Albemarle County Planning Commission
November 7, 2000

The Albemarle County Planning Commission held a meeting on Tuesday, November 7, 2000 in the County Office Building. Members attending were Mr. William Finley, Chairman; Mr. Dennis Rooker, Vice-Chairman; Mr. William Rieley; Mr. Rodney Thomas; and Ms. Tracey Hopper. Other officials present were: Mr. Greg Kamptner, Assistant County Attorney; Mr. David Benish, Chief of Planning and Community Development; Ms. Jan Sprinkle, Chief of Zoning Administration; Ms. Amelia McCulley, Zoning Administrator; Ms. Joan McDowell, Senior Planner. Absent from the meeting were Mr. Jared Loewenstein and Mr. Pete Craddock.

Introduction of new Recording Secretary – Jan Cornell.

Approval of Minutes – October 17, 2000 – The Commission unanimously approved the October 17th minutes with changes. The October 3rd minutes were deferred until the November 14th meeting.

Consent Agenda Items:

- **Resolution of Intent to Change the Parking Regulations of the Zoning Ordinance** – Resolution to allow modifications to the Parking & Safe & Convenient Access Regulations.

- **SUB 00-195 Charles Werner Waiver Request** - Request waiver of Section 14-505, access from lot onto public street or private road, which requires a joint driveway (private road) for lots created by subdivision.

- **Southern Park – Critical Slopes Waiver** – Request for a waiver to allow construction of a portion of the park's nature trail over critical slopes.

Ms. Hopper moved for approval of the consent agenda.

Mr. Rooker seconded the motion, which carried unanimously.

- Sign Ordinance

Ms. Amelia McCulley provided an overview of some of the proposed changes. She noted that the sign ordinance regulates and controls our environment. She pointed out that a worksession was held with the Architectural Review Board and a roundtable was held with the local sign makers. She noted the following:

- Staff is working with regulations that were adopted in July of 1992 as a major amendment to the prior sign regulations. At that time significant changes were made from the prior regulations.
- Freestanding signs are signs that stand out. Alot of changes in terms of regulations on freestanding signage have been made. Height and size of the signs were reduced; increased the number that you could have; and then allowed a decrease in the setback. Restrictions to the current regulations were added to make off-site signs available by special permit only; with the limited size of 32 square feet and an off-site sign by special permit only, billboards would not be experienced across the county.

- Allowing non-conforming signage to change and consolidated. Changes being made to the structure or face of the sign itself provided they made the sign more conforming. Without regulations that would allow one to not completely meet the regulations, but come closer to them than you currently do, there isn't the incentive for people to change their signage in a major way to make a difference. Success has been made in a lot of changes to old signs over the years.
- Since the 1992 ordinance was adopted, there have been recurring instances of wall sign height variances. State code tells us when there are repeated variances; your regulations must be reviewed to determine what is wrong. Wall sign height is being addressed with this sign ordinance.

Ms. McCulley noted that there are a lot of changes to the ordinance and reviewed, in more detail, the following:

- **Housekeeping** –
  -Better illustrations have been added, as it is hard to follow concepts and procedure in the text itself. Terms have been reviewed to make sure that staff is consistent in their use (i.e. - roads in one place and streets in another place and right-of-way in another place).
  -Definitions has been added for terms such as establishment, fascia, sign face, sign structure.
  -Addressed terms that were defined, but not used in the application of the sign regulations.

- **Temporary Signs**
  Ms. McCulley noted that there are a number of violations in temporary signage. As the ordinance is now written, there are qualifying events for temporary signs, such as a grand opening or major sale. Certain kinds of events are entitled to a 30-day temporary sign and other types of events are entitled to a 15-day temporary sign. This was hard to justify and hard to apply. The draft ordinance has a standard time period of 30-days, four times a year. The number of times a year that one can have a temporary sign has not been increased. It standardized and does not have a qualifying event it is for whatever event the businessperson chooses.

  A maximum height for temporary wall signs has also been added which is consistent with the maximum height for permanent wall signs.

  Mr. Rooker noted the 30-days for temporary signs; four times a year means that a property can have up a temporary sign for 1/3 of every year. He stated that, in his opinion, this is beyond temporary.

  Mr. Rieley asked if signs that direct people to the Crown Orchard on Rt. 53 are temporary signs.

  Ms. McCulley stated that these may be directional signs. She pointed out that if sign is an advertising sign, then it would be considered a qualifying temporary sign.

  Mr. Rooker stated that this is an off-site sign as it is located at the foot of the hill, therefore, this would be a directional sign. He felt that 120 days is too much time for a temporary sign as this takes on the flavor of a permanent sign.

Ms. McCulley suggested that if 30-days is too long as a cumulative amount reduce the number of signs but allow it to be 30 days at one time. She noted that this is very difficult to police, to make sure it is only there for a certain amount of days (15 or 30). One choice would be a fewer numbers of signs per year at a 30 day time period each time or decreasing the time period from four times to perhaps twice a year.

Mr. Rooker stated that decreasing the time period for temporary signs from four times a year to twice a year is reasonable. Sixty days a year for a temporary sign is more than enough, he could not support 120 days a year for temporary signs. He pointed out that it is a question of whether or not the sign need to be up for 30 days for a temporary event. He suggested having a maximum number of times and a maximum number of days cumulative.

Ms. Hopper suggested that temporary signs be allowed twice a year, not to exceed 30 days a year. She felt people would not use the sign the entire 30 days.

Ms. McCulley pointed out that temporary signage is used for short-term events, grand openings, going out of business, new product. Sometimes a temporary sign is used while a permanent sign is being made.

Mr. Thomas ascertained that advertising of auto sales would require a temporary sign.

Mr. Rooker stated that the ordinance regulates the size and placement of the sign. The idea is to create an aesthetically pleasing community. Interjecting temporary signs wreaks havoc with the idea of a sign ordinance. He felt there should be a better way, other than temporary signs, for weekly events.

Mr. Finely ascertained that a political sign as well as temporary and directional signs do not require a permit.

Mr. Rieley pointed out that the content of the sign is not under review. He asked if a directional sign could be an advertising sign that is not adjacent to the property.

Ms. McCulley stated that if the sign does not provide direction to the site or service, then it would be considered an advertising sign.

Mr. Rieley asked how often applications for temporary signs are applied for.

Ms. McCulley pointed out that there area a large number of applications for temporary signs, noting that it is not for the entire property, the allotment is per establishment. A lot of properties have several established multi-businesses on them, each of which can have a temporary sign.

Mr. Finely ascertained that a church advertising a revival would require a temporary sign permit.

Ms. McCulley stated that in terms of temporary signage, the Commission is suggesting that the number of events that can be advertised per year should be two.

- **Wall Signs**
  Ms. McCulley pointed out that this proposed change address the recurring sign variance in terms of the wall sign height. This would be to restores the sign height to 30 feet, as it was in the prior ordinance, instead of the 20 feet as it is in the current ordinance. This is only in the commercially zone properties, not residentially zoned properties.

  Mr. Rooker asked what is the reason for increasing the size of wall signs by 50%.

  Ms. McCulley pointed out that this is to increase the height of the wall sign, not the size. Only the height allowed upon the face of the building. There will be no change in square footage of; the sign can not be higher than 30'.

  Mr. Rieley asked if this change relates to the position of the sign.

  Ms. Sprinkle pointed out that the architecture of the building states where the sign should go.

  Ms. McCulley pointed out that with regard to wall signage, staff is proposing a change to allow more freedom in the location of which wall can be utilized for the sign. Currently, the ordinance stipulates that the wall sign can only be located on a wall that you have as an entrance to the business. Oftentimes people want to put the sign on a wall other than where they have their main entrance to the interior of the business. There will be no change in the size allowed, but more freedom as to which wall it can be placed on.

  Mr. Rooker ascertained that temporary signs do not have to be approved by the Architectural Review Boar even though they are in an Entrance Corridor.

  Ms. McCulley pointed out that temporary signs do not require a building permit.

  Mr. Rooker asked why a temporary sign could not be subjected to the criteria applied by the ARB for signs in the Entrance Corridor. The ordinance should establish special criteria for temporary signs that may be permissible in the Entrance Corridor that may be different from permanent signs. This criterion could then be incorporated in the ordinance.

  Ms. Hopper pointed out that staff has to issue a permit for a temporary sign. Staff has a sense of the aesthetics of the Entrance Corridor; she felt this could be handled administratively by staff.

  Mr. Rooker stated that it would be helpful to have the criteria specified so that is not subjective every time one applies for a sign. Perhaps the ARB should establish some criteria that could be put in the ordinance.

  Ms. McCulley asked Mr. Kamptner if there was any legal problem in doing this with a sign that does not require a building permit.

  Mr. Kamptner stated that Section 30.6 could be amended or just deal with temporary signs in the Entrance Corridor in Section 4.15.

  Mr. Finely asked what constitutes an incidental sign.

  Ms. McCulley stated that an incidental sign is 4 square feet.

Mr. Finley asked if a banner would require a temporary sign permit.

Ms. McCulley noted that there is a list of signs that are allowed, but are exempt from a permanent requirement. She noted that the fee for a temporary sign permit is $25.00.

Ms. Sprinkle pointed out that banners are prohibited unless they are temporary event signs.

Ms. McCulley noted banners would not be exempt and would require a $25.00 temporary sign permit.

Mr. Rooker stated that he felt churches should be held to the same standards as any other establishment, especially since they are allowed in residential areas.

Ms. McCulley noted that under the current ordinance, for a business to qualify for a wall sign it has to have exterior wall frontage. A business that is interior to some other large business, if it does not have exterior wall frontage could not put its sign on the wall. If the interior business works out a deal with the business that has the exterior wall; then staff will not restrict this as it does not really matter which business is advertising, only numbers and size of signs will be limited.

- **Free standing signs at an entrance in a subdivision.**
  Ms. McCulley noted that the ARB suggests allowing administrative approval of a sign if certain conditions are met. There are three conditions (1) the sign can either not be internally illuminated or if it is it has an opaque background; (2) replaces a similar sign; or (3) there is a master sign plan and is in a multi-business complex and the master plan has already been approved. This would allow, by ordinance, for administrative approval if the Design Planner is comfortable with what is being proposed and it meets these conditions.

  Mr. Rooker ascertained that the ARB is in agreement with this proposal.

  Ms. McCulley noted that the next proposed change deals with moving electric message signs. The ordinance would allow this even in residential districts with special use permits. Staff suggests that this is not appropriate and should be for non-residentially zoned areas. She noted that Mr. Foster with High Tech Signs has some thoughts on more allowance for electric message signs. That they not be by special permit, that there be some allowance for a sign that has a changing message, such as the one that are static and you physically change the message. More of an allowance for something that has a changing electric message be allowed by right.

  Ms. McCulley noted that political signs are a type of temporary signs and do not require a permit provided that they meet the requirement that they be no larger than 32 square feet.

  Mr. Rooker asked if the 32 square foot requirement was decided by case law.

  Mr. Kamptner stated that the 32 square feet sign is the largest sign allowed under the Sign Ordinance.

  Mr. Rooker asked if political signs have to be allowed up to 32 square feet.

Mr. Kamptner stated that these are treated the same as any other sign conveying non-commercial speech. The courts have said that political signs along with personal signs are entitled to the first amendment protection.

Mr. Rooker ascertained that political signs are temporary signs, but do not have to comply with the temporary sign component of the ordinance in terms of the number of times they are allowed.

Mr. Kamptner stated that the courts have said that they are allowed to be erected and kept up as long as they want. The Supreme Court has said that this is mandated by the first amendment.

Ms. Sprinkle pointed out that these signs are by districts so where there is a commercial use in a residential district, like a church or day care, those businesses are allowed signage.

Mr. Rooker asked if you could distinguish in the Sign Ordinance between a lot that Is being used for residential purposes and a lot that is being used for a commercial, church or school use.

Ms. Hopper stated that you could distinguish this by stating "as large as that particular district allows."

Mr. Rooker suggested that permissive signs on property used for residential purposes do not need to be large as permissive signs on commercial property.

Mr. Kamptner explained the limit for commercial speech is 32 square feet. Non-commercial speech has to be treated at least as favorably as commercial speech. Some reasonable size limitations can be imposed on non-commercial speech signs. These have to be reasonable and targeted to resolving a health, safety or welfare impact.

Mr. Rooker asked if the size of the sign is limited to 32 feet in residential areas could you not apply this to political signs as well.

Ms. Hopper stated that perhaps the signs in residential areas could be reduced, but there must be a reasonable basis for this.

Mr. Kamptner pointed out that anything above the 32 feet limitation is treated as a billboard under county law.

Ms. McCulley suggested the Commission focus on the most restrictive districts in terms of sign regulations. This would go from rural areas through high-density residential areas. In terms of sign allowance for free standing signage is 24 square feet. Non-residential such as commercial and industrial allows for 32 square feet. In the rural areas and residential zoning districts, generally 24 square foot freestanding size with the exception of a subdivision or temporary sign. She asked if, in these districts, could the political sign area be reduced to 24 square feet or does it have to stay at 32 square feet.

Mr. Finley asked if a special event such as a live nativity come under the exemption for special decorative displays for holiday purposes.

Ms. McCulley stated that for a regulation of the nativity scene, staff will not limit the length of time a nativity scene can be displayed.

Mr. Rooker stated that he does not understand why a temporary sign that is larger than a freestanding sign is permitted.

Ms. McCulley noted that the Commission is suggesting that the temporary signage be consistent with freestanding signs.

Mr. Rieley asked why subdivision signs have a higher square footage than freestanding signs.

Ms. Hopper pointed out that if the political signs are reduced this would also require the subdivision signs to be reduced.

Mr. Rieley stated that he felt 32 square feet is too large for a political sign.

Mr. Rooker stated that he did not see the reason for the difference between a freestanding sign and a temporary sign.

- **Non-conforming Signs**
  Ms. McCulley noted that changes could be made to non-conforming signage as long as it is made more conforming in height or size; twenty-five percent more conforming in height or size. Staff is proposing to change this to height and size.

  The second change proposed to non-conforming signs is to be more clear in the text that if the use that the non-conforming sign advertises is discontinued, then the sign must be removed. Or if the sign face itself is removed then the sign will have to be removed.

  Mr. Rooker stated that someone who is repairing or replacing a non-conforming sign should be encourage to do it quicker than the 2-year period allowed in the ordinance.

  Mr. Kamptner stated that the 2-year period is based on the rule under state law that a non-conforming use or activity to preserve its non-conformance status can'' be discontinued for more than two years. This requires them to activate that use within the 2-year period or they loose their non-conforming status. This is under situations where a non-conforming use is discontinued, has been destroyed, they have two years to restart the years.

  Mr. Rooker asked if that statutory rule applies to a sign.

  Ms. McCulley stated that less than 50% damage, then you maintain your non-conformity and you can replace what you had before.

  Ms. Hopper stated that with political signs on Entrance Corridors, since they do not require a building permit they are not subject to ARB review.

  Ms. McCulley stated that political signs are temporary signs that are not subject to a sign permit and are not subject to ARB review.

  Mr. Rieley asked if neon signs were prohibited. He noted that neon signs could be an attractive form of artwork.

Ms. McCulley stated that this is not new to this ordinance. She noted that in the past there was concern regarding high pressure and safety concerns.

Mr. Foster representing High Tech signs noted his concerns, some pertaining to the ordinance and some about signs in general. Neon signs are effective and are a work of art. Fiber optic signs would look like neon, but are banned in Albemarle County. There must be some logic in the sign ordinance and the approach to sign. Signs have a purpose to convey information. Signs are not necessarily a blot on the landscape. University studies show that a 32 square foot sign is a danger to the public. Studies prove that you can not read a sign, react to that information, and make a turn within 300 feet. The ARB has rules and regulations about how signs should appear these also conflict with what makes a sign readable. For instance, the ARB says that a sign should not have a white background. Therefore, colors on a white background look good in the daytime, but at night those same color appear on a black background because the background has to be opaque. He stated that the Planning Commission needs to get involved more in the practically of signs and making the ordinances sensible and the work of the ARB more logical and defensible.

ZTA-00-01 UREF Research Park, Inc. – An ordinance to allow certain signs to be erected in or over public road rights-of-way.

Jan Sprinkle pointed out that the Executive Summary recommends adoption of this zoning text amendment. However, this can not be done at this time as a Resolution of Intent must be adopted first. Staff has recommended that any sign be permitted in the right of way if VDOT will allow it and make them all by special permit.

Ms. Hopper moved for adoption of the Resolution of Intent. Mr. Rooker seconded the motion, which carried unanimously.

ZTA-00-02 Thomas Jefferson Memorial Foundation – Proposal to allow historic sites with accessory activities.

William Rieley disqualified himself from participation in this discussion.

Joan McDowell presented the staff report, noting that the Planning Commission on August 29, 2000 considered a zoning text amendment requested by the Thomas Jefferson Memorial Foundation, Inc. The Planning Commission approved a Resolution of Intent to amend Section 10.2 to expand permitted uses in the RA, Rural Area Districts to include historic property open to the public.

Mr. Rooker stated that he supports the resolution of intent.

Ms. Hopper asked if this would be unique to Monticello or to other historic sites in the surrounding area. She noted her concern regarding other historic sites.

Ms. McDowell stated that the resolution of intent is specific to Monticello because of its status as a National Historic Landmark and as a World Heritage Site.

Mr. Thomas asked if this would include Michie Tavern.

Ms. McDowell noted that other historic sights will be reviewed at a later date. This resolution applies only to Monticello. The benefits of having a new zoning district for Monticello would include:
Multiple land uses unique to Monticello could be included;
Setbacks could be customized;
The operation of a tourist and educational facility could be addressed;
Impacts not associated with typical rural uses could be addressed.

Mr. Rooker stated that more detail is needed for accurate review.

Ms. Hopper moved for approval of the resolution of intent. Mr. Rooker seconded the motion, which carried unanimously.

There being no further business, the meeting was adjourned at 800 p.m.

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V. Wayne Cilimberg, Secretary

Transcribed by Janice C. Farrar, Department of Planning & Community Development Assistant.