Albemarle County Planning Commission
February 26, 2005

The Albemarle County Planning Commission held a retreat meeting on Saturday, February 26, 2005 at 6:00 p.m., at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Rodney Thomas, Marcia Joseph, Vice-Chair, Jo Higgins, Pete Craddock, Calvin Morris and Bill Edgerton, Chairman. Absent was David J. Neuman, FAIA, Architect for University of Virginia.

Other officials present were Mark Graham, Department Director of Community Development; Lee Catlin, Facilitator; Greg Kamptner, Assistant County Attorney and Sharon Taylor, Recording Secretary.

Call to Order and Establish Quorum:

Mr. Edgerton called the regular meeting to order at 8:10 a.m. and established a quorum.

Lee Catlin stated that she would facilitate the meeting to make sure that they covered all of the items on the agenda. She stated that the outcome was not to come to an agreement on these items, but specifically to have a discussion on whether these issues deserve further attention and what the next steps would be in addressing them.

There is one large broader item for discussion that she heard alluded to several times, which was the conflict within and between the Zoning Ordinance and the Comprehensive Plan.

Conflict within and/or between Zoning Ordinance and Comprehensive Plan

The Planning Commission held a discussion about the conflict within and/or between the Zoning Ordinance and Comprehensive Plan and what the legal balance should be between the two.

- Consideration must be given to the land owner/applicant rights versus the rights of the community. Due to everyone's different perspective on this the individual rights need to be balanced with the community good.
- Property rights impact and associated high costs due to the County's goal of moving growth from the rural areas to the designated urban growth area.
- Address the responsibilities of the Commission to the Applicant/Land Owner vs. the "Community".
- How can the Planning Commission deal with these issues in a balanced consistent manner to manage and plan growth?

Ms. Catlin stated that she heard a consensus from the Commissioners about wanting to protect the rural area. They were talking about everyone moving towards the same direction, but on a spectrum of where they are in balancing these other issues. She asked how that should make a difference. She stated that the question was how the Commission could move ahead as a decision making body that is governed by a Comp Plan and an Ordinance knowing that you have people with very different perspectives, but yet they still have to get to decision points. She asked if they should leave room without making a difference in how things happen from here on in other than a shared respect or perceptive of how other folks are doing things.

Mr. Morris stated that he would like to see the Planning Commission get involved in more planning. He stated that the Commission's job should be to plan, do, check and act. He pointed out that it was a never ending cycle. He stated that rather than just constantly taking what staff gives them and asking does it match the Comp Plan, Zoning Ordinance, and so forth.

Ms. Higgins suggested that the Commission try to improve the way these ordinances are written to make sure it is used in a fair and consistent manner.

In summary, the following items were discussed:

- The possibility of enticements to the urban area and the supply and demand as a topic.

- Different aspects of the Planning Commission and role possibilities of what other things they might be able to do having heard what they did last night.
- The Commission feels that promoting and supporting the Neighborhood Model is the right way to be moving.
- The Planning Commission should get back into the role of doing more planning versus the reactive role. The Planning Commission should take leadership in giving a real planning direction to the community.
- Prioritize planning ahead for infrastructure.

The Planning Commission took a break at 9:07 a.m.

The meeting reconvened at 9:15 a.m.

Benefits and/or liabilities of placing rural lands in Agricultural / Forestal District.

Ms. Joseph made some brief introductory remarks about the issues. She distributed two Albemarle County maps. The first map showed all the land under land use taxation. The second map showed all of the land in agricultural/forestall districts. She distributed copies of Chapter 3 of the State Code for Agricultural and Forestal Districts and Sections 15.2-4301 – 4314, which contains criteria for evaluations. She pointed out that there are lots of things that the Commission should be using in their review, particularly for proposed subdivisions that are adjacent to agricultural/forestal districts. The Subdivision Ordinance talks about the ability to look at that area. She asked Mr. Kamptner how much discretion that would give the Commission. The following are issues that the Commission should consider:

- Need for "buffer"?
- Acknowledgement of adjacency to proposed development, and response.

Mr. Edgerton pointed out that the land use taxation program required the landowner to go back and pay the back taxes for the past five years if the land was subdivided and taken out of the program. If the County only gave land use taxation to only people in the agricultural/forestal districts it might have a remarkable effect because there would be no more collection of taxes for the past five years.

Ms. Joseph stated that there is a portion of the Subdivision Ordinance that does state to consider the area around a proposed subdivision.

Ms. Catlin stated that they were getting in to the merits of it, but they need to be talking about it the way that Ms. Joseph framed the agricultural/forestal process in that it has been fairly automatic up to this point. The Planning Commission has really not looked to see if they have an expanded role and whether there are issues that they would like to address. The question is not whether we need a buffer. But, the question is does the Commission feel that this is an important enough issue, and that it is not just an isolated case once a year that does not deserve any time. She asked if this whole issue here is important enough that the Commission wants to have a thorough discussion about where they want to go with it.

Mr. Edgerton stated that if they have the ability to adjust it that he thought it might help address the issue of keeping the rural land rural and giving an incentive to people to do that without making a forever commitment that is only available to people in a high income bracket.

Mr. Morris stated that they need further explanation on where the current legislation is going because it is always coming up on the table.

Mr. Craddock voiced some real concerns over the program. He supported exploring the options available, but if they found they can't do anything more then they should move on to something else.

Mr. Edgerton asked if the legislation gives the County any latitude to adjust the agricultural/forestal program to make it more effectively support our Comp Plan and our stated desires to preserve the rural areas.

Mr. Kamptner stated that the County did not have a lot of latitude to change the agricultural/forestal program. But the enabling authority, which is also in our ordinance, allows the Commission and the Board to consider the existence of a district in its Comp Plan, in Ordinances and land use plan decisions, administrative decisions and procedures affecting parcels of land adjacent to the district. Therefore, special use permits, wireless applications, subdivision plats and site plans can consider the adjacency of the agricultural/forestal district.

Ms. Catlin stated that what she was hearing from Mr. Kamptner was that there may be room to do some more things in the agricultural/forestal district than they are currently doing. The next step might be to have a full discussion for which Mr. Kamptner could be more prepared to talk about.

Mr. Kamptner stated that the short answer to his question was that what the agricultural/forestal district does is prohibit more intensive development.

In summary, Ms. Catlin stated that with relationship to agricultural/forestal districts the whole idea is does the Planning Commission have the ability to revise it in a meaningful way that would get them closer to their goals. That would give them an opportunity to talk with Mr. Kamptner about that.

Mr. Edgerton stated that he had heard that there was some interest in pursuing that.

Possible consideration of revisions to ordinance concerning:

- Well (Private vs. Community)
- Number of Development Rights (Actual vs. Theoretical)

Mr. Thomas stated that the Commission had been supportive of community wells, but the Board had not because of future liability for the County. He asked if community wells would benefit clustering at all or would it prompt people to do more clustering than they are able to do right now.

Mr. Graham pointed out that central wells are currently in the County Code. What the Board said was that they wanted to leave it like it is, but they want to discourage community wells because they historically found that they are not properly managed. When the community wells have not been properly managed there has been a demand for the County to get involved in the repair and operation.

Mr. Kamptner stated that the current ordinance basically says that the developer can use a central water or sewer system, but they have changed that so that it is really up to the decision of the Board and it is generally discouraged.

Ms. Catlin asked if the Board could allow a central water and sewer system.

Mr. Kamptner stated that the Board has always had that ability.

In summary, Ms. Catlin stated that there is something possible as a vehicle when they did the rural area review that this group sees the time where that might be advantageous. But, in terms of where it is with the Board and the language in the rural area Comp Plan there is really not a whole lot that the Commission can do to make a big impact at this point.

Number of Development Rights (Actual vs. Theoretical)

Mr. Thomas stated that he would like to get information from staff on how many development rights are on a parcel when it comes before the Planning Commission.

Mr. Edgerton stated that he would like to be able to look at the land first to see how many development rights it would support. He pointed out that the ordinance has many places where it tells us how to deal with this issue, and he would like to pursue discussion of some of them.

Mr. Morris agreed with Mr. Edgerton. When the Commission reviewed Belvedere the applicant came in and said he had 993 development rights on the land, but he did not indicate how any acres was in bottom land or wetland. He questioned what does that really boils down to.

Ms. Joseph stated that she did not understand why they cannot get rid of development rights because of the environmental aspects that they have listed in the Zoning Ordinance. If someone can't show that they can make the lots with the kernels, then those development rights don't exist. But for some reason they have been telling the applicants that they have to assign these development rights without even proved that they can get those parcels.

Mr. Kamptner stated that the ordinance requires that development rights be assigned.

Ms. Joseph asked if the development rights don't exist because of ordinance requirements how the County could require that.

Ms. Catlin pointed out that floating development rights had been pulled off the agenda for discussion because Mr. Kamptner was going to address that during a regular meeting.

Mr. Kamptner stated that John Shepherd who does the theoretical determinations, one of the planners who is a member of the rural areas team that work review of actual development rights on ACE applications. Usually the theoretical development right determination is made and then it is up to the applicant or subdivider to figure out how many actual building lots they can do. Once the County has done their theoretical determinations it goes to the rural areas team. The rural areas team looks at topo maps and things like that to make the best determination as to how many actual development rights there actually are.

Mr. Edgerton pointed out that just understanding the process would really help the Commission understand what is going on. He suggested that they commit to having a work session to bring in some staff expertise.

Ms. Higgins stated that there should be way when an applicant offers to voluntary give up a development right for the Commission to be able to buy it for $10 to transfer.

Ms. Catlin stated that they would strike this issue and talk about setting up a work session.

Restructuring format of "Work Sessions" to increase effectiveness (i.e. inclusion of Applicant in discussion).

The Planning Commission discussed the format of work sessions and made the following comments:

- On a case by case basis it should at the Chairman's discretion on how much the applicant is involved in work sessions. It seems to be beneficial to have the applicant be part of the discussion.

The Planning Commission took a break at 10:05 a.m.

The meeting reconvened at 10:20 a.m.

Scheduling and coordination of ARB and Planning Commission reviews.

- Developing a timely enough review schedule to give the Commission the ability to defer action on an application if additional information is needed. Typically, by the time an application is before us, the 60-Day State mandated requirement for action requires the Commission to recommend denial of a project if there are significant issues unresolved, rather than deferring until the issues can be resolved.

Ms. Catlin stated that the discussion of the scheduling and coordination of the ARB and Planning Commission reviews had been touched on last night.

Mr. Edgerton asked Mr. Graham to explain how the schedules are structured.

Mr. Graham passed out schedules for the Architectural Review Board and for site plans and subdivision plats. He explained the process staff uses to set up the site plan and subdivision plat review schedule to meet the 60 day mandated deadline.

Mr. Edgerton asked if there would be a way to marry the site plan schedule with the ARB schedule.

Mr. Morris stated that the Commission often has to wonder why they don't have the latest comments from the ARB. He stated that he would love to see if it would be possible to marry those two schedules.

Ms. Higgins stated that the deadline for filing and the meeting date for the ARB are much longer than for site plans. She suggested that the ARB submittal be revised to be more like the site plan submittal to avoid the common mix-match situation of having two different plans being reviewed by the ARB and the Planning Commission. She felt that the schedule could be tightened, but it would mean tightening the schedule for comments back for ARB. In the site plan process the applicant submits, gets feedback and then gets a chance to revise. Once the applicant gets those revisions in the request can be called up. She felt that process was very positive. She stated that the site plan review was giving more and more weight to the ARB's input. Therefore, the Planning Commission needs to get the ARB's comments in the focused process. The ARB's input is being used more critically in the special use permit process.

Ms. Joseph asked why one of the many copies of the site plan submitted by the applicant could not be given to the ARB Planner to review. She asked why the ARB was not considered as another agency like VDOT and the Service Authority during the site plan process. She asked why the burden was on the applicant to go to the ARB Board.

Mr. Graham asked if there was a need for site plans and subdivisions to see ARB comments.

Ms. Higgins stated that it was only needed if a plan comes in that is located in the Entrance Corridor. She suggested that a check box be included on the application for Entrance Corridor so that ARB comments go into the package, the applicant can respond and there is some input before it gets to the Planning Commission.

Mr. Graham stated that it was because it was specifically called for as elements of a preliminary site plan or preliminary subdivision plan to indicate that you have water and sewer. He pointed out that site plans and subdivisions are ministerial and there are specific ordinance requirements if the plans satisfy the ordinance requirements. He asked if there is a need to link a by-right site plan that is in the Entrance Corridor. He asked why a condition for a preliminary site plan or subdivision plat approval could not simply be that the applicant has to have a Certificate of Appropriateness.

Mr. Edgerton stated that from what he heard last night in the discussion of the roles of the ARB versus the Planning Commission, they are being asked to consider their opinions in their decisions. If they are being asked to consider it and they don't have it, then that is why putting it off to the final signed plat creates a problem. He asked if there would be a way to incorporate the process as another agency review so that at least the Commission has some preliminary input, then they could keep that catch all for the Certificate of Appropriateness before the signing of the plat for the final plat review. He felt that it would be very beneficial to the Commission to at least have the preliminary comments from the ARB.

Ms. Higgins stated that the ARB input could affect the building layout.

Mr. Graham asked what happens if the applicant refuses to do that.

Ms. Joseph stated that they would have to add that to the ordinance if they wanted this procedure to take place. That would require the applicant to go through that part of the review.

Mr. Thomas pointed out that the information could not be considered if they don't have it.

In summary, Ms. Catlin stated that she was hearing two items being expressed:

- The scheduling issue and the disjointed nature of who gets what, and
- The inclusion of ARB review with the regular review process so that their review and input would become something that is more like what other agencies are contributing. But, she was also hearing that might not be the thing to do.

Mr. Graham stated that there was an important distinction. He felt that staff totally agrees if it is a legislative act that the Commission needs the ARB comments. But, he was not sure that staff has said that as part of a ministerial review that they need it and that it has to coordinate. He asked what they were going to do with it.

Mr. Edgerton stated that the ordinance says that they will consider it.

Mr. Graham stated that what he was hearing was that the Commission would like to have preliminary ARB comments at the same time as the site review comments so the two could be reviewed at the same time.

Ms. Joseph stated that it was a waste of time for staff and the ARB to be reviewing different plans.

Mr. Thomas asked Mr. Graham what his point was.

Mr. Graham stated that his point was that the easy answer from staff's perspective is to simply have a comment as a condition of approval on the preliminary that says a Certificate of Appropriateness is required before approval of a final site plan. Then staff will have to assume that the applicant will figure out how to get through that process. Then if there are revisions to the preliminary, then the applicant will have to make the revisions and come back.

Ms. Catlin stated that Mr. Graham and Mr. Kampnter will need to think about this and then come back to the Commission with their thoughts.

Ms. Joseph stated that one of the things that Mr. Rieley brought up last night was whether there was any precedent for a Planning Commission member to sit on the Architectural Review Board or a member of the Architectural Review Board to site as a nonvoting member on the Planning Commission. She pointed out that a lot of Planning Commission concerns are discussed by the ARB, which might confuse the applicant.

Ms. Catlin stated that they could put an issue on the list for ARB role clarification, which would be a conversation for the Board. She pointed out that there were two issues that need further review being:

- Coordinating the review schedule by staff.
- ARB role clarification, which would be a Board issue.

Developing a timely enough review schedule to give the Commission the ability to defer action on an application if additional information is needed.

Typically, by the time an application is before us, the 60-Day State mandated requirement for action requires the Commission to recommend denial of a project if there are significant issues unresolved, rather than deferring until the issues can be resolved.

The Planning Commission and staff discussed the 60-Day State mandated requirement for action to be taken on an application and if it was possible to change the schedule. Staff explained the schedule and the fact that it was already very tight.

Mr. Kamptner stated that it would be really helpful that the staff person knows how many days into the review period that they are for every application.

Ms. Catlin stated that as they look at the schedule review what they are proposing at this point would be looking at the possibility of expanding the review time and at least being made more aware of the actual deadlines for a project are given VDOT's requirements. If they were really up against the wall they would have a little bit of slip and they would know that. The distinction between site plans and special use permits would be made.

Content of Staff Reports (i.e. more? less? reduction of redundancy?) and Establishment of "Standardized" review Process including a standardized determination of "completeness" of an application.

Ms. Joseph pointed out that there needs to be some consistency in the staff reports.

Mr. Edgerton asked that staff make sure that the favorable and unfavorable portion stays in the template in some form

Mr. Morris agreed with Mr. Graham's suggestion last night of providing a one page executive summary with the back up information being in the form of attachments.

In summary, Ms. Catlin stated that staff will bring back a template for an executive summary for the Planning Commission's review.

The Planning Commission took a 5 minute break at 11:20 a.m.

The meeting reconvened at 11:25 p.m.

Ms. Catlin presented a summation of the Planning Commission's discussion. Staff will develop an action plan from the following list and bring it back to the Commission to take a look at.

Specific issues/actions already identified:

- Better integration/scheduling of ARB review process – **staff to review possibilities**
- Review the possibility of coordinating the review process to give Planning Commission adequate review time before reaching mandated deadline – Planning Commission should be made aware of exact timelines/deadlines for individual projects – **staff should provide this information as part of staff report**
- Development rights – actual vs. theoretical, floating rights, possible mechanisms for reducing rights, etc. – **staff will prepare a work session on this topic (this was indicated to be the more critical work session)**
- Does the Planning Commission have the ability to revise Agricultural/Forestal District process in any meaningful way, if yes than how? **staff will prepare a work session on this topic**
- Develop an Executive Summary template for staff reports to highlight critical information in a consistent way – **staff to provide suggested format**
- Revised work session formats – **Planning Commissioners supported the Chairman's role in including the applicant and members of the public in work sessions based on the specific situation of each session and whether that involvement is appropriate for what needs to be accomplished**

Important general issues that need actions identified:

- Clarifying ARB role – understanding their mission, charge, areas of responsibility

- Planning Commission and ARB **–** understand the advisory role in ministerial vs. legislative decisions, evaluations by the two bodies sometimes are based on different criteria – ordinance vs. design guidelines, coordinating and sequencing the dual decision-making process

- Planning Commission and Board of Supervisors – communication and understanding the larger vision for the county and the strategic plan, expediting processes particularly for development within the development areas, shared conversation about the Comp Plan

Longer term goal dependent on accomplishing major items listed above:

- Moving the Planning Commission out of a reactionary role into a more proactive planning role

Adjournment:

With no further items, the meeting adjourned at 11:53 p.m. to the next regular meeting on March 1, 2005 at 6:00 p.m.

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V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon Claytor Taylor, Recording Secretary.)