-of-way and those are public roads there can they preclude the applicant from claiming access through the Woodbrook right-of-way.

Mr. Kamptner replied yes that he thought so. If they were not providing the waiver they would need to be able to satisfy VDOT's requirements to access through Putt Putt Place plus also maintain another commercial entrance on the site itself.

Mr. Strucko asked if they could say that is not an option

Mr. Kamptner said the waiver is needed if VDOT is not going to allow them to have two access points.

Mr. Strucko said what they were hearing from VDOT was it may be okay with an entrance off the commercial piece of their property if it was simply right in and right out.

Mr. Kamptner replied that was correct.

Mr. Morris noted that he had seen a similar development on 20 north called Avemore. It is a beautiful complex and works in that area. He agreed with what Ms. Long said that it is needed in this particular section of town, but it is not needed with a connection to Woodbrook. A lot of the things Ms. Long brought out as benefits of this development were its accessibility to many things. He did not know how they would do it but accessibility to the shopping center would be ideal. He definitely could not support any type of connection to Woodbrook.

Ms. Porterfield noted that her concern was that this currently is one parcel even though part of it is being optioned to the applicant. It bothers her that the person who owns it can't work out a way to get one access point off the parcel itself off of Rio Road. Then the secondary access if they could work it out with Mr. Wood could be off of Putt Putt Place. That would spread out the ability for the people who are going to live there to get out. She felt that one of the access points needs to be off of Rio Road onto the applicant's property.

Mr. Franco questioned what Mr. Kamptner said that they could tell them they cannot access through Woodbrook through the public right-of-way that exists.

Mr. Kamptner replied yes. That would be through granting a waiver or through 32.7.2 they have the ability to determine which points of access will be used for this project. But if VDOT does not allow the second point of access that waiver need to be supported. They don't know right now because they don't have that analysis.

Mr. Franco noted that he was on the fence at this point about pedestrian access to Woodbrook. But he had heard tonight clearly that more were against that pedestrian access. He would buy into that and let the community make that decision. He would like to hear from the developer.

Mr. Strucko thought that they need two access points.

Mr. Fritz noted that Section 32.7.2 specifies that in the review of a site plan the Commission can specify location and design on the number of entrances.

Mr. Strucko noted that they have five issues to discuss. What they had been considering was the two points of access. He was considering not only Woodbrook, but the entire community including the commuters on Rio Road and the patrons of the commercial businesses in the Putt Putt area. A choke point at Putt Putt Lane was a threat to the public good. He did want to require a second access point. He felt that the ideal place would be through the commercially zoned property onto Rio Road even though it was right in and right out. He thought that might alleviate some of the pressure off of Putt Putt. As Ms. Joseph indicated that was not before the Commission.

Mr. Franco noted that was not before the Commission but it also did not fix the problem. The issue is the left hand turns. A right in and right out closer to 29 is not going to provide any relief to that movement.

Mr. Loach supported two entrances for emergencies into a high density development. They need to make sure that the emergency vehicles can get into it. From a traffic perspective the proposal was a negative to the community at this time.

Mr. Strucko agreed that they need multiple access points into a development for fire rescue in case one entrance is blocked.

Mr. Fritz noted that two points of access is generally better for moving vehicles. The two points of access is required for emergencies and the Neighborhood Model.

Mr. Franco said that he preferred not to encourage another entrance onto Rio Road itself. He would rather encourage construction of the entrance towards Albemarle Square if it could be worked out in the future.

Mr. Morris agreed.

Ms. Joseph said that the entrance to Albemarle Square was unknown and might sit in limbo for years. She was not sure if Mr. DeNunzio would support it because of that. Therefore, she could not agree.

Ms. Porterfield agreed with Ms. Joseph because there was going to be a fence at Albemarle Square.

Mr. Edgerton noted that is not relevant right now. The easy way to do it would be to reduce the density. He would love to see the development area developed but not in a bad way. If they grant the waivers as proposed they would be working against the community.

Mr. Strucko noted that there was inadequate infrastructure here. He asked if the Commission has to deal with each item separately.

Mr. Kamptner noted that each item needed a separate discussion and vote.

Mr. Edgerton made a motion for denial of the request.

Ms. Porterfield requested that the Commission ask the applicant if he would like to defer.

Mr. Strucko invited Ms. Long to come forward and address the Commission.

Ms. Long asked to speak specifically to the comments about direct access to Rio Road. They are not opposed to making that the second connection. They were not encouraged to use that as the second connection. From the very beginning when the project engineers discussed it with various parties that was not encouraged. The discussion was about the VDOT Access Management Standards and the desires to limit the amount of connections on Rio Road. The preference was to funnel all the traffic to Putt Putt Lane. That is why they went that route. They can build a connection directly from Rio Road if that is the preference of the Commission. They don't think it solves the problem with the left turn lane off

of Putt Putt Lane onto Rio. It can't hurt, but it certainly will disperse traffic to the right. They would prefer to spend their efforts trying to improve the intersection at Putt Putt Lane and trying to get VDOT to put in the light. Perhaps they can maintain flexibility. They will put in a second connection whether it is directly off of Rio Road onto the property or if they can make any progress to Albemarle Square. They don't want to make the Woodbrook connection, but when they were discouraged from using a direct entrance onto the property it was pointed out repeatedly that the Woodbrook connection was there already and that the Neighborhood Model principles supported it. They were trying to do that but at the same time ask for the waiver. They were trying to comply with the requirements but also be respectful what they assumed were the preferences of the neighborhood. So they have been really trying hard to be respectful of VDOT's regulations and work with them. They know that it is a challenge for everyone. If it is the Commission's preference is to have the connection directly off of Rio through the property they will do that. They would like to maintain their flexibility so if they can have any progress with Albemarle Square they will do that. They would like to maintain those options. She suggested that if VDOT gave permission to put up a light then they could come back to the Commission. They don't want to make the Woodbrook connection any more than anybody else does.

Ms. Porterfield said that they need two firm connections for the amount of units being proposed. She could not vote on the project at this point.

Mr. Strucko noted there were no Commissioners that supported the connection through Woodbrook. He asked if any Commissioner would support a pedestrian connection. He questioned if it was a 5' walking trail or an asphalt path that would turn into a road. He felt that they need to be clear because they are looking at a preliminary site plan with nothing on it about that.

Ms. Joseph asked Ms. Long if the applicant wants to defer.

Ms. Long replied that they would prefer not to have to defer if the Commission would be willing to allow them to make a connection directly off of Rio where indicated. If the vote was going to be no, she would talk to her client but they would prefer to request a deferral. At this point it sounds like they have options with a preference expressed for a second connection directly off of Rio into the parcel. They have acknowledged that they would be willing to do that.

Ms. Joseph said that she also heard Ms. Porterfield say she was uncomfortable approving something that she had not seen.

Mr. Franco noted that the fourth item was the preliminary site plan. He did not think the Commission would be in the position to approve the preliminary without reflecting the changes discussed here. He preferred that they have an open discussion tonight on the items and give the applicant some clear understanding of their expectations so they can come back and present the full proposal.

Mr. Strucko agreed and suggested that the Commission go through all five items.

Mr. Franco noted that regarding the second point of access the majority of the Commission is saying two points of access is required and not through Woodbrook.

Mr. Strucko noted that they have not talked about a pedestrian path through Woodbrook, but the majority of the Commission wants no connection whatsoever.

Mr. Edgerton said that he wants two points of access, but was not sure if going through the commercial property is the way. The applicant should explore other options that don't go through Woodbrook. That is for the applicant to figure out.

Mr. Morris and Ms. Joseph agreed.

Mr. Strucko noted that the majority of the Commission did not support a path through Woodbrook.

Ms. Porterfield noted that her opinion hinges on number five. If they are going to have this land donated to the County it has to be useful to people other than just those in this particular complex. She felt that hinges in with the pedestrian path.

Mr. Strucko agreed that if they are going to create County open space then perhaps Woodbrook residents would like pedestrian access to it. But it does not sound like the open space as proposed is very conducive. If there is a fence and critical slopes he was bothered by that. By reconfiguring this site plan it could offer a better solution.

Ms. Porterfield supported the path connection so if there are children living in this complex they could walk to school.

Mr. Strucko said he did not support the pedestrian access. Therefore, the majority of the Commission did not support the pedestrian access.

Mr. Edgerton said regarding the critical slopes and the buffer disturbance it appears from looking at the plan that it is going to be hard to develop this project without disturbing some critical slopes and the buffer. Frankly he did not see any reason for the Commission to facilitate that until they have a plan before them which they are comfortable with. The plan needs to be redesigned and if waivers are desired they need a plan before them that is going to be a benefit for the community and not a detriment. He would consider both the critical slope waiver and buffer waiver only if it was a good plan.

Mr. Strucko agreed with Mr. Edgerton.

Mr. Morris said if they take the connection to Woodbrook off the page then he would support 1 and 2.

Mr. Franco agreed to support 1 and 2 because they have met the criteria of the ordinance. He did not feel they had a basis based on the ordinance to say no.

Ms. Joseph agreed with Mr. Edgerton that they would be looking at another plan and did not want anyone walking away thinking they had a blanket approval on either the buffer disturbance or the critical slopes. She hoped that a plan would come in which was a little bit different.

Ms. Porterfield acknowledged that there are going to be some critical slopes impacted and they would probably look favorably upon them if they had a good plan presented.

Mr. Edgerton said that the split zoning is going to require the buffer. To get to the back part of the property from Rio Road they are going to have to disturb the buffer. The Commission cannot grant that waiver until they see what is being proposed.

Mr. Kamptner said that he did not know the extent to which an amended preliminary site plan will change in the areas where the buffer is required and the critical slopes. He just did not know that.

Mr. Fritz noted that if the Commission were to approve the critical slopes and buffer areas it would be for the extent of disturbance as shown on the plan today. If that were to change because of the realignment of anything they would need to bring that back to the Commission.

Mr. Edgerton opposed doing that because it would lock in these access points.

Mr. Franco noted that he just wanted to give an indication that he would be willing to grant the waivers if they continue to meet the technical criteria of the ordinance. He was not trying to provide a blanket waiver tonight for another plan or to tie them down.

Mr. Edgerton said that he would be open to disturbing the critical slopes and disturbing the buffer, but only if the plan makes sense.

Mr. Strucko said regarding the County open space there are two impacts on this. One grants a density bonus, which would be another 30 units.

Mr. Cilimberg pointed out that staff had to evaluate the open space for its value to the County's public space. It was evaluated based on the idea that there would be a path connection going through. The real purpose was that it provided an area in which a path would be connecting into Woodbrook and down ultimately to Rio Road. They have taken that off the table tonight so that the value of the open space is really been diminished. He did not think that they could find a public purpose. If they are going to come back with another plan maybe they will identify something differently. At this point he did not think they could find a public purpose without the provision of the trail.

Mr. Strucko asked Ms. Long to come forward and address the Commission's request if the applicant wants to reconsider a deferral of if or action taken.

Mr. Franco asked if the applicant had gotten enough direction from this group.

Ms. Long said that they appreciate the feedback and will take all of the comments into consideration. They are disappointed about the comments about the pedestrian trail and open space. They respectfully disagreed and think the pedestrian path will be a benefit to the entire community. When they met with the Planning staff they made the comment about the fact that it connects multiple neighborhoods with the designated development areas and has one set of public roads to another. It facilitates walk ability, exercise and open space. It will be a benefit to the residents of Arden Place and Woodbrook. There were several people who said that they use the area already. It would be better if it were a wide paved path well maintained. There is a lot of benefit to preserving the wooded area environmentally and in the water quality. They respectfully ask the Commission to consider that again when they come back. She understands that there is an option that they can have a pedestrian path that could be dedicated to the public but not connect into Woodbrook. They would be willing to do that if that was the will of the Commission. They respectfully think that a pedestrian path into Woodbrook is a benefit. The children in Arden Place could walk to Woodbrook Elementary. They just disagree on that one. They need to pursue the density bonus. There are other opportunities and may need to come back with affordable housing. They really want this to be a market rate luxury apartment community. This property is zoned so they are going to have to pay a premium. The price is based on the fact that the density bonus is an option. So that is why they have tried to work with the existing provisions. There has been encouragement to use density bonus provisions. She asked that the Commission not forget the benefit environmentally of preserving those wooded area. Just because one can walk on them easily does not mean there is not a benefit to protecting them. That is why they are going to build a 10' wide path so that people can walk right next to them and enjoy the benefits of having that area preserved.

Mr. Strucko noted that they can appreciate that. The property is zoned R-15 and there are 11.35 acres, which is 170 units by right. They are proposing 30 units more than that. The Commission has to weigh the benefit of those additional 30 units and the traffic it generates on Rio Road versus the availability of this green space. He thought that was why he was struggling with the request. This is a by right development but they are asking for a number of waivers and a preliminary site plan approval. The conditions and circumstances around this parcel would have lent itself nicely to a work session, which would have had the public involved in the process from the beginning. By right developments go through a different process than a rezoning or special use permit. The public involvement is different for both. He thought this particular project even though it is by right would have lent well to a work session. He did not hear a willingness to defer this proposal for rework of the site plan. If the applicant was willing to do that he felt that the Commission would accept it. But otherwise the Commission would be taking action.

Ms. Long said that they were trying to figure out the time frame for all of this and when they could get back to the Commission. That obviously depends on a number of different factors. So she might ask staff if there is a time frame that they had in mind. They obviously can get a plan revised pretty quickly to show the second connection. They will talk with VDOT about updating the traffic study. But she knew that staff would need some time to review and analyze the traffic study as well.

Mr. Cilimberg noted that July 21 is the Commission's earliest meeting available. He noted that the Commission did not have to defer to a date specific for a site plan. It will really be between the applicants

and the reviewers. Because of the request to have a second access on Rio VDOT is going to play an important role. Ultimately VDOT has to approve that. That will take time with VDOT that was unknown.

Ms. Porterfield suggested that the Commission defer it to the next best time based on staff working with the applicant so that the request could be slipped into the schedule as soon as possible.

Mr. Loach noted that VDOT approval was essential. One of the reasons he was against giving the open space is that he did not want to give the density bonus because it was going to add to the traffic which is problematic. If the traffic is solved it alleviates a lot of the problems that they would have in granting them the density bonus, etc. The applicant can come back when they have made their commitment to resolve these things with VDOT.

Mr. Cilimberg noted that a big part of this was dealing with VDOT to come up with a solution.

Ms. Joseph noted that they also said that it does not have to be on Rio, but it has to be two access points and one not to Woodbrook.

Mr. Cilimberg noted that ultimately the access was going to be on Rio, but they just don't know where.

Ms. Porterfield asked to specifically say that it should not be off of Putt Putt because they should get one access point off of Putt Putt but not two. This would ensure that emergency vehicles would have a way to get in.

Mr. Strucko invited Mr. DeNunzio to come forward and address the Commission.

Mr. DeNunzio said regarding the connection directly off of Rio Road that from the map it looks like the Hillsdale and the Fashion Square Mall on either side of it that the turns lanes appear to almost overlap. He was not sure but would have to look at it closer, but it led him to believe that a full access would not be a possibility there. The right in and right out would probably work. But the problem with the right in and right out is that they would still have the problem with traffic that needs to go eastbound on Rio Road. Therefore, they would still have to make that U-turn movement at Fashion Square Mall. So they still need to look at can they make the U-turn movement and would that cause problems with capacity with the intersection at Fashion Square Mall. Even though both of those connections would help to facilitate any emergency vehicles that need to get into the site he was not sure if both connections would address the capacity issues that they were going to have. If they have a connection at Putt Putt Place and another at Rio Road they still have a left turn problem because the people coming out of Putt Putt Place were going to still have pretty significant delays taking a left turn. They would still have the same traffic patterns with the second connection, but would have better access into the site possibly. But that is not a problem right now. So he believed that they could look at it and it could be adequate, but they would have to get some revisions done to the traffic study. But they would still have that issue with the left turn movement possibly at Putt Putt Place with the connection of Putt Putt Place and the connection to Rio Road.

Mr. Edgerton noted that the question is how long it would take VDOT to review that if the applicant came back with a reconfiguration of the plan. The Commission would need to review the plan after VDOT.

Mr. DeNunzio noted that there are still problems with the Putt Putt Lane and Rio Road proposal. He replied that they have 30 days to review the revisions. It will be a push, but VDOT has 30 days to do that. He sends the plan to their Culpeper District Traffic Engineers to review.

Mr. Franco suggested that they give guidance to everybody to do it as quick as possible. Regarding the density bonuses that are by right that are not discretionary he agreed with the Commission's discussion that if there is not a public benefit because they are not going to have the path or giving them a credit for that it does not make a ton of sense. But affordable housing would be a density that is not discretionary at this point. So they could come back and provide that entrance onto Rio Road and the traffic concerns being discussed become somewhat of a moot point because Commonwealth law is going to say that VDOT has to give them an entrance on Rio Road. Since the improvements that they are talking about at

Putt Putt, Albemarle Square and Fashion Square are off-site he felt that the County Attorney is going to tell them that it can't come into play since is a by-right zoning.

Mr. Kamptner said that ultimately this traffic issue whether it is Putt Putt Place at Rio Road East or direct access onto Rio Road it is going to be a VDOT decision. They may be at a point that the applicant has satisfied all of the requirements of our ordinance for all of the on-site improvements. It is going to have to be VDOT that decides where and to what extent this entrance is going to be allowed because they have control over the entrances onto the state roads.

Mr. Franco said having had discussions with some of the residents as well as the developer prior to this he would encourage the developer to still pursue the product that is being proposed tonight and find a different way to get the density bonus versus pursuing a lot more affordable housing in there based on staff's recommendation. If there are improvements that have been discussed for light or public improvements that are off-site would there be bonus provisions for off-site improvements for public improvements.

Mr. Fritz replied yes.

Mr. Franco questioned how the rest of the Commission feels about that.

Mr. Cilimberg asked to respond to something mentioned by Ms. Long. Staff evaluated the open space based on benefits to the public. They were not telling them that they should not have the pedestrian connections proposed because staff felt for the public that was a benefit. The Planning Commission decided tonight that they did not want to do that. Because of that decision the open space then becomes very questionable in terms of its value because they no longer have that. There may be other ways to provide for public use that might be deemed acceptable. Staff would certainly advise them again when the plan comes back.

Mr. Loach noted that the pedestrian path would compound the traffic problem which the applicant has not solutions for yet.

Ms. Porterfield asked if the open space has to be dedicated to the County to get the bonus.

Mr. Cilimberg replied yes and also the open space would have to be accepted by the Board.

Mr. Fritz noted that off-site road improvements can result in a bonus density of up to 20 percent

Mr. Franco said that personally that is a preferred solution versus pursuing this completely as a tax credit or another affordable housing project in total. The off-site improvements would be discretionary whereas the affordable housing would not. So they could get 20 percent with affordable housing and be at the same number or higher by simply making this an affordable housing project. It would eliminate all of the waivers but the critical slopes and the buffer.

Andrew Megente, the developer, noted that Mr. Franco's point was exactly correct. He asked to go on record noting the other scenario he was considering because he just came out of a Woodbrook Homeowner's meeting on Saturday and had told them that he was building a luxury product. Based on what he has heard that was turning into a work session he can't make the luxury product work. He needs the density bonuses that come from the open space dedication. Without those he cannot make the luxury product work. The other scenario is to totally change the site design to abandon the attempt to preserve the woodlands. Without the open space dedication he was looking at 30 to 40 units of affordable anyway. At that point it makes more sense to use VHDA tax credit financing to develop this as a 100 percent affordable tax credit community. The scenario then would be 220 units by right completely discretionary at his discretion. The zoning is written that way, but he does not want to do that. The trail is not ideal, but is a good thing. But he needs that open space acceptance to make this proposal work.

Mr. Strucko noted that he had the by-right zoning and can do whatever he wants to do. The Commission's job is to make sure what he does on there does not have a detrimental impact on the

community. The Commission is trying to gauge what impact their activity will have on the roads. The Commission is saying that the proposal has a detrimental impact on the roads. The infrastructure has to support whatever business model he proposes. If they were to offer some off-site improvements or something to mitigate the costs to the community in their business proposal he felt the Commission would be open to do that. But right now they have to do what is before them.

Mr. Edgerton asked if the applicant is willing to defer.

Mr. Megente said that he would like the opportunity to defer and come back with a different application.

Motion: Mr. Morris moved and Ms. Porterfield seconded to approve the applicant's request for deferral of SDP-2009-00009, Arden Place to the earliest possible date.

The motion passed by a vote of 7:0.

Mr. Strucko said that SDP-2009-00009, Arden Place was deferred to the earliest date possible.

Mr. Strucko said that the deferral request for SDP-2009-00009, Arden Place was approved to the next earliest possible date.

Mr. Cilimberg pointed out that when this request gets rescheduled that there would be another letter sent.

Old Business:

Mr. Strucko asked if there was any old business. There being no further old business, the meeting moved to the next item.

New Business:

Mr. Strucko asked if there was any new business.

There will be no meeting on June 30 or July 7.

The next meeting will be held on Tuesday, July 14, 2009.

Adjournment:

With no further items, the meeting adjourned at 10:57 p.m. to the Tuesday, July 14, 2009 meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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