Albemarle County Planning Commission
September 5, 2000

The Albemarle County Planning Commission held a meeting and public hearing on Tuesday, September 5, 2000 in the County Office Building. Members attending were: Mr. William Finley, Chairman; Mr. Dennis Rooker, Vice-Chairman; Mr. William Rieley; Mr. Pete Craddock; Mr. Rodney Thomas; Mr. Jared Loewenstein, Ms. Tracey Hopper. Other officials present were: Mr. Wayne Cilimberg, Director of Planning and Community Development; Ms. Elaine Echols, Planner; Mr. Jeff Thomas, County Engineering; Absent: Ms. Tracey Hopper.

DISC Work Session – Review of Principles 9 & 10 [*Relegated Parking; Mixture of Uses*].
The Commission held a worksession on DISC Principles 9 and 10.

Regular meeting

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

Consent Agenda

SDP 00-086 Whilton Farm Site Plan Waiver Request - Request for a site plan waiver to allow a fourth dwelling on Tax Map 71, Parcel 1 which is 340 acres. Property is located on the east side of Yellow Mountain Road beyond the Route 691 intersection approximately 2,000 feet south of U.S. Route 250 is zoned RA (Rural Area) and Flood Hazard Overlay District. This site is located in the Samuel Miller Magisterial District and is recommended for Rural Area uses in Rural Area 3.

The Commission moved, seconded, and unanimously approved the Consent Agenda as presented.

Deferred Items:

SP-00-036 Barbara J Fried Physical Rehab Therapy, LLC (Sign #60) - Request for special use permit to allow a physical therapy business in a home in accordance with Section [10.2.2.31] of the Zoning Ordinance which allows for home occupations Class B. The property, described as Tax Map 14, Parcel 4 contains 318 acres, and is located in the White Hall Magisterial District at the end of Route 765. The property is zoned RA Rural Area. The Comprehensive Plan designates this property as Rural Area.

Ms. Echols presented the staff report, noting that the request is for a Home Occupation Class B permit, which involves employees working in the home, as well as use of an accessory structure. She pointed out on a map presented which area is owned by the Frieds, and which area is owned by Innisfree. Ms. Echols clarified that approval of the SP would allow for patients at Innisfree to receive physical therapy at a structure on Fried property, and would include a by right use of seven client trips per week.
Public comment was invited.

The applicant, Ms. Barbara Fried addressed the Commission. She presented a petition signed be residents of the Crozet area in favor of the SP, and introduced Lei Sato, who would be performing the physical therapy with the assistance of one other person.

Mr. Thomas asked why the facility couldn't go in Innisfree.

Ms. Fried explained that because of complicated Medicaid/Medicaire certification, having to become a federally certified facility "would destroy us." She stated that locating on her property allows them not to have to get this certification.

Mr. Thomas asked if the limitation on trips per week was going to be acceptable.

Ms. Fried responded yes, adding that no one would notice the traffic.

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

MOTION: Mr. Rooker moved, Mr. Thomas seconded approval of SP 00-036 with conditions as presented by staff. The motion passed unanimously.

ZMA-00-004 Fontaine Research Park (Sign #57 & 58) - Request to amend ZMA 92-03 to expand the 389,000 sq. ft. development limitation to 495,000 sq. ft., to modify the approved application plan, and to amend proffers. The property is located on approximately 53.52 acres zoned C-O (Commercial Office) and FH (Flood Hazard Overlay District). The site is described as Tax Map 76, Parcels 17B, 17B1, 17B2, 17B3, 17B4, 17B5, 17B6, 17B7, and 17BX and is located on the south side of Fontaine Avenue, east of and adjacent to Route 29. This property is located in the Samuel Miller Magisterial District and is designated in the Comprehensive Plan for Office Service uses in Neighborhood 6. A Special Use Permit request (SP 00-021) has also been submitted with this request.

Ms. Echols presented the staff report, noting that there is now a pedestrian/bikepath and greenway now provided from Stribling Avenue. She said that Stribling is a narrow, well-hidden road, and is sometimes used as a dumping area. The applicant has indicated that they wanted improvements on the path before connecting, and staff agreed. Ms. Echols noted the location on a map presented. She explained that there is one proffer that was not carried through from the original proffers, retention of a landscape buffer, and staff asked the applicant to retain that. Ms. Echols clarified that the buffer has now been installed, and said that the language would be included before the Board meeting.

Regarding the resource protection area, Ms. Echols explained that the original plan called for a 100-foot strip – "resource protection area" – from the floodplain that would not be disturbed. She noted that the applicant would need to disturb part of that section for a stormwater facility, and they would need to modify it to support the additional runoff from the parking lots and other building. Ms. Echols said that the applicant has agreed to proffer preservation of that area, except where they may need to ask for a critical slope waiver. She noted that the staff and applicant differ on that matter, and the only area that should be distrubed is the stormwater area.

Ms. Echols added that the applicant has not completed engineering work yet, and doesn't know if he will need to disturb the area with grading, DNS measures, or utilities. "Staff believes it's important to leave that in as undisturbed state as possible."

Ms. Echols concluded that staff recommends approval with proffers mentioned in the staff report and the proffer that the area be undisturbed except for the stormwater facility. She said that the applicant has worked very hard to address staff and Commission concerns.

Mr. Rooker asked about the possible disturbance of the resource area for utilities. "Could there be some reasonable accommodation to that request that would be limiting enough to protect the resource protection area reasonably."

Ms. Echols responded that staff and engineering have evaluated that intensely, and couldn't figure out how to have a disturbance that didn't have a noticeable effect. She said that staff would like to see the construction activity pulled forward out of that area.

Mr. Rooker asked if the whole area was in critical slopes, and asked if that would be a reasonable way to address this "if we have control by virtue of the fact that they would have to come back with a critical slope waiver request in order to accomplish [that]."

Ms. Echols said that most of the entire area behind the building is in critical slopes.

Ms. Hopper pointed out that there are exceptions, such as roads.

Ms. Echols confirmed that the two exceptions are the stormwater facility area and a potential access road. "Generally critical slopes are exempt from roads, utilties, and….stormwater facilities….those are the kinds of things that they could bring in on a plan that would not have to come to [the Commission] for a critical slopes waiver."

Mr. Rieley said that he is concerned that not enough of the resource area is in critical slopes.

Ms. Echols clarified that staff is not as concerned with the manmade slopes that have resulted from regrading, but is concerned about the slopes in the wooden area, as they lead into the stream.

The Commission moved, seconded, and approved ZMA 00-004 with proffers as amended: an additional proffer stating "There will be no disturbance in the resource protection area except for the pedestrian path, modification of the stormwater facility shown on the plan, and any other disturbance that is specifically approved by the Commission."

Public comment was invited.

Mr. Steve Blaine, representing the University of Virginia Real Estate Foundation, addressed the Commission. Mr. Blaine said that the applicant's intent is to preserve the resource area, but UREF doesn't want to proffer that because it may "limit engineering opportunities if there is an incidental disturbance in that area." He said that writing a proffer would "legislate away" the

exceptions allowed for critical slopes. Mr. Blaine said, "We're trying to legislate against a harmful disturbance…we certainly would put no impervious improvements within the resource protection area….if we write the proffer literally 'no disturbance' it would legislate out the opportunity to connect a pedestrian pathway through that." He added that the applicant could say that the critical slope disturbance – if any – would be kept to a minimum, and any waivers would be reviewed on a case by case basis.

Mr. Loewenstein asked if there was anything the applicant is contemplating that would not be an access road, stormwater facility or utility.

Mr. Cilimberg pointed out that there may be grading associated with the buildings that could go into the resource area and critical slopes. He said that there may be a way to address this by giving Commission review of anything proposed like that.

Mr. Rieley suggested including a proffer that says "no disturbance in the critical area except for pedestrian path and any other item that can be reviewed by the Commission and exempted from that."

Fellow Commissioners agreed.

The applicant agreed.

Mr. Cilimberg asked if the disturbance for the pedestrian path would have to come to the Commission.

Commissioners agreed that that would be exempted.

Mr. Cilimberg asked about utilities outside of the critical slopes, but in the resource protection area.

The Commission agreed that they would like to see that.

Mr. Cilimberg asked if the Commission would want to exempt the stormwater facility that does go into the resource protection area.

Commissioners agreed that that could be exempted, because it is located on the master plan, and would have to go to engineering anyway.

Mr. Finley asked if the stormwater facility is exempt from the critical slopes waiver.

Ms. Echols said that it is, although the Commission has had some concerns about this in the past. "What we're trying to do is get stormwater areas outside of stream buffers now. In this particular case…there's a fairly large stormwater facility, that is where the stormwater facility is already, and we don't mind some modification to that…but if they were to come in and put in a whole new facility down at the bottom of the slope behind the building, that would be a problem."

Ms. Echols said that the language should say the stormwater facility shown on the plan.

Mr. Rooker asked Mr. Blaine if the applicant would put the proffer back in that speaks to the landscape buffer.

Mr. Blaine agreed that they would.

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

MOTION: Ms. Hopper moved, Mr. Loewenstein seconded approval of ZMA 00-004 with proffers as amended: an additional proffer stating "There will be no disturbance in the resource protection area except for the pedestrian path, modification of the stormwater facility shown on the plan, and any other disturbance that is specifically approved by the Commission."

The motion passed in a 6-1 vote, with Mr. Rieley dissenting.

Mr. Rieley said that while the plan is a big improvement over the 1992 plan, he found it disappointing and ironic to be working on hammering out principles for a better form of development (DISC), and review this application for a "fairly ordinary office park on one of the most strategically located parcels that we have in the whole county."

Mr. Rieley added, "I do think that we should be doing better than this. My negative vote is one of hope that we will see better proposals in the future."

Old Business
There was no old business presented.

New Business
There was no new business presented.

There being no further business, the meeting was adjourned at 6:50 p.m.