

**Albemarle County Planning Commission  
FINAL Minutes October 5, 2021**

The Albemarle County Planning Commission held a public hearing on Tuesday, October 5, 2021 at 6:00 p.m.

Members attending were Julian Bivins, Chair; Karen Firehock, Vice-Chair; Rick Randolph; Daniel Bailey; Corey Clayborne; Jennie More; Tim Keller; and Luis Carrazana, UVA representative.

Members absent: None.

Other officials present were Bart Svoboda; Francis MacCall; Lea Brumfield; Andy Herrick, County Attorney's Office; and Carolyn Shaffer, Clerk to the Planning Commission.

**Call to Order and Establish Quorum**

Mr. Bivins said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster." He said opportunities for the public to access and participate in the electronic meeting will be posted at [www.albemarle.org/community/county-calendar](http://www.albemarle.org/community/county-calendar) when available.

After Ms. Shaffer called the roll, Mr. Bivins established a quorum.

**Other Matters Not Listed on the Agenda from the Public**

There were none.

**Consent Agenda**

There were no items on the consent agenda.

**Public Hearings**

**ZTA202100003 Public Hearing on Zoning Text Amendment to Condense and Clarify Bonus Density Provisions**

Ms. Lea Brumfield reported that the bonus densities cleanup zoning text amendment serves as one of the first steps in the zoning modernization planned for the work program. She stated that this type of ZTA cleanup work has been done over the last few years, with several brought to the Commission previously. She explained that they are trying to make the ordinance easier to read and understand as they plan for recodification and a larger public engagement process.

Ms. Brumfield stated that this ZTA was outlined in the 2020 Work Program under the zoning modernization initiative, and they've been gaining momentum with this work. She noted that on September 28, Principal Planner Rebecca Ragsdale brought the special exceptions and waivers cleanup to the Commission, which was Initiative A under zoning modernization. She explained that this particular ZTA is part one of the bonus densities cleanup Initiative D, and as they work further with Housing Planner Stacy Pethia, they will bring back part two of Initiative D, which covers implementing the housing policy bonus—incorporating strategies and new initiatives from the housing policy, including new ideas. She noted that before they tackle the big changes, they want to look at fixes that address inconsistencies and make the ordinance clearer and simpler to

read.

Ms. Brumfield reported that the ZTA does not actually update the housing density bonus regulations, except for in the case of inconsistencies; the ZTA is part of a larger push within the zoning modernization initiative, which reaches the County's housing goals, including priorities for affordable and workforce housing. She said as they are preparing regulations for future work, they anticipate future public engagement on bonus densities to be much smoother than it would otherwise be. She stated that people would have an easier time understanding the existing regulations, and therefore the discussions to changes in regulations would be more productive, towards our housing goals in the comp plan and Albemarle County housing policy.

Ms. Brumfield stated that on August 18, the Board adopted a resolution of intent to amend the bonus density regulations to eliminate repetitive text, eliminate bonuses already required, and consolidate and reduce inconsistencies. She said they are tentatively scheduled for a December 15 Board of Supervisors public hearing on this item, and staff would be bringing the Commission's regulation forward. She said that following anticipated adoption of the ZTA, staff would begin working on part two of Initiative D, which is the actual amendment of bonus density regulations, bringing in the affordable housing policy and Housing Albemarle.

Ms. Brumfield summarized that the biggest, most visible change is reformatting the regulations and the tables, removing repetitive text from each district, and moving that into section four, so they only spell out the regulations once instead of every single time. She said they are also creating consistency between the districts, with the change there being affordable housing used to qualify for the bonus density maintained for 10 years in all districts versus five in Village Residential, and allowing a 50% maximum bonus in all districts total, with a 33% increase in R15. She stated they are also using the same standard language for each district, and there were previously minor differences in terminologies that didn't impact the regulations themselves.

Ms. Brumfield reported that they are also removing inconsistent or already required regulations, removing the potential bonus for non-interconnected streets, focusing on subdivisions with a lot of cul-de-sac streets, which are not permitted per subdivision regulations; interconnectivity is required both within and to external streets. She explained that additionally, they require street trees in the County, so they cannot provide a bonus for providing street trees if they are already requiring it.

Ms. Brumfield stated that the next step will be bonus densities update part two, with Albemarle housing policy initiatives, and they are also looking at the ZTAs with setback regulations and land use clarifications, which will both be more public engagement-intensive ZTAs in 2022.

Ms. More said that Attachment B, #5 says, "Adjust a maximum bonus to 150% for R15 consistency," and then it goes on to say that other districts are 50%. She stated that she had been confused until this presentation, which said 50% like the others.

Ms. Brumfield responded that the total density is 150%, and the bonus is 50%. She said the actual ordinance is just the 50%. She noted that 150% of 10 is 15, so that would be the total amount allowed.

Ms. More asked how gross versus net density was being calculated and whether the achievable increase still applied.

Ms. Brumfield responded that the actual zoning ordinance does not deal with net versus gross, that's only in the comp plan for bonus densities, so they are only concerned with the gross density.

Ms. More asked if there was a cap, as she thought about properties in Crozet, for example, that are six by-right; when they do the calculations for that, they can take constrained land and add those units available that can't be built on constrained land onto the buildable land—so they could have 135 units on less than 4.5 acres, because it's not a rezoning. She said she wondered if they are making a calculation like that for a project that is going by-right, which in this case would be R6, and they are calculating density that way, whether there would be a cap on it or if the developer would say they should be able to get more because of things already required.

Ms. Brumfield responded that there is no cap based on net density; it is the 50% increase. She explained that in the R6, they could get the additional three units per acre maximum—regardless of anything else. She said the comp plan calculations for the recommended density don't play into the bonus densities that are awarded by meeting these regulations in the zoning ordinance, and they are separate regulations. She emphasized that the comp plan recommendations really only come into play when they're looking at rezonings or another legislative action; anything administrative wouldn't necessarily look at the comp plan, although staff will make recommendations if there's something they can comment on.

Ms. More commented that Ms. Brumfield's explanation indicates that the ZTA wouldn't address a scenario like that, but generally speaking, it's very confusing for people who live around properties to understand what could possibly happen there, even if they're somewhat paying attention. She said if there is a situation where there can be six units per acre, a person wouldn't imagine that it could be multiple acres in the floodplain and a smaller amount that can be built on—so it turns out to be something dense, with the possibility that more can be added. Ms. More stated that this is all without a legislative review, so that leaves people who are watching and wondering feeling even more confused about what can happen around them.

Ms. More added that she appreciates the cleanup approach, and while someone wouldn't get a bonus for that because it's being asked for elsewhere, but perhaps there could be bonuses for street trees as there may already be for leaving mature trees. She said that they may need to clarify the appropriate trees that fall under "street trees," as well as indicating what a property would look like after a ton of mature trees were removed and sometimes could have been avoided. She said that she wondered if they should incentivize that now, or if they don't, whether that was something they would consider moving forward.

Ms. Brumfield responded that she would be keeping a running list of all the things they're contemplating with the bonuses as they're moving forward, and they would be revisiting the tree aspects. She said that hopefully in the next ZTA that talks about bonus densities, they can look at more in-depth incentives, such as keeping mature trees, stormwater management, retention ponds, and the kinds of things that weren't automatically included.

Mr. Randolph stated that the staff comment section was very well done, and he wanted to focus on Item V on Page 3 of the staff report summary. He said that staff elucidates below the point regarding "Demand for future land development may impose pressures on sloped land that will be incompatible with stream health performance design standards of the ZTA." He stated that he is concerned that the generalist can read this and basically say that what's proposed will weaken the County's water protection ordinance. He said that he didn't think that's what staff intended, but they are leaving it open to interpretation that what they are proposing would trump the water

protection ordinance, which could lead to negative implications for stream health. He asked Ms. Brumfield to comment.

Ms. Brumfield responded that staff was looking in general at the fact that anytime they are incentivizing additional development, it can cause implications for sensitive land—and they need to admit that anytime they are looking at development, that is a reality of something that can happen. She emphasized that this didn't overwhelm the positives of incentivizing any other development that is focused in the development areas and opportunity areas, and they are trying to minimize impacts on sensitive lands by keeping them there instead of spreading throughout the County. She said that it could theoretically impose pressure on sensitive land, but that's not something they think is a large enough impact to cause staff to not recommend this.

Mr. Randolph stated that the problem is when looking at sloped land and putting a thousand cuts into it, the sloped land dies, and while they may not be using major earth-moving equipment and performing wholesale changes, those cuts can affect the way a stream watershed operates.

Mr. Keller expressed his appreciation to Ms. Brumfield and staff for these cleanup versions and the thought that goes into the organizational framework. Mr. Keller noted that in the paragraph under background, the second paragraph that addresses changes since 1985, it says "...even in the Development Area, to goals related to walkability, more urban development forms in the development area and an emphasis on affordable housing, and moving away from an emphasis on the preservation of open space."

Mr. Keller commented that he is concerned about the wording of that—not necessarily the resulting product—but in Pantops, where there has been a move by the public through engagement, and in Crozet, where they are having a discussion on the importance of parks and open space, if they are not going to achieve that through proffers or bonuses, it seems the County is going to have to ante up and purchase properties. He noted that they saw this on 29 North also, in thinking about setting up blocks, how it would have been helpful to have the County own something that these super-blocks could be built around.

Mr. Keller stated that this is not intended to upset this process, but to prompt internal staff discussion to think a bit more about what's being stated here, as these are two things that need to be working in tandem: how they're going to have open spaces so the walkability actually benefits being able to walk from one open space to another. He said this could even mean that some of those were public and achieved through form-based code.

Mr. Keller said that after other Commissioners have spoken, he would like Ms. Brumfield's input on trailer parks and associated bonuses—and whether that's stemming from the Southwood experience or also the trailer park on 29 North, and what has led staff to believe that's a good approach. He reiterated that overall, he is positive and supportive of what staff has done.

Ms. Brumfield responded that there is no change there, and that regulation is the same as it was before. She said they haven't analyzed that, and it's something they would be looking at under future incentives to be incorporated—and the manufactured home regulations for affordable housing are copied straight from the existing regulations and moved into Section 4.

Ms. Firehock stated that she has brought up the need to have more robust standards for tree planting: sizing of the wells, species diversity, size of treed islands, and types of appropriate trees for sidewalks and parking lots versus parks. She said that Planning Director Charles Rapp has

told her that this is all to be considered as part of the work to update the zoning ordinance, so she didn't make any comments about bonus densities for things they should require—as other cities do. She stated that they are a rural county turning into an urbanizing county, urbanizing around Charlottesville and Crozet being a small town that's becoming more of a city. She said that as they develop the urban areas, they have to adopt some of the standards they would find in a well-run city for green space, and they need to consider bonuses for leaving mature trees on site because they provide a lot more value.

Ms. Firehock commented that with low-impact development or constructing green infrastructure, the stormwater regulations were changed several years ago to buy offsite credits for water quality treatment; as a result, they saw a decline in the amount of water quality treatment being provided onsite and are only getting volume controls—leaving water quality to be provided somewhere else. She said that it has become more of a transaction than prevention of water pollution, at least on the sites that they care about, and she strongly opposes that change. She emphasized that it was not what the stormwater committee was trying to put in place when they were convened to craft that regulation at the state level, so the County may need to incentivize back something they've lost: the ability to require.

Ms. Firehock said that there are other things related to parks and green space, but she does not want to discuss those in depth at this meeting. She added that she did have concerns when she read the section regarding less open space, because you can have density and open space at the same time, with a lot of examples that support that. She stated that Mr. Rapp has assured her that there would be an opportunity to create a stronger tree ordinance and improve landscaping standards, so that a developer puts street trees that don't die within several years.

Mr. Bailey stated that with the potential bonus densities for green building standards and onsite renewables, when they talk about mature trees and trying to offset greenhouse gases, leaving mature trees has much more carbon value than a freshly planted tree. He said that green building material prices are coming down but are often considered higher in price, so if there were a way to add that as a bonus density factor or certified, that could be an interesting way to create housing that was not contributing to air pollution as they're modernizing electrical consumption as a country.

Mr. Bailey said that he appreciates adjusting the R minimum for handling affordable housing density for consistency, but that also raises the question of what their villages look like and whether they are places of employment—because the last time they contemplated bonus densities, they focused on public transit and whether people could get to places of employment and affordable housing. He emphasized that he was not taking a stance on it, but it was something to consider as a bonus factor for villages.

Mr. Clayborne stated that his thoughts align with Mr. Bailey's, as he also wants better buildings. He said that he wanted to contemplate what they could use as a tool to get net-zero buildings or net-zero-ready buildings, because once they inherit designs that are constructed, they're here for 50 years or more. He reiterated that he wanted better buildings and to explore appropriate ways to encourage that.

Mr. Carrazana stated that he was headed in the same line of thought, and if they are giving more density and a larger footprint on that site, he wanted them to contemplate ways to incentivize more sustainable design. He provided an example of the County asking for pervious paving, along with other things that address water quality and building materials, and he echoed the desire to

help minimize the overall footprint.

Ms. Firehock commented that when doing the Rio form-based code, there was supposed to be work done on green infrastructure incentives, but as the code moved forward, a lot of the incentives went away, for various reasons—including that the consultant didn't think that incentives worked very well. She stated that she has been waiting and expecting enumeration of these green infrastructure incentives, including buildings and things like bioswales and permeable pavement, but that work has not yet occurred, and she wasn't sure if it was still to be done or just got dropped.

Mr. Bivins commented that on Page 3 in Section 2.4.5A of the ordinance, there was an asterisk at the bottom but not in the table, and he wasn't certain what it pertained to.

Ms. Brumfield responded that the asterisk would apply to both of those standards, so that was just a typo.

Mr. Bivins stated that he is very pleased with the “plain speak” in this update. He said that as the person who represents the district with the most density, he had concerns with the same paragraph that Mr. Keller did regarding preservation of open space. He said that in the Jouett District, there is one green space that has a future of being a semi-wild space: the Charlotte Humphris Park. He noted that there would be very little change to that park other than some water management. He said that for people who live in the area with the oldest infrastructure in the community and the first wave of density, there is very little green space and just a few sidewalks.

Mr. Bivins emphasized that he hoped they would also address what they can do on developed land, in addition to land for future development, including partnerships with existing homes so there is walkable, bikeable, transit-friendly infrastructure across entities, instead of in a hopscotch pattern. He said that in looking at construction at Stonefield, there will be green space and walkability that makes sense within the development—but one block away, that changes completely.

Mr. Bivins said that he is not “throwing a stone,” but he wanted to know how they could have green building and smart building within a traditional look at ARB standards for the entrance corridors, as most of this work would be done along those. He stated that this would be a different kind of exploration in terms of what the ARB said would be a visual standard for those roads and associated development. He added that he wanted them to consider how to interlock these ideas with traditional-looking buildings along those corridors.

Ms. Firehock stated that there is a lot of work that can be done to retrofit already developed neighborhoods to add sidewalks and bioswales to deal with stormwater from untreated sites to create pocket parks and amenities, walkability, and even trails. She said she has done a lot of work in other cities, as others have, so there is a lot of expertise in that—and it might take additional work to forward a master plan/retrofit plan, but there is funding to do that.

Public comment was invited. None was offered, and the Chair asked Ms. Brumfield for additional comments.

Ms. Brumfield said that staff has a lot of great input for future work, and she has a recommended motion with the addition of the asterisk that Mr. Bivins had mentioned.

Mr. Keller moved to recommend approval of ZTA202100003 Bonus Densities Cleanup as shown

in Attachment C of the staff report, with the change of adding the aforementioned asterisk on Page 3 of the draft ordinance. Ms. Firehock seconded the motion, which passed unanimously (6-0).

Mr. Bivins thanked Ms. Brumfield and commented that the Commission is often focused on details, so they welcome the opportunity to use a broad brush.

### **Committee Reports**

There were none.

### **Old Business/New Business**

There was none.

### **Items for Follow-Up**

Mr. Bivins commented that it might be helpful to have this discussion with Mr. Rapp, and he asked Ms. Brumfield to relay the information.

### **Adjournment**

At 6:45 p.m., the Commission adjourned to October 19, 2021, Albemarle County Planning Commission meeting, 6:00 p.m. via electronic meeting.



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Charles Rapp, Director of Planning

(Recorded by Carolyn S. Shaffer, Clerk to Planning Commission & Planning Boards; transcribed by Golden Transcription Services)

Approved by Planning Commission
Date: 11/09/2021
Initials: CSS