Albemarle County Planning Commission
January 12, 2010

The Albemarle County Planning Commission held a meeting, work session and public hearing on Tuesday, January 12, 2010, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Russell (Mac) Lafferty, Duane Zobrist, Vice-Chairman; Ed Smith, Thomas Loach, Chairman; Linda Porterfield, Don Franco and Calvin Morris. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Other officials present were Bill Fritz, Chief of Current Development; Judy Wiegand, Senior Planner; Rebecca Ragsdale, Senior Planner; Joan McDowell, Principal Planner; Wayne Cilimberg, Director of Planning and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Cilimberg, serving as temporary chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

Election of Officers: Chairman and Vice-Chairman:

Mr. Cilimberg opened nominations for the election of Chair of the Planning Commission for the upcoming year.

Mr. Morris nominated Tom Loach to be Chair.

Mr. Lafferty seconded the nomination.

Mr. Cilimberg asked if there were any other nominations. There being none, he closed the nominations and called for the vote.

The nomination of Tom Loach as Chair of the Planning Commission for 2010 carried by a vote of (6:0:1). (Mr. Loach abstained from voting for himself.)

Mr. Cilimberg turned the meeting over to Mr. Loach.

Mr. Loach welcomed the new members to the Planning Commission. He then asked for nominations for Vice Chair of the Planning Commission for the upcoming year.

Mr. Morris nominated Duane Zobrist to be Vice Chair.

Mr. Smith seconded the nomination.

Mr. Loach asked if there were any other nominations. There being none, he closed the nominations and called for the vote.

The nomination of Duane Zobrist as Vice Chair of the Planning Commission for 2010 carried by a vote of (6:0:1).

Set Meeting Time, Day, and Location for 2010 (Attached schedule memo)

Mr. Loach next asked for a motion to set the Commission's Meeting Time, Day, and Location for the upcoming year.

Mr. Cilimberg asked the Commission to endorse the schedule as indicated if the Commission finds that 6 p.m. on Tuesdays during the year is appropriate. The proposed schedule follows the basic approach used for last year's schedule.

Mr. Loach asked if there were any objections to the schedule as posted by staff.

Mr. Morris asked to emphasize that all other Tuesdays not scheduled be held in reserve in case additional meetings became necessary. He would hope that staff would not hesitate to use that fifth Tuesday.

Mr. Cilimberg noted that staff would notify the Commission well in advance if they needed to do that.

Motion: Mr. Lafferty moved and Mr. Morris seconded for approval of the schedule as posted by staff.

The motion passed by a vote of 7:0.

Adoption of Rules and Procedures: (Attached Rules)

Mr. Loach next asked for a motion to adopt the Commission's Rules of Procedure for the upcoming year. He noted that the Rules of Procedure had been distributed to the Commission.

Motion: Mr. Morris moved and Mr. Zobrist seconded to accept the Rules of Procedure for 2010 as outlined in the Planning Commission's packet.

The motion carried by a vote of (7:0).

Committee Reports:

Mr. Loach asked for committee reports from the Commissioners.

Mr. Morris reported that the Pantops Steering Committee meets on the 18th of January.

Mr. Loach reported that the Crozet Advisory Committee had been going through a series of master planning meetings leading up to the presentation of the master plan revisions before the Planning Commission and Board of Supervisors. Rebecca Ragsdale has been doing a great job with Elaine Echols in shepherding that through. That has been coming along quite nicely. There has not been a meeting lately of the Crozet Library Committee. Also, Max Lafferty has volunteered to take over the CHART Committee. He noted that there were some vacant committee assignments.

The Planning Commission discussed the vacant committee assignments and the following Commissioners agreed to accept the Committee assignments as noted below:

ACE Committee:
Duane Zobrist

CIP Technical Committee:
Don Franco

Charlottesville Albemarle Regional Transportation Advisory Committee (CHART):
Mac Lafferty

City/County/University Planning & Coordination Council (PACC Tech):
Mac Lafferty

Metropolitan Planning Organization (MPO) Tech Committee:
Duane Zobrist

University of Virginia Master Planning Council
Ed Smith

Motion: Mr. Morris moved and Mr. Zobrist seconded that the slate as previously stated be accepted.

The motion was unanimously approved.

Other Matters Not Listed on the Agenda from the Public:

Mr. Loach invited comment from the public on other matters not listed on the agenda.

Neil Williamson, Executive Director of Free Enterprise Forum, said that he attended many of the Planning Commission meetings and enjoyed the planning work that they do. He looks forward to working with each of the Commissioners this year. There is one housekeeping item for those that are tracking the meeting in the back and recording the meeting. The individual microphones sometimes light up, but the Commissioner cannot be heard. Sometimes if they rock back in the chair it makes it so that the folks can't be picked up on the microphones. So it would be helpful for everyone to have their microphones tilted forward when they speak.

There being no further comments, the meeting moved to the next item.

Review of Board of Supervisors meeting – January 6, 2010.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on January 6, 2010.

Consent Agenda:

Approval of minutes: March 11, 2008, August 19, 2008, November 18, 2008 & January 13, 2009

SDP-2009-00092 Wakefield Kennel – Waiver
The request is for a waiver of section 5.1.11.a to allow a residential lot line to be closer than 500 feet to an existing Kennel. A proposed family subdivision on the lot will result in a lot line that will be 270 feet from an existing Kennel. The property, described as Tax Map 31, Parcel 47 is 14.597 acres in size, and is located in the Whitehall Magisterial District on Wakefield Farm (Private) approximately 700 feet from the intersection of Earlysville Forest Drive (State Route 660) and Wakefield Farm (Private). The property is zoned RA (Rural Areas) and Airport Impact Area (AIA). The Comprehensive Plan designates this property as Rural Area in Rural Area 1. (Gerald Gatobu)

Mr. Loach asked if any Commissioner would like to pull an item from the consent agenda for further review.

Mr. Kamptner noted for the Commission's benefit recognizing the new members on the Commission regarding the approval of minutes, this is just a reminder that the Commission members do not have to have been on the Commission at the time or even attended the particular meeting in order to vote to approve the minutes.

Mr. Franco noted before moving forward that they started the practice last year of making sure that if anybody from the public was here to weigh in on that matter that the Commission would be willing to listen to them.

Mr. Loach asked if there was any member of the public present to speak on an item listed on the consent agenda. There being none, the matter was before the Planning Commission for action.

Motion: Ms. Porterfield moved and Mr. Morris seconded for approval of the consent agenda.

The motion carried by a vote of (7:0).

Mr. Loach noted the consent agenda was approved.

Items Requesting Deferral/Work session:

ZMA-2005-003 UVA Research Park-North Fork (Sign # 18). PROPOSAL: Request to rezone approximately 30.56 acres from RA Rural Area which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots) to PDIP Planned Development Industrial Park, which allows industrial and ancillary commercial and service uses and no residential uses), for 700,000 square feet of office and research use and 534 ± Acres to be rezoned from PDIP to PDIP to amend proffers and application plan associated with ZMA 1995-04. PROFFERS: Yes. EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Industrial Service- warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre). ENTRANCE CORRIDOR: Yes
LOCATION: on the north side of Airport Road (Route 649) approximately one third of a mile from the intersection of Airport Road and Route 29 North in the Community of Hollymead. TAX MAP/PARCEL: Tax Map 32 Parcels 18, 18a, and a portion of 6A requested to be rezoned from RA Rural Areas; Tax Map Parcels 32-18B, 19F, 19F1, 19G, 19H, 19H1, 19H2, 19J, 22B1 and 22B2 rezoned from PDIP to PDIP to amend proffers. MAGISTERIAL DISTRICT: Rio

AND

SP-2008-00015 (Concurrent with ZMA 05-03 UVA Research Park (formerly North Fork Research Park). PROPOSED: Parking Structure in PDIP Planned Development Industrial Park

AND

2008-00062 UVA Research Park-Laboratories, medical, Pharmaceutical (Concurrent with ZMA 05-03 UVA Research Park (formerly North Fork Research Park). PROPOSED: Allow laboratory uses in association with the UVA Research Park.

AND

2008-00063 UVA Research Park-Supporting Commercial Uses (Concurrent with ZMA 05-03 UVA Research Park (formerly North Fork Research Park). PROPOSED: Allow supporting commercial uses within the UVA Research Park, not to exceed a total of 110,000 square feet of floor area.

AND

2008-00064 UVA Research Park-Hotels, Motels, Inns (Concurrent with ZMA 05-03 UVA Research Park (formerly North Fork Research Park). PROPOSED: Allow motel, hotel or conference facilities within the UVA Research Park not to exceed 190,000 square feet of floor area.
(Rebecca Ragsdale)

Mr. Loach noted that this item was noted as an item requesting deferral/work session.

Mr. Cilimberg noted that these items were heard several months ago, but there was a problem at the time because there were parcels included in the applicant's request that did not actually have the signatures for them to be included. Staff's hope was to bring the requests back to the Commission for a new public hearing. Unfortunately, the parcel information still was not correct in the legal ad. Staff would like to use this opportunity tonight as a refresher on the project like a work session so that the Commission can answer any questions. They can defer this as the Chair's agenda suggests for an action February 2, 2010 as a public hearing that will be properly advertised. But, tonight the Commission can ask any questions. It is appropriate tonight for the applicant and public to speak. This will not hold up the hearing at the Board of Supervisors on February 2. The Commission may be able to take care of things tonight so to make it very quick on February 2.

Rebecca Ragsdale presented a Power-Point presentation and summarized the staff report.

This request was before the Planning Commission in January, 2006 for a work session. Then a public hearing was held in August, 2009 when the Planning Commission recommended approval. There have been some advertising issues. The requests are for a rezoning and several concurrent special use permits for the UVA Research Park to add about 30 acres to the existing Research Park. They are proposing to add some property they own that is zoned Rural Areas to the Planned Industrial Park Development to bring their grand total of square footage presented up to 3,700,000 with 3,000,000

permitted at this time. The additional area requested to be added to the Research Park is noted as Area D in the staff report. They are proposing similar uses. Staff would expect to see typical development that is already in the Research Park. The parcels to be added contain an existing home and some undeveloped land located along the Airport Road Corridor and around the existing Hollymead Fire Station. The property is currently zoned Rural Areas and is adjacent to the existing Research Park, which is zoned Planned Development Industrial Park. Area D is also adjacent to the west along Airport Road to parcels zoned Light Industrial. It is designated for Industrial Service in the Comprehensive Plan so that the rezoning requested is consistent with the existing Comprehensive Plan.

Staff reviewed the current Research Park and explained the portion to be added. The Research Park is not connected all the way through for the portion of what will be the future road connecting Airport Road and US 29. The portion of it on the Airport Road side is now called Innovation Drive. The applicant is seeking approval for similar uses already in the Research Park with three separate districts around the existing fire station. Staff reviewed the concept plan for how it meets the Neighborhood Model. Staff found that it does meet most of those Neighborhood Model principles regarding the building orientation, pedestrian circulation and the other 12 principles.

This rezoning involves the rest of the Research Park because they are consolidating the previously approved application plans and updating the whole set of proffers so there will be one application plan and one guiding set of proffers for what was rezoned in the '90's, what was rezoned when the fire station came in during recent years and then in this request for Area D to be added.

There are some updates and additional proffers that have been added with regard to references and technical aspects of things so that this new area is guided by the proffers. It increases the maximum allowable square footage to 3.7 million. There are additional transportation improvements, which she will review later. They have provided for an additional playing field and modified the landscaping and buffering requirements on the plan or the proffers so that interconnections and road improvement projects can be accomplished. They have added a proffer to document the historic structure, which is older than 50 years and on the existing property.

The new proffers on the transportation improvements provide for interconnections; clarify the requirements for the US 29 improvements that were approved with the original rezoning; clarify to what extent is needed with the corrections to the 29 Corridor with the improvements; updated the right-of-way acquisition language; and updated the proffers to indicate a higher level with the Level of Service standard for traffic studies where that is applicable in the proffers. One of the limitations in the proffers is that the new area, Area D, is limited to 180,000 square feet without that Lewis and Clark connector road all the way through from 29 to Airport Road. Those are the highlights of the new proffer changes.

The Commission reviewed this in August and has been in review with staff. The applicant has met all of the outstanding issues that have been raised. Staff does not have any unfavorable factors or changes at this time that staff finds are needed to the application. Staff found the request consistent with the Comprehensive Plan land use designation; that it meets some of the Economic Development Policy goals; provides for those additional interconnections and transportation improvements.

Staff wanted to provide the Commission the opportunity to ask any questions and the new members to have the benefit of the overview, but the ultimate action would be to defer it to the February 2 meeting to allow for correct advertising. Then it is scheduled to be heard by the Board of Supervisors on February 10. Staff recommends approval with the attached proffers. There are a couple other actions that will need to be taken at the public hearing to approve a modification to allow a setback reduction and then the approval recommended with the conditions for the special use permits for the parking structure, laboratories, supporting commercial uses and the hotel/motel/inn uses.

Mr. Loach invited questions for staff.

Mr. Lafferty asked if this is typical for the documentation for a project. This seems extensive.

Ms. Ragsdale replied yes.

There being no further questions, Mr. Loach opened the public comment and invited the applicant to address the Commission.

Ms. Valerie Long, representative for the applicant the University of Virginia Foundation, noted that Fred Missel with the Foundation is here as well this evening. They don't have a presentation other than to let the Commission know that they are here and happy to answer questions. She felt that Ms. Ragsdale had explained everything very well. She indicated that the project was last at the Commission in August. The Commission at that time granted a unanimous recommendation for approval. There have not been any issues in the interim. They have worked with staff to correct some of the issues that were outstanding. They have completed revisions to the proffers, which have been signed off on by the County Attorney. They have even obtained all of the signatures of all the owners and submitted those. They are looking forward to moving forward on this proposal.

Mr. Loach invited public comment. There being no public comment, the matter was before the Planning Commission for action.

Motion: Mr. Morris moved and Ms. Porterfield seconded for deferral of ZMA-2005-003, SP-2008-00015, SP-2008-00062, SP-2008-00063 and SP-2008-00064 to February 2, 2010.

The motion passed by a vote of 7:0.

Mr. Loach said that these requests would be heard by the Planning Commission on February 2, 2010.

Ms. Porterfield asked to set a procedure for the year on deferrals so that the Commission holds on to the packet information.

Mr. Cilimberg agreed and asked the Commissioners to save their packet information for the next meeting on February 2.

SP-2009-00024 Rockfish Wildlife Sanctuary
PROPOSED: special use permit to renovate existing barn for wildlife sanctuary; no residential units proposed. Waivers have been requested from Section 5.1.11 (a) and (c) requiring solid fencing and that animals be confined in an enclosed building between 10:00 p.m. and 6:00 a.m. ZONING CATEGORY/GENERAL USAGE: RA-Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre). SECTION: 10.2.2 (47) Animal Shelter. COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre). ENTRANCE CORRIDOR: No. LOCATION: Miller School; 1000 Samuel Miller Loop, Crozet; access off Dick Woods Road approximately 3500 feet from the intersection of Dick Woods Road and Miller School Road (Rt. 635).TAX MAP/PARCEL: TMP 07200000003200. MAGISTERIAL DISTRICT: Samuel Miller (Judy Wiegand)

Ms. Wiegand presented a Power-Point presentation and summarized the staff report.

- The purpose of this application for a special use permit is to permit the Wildlife Sanctuary, which currently operates out of a private home in Nelson County, to relocate to a three acre portion of the Miller School Campus. What the Wildlife Sanctuary does is basically take injured and orphaned birds and small mammals to rehabilitate them until they can be released into the wild. They presently find that more than one-half of the animals that they rescue come from Albemarle County. That is why they have been looking for a location in the County.
- Basically, staff from the sanctuary picks up the animal or bird when they are notified and brings it back to rehabilitate it and eventually it is released. These animals and birds would not be released on the campus of the Miller School, but either where they were picked up or on private property where the owner has given permission for the release.
- The proposed location is on the Miller School campus, which has approximately 1,047 acres. The proposed location is an old barn that would be renovated. The existing driveway will be fixed

up, but would remain gravel. The applicant proposes to construct an aviary for the birds and outdoor cages for the animals in addition to cages in the barn.

- Staff found four factors favorable to the application as outlined in the staff report. Staff found no unfavorable factors. Staff recommends approval of the special use permit subject to the conditions listed in the staff report. There are two waivers being requested from Sections 5.1.11(a) and (c)

Mr. Zobrist noted as a point of information that they would like to keep the animals in aviaries or chambers, but not in cages. For some reason people react when someone keeps animals in cages.

Ms. Wiegand said that some of these are larger ones, but the applicant can clarify it.

Mr. Loach asked if they need to add plus emergency hours to the operating hours of 7 a.m. to 7 p.m.

Ms. Wiegand replied that the normal operating hours are listed. She suggested that he ask the applicant about the emergency hours.

Mr. Loach asked if the gravel road would be significant enough for fire apparatus to get into there.

Ms. Wiegand replied yes. She noted that VDOT would also approve the entrance from Dick Woods Road. The applicant has requested two waivers from Section 5.1.11 Commercial Kennel, Veterinary Service, Office or Hospital, Animal Hospital, Animal Shelter. The proposed use comes under the supplemental uses for animal shelter. The waivers requested are as follows:

(a) Except where animals are confined in soundproofed, air-conditioned buildings, no structure or area occupied by animals shall be closer than five hundred (500) feet to any agricultural or residential lot line. Because this barn is located over 1,200' from the nearest lot line that particular part is not a problem. For non-soundproofed animal confinements, an external solid fence not less than six (6) feet in height shall be located within fifty (50) feet of the animal confinement and shall be composed of concrete block, brick, or other material approved by the zoning administrator. The applicant has given two reasons that they don't believe that is necessary or appropriate, which is noted in the staff report. Staff recommends approval of this waiver because they don't believe that this is going to be a problem for any of the neighbors since it is so far away and it is small animals and birds.

(b) The second requested waiver is regarding, "In all cases, animals shall be confined in an enclosed building form 10:00 p.m. to 6:00 a.m." The applicant has provided a similar justification for not having those hours as noted in the staff report. In this case they would like to have the animals once they are past their initial period of recovery and they are getting ready to release them to be outside 24 hours a day so to become accustomed to being outdoors and in the natural environment they will be going back into. They would like to have the animals moved from the barn to the cages, chambers or aviary outside. The applicant does not feel that there would be any problem for any of the neighbors because of the distance. Staff also recommends approval of this waiver. The applicant is present and can answer any questions.

Mr. Loach invited questions for staff.

Mr. Morris asked if the applicant has been in contact with Miller School. It seems to be a win/win situation for the two.

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

Patty Wallins, a member of the Board of Directors of The Rockfish Wildlife Sanctuary, said that they have worked very closely with Miller School to come up with a contract that would clarify what their responsibilities and relationship with the school would be. She would be glad to answer any questions. Nathou Attinger, Director of The Rockfish Wildlife Sanctuary, has laryngitis and could whisper things that she could pass on if there were questions

Mr. Smith asked when they planned to be in operation.

Ms. Wallins replied that as soon as they can get the special use permit then they can start raising the money to renovate the barn. Their hope would be that within a year or eighteen months to be ready to start operation

Mr. Loach asked if they need to be there other than during the normal operating hours for emergencies.

Ms. Wallins replied no, that their staffing hours are from 7 a.m. to 7 p.m. That is the way it would be operated.

Ms. Monteith asked if there would be any educational relationship between Miller School and the Wildlife Sanctuary.

Ms. Wallins replied that as things develop there will be. But at this point all they would be doing is renovating the barn to be able to move into it. They will be coming back with the next phase, which is to develop an education center. Then they would be working very closely with Miller School, which is their long term goal.

Mr. Loach invited public comment. There being none, the public hearing was closed and the matter brought back before the Planning Commission.

Motion for Special Use Permit:

Motion: Mr. Morris moved and Ms. Porterfield seconded the motion for approval of SP-2009-00024, Rockfish Wildlife Sanctuary subject to the conditions as set forth in the staff report, as amended, to change the reference to cages to chambers.

1. Development of the use shall be in substantial accord with the concept plan entitled "Rockfish Sanctuary, Inc. Concept Plan," prepared by Jill Trischman-Marks, Landscape Architect, and dated August 18, 2009, (hereinafter, the "Concept Plan") as determined by the Director of Planning and the zoning Administrator. To be in accord with the Concept Plan, the development shall reflect the following major elements within the development essential to the design of the development:
   - Cages, chambers, and aviary located within the three-acre site
   - Structures limited to the renovated barn and the aviary
   - Limit of three parking spaces

   As shown on the Concept Plan. Minor modifications to the Plan that do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.
2. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval.
3. The hours of operation shall not begin earlier than 7:00 a.m. and shall end not later than 7:00 pm each day, seven days per week.
4. All animals being treated must be kept within the barn or the three- (3-) acre area around the barn that is leased to the Rockfish Wildlife Sanctuary, as shown in Attachment C.
5. There shall be no more than two (2) employees on the site at any time.
6. There shall be no visitors to the Wildlife Sanctuary.
7. Renovation of the barn shall commence on or before twenty-four (24) months from the date of approval by the Board of Supervisors or this special use permit shall expire.
8. Compliance with the Virginia State Department of Health regarding water supply shall be verified by the Health Department prior to issuance of a zoni8ng compliance clearance and the commencement of the special use.
9. Compliance with the Virginia State Department of Health regarding septic systems shall be verified by the Health Department prior to issuance of a zoning compliance clearance and the commencement of the special use.
10. Approval of Waivers from Sections 5.1.11 (a) and (c) shall be required.
11. In order to maintain the driveway within the right-of-way on Route 637, the applicant shall obtain a

Land Use Permit from the Virginia Department of Transportation.

Mr. Loach suggested that an asterisk be added explaining what chambers means.

The motion was passed by a vote of 7:0.

Motion for Two Waivers:

Motion: Mr. Zobrist moved and Mr. Morris seconded to approve the two waivers from Sections 5.1.11(a) and 5.1.11(c) for SP-2009-00024, Rockfish Wildlife Sanctuary as proposed by staff.

The motion passed by a vote of 7:0.

Mr. Loach noted that SP-2009-00024 Rockfish Wildlife Sanctuary would go before the Board of Supervisors on March 10, 2010 with a recommendation for approval. The two waivers were approved, as follows:

(a) Except where animals are confined in soundproofed, air-conditioned buildings, no structure or area occupied by animals shall be closer than five hundred (500) feet to any agricultural or residential lot line. For non-soundproofed animal confinements, an external solid fence not less than six (6) feet in height shall be located within fifty (50) feet of the animal confinement and shall be composed of concrete block, brick, or other material approved by the zoning administrator.

(b) In all cases, animals shall be confined in an enclosed building form 10:00 p.m. to 6:00 a.m.

ZMA-2009-0003 North Hill
PROPOSAL: Rezone .69 acres from HC Highway Commercial zoning district which allows commercial and service uses; and residential use by special use permit (15 units/ acre) to RA Rural Areas which allows agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); HC zone approved by a conditional rezoning ZMA 87-16. PROFFERS: No
EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/ acre in development lots). ENTRANCE CORRIDOR: Yes. LOCATION: 2042 North Hill / east side of Richmond Rd. (Rt. 250) at Inn Dr. / approximately 230 ft. south of I 64 eastbound onramp
TAX MAP/PARCEL: 07800000003400. MAGISTERIAL DISTRICT: Scottsville (Joan McDowell)

Ms. McDowell presented a Power-Point presentation and summarized the staff report. (See Staff Report)

- This is a request to rezone a .69 acre undeveloped parcel from Highway Commercial (HC) to Rural Areas (RA). The RA District would be consistent with the Comprehensive Plan.
- In 1987, the property was rezoned from Rural Area to Highway Commercial for the expansion of the Quality Inn, which is now the Comfort Inn. The expansion included a multi-level parking garage and to have a middle level with quite a number of things including shops and facilities for fitness. On the subject parcel they had agreed to have overflow parking, a pond, and landscaping. But the motel expansion has never been pursued.
- In 2007, the Planning Commission and Board of Supervisors considered a rezoning application for the property across the street from the subject property. That applicant was pursuing rezoning Rural Areas to Highway Commercial, but it was denied by the Board of Supervisors for basically the reasons as listed in the staff report. It was inconsistent with the Comprehensive Plan and it would generate traffic above that normally anticipated in the Rural Areas. There was no identified public need. The property is located at the gateway of the Southern Albemarle Historic District.
- Specifics on the Proposal: This parcel is restricted from future development because of the proffers that were approved with the previous rezoning ZMA 87-16 for the proposed motel expansion, which included “parking, landscaping, buffering, and other landscape improvements.” The rezoning would remove the proffers on this particular parcel and it could

go back to Rural Areas uses. The applicant intends to sell the property eventually and perhaps have a single-family residence built on the parcel.

- The Comprehensive Plan land use designation for this area is Rural Areas. Approval of this rezoning application to change the parcel from HC to RA would be consistent with the Comprehensive Plan. Again, it would remove the proffers planned for urban uses on Route 250 towards Shadwell.
- Following the 1988 rezoning, future Interchange Development was considered during the development of the Land Use Plan. The adopted *Land Use Plan for Interchange Development* section of the Comprehensive Plan states that "Because Interstate-64 is a limited access highway; its interchanges may be a focus for development activities. To accommodate appropriate land uses in the vicinity of interstate interchanges, while maintaining the safety and functional and aesthetic integrity of such interchanges, the standards and policies set forth below are recommended." The Plan further states that urban uses at Route 250 East (Shadwell**)** should be developed on the Urban Area side only. Therefore, the Plan has determined that the south side of the I-64 / Rt. 250 interchange is not to be a focus of development activities.
- In addition, the Pantops Master Plan has not recommended that this portion of the interchange be incorporated into the Development Areas.
- Staff recommends approval of ZMA-2009-0003 North Hill Based on the findings in the staff report. There were no unfavorable factors. No proffers have been offered or are deemed necessary to address impacts of the rezoning.

Mr. Loach invited questions for staff. There being none, he opened the public hearing and invited the applicant to come forward and address the Planning Commission.

Delores Wallace, property owner, said that they would like to have the property put back to Rural Areas because of the taxes and because it has so many stipulations to sell it as a commercial property. The property is not big enough to put anything on or to do anything with it. They can't meet all of recommendations or the criteria that is needed for it. Therefore, they would like to have the property be rezoned back to rural like it was in the beginning.

Mr. Loach invited questions for the applicant.

Ms. Porterfield asked if she has considered trying to rezone the property to lift the proffers off of the property and then sell as a commercial property.

Ms. McDowell noted in other words to leave it zoned Highway Commercial but rezone the property to lift the proffers. Then they would not be encumbered with proffers.

Ms. Wallace replied that she thought that James Quarles, their real estate person, tried to do it and they were told that they could not build anything on the property like a gas station or other commercial use.

Ms. Porterfield noted that they would have trouble selling right now because of the proffers that are on the property. This property is located in her district. Ever since she saw this request, she has been trying to figure out if there is something that the Commission can do. This is a tough piece of property for a lot of reasons. Because of the proffers on the property, it makes it difficult to market the property as Highway Commercial. It might be better marketed if the property was rezoned to get the proffers off of it. The property to the west and on the top of the hill as well as properties across the street are zoned Highway Commercial. The owner of the property to the east came in for a rezoning two years ago. The only piece that seems content being rural is the house behind, which they own.

Ms. Wallace pointed out that everything else is zoned rural toward the east.

Ms. Porterfield questioned if anyone has suggested these possibilities to them rather than going through this rezoning at this point.

Mr. Morris asked if she owned the home directly to the north back between the subject property and the hotel.

Ms. Wallace replied yes that they own lot 33.

Mr. Loach invited public comment. There being none, the public hearing was closed and the matter before the Planning Commission.

Mr. Cilimberg said it was worth noting that the size of this parcel without the proffers still would present setback challenges for them. Those are things that cannot be changed in a rezoning because it is a conventional district, which would require them to get a zoning variance.

Ms. Porterfield pointed out that the problem with this corner is that it has a lot of old zoning on it. It is truly not rural and is commercial. The lower portion runs all the way out through the Jarman's Motorcycle Store. The gentleman that owns the parcel that is just to the east of this came in when she was very new on the Planning Commission and wanted to rezone the property to have a storage area on it. It was discussed here and actually there was some support for rezoning it. Personally, she was not in favor in that instance because she really opposes spot rezoning and wanted to see if they could bring some more parcels into it. That whole area needs work. They had someone else come in a little later that year with the thought of putting an indoor soccer arena across the street. There was talk about the possibility of a hotel on that side. So there is interest in that area because transportation is facilitated by the interchange. Currently it is rural according to the Master Plan. They also have the interchange section of the Master Plan. As she understands, the Board of Supervisors is now going to take a look at the I-64 Corridor running all the way from Crozet through the Shadwell Interchange and possibly over a little farther to the east. She sympathized with the family, but was not ready to rezone this property to rural. She did not see the use for it on that corner because of what else is there. She would rather see them try to solve the problem with the corner to make the corner work for the County of Albemarle because it is easily accessible. The road already exists and is being paid for by our federal taxes. She moved for denial of this application based on that.

Mr. Loach questioned even if the proffers were removed what the potential would be for commercial development on this property.

Ms. McDowell replied as Mr. Cilimberg mentioned that she did not believe it could meet all the setbacks under the HC zone. The application would need a variance for setbacks and would have to go to the Board of Zoning Appeals.

Ms. Porterfield pointed out that the property to the west is on the market and already has a for sale sign on it. She suggested that if the two properties were combined there was a good possibility of doing something there. The Planning Commission received an email from the property owner to the east who would like to not see this property rezoned because he would probably combine his property and see if something could be done with it that was more useful. The property is located right on 250 coming into the stop lights. That condition of the area is going to only get continually worse.

Mr. Zobrist noted that obviously if someone wants to do an assembly job there it seemed that is a heavy burden to have that heavily an assessed piece of land out there that these people can't use that they have to pay taxes on. He knows the County needs taxes, but at what cost. Obviously, if this is zoned back to rural and somebody comes out and does an assembly it can always be rezoned back up again. He has great respect for staff's decision on this one. Staff has looked at the request and understands the fiscal impact on it. He worried about the fiscal impacts on families. These people look to all be retirees and they have to maintain the taxes on a piece of land they can't do anything with. He moved to approve the change in zoning.

Mr. Franco seconded the motion for approval.

Mr. Loach noted that there was already a motion for denial on the floor. He asked if there was a second to the motion for denial. There being no second, the motion for denial died for the lack of a second.

Motion: Mr. Zobrist moved and Mr. Franco seconded to recommend approval of ZMA-2009-00003 North Hill as recommended by staff.

The motion passed by a vote of 6:1. (Porterfield nay)

Mr. Loach noted that ZMA-2009-00003 North Hill would go before the Board of Supervisors on March 3, 2010 with a recommendation for approval.

STA-2009-00001 Division of Land with Existing Dwellings
Division of parcels that have multiple existing dwellings – Amend Secs. 14-316, Approval of entrance onto public streets, 14-400, Minimum lot requirements, 14-403, Lot frontage, and 14-404, Lot location to allow access from lot onto street or shared driveway, of Chapter 14, Subdivision of Land, of the Albemarle County Code. This ordinance would amend sections 14-316, 14-400, 14-403 and 14-404 to permit the division of parcels on which multiple dwellings exist as of a date specified in the ordinance without satisfying otherwise applicable street frontage requirements. The full text of the ordinance is available for examination by the public in the offices of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Bill Fritz)

AND

ZTA-2009-00020 Regulating Construction of Multiple Dwellings on a Single Parcel
Site plan required for multiple dwellings on single parcel. Amend Sec. 18-32.2, When site plan is required; waiver of drawing of site plan, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend section 18-32.2 to require a site plan when two or more dwellings are proposed on a single parcel where that parcel does not have public street frontage. The full text of the ordinance is available for examination by the public in the offices of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Bill Fritz)

Mr. Fritz presented a Power-Point presentation and summarized the executive summary for ZTA-2009 - 20 Regulating the construction of multiple dwellings on a single parcel and STA 2009-01 Division of land with multiple parcels. (See Executive Summary)

- The proposal is to amend the subdivision ordinance to allow division of land where multiple dwellings currently exist without requiring frontage or street approval. Also, it would be to limit the construction of multiple dwellings on existing lots unless the lot has public street frontage.

- There are two items before the Planning Commission being a zoning text amendment and a subdivision text amendment. He explained how they got to where they are and what the proposed language is. The current regulations are such that when there is an existing driveway, which is not a private street and just an old driveway that existed for many years, and when it crosses a property to go back to serve another property and that property wants to divide staff has now determined that they actually need the approval of all of the property owners that road crosses before it can be turned into a private street. For many years they were not doing that. Staff has determined that is an incorrect interpretation of the ordinance. They were allowing that driveway to be converted to a private street across other people's property without their consent. Staff determined that was an error. Now all subdivision in that situation have to get the approval of all of the property owners that road crosses. So one person could say no and it all stops.

- Staff has been applying this section of the ordinance for a while. That driveway has an existing entrance onto the State road. VDOT approval is required for that entrance even if there is no increase in the number of dwelling units because the ordinance says VDOT approval is required. So if it is a substandard entrance right now and has been for years that entrance would have to be upgraded and the subdivider may not have the ability to do that.

- He explained a real world example, which is the cause of this proposed zoning and subdivision text amendment. The parcel highlighted in red has two houses on it. Break Heart Road is not a private street or a public street. It is just an old driveway that has existed for years. It has an existing entrance onto Slam Gate Road. That red parcel wanted to divide so that each of the

houses was on a parcel, which was proposed as a family division. The father wanted to give to his daughter. Break Heart Road would have to become a private street, which would require the approval of Tax Map/Parcels 26-21, 19, 52, and 41B. In addition it would require the entrance at Slam Gate to be upgraded. That would involve activity on the property, parcel 52, and that property owner was not willing to grant the easement. The owner was willing to let the work happen, but not grant the easement. Staff denied the subdivision because it did not have VDOT. There was no change in the number of dwellings and everything was going to stay the same. They were simply going to place a property line there. That denial was appealed to the Board of Supervisors. The Board of Supervisors could not approve the subdivision because it did not meet the ordinance. VDOT approval was required and they did not have it. The proposal could not be approved no matter how much the Board wanted to. What the Board could do was to instruct staff to come up with some options that would allow the division to occur. Staff did that and went to a work session with the Board of Supervisors on November 4, 2009. Staff outlines a couple of different scenarios. On December 2 the Board adopted a resolution of intent to amend the ordinance. That is what is before the Planning Commission today.

- The first thing proposed is to revise the ordinance so that only one dwelling per lot is permitted unless the lot has public street frontage or they get a site plan approved. This will not decrease nor increase the number of dwellings that are permitted in the rural areas. It has no effect on the number of dwellings permitted in the rural areas. It prevents a situation from occurring like the one he just described so they could not get into that situation. They would either have to subdivide the property in order to build the second dwelling or they would have to go through the site plan review process. During the site plan review process staff would analysis whether that road could be converted into a private street and whether the entrance was adequate. So it does not allow that situation to occur. The review would occur first to prevent it from happening.

- The second part of the solution was to revise the Subdivision Ordinance recognizing that there are many lots out there that have multiple dwellings, just as described, on old driveways that don't have private street frontage. In essence, what they are saying are that those lots can divide so if they have multiple dwellings so that they could divide so that each dwelling is on its own lot without regard to private or public street frontage, without getting private street approval, and without getting VDOT approval. The logic there is there are two dwelling units on the property right now and you can divide that so to have two lots with one dwelling each. They are just recognizing the impact that exists, but allowing what could be rented to be sold.

- Staff is recommending adoption of the ordinances before them. The date that the Board of Supervisors instructed staff to work with was October 14, 2009. The Board held a meeting on that date and wanted that to be the date by which it was determined that the multiple dwellings had to exist.

- What this is being likened to is that there are a lot of horses that have gotten out of the barn. They have authorized, issued the permits and certificate of occupancies through no fault of the applicants and owners to put multiple dwellings on properties or land that could not be divided that they did not have the control of the division. Those horses are gone. They have gotten out of the barn and are long gone. What they are saying is let's forget about those and allow those to run free, but they were going to close the barn door and not allow those to occur any more. The Subdivision Ordinance would and the Zoning Ordinance amendment allows it not to happen in the future. That is the best analogy that staff can come up with.

- There are two changes proposed. One change in the Zoning Ordinance was recommended by Ms. Porterfield to change the word "and" to "or". The second change will be described by Mr. Kamptner.

Mr. Kamptner noted a typo in Section 14-400 in the third line the word "width" should be "where". That makes the language consistent with the other sections.

Mr. Fritz noted that this is a fairly complex description of what is going on. In essence, the Board of Supervisors directed staff to correct what they saw was a problem with the ordinance. The land use impacts of a rental or for sale unit are identical. No change in access or number of units occurs. Therefore, staff is recommending that the ordinance be permitted to allow the division of property having two (2) or more dwellings as of October 14, 2009 without requiring frontage, and/or VDOT approval. These amendments will allow for the division of property that has already been developed without creating any additional impacts. The amendments will also require that the construction of multiple dwellings on a single parcel takes into account the potential impacts generated by the additional dwellings. The proposal is written to recognize development that exists, but not facilitate new development.

Mr. Loach invited questions for staff.

Ms. Monteith noted that in a sense things that came before this 2009 date were grandfathered in essentially, but was not the terms staff wants to use.

Mr. Fritz replied that she had the correct idea. If someone had two or more dwellings before October 14, 2009 they could divide the property without having to pay any attention to street frontage, to getting private street approval or VDOT approval. The logic is that the road and entrance is already being used with existing traffic going up and down the road. The road does not care if that person driving on the road is a renter or owner. It is still a vehicle going up and down that road.

Ms. Monteith said in the particular case on Break Heart Road she did not understand because staff started by saying that it was not a public or private road. She wondered if what they were discussing was going to help them.

Mr. Fritz replied that it does because it actually solves their problem. Break Heart Road is not a private street. If Break Heart Road had been a private street, they would not be here because the owner would have been able to divide. Once a private street is approved no further approval by the Planning Commission is required for division on a private street. However, because Break Heart Road is not a private street the division of parcel 42 would require those lots to get frontage. The only way to get frontage is on a private or public street. They would have to authorize Break Heart Road as a private street under the ordinance as written today with all of the various property owners agreeing to have it convert to a private street. Right now Break Heart Road is just a private agreement or driveway. There is no word for it.

Mr. Zobrist noted that it would probably be a prescriptive easement.

Mr. Fritz said that the ordinance does not recognize it. Parcel 42 is nonconforming and has no frontage. Therefore it cannot be subdivided according to the current ordinance. They are writing the ordinance so it can be subdivided, but only into two lots.

Ms. Monteith noted that first they would pass the ordinance as discussed tonight. Secondly, they would have to make that officially a private street.

Mr. Fritz replied no, that the whole purpose of this ordinance amendment is that they don't have to make it a private street. The ordinance right now requires that they have to get private street approval.

Mr. Kamptner said that this ordinance creates a very narrow exception for this one particular circumstance.

Mr. Fritz pointed out that the ordinance is written backwards as to when a site plan is required.

Mr. Kamptner noted that section predates all of us. Staff will correct that and a number of other changes.

Mr. Fritz explained regarding just single-family detached dwellings that the ordinance right now says one can have two single-family detached dwellings on a property just by getting a building permit provided

having adequate acreage, etc. For three or more it would require a site plan. The section they are dealing with is the site plan section. The proposal in the ordinance would say if they have public street frontage the rules are changing so to put two dwellings on it. The reason is that they don't feel there is any need to put additional regulations on it.

Mr. Zobrist noted that there was a possibility of eliminating some development rights will work, too, when they split these off. He pointed out that he had been looking at other similar properties with a lot of development rights. Potentially they could put more houses on them and rent them.

Mr. Fritz said that it may reduce their ability to use them. They could get the first two houses, but after the third house it requires a site plan. It is lowering the threshold from two to one.

Mr. Zobrist noted that there are a lot more of those situations with multiple dwellings than they know of and a lot of people would likely divide those. He thought it was a great idea because a lot of those development rights will disappear.

Mr. Loach invited public comment. There being none, the public hearing was closed and the matter brought back before the Planning Commission.

Mr. Kamptner noted that the Commission needed to take two separate actions.

Mr. Morris asked Mr. Wyant if he had anything to add.

Mr. Wyant, owner of parcel 42, said that he would be happy to answer questions.

Mr. Fritz thanked Mr. Wyant, who owned that property, for his assistance in the County's initiative. Mr. Wyant went before the Board of Supervisors with an appeal. He appreciated Mr. Wyant working with staff and putting up with the time lines.

Motion for STA-2009-00001:

Motion: Ms. Porterfield moved and Mr. Lafferty seconded to forward a recommendation of approval for adoption of STA-2009-00001, Division of Land with Existing Dwellings, as presented and edited.

The motion passed by a vote of 7:0.

Motion for ZTA-2009-00020:

Motion: Ms. Porterfield moved and Mr. Morris seconded to forward a recommendation of approval of ZTA-2009-00020 Regulating Construction of Multiple Dwellings on a Single Parcel as presented by staff and edited.

The motion passed by a vote of 7:0.

Mr. Loach noted that ZTA-2009-00020 and STA-2009-00001 would be forwarded to the Board of Supervisors with a recommendation for approval to a date to be determined.

Old Business

Mr. Loach asked if there was any old business.

- Request by Planning Commission to ask the Board of Supervisors to support the Commission switching from detailed minutes to summary minutes with two exceptions: 1) Detailed minutes would be prepared if a commissioner asked for it to be done on a specific topic and 2) Detailed minutes would be prepared when a vote was not unanimous.
- Brian Wheeler, Executive Director of Charlottesville Tomorrow, said that he was speaking on behalf of many organizations in the community that do benefit from the Commission's detailed minutes. If it

is the Commission's pleasure to make a change of practice he would encourage them to give public notice that they are intending to do that. There may be other members of the public who would like to give some feedback about that. As a member of the Albemarle County School Board he has been involved in this discussion on whether there should be detailed versus summary minutes. In fact, the Board of Supervisors had that same discussion within the past two years and decided to keep detailed minutes. The Albemarle County School Board has kept detailed minutes going. If the Commission shows a different approach that would be out of step with two other elected bodies. He has heard a number of Supervisors over the years go through those minutes in detail and pull out comments and use them in their review of the Commission's recommendations. So he was not expressing an opinion on behalf of Charlottesville Tomorrow one way or the other in favor of summary versus detailed minutes. But he would just encourage the Planning Commission to give that some thought and give the public an opportunity to weigh in on that.

- Staff will forward the Commission's request to the Board of Supervisors.

There being no further old business, the meeting proceeded.

New Business

Mr. Strucko asked if there was any new business.

- Mr. Zobrist will not be at next week's meeting and may be gone for up to 6 weeks.

There being no further business, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 7:36 p.m. to the Tuesday, January 19, 2009 meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

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