

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on September 14, 2005, at 6:00 p.m., Room 241, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. David P. Bowerman, Mr. Kenneth C. Boyd, Mr. Lindsay G. Dorrier, Jr., Mr. Dennis S. Rooker, Ms. Sally H. Thomas and Mr. David C. Wyant.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Director of Community Development, Mark Graham, County Planner, V. Wayne Cilimberg, and Senior Deputy Clerk, Debi Moyers.

Agenda Item No. 1. The meeting was called to order at 6:00 p.m., by the Chairman, Mr. Rooker.

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Agenda Item No. 2. Pledge of Allegiance.  
Agenda Item No. 3. Moment of Silence.

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Agenda Item No. 4. From the Public: Matters Not Listed on the Agenda.

Mr. Arin Sime addressed the Board, asking them to make a public statement that they will not ever abuse their power of eminent domain, citing the recent Supreme Court decision in favor of states and localities defining what public use means in terms of seizing private property. He said that Americans of all political persuasions have expressed their dismay and anger that in a free country this type of thing can happen. Mr. Sime said that all around the country, localities are passing resolutions that condemn the decision and restrict powers of eminent domain in the case of transfer of property from one private owner to another. He noted that Patrick County, Virginia passed such a resolution, adding that polls show over 90 percent of Americans disagree with the decision and the use of eminent domain for private use.

Mr. Sime read a proposed resolution prepared by the Jefferson Area Libertarians, which he chairs: "Notwithstanding any other provision of law, private property acquired through eminent domain at the consent of the owner shall not be dedicated, sold, leased in substantial part or otherwise transferred to a private person, partnership, corporation, or any other entity for a period of ten years following the acquisition of the property by the county except that property may be transferred or leased (1) to private entities that are public utilities or common carriers such as railroad or toll road, and (2) to private entities that occupy an incidental area in a public project such as retail establishment on the ground floor of a public building." He added that some Board members had already expressed concern about the court decision, and asked that they make a collective stand. Mr. Sime said that it is important that the county take a stand, even if the General Assembly takes its own action for the state.

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Ms. Linda Goodling addressed the Board, on behalf of the Charlottesville Albemarle League of Women Voters Natural Resource Committee. She suggested that Mr. Tucker spend a part of each monthly Board of Supervisors meeting to bring the community up to date on the activities of the Rivanna Water and Sewer Authority, to keep citizens informed on important current activities that affect the entire community. Ms. Goodling said it is hard for many community members to attend the afternoon sessions, and important issues such as nutrient removal and trading and other treatment decisions that affect the entire James River watershed should be heard. She added that there is also concern about the leachate discharge from the Ivy Landfill being processed at the Moore's Creek Treatment Plant. Ms. Goodling stated that the third area to be monitored is decisions concerning future water supply projects that will be made in the near future.

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Agenda Item No. 5. Consent Agenda. **Motion** was offered by Ms. Thomas, **seconded** by Mr. Wyant, to approve Items 5.1(as noted) through 5.4 on the consent agenda, and to accept the remaining items as information. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas, Mr. Wyant and Mr. Bowerman.  
NAYS: None.

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Item No. 5.1. Approval of Minutes: October 6, 2004; April 6 and April 18(A), 2005.

Mr. Bowerman had read the minutes of April 6, 2005 and found them to be in order.

**By the above recorded vote, the Board approved the minutes as read and the remaining minutes would be included in the next agenda.**

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Item No. 5.2. Resolution to accept road(s) in Sunrise Farm Subdivision into the State Secondary System of Highways.

At the request of the County Roads Engineer, **by the above recorded vote, the Board adopted the following resolution to bring Sunrise Lane in Sunrise Farm Subdivision, into the State Secondary System of Highways:**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 14th day of September 2005, adopted the following resolution:

RESOLUTION

WHEREAS, the street(s) in **Sunrise Farm Subdivision**, described on the attached Additions Form LA-5(A) dated **September 14, 2005**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Sunrise Farm Subdivision**, as described on the attached Additions Form LA-5(A) dated **September 14, 2005**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

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The road(s) described on Additions Form LA-5(A) is:

- 1) **Sunrise Lane (State Route 1619)** from the intersection of Reas Ford Road (Route 66) to cul-de-sac, as shown on plat recorded 04/01/2003 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2420, page 275, with a 40-foot right-of-way width, for a length of 0.19 miles.

Total Mileage – 0.19 miles

Item No. 5.3. Resolution to accept road(s) in Western Ridge Subdivision, Phase 5B, into the State Secondary System of Highways.

At the request of the County Roads Engineer, **by the above recorded vote, the Board adopted the following resolution to bring roads in Western Ridge Subdivision, Phase 5B, into the State Secondary System of Highways:**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 14th day of September 2005, adopted the following resolution:

RESOLUTION

WHEREAS, the street(s) in **Western Ridge Subdivision, Phase 5B**, described on the attached Additions Form LA-5(A) dated **September 14, 2005**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Western Ridge Subdivision, Phase 5B**, as described on the attached Additions Form LA-5(A) dated **September 14, 2005**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

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The road(s) described on Additions Form LA-5(A) is:

- 1) **Lake Tree Lane (State Route 1251)** from the existing end maintenance to the intersection of Rolling Meadow Lane (Route 1374) as shown on plat recorded 05/22/2001 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2027, pages 87-94, with a 50-foot right-of-way width, for a length of 0.11 miles.
- 2) **Lake Tree Lane (State Route 1251)** from the intersection of Rolling Meadow Lane (Route 1374) to the intersection of Vista View Lane (Route 1375) as shown on plat recorded 05/22/2001 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2027, pages 87-94, with a 50-foot right-of-way width, for a length of 0.03 miles.
- 3) **Lake Tree Lane (State Route 1251)** from the intersection of Vista View Lane (Route 1375) to the end of maintenance, as shown on plat recorded 05/22/2001 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2027, pages 87-94, with a 50-foot right-of-way width, for a length of 0.02 miles.
- 4) **Rolling Meadows Lane (State Route 1374)** from the intersection of Lake Tree Lane (Route 1251) to the cul-de-sac, as shown on plat recorded 05/22/2001 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2027, pages 87-94, with a 40-foot right-of-way width, for a length of 0.11 miles.
- 5) **Vista View Lane (State Route 1375)** from the intersection of Lake Tree Lane (Route 1251) to the cul-de-sac, as shown on plat recorded 05/22/2001 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2027, pages 87-94, with a 40-foot right-of-way width, for a length of 0.10 miles.

Total Mileage – 0.37 miles

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Item No. 5.4. Resolution to accept road(s) in Western Ridge Subdivision, Phase 5C, into the State Secondary System of Highways.

At the request of the County Roads Engineer, **by the above recorded vote, the Board adopted the following resolution to bring Lake Tree Lane in Western Ridge Subdivision, Phase 5C, into the State Secondary System of Highways:**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 14th day of September 2005, adopted the following resolution:

#### RESOLUTION

WHEREAS, the street(s) in **Western Ridge Subdivision, Phase 5C**, described on the attached Additions Form LA-5(A) dated **September 14, 2005**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Western Ridge Subdivision, Phase 5C**, as described on the attached Additions Form LA-5(A) dated **September 14, 2005**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

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The road(s) described on Additions Form LA-5(A) is:

- 1) **Lake Tree Lane (State Route 1251)** from the existing end maintenance to cul-de-sac, as shown on plat recorded 04/24/2002 in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2186, pages 614-621, with a 50-foot right-of-way width, for a length of 0.16 miles.

Total Mileage – 0.16 miles

Item No. 5.5. 2005 Statement of Assessed Values for Local Tax Purposes for Railroads and Interstate Pipeline Transmission Companies, **was received as information.**

Item No. 5.6. Copy of draft minutes of the Planning Commission for March 29, July 26, August 2 and August 9, 2005, **was received as information.**

Agenda Item No. 6. **Public hearing** on the proposed issuance of Virginia Public School Authority (VPSA) general obligation bonds of Albemarle County in the estimated maximum principal amount of \$7,790,000. The purpose of the proposed bonds is to finance capital projects for public schools. (Advertised in the Daily Progress on August 29 and September 5, 2005.)

Mr. Tucker said the executive summary states that the FY 2005/06 Capital Improvement Budget was approved with the intent to issue approximately \$7,790,000 in bonds through the Virginia Public School Authority (VPSA) for the following projects:

Henley Addition	\$1,000,000
Murray High School Renovation	\$149,000
ADA Structural Changes	\$50,000
Monticello Auditorium	\$800,000
Monticello Gymnasium	\$1,999,000
School Maintenance Projects	\$3,423,000
Vehicle Maintenance Projects	\$165,000
Jouett-Greer Site Reconfiguration	\$200,000
Total	<u><u>\$7,786,000</u></u>

Resolutions authorizing the application to VPSA were adopted by the Board of Supervisors and School Board on August 10, 2005 and August 11, 2005, respectively. The proposed Resolution authorizes issuance of the bonds not to exceed \$7,790,000, the sale of the bonds to VPSA, and approves as to form the Bond Sale Agreement and details relating to the Bonds.

In order to proceed with this process, the Board will need to adopt the Resolution.

After the public hearing, staff recommends approval of the Resolution to authorize the issuance of bonds in the maximum principal amount of \$7,790,000 to finance certain capital improvements for the County's public schools.

The Chairman opened the public hearing. There being no comments, the public hearing was closed.

Mr. Rooker noted that these are all approved CIP items.

**Motion** was offered by Mr. Boyd, **seconded** by Mr. Bowerman, to adopt the following resolution authorizing the issuance of bonds in the maximum principal amount of \$7,790,000 to finance certain capital improvements for the County's public schools. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas, Mr. Wyant and Mr. Bowerman.

NAYS: None.

**RESOLUTION AUTHORIZING THE ISSUANCE OF  
GENERAL OBLIGATION SCHOOL BONDS, SERIES 2005A,  
OF THE COUNTY OF ALBEMARLE, VIRGINIA,  
IN A PRINCIPAL AMOUNT NOT TO EXCEED \$7,790,000  
TO BE SOLD TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY  
AND PROVIDING FOR THE FORM AND DETAILS THEREOF**

**WHEREAS**, the Board of Supervisors (the "Board") of the County of Albemarle, Virginia (the "County"), has determined that it is necessary and expedient to borrow a principal amount not to exceed \$7,790,000 and to issue its general obligation school bonds for the purpose of financing certain capital projects for school purposes; and

**WHEREAS**, the County has held a public hearing, duly noticed, on September 14, 2005, on the issuance of the Bonds (as hereinafter defined) in accordance with the requirements of Section 15.2-2606, Code of Virginia 1950, as amended (the "Virginia Code"); and

**WHEREAS**, the School Board of the County has, by resolution, adopted on August 11, 2005, requested the Board to authorize the issuance of the Bonds and consented to the issuance of the Bonds; and

**WHEREAS**, the Bond Sale Agreement (as defined below) shall indicate that \$7,790,000 is the amount of proceeds requested (the "Proceeds Requested") from the Virginia Public School Authority (the "VPSA") in connection with the sale of the Bonds; and

**WHEREAS**, the VPSA's objective is to pay the County a purchase price for the Bonds which, in VPSA's judgment, reflects the Bonds' market value (the "VPSA Purchase Price Objective"), taking into consideration such factors as the amortization schedule the County has requested for the Bonds relative to the amortization schedules requested by other localities, the purchase price to be received by VPSA for its bonds and other market conditions relating to the sale of the VPSA's bonds; and

**WHEREAS**, such factors may result in the Bonds having a purchase price other than par and consequently (i) the County may have to issue a principal amount of Bonds that is less than the Proceeds Requested but in no case greater than the Proceeds Requested in order to receive an amount of proceeds that is substantially equal to the Proceeds Requested, or (ii) if the maximum authorized principal amount of the Bonds set forth in Section 1 below does not exceed the Proceeds Requested by at least the amount of any discount the purchase price to be paid to the County, given the VPSA Purchase Price Objective and market conditions, will be less than the Proceeds Requested.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ALBEMARLE, VIRGINIA:**

1. **Authorization of Bonds and Use of Proceeds.** The Board hereby determines that it is advisable to contract a debt and issue and sell its general obligation school bonds in an aggregate principal amount not to exceed \$7,790,000 (the "Bonds") for the purpose of financing certain capital projects for school purposes, including without limitation, the projects described in Exhibit B. The Board hereby authorizes the issuance and sale of the Bonds in the form and upon the terms established pursuant to this Resolution.

2. **Sale of the Bonds.** It is determined to be in the best interest of the County to accept the offer of the VPSA to purchase from the County, and to sell to the VPSA, the Bonds at a price, determined by the VPSA to be fair and accepted by the Chairman of the Board and the County Executive, either of whom may act, that is substantially equal to the Proceeds Requested, except that the Bonds may be sold for a purchase price not lower than 95% of the Proceeds Requested if issuing the Bonds in the maximum principal amount authorized by Section 1 of this Resolution is insufficient, given the VPSA Purchase Price Objective and market conditions, to generate an amount of proceeds substantially equal to the Proceeds Requested. The Chairman of the Board and the County Executive, either of whom may act, and such officer or officers of the County as either may designate, any of whom may act, are hereby authorized and directed to enter into a Bond Sale Agreement dated as of September 28, 2005 (the "Bond Sale Agreement"), with the VPSA providing for the sale of the Bonds to the VPSA. The Bond Sale Agreement shall be in substantially the form submitted to the Board at this meeting, which form is hereby approved, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officer executing the Bond Sale Agreement, his execution to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes.

3. **Details of the Bonds.** The Bonds shall be dated the date of issuance and delivery of the Bonds; shall be designated "General Obligation School Bonds, Series 2005A"; shall bear interest from the date of delivery thereof payable semi-annually on each January 15 and July 15 beginning July 15, 2006 (each an "Interest Payment Date"), at the rates established in accordance with Section 4 of this Resolution; and shall mature on July 15 in the years (each a "Principal Payment Date") and in the amounts as determined by the County Executive (the "Principal Installments"), subject to the provisions of Section 4 of this Resolution.

4. **Interest Rates and Principal Installments.** The County Executive is hereby authorized and directed to accept the interest rates on the Bonds established by the VPSA, provided that each interest rate shall be ten one-hundredths of one percent (0.10%) over the interest rate to be paid by the VPSA for the corresponding principal payment date of the bonds to be issued by the VPSA (the "VPSA Bonds"), a portion of the proceeds of which will be used to purchase the Bonds, and provided further that the true interest cost of the Bonds does not exceed five and thirty-five one-hundredths percent (5.35%) per annum. The Interest Payment Dates are subject to change at the request of the VPSA. The County Executive is hereby authorized and directed to accept changes in the Interest Payment Dates at the request of the VPSA and to accept the Principal Installments requested by the VPSA, provided that the aggregate principal amount of the Bonds shall not exceed the amount authorized by this Resolution and provided further that the final maturity of the Bonds occurs no later than December 31, 2025. The execution and delivery of the Bonds as described in Section 8 hereof shall conclusively evidence such interest rates established by the VPSA and Interest Payment Dates and the Principal Installments requested by the VPSA as having been so accepted by the County Executive as authorized by this Resolution.

5. **Form of the Bonds.** The Bonds shall be initially in the form of a single, temporary typewritten bond substantially in the form attached hereto as Exhibit A.

6. **Payment; Paying Agent and Bond Registrar.** The following provisions shall apply to the Bonds:

(a) For as long as the VPSA is the registered owner of the Bonds, all payments of principal, premium, if any, and interest on the Bonds shall be made in immediately available funds to

the VPSA at or before 11:00 a.m. on the applicable Interest Payment Date, Principal Payment Date or date fixed for prepayment or redemption, or if such date is not a business day for Virginia banks or for the Commonwealth of Virginia, then at or before 11:00 a.m. on the business day next preceding such Interest Payment Date, Principal Payment Date or date fixed for prepayment or redemption.

(b) All overdue payments of principal and, to the extent permitted by law, interest shall bear interest at the applicable interest rate or rates on the Bonds.

(c) SunTrust Bank, Richmond, Virginia, is designated as bond registrar and payment agent for the Bonds (the "Bond Registrar"). The County may, in its sole discretion, replace at any time the Bond Registrar with another qualified bank or trust company as successor Bond Registrar.

7. **Prepayment or Redemption.** The Principal Installments of the Bonds held by the VPSA coming due on or before July 15, 2015, and the definitive Bonds for which the Bonds held by the VPSA may be exchanged that mature on or before July 15, 2015, are not subject to prepayment or redemption prior to their stated maturities. The Principal Installments of the Bonds held by the VPSA coming due after July 15, 2015, and the definitive bonds for which the Bonds held by the VPSA may be exchanged that mature after July 15, 2015, are subject to prepayment or redemption at the option of the County prior to their stated maturities in whole or in part, on any date on or after July 15, 2015, upon payment of the prepayment or redemption prices (expressed as percentages of Principal Installments to be prepaid or the principal amount of the Bonds to be redeemed) set forth below plus accrued interest to the date set for prepayment or redemption:

<u>Dates</u>	<u>Prices</u>
July 15, 2015, through July 14, 2016	101.0%
July 15, 2016, through July 14, 2017	100.5
July 15, 2017, and thereafter	100.0

Provided, however, that the Bonds shall not be subject to prepayment or redemption prior to their stated maturities as described above without first obtaining the written consent of the registered owner of the Bonds. Notice of any such prepayment or redemption shall be given by the Bond Registrar to the registered owner by registered mail not more than ninety (90) and not less than sixty (60) days before the date fixed for prepayment or redemption.

8. **Execution of the Bonds.** The Chairman or Vice Chairman of the Board, either of whom may act, and the Clerk of the Board or any Deputy Clerk, either of whom may act, are authorized and directed to execute and deliver the Bonds and to affix the seal of the County thereto.

9. **Pledge of Full Faith and Credit.** For the prompt payment of the principal of and premium, if any, and the interest on the Bonds as the same shall become due, the full faith and credit of the County are hereby irrevocably pledged, and in each year while any of the Bonds shall be outstanding there shall be levied and collected in accordance with law an annual ad valorem tax upon all taxable property in the County subject to local taxation sufficient in amount to provide for the payment of the principal of and premium, if any, and the interest on the Bonds as such principal, premium, if any, and interest shall become due, which tax shall be without limitation as to rate or amount and in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

10. **Use of Proceeds Certificate and Certificate as to Arbitrage.** The Chairman of the Board, the County Executive and such officer or officers of the County as either may designate, any of whom may act, are hereby authorized and directed to execute a Certificate as to Arbitrage and a Use of Proceeds Certificate, each setting forth the expected use and investment of the proceeds of the Bonds and containing such covenants as may be necessary in order to show compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations relating to the exclusion from gross income of interest on the Bonds and on the VPSA Bonds. The Board covenants on behalf of the County that (i) the proceeds from the issuance and sale of the Bonds will be invested and expended as set forth in such Certificate as to Arbitrage and such Use of Proceeds Certificate and that the County shall comply with the other covenants and representations contained therein and (ii) the County shall comply with the provisions of the Code so that interest on the Bonds and on the VPSA Bonds will remain excludable from gross income for Federal income tax purposes.

11. **State Non-Arbitrage Program; Proceeds Agreement.** The Board hereby determines that it is in the best interests of the County to authorize and direct the Director of Finance of the County to participate in the State Non-Arbitrage Program in connection with the Bonds. The Chairman of the Board, the County Executive and such officer or officers of the County as either may designate, any of whom may act, are hereby authorized and directed to execute and deliver a Proceeds Agreement with respect to the deposit and investment of proceeds of the Bonds by and among the County, the other participants in the sale of the VPSA Bonds, the VPSA, the investment manager and the depository, substantially in the form submitted to the Board at this meeting, which form is hereby approved, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officer executing such Proceeds Agreement, his execution to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes.

12. **Continuing Disclosure Agreement.** The Chairman of the Board, the County Executive and such officer or officers of the County as either may designate, any of whom may act, are hereby authorized and directed to execute a Continuing Disclosure Agreement, substantially in the form attached as Appendix F to the Bond Sale Agreement, setting forth the reports and notices to be filed by the County and containing such covenants as may be necessary in order to show compliance with the provisions of the Securities and Exchange Commission Rule 15c2-12 and directed to make all filings required by Section 3 of the Bond Sale Agreement should the County be determined by the VPSA to be a MOP (as defined in the Continuing Disclosure Agreement).

13. **Filing of Resolution.** The appropriate officers or agents of the County are hereby authorized and directed to cause a certified copy of this Resolution to be filed with the Circuit Court of the County.

14. **Further Actions.** The members of the Board and all officers, employees and agents of the County are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Bonds and any such action previously taken is hereby ratified and confirmed.

15. **Effective Date.** This Resolution shall take effect immediately.

The undersigned Clerk of the Board of Supervisors of the County of Albemarle, Virginia, hereby certifies that the foregoing constitutes a true and correct extract from the minutes of a meeting of the Board of Supervisors held on September 14, 2005, and of the whole thereof so far as applicable to the matters referred to in such extract. I hereby further certify that such meeting was a regularly scheduled meeting and that, during the consideration of the foregoing resolution, a quorum was present.

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Agenda Item No. 11. **ZMA-2004-002. Townhouses Fontaine Ave (Sign #80). Public hearing** on a request to rezone 12.606 acs from HC to PRD to allow 60 dwelling units. TM 76, Ps 12A&12G. Loc on N side of Rt 702 (Fontaine Ave), approx .25 miles W of intersec of Fontaine Avenue & Rt 29. (The Comp Plan designates this property as Neighborhood Service, in Neighborhood 6.) Samuel Miller Dist. (Advertised in the Daily Progress on August 29 and September 5, 2005.)

Mr. Cilimberg reported that this request is for a 61-unit townhouse development on Fontaine Avenue west of the Route 250 Bypass. This request was originally reviewed by the Planning Commission in June 2004 and recommended for approval subject to the proffers at the time, and an additional expectation that before the Board approved this rezoning that issues regarding pedestrian connection would be addressed. In early 2004, the applicant requested deferral because the property had been part of a bankruptcy proceeding, which has now been completed.

With the Planning Commission, he said, the primary issue was the location of the pedestrian path and bridge over a stream and wetlands adjacent to the site, as well as the need for a true pedestrian link from the development to the Fontaine Research Park. Mr. Cilimberg explained that staff discussed with the applicant possible solutions to the problem with pedestrian access over the stream, as well as a need for a true pedestrian connection to Fontaine Park in July 2004. He noted that the applicant, staff, and VDOT have met a number of times since then and found a solution to both issues. Mr. Cilimberg said that the applicant's current proposal is to construct a span bridge across the stream and install an asphalt path and striping under the overpass in the right of way, which would extend to the signal at Fontaine Avenue in the research park. The span bridge addresses concerns for both location and stream preservation, and is endorsed by staff. Mr. Cilimberg pointed out that the pedestrian path would be a five-foot wide asphalt path, the design and location of which is recommended and approvable by VDOT. An additional recommendation for right-angle crossings at the ramps has been made. He added that since final plans for the path will be developed in conjunction with the site plan, VDOT can consider that recommendation for right-angle crossings at that time.

Mr. Cilimberg reported that the original offer of \$1,000 per unit for capital improvements has now been replaced by the offer to construct the pedestrian path from the development to the Fontaine Research Park, an offsite proffer that is more expensive than what was originally proffered, estimated at over \$100,000 because of culvert installation of asphalt, striping, and several short retaining walls. He added that the second difference is the offer of three for-sale units for affordable housing, with the applicant stating that he will offer \$60,000 to the county for affordable housing as well as six accessory-type units in the townhouses. Mr. Cilimberg noted that the county's housing director feels these proffers are appropriate, and staff believes the proposal as presented is consistent with the Planning Commission's intent. He concluded that staff recommends approval of the proposal.

Mr. Boyd asked how staff determined the proffer for affordable housing, as each project coming before the Board seems to be different.

Mr. Cilimberg emphasized that the county's affordable housing director considered it appropriate, and staff takes into account the balance of the considerations. In response to Mr. Boyd's question, Mr. Cilimberg said that the housing director had his own rationale for supporting the proffer.

Ms. Thomas mentioned that the next item on the agenda has a very similar rationale.

Mr. Rooker pointed out that in this case, there are 10 percent affordable units, with another \$60,000 being given to the affordable housing fund. He noted that when the Comp Plan section on

affordable housing was passed, the Board recognized that different circumstances would require different mixes, specifically stating that 15 percent was the target. To him this seems like a reasonable blend of the two.

Mr. Boyd emphasized that he would like to see a uniform fund for affordable housing.

Mr. Wyant asked if the affordable housing money would go into a specific account.

Mr. Davis replied that the county's preference is not to pigeonhole the contribution into one specific program, so that there is flexibility for the best use of funds.

The Chairman opened the public hearing and asked the applicant to come forward.

Mr. Vito Cetta of Weatherhill Homes addressed the Board. He said that he agrees with the proffers, adding that he is a member of the Housing and AHIP Boards. Mr. Cetta noted that he originally had 15 percent of the townhomes as affordable, but if they were built today they would sell for considerably more than affordable. He added that they are still offering apartments that are affordable, noting that his group meets with Mr. White on each development. Mr. Cetta stated that there would likely be a set policy within the next year.

Mr. Donal Day of 151 Buckingham Circle addressed the Board. He said that the density is still too high, and the impact on the environment and traffic will cause his own neighborhood to suffer. Mr. Day pointed out that the pedestrian path is "wrong-headed," as the entrance to Buckingham Circle is problematic, and by routing pedestrians to asphalt path will cause accidents. These proffers that were going to be spent on community development have now all gone away. He is spending them on improvements to the development, and all the benefit of those proffers now are going to him rather than the community. Mr. Day said that giving money to the affordable housing fund is a mistake, and leads to segregation by socio-economic class. He added that the rental units are likely to be owned by people living in the townhouses anyway.

Ms. Dorie Wills addressed the Board, stating that she is a long-time resident of Buckingham Circle. She encouraged the Board to visit the development and look at the narrow piece of highway that leads there, adding that she had hoped the entrance to the circle would be improved. Ms. Wills stated that every resident on Buckingham Circle has come out of the circle toward Fontaine and encountered cars coming down the ramp not looking to the right. It is an accident waiting to happen, and the more traffic they have out there the worse it is going to get.

Ms. Elena Day addressed the Board, stating that she has lived on the circle since 1979 and thinks it is too much for a marginal piece of property. She pointed out that rezoning this from highway commercial to planned residential is concentrating too many units on the property. Ms. Day encouraged the Board to look at the bridge stability, especially if construction trucks are using it. She said that this would bring just too many people into too small a space. She also asked the Board to consider water resources.

There being no further public comment, the matter was placed before the Board.

Ms. Thomas said that she appreciates the comments, and has heard many of them before. She has also heard this is better than other things that have been proposed for the area. She is satisfied the county engineering department has worked out the best plan for dealing with water runoff, with three detention facilities to handle it, acknowledging that she is always concerned with increasing impervious surface. She added that she was not supportive of the project until VDOT approved the walkway, which also took approval from the University. Ms. Thomas noted that it might run more safely at the intersections at 90-degree crossings rather than slanted, adding that the walkway allows the development to fit into the Neighborhood Model. She mentioned that there will also be bus service to the neighborhood, adding that six affordable units are more than what is seen with many developments. She thinks this applicant has made a sincere effort to both provide some units, which is really needed, and some money for the trust fund.

Mr. Wyant asked about the original proffers. Mr. Cilimberg replied that there was a pledge to the CIP which has now been replaced by the commitment to funding the walkway.

Mr. Boyd asked if a traffic study had been done. Mr. Cilimberg replied that it had been done, and there were no recommendations for improvements on Fontaine.

Mr. Tucker suggested that the Board ask VDOT to do a traffic study of the area.

Mr. Wyant expressed concern about the width of the bridge abutments. Ms. Thomas said that the pedestrian part of the bridge is a separate span, not added to the existing VDOT bridge, as they would not allow it to be added.

Mr. Rooker mentioned that this plan is infinitely better than what was planned before. He thinks they can put a hotel there as a matter of right. He said that the use here combined with pedestrian features makes it a pretty good plan.

Mr. Dorrier said that it is close to the city, is in the development area, and has 61 townhouse units, which are not prevalent in the county.

**Motion** was then offered by Ms. Thomas to approve ZMA-2004-002 with the proffers as presented. Mr. Bowerman **seconded** the motion.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas, Mr. Wyant and Mr. Bowerman.

NAYS: None.

Original Proffer   X  

### PROFFER FORM

**Date of Proffer Signature:** 09/06/05

ZMA # 2004-02

Tax Map 76 and Parcel Numbers 12A and 12G

12.606 Acres to be rezoned from H-C (Highway Commercial) to PRD (Planned Residential Development) in accordance with the Application Plan dated September 6, 2005

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the owner, or its duly authorized agent, hereby voluntarily proffers the conditions listed below which shall be applied to the property, if rezoned with the offered plans approved for development. These conditions are proffered as a part of the requested rezoning and it is agreed that: (1) the rezoning itself gives rise to the need for the conditions; and (2) such conditions have a reasonable relation to the rezoning request.

- (1) No building permit shall be issued unless and until the Director of Community Development, or his assigns, determines that the dwelling unit façades are in general accord with the building elevations provided on plans entitled "Fontaine Townhomes Concept Elevation" by Weather Hill Development, LLC and Bosserman, dated April 28, 2004. The façades shall be determined to be in general accord if they include architectural features that break up the massing of the building, such as porches, porticos, balconies, variation in building materials, and gables which break up the rooflines.
- (2) The Owner shall construct, at its expense, an off-site asphalt-paved pedestrian walkway and other improvements in accordance with standards for such walkways of the Virginia Department of Transportation (VDOT) from the southeast corner of the site along the north side of Fontaine Avenue to the Fontaine Business Park intersection as shown on the "Pathway and Wall Exhibit" prepared by Timmons Group, dated September 6, 2005. The walkway and other improvements shall be completed prior to the issuance of the building permit for the thirtieth (30<sup>th</sup>) unit. The walkway and other improvements shall be deemed completed when they are accepted or bonded for acceptance by VDOT.
- (3) The Owner shall design and construct a pedestrian/bicycle bridge crossing Morey Creek, as shown on the Application Plan, to a standard approved by the County Engineer and is to be a fully engineered clear span bridge, similar to the "Connector" bridge as manufactured by the Steadfast Bridge Company (1-800-749-7515), or an approved equal type of bridge. The bridge shall be designed and constructed above the 100-year flood plain. The bridge shall be completed, as determined by the County Engineer, prior to the issuance of the building permit for the thirtieth (30<sup>th</sup>) unit.
- (4) Prior to final site plan approval, the Owner shall dedicate a right-of-way to the County for public use for the purpose of constructing a greenway trail connecting Fontaine Avenue and TM 76, Parcel 12D, as indicated and noted on the Application Plan. The Owner shall pay all costs of surveying and preparing legal documents in a form acceptable to the County Attorney necessary to dedicate the right-of-way.
- (5) There shall be a maximum of 61 dwelling units in the development. Fifty-five units are illustrated on the Application Plan, originally prepared by Terra Concepts, PC, dated May 2, 2005 and last revised by Timmons Group, dated September 6, 2005. Six of the 55 units are identified on the Application Plan as housing two-dwelling units (Units 1, 6, 7, 13, 14, and 20). These six units shall be constructed and maintained as two-family dwellings as defined in the Virginia Uniform Statewide Building Code. The declaration of covenants for Fontaine Townhomes shall contain the following language for the six, two-dwelling units: "Townhome units 1, 6, 7, 13, 14, and 20 within Fontaine Townhomes are constructed and must be maintained as two-family dwelling units as defined in the Virginia Uniform Statewide Building Code."
- (6) No building permit shall be issued unless and until the Owner contributes a sum of \$60,000 cash for funding for affordable housing to the County of Albemarle. The cash contribution is non-refundable.

Signatures of Owner

Marc C. Powell, Vice President,  
Weather Hill Holdings, Ltd.

WH Fontaine Acquisition, LLC Date: September 6, 2005  
By: Weather Hill Holdings, Ltd., its Managing Member

Agenda Item No. 12. **SP-2005-018. Car Max (Sign #9). Public hearing** on a request to allow outdoor display of vehicles in accord w/Sec 30.6.3.2 (b) of the Zoning Ord which allows for outdoor storage, display and/or sales in the EC Dist. TM 78, P 10 contains approx 5.112 acs. Loc on N side of St Rt 250 E at 1448 Richmond Rd, currently site of White House Motel. Znd HC & EC. [This site is also subject of Site Development Plan public hearing (SDP 2005-057).] Rivanna Dist. (Advertised in the Daily Progress on August 29 and September 5, 2005.)

Mr. Cilimberg reported that the applicant plans to construct an auto dealership, including outdoor storage and display of 184 vehicles at the site currently occupied by the White House Motel on 250 East at Pantops. He stated that the special use permit requirement is based on impacts to the Entrance Corridor of the outdoor storage and display. The ARB has reviewed the proposal for its impacts with no objection to the request but recommending a condition for landscaping. Mr. Cilimberg stated that the applicant's plan shows a utility easement across the Route 250 frontage of the property, trees and shrubs required by ARB design guidelines that are considered critical to mitigating the display use proposed within this easement. He said that staff is recommending a condition of approval to ensure that the landscaping required by the ARB can be accomplished in the easements. Mr. Cilimberg said that in addition to the ARB's landscaping issues, staff is concerned about the manner in which vehicles may be stored and displayed on site. Elevating vehicles for display purposes is not considered appropriate and double or triple-parking vehicles are considered to have a negative visual impact. He noted that there is a standard condition to address those issues, one of four included as part of the recommendation for approval from staff and the Planning Commission.

Ms. Thomas asked how high a masonry knee-wall is. Mr. Wyant replied that it is usually a couple of feet. Ms. Thomas said that it appears to be six feet tall in the information presented.

Mr. Rooker stated that they have done a good job at relegating the parking, with 75 percent to 80 percent of it not viewable from Route 250.

Mr. Wyant asked how stormwater would be handled. Mr. Cilimberg replied that that is a site plan matter, and it would have to meet the provisions in the ordinance. He added that prior to site plan approval, the applicant shall provide documentation that all easement-holders do not object to the proposed construction, grading, planting, etc. in their easements.

The Chairman opened the public hearing and asked the applicant to speak.

Mr. Joe Yagman of Carmax Auto Superstores, Inc., addressed the Board. He said that this location will strongly complement existing markets in Richmond and Washington that have been very successful. He noted that they do agree with the ARB conditions, and will go beyond their standards with respect to landscaping, elevation, and double and triple-parking. Mr. Yagman said that the knee wall is 30-inches tall and is a security feature. He added that there is a regional stormwater facility located just north of the site, and Carmax has permission to discharge into that after it is treated onsite.

There being no further public comment, the matter was placed before the Board.

Mr. Boyd **moved** for approval of SP 2005-018 subject to the four conditions recommended by staff and the Planning Commission. Mr. Wyant **seconded** the motion.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas, Mr. Wyant and Mr. Bowerman.  
NAYS: None.

**(The conditions of approval are set out below:)**

1. Final site plan approval is subject to Architectural Review Board (ARB) approval of the landscape plan (submitted with the site plan). Landscaping shown on the plan may be required to be in excess of the ARB guidelines or the Zoning Ordinance;
2. Vehicles shall not be elevated anywhere on site;
3. Vehicles shall be displayed only in areas indicated for display shown on the plan entitled "Car Max Preliminary Site Plan" prepared by Charles J. O'Brien, Architect and dated July 18, 2005. Display parking shall be only in designated parking spaces, as identified on this plan; and
4. Prior to final site plan approval, the applicant shall provide documentation that all easement holders do not object to proposed construction, grading, planting, etc. in their easements.

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Agenda Item No. 13. **SP-2004-052. Kenridge (Sign #40). Public hearing** on a request to allow development of multifamily complex in accord w/Sec 23.2.2.9 of the Zoning Ord which allows for R-15, use in CO district. TM 60, Ps 27 & 27B, contains 16.5 acs. Loc on N side of (Rt 250 W) Ivy Rd approx 1/2 mile W of intersec of Ivy Rd & Rt 29/250 By-pass. [The Comp Plan designates these lands as Office Service, in Neighborhood 7. General usage for Office Service is mixed office & residential uses, & is recommended for 6.01-20 du/ac, w/possible densities of up to 34 du/ac under planned development approach. General usage of the proposed amendment (SUP request) is residential. The existing carriage & manor houses have the option of being used for residential and/or office use. The density of the proposed amendment is 4 du/ac.] This property is also located in EC. Samuel Miller Dist. (Advertised in the Daily Progress on August 29 and September 5, 2005.)

Mr. Cilimberg reported that the applicant is seeking improvement to allow development of 66 units located across from Birdwood Golf Course. The existing 8,000 square foot manor house and 3,000 square foot carriage house have the option of being used for residential and/or office use. This special use permit would allow for R-15 use in a Commercial Office district. This is the former Kappa Sigma fraternity headquarters, and the main building is designed for office use and has an auditorium. He explained that the property slopes toward Route 250 in the front, and toward the railroad track in the rear. Mr. Cilimberg noted that the applicant originally requested a special permit in September 2004, but there have been several meetings with the Planning Commission leading to the last public hearing at which the applicant had made several changes to the plan since the original submittal, including reduction from 80 to 66 units onsite in response to the level of development on the parcel and around existing buildings. He added that the provision of pedestrian and road connection to adjacent properties is now provided, and there has been an indication of open space location as well as a tree inventory completed. Mr. Cilimberg said that the final version of the plan had grading shown.

Mr. Cilimberg pointed out that there are items recognized by both staff and the Planning Commission that need to be addressed, including having all units with front-loaded garages and improvements for on-street parking. He said that the internal parking at the units is not relegated, and there is also a question as to whether the parking shown would meet parking requirements, particularly as provision of visitor spaces is not indicated; there is a requirement of one space per four units. Mr. Cilimberg commented that it seems that resident parking requirements are being met. He added that the plan layout would require extensive grading, creating fairly extensive slopes.

Mr. Cilimberg noted that stormwater management has also been identified as a concern because the features required for the pond, the perimeter berm, and biofilters would not fit with the final grading shown on the plan. He indicated that the applicant is requesting private streets, and has indicated the intent to have most of the street system internally urban streets. Mr. Cilimberg said that staff is recommending Neighborhood Model road standards, which have not been shown on the plan, adding that they could be conditioned by the Board. He added that the applicant would also need to contribute a pro-rata share to a signal on Route 250 when warranted, and would need to show a left turn lane on Route 250; they could also be addressed by a condition. Mr. Cilimberg stated that affordable housing was not a part of what was proposed before the Planning Commission, but since that meeting the applicant has agreed for a condition to provide affordable housing. Regarding open space and amenities, they would need to be available to all units within the development. Mr. Cilimberg noted that if the auditorium were to be demolished or if the carriage house were altered, staff would want to see a reconnaissance level documentation of that, which could also be conditioned.

Mr. Cilimberg explained that staff did not recommend approval of this plan because the issues had not been sufficiently addressed – internal parking and its arrangement and relation to the street system; stormwater management, which may or may not be able to be accommodated within the site plan based on the plan presented at this time; affordable housing provision, which the applicant has agreed to since the Planning Commission meeting. Mr. Cilimberg noted that the adequate parking would have to be provided as part of the site plan process. He added that if the site plan were to change, it would be a matter of coming back to the Commission and Board. Based on those considerations, he said, the Planning Commission also recommended denial of the special use permit. Mr. Cilimberg said that the affordable housing provision had been changed, and the applicant has said they would agree to conditions set forth by staff, and staff has a draft of conditions tonight.

Mr. Cilimberg mentioned that Mr. Davis may also want to speak to these conditions. He confirmed that staff still recommends denial, with the significant outstanding issue being the parking arrangement and uncertainty on stormwater impact.

Mr. Wyant said that parking and stormwater were handled at the site plan level.

Mr. Cilimberg responded that that might mean a different conceptual plan, and an amendment would be needed to the special use permit, which would come back to both the Board and Planning Commission.

Mr. Rooker asked why that would not be dealt with at the site plan level, as the applicant would have to go back through the process anyway. Mr. Cilimberg replied that in similar cases, such as North Pointe, the preference for staff and the Planning Commission has been to try to address issues up front so it would not have to come through the process again for reapproval.

Mr. Rooker asked if there was a difference of opinion between staff and the applicant on stormwater management plans. Mr. Cilimberg responded that Mr. Graham has indicated that the stormwater plan is unknown, and the overall plan may have to be changed entirely to accommodate it.

Mr. Rooker noted that with the parking issue, the applicant would have to designate where the spaces are in order to get the site plan approved.

Ms. Thomas said that the applicant will either have to come back through the whole process, or have issues handled at the site plan level and not have to come back. Mr. Cilimberg responded that they did not know at this point.

Mr. Wyant said that there may be major changes to buildings if the stormwater requirements cannot be met. Mr. Cilimberg stated that if there were minor changes, the plan would not have to come back, but major changes would require reconsideration.

Mr. Rooker said that in reading the Planning Commission minutes, the reason for the action did not include visitor parking. Mr. Cilimberg emphasized that it is the new internal parking associated with visitor units that was the issue.

Mr. Davis commented that Ms. Thomas had raised some issues that were not addressed in these conditions but have been discussed at the staff level. The Board may want to discuss them after the public hearing.

At this time, the Chairman opened the public hearing.

The applicant's representative, Mr. Steve Blaine, addressed the Board. He said that Mr. Jim Gregg, the architect, is also in attendance and could speak to the parking and garage arrangement. Mr. Blaine contended that the onsite parking and guest parking are adequate to meet the two per unit requirement and one per four unit visitor parking. He added that the applicant believes they can provide some supplemental onstreet parking along the roadways, even if it means the loss of a unit. Mr. Blaine noted that their preference would be not to have onstreet parking, but that would need to be shown at the site plan level, and the conditions worked on address impacts sufficiently. In terms of critical slope disturbance, he indicated that they had an engineering recommendation approving that. Mr. Blaine said that they would prefer to have approval of zoning so that they can then spend the money needed for engineering to make the site work. He added that staff has made recommendations on the form and standards for streets, and the applicant agrees with those. They have agreed to make signal and entrance improvements, including a dedicated left turn lane. The applicant has also agreed to do the historic resources inventory.

Mr. Jim Gregg of Daggett and Gregg Architects addressed the Board, stating that in developing the plan they have agreed to hold the development back 275 feet from the Route 250 property line to create a four to five acre "etch park." He explained that they have aligned the entrance across from Birdwood, tying into the existing driveway that serves the Kenridge mansion and carriage house to minimize grading. They are planning for a loop road through the property, and grading required to maintain the 10 percent slopes on the roadways will create some cut and fill conditions on the property. He added that they are not against the Neighborhood Model, but if parking is relegated it would be impossible to keep the garages on the same level as the living space and first-floor master bedrooms. Mr. Gregg said that if parking is relegated, there would have to be two circulation systems, and the cars would have to be on the side of property adjacent to the White Gables development in their side yards and would be visible from Farmington. He referenced a rendering as to what the units would look like, with high quality materials, landscaping, etc.

In response to Ms. Thomas' question about maintenance of landscaping, Mr. Blaine pointed out condition #11 which stipulates maintenance by the homeowners' association.

Ms. Thomas asked about the dozen or so units in front of the manor house, in contrast to the Gables where they are behind. Mr. Gregg replied that the setback would be the same, and the idea is to maintain the 275-foot park edge along the highway.

Mr. Cilimberg mentioned that the Planning Commission noted this as a positive aspect of the proposal.

Ms. Thomas said that those particular houses are mentioned to be brick, and wondered if the other houses would also be brick. Mr. Blaine responded that all units would be brick, and the applicant has agreed to have the ARB approve the design of the residential units in the front.

Mr. Dorrier asked about the side slopes fitting after final grading. Mr. Gregg responded that the concept plan has evolved and will go through one more cut as preliminary engineering is done. He added that he believes the issue would be resolved, noting that it is difficult to develop a concept plan for a special use permit.

Ms. Thomas emphasized that she did not want to set them up to fail. Mr. Gregg acknowledged that the grading and stormwater issues are complex, but said that he believes there are accepted systems the county is working with on other projects. They believe they will be able to meet the grading concerns and the engineering concerns for runoff and other matters as they develop the final engineered drawings for the project.

Mr. Rooker noted the staff's comments asking that the Neighborhood Model matrix be used, and wondered if that was acceptable to the applicant. Mr. Blaine responded that they can work in a condition that addresses that, but noted that that matrix has not been officially adopted by the county.

Mr. Davis said that they would need to reference what specific Neighborhood Model document is being used as the matrix.

Mr. Rooker stated that the other way to deal with it would be to have the road system be subject to approval by the Director of Community Development, who could impose the standard in the site plan review.

Mr. Davis responded that the Neighborhood Model matrix would still need to be referenced, and perhaps stating "the Neighborhood Model matrix deemed acceptable by the Director of Community Development" would suffice.

Mr. Rooker asked about the reference to the need for a left turn lane. Mr. Cilimberg replied that there would need to be marking on Route 250 that would provide for that, but that could be addressed in the site plan. Mr. Blaine added that they would be amenable to a condition for that.

Mr. Rooker asked if that would be required at site plan level. Mr. Cilimberg said that it is part of the site plan.

Ms. Thomas said that she liked that the carriage house would be there as an office, but she did not see any indication on the plan that there would be pedestrian access to it. Mr. Gregg agreed.

Mr. Davis suggested a condition that states "pedestrian access deemed acceptable to the Director of Community Development."

In response to Ms. Thomas question, Mr. Blaine reported that they do plan to make all new units brick, with the exterior of detached single family units in Zone A (the front) being red brick with gable roofs. He added that they would be approved by ARB, and other units would be either red brick or painted white brick, with roofs either synthetic slate or copper.

Mr. Gregg noted that some of the gable elements could be stucco or siding, but the units would be all brick structures.

Mr. Cilimberg said that the second sentence, referring to the ARB's review, would apply only to Zone A.

Mr. Rooker asked about the critical slope issue raised by staff. Mr. Cilimberg replied that ordinarily, the Planning Commission acts on this issue.

Mr. Blaine mentioned that the screening might require irrigation, and the applicant is prepared to install irrigation throughout all three sides if necessary.

Mr. Cilimberg suggested saying, "underground irrigation will be provided on all screened areas."

Mr. Tom Loach, a resident of Crozet, addressed the Board. He said that he understands there will be no affordable housing units in this development. Mr. Rooker confirmed this, stating that there would be a \$3,000 contribution per unit to the affordable housing trust fund.

Mr. Loach emphasized that this is not the way the DISC envisioned affordable housing to be offered. It is very discouraging not to see the courage on the part of this Board to start enforcing affordable housing. He added that affordable housing should not just be offered in certain areas.

There being no further public comment, the matter was placed before the Board.

Mr. Davis said that there is still some wordsmithing to be done to some of the conditions addressing issues raised at this meeting. He noted that the parking item should be worked out now, because if it goes to the site plan level, the Board will not be able to adjust it then.

Mr. Boyd commented that he thought the parking conditions had been met. Mr. Cilimberg replied that they are meeting the requirement of two spaces per unit, and they could accommodate the additional one per four units and have suggested a few ways that could happen.

Ms. Thomas commented that she does not have any issue with how they meet the requirements, only that they meet them.

Mr. Davis said that if this is going to be voted on tonight, he needs to go over the wording of conditions with the Board. He clarified that some conditions had not been changed, but the others had been altered as followed:

- Condition #6 now says, starting on line four, "the continuous evergreen trees noted as leyland cypress hedge along the north, east, and west sides of the project shall be installed...." The next sentence would be "The leyland cypress hedge shall also be planted on eight-foot centers." The next sentence would be "Underground irrigation shall be provided for the screened areas." The next sentence would be "Screening adjacent to the railroad shall be reviewed by and approved to the satisfaction of the Director of Community Development to mitigate the impact of this development to adjacent property and of the railroad on this site."
- Condition #9 now says "The exteriors of single-family buildings shall be red brick with gable roofs." The next sentence would be "The features in Zone A shall be reviewed and approved by the ARB during their review of the site development plan for these buildings." The next sentence should read "The exteriors of detached residences shall be in either red brick or painted white brick."
- Condition #11 should now have the words "shall be put in the homeowners covenants" stricken, as it is not clear enough. It should read "as depicted on the front garden diagram dated August 24, 2005" with a new sentence added to say "Maintenance of the areas shall be provided for and required by the homeowners association as provided in covenants." He added that the last sentence should have the word "may" changed to "shall."
- Condition #13 should have quote marks after the colon in line 5. The last sentence of that condition should read: "Prior to the issuance of any building permits in the final block, stone pillars shall be provided at any proposed entrance."

- Condition #16 (new): "Pedestrian access deemed acceptable by the Director of Community Development shall be provided to the manor house and carriage house."
- Condition #17 (new): "With the exception of the entrance road, the county's Neighborhood Model matrix deemed acceptable by the Director of Community Development shall be used by the applicant for all streets within the development."

Ms. Thomas said that she agrees with Tom Loach that it is disappointing not to have affordable housing units, but does appreciate the positive aspects of this proposal, especially the preservation of the "front yard" of the site, the saving of the manor house and building behind it. Ms. Thomas added that the entrance improvements, quality building materials, and landscaping are all great assets to the community. She concluded by stating that she is supporting the application.

**Motion** was then offered by Ms. Thomas to approve SP-2004-0052 with conditions as modified. Mr. Dorrier **seconded** the motion.

Mr. Rooker agreed that the positive aspects of this plan outweigh the negatives, especially the saving of historic structures and brick walls. He pointed out that if the project were developed commercially, the Board could not require these setbacks and features. Mr. Rooker noted that several neighbors spoke out against the plan at the Planning Commission level, and the applicant has now proffered screening that has mitigated some of those issues. He added that there has not been a way to maintain affordable housing in the system as it is because there is no guarantee units will be resold as affordable. Mr. Rooker said that this applicant has been involved with several apartments and condominiums in the community that have provided 188 affordable units in the community over the last year, and the \$3,000 per unit in this proposal will yield an additional \$200,000 for the affordable housing trust fund for downpayment assistance.

Mr. Cilimberg suggested that the conditions reference "the conceptual plan Attachment A dated June 16<sup>th</sup>." Ms. Thomas agreed to **amend** her motion to reflect that.

Mr. Rooker asked if the new language presented was sufficient.

Mr. Cilimberg replied that it all boils down to enforcement done by Zoning, to make sure conditions are enforceable.

Mr. Graham noted that there has not been a comprehensive look taken at this project to make sure it will work. They think it works, but this is spur of the moment.

Ms. Thomas then **withdrew** her original motion, and **moved** for deferral to give staff time to carefully review the proposed conditions. Mr. Dorrier **agreed** to withdraw his original second. He **seconded** Ms. Thomas new motion.

Mr. Rooker stated that he is not comfortable fashioning conditions without staff being able to find if the conditions as a whole work together.

Roll was then called, and the motion carried by the following recorded vote:

AYES: Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas, Mr. Wyant and Mr. Bowerman.

NAYS: None.

Mr. Rooker commented that the Board would condition discussion of this item on October 5<sup>th</sup>.

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**(At 7:58 p.m. the Board recessed. The meeting reconvened at 8:10 p.m. with everyone present.)**

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Agenda Item No. 14. **ZMA-2004-024. Old Trail Village (Signs #56,65,82,90). Public hearing** on a request to rezone approx 237 acs from RA & Residential - RA, R1 & R6 to Neighborhood Model District - NMD for combination of residential & commercial uses. Also zoned EC. TM 55E-1, P A1. Loc on N side of Rt 250 W, approx 2,000+ feet E of intersec of Miller School Rd & Rt 250. [The Crozet Master Plan of the Comp Plan designates this property as District, CT5, CT4, CT3 (Edge & General) & Development Area Reserve (CT2) & Preserve (CT1) in the Crozet area. General usage for District is warehouses & light manufacturing in center zones. Airports, research/office parks, regional parks & preserves at outer edge zones & is recommended as employment center which may be single use or mixed use area. If single use, typically no more than 20% of the neighborhood or downtown area. General usage for CT5 is mixed residential & commercial uses. Residential density is 12 du/ac; 18 du/ac in a mixed use setting. General usage for CT4 is mixed residential & commercial uses. Residential density is 4.5 du/ac; 12 du/ac for townhouses & apartments; 18 du/ac in mixed use setting. General usage for CT3 (edge) is primarily single family detached houses at 3.5-4.5 units per acre. (6.5 units per acre if accessory apartments are added for 50% of the residential stock.) General usage for CT3 (general) is it supports the center w/predominately residential uses, especially single-family detached & is recommended for 3.5-4.5 units per acre. General usage for CT1 & CT2 is development area open space preserve or reserve with very low residential density & is recommended for very low residential density no greater than 1 unit per 20 acres. General usage of the proposed amendment (rezoning request) is residential, & commercial. The density of the proposed amendment is 4.5 du/ac for the CT3 blocks, 4.5 du/ac single family, 12 units per acre for multi-family & 18 units per acre for mixed use in the CT4 blocks & 12 units per acre for multi-family & 18 units per acre for mixed use in the CT5 blocks. The total proposed density ranges from 1,600

units per acre to 2,200 units per acre. The total proposed square footage for commercial uses ranges from 50,000 sq ft to 250,000 sq ft. White Hall Dist. (Advertised in the Daily Progress on August 29 and September 5, 2005.)

(Mr. Bowerman filed a Transactional Disclosure Statement indicating that he receives compensation of more than \$10,000 annually from Parkside I, LLC., 690 Berkmar Circle, Charlottesville, Virginia 22901 and Sugaray LLC, 690 Berkmar Circle, both of which have affiliated business entity relationship with March Mountain Properties, LLC, the applicant for this ZMA. He then excused himself and left the meeting.)

Mr. Cilimberg reported that this is approximately 237 acres currently zoned Rural Area proposed to be changed to Neighborhood Model district to provide a combination of residential and commercial uses located on the north side of Route 250 West in Crozet. He explained that staff delivered a recommendation to the Planning Commission at its August 23<sup>rd</sup> meeting regarding this particular application, and there had been significant progress made at that time in addressing the issues of staff and the Planning Commission. Staff has noted that it was a good example of the Neighborhood Model-Crozet Master Plan intentions.

Mr. Cilimberg mentioned that the Commission was able to recommend approval because of changes made to some items of concern, and they wanted to make sure that the changes noted by the applicant would be provided. He said they also wanted to ensure that there would be an increase in phasing to the non-residential area with the linkage between the residential development and non-residential development to be continued beyond the first 500 houses. Mr. Cilimberg explained that the original proposal from the applicant indicated they would not develop more than a certain amount of commercial square footage until there were 500 houses. He noted that amount was 48,000 square feet for the first 500 units, and the applicant has potential of up to 250,000 square feet. Mr. Cilimberg noted that the pace of commercial development was important and stipulated that for each subsequent 500 units developed, there would be no more than an additional 48,000 square feet of commercial provided for. In response to Mr. Rooker's question about how the proffers address this, Mr. Cilimberg explained that proffer #6 on page 5 covers this recommendation. He noted that the Commission wanted the lots to be removed from the stream buffer, and wanted all the conservation and preservation areas to be reviewed and verified, wanted the code of development and general development plan to be consistent with all items, wanted the proffers related to affordable housing based on discussions with Ron White, and wanted staff to work with the developer on a mutually agreeable comprehensive system of pedestrian access to schools.

Mr. Cilimberg said that in the Planning Commission's separate action there was a request made to the Board to address several issues related to Crozet as a whole, not just to Old Trail, including parking restrictions in downtown, putting all possible resources toward getting Jarman's Gap Road moved higher up in VDOT priorities, discussions with schools and the applicant on traffic interconnectivity on the trails, and direct staff to make sure downtown Crozet improvements are actually done. He said that the issues raised by the Commission and staff have been addressed, and the applicant has provided a summary of the changes to the Code of Development and General Development Plan since the Commission's approval on August 23<sup>rd</sup>.

Ms. Thomas asked if the five items under the discussion had been addressed. Those items are: pedestrian access to the schools; greenway system; proffers relative to affordable housing; the proffers and Code of Development. Mr. Cilimberg responded that the first three items have been addressed, and the Code of Development discrepancies seem also to have been addressed.

Mr. Wyant asked when the pedestrian infrastructure would be addressed. Mr. Cilimberg replied that it is in the actual plan of development to provide pedestrian access to the school site.

Mr. Wyant asked for clarification of when the trail to the school would have to be constructed. Mr. Davis responded that it would have to be done within six months after the approval of the first subdivision or site plan applicable to any portion that includes those paths.

Mr. Rooker told Mr. Wyant that the timeframe could always be changed through proffer modification if he views it as a concern.

Mr. Wyant and Mr. Rooker asked about carrying the phasing plan out a little bit further, expressing concern that the commercial not get out in front of the residential.

Mr. Davis noted that the proffer on phasing relates only to retail space, and perhaps the applicant could explain how much is planned for that use.

Mr. Rooker said that on the application plan there is a Main Street area that is envisioned to be primarily retail.

Mr. Cilimberg suggested that the Board look at the Code of Development.

Mr. Rooker suggested asking the applicant if he would proffer continued phasing.

Mr. Cilimberg noted that on page 25 of the Code of Development, retail uses are shown and they are beyond the Main Street.

The Chairman opened the public hearing and the applicant came forward.

Mr. Gaylon Beights, representing March Mountain Properties, addressed the Board. He introduced Mr. Scott Collins of the Timmons Group and Ms. Valerie Long of McGuire Woods.

Mr. Collins addressed the Board, stating that he is with the Timmons Group, the engineers for Old Trail Village. He noted that the first exhibit presented shows the four pedestrian connections to the school sites that are being proposed with the application plan, and the second exhibit talks about the additional 6.7 acres of greenway being dedicated to the county for the trailway connection from the previous 38.5 acres of park along Lickinghole Creek over to the school. Mr. Collins said that with the Code of Development there is a provision for a running tally of affordable units, with the goal being at least 15 percent cumulative as each plat goes through.

Mr. Wyant asked how much variation from the goal there might be. Mr. Collins replied that the maximum would be 30 percent in one area. Mr. Wyant emphasized that he did not want to see all of the affordable housing in one area.

Mr. Collins said that the conservation and preservation areas have been confirmed through the General Development Plan, and all lots have been removed from the stream buffers. He added that they have spent the last several weeks cleaning up the language between the three documents and making sure that the intent was met with the language in the Code of Development. Mr. Collins said that the Code of Development has eliminated the suggestions about street layout that were conceptual and might be subject to change, and the applicant is proffering the street layout in the application plan. He noted that there might be changes at the site development stage, and said that the densities in all of the CT districts are listed in tables presented.

Mr. Collins stated that the colors per ARB approval were noted as required to be approved at the site plan level. He noted that the build-to lines for each of the CT districts and a maximum footprint visible from Route 250 have been clarified, along with clarifications for side and rear setbacks, and charts on the General Development Plan were updated to be consistent with the Code of Development. Mr. Collins added that all of that was incorporated with the new Code and the Application Plan, and that's what was submitted to staff.

Ms. Long addressed the Board, summarizing the proffers as a whole and providing a quick summary of proffers as revised. She distributed a black-line draft of the final proffers compared to the original proffers, confirming that the changes were made at staff's request. Ms. Long noted that there were several technical changes as well. She explained that there is an additional greenway dedication in paragraph one for a 6.7 acre area that would be dedicated as a public greenway, and the owner is also committed to constructing a school pathway connection to the county's preferred standard for a greenway trail. Ms. Long said that in paragraph two regarding affordable housing, there is a clarification of the owners' commitment to provide that the units will be a mix of types, with at least 40 percent being for sale versus for rent, and only 30 percent can be for-rent apartments, and only 30 percent can be accessory-type units such as basement apartments in a dwelling or townhouse. Regarding the \$50,000 in the parks master plan, the proffer indicates that if that is not all used for planning, it can be used for improvements. Similarly, she said, if the amount is not enough, the county can use the per dwelling unit cash proffer towards the rest of the funding for the park. Ms. Long said that proffer #5 stipulates that the park monies could also be used in a flexible way for other Crozet parks if it were not all needed at Old Trail. She noted that the language provided indicates that the funds would be allocated in coordination with the county's park master plan in the community of Crozet. Ms. Long noted that there would be total of 42 acres dedicated to public park/greenway use, and there would be approximately 320 affordable units – both for sale and for rent – in Old Trail, reasonably interspersed in timing and location through the “running tally” approach. She noted that Ron White has confirmed with her that the proffer is acceptable.

Ms. Long explained that there is also a cash proffer to fund school projects for each residential dwelling unit within the project - \$1,000 for every single-family unit, \$500 for every multi-family, \$250 thereafter. She added that there is also a cash proffer of \$50,000 to fund the master plan for the park, and the plan also includes an overlot grading plan, a phasing of retail development plan, and clarification of pedestrian pathways.

Mr. Rooker asked if the phasing of the commercial could be carried out as previously discussed. Mr. Beights explained that the 250,000 square feet called for in the master plan includes all uses. He has agreed to a minimum of 100,000 of retail/office, i.e. “employment centers.”

Mr. Rooker said that the limitation just applies to retail use, not office. Mr. Beights confirmed this.

Mr. Rooker said that you could carry it out by round so that each time you hit a 500-home benchmark, the retail space would grow only incrementally so that it does not exceed 144,000 square feet when the residential building reaches 1,500 homes.

Mr. Boyd commented that they might be defeating the purpose of pedestrian infrastructure by limiting retail development.

Mr. Rooker added that they need to balance the needs of those in the community who are concerned about the effect of new retail on downtown Crozet.

Mr. Tom Loach addressed the Board. He said that the community members here tonight from Crozet are proud and concerned. Mr. Loach stated that they are invoking the principle from the Neighborhood Model stating “with regard to infrastructure the county will have to arrive at a policy to address the expectations of its citizens for concurrency of the provision of infrastructure simultaneous with

new development.” He said that the last time a sidewalk was built in Crozet was the FDR administration, although the Board has had opportunities to make improvements in the area. Mr. Loach said that the time has come for residents of Crozet to stop and take a stand against further growth without infrastructure support, emphasizing that Jarman’s Gap Road needs to be redone at least to the development entrance.

Mr. David Whelan, President of the Crozet Community Association, addressed the Board. He explained that his organization is made up of several hundred residents who are concerned about the future of their town. In a recent meeting, he said, Mr. Wyant and county staff attended and answered questions. Mr. Whelan said that he is concerned about 2,200 housing units to be built at Old Trail, as it is “three times” what was originally revealed in the Crozet Master Plan that his group helped develop. He noted that as part of the master plan, they were promised that the Crozet downtown business area would be first enhanced with better streets, sidewalks, and parking, but nothing has been done to fulfill that promise, except for a traffic light that has traffic backed up at it with the increased volume. Mr. Whelan said that his family has lived in Crozet for five or six generations, and has observed changes over many years. He stated that while it might be desirable to have a “fine young thing” in the form of new modern development, the “fine old lady” needs help to keep her strength to live up to her promise. Mr. Whelan said that the Board has the power to keep old Crozet “alive and thriving,” and asked them to listen to citizen needs.

Mr. Andrew Boyce addressed the Board, stating that there is consensus in the community that the county is not listening to the people of Crozet. He asked the Board to listen and consider the ramifications that the rezoning will have on Crozet and the master plan that is not being properly implemented. Mr. Boyce said that citizens were expecting 800 new homes, not 2,200. He commented that the county is “pawning off incomplete infrastructure” on VDOT. Mr. Boyce also expressed concern that displacing wildlife is not protection, as called for in the master plan. He added that traffic will greatly impact the saturated streets of Crozet and the Route 250 corridor. Mr. Boyce asked that the county take time to examine the full plan and the infrastructure needed to support it.

Mr. Mike Marshall addressed the Board. He said that he came before the Board in support of the Crozet Master Plan, but encouraged them to consider two basic questions when considering rezoning: (1) does the plan enhance downtown; and (2) does it preserve Route 250 as a bypass around the improved downtown. Mr. Marshall mentioned that U.S. 29 was used as an example in a *Newsweek* article on sprawl and how not to do it. He stated that the Master Plan was undertaken to “make that lesson stick,” and both the residents and Board are now invested in the plan. Mr. Marshall said that the density being asked for creates a constituency for additional shopping on the highway, as there has not been revitalization downtown. They will be the constituency that demands that from you. They will be loud about it. And once they get that your plan will have been completely subverted, and development will have repeated 29 and Pantops Mountain on 250 West. Mr. Marshall emphasized that the densities being asked for are “beyond the pale.”

Ms. Martha Black Amato addressed the Board. She stated that she was born 76 years ago on the current site of Brownsville Elementary and Henley Middle School, adding that she and her husband have lived at 1171 Crozet Avenue for 48 years, and have raised four children there. Ms. Amato said that she feels Old Trail will be an asset to the community and will enhance the growth and prosperity of Crozet. She asked the Board to vote in favor of the Old Trail development.

Ms. Mary Gallo, a Crozet resident, addressed the Board. She stated that she participated heavily throughout the Crozet Master Planning process, and the plan presented today is nothing she recognizes. Ms. Gallo emphasized that there is a big difference in what the plan looks like now compared to when it left citizen planning. She strongly urged the Board not to allow this number of housing units, asking where the infrastructure is to support the increased traffic. They have yet to see a foot of new sidewalks, and improvements to Jarman’s Gap Road are still a long way off. Ms. Gallo said that they expected commercial space consistent with the Neighborhood Model – walkable, on a neighborhood scale, and serving neighborhoods. She stated that this plan feels a bit like “bait and switch,” and urged the Board to reject this zoning request. Ms. Gallo said that she dedicated lots of time to the master planning process and would like to have those hours back if this is the result.

Mr. Dick Brandt, a Crozet resident for almost 30 years, addressed the Board. He said that the only change he is aware of to Crozet is the Comprehensive Plan in 1985, adding that he is pleased with the prospect of new development. Mr. Brandt emphasized that the infrastructure need to be greatly improved to support it, and disagreed that all of the commercial space needs to be downtown. It will not hurt downtown Crozet’s business. He thinks they will have what they can handle downtown. He mentioned that the developer has continued to buy land that will complete the major tracts of open space in the southwest quadrant of the county.

Mr. Ross Stevens addressed the Board, stating that he was born and raised in Greenwood and now lives in White Hall. He emphasized that there are some major issues with downtown Crozet, especially with parking as most of it is at Mountainside. Mr. Stevens said walking around Crozet with young children is very difficult. He encouraged the Board to take care of what is there today before adding anything else.

Ms. Mary Rice described the process as frustrating for all involved, and urged the Board to appoint a citizens board as stipulated in the Crozet Master Plan. She also urged the Board not to vote on this item tonight without holding a public meeting in Crozet, noting that the July 9<sup>th</sup> report from consultants shows a total of only 1,240 homes. She asked what happened between that and the density table that Ms. Claudette Grant sent her that shows a maximum density of 2,228.” Ms. Rice added that it feels unfair to have that number jump so much after all the hard work done by citizens on the plan.

Mr. Sandy Wilcox addressed the Board. He emphasized that how the evolution of the houses, retail, commercial, etc. occurs is more important than the final buildout. Old Trail must be judged on how it interfaces with overall Crozet; how it evolves is very important. Mr. Wilcox said that the retail and commercial space must be phased, because once you undermine the downtown area, it is a long costly process to re-establish the town center. He noted that if it is not phased in, it will retard the growth trying to happen in downtown Crozet. They have got to look at the staging of it.

Mr. Tom Amato addressed the Board. He said that he has lived here for 48 years, and congratulates the Board and developer for building the golf course and park. Mr. Amato said that they also have a lot of open space. He mentioned that the sidewalks in front of his house go up side streets and up to the new Crozet Elementary, but hardly anyone uses them. Mr. Amato stated that while Old Trail will bring in a lot of people, it will also mean additional support for area businesses.

Mr. Rick Brandt of Lickinghole Creek Basin addressed the Board, stating that he has lived in the area off and on since 1965. Mr. Brandt said that the area along the creek, which has served as a beautiful habitat for wildlife, is being disturbed with Creekside, and will be further disturbed with the new sewer line placement. He encouraged smaller lots to cluster the development, which would help preserve the habitat.

Ms. Bonnie Mitchell said that she likes Mr. Beights and Old Trail, but everyone had the impression that there would be no more than 1,000 units and she was shocked to learn it was double that. She just wonders what the point of the master plan was.

Ms. Linda Goodling, a resident of Mechums West Drive off of Route 608 between Ivy and Crozet, wondered what would happen with 2,000 more cars driving to Charlottesville to work, shop, and be entertained. She told the Board that they had lost their vision, and the development needs to be slowed down, at least until there is sufficient infrastructure.

Mr. Kelly Strickland, a member of the Board of Directors of Claudius Crozet Park, addressed the Board. He said that his group has been looking at a way to provide year-round facilities for recreational needs. Mr. Strickland explained that he had planned to oppose Mr. Beights plan prior to the Planning Commission meeting because of lack of park and recreation provisions, but said that they are much more in favor of the plan as it has involved. He mentioned that the park will be 50 years old in 2007, hosting the Arts and Crafts festival for 25 years now. Mr. Strickland encouraged the Board to allow a representative from Crozet Park to help with the planning park process.

Mr. Kevin Markey of Crozet addressed the Board, stating that some of the issues heard over and over again relate primarily to infrastructure, and there have been no improvements made at all. He emphasized that it is dangerous to walk along Jarman's Gap Road, which is "woefully undersized." Mr. Markey noted that there is not even infrastructure to support what is there now, much less new development. He commented that with the Crozet developments, the "award-winning" master plan is there, but the execution of that plan is not.

Ms. Kathleen Jones of Crozet addressed the Board, stating that she also worked on the master plan, expressing surprise at the 2,200 unit figure. She said that Mr. Beights' own sales literature as recently as last summer showed 700 to 800 units, which has now ballooned to 2,200 units, an entirely different development. Ms. Jones added that this one development would double the population of Crozet, and would cause a significant increase in traffic – 20,000 extra vehicle trips. She does not see how it could be supported. She described Crozet as a unique piece of Albemarle County, and Old Trail as it is proposed will overshadow Crozet in every respect.

There being no further public comment, the matter was placed before the Board.

Mr. Wyant asked for clarification of density in the master plan. Mr. Cilimberg pointed out that some of the areas in the Crozet Master Plan are now part of the Old Trail development plan, and there is a different distribution of uses than what was shown in the Master Plan. There is more of a concentration for the center in this particular plan than the proposal under the Crozet Master Plan, which you had a couple of centers identified. Mr. Cilimberg noted that there is density within each identified area as well as the overall density.

Ms. Claudette Grant addressed the Board, noting that the densities are based on the different CTs and the acreage for the various blocks in the plan. She said that the CTs can be confusing because they do not have an identified dwelling unit type per acre; it varies depending on type of use. Ms. Grant said that with mixed use, a property might be able to have more dwelling units per acre.

Mr. Rooker said that the question had to do with the overall density envisioned in the master plan for this area, and the potential total number of residential units permitted under this rezoning. He commented that people in Crozet did not want residential growth beyond what was contemplated in the Comprehensive Plan at that time, which calls for 12,000 to 13,000. Mr. Rooker added that the Master Plan figure was similar, noting that not every block would be developed in that way.

Mr. Cilimberg pointed out that the density within the different CT areas is variable depending on whether there would be other uses, and if Mr. Beights is putting in 2,200 units, he would have less available for office/commercial. He added that that would also hold true under the Crozet Master Plan.

Mr. Wyant commented that the site plan level might reduce this figure when parking and stormwater management are considered.

Mr. Cilimberg replied that there is often loss of potential residential development because of the needs to accommodate infrastructure. They do not know how that is going to play out in these plans because they do not have that much detail yet, but those happen in the site plan and subdivision process. Mr. Cilimberg described the densities here as "ballpark" figures for both residential and commercial uses.

Mr. Dorrier asked what plans had been made to consider infrastructure, noting that the secondary road budget calls for Jarman's Gap improvements but VDOT has not funded that. That is a necessary improvement.

Mr. Wyant said that he would be interested in accelerating that process, and it will fall back on the county to make that happen, as with sidewalks also.

Mr. Rooker asked about the federal grant for sidewalks in Crozet. Mr. Cilimberg replied that the county has applied for three phases and two have been awarded – improvements on Crozet Avenue, which are currently being planned and might possible tie into the library project.

Mr. Tucker noted that Susan Steimart, the Business Development person for the county, is working on the sidewalk projects and coordination right now.

Mr. Rooker commented that there have been \$63,750,000 of infrastructure expense in the area, including schools, parks, utilities, libraries, fire and rescue, and other public buildings. He added that Beaver Creek Reservoir has about 600 percent of capacity, and the water treatment plant has about 300 percent additional capacity over what is presently being used with wastewater at 250 percent over what is being used. There is some substantial infrastructure that it is out in front of growth in that area. Mr. Rooker said that in fiscal year 2005, the county had \$4.6 million in additional infrastructure expense for Crozet, noting planned expenditures of \$1.8 million in 2006, \$4.48 million in 2007, \$1.866 million in 2008. He added that the county has money allocated to complete the Crozet Library, and sidewalks are in the CIP to be built. Mr. Rooker said that there are improvements being made to Henley and other schools.

Mr. Rooker explained that Jarman's Gap Road is a \$10.5 million project. He explained that for all secondary roads throughout the county, VDOT has allocated \$3.8 million this year, down from \$4.7 million a few years ago. Mr. Rooker emphasized that the pot from VDOT is gradually dwindling, and for the first time county money is being allocated for transportation.

Mr. Rooker said that there are about 1,600 people each year moving into the county. Houses do not create people. People come here and they find housing. He noted that having 2,000 homes scattered in the rural areas would consume about 10,000 acres or more, stressing the transportation system even more so than if they were concentrated, especially bussing for schools. He said the County has to try to be smarter in the way it is growing as it goes forward, or the growth just occurs randomly and with what he thinks are dire effects on the county's long-term prospects. Mr. Rooker explained that this is exactly what was not done with Route 29, as that was developed parcel by parcel without any interconnectivity or overall plan.

Mr. Rooker stated that the Crozet area has been master planned, and can be developed the right way. He added that some of the smaller developments have a cluster of houses with one sidewalk, but no parks, etc. Mr. Rooker said that Old Trail will have nine miles of sidewalks and street trees, five miles of trails, nine miles of bike lanes, 75 acres of open space including about 40 acres of parkland. He stated that this park will be bigger than Claudius Crozet Park, adding that lots of small developments won't provide amenities and will be disconnected. Mr. Rooker added that downtown Crozet will probably prosper more if the development is done in the right way with some commercial in the center that does not put additional traffic burdens on downtown. They have here a walkable commercial area in the center that will prevent a lot of car trips that might otherwise occur into downtown Crozet. Mr. Rooker stated that the phasing is important to protect the downtown viability of Crozet, and the developer has agreed to proffer more phasing for the buildout.

Mr. Rooker concluded that this is about the best plan he has seen in his 15 years of involvement with the county, including four years on the Planning Commission. He expressed his support for the plan, but asked if the developer would be amenable to employing the cash proffers in any park in Crozet instead of just one park, as suggested by Mr. Strickland.

Mr. Beights addressed the Board and indicated that the wording in the proffer as it stands is exactly what Mr. Pat Mullaney wrote and asked for: "if the county determines a more reasonable use of funds, the county may substitute facilities shown in our master park plan or locate these facilities shown in the master park plan anywhere else in Crozet."

Mr. Davis pointed out that the only difference is that the current proffer says there will be a master plan that shows those facilities in Old Trail, and if the Parks and Recreation Department determines they should be located elsewhere, they can be. He said that the intent from Claudius Crozet Park was to do a master plan for all of Crozet that may not show the park facilities located in Old Trail. You may end up with the same result, but the Old Trail proffer first would say that you plan for it at Old Trail, and then you have the flexibility in the buildout of the park to locate them other places.

Mr. Beights said that it was important to Pat Mullaney to get his language into the proffer.

Mr. Wyant stated that the main objective for a recreational facilities master plan is to make sure that efforts are not duplicated and there is an overall park system for Crozet. He said that the Board and

staff need to move forward with a library, and deal with parking restrictions – perhaps providing a trolley. He thinks we can [keep Old Trail and downtown] which requires us working with them.

Mr. Davis mentioned that the phasing issue requires the proffer be in writing, so that would be needed for the extended phasing as discussed.

Mr. Boyd commented that it is important to let residents know what the timeframe is for infrastructure improvements, and asked that staff make information readily available on those improvements.

Mr. Rooker emphasized that the library is funded, although there may be an issue about where to locate it. He added that the county is looking for innovative ways to jump-start the Jarman's Gap Road project.

Mr. Wyant said that there is a way to make it happen, but work needs to be done, and it will take everyone working together.

Ms. Thomas said that she kept track of citizen comments, noting that one person said "rezoning only if it helps downtown Crozet." She stated that there are many suburbs in the county now that were not planned in this way, and it will be an ongoing challenge to meet infrastructure demands as well as encourage residents to view Crozet as their town, rather than Charlottesville. Ms. Thomas added that it is the county's responsibility to acknowledge the master plan as a guiding document. She shares citizen concern and frustration over the condition of Jarman's Gap Road, but emphasized that the state has really shifted the burden to localities.

Mr. Wyant agreed with the previous speaker who suggested the Board meet in Crozet.

Mr. Dorrier stated that more public-private partnership is needed if the Neighborhood Model is ever going to work, and said he would support the development as proposed.

Ms. Long read the new proffer language for paragraph six, next to last sentence, relating to phasing: "Prior to the issuance of a building permit for the one-thousand five hundredth (1,500<sup>th</sup>) dwelling unit within the property, the aggregate retail space within the property shall not exceed 144,000 square feet. Prior to the issuance of a building permit for the two-thousandth (2,000<sup>th</sup>) dwelling unit within the property, the aggregate retail space within the property shall not exceed 192,000 square feet."

Mr. Wyant asked when the western connector might be open and available for traffic.

Mr. Beights indicated that it would be fabricated and in within six weeks, with another six weeks for installation. He added that VDOT has not yet approved Mosby Bridge.

Mr. Davis reviewed the amended proffer, and said it was in order. Mr. Beights initialed it.

Mr. Wyant then **moved** for approval of ZMA-2004-024 as proffered, amended and initialed at the Board meeting. Ms. Thomas **seconded** the motion.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas and Mr. Wyant.

NAYS: None.

ABSTAIN: Mr. Bowerman.

(The proffers are set out below:)

**PROFFER STATEMENT  
OLD TRAIL VILLAGE**

Date: September 14, 2005  
ZMA #: ZMA 2004-024 Old Trail Village  
Tax Map Parcel Number: 55E-1-A1 (portion)

An approximately 237 acre portion of tax map parcel 055E0-01-00-000A1 is subject to rezoning application ZMA 2004-024 and thus to this Proffer Statement (the "Property"). The Property is described with more particularity on sheet 6 of 9 of the General Development Plan entitled "Old Trail Village Rezoning ZMA-04-024 General Development Plan" prepared by Timmons Group, containing nine (9) sheets, dated June 24, 2005, last revised September 12, 2005, and attached hereto as **Exhibit A** (the "General Development Plan"). The Owner of the Property is March Mountain Properties, L.L.C., a Virginia limited liability company (the "Owner").

The Owner hereby voluntarily proffers that if the Albemarle County Board of Supervisors acts to rezone the Property to Neighborhood Model District as requested, the Owner shall develop the Property in accord with the following proffers pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and pursuant to Section 33.3 of the Albemarle County Zoning Ordinance. These conditions are voluntarily proffered as part of the requested rezoning, and the Owner acknowledges that (1) the rezoning itself gives rise to the need for the conditions; and (2) such conditions have a reasonable relation to the rezoning requested. If rezoning application

ZMA 2004-24 is denied, these proffers shall immediately be null and void and of no further force and effect.

This Proffer Statement shall relate to the General Development Plan and to the Code of Development dated September 12, 2005, and attached hereto as **Exhibit B** (the "Code of Development").

1. **Green Space; Park Land and Greenway Dedication.** The Owner shall devote a minimum of twenty percent (20%) of the land within the Property to green space as shown on sheet 5 of 9 of the General Development Plan. Of this green space land, within five (5) years after the date that ZMA 2004-024 is approved by the County, or within thirty (30) days after the request of the County, whichever is sooner, the Owner shall dedicate to the County for public use for parks and open space resources and for a greenway, a 25-acre park, a 10.8-acre greenway area, and a 6.7-acre greenway area, each as further shown on sheet 5 of 9 of the General Development Plan (collectively, the "Park and Greenway Area"). After it is dedicated to public use, the Park and Greenway Area shall continue to be included in the total area of green space and amenities within the Property. At the time of the conveyance and dedication, the Park and Greenway Area land will be subject to the Architectural and Landscape Standards for Old Trail Village, as provided in the Code of Development. The remaining green space land within the Property that will not be dedicated to the County for public use shall be maintained by the Old Trail Owner's Association. The dedication of the Park and Greenway Area land shall be a fee simple interest in such land. If the Park and Greenway Area land is not dedicated as part of a site plan or subdivision plat, the Owner shall pay the costs of surveying the land and preparing the deed of dedication. The Owner shall construct the trail through the 6.7-acre Greenway Area, as shown on sheet 5 of 9 of the General Development Plan, within six (6) months after the approval by the County of the first subdivision plat or site plan applicable to any portion of block 30 or 31. The trail shall be constructed to the County standards for a Class A trail, with a surface of compacted stone dust.

2. **Affordable Housing.** The Owner shall provide affordable housing equal to fifteen percent (15%) of the total residential units constructed on the Property, in the form of for-sale condominiums and townhouses, and for-rent condominiums, townhouses, apartments and accessory units. The affordable housing dwelling units shall be reasonably interspersed throughout the Property as provided in this paragraph 2, subject to the requirements of the General Development Plan and the Code of Development. If the Owner elects at its option to provide for-sale single family detached units at affordable rates (as defined herein), such units shall be applied toward the 15% requirement. Each subdivision plat and site plan for land within the Property shall designate the lots or units, as applicable, that will, subject to the terms and conditions of this proffer, incorporate affordable units as described herein, and the aggregate number of such lots or units designated for affordable units within each subdivision plat and site plan shall constitute a minimum of fifteen percent (15%) of the lots in such subdivision plat or site plan. Notwithstanding the foregoing, however, the Owner may "carry-over" or "bank" credits for affordable units in the event an individual subdivision plat or site plan designates affordable units that in the aggregate exceed the fifteen percent (15%) minimum for such subdivision plat or site plan, and such additional affordable units may be allocated toward the fifteen percent (15%) minimum on any future subdivision plat or site plan, provided however, that the maximum number of affordable units that may be carried over or banked shall not exceed fifteen percent (15%) of the total units on any subdivision plat or site plan.

The Owner shall convey the responsibility of constructing the affordable units to the subsequent owners of lots within the Property. The subsequent owner/builder shall create units affordable to households with incomes less than eighty percent (80%) of the area median income such that housing costs consisting of principal, interest, real estate taxes and homeowners insurance (PITI) do not exceed thirty percent (30%) of the gross household income.

A. **For-Sale Affordable Units.** All purchasers of the for-sale affordable units shall be approved by the Albemarle County Housing Office or its designee. The subsequent owner/builder shall provide the County or its designee a period of ninety (90) days to identify and prequalify an eligible purchaser for the affordable units. The ninety (90)-day period shall commence upon written notice from the then-current owner/builder that the unit(s) will be available for sale. If the County or its designee does not provide a qualified purchaser during this ninety (90)-day period, the then-current owner/builder shall have the right to sell the unit(s) without any restriction on sales price or income of the purchaser(s). This proffer shall apply only to the first sale of each of the for-sale affordable units.

B. **For-Rent Affordable Units.**

(1). **Rental Rates.** The initial net rent for each for-rent affordable unit shall not exceed the then-current and applicable maximum net rent rate approved by the County Housing Office. In each subsequent calendar year, the monthly net rent for each for-rent affordable unit may be increased up to three percent (3%). For purposes of this proffer statement, the term "net rent" means that the rent does not include tenant-paid utilities. The requirement that the rents for such for-rent affordable units may not exceed the maximum rents established in his paragraph 2B shall apply for a period of five (5) years following the date the certificate of occupancy is issued by the County for each for-rent affordable unit, or until the units are sold as low or moderate cost units qualifying as such under either the Virginia Housing Development Authority, Farmers Home Administration, or Housing and Urban Development, Section 8, whichever comes first (the "Affordable Term").

(2). **Conveyance of Interest.** All deeds conveying any interest in the for-rent affordable units during the Affordable Term shall contain language reciting that such unit is subject to the terms of this paragraph 2. In addition, all contracts pertaining to a conveyance of any for-rent affordable unit, or any part thereof, during the Affordable Term shall contain a complete and full disclosure of the restrictions and controls established by this paragraph 2B. At least thirty (30) days prior to the conveyance of any interest in any for-rent affordable unit during the Affordable Term, the then-current owner shall notify the County in writing of the conveyance and provide the name, address and telephone number of the potential grantee, and state that the requirements of this paragraph 2B(2) have been satisfied.

(3). **Reporting Rental Rates.** During the Affordable Term, within thirty (30) days of each rental or lease term for each for-rent affordable unit, the then-current owner shall provide to the Albemarle County Housing Office a copy of the rental or lease agreement for each such unit rented that shows the rental rate for such unit and the term of the rental or lease agreement. In addition, during the Affordable Term, the then-current Owner shall provide to the County, if requested, any reports, copies of rental or lease agreements, or other data pertaining to rental rates as the County may reasonably require.

C. **Mixture of Types of Affordable Units.**

(1). At least forty percent (40%) of the affordable housing dwelling units shall be for-sale units.

(2). No more than thirty percent (30%) of the affordable housing dwelling units may be for-rent apartments.

(3). No more than thirty percent (30%) of the affordable housing dwelling units may be accessory units. For purposes of this proffer statement, "accessory units" shall mean Accessory Apartments as defined in the Albemarle County Code, Chapter 18, Section 3.1, and as regulated by the Albemarle County Code, Chapter 18, Section 5.1.34, and a unit within a two-family dwelling as a two-family dwelling is defined in the Virginia Uniform Statewide Building Code.

3. **Cash Proffer for School Projects.** For each dwelling unit constructed on the Property, the Owner shall contribute cash to Albemarle County for funding school projects within the Community of Crozet and shown on the County's Capital Improvements Program, as follows: one thousand dollars (\$1,000.00) for each single family detached unit, five hundred dollars (\$500.00) for each townhouse unit, and two hundred fifty dollars (\$250.00) for each multifamily unit. The cash contribution for each dwelling unit shall be paid at the time of the issuance of the building permit for such dwelling unit. If the cash contribution has not been exhausted by the County for the stated purpose within ten (10) years from the date of the issuance of the last residential building permit within the Property, all unexpended funds shall be refunded to the Owner.

4. **Cash Proffer for Park Master Plan.** Within one (1) year after the date that ZMA 2004-024 is approved, or within thirty (30) days after the request by the County, whichever is sooner, the Owner shall make a cash contribution to the County in the amount of fifty thousand dollars (\$50,000.00) for the purpose of funding a master plan for the 25-acre park land shown on sheet 5 of 9 of the General Development Plan (the "Park Master Plan"). If the Park Master Plan is completed for less than fifty thousand dollars (\$50,000.00), any remaining funds may be retained by the County and used to fund parks and recreation projects and improvements as described in paragraph 5. If such cash contribution is not expended for the Park Master Plan within two (2) years from the date of the contribution, all unexpended funds shall be refunded to the Owner; provided that any portion of the cash contribution not required to fund the Park Master Plan that is retained by the County as provided herein, shall be refunded to the Owner as provided in paragraph 5 if such funds are not expended within the time provided therein.

5. **Cash Proffer for Park Projects.** For each dwelling unit constructed on the Property, the Owner shall contribute cash to Albemarle County for funding parks and recreation projects and improvements identified on the County's Capital Improvements Program within the Park and Greenway Area in general accord with the Park Master Plan as available funding allows, as follows: one thousand dollars (\$1,000.00) for each single family detached unit, five hundred dollars (\$500.00) for each townhouse unit, and two hundred fifty dollars (\$250.00) for each multifamily unit. Notwithstanding the terms of this paragraph 5 to the contrary, however, the Owner shall receive a "credit" against the first fifty thousand dollars (\$50,000.00) that would otherwise be owed to the County pursuant to this paragraph 5, in recognition of the cash proffer referenced in paragraph 4. In the event the cash proffer referenced in paragraph 4 is not sufficient to fund the Park Master Plan, the County may apply a portion of the cash proffer described in this paragraph 5 as required to fully fund the Park Master Plan. If the County determines it to be a more reasonable use of funds, the County may substitute facilities shown on the Park Master Plan or locate facilities shown on the Park Master Plan elsewhere in the Community of Crozet. The cash contribution for each dwelling unit shall be paid at the time of the issuance of the building permit for such dwelling unit. If the cash contribution has not been exhausted by the County for the stated purpose within ten (10) years from the date of the issuance of the last residential building permit within the Property, all unexpended funds shall be refunded to the Owner.

6. **Phasing of Retail Development.** Prior to the issuance of a building permit for the five hundredth (500<sup>th</sup>) dwelling unit within the Property, the aggregate retail space within the Property shall not exceed forty-eight thousand (48,000) square feet. Prior to the issuance of a building permit for the one thousandth (1000<sup>th</sup>) dwelling unit within the Property, the aggregate retail space within the Property shall not exceed ninety-six thousand (96,000) square feet. Prior to the issuance of a building permit for the one thousand five hundredth (1,500<sup>th</sup>) dwelling unit within the Property, the aggregate retail space within the Property shall not exceed one hundred forty-four thousand (144,000) square feet. Prior to the issuance of a building permit for the two thousandth (2,000<sup>th</sup>) dwelling unit within the Property, the aggregate retail space within the Property shall not exceed one hundred ninety-two thousand (192,000) square feet. Retail space shall not include office space or any health and fitness facility.

7. **Overlot Grading Plan.** The Owner shall submit an overlot grading plan meeting the requirements of this section (hereinafter, the "Plan") with the application for each subdivision of the single family detached and single family attached dwelling units shown on the General Development Plan. The Plan shall show existing and proposed topographic features to be considered in the development of the proposed subdivision. The Plan shall be approved by the County Engineer prior to final approval of the subdivision plat. The subdivision shall be graded as shown on the approved Plan. No certificate of occupancy shall be issued for any dwelling on a lot where the County Engineer has determined the lot is not graded consistent with the approved grading Plan. The Plan shall satisfy the following:

A. The Plan shall show all proposed streets, building sites, surface drainage, driveways, trails, and other features the County Engineer determines are needed to verify that the Plan satisfies the requirements of this paragraph 7.

B. The Plan shall be drawn to a scale not greater than one (1) inch equals fifty (50) feet.

C. All proposed grading shall be shown with contour intervals not greater than two (2) feet. All concentrated surface drainage over lots shall be clearly shown with the proposed grading. All proposed grading shall be shown to assure that surface drainage can provide adequate relief from the flooding of dwellings in the event a storm sewer fails.

D. Graded slopes on lots proposed to be planted with turf grasses (lawns) shall not exceed a gradient of three (3) feet of horizontal distance for each one (1) foot of vertical rise or fall (3:1). Steeper slopes shall be vegetated with low maintenance vegetation as determined to be appropriate by the County's program authority in its approval of an erosion and sediment control Plan for the land disturbing activity. These steeper slopes shall not exceed a gradient of two (2) feet of horizontal distance for each one (1) foot of vertical rise or fall (2:1), unless the County Engineer finds that the grading recommendations for steeper slopes have adequately addressed the impacts.

E. Surface drainage may flow across up to three (3) lots before being collected in a storm sewer or directed to a drainage way outside of the lots.

F. No surface drainage across a residential lot shall have more than one-half (1/2) acre of land draining to it.

G. All drainage from streets shall be carried across lots in a storm sewer to a point beyond the rear of the building site.

H. The Plan shall demonstrate that driveways to lots will not be steeper than twenty (20) percent unless certified by an engineer that the driveway at the proposed steepness would be safe and convenient for vehicles (including emergency vehicles) to use the driveway, and shall include grading transitions at the street that the agent determines will allow passenger vehicles to avoid scraping the vehicle body on the driveway or the street. Additionally, the driveway grading shall provide an area in front of the proposed garage, or an area proposed for vehicle parking where no garage is proposed, that is not less than eighteen (18) feet in length that will be graded no steeper than eight (8) percent.

I. The Plan shall demonstrate that an area at least ten (10) feet in width, or to the lot line if it is less than (10) feet, from the portion of the structure facing the street, has grades no steeper than ten (10) percent adjacent to possible entrances to dwellings that will not be served by a stairway. This graded area also shall extend from the entrances to the driveways or walkways connecting the dwelling to the street.

J. Any requirement of this condition may be waived by the County Engineer by submitting a waiver request with the preliminary plat. If such a request is made, it shall include: (i) a justification for the request contained in a certified engineer's report; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; and (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable. In reviewing a waiver

request, the County Engineer shall consider whether the alternative proposed by the Owner satisfies the purpose of the requirement to be waived to at least an equivalent degree. In approving a waiver, the County Engineer shall find that requiring compliance with the requirement of this condition would not forward the purposes of the County's Subdivision and Water Protection Ordinances or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the Project, and to the land adjacent thereto.

K. The Owner may request that the Plan be amended at any time. All amendments shall be subject to the review and approval by the County Engineer.

L. In the event that the County adopts overlot grading regulations after the date ZMA 2004-024 is approved, any requirement of those regulations that is less restrictive than any requirement of this paragraph 7 shall supersede the corresponding requirement of this paragraph, subject to the approval of the Director of the Department of Community Development.

8. **Construction of School Connections.** The Owner shall construct the pathway connections to the schools, shown as "Pathway Connection to Schools," and "Road and Sidewalk Connection to Schools" on sheet 5 of 9 of the General Development Plan, within six (6) months after the approval by the County of the first subdivision plat or site plan applicable to any portion of a block that either includes or is adjacent to any such connection.

WITNESS the following signature:

**MARCH MOUNTAIN PROPERTIES, L.L.C.**

By: \_\_\_\_\_  
Gaylon T. Beights, Manager

This is a conformed version of the proffer statement presented to and approved by the Board with manuscript changes on September 14, 2005.

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**(Mr. Bowerman returned to the meeting at 9:21 p.m.)**

Agenda Item No. 15. From the Board: Matters Not Listed on the Agenda.

Ms. Thomas indicated that the county is looking forward to the establishment of a Natural Heritage Committee, and the list of volunteers is amazing.

Ms. Thomas offered **motion** to appoint the following individuals to the Natural Heritage Committee: Tom Deirauf, Michael Erwin, Diana Foster, E. N. Garnett, Jr., John Murphy, Richard Odom, Tom Olivier, G. Carleton Ray, John Scrivani, Herman (Hank) Shugart, Peter Warren and Linda Wells. Mr. Boyd **seconded** the motion.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Boyd, Mr. Dorrier, Mr. Rooker, Ms. Thomas, Mr. Wyant and Mr. Bowerman.

NAYS: None.

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Ms. Thomas distributed information on the status of Hurricane Katrina relief efforts, noting that the City of Charlottesville would like to adopt a town in Mississippi for "long-range" assistance. She indicated that Blake Caravati is taking the lead on this matter. Ms. Thomas said that the Red Cross has recorded 32 family units including 85 individuals who are relocating to the Charlottesville-Albemarle community. Ms. Thomas said that the Charlottesville Hurricane Relief Initiative, a private organization, is housing relocated persons and have placed four families with two in the placement process so far, and have helped eight other families with needs other than housing. She explained that the Albemarle County Schools have enrolled 13 students, and the Department of Social Services has processed 14 benefits applications. Ms. Thomas said several families have approached the Housing Office for assistance. She added that Virginia is not expecting a large number of evacuees, and there is an information sheet available from the county as well as frequent public meetings.

Mr. Wyant mentioned that several Tulane students have enrolled at the University of Virginia.

Mr. Rooker added that several hundred students from colleges in that area are relocating here.

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Mr. Boyd mentioned that he would like to revisit the discussion on medical benefits for retirees. Board members agreed.

Ms. Thomas said that she recently read an article on an alternative approach for benefits, and would bring that information. Mr. Tucker suggested that the discussion be done in October.

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Mr. Tucker said that he is going to ask staff to look at policies and permit conditions to see if there is a way to do a better job of finalizing the conditions. Mr. Tucker mentioned that it would be helpful for the Board to have a policy on the timing of presentation of proffers.

Mr. Boyd added that he liked Chesterfield's proffer statement.

Mr. Tucker emphasized that when there are substantive changes, they need to be completed before the meetings.

Mr. Boyd noted that the changes tonight came from the Board.

Ms. Thomas commented that developers seem to think that once they are through the Planning Commission, individual contact with Board of Supervisors members is all they need to do to get approval at the Board meeting when the item is considered.

Mr. Rooker said that there have been policies in the past, and Mr. Tucker should bring them forward again.

Ms. Thomas noted that today the Board went away from the Neighborhood Model in part by allowing front-loaded garages. They could have started designing it differently from the very first. She added that the Board has now allowed two developments to come through that way, and if the model is going to have any credence, it should be made known that that is not acceptable.

Mr. Rooker disagreed because the major road to serve this development is Route 250, and the units are not visible from that road. He added that the garage placement is just one component of the neighborhood model. Mr. Rooker noted that it would probably add more pavements to place rear-loading.

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Agenda Item No. 16. Adjourn. At 10:42 p.m., there being no further business to come before the Board, the meeting was immediately adjourned.

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Chairman

Approved by Board
Date: 12/07/2005
Initials: DM