Albemarle County Planning Commission
February 22, 2000

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, February 22, 2000 in the County Office Building. Members attending were: Mr. Dennis Rooker, Vice-Chairman; Mr. William Rieley; Mr. Jared Loewenstein; Mr. Rodney Thomas; Ms. Tracey Hopper; Mr. Pete Craddock. Other officials present were: Mr. Wayne Cilimberg, Director of Planning and Community Development; Ms. Elaine Echols, Senior Planner; Mr. Greg Kamptner, Assistant County Attorney; Mr. Glenn Brooks, County Engineering. Absent: Mr. William Finley, Chairman.

Approval of Minutes – February 8, 2000
The Commission moved, seconded and unanimously approved the minutes of February 8, 2000 as amended.

Review of Board of Supervisors Meeting – February 16, 2000
Mr. Cilimberg presented a review of the Board's February 16th meeting, noting that they considered three items previously reviewed by the Commission: Pinnell Custom Leather, the CFW tower on Route 638 near I-64, and the Thomas Jefferson Memorial Foundation gift shop; all were approved with conditions as recommended by the Commission. The Board held a hearing on the six-year secondary road plan, and adopted the priority list for secondary road improvements as the Commission forwarded. Mr. Cilimberg noted that the Board had a lengthy discussion about the unpaved road policy, but did not reach any resolution. The Board asked staff and the Commission to look at policy for unpaved roads in consideration of the Rural Areas during Comprehensive Plan review, as almost all unpaved roads are in the Rural Areas.

Other Matters Not Listed on the Agenda from the Public
None were offered, and the meeting proceeded.

Consent Agenda
Resolutions of Appreciation for William Nitchmann and Hilda Lee-Washington.

Review of Batesville Agricultural/Forestal District
Proposal to conduct a review of the Batesville Agricultural/Forestal District. The District, which is contained within Tax Maps 70, 71, 84, 85, and 85A, consists of 23 parcels and a total of 915.93 acres. The District is generally located west of Batesville and Miller School Road (State Route 635) and east of Castle Rock Road (State Route 691). Properties in the District are designated as Rural Area in the Comprehensive Plan and are zoned as Rural Areas District.

Addition to Chalk Mountain Agricultural/Forestal District
Proposal to add 48.06 acres to the Chalk Mountain Agricultural/Forestal District. Property, described as Tax Map 98, Parcel 11, is located across from the intersection of Thackers Lane (State route 804) and Monacan Trail Road (State Route 29). The property is designated as Rural Area in the Comprehensive Plan and is zoned as Rural Areas District.

Addition to Moorman's River Agricultural/Forestal District
Proposal to add 81.45 acres to the Moorman's River Agricultural/Forestal District. Property described as Tax Map 41, Parcels 8, 8B, 8C, and 8D is located between Browns Gap Turnpike (State Route 680) and Watts Branch. The property is designated as Rural Area in the Comprehensive Plan and is zoned as Rural Areas District.

Review of Jacob's Run Agricultural/Forestal District

Proposal to conduct a review of the Jacob's Run Agricultural/Forestal District. The District, which is contained within Tax Maps 18, 19, and 31, consists of 1,017.26 acres. The District is generally located along Earlysville Road (State Route 743), Link Evans Lane (State Route 764), Markwood Road (State Route 664), Buck Mountain Road (State Route 665), and Reas Ford Lane (State Route 660), near Earlysville. Properties in the District are designated as Rural Area in the Comprehensive Plan and are zoned as Rural Areas District.

Resolution of Intent to Amend the Entrance Corridor Overlay Zoning District by Addition of Certain Roadway Segments
Direction to staff by Architectural Review Board.

The Commission, moved, seconded and unanimously approved the Consent Agenda as presented. Staff agreed to provide a reduced version of the Entrance Corridor Overlay Zoning District.

Item Requesting Deferral:

SP 99-77 Evergreen Baptist Church – Request for a special use permit to allow for the conversion of an existing farm building to a church on 10.65 acres zoned RA, Rural Areas. The property, described as Tax Map 46, Parcel 38C is located off the eastern side of Proffit Road (Route 649), approximately 1,200 feet north of the railroad crossing. This property is located in the Rivanna District and is not located within a designated Growth Area as outlined in the Comprehensive Plan. *Applicant requests indefinite deferral.*

Mr. Loewenstein abstained from the discussion and vote, stating that he is owner and resident of an adjacent parcel.

MOTION: Mr. Craddock moved, Mr. Rieley seconded approval of indefinite deferral of SP 99-77. The motion passed unanimously, with Mr. Loewenstein abstaining from the vote.

Deferred Item
ZMA 99-12 Airport Road Office Complex – Request to rezone 1.637 acres form R-4 Residential to CO Commercial Office to allow for commercial offices. The property, described as Tax Map 32C Parcel 3-1 is located in the Rivanna Magisterial District on Airport road [Route #649] at the intersection of Airport Road and Deerwood Drive. The Comprehensive Plan designates this property as Neighborhood Density, recommended for 3-6 dwelling units per acre in the Hollymead Community. *Deferred from the February 15, 2000 Planning Commission meeting.*

Ms. Echols presented the staff report, noting that there is an existing undeveloped parcel to the right of Deerwood Drive, across from an existing office building that abuts the Deerwood Subdivision. She stated that the applicant, Earl Burton, has requested a rezoning from R-4 to CO with four proffers; as written, one of the proffers could not be accepted, but with modification could be accepted. Ms. Echols noted that the office complex is proffered on the conceptual plan as a series of small office buildings with parking underneath, in front of, and behind the building. The sidewalk provides access across the parcel to the adjoining office building. Ms. Echols mentioned that the Comprehensive Plan shows the area to be Neighborhood Density; this request for commercial use is viewed by staff to be more in keeping with the transitional use in the land use plan. She explained that Mr. Burton also owns the office building across the street and owned much of the land for the Deerwood Subdivision. Ms. Echols said that the property acts as a PUD, even though it is not, by having mixed use with commercial use in close proximity to residential uses. Staff is less concerned about the change from the Land Use Plan to a transitional use, finding it advantageous for there to be opportunities for neighborhood residents to walk to work.

Ms. Echols said that the proposed conceptual plan is proffered; there was not sufficient parking shown on this plan, and the right of way for Airport Road and Deerwood Drive are also issues. She explained that Deerwood Drive will be relocated to the right of where it is now, and will line up with another road that goes across Airport Road. When that road is moved to the right, there will be right of way taken from Mr. Burton's property, and Airport Road is going to shift southward, and a service road will be left as part of the existing Airport right of way that runs in front of Mr. Burton's property. The service road will serve Mr. Burton's property and the office complex next door, then loop around to join Airport Road again. Ms. Echols clarified that the proposed service road is part of existing Airport Drive that is going to be left to provide access to Mr. Burton's property and the one next door. She noted this on the map displayed.

Ms. Echols continued that the right-of-way issue has come up as being important to the rezoning for two reasons: when the excess right-of-way for Deerwood Drive is abandoned, it could potentially be added to Mr. Burton's property and could potentially be available for incorporation into a site plan amendment, which could provide offsite parking; this would require waivers from the Commission. For the time being, however, Ms. Echols said that staff has told Mr. Burton that he can only request rezoning on property he owns and have sufficient parking on site without requesting an offsite waiver. Mr. Burton is showing the three office buildings and proffering the conceptual plan.

Ms. Echols noted that staff has reviewed the application and has concerns about the fact there is not an unfettered proffer that relates to the dedication of right-of-way. She added that staff can also understand Mr. Burton's desire to have the right-of-way when it is disposed of added to his property. Ms. Echols said that staff needs to explore with the county attorney's office the ownership of that particular roadway to see how that might be accomplished; a conditioned proffer cannot be accepted. She said that if Mr. Burton were willing to proffer unconditional dedication with the property there, then staff would recommend approval. "Until we have that proffer, we are unable to totally recommend that, but we believe that the project itself is worthy of a recommendation for approval with…the unfettered dedication."

Mr. Rooker asked if the county attorney's office had looked into the issue of the right-of-way to determine who holds the title.

Mr. Kamptner responded that they have been investigating the issue, but further review and information is needed. "We had concerns with the original proffer language that essentially would bind the Board to abandon and convey to the owner of the property, which the Board just can't do….under the normal abandonment process, the land has to be sold."

Mr. Rooker asked, "Do we have it within our power to pass this application as made?"

Mr. Cilimberg responded, "You're making a recommendation to the Board, so in that recommendation, if you felt comfortable that the Board could act with just the three proffers and not the fourth – which you can't accept anyway – you could make that recommendation."

Mr. Kamptner said that the county attorney's office hopes to come up with language in the next three weeks that satisfies the requirement for the fourth proffer.

Mr. Cilimberg suggested that the applicant may be able to provide a fourth proffer that is acceptable, with the final wording up to the Board.

Mr. Loewenstein asked if the parking was for 68 total spaces.

Ms. Echols replied that it is.

Mr. Loewenstein commented that the number of parking spaces seems low.

Ms. Echols clarified that the county parking requirements require one space for every 200 square feet, based on 80% of the gross building area. She confirmed that this application meets those requirements.

Mr. Rieley asked who will own the service road.

Mr. Cilimberg replied that the road will be public (VDOT), and will be done as part of the road improvements on Airport Road.

Mr. Rieley asked what the allowable parking along the roadway will be.

Mr. Cilimberg stated that the road is not being designed for on-street parking.

Ms. Echols said that the road is proposed as a rural section.

Mr. Cilimberg clarified that the right-of-way acquisition for the work on Airport Road should commence within six months.

Mr. Rieley asked how the road will end up being rural in an area designated for urban development.

Mr. Cilimberg replied that it is because the road will tie in to Deerwood Drive – which is rural, and the fact that the road is overlaying and duplicating a part of Airport Road that already exists as a rural section.

Mr. Rieley asked Ms. Echols about the applicability of street tree requirements for the service road.

Ms. Echols responded that the county requires where the parking area abuts the public road, street trees be provided along the road frontage as well as a screened area between the street and the parking area. She said that landscaping is not shown on the applicant's plan because there is no preliminary site plan yet, but a landscaping plan will be required at the preliminary site plan level.

Mr. Rieley asked Ms. Echols about the area between the proposed drive and parking and the Deerwood Subdivision.

Ms. Echols said that the area will also require parking and screening and a waiver for the buffer area; the applicant is requesting a 10-foot buffer between the drive and parking area, and the property line to the rear. She noted that she received one phone call from an adjoining property owner, who expressed no concern about the reduction in buffer level, as they are concerned about rodent problems in the area. Ms. Echols added that staff would like the applicant to put a BMP in that area and landscape on top of it.

Mr. Rooker asked about the reference to "heavy landscaping" proposed for that area, noting that there is no landscaping plan provided.

Ms. Echols said that the heavy landscaping came in an earlier proffer, and perhaps the applicant could clarify his intent to provide this.

Ms. Hopper asked if the easement from a property owner needed in order for the drainage to flow from the existing drainage easement is still an outstanding issue.

Ms. Echols responded that the applicant still needs to secure a drainage easement between two properties of the adjoining subdivision, so that he can get an underground drainage device to the existing channel. Staff

has suggested that the applicant work this out with the adjoining property owners. Ms. Echols commented that she has received very few calls from adjoining property owners regarding the application.

Mr. Rooker asked if the applicant could have a site plan approved without requiring this easement if the rezoning is approved.

Ms. Echols said that it would be required in order for the applicant to obtain the drainage he needs. She added that county engineering has looked at other options for drainage, and has determined that this is the best available option.

Mr. Rooker asked if there would be another option if the rezoning were approved.

Ms. Echols explained that one other option would involve drainage in the public right-of-way, and right now there are no additional drainage improvements that are proposed which could accommodate the runoff from here. She said that Mr. Burton also owns the property across the street, and he could go under the street with a pipe and deal with the detention that's across the street.

Mr. Thomas asked her to clarify how the drainage would run.

Ms. Echols said that it would go between lots 5 and 6 or between lots 6 and 7, and then would go across the street where there is an existing drainage easement that goes into a channel.

Mr. Rooker asked if sidewalks would be on both sides of the road when Airport Road is rebuilt.

Mr. Cilimberg replied that there would be. He added that as part of the Deerwood Subdivision project, there will be a walkway brought out to Airport Road.

Mr. Thomas asked if that was the asphalt walkway.

Ms. Echols responded that it probably will be asphalt. She said that staff has mentioned to VDOT the need for a crosswalk at the entrance, and they will locate a crosswalk and put one in with the Airport Road project that allows for crossing both streets.

Mr. Craddock asked if the buildings would be raised to accommodate the parking, or if the parking would be dug below the buildings.

Ms. Echols explained that her understanding is the parking would be underground, and the buildings would not be elevated. She added that the applicant will have to have an underground enclosed drainage system, and county engineering believes that can be accomplished.

Ms. Hopper commented that this proposal seems similar to the Hydraulic Dental Center, and suggested that if this plan were not capable of being built under the current zoning applied for, it should be proffered that the property would revert back to R-4 zoning.

Mr. Cilimberg explained, "If they cannot provide for any proffer, there is no rezoning…proffers are part of the zoning, and so they have to able to provide for every proffer to achieve the zoning…if they cannot achieve all proffers, they cannot exercise their rezoning, they are basically left with the zoning they have."

Mr. Cilimberg clarified that the Hydraulic Dental Center application was based on a conditioned special use permit, not a proffered rezoning.

Mr. Rooker asked if the property could not be developed under the present plan for any reason, such as inability to provide stormwater management, if an alteration in the plan would cause a failure of the rezoning.

Mr. Cilimberg replied that it is the Zoning Administrator's call as to whether or not removing a building and substituting it with a stormwater facility is a variation from the plan that needs to be re-approved under a zoning action. "I don't know how the Zoning Administrator would look at that. I don't have that discretion unless it's a Planned Development."

Ms. Echols added that in the event the applicant needed additional area for stormwater, there is enough room on the site to have two buildings along the front or not do the fourth building at all. "They can't build that last building until they provide parking for it." She mentioned that engineering is not especially concerned about the possibility of underground stormwater storage.

Mr. Rooker invited public comment.

The applicant, Mr. Earl Burton, addressed the Commission. He explained that it has always been his intent to have that area as commercial, which may be why there has been so little concern expressed by neighbors. Mr. Burton presented plats dating back as far as 1966 which show the land as designated for commercial; the people in Deerwood may have always expected commercial development there.

Mr. Burton explained that his engineer feels there is enough fall in the property to achieve the underground parking, and they are planning on putting in plantings so that the first floor is visible from Airport Road, but the parking would not be visible.

Mr. Rieley asked how that would be achieved.

Mr. Burton said that they hope to accomplish this with shrubbery and plantings. He added that he is willing to dedicate the roadway for VDOT use, but he is concerned that the roadway did alter his plans for the property. "It moved us way back, and made it so that the buildings would have to be different sizes. It made parking an issue and a problem. It's taking 4/10 of a 1.6 acre lot…about a fourth of a lot." Mr. Burton added, "I guess we'll just have to live with the fact that we've had a fourth of our potential diminished by that road."

Mr. Rooker asked if he was willing to change the proffer so that he would agree to dedicate the land taken by the right-of-way.

Mr. Burton said that he would be willing to do so.

Mr. Rieley asked if all the land in question is within the area of the service road.

Mr. Burton replied that some of it is taken by the alteration of Deerwood Drive.

Mr. Rieley asked Mr. Burton if he would be amenable to the plan if the road could be designed in such a way to accommodate his parking requirements, and if waivers were granted to allow parking on-street to make better use of the property for commercial buildings.

Mr. Burton responded, "Sure, that would be great. That would be terrific if the access road would allow parking."

Mr. Rieley expressed concern that the parking as it is would have to be completely beneath the building to accommodate all of the required spaces. He added that the parking lot would be visible from some angles.

Mr. Burton explained that his architect is working to conceal the parking through use of the slope and through screening.

Mr. Rieley said, "There's no way for this to do what your architect says it's going to do in the way in which I think we would like to see…commercial property develop in the urban area." He added, "It's not like a subterranean parking lot, because the entire lot runs underneath the building….having looked at the land and looked at these plans, I don't see any possible way in which that's going to work, and I don't think shrubbery is going to be the answer."

Mr. Rieley said, "I'm skeptical based on what we have here that this is a good idea to pursue in a general way. I do think that this property is well-suited to the uses you have suggested, and I'm fully convinced that there is a way to do this that would be a really good pattern, and probably more advantageous to you as well as to the long-term objectives of the county."

Mr. Loewenstein asked Mr. Rieley if he was referring to the visibility of the parking in Building "B."

Mr. Rieley responded, "All of them. In order to make any of these buildings appear with the parking running completely underneath them from one end to the other, you might be able to – from Airport Road – disguise that somewhat. But what we're trying to do is build communities that are walkable [with] buildings on streets... This is going to be buildings with a moat of parking that separates the first floor of the building from street activity." He added that he would support even more density and suggested using the residual land on the other side for the BMPs.

Mr. Rieley added, "If we could get a really beautiful urbane kind of street here, I think it would serve everybody's interest."

Ms. Hopper said she did not perceive the lot to be steep, but thought it to be fairly flat upon visiting.

Mr. Rieley commented that in order to get a story underneath, a lot of land would need to be scooped out, but sometimes grades could be deceiving. He added that he would hate to accept the plan as proffered, which puts the applicant in a position of pursuing a less desirable development. "I really think there is an alternative to this that's better for everybody."

Mr. Burton asked Mr. Rieley what he is recommending.

Mr. Rieley replied that he would like to see the buildings close to the street, with the parking behind, and an easy pedestrian connection from the street up to the buildings on all sides, so "we're really building a walkable town so that it looks more Georgetown than it does that the shopping center where Rococo's is that has parking on both sides of it."

Mr. Burton said he likes the idea of having the buildings right up to the sidewalk, and making more parking in the back. He stated that the required setbacks are making that difficult.

Mr. Loewenstein said, "This gets us a little bit farther away than the angle staff was pursuing by trying to look at this as a transitional area. I think that might be the difference here."

Mr. Rieley said, "Anything we can do to get away from the model of the parking being in front, under and behind these buildings."

Mr. Loewenstein said that the staff report attempts to keep the area transitional, and what Mr. Rieley is suggesting is more toward urban. Mr. Loewenstein said the concept plan seems to reflect the more transitional approach.

Ms. Echols mentioned that DISC would say that there could be some "teaser parking" in the front that indicates there is more parking elsewhere. She added that as long as the majority of the parking is not in front, it would be in keeping with the DISC neighborhood model. Ms. Echols said that the 30-foot setback for buildings has to be dealt with.

Mr. Cilimberg said that in a PUD, the buildings can be put right on the street, but the acreage in this plan is too small to qualify for a PUD.

Mr. Rieley commented, "Here we are once again with an applicant who is very open to the idea of better urban design, and our own ordinances prevent it."

Mr. Cilimberg said, "It's part of what DISC is addressing."

Mr. Rooker and Mr. Rieley commented, "Not fast enough."

Mr. Rooker said that the way the proffers are worded, the design presented becomes "locked in with the zoning of the property if it's approved." He wondered how it could be changed at this point to allow more flexibility in design.

Mr. Rieley said he would like to "push the envelope" on making this look like something along a street instead of a shopping center model.

Mr. Rooker suggested eliminating the last sentence of the first proffer, so that parking would not be required to be in front, in back and underneath.

Mr. Cilimberg noted that the applicant needs to offer the wording so that to the maximum extent possible, the building could be brought forward. He mentioned that the ordinance will require the setback, though.

Mr. Rieley asked how the street in front of the building could accommodate the parking requirements for the property. "I cannot see any advantage to anybody of having a frontage road out there with no parking on it and then using up [the applicant's] land with a bunch of parking lots, and putting them under the buildings." He added, "If what we're trying to do is create places that look like streets, there's nothing wrong with having cars parked on the street. If we could get an urban section with cars on it and get a row of street trees, and get the buildings as close as the ordinances will allow to the street to maximize the use of this…"

Mr. Cilimberg said that the design for the frontage road project is "pretty much set," but if Mr. Burton wants to incorporate on-street parking on his frontage, sidewalk, urban section, staff could work on that as part of a site plan with VDOT. He noted that VDOT may not agree to on-street parking.

Ms. Echols commented that the principal issue with the road is the width the fire departments need to access the road, which is 30 feet.

Mr. Cilimberg said that this would probably necessitate parking just on the building side. He added that staff would need to look at how the ordinance provides and allows for on-street parking as a reduction of on-site parking.

Mr. Kamptner explained that there is a cooperative parking arrangement, but an on-street parking arrangement is not defined.

Mr. Cilimberg said that if VDOT were agreeable to on-street parking, then that could be approved as cooperative.

Mr. Rieley asked Mr. Burton if he would be willing to explore some of the possibilities with staff.

Mr. Burton said he would be glad to, especially if the buildings could be moved up to the sidewalk, with ample parking provided in back.

Mr. Rieley said the ordinance would probably prevent that, and commented that the ordinance needs to be changed.

Mr. Burton asked if he could apply for a variance.

Mr. Kamptner said that the standards for granting the variance are very hard, and "undue hardship" has to be demonstrated.

Mr. Rieley commented that running the parking underneath the building qualifies as undue hardship. He said he would be willing to argue it with the BZA.

Ms. Hopper asked Mr. Burton if he would proffer the heavy landscaping.

Mr. Burton agreed.

Mr. Loewenstein asked if there was a general proffer about stormwater management that Mr. Burton would be willing to entertain. "I'm just not entirely sure how easy that's going to be accommodated according to the details that have been outlined for us in the staff report."

Mr. Burton said, "I don't think I can get a building permit unless I handle that…we will have to deal with it." He mentioned that the property across the street contains a huge pipe to handle stormwater, and has asked engineering whether it could be run underground to the new property.

Mr. Rooker asked if the first proffer should be changed to state "The buildings will be located as far forward on the property as may be permitted by ordinances."

Mr. Burton agreed, adding that he would really like to take the buildings all the way to the sidewalk.

Mr. Loewenstein agreed that everyone involved would be better off if the buildings could be fronted in that manner.

Mr. Craddock asked who would own and maintain the green island between the service road and Airport Road.

Ms. Echols responded that it is the state's, and there are some drainage improvements planned for that area; there is also a sidewalk planned for the area.

Mr. Craddock asked if it would be up to the state if the road would be widened to accommodate the on-street parking.

Ms. Echols replied that there may be complications with trying to widen the road in that location because of the turning radius leaving Airport Road and making the right onto the service road.

Mr. Loewenstein said that VDOT may also have concerns about the separation between an urban and rural section. "Typically, they want some land between the urban section – which Airport Road will be, and any other kind of public road that they would be in charge of that we would be responsible for."

Mr. Craddock said it would be helpful to have something planted in between.

Mr. Cilimberg mentioned that the Airport Road project will include landscaping.

Ms. Hopper asked Mr. Burton if he would like to see the application deferred to consider the comments from tonight's meeting.

Mr. Burton said he was not sure, because of the limitations of the ordinance.

Mr. Rieley stated that while not all issues could be resolved quickly, the issues of getting more parking on the streets and off of the property, and moving the buildings as close to the sidewalk as possible are worth exploring. "I support the idea, but I can't support the current proposal. But if it could be modified in a way that I think is advantageous to you, too, I'd do anything I can to support it."

Mr. Burton asked, "What can we do?"

Ms. Echols explained that he could request a deferral and come back to the Commission at a later date when some issues are worked out.

Mr. Cilimberg said that the key discussions would be with zoning regarding the parking credit, and with VDOT about the possibility of turning part or all of the service road into an urban cross-section. He mentioned that the plan has already been approved by the Commonwealth Transportation Board, but it is possible that they would be receptive to upgrading the road. Mr. Cilimberg encouraged Mr. Burton to involve his architect in the re-planning.

Mr. Cilimberg noted that part of the frontage road is also currently the Airport Road entrance for another office development that is not fronting the road, and is designed with front parking. "It will transition even along that frontage road from the concepts we've discussed tonight to what's actually in place with that other office development."

Ms. Echols clarified the procedure for deferral.

Mr. Cilimberg suggested choosing an exact date, giving it at least a month to be rescheduled.

Mr. Burton said, "You get one chance to get this building right. If you don't do it right to begin with, then you're stuck with whatever you've got….I'm definitely willing to defer." He also asked if there was a way to get approval from the Commission with proffers that would allow him the flexibility to get some of the issues resolved.

Mr. Rooker replied that he did not feel that the issues could be addressed through proffers. "Ultimately, you'll be tendering a plan of development as you did tonight…the plan of development that you tendered tonight doesn't really work very well, and we think it could be approved upon, and I guess we would like to see efforts made at improving upon that plan of development before it comes back to us." He expressed his support for a one-month deferral.

Mr. Burton asked if he could get a variance in the setback for the front parking.

Mr. Cilimberg said that there is not any flexibility in the front setback. "The ordinance is designed around this front parking."

Mr. Burton commented, "Part of why the buildings are moved back so much is to take advantage of the slope…it is about 20 feet from the parking area, and the buildings are quite a bit more than 30 feet back from that road."

Mr. Burton agreed to request a one-month deferral.

Mr. Rooker asked for an exact date for deferral.

Mr. Cilimberg suggested the first Tuesday meeting in April.

Further public comment was invited. None was offered, and the matter was placed before the Commission.

Mr. Loewenstein commended the applicant on his flexibility, stating that his request for deferral will offer an opportunity for all parties involved to achieve a better result. "I really appreciate the flexibility he's shown, and look forward to continuing to work on this."

MOTION: Mr. Loewenstein moved, Mr. Rieley seconded approval of ZMA 099-012 to their April 4, 2000 meeting. The motion passed unanimously.

Mr. Rieley said, "I really hope legal staff as well as planning staff will do everything they can to push the envelope, because we really are trying to do something good with some bad ordinances, and it's going to require pushing the envelope, and I sure hope we can do it." Mr. Rieley also commended the applicant for his flexibility and willingness to pursue the best plan.

Mr. Rooker asked if someone on staff could provide Mr. Burton with some guidance on pursuing a setback waiver.

Mr. Kamptner suggested contacting Jan Sprinkle in Zoning.

Ms. Echols said getting a variance is difficult, adding that she really wished the zoning ordinance changes allowing a reduced front setback were in place. "We will work with the applicant every way we can to see how close we can get this to the front, and anything else we can do."

Mr. Rooker suggested passing on to the Board of Zoning appeals the support of the Commission for a waiver being granted. Fellow Commissioners agreed.

MOTION: Mr. Rooker moved, Ms. Hopper approved a Resolution of Support by the Planning Commission for a setback variance because of the particular characteristics of this property and his efforts to try to improve the appearance of the property, in the event Mr. Burton pursues such a variance. The motion passed unanimously.

Old Business

The Commission discussed the list of items to be included with rezoning applications as presented by Mr. Rieley February 15th (Attachment "B").

Mr. Rieley stated that the list was not generated as a criticism of staff, but as an effort to clarify the kinds of information staff would like to see at the rezoning level. "It is becoming increasingly important for us to have clear information at the rezoning level and insist on things at the rezoning level that in years past were often deferred to the site plan level."

Mr. Thomas said that the list seemed to offer some "strong suggestions" to provide more help in interpreting the rezonings considered. He mentioned that item #4 regarding parking would be taken care of at the site plan level.

Mr. Rieley said he would like to have adequate information to look at the rezoning within the context of what will actually fit on the property, and that a property not be rezoned for a use that would have to be "whacked back" at a different level. "I think it would help us in evaluating these requests for rezoning if we put them within the framework of the site plan requirements." He added that he did not intend to pass the list along in its current language as it is "conversational."

Mr. Thomas commented that the one suggestion regarding parking information was helpful in the previous discussion of the Airport Road item.

Mr. Loewenstein said that he felt a little uncertain as to how prepared the county is internally to provide the information with some degree of ease. He asked if current maps are available, and wondered how difficult it would be to obtain more current maps.

Mr. Rooker suggested adding language such as "where reasonably available" to items requested.

Mr. Loewenstein commented that he thinks the list is good, adding that the Commission should also look into how to satisfy the requirements through staffing, funding, etc.. He suggested having an item added to the list requiring greater uniformity in staff reports, which would make them easier to read.

Ms. Hopper said that the list serves a tool for starting a discussion, adding that some of the items being required may not be possible.

Mr. Rieley acknowledged that there are staffing implications for all of the items, but his intention is for the Commission to be clear as possible on what they would like to see, then give that to staff with the hope of giving them guidance to help supply the needed information and perhaps help with staffing and funding.

Mr. Cilimberg said he would like to take the list and share it with staff, then return to the Commission with comments on how staff sees the items being achieved. "Ultimately, whatever we do here we're going to need to send to the Board of Supervisors, because it's really their rezonings…I'd want to make sure they're agreeable as well to what we're talking about in terms of requirements, because a lot of this will come back to the applicants."

Mr. Rooker commented, "I don't think it was ever intended that these would be imposed as legal requirements. It was intended that this be something the Planning Commission communicates to staff as to the kind of things the Planning Commission would like to see on rezonings, not that it be imposed as a mandatory legal requirement."

Mr. Cilimberg said that he would like to offer staff feedback on how easy or difficult it is to achieve the items.

Mr. Rieley explained that he would like for the Commission to achieve consensus on what is wanted, to give staff a clear message, then get feedback from staff.

Mr. Cilimberg noted that regarding topography, the county uses in the urban areas 200 scale urban topos that were done with the Albemarle County Service Authority; in the rural areas, 600 scale USGS maps are used. He mentioned that there is a project in the works to do topos of the entire county; meanwhile, GIS is being incrementally improved; he added that in the next year or so, all tax maps will be digitized and in GIS, which does not exist now.

Mr. Cilimberg said that staff could use the department's digital camera to take pictures of sites.

Mr. Rieley commented that it would be better to have out of date topos than none at all.

Mr. Rooker suggested adding "an identification of the zoning and the uses of adjoining properties on a visual depiction of the property."

Mr. Cilimberg mentioned that regarding the staff report formatting, there is a standard form, but the template often gets filled in differently, with expanded or reduced information.

Mr. Loewenstein asked if it was fairly easy to get property lines, rights-of-way, etc. shown on application plans for rezoning.

Mr. Cilimberg replied that the Planned Development applications specify things of that nature, but proffered plans as part of conventional zoning cannot require those items, as it is the discretion of the applicant what is provided.

Ms. Echols commented that there is a requirement that the most recent boundary survey of a property is required, but may not have any relationship to the plan. She added that several DISC Committee members have also raised similar concerns about the quality of the applications received, and DISC is discussing upping the standard for what is required with applications.

Mr. Rooker suggested cross-checking the lists.

Mr. Rieley mentioned that 3-D imaging would be quite helpful.

Ms. Echols added that 3-D imaging is very helpful in visualizing development plans.

Mr. Loewenstein said it is also helpful to the public if more information is available. He noted that sometimes residents come into a public hearing with inadequate information.

Mr. Rieley asked if the requirement for 3-D depictions should be added to the list.

Mr. Loewenstein said that it should be encouraged that staff work with the applicant to obtain this.

Mr. Rooker suggested adding an item to the list that states "an application plan which depicts property lines, rights-of-way, locations of buildings, etc., with 3-dimensional renderings if possible."

Mr. Cilimberg asked if the item was referring to an actual application plan as required in Planned Development zoning, or just a plan of application for rezonings.

Mr. Rieley suggested not using the term "application plan."

Mr. Rooker suggested using the term "general plan of development" instead.

Mr. Loewenstein asked if the staff verification of a proffered plan (#11) was already being done.

Mr. Cilimberg responded that in a proffered plan, staff determines whether certain criteria are met, but the Board sometimes will allow a different configuration which nullifies some such staff determinations. "Short of a site plan, you're never going to be able to say that a proffered plan can or cannot absolutely meet the parking requirements based on the building. So it's going to be somewhat of a judgement based on the best information you have in front of you. So I think in verifying it's going to be based on some judgement that it seems it can be accommodated."

Mr. Rieley suggested softening the language to say "make the best judgement possible, etc."

Mr. Rooker asked how the Commission wished to proceed with the list of suggestions.

Mr. Rieley agreed to edit the list based on Commission discussions, then distribute to other Commissioners for discussion at a later date. Mr. Cilimberg indicated that he would share the list with staff to see if they had any additions to the list. Mr. Cilimberg noted that there are two areas that the list covers: what staff advises the applicant on, and what the staff incorporates in their own review. Mr. Rieley agreed to re-present the edited list to the Commission for further discussion prior to the item being officially presented to staff.

Ms. Hopper said that it is helpful to come together and discuss ways to make things run more smoothly.

Mr. Cilimberg said that it also allows for staff and the Commission to talk to the applicant from the same basis of expectation. He emphasized that there needs to be care taken in how the requests are factored into the decision-making process because "at any point in time we could be challenged." He added, "We have to make sure that we are also making the decisions based on this within reason."

Ms. Hopper asked Mr. Cilimberg if there are items staff would like to see added.

Mr. Cilimberg said he would like to share the list with staff.

Certificates of Achievement

Mr. Loewenstein asked what should be done with the certificates. Mr. Cilimberg said that staff would get them into a final form for Commission signature. Mr. Rieley suggested bolding Mr. Nitchmann and Ms. Washington's names on the forms. Mr. Rooker asked whether the certificates should say "achievement" or "appreciation." Commissioners agreed that appreciation is more appropriate.

Greene County Futures meeting

Mr. Thomas commented that he had attended the Greene County futures meeting the evening prior, and said that Albemarle is lucky to have an efficient Planning Department, a Director of Finance, and a Director of Economic Development. He added that it is difficult for Greene to make decisions about Route 29 without a good ordinance and zonings in place. "They really need some help." Mr. Thomas commented that Greene also does not disseminate information about rezonings very well, but advertises in the *Greene County Record* and informs abutting property owners. He added that the Board of Supervisors are in favor of developing 29 commercially with no mixed use, but the Planning Commission had laid out a mixed-use plan that the Board rejected.

Mr. Rooker commented that there has been so much residential development in relation to commercial development, that the Board wants to make certain that the development along 29 is developed to maximize tax revenues.

Mr. Rieley said when he first saw the zoning plan for the commercial strip coming right into Albemarle, he was "speechless."

New Business

Steep Slopes Presentation
Ms. Echols introduced Mr. Brooks, who gave a Power Point presentation on steep slopes/critical slopes in the county.

Mr. Brooks discussed the current regulations, or critical slopes, of 25%. He explained that that regulation deals with preservation of existing landscape and resources, noting that the existing regulation assumes that building is going to occur on an existing slope. Mr. Brooks said that the existing regulation deals with aesthetic resources and water resources.

Citing an excerpt from the ordinance, he outlined five items that staff is most concerned with: large-scale movement of soil and rock; will impervious area on the slope cause excessive runoff; is the disturbance of that slope for the development going to cause excessive siltation; is it a loss of the aesthetic resource of the county; is the septic system acceptable. Mr. Brooks explained that these items in the ordinance don't always address what is needed because the slope has been completely graded away, and the question becomes what have we replaced it with. "None of these items speak to that." He mentioned that sometimes the Board will try to use the environmental aspects to deny a critical slopes waiver for another reason, which creates a legal bind.

Mr. Brooks presented some examples of critical slopes, including manmade slopes, noting that the ordinance does not differentiate between natural and manmade slopes.

Ms. Echols noted that DISC found it interesting that the county doesn't allow building on a 4 to 1 slope without getting a waiver, but will allow creation of a 2 to 1 slope, which is twice as steep.

Mr. Brooks mentioned that people are often creating an entirely new landscape in an attempt to fit a certain number of buildings on a parcel. He presented some of the "new issues" that arise from creating this new landscape: the relation to neighboring properties in terms of safety and appearance and access; the long-term stability and maintenance issues with the landscape created; the functionality and livability of the slope area. Mr. Brooks showed some examples of created slopes in Albemarle, and the resulting changed landscape.

Mr. Brooks presented examples of failed slopes in the county, such as Sam's Club, which now contains a large gully and on 5th Street near the Food Lion. He noted that one advantage developers have in Albemarle is heavy clay soil, which stands for long periods of time. Mr. Brooks said that most failures can be prevented with proper vegetation, planting, and materials put on the slope to keep it from eroding until proper vegetation is established. Mr. Brooks showed examples of non-livable slope areas, some of which pose safety concerns. He also presented examples of slopes that create somewhat "unfriendly" living environments.

Mr. Brooks noted that developers often feel there are too many regulations, and in residential settings there is a "buyer beware" attitude. He said there are no regulations that address scale of slopes at all, citing the Great Wall of Lowe's as an example. Mr. Brooks said that the landscaping effort at Lowe's helps to make the site more attractive, and also presented examples of other nice vegetative areas on manmade slopes.

He added that the engineering encourages use of alternatives to grass, such as juniper. Ms. Echols emphasized that it is important to maintain such vegetation to get it to establish.

Mr. Brooks summarized staff suggestions:
1) Change the regulations to address the new construction of the new landscapes, slopes and walls.
2) Set higher standards for things like functionality, useable space, and aesthetics.
3) Improved maintenance of slope areas.
4) Relationship to adjoining uses, offering means of access through properties.
5) Better standards of safety.
6) Quality of design, data and documents.
7) Methods of implementation.
8) Better education of contractors and builders.

Mr. Rooker said that it would be helpful to have such visual depictions if there are public hearings on possible changes to the ordinance.

Both Mr. Brooks and Ms. Echols noted that DISC is addressing the issue of building and grading on critical slopes. Ms. Echols said that DISC recommends that more attention be paid to reconstruction of the slopes for safety, maintenance, and aesthetics. DISC has asked that the Engineering Department eventually come back to the Planning Commission with a specific set of recommendations after the DISC report is done.

Ms. Hopper asked what the next step is.

Mr. Brooks said that his role is just sharing information.

Ms. Echols explained that DISC is recommending three main items to the Board with their report: the neighborhood model; a set of recommended policy and regulatory changes (such as streetscapes); and a set of implementation strategies. She said the steep slopes and stream buffers are included in the third tier of recommended implementation strategies. Ms. Echols said it will be up to the Board how the DISC recommendations are then handled.

There being no further business, the meeting adjourned at 8:50 p.m.

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V. Wayne Cilimberg
Secretary