Albemarle County Planning Commission
July 14, 2015

The Albemarle County Planning Commission held a public hearing on Tuesday, July 14, 2015, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Karen Firehock, Tim Keller, Thomas Loach, Cal Morris, Chair; Richard Randolph, and Mac Lafferty, Vice Chair. Bruce Dotson was absent. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Staff present was Rachel Falkenstein, Senior Planner; Megan Yaniglos, Principal Planner; Claudette Grant, Senior Planner; J.T. Newberry, Planner; David Benish, Chief of Planning; Sharon Taylor, Clerk to Planning Commission, Wayne Cilimberg, Director of Planning and Andy Herrick, Senior Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Morris, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

a. ZMA-2015-00003 Riverside Village Neighborhood Model District

MAGISTERIAL DISTRICT: Rivanna
TAX MAP/PARCEL: 07800-00-00-05800
LOCATION: Located on the west side of Stony Pointe Road/Route 20 and the east side of Free Bridge Lane/Route 1421, approximately 350 feet south of the intersection of Route 20/Elks Drive.
PROPOSAL: Request to amend proffers and code of development to allow affordable units in Block 5 and allow accessory apartments as affordable housing.
PETITION: Request to amend proffers, and amend code of development on property zoned NMD Neighborhood Model District which allows residential uses at a density of 3 – 34 units/acre, mixed with commercial uses, service and industrial uses. No increase of dwellings proposed.
ENTRANCE CORRIDOR: Yes
FLOOD HAZARD OVERYLAY: Yes
SCENIC BYWAYS OVERLAY: Yes
STEEP SLOPES MANAGED: Yes
STEEP SLOPES PRESERVED: Yes
PROFFERS: Yes
COMPREHENSIVE PLAN: Greenspace – undeveloped areas; Neighborhood Density Residential – residential (3-6 units/acre); supporting uses such as religious institutions, schools and other small-scale non-residential uses; and River Corridor – parks, golf courses, greenways, natural features and supporting commercial and recreational uses in Neighborhood 3 – Pantops Comp Plan Area.
(Claudette Grant)

Ms. Grant presented a PowerPoint presentation regarding ZMA-2015-00003 Riverside Village Neighborhood Model District.

Purpose of Hearing: The applicant is requesting to amend proffers and code of development to allow affordable units in Block 5 and allow accessory apartments as affordable rental housing.

Favorable Factors

- The rezoning request remains consistent with the Comprehensive Plan and the intent of the original rezoning.

Unfavorable Factors

No unfavorable factors

Staff Recommendation

Staff recommends approval of ZMA-2015-00003, Riverside Village Neighborhood Model District, with the revised proffers, and code of development that are attachments in the staff report.

Mr. Morris invited questions for staff.

Mr. Randolph asked are owners of any of these potential residences occupying a piece of property that is within a 100-year flood zone going to be advised in their bill of sale that their property is within such a flood zone. He asked if it is required by state law if you buy within a 100-year flood zone that you are so advised up front.

Mr. Benish replied that the homes will not be constructed in the flood zone ultimately. All building sites will be outside of the Flood Hazard Overlay District.

Mr. Randolph asked if we have a definition of what an accessory apartment is and how it is different from a carriage house.

Ms. Grant replied that it is in the zoning ordinance. When you think of a single-family house that has a basement apartment that might be what is considered an accessory unit. She believed the carriage house tends to be associated with a garage like an apartment within a garage.

Mr. Randolph asked if potentially some of these units could be basement units within a 100-year floodplain.

Mr. Benish replied they won't be in the floodplain. The applicant can explain the specific products that they might have in mind. But, there will be units within another unit essentially.

Mr. Randolph said as he looked at the lines it looked where Block 5 would be located would be exactly where the 100-year floodplain was.

Mr. Benish pointed out there are some lots that are near the fringe area and the applicant can explain that. He suggested that Mr. Randolph may be looking at the comp plan overlays that show the corridors, which go beyond the floodplain boundaries.

Mr. Morris asked if there were any other questions. When they were looking at this he recalled the only thing that was in the floodplain was a piece of the parking area. But, they will ask the applicant.

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

Justin Shimp, engineer for the project, said to address the floodplain question brought up that Mr. Randolph was probably reading the map correctly because the flood map in the county is actually outdated. The flood map has been updated over the last couple of years, but he did not think the GIS reflects it yet. So there has been a map revision. The site never has been and never will be in the floodplain. But, the flood map incorrectly showed it there once upon a time. So that was a technical thing that was addressed a couple years ago during the rezoning process. However, all the buildings are required to be out of the floodplain and the county verifies that. The county won't grant a building permit until it is confirmed that the lot is out of the floodplain and the house, even the lowest level, is above the 100-year floodplain elevation. Related to our request it is sort of a clean-up bit because our original rezoning did not include the provision of Block 5 including affordable units. The developer who is here tonight, Chris Henry, wants to incorporate those units as integrated with the rest of the market rate units into that structure. So that is in the request to allow us to integrate those units into Block 5 rather than having them separate somewhere else. That really is the basis of it. He would be happy to answer any questions.

Mr. Morris invited questions.

Mr. Keeler asked if he believes these affordable housing units will actually become affordable housing units or if they will pass the 90 day test and not be.

Mr. Shimp replied he would give his honest opinion as a broad range of that because you can't answer what the market will actually do, of course. In my experience with these things what he has found is folks try to target a design that works in that range. As Vito Cetta was saying, part of the problem we have discovered is that qualified people don't come forward. There probably does need to be some work on that as far as integrating a rezoning, which requires affordable housing into the housing process which sells those units. They have observed some challenges in trying to get that and understand how that works if it is not sold at that lower rate. No one I have seen would build a $350,000 unit and then put it on the market for $243,000 and try to move it or try to keep it off the market or hide it for 90 days in an effort to make that profit. Maybe you would bump the price up to $250,000 or $260,000 and somebody who is qualified would come along and purchase it. That person may just make a little too much money to qualify for the 80 percent that is required by the housing policy. That is what we expect to happen in these scenarios. However, I have not personally known anyone who has tried to sort of create it, let the 90 days go by, and then create some higher profit. The goal that I have observed is always to create some product that fits within that range so it can be sold. He does not think anyone is making say money on these units, but they are not trying to sell them at a huge loss per say. So he thinks that the unit will be designed to fit that market, and we hope that people will come along and qualify to buy those units. But, they have not seen a lot of that action in our experience so far.

Mr. Keller asked if those units would have less square footage and less expensive finishes.

Mr. Shimp suggested letting Mr. Henry speak to that if he wants to. Mr. Henry's intentions, as he understands it, is to create the units identical in finishes and things. There may be some of them that are slightly smaller. Mr. Henry can answer that question specific to this case. However, when you are developing a building part of the advantage of integrating into this larger building like what we are doing is the units sort of want to be cohesive. People don't want to have a building with units that are of a lesser quality in some fashion. He thinks you would want to create an equal quality, but with other design constraints that make it fit into that affordable category.

Mr. Keller noted having said that and given there is not a requirement for this first purchaser to continue with it as affordable housing the likelihood is that the next round of these could be upgraded and go to the same market rate as the other units.

Mr. Shimp said he would suppose that is true because he was only speaking as a person who observes this sort of activity. But, he did not know if there was an intention from the proffer. If you qualify for an affordable unit, buy it and then two years from now sell it and make a little money that may not be a bad thing. It is not the developer making the money in that case it is the home buyer who purchased it originally as an affordable unit. He did not know if that was intentional as part of that program or not. However, that is all that he has observed.

Mr. Loach said just again in your experience you mentioned that category of people just above that threshold of income. Is there a lack of affordable housing in that range say from the $243,000 to the $300,000 range in getting people into those houses?

Mr. Shimp replied yes, he believes there is. He thinks that is a challenge of Albemarle and everywhere because asphalt is more expensive, concrete is more expensive and wood is more expensive. Everything is getting more expensive. It is really difficult to build a quality project in that price range. It has to be sort of thought out like maybe part of a big development like Riverside; but, just to go along and put that house in the ground is somewhat difficult in Albemarle County. However, he thinks there is a market but did not know if there are people who are aware that might qualify for that 80 percent. He was not sure they are even aware that some of this housing is out there. So that may be an issue as well. But, he thinks there is in that sub $300,000 range for a quality product there is a good demand that often fits the folks that are targeted, such as the county employees, teachers, etc. in that range that make a little too much money to qualify for the 80 percent, but still need a reasonable house at a reasonable price.

Mr. Morris invited public comment.

Neil Williamson, with the Free Enterprise Forum, said he appreciates Commissioner Keller's laser like focus on affordable housing this evening. He thinks it is important and it would be helpful to remember that there is an affordable housing proffer that requires a certain amount of housing to come forward. That housing has come forward and those developers have met that goal. The fact that the buyers have not arrived is he thinks is part of your question. When you have two teachers living together in a married situation they are over qualified and they can't get that house. The policy is kind of falling in on itself. The other thing the Free Enterprise Forum asks the Commission to look at is to please examine rental housing as a housing option. The mistake that was made ten years ago was home ownership is for everyone. Well there are some people that home ownership is not right for. He thinks that affordable housing needs to include purchase and rental housing when you consider that caveat. He encourages the Commission to examine some of the things that Mr. Lafferty and Ms. Monteith are working on with regard to land trusts rather than focusing on applications that come forward about will the folks that get these units be what he would call the lottery winners because they get the windfall and then the housing stock goes out. He asked the Commission to think about both sides of those solutions to find the buyers, find the users, and make the ordinance fit. The fact that developers after holding a product 60 days and building it have the ability to then sell it is not unfair. The fact that we can't get qualified people in there is the problem. Thank you.

There being no further public comment, Mr. Morris closed the public hearing to bring the matter back for discussion and action.

Mr. Randolph said he would first like to note that he thinks it is terrific that this proposal would result in a wider range of locations within the development for the affordable units. He thinks one of the worse things possible this country has done has been concentrating affordable units. He thinks this is the right approach. He wants to directly challenge the assertion that qualified people have not come forward. The issue that he has found in this county is the qualified people don't know about the program. Case in point, he spent an evening on a ride along with Officer Sam Thomas, Albemarle County Police Department. He is living with another male officer renting a facility on a piece of property in Western Albemarle. Mr. Thomas was completely unaware that the Planning Commission works to set aside affordable units for members of the Police Department in new housing projects. He thought this was an isolated case so he had an opportunity at the Albemarle County Police Foundation Annual Gala to be seated with Lieutenant Greg Jenkins, one of the two lieutenants for the Albemarle County Police Department and he was dumfounded to find out that the county has an affordable housing policy which would enable police officers within this county who predominantly live in Waynesboro and Lake Monticello to be able to live in the county. Since Lieutenant Greg Jenkins was not aware of the policy when he had an opportunity to ask Colonel Steve Sellers about it and he was also dumbfounded to find out that there is an affordable housing policy which seeks to set aside housing for county employees. Furthermore and finally he met with Pam Moran the Superintendent of Schools who happens to be the Virginia Superintendent of the Schools of the Year and she was also dumbfounded to find out there was an affordable housing policy that the Planning Commission takes seriously and that we try to carve out and ensure that affordable units are set aside for teachers. This directly challenges the assertion that qualified people do not come forward. The qualified people do not know about the program.

Mr. Morris asked if there were any other comments. There being none, he asked for a motion.

Motion: Mr. Morris moved and Mr. Loach seconded to recommend approval of ZMA 2015-00003, Riverside Village Neighborhood Model District as recommended by staff.

Mr. Morris invited further discussion. There being none, he asked for a roll call.

The motion passed by a vote of 6:0. (Dotson absent)

Mr. Morris noted that ZMA-2015-00003 Riverside Village Neighborhood Model District would be forwarded to the Board of Supervisors with a recommendation for approval at a time to be determined.

Mr. Morris thanked the applicant for being at the Pantops Advisory Council and explaining this because it helped.

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