

**Albemarle County Planning Commission
October 20, 2015**

The Albemarle County Planning Commission held a regular meeting and public hearing on Tuesday, October 20, 2015, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Staff present was Scott Clark, Senior Planner; Claudette Grant, Senior Planner; Francis McCall, Senior Planner; Ron Higgins, Chief of Zoning; J.T. Newberry, Senior Planner; Sharon Taylor, Clerk to Planning Commission; David Benish, Acting Director of Planning; Wayne Cilimberg, Deputy Director of Community Development and Greg Kamptner, Deputy 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.

Regular Items

a. AFD-2015-00001 Moorman's River Addition – Rinehart

Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcels to the Moorman's River Agricultural and Forestal District (Albemarle County Code § 3-222) on October 20, 2015, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia. The parcels proposed for addition (Tax map 58, parcels 65A4, 65E, and 65I) total approximately 27.37 acres in size and are located at 1283 Tilman Road. The Albemarle County Agricultural and Forestal Districts Advisory Committee has recommended approval of this addition. (Scott Clark)

AND

b. AFD-2015-00002 Jacob's Run Addition – Dick

Dick Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcel to the Jacob's Run Agricultural and Forestal District (Albemarle County Code § 3-218) on October 20, 2015, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia. The parcel proposed for addition (Tax map 19A, parcel 9) is approximately 21.19 acres in size and is located at 1775 Double Eagle Trace. The Albemarle County Agricultural and Forestal Districts Advisory Committee has recommended approval of this addition. (Scott Clark)

AND

c. AFD-2015-00003 Blue Run Addition – Carpenter

Notice is hereby given that the Albemarle County Planning Commission will hold a public hearing to receive public comments regarding the addition of the following parcel to the Blue Run Agricultural and Forestal District (Albemarle County Code § 3-208) on October 20, 2015, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia. The parcel proposed for addition (Tax map 35, parcel 37A1) is approximately 25.1 acres in size and is located approximately 1,330 feet northwest of Virginia Route 20 from a point approximately 1,650 feet north of the intersection of Route 20 and Burnley Station Road (Route 641). The Albemarle County Agricultural and Forestal Districts Advisory Committee has recommended approval of this addition. (Scott Clark)

Mr. Morris noted the next items for review are three AFD additions. Mr. Clark would brief all three requests, the Commission would ask questions, open it for public comment; and then the three items can be handled in one motion.

Scott Clark presented a PowerPoint presentation and summarized the staff reports for the three district addition requests individually. The first one is the Moorman's River Addition – Rinehart.

AFD2015-00001 Moorman's River Addition - Rinehart:

Proposal: It is a very large district located in the northwest portion of the county. This proposal would add three parcels to the district totally over 27 acres. The entire 27 acres has high quality soils, which are distributed on the three parcels and are largely open land.

Proposal: This proposal would add three parcels to the District:

Requested Additions			
Parcel	Acres	Acres of Important Soils	Notes
58-65I	8.46	8.46	
58-65A4	5.00	5.00	
58-65E	13.91	13.91	Two dwellings

Recommendation: At their meeting on July 15, 2015, the Agricultural-Forestal Districts Advisory Committee voted unanimously to recommend approval of this addition to the Moorman's River District.

Mr. Clark moved to the second proposal.

AFD2015-00002 Jacob's Run Addition – Dick

Proposal: This proposal would add one parcel to the District:

Requested Additions			
Parcel	Acres	Acres of Important Soils	Notes
19A-9	21.19	17.3	One dwelling

The parcel is approximately half wooded and half open.

Recommendation: At their meeting on July 15, 2015, the Agricultural-Forestal Districts Advisory Committee voted unanimously to recommend approval of this addition to the Jacob's Run District.

Mr. Clark moved to the third request.

AFD2015-00003 Blue Run Addition – Carpenter

Proposal: This proposal would add one parcel to the District:

Requested Additions			
Parcel	Acres	Acres of Important Soils	Notes
35-37A1	25.1	25.1	

The parcel is approximately two-thirds wooded and one-third open.

Staff Recommendation: At their meeting on July 15, 2015, the Agricultural-Forestal Districts Advisory Committee voted unanimously to recommend approval of this addition to the Blue Run District.

Based on the Agricultural-Forestal Districts Advisory Committee's actions staff recommends the Planning Commission recommend approval of all three additions to the Board of Supervisors.

Mr. Morris invited questions for staff. There being no questions for staff, Mr. Morris opened the public hearing and invited applicants or members of the public to come forward and address the Planning Commission on any of three four items.

Neil Williamson, with Free Enterprise Forum, said the Free Enterprise Forum has no position on these particular parcels; however, wants to draw attention to what he would consider to be a policy issue the Commission cannot do anything about. He believes it is a state issue. However, he is very impressed the county has a committee that considers the agricultural-forestal additions. The districts last 10 years and then come back and have to go through the committee again, to the Planning Commission and then the Board of Supervisors. He believes the committee is well published in the district. At the Planning Commission and Board of Supervisors meeting public input is taken with regard to this because there is a certain tax and community benefit to having these lands in agricultural-forestal districts. None of this happens with a conservation easement, and it is forever. He thinks that is a flaw. But, he did not know how to solve it and that it can't be solved in this room. However, he would think that given the import that they are putting on public input to an agricultural-forestal district that lasts 10 years compared to something that is in perpetuity that conservation easements probably deserve a little more attention.

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

Mr. Morris invited discussion.

Mr. Dotson asked Mr. Keller since he was on the Agricultural Forestal Committee if there was discussion at the meeting about the fact these are relatively small parcels in the 20 acres, 5 acres or so and at least 2 of them are relatively freestanding and distance from abutting agricultural-forestal parcels or whether this looked like such a good thing that it did require a lot of discussion.

Mr. Keller noted that there was discussion about that at the Agricultural-Forestal Committee meeting, which actually brings up something that he would bring up as new business. He thinks they need to have a bit more clarification on the part of staff on the approval and the disapproval portion of information that is brought forward. In fact, he emailed staff earlier asking if they would discuss this point and had not really received a response. There is an ongoing discussion that has been brought forward by one of the supervisors. It is my understanding that staff is sort of thinking about these smaller lots and the ramifications of their addition. He asked if staff or Mr. Kamptner would speak to that and where that is in the process right now.

Mr. Benish pointed out Mr. Kamptner would have to speak to that because it is with the County Attorney's office.

Mr. Kamptner said this is an issue that is being studied by the Citizens Resource Advisory Committee, and the small parcel sizes are an issue. The county has some latitude in the State Agricultural-Forestal District statute to require additional information that it deems to be relevant and parcel size is certainly something that could be considered. The committee is also looking at changing the minimum acreage for qualifying for land use taxation. Right now they have low acreage requirements for agriculture and horticultural uses as just 5 acres. He thinks the way the Agricultural-Forestal District regulations are set up they are generally consistent with those other regulations, but there has been discussion about raising those thresholds up to 25 acres, which is the minimum size in other localities.

Mr. Keller said to answer Mr. Dotson's question there was a lot of discussion along this line. The reason the votes went the way they did is because this is under consideration and others had been accepted previously based on our current understanding. That is why he had asked that staff might speak to this first so that they could maybe move along on this, but be aware of the fact that it is likely going to be a forthcoming issue for discussion. We learned for instance that there are counties that have elected not to have forestry as a land use. He believes Louisa has. So there are ways that within our state enabling legislation there can be modifications. However, that gets into the whole budgetary issue, which is beyond our preview. But, it is one of those sets of discussions that are going on in the county right now that would affect agricultural-forestal districts and potentially areas under easement as Mr. Williamson has pointed out as all of this is rethought.

Mr. Dotson said that is very helpful, thank you. He had a couple of minor thoughts. Looking at the map with the Moorman's River the Rinehart parcel is relatively isolated from the balance of the district. However, he then looked and there is also an isolated parcel on Barracks Road and one over off Reas Ford Road. So that may be the kind of precedent that Mr. Keller was speaking about. He did not know if there was anything in our policies or ordinances that addressed distance or proximity to other properties that might be under a conservation easement or an agricultural-forestal district to sort of give some credence to the notion of being a part of a larger whole.

Mr. Clark replied that there is a very specific policy or requirement about the distance from a district, but none about parcel acreage. The County Code requires that any parcel that is going to be added to a district be within one mile of the core of the district. The core of the district is the first set of parcels that were added to the district when it was first formed and not the later parcels that were added. This keeps the individual districts from sprawling a long way across the landscape. It also has encouraged having the 20 some districts that they have now. That is a legal requirement as far as the distance goes and the Rinehart property met that. However, as far as the acreage or the development potential of a property there is nothing specific in the ordinance about that. It has been a topic of discussion on the committee and among staff for a long time. It seems like now the Board has requested this report from the County Attorney's office that will begin to address whether or not we should in fact have a policy about acreage or development potential on top of our rather permissive approach over the last many years of basically taking all comers to these districts and not questioning them based on acreage.

Mr. Dotson noted in just looking at the map, which does have a scale on it, it would not appear that the property is within a mile.

Mr. Clark replied unfortunately you cannot easily show what is core and what is not from here. However, staff always measures that distance when the applications come in.

Mr. Dotson said he would take Mr. Clark's word for it. The other question he had involved trying to figure out the motivation. He was surprised that none of the applicants are here. So in trying to figure out what the motivation is, let's say using the Dick proposal as an example, it looks like it is a 21 acre lot perhaps as part of a development, and he was guessing that it has no further division rights and no additional development could take place on it. So he was trying to figure out would this give it a reduction in taxes; and, if so what is the benefit to the county since it has no further development potential in any case.

Mr. Clark replied that it has been a clear pattern since 6 or 8 years ago when the County Assessor's Office began doing bi-annual revalidations for land use tax that a lot of people who for a very long time had been qualifying for the agricultural category or something without having to revalidate and remaining in that category over many years. Once the revalidations came along and because they were less capable of doing farming or qualifying quite the way we would expect, a lot of the parcels we have seen come to the agricultural-forestal district since that time have been 21 to 25 acre parcels with no development potential meaning you are correct that Jacob Run addition is a 21 acre parcel with no further development possible. Again, for 20 plus years they have been taking all comers and not judging based on

development potential. The question they are trying to settle now is should we, in fact, be doing that.

Mr. Benish said it has not been the role of the Agricultural - Forestal District to adjudicate on whether something qualifies for use value taxation. It looks to the benefit of the agricultural forestal district. That had been less of an issue until the revalidation started. There are obviously policies across these two programs that need to be rectified. But, that has not been in the past a role of the Agricultural - Forestal District to consider use value. Also, in terms of 21 acre lots the way our ordinance is structured we consider a 21 acre lot an agricultural lot, which is why the non-division right lots are 21 acres. In the 30 years he has been at the county they have discussed having that be a larger lot size without much success.

Mr. Dotson asked is there time pressure to address these. Does it confer a benefit this calendar year if acted upon now as opposed to defer it to such time as the report is returned about some of these issues.

Mr. Clark pointed out the people who are using their memberships in the Agricultural - Forestal Districts to qualify for the open space tax category for next year need to get into it during this year to qualify. That is obviously a large part of their motivation.

Mr. Dotson said he would like to hear comments from other commissioners.

Mr. Randolph said just to make an observation that today's outlier might be tomorrow's cluster, and we have to think about that. Since that little isolated green spot may attract other people in the future that one or two outliers can grow and become a cluster. That is something we have to keep in mind.

Mr. Dotson agreed. He noted that the Agricultural - Forestal District can become a conservation easement in the future.

Mr. Keller said so many pieces of this have come in. Mr. Blaine spoke about the possibility of bonafide agriculture or whatever in terms of the winery and there comes those kind of issues. Really now the questionnaire is beginning to be much more specific about what that agricultural/forestal/horticultural use would be. Then there is the open space. The open space is where it sort of butts up against the easement that someone who is going for open space would be putting their land under easement. Or, is there some total of everything that they are getting under some degree of protection looking towards our comprehensive plan's focus on the rural areas and maybe does not need to be tweaked. But, those are the kinds of discussions that are going on and if it interests our commission he was sure that the Agricultural - Forestal Committee would be glad to have an opportunity to meet with the commission and have further discussions. He thinks that there is a bit of a frustration about where all of these things come together. Really, we are not in the business about speaking about the fiscal side of things. It is the land use and from a land use standpoint it seems to be a relatively effective tool possibly because of that review.

Mr. Morris invited further discussion.

Mr. Clark noted staff has been discussing the information about these parcels that they wanted to bring forward to the Commission about these public hearings and we do have an assessment of the development potential of each parcel that is under review. There will be a second round of additions for this year coming to the Planning Commission next month. If the Commission would like staff can include that in the presentation to say the acreage and the development potential.

Mr. Morris agreed that information would be helpful.

Mr. Dotson said most of the staff report was about the district in whole and not about the parcel to be added, which ought to be added.

Mr. Clark pointed out staff has always included acreage and soil information about the individual parcels. If the Board directs staff and the Committee to consider development potential as well we can easily work that in.

Mr. Keller said there was just one last piece on that. Mr. Dotson asked the question about the involvement. He knows the committee would like to see representatives who are coming before the committee in person. In the two meetings he has attended that has not been the case in the majority of cases that we are reviewing. So if we thought that was important all the way through the process, then the Commission could make that recommendation to staff that it go forward to the Supervisors to consider that. But, again that involves more staff time in finding these folks and inviting them. Then they get into that staff timing issue.

Mr. Dotson noted Mr. Keller said he was going to raise something on this topic under new business, and he would suggest the Commission discuss that under new business.

Mr. Keller agreed.

Mr. Morris said he would entertain a motion for the three requests.

Motion: Mr. Randolph moved and Mr. Keller seconded to recommend approval of AFD-2015-00001 Moorman's River Addition – Rinehart, AFD-2015-00002 Jacob's Run Addition – Dick, and AFD-2015-00003 Blue Run Addition – Carpenter.

The motion passed unanimously by a vote of 5:1. (Dotson nay) (Firehock absent)

Mr. Morris noted the requests for additions to AFD-2015-00001 Moorman's River Addition – Rinehart, AFD-2015-00002 Jacob's Run Addition – Dick, and AFD-2015-00003 Blue Run Addition – Carpenter would be forwarded with a recommendation for approval to the Board of Supervisors meeting on December 2, 2015.

ZMA-2015-00004 Commonwealth Senior Living

MAGISTERIAL DISTRICT: Rivanna

TAX MAP/PARCEL: 07800-00-00-055A1

LOCATION: 1550 Pantops Mountain Place - approximately 430 feet from the intersection of Pantops Mountain Road and US Route 250 West.

PROPOSAL: Request to amend proffers associated with ZMA99-01 and ZMA01-011. Proposed uses to include assisted living and independent units with an increase of units from 100 up to 140 units on 3.85 acres.

PETITION: Request to amend proffers on property zoned PRD (Planned Residential Development) which allows residential uses at a density of 3 – 34 units/acre with limited commercial uses. Proposed density up to 36 units/acre. No change to the building footprint is proposed.

ENTRANCE CORRIDOR: Yes

PROFFERS: Yes

STEEP SLOPES MANAGED: Yes

COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01-34 units/acre); supporting uses such as religious institutions, schools, commercial, office and service uses. (Claudette Grant)

Ms. Grant presented a PowerPoint presentation regarding ZMA 2015-00004, Commonwealth Senior Living.

This proposal is located at 1550 Pantops Mountain Place. It is located approximately 430 feet from the intersection of Pantops Mountain Road and US Route 250 West. This existing building is the former Pantops Place. The property is zoned PRD (Planned Residential Development). The Pantops Master Plan designates this property as Urban Density Residential

The applicant requests to amend proffers associated with ZMA-99-01 and ZMA-2001-11. The proposed uses include assisted living and independent units with an increase of units from 100 up to 140 units.

This parcel is part of a larger Planned Residential Development (PRD). Over the years there have been various rezonings, site plans and subdivisions relating to this PRD making it sometimes hard to follow the various actions related to each parcel. Ms. Grant apologized for any confusion this may have caused and provided an overview of the PRD, which included the subject parcel, the parcel dedicated to open space and the two parcels designated for the cottage units. The property adjacent to Route 250 is the Peter Jefferson Overlook property.

Staff displayed the revised application plan. The footprint of the existing building will not change. The applicant wishes to convert 86 existing units to no more than 70 independent living units and the balance of units would be set aside as assisted living units providing up to a total of 140 units. As mentioned in the staff report, the only change to the site is an expansion of the amenity area which is already approved with a site plan. The amenity area is a little area near Route 250.

As you may be aware the proffers relate to different actions. Some of the proffers had been completed, some need to be updated, and some still need to be referenced because the original intent is still applicable. In the staff report staff had recommended that we keep proffer 8; however, after discussions with the county attorney proffer 8 can be eliminated because it is covered by the revised proffer language. There are technical revisions that need to be provided to the proffers. Staff has been working with the applicant regarding the needed

revisions to the proffers. Staff recommends the applicant work with staff and the county attorney to fix the technical revisions needed prior to the Board public hearing.

Factors Favorable:

- The rezoning request remains consistent with the Comprehensive Plan and the intent of the original rezoning.
- The increase in units provides services to a larger segment of the senior population.
- The footprint of the building remains unchanged.

Factors Unfavorable

- The proposed proffer revisions eliminate proffers that address impacts and issues which remain valid and relevant to this site.

Staff Recommendation

Staff can recommend approval of ZMA-2015-00004, Commonwealth Senior Living, provided that the technical revisions are made to the proffers, per the applicant, county attorney and staff satisfaction prior to the Board of Supervisor public hearing.

Ms. Grant offered to answer any questions.

Mr. Morris invited questions for staff.

Mr. Dotson asked was there a community meeting or was that waived,

Mr. Morris replied no, Mr. Keller and he were at that meeting that took place about two months ago. There was a nice turn out and by and large people were in favor of it.

Mr. Lafferty asked what the holdup was on the proffers since staff had made it one of the conditions that they renegotiate the proffers.

Mr. Benish replied that staff just have not reached final language with the county attorney yet. He did not believe there was a substantive issue, and the applicant can speak to it. But, they don't have final language.

Mr. Kamptner explained that proffer 4 deals with maintaining an interconnection and proffer 6 and 7 deal with buffering. The applicant may have believed that those proffers could be deleted because they are in place right now. But, the proffers in all three cases are standards that are above and beyond the minimum standards for a site plan. So it is staff's recommendation that those three proffers continue on.

Mr. Benish pointed out there was some technical work necessary for some updates.

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.

Steve Blaine, representative for the applicant, said that Kevin Willis, project manager from Commonwealth Assisted Living, was also present. He noted that Commonwealth Assisted Living is a locally based company that has been in business for about 13 to 15 years and has 20 senior living facilities throughout Virginia that they own or manage. This is the first one that they will actually own and operate in Albemarle County. Their business model has been to address affordable senior housing and they have been quite successful in repurposing as in this instance a building that may have suited the market place better 15 or 20 years ago. This is on independent living. The notion here is to convert these maybe smaller units more affordable, but to address a need for assisted living and memory care. So those would be uses that we have identified as much needed in the area and this is to address that. Ms. Grant did a great job describing the application and we are in agreement with the characterization regarding the proffers. When looking at the proffers they appear somewhat inaccurate because they talk about improvements that were really constructed or put into place 15 years ago. But, we agree with the notion that they should remain because future redevelopment may actually come into play with those proffers. So they are in agreement with the need to update references to tax map/parcels that no longer exist because they have been consolidated and that type of thing. So they are happy to answer any questions, but would appreciate a recommendation for approval.

Mr. Morris invited questions.

Mr. Dotson said he was curious about something that the county does not regulate. The units are occupied as independent living now and some will be converted to memory care and assisted care. He asked what happens to the people who are in those units now.

Mr. Blaine said that was a very good question because that was a question that folks raised at the neighborhood meeting. Obviously, the company is not going to evict current residents. So as folks move out the building can be converted in phases. They are not going to close the existing operations to convert the building all at one time.

There being no further questions for the applicant, Mr. Morris invited public comment.

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

Mr. Dotson said he had one thought and perhaps this is helpful redundancy. On the application plan sheet 3 there is a statement that says the applicant reserves the right to adjust the ratio of assisted living to independent living units for this site based on the parking requirements shown and the proffers associated with this application. He suggested that it would be useful redundancy to add that to condition 8 at the very end. If someone does not necessarily pick it up on the site plan, then the applicant has that flexibility to pick it up in the conditions. Therefore, he offers the suggestion as useful redundancy.

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

Mr. Randolph moved for approval of ZMA-2015-00004, Commonwealth Senior Living, with a proviso that the proffers provided in January 5, 2000 to the previous owner would remain applicable and those proffers are 4, 5, 6, 7 and 8 as amended and recommended by staff.

Mr. Kamptner noted it actually should just be 4, 6 and 7 since proffers 5 and 8 have been addressed and are no longer applicable.

Mr. Randolph agreed because he had proffer 5 written as done.

Mr. Benish said your comment would just apply to the property and we will incorporate it, and Mr. Randolph agreed.

Mr. Kamptner said just to be clear does that include Mr. Dotson's addition of the note from sheet 3 of the application plan.

Mr. Randolph replied yes, it does include Mr. Dotson's addition of the note from sheet 3 of the application plan: "The applicant reserves the right to adjust the ratio of assisted living to independent living units for this site based on the parking requirements as described on sheet 3 of the application plan and the proffers associated with this application plan."

Mr. Keller second the motion.

There being no further discussion, Mr. Morris asked for a roll call.

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

Mr. Morris noted that ZMA 2015-00004, Commonwealth Senior Living would be forwarded to the Board of Supervisors with a recommendation for approval at a Board of Supervisors meeting to be determined.

The meeting moved to the next agenda item.

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