Albemarle County Planning Commission
July 23, 2013

The Albemarle County Planning Commission held a public hearing on Tuesday, July 23, 2013, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Ed Smith, Bruce Dotson, Thomas Loach, Richard Randolph, Don Franco, Calvin Morris, Chair; and Russell (Mac) Lafferty, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Other officials present were Elaine Echols, Principal Planner; Summer Frederick, Intern; Sharon Taylor, Clerk 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.

Other Matters Not Listed on the Agenda from the Public:

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

Doug Arrington asked the Commission to consider rescinding the letter to the adjacent landowners dated May 10th from Community Development on Phase 1 Whittington development due to an incorrect listing of its zoning district's name and sending a corrected letter to the adjacent owners. (Attachment A: Letter to Kelly Strickland Dominion Development Resources dated May 17, 2007 from V. Wayne Cilimberg, Director of Planning in reference to ZMA-2006-011 Whittington PRD - Amendment)

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

Public Hearing:

CPA-2013-00001 Comp Plan Work Session – Review of Draft dated July 23, 2013 – Comments and Recommendations for Chapters 1 - 7

Mr. Morris pointed out the Planning Commission was finally moving to the finalization of the Comp Plan Update after two years. The Planning Commission would hold a work session on CPA-2013-00001 Comprehensive Plan to review Draft dated July 23, 2013. Staff would provide an overview chapter by chapter and answer Commission questions. Public comment would be taken. Then the Planning Commission would hold a discussion in consideration of the recommendation.

Ms. Echols summarized the Comp Plan process and items the Commission has received up to this date. Tonight the Planning Commission would be making their comments for their final recommendation.

Public Comments

Mr. Morris opened the public hearing and invited public comment.

The following individuals spoke:

Richard T. Wagaman said that Ms. Echols team has done a good job. There are a couple of things he wanted to talk about tonight. However, he thinks the overall plan is something he really thinks is a well thought out plan so far. He wanted to talk about development in Chapter 8 specifically on page 8.4, which has to do with the Village of Rivanna. There are some transportation issues that are not new. He has been making these recommendations in discussions for 15 years, which is long before this plan was ever started. He summarized the following comments:

- In paragraph 1 on page 8.4 it says that the villages in general cannot operate alone and must be linked to the urban core, which is Charlottesville. However, these links to Charlottesville must have adequate capacity to supply and efficiently move residents conveniently between villages and the urban cores. They are good words, but here are the facts. Item #3, the County's own consultants using the County supplied data says the key road service level will be "F" or failure as the village is being developed. The same consultant using eastern planning data to include Fluvanna County and other areas shows that the service level will be "F-" or a major failure with Village of Rivanna build out and the Lake Monticello planned growth. The plan's words about villages don't match the Village of Rivanna transportation situation. There are no plans or funds to fix the transportation problems before 2035. That is a fact. He would urge the Commission to think seriously because this is the first Village. He asked that they not screw it up because he lives there. It is extremely important that they give this transportation issue a hard look. (Attachment B to Planning Commission dated July 21, 2013 from Village of Rivanna Advisory Council submitted by Richard Wagaman – Available in clerk's office with written minutes)

Kerin Yates, President of League of Women Voters of the Charlottesville Area, said their Natural Resources Committee has worked with the Commission through this whole process. She would like to promote this evening that there be a clear statement at the beginning of the final plan which would indicate that the information contained in the narratives following each strategy be intended as guidelines to be used in the implementation of the strategy. They are suggesting this because they understand that in any document of this length there are going to be things that creep in or disappear.

- She can give examples involving water, as follows.
  - In the Natural Resources, objective 1 protect the quality of surface and ground water - the crucial need for protecting also the quantity and the availability is not there
  - In the section on Water Resources strategies there used to be 18 and now there are 7. There is some confusion on the difference between actions and descriptions or narratives.
- Because of things like this, therefore, she comes before the Planning Commission asking them to really consider putting that statement at the beginning of the plan.
- They would like some way to review the wording of the final document. She can personally see that they have been doing this all along. However, they feel that there should be some way, because of the length and the changes, to indicate the corrections or deletions that might be needed.

Muriel Grim pointed out a very quick one word edit that might not have been caught. On page 4/11 under the Natural Resources Strategy 1e it talks about igneous and metamorphic stone formations and the correct terminology is rock. There are other points that they want to make.

- After the last work session it was indicated that a lot of changes would be made about the ground water. As the document now reads it seems a little more restrictive than their understanding of what was going to be adopted after that last meeting. She did not

know if Ms. Yates just gave them the information. There is a specific suggestion there of adding some more words to the current document.

- Also, there were five other items back from several months ago in a letter where they indicated items that are in the current plan that do not appear to be in the updated plan. There are still five of these items that they can't account for. Therefore, the additional page gives suggestions of where they might be included in the current document. It is not much and is almost done here. Anyway, they are suggesting some changes.
- She pointed out the last item that is referred to in the current document says the county will need to hire additional staff. They added "including an entity that will be aware of the activities and responsibilities of and well coordinated with all the water related programs in the various county departments." Everything is scattered in different departments and someone should know what is going on. The original plan did seem to indicate that a citizen's committee would do this. However, there were also staff members at that time that could do this. So they did put together the concept of a staff member, which was not in the current plan, with what a committee would have been tasked to do, to make that change. But, otherwise as far as they can see that stuff is still not going from the current plan into the new one.

Doug Arrington said he would like to speak once again to Whittington but on a different level.

- Whittington has been locked into 96 houses since 1980. Everything that has been done in regards to Whittington has been predicated on 96 houses. It includes water and sewer, which was initially requested in 2006 when Biscuit Run was a going concern, and was denied in 2007 when the plat was approved and the Commission and Board realized they had absolutely no control over site development or infrastructure and could not impose any regulations that were not in place before 1980. Then in the fall of 2010 Whittington was granted sewer rights. During the Board of Supervisors meeting it was brought up that at least one of the votes was given for sewer for Whittington with the expressed concern and statement of no greater density. Low and behold in January, 2011 the first public meeting on the Comprehensive Plan for Neighborhoods IV and V Whittington is scheduled to be changed on the Comprehensive Plan to Development Area.
- He would request and be very appreciative if the Commission would look into how this fits into the Development Area. It is Rural Area. The lots are a minimum of 2 acres. It located south of Mosby Mountain. It does not fit. If he was not mistaken the Development Area gives 3 to 34 units plus light commercial. There is no place for it. It is an area that is below the four lanes of Fifth Street Extended in a very curvy part of Old Lynchburg Road, which he thinks is on the long term list of things to straighten out.
- He observed that considering the Koonce/St. John's River Water Authority ruling, there is some confusion even amongst the county powers to be about what sort of effect that is going to have on proffers. So particularly in Neighborhoods IV and V where there are some infrastructure changes that have to be made does it make sense to upgrade the zoning on properties that the state may have to take for road improvements and remembering the court ruling last year concerning the taking of commercial properties and having to compensate for lost business.

Charles Battig said his comments are based on what is posted most recently on the website. He noted the following:

- As a preference he noticed the Virginia statute governing all of this says at least once every five years the comprehensive plan shall be reviewed by the local planning commission to determine whether it is advisable to amend the plan. They would like to know where, when, and by what vote did the Planning Commission determine that it was advisable to do this? Was such a vote taken?

- In reference to the background the document talks about an emphasis in protecting rural areas and incorporating the rights of the individual property owners. He would say everything in this comp plan ignores its claim. The Livability Project results included the survey response that fewer regulations and protection of private property rights were top priorities of the county residents. This draft is regulatory over-reach on American Planning Association steroids. Protecting the Rural Areas from what and for whom?
- 2.1 Values and Visions – 2.2 Albemarle County values. Who is this Albemarle County? He would like to meet him. He thinks it seems to be the vision of the county planning staff who neglected to include county residents as something of value in the listing.
- 3.1 Strategy and Management all deals with funding. So there is not enough funding. But, as viewed by whom? The county budget contains much "fat" in the form of giveaways to favored social engineering and feel good enterprises. However, the rural county tax payer is given second-class status officially and serves as a captive money tree to fund these elitist projects.
- 5.1 Historic, Scenic – Strategy – In this section they want a conservation planner, which will be another tax increase coming down the road for funding another position.
- Strategy 2.b – Historic Overlay District Zoning Ordinance. It is killing private property rights with overlay district upon yet another overlay district. What is the essential difference between a district and an overlay district? Somebody told him that an overlay district does not require any input from the people living there.
- Strategy 5.7 – Historic Preservation Committee wants to look into creating a Heritage Area. So it is another massive land grab which will make private property use and enjoyment subject to another un-elected board.
- Strategy 4.b – The Piedmont Environmental Council, etc. in dealing with the "Monticello Vistas". He calls this back from the dead...Lazarus lives on. The county planning staff seems not to understand the meaning of NO. The County Planning Commission ruled, after formal consideration of this proposal that the County would as in the past do no more than provide the Monticello Foundation with building permit notifications of permits issued in the view area. PERIOD. Now an ominous "as necessary" is tacked on.
- He would like to read a Thomas Jefferson quote to put things into perspective. In 1802 Thomas Jefferson said "if we can but prevent the government from wasting the labours of the people, under the pretence of taking care of them, they must become happy." He asked the Planning Commission to try to keep that in mind. (See Attachment C to Planning Commission dated July, 2013 from Charles Battig entitled Excerpts and Comments: Comp Plan Draft July 2013. – Available in clerk's office with written minutes)

Joe Draego, Carrsbrook resident, spoke in opposition to the process and recommendations in the Comprehensive Plan update. He asked what ethic they stand on that allows our county government to take equal tax from members of the rural areas yet purposely with a forethought and malicious decrease their services. There are all these good things in the five year plan such as good food, shelter for everyone in the county, adequate transportation, and jobs that are meaningful and have room for advancement for our citizens of the county. Where does the money come from to provide these services and material goods to our people that are in this plan. They don't get any answers to our questions. If they don't have the money, then why is that language in this plan. What is the reason for it? Regarding sustainable living he asked if they know what is going on with our farm land. They are killing off the bees which will result in our crops not getting pollinated.

Wally Hughes said his parents live on Scottsville Road at 19 Pebble Drive. The adjoining two properties have been thought of to go into an urban type of development. He thinks Route 20 is a corridor between Scottsville and Charlottesville. The property is absolutely gorgeous and

does not deserve to have a commercial building on it. He is a residential real estate agent and values their property. He wanted to let everybody know that they are opposed to that. They would like to see this area stay in a residential type zoning.

Vito Cetta would like to compliment the County in this comprehensive plan and also the efforts of conserving big parcels of land. If you drive on Garth Road passed Georgetown Road it looks the same as it did 30 years ago. That was one of our goals. If you go where Avon and Route 20 meet and drive to Scottsville, it looks the same as it did 30 years ago. If you go on Route 250 west from Boar's Head Inn it looks essentially the same as it did 30 years ago. His point is that the comprehensive plan in his opinion very much works. The conservation easements also very much works. They see beautiful farms, picket fences, and the place is growing at 1,500 people a year. So they should be very thankful for what we have.

Nancy Carpenter said she has looked at the housing and transportation portions of the comprehensive plan. There is something she made the Board and City Council aware of that she wants to make the Commission aware of. Our federal government is looking at tax reform. One of the things that has been a pivotal resource for us is the low income housing tax credit, which has provided the impetus for a lot of affordable housing, workforce housing, etc. She wanted to make sure that they contact Senator Kane and Senator Warner and let them know as a governing body or as individuals or as members of other professional organizations that deal with housing issues that they do want to make sure that the low income housing tax credit is still made a part of our tax code. That would allow developers to use that and bring to Albemarle County the mixed use residential developments that the comprehensive plan calls for. They are looking at making a denser development and bringing transportation to those development areas whether it is public, bike or some other type of transportation mode. But, if they don't have that one pivotal resource it might make it a little difficult to achieve what is written in the comprehensive plan and what is put in the zoning ordinance.

Morgan Butler, with the Southern Environmental Law Center, asked to first acknowledge and thank the Commission and staff for the tremendous amount of work that has gone into getting the draft to this point. In addition, he thanked staff for the extensive opportunities there have been for public participation throughout this process. They have not had as much time to review this current version as they might like and to carefully go through the changes.

- Based on a quick review there are a number of good improvements. It reads more clearly and has cut a lot of unnecessary redundancy. The addition of the capsule statements at the beginning of each chapter is a great help in conveying the connection that each chapter has to the county's growth management policy and to the overall vision of the comprehensive plan. He thinks the new draft also better emphasizes some of the county's defining principles. One great example is the language that was added up front to the economic development chapter about the key role that protecting the rural areas and the natural resources in the rural areas play in Albemarle County's economic growth and quality of life.
- There are also some areas where important themes might have been weakened or removed. But, based on where they are in this process, tonight is not the time for us to flag all of our remaining concerns with word choice or relative priorities. He would like to focus on a couple which are the most important and which he urges the Commission to address before they relinquish their authority and ability to shape this plan and pass it on to the Board of Supervisors.
    1. In reviewing the rural areas chapter you may recall in April that six different conservation groups, SELC among them, sent a letter voicing strong concerns about language in the draft plan that indicated that any potential changes to zoning regulations that are intended to preserve rural land and to protect natural resources

should not reduce development potential even if they would only reduce it indirectly. Unfortunately, that language is still contained in the draft specifically in section 1d. They understand the desire to make clear that the comprehensive plan does not recommend down zoning the rural areas. But, that point can and should be made more precisely. So they urge them to either delete or improve strategy 1d so that it does not tie the county's hands when there is a need for reasonable zoning changes that clearly benefit the public and landowners, but which might also indirectly and unavoidably reduce some residential development potential in the rural area.

2. It appears that changes to the discussions of commercial and industrial land availability have either dropped valuable information or deemphasized it. Specifically, with the commercial land discussion the latest draft has dropped the charts and cut language that was in the prior version of the draft explaining that there is much more land currently zoned commercial than the comprehensive plan calls for or that they will reasonably need in the foreseeable future. This is an important point not only with commercial land, but also with respect to industrial land availability because with recent zoning changes most commercial zones now allow industrial activity. This is an important point in assessing industrial land needs because it is noted in the draft plan most of our targeted industries can now locate in the commercial zones. The plan's discussion of industrial land capacity should factor in this important point.

- In closing they would ask the Commission to make sure that these two important points are addressed before they send this on to the Board of Supervisors.

Wendell Wood asked the Commission to support the planning staff and the Places 29 Advisory Committee's recommendation about the land out at Rivanna Station and just to remind them that the property has already expended several million dollars. It has a four lane divided highway into the property they are talking about. It has public sewer and public water. It is in the area where the terrain has no 25% slopes. It is where obviously National Ground Intelligence Center already is. They would like to see the Planning Commission support staff and the advisory committee to put this into the plan.

Neil Williamson with the Free Enterprise Forum, complimented staff and the citizenry for working two years through this process.

- He tends not to agree with Mr. Butler with regard to the commercial assets. While he understands his point about the new zoning, he also understands the reality of economics. While such things may be permitted he did not believe that the economic climate is going to allow that commercial land to be used in the industrial fashion that is deemed necessary as they discussed last week with some of our industrial users literally flinging the county.
- With regard to 4.b, which talks about unintended reduction of development rights, they see that all the time. There is an unintended reduction of property rights even when a conservation easement goes in. It is voluntary by the originating landowner. Then, when a proposed development goes in next to that conservation easement the developer has to meet a higher standard because of his adjacency now to an easement. He thinks the language that is in the comp plan is helpful. He thinks they have done a wonderful job. He does not love everything in this plan. He thinks they have gone far enough. He suggested that they pass the comp plan on up to the Board of Supervisors.

There being no further public comment, Mr. Morris closed the public comment to bring the matter back to the Planning Commission for consideration. Staff would review the plan chapter by chapter and take comments and questions from the Planning Commission. Hopefully they will get through the 13 chapters before the evening is over.

Ms. Echols reviewed the proposed changes to the draft comprehensive plan and asked for input from the Planning Commission.

Commission Comments

The Planning Commission reviewed the Comprehensive Plan Draft dated July 23, 2013 and provided the following recommended changes:

General Information
1. **All** maps should be large enough to be readable – includes content and legends
2. There is recognition that copy editing is needed and will occur.
3. Information in the Errors and Omissions memo should be included to the list of changes that are needed to the Plan.

Table of Contents
1. The Table of Contents needs to clearly reflect that there will be three separate documents: the Summary (currently not complete), the Plan, and the Reference materials. This information should match up with the information on page 1.13.

Summary
1. Start with an introduction.
2. Include information on implementation as well.

Chapter 1: Introduction and Context
1. If net worth information can be obtained easily add it to the graphs. Add a qualifier to the statement about income on page 1.10 that net worth may be significantly higher in some households and may not be reflected in information about income.

Chapter 2: Vision and Values
1. Add "rivers" to the list of resources that includes mountains, valleys, and streams (first bullet) on page 2.2.
2. Add information on the source of the information to back up the "values" on page 2.2.
3. Add a statement to include "property rights" in the list of "values" on page 2.2.

Chapter 3: Growth Management
No recommended changes except to make the map on page 3-4 more readable.

Chapter 4: Natural Resources
1. Add information on community surveys which have indicated a high level of support for environmental and natural resources on page 4.3.
2. Add the word, "quantity" to Objective 1 on page 4.4 so that it reads, "Protect the quality and quantity of surface water and groundwater resources in the County.
3. Add a statement or phrase about the relationship of the County's water to the Chesapeake Bay in bullet 1 on page 4.4 to set up the discussion on TMDLs on pages 4.6 and 4.7. (Elaine's suggestion, "The fact that many of Albemarle County's streams and rivers flow to the Chesapeake Bay puts a high level of responsibility on the County to keep those streams and rivers free from pollutants.")
4. Under Strategy 1b, on misnumbered page 5.1.9, which talks about the Water Protection Ordinance (WPO), add the date the original ordinance was adopted by the County.
5. Under Strategy 1e which talks about groundwater on page 4.11, add a bullet that says, "Study ways to assess the potential impacts of fracking on groundwater."

6. Verify that the statement on page 4.12, "Air pollution in Albemarle County primarily comes from local vehicle emissions" is accurate by checking with the Metropolitan Planning Organization (MPO) Staff at the Planning District Commission (PDC).
7. On page 4.14, Objective 4, delete, "in both the Rural Area and the Development Areas" so that the objective reads, "Protect biological diversity and ecological integrity."
8. On page 4.15 in the biodiversity section, add a statement that indicates the focus of biodiversity efforts is in the Rural Area. Biodiversity efforts are different in the Development Areas.

Chapter 5: Historic, Cultural, and Scenic Resources

1. Add the definition of a historic resource to the introductory section on page 5.3.
2. In Strategy 1b on page 5.4, add the word, "prehistoric" to the list of historic resources preserve.
3. For recommendations related to Monticello, retain the second 4b on page 5.7 and add the sentence (from the following page), "The Foundation has requested notification of new projects under review, so the Foundation will be able to contact the owners and developers directly to clarify the extent of visibility and to discuss the Foundation's guidelines for reducing visual impacts, as necessary." Eliminate Strategy 4c on page 5.8.
4. Regarding the County's Scenic Streams regulations on page 5.14, clarify that the conflict between the Scenic Streams requirements and the Water Protection Ordinance requirements should be rectified.

Chapter 6: Economic Development

1. On page 6.5, under Strategy 1c, move the image that looks like a logo to the bottom of the page.
2. Within Strategy 5c on page 6.9, add the words, "traffic impacts" in the list of items to be considered when evaluating the fiscal impacts of new business and industrial development.

Chapter 7: Rural Area

1. On page 7.6, within the second paragraph on the page, above Objective 1, add text which speaks to the need to evaluate the impacts of recent zoning amendments before proposing or approving new zoning amendments in the Rural Area.
1. Provide a 20-year span in Figure 2: Building Permits for Single-Family detached Residential Units on page 7.7 to provide a larger picture of residential construction in the Rural Area.
2. On page 7.11, in Strategy 1f about conservation easements, the strategy should say, "Continue to promote conservation easements to provide a financially attractive way for landowners to protect family farms in Albemarle County and their unique open space resources, an opportunity for landowners to voluntarily sell a conservation easement to a public agency to be held in trust for perpetuity, and to preserve important features of the Rural Area for all."
3. Add "amount of grape production" as an indicator of progress of agricultural activities in the County. (to be added to the Indicators of Progress section.)
4. For strategy 7e on page 7.26, change the statement from, "Give preference to the Shadwell Interchange for a greater intensity and concentration of operations which can support agriculture and forestry" to "Study the Shadwell interchange to determine the potential level and concentration of operations which are appropriate for agriculture and forestry at that intersection."

Conclusions and Directions to Staff

Staff was asked to use the comments noted above on Chapters 1 through 7 in further developing the Comp Plan Update and bring the list of changes back for review. The Planning

Commission requested staff to set up a work session on July 30 at 4:00 p.m. to continue the discussion starting with Chapter 8 to work towards finalizing the Comprehensive Plan to recommend to the Board of Supervisors. No formal action was taken.

Old Business

Mr. Morris asked if there was any old business.

- Mr. Dotson requested having Sarah Rhodes come in September to share information on the next steps in the long range transportation plan. He requested 45 minutes be allowed for Commissioners to provide comments.
- Staff suggested scheduling time for Sarah Rhodes to come on August 13 and speak on the long range transportation plan process.

There being no further old business, the meeting proceeded.

New Business

Mr. Morris asked if there was any new business.

- THE NEXT PLANNING COMMISSION MEETING WILL BE ON TUESDAY, JULY 30, 2013 AT 4:00 p.m. The Commission will recess for a dinner break at 5:30 p.m. before the regular meeting at 6:00 p.m.

Adjournment

With no further items, the meeting adjourned at 9:12 p.m. to the Tuesday, July 30, 2013 meeting at 4:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

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