Albemarle County Planning Commission
September 17, 2013

The Albemarle County Planning Commission held a regular meeting on Tuesday, September 17, 2013, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Other officials present were Amanda Burbage, Senior Planner; Amelia McCulley, Director of Zoning/Zoning Administrator; Sharon Taylor, Clerk to Planning Commission; 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. There being no public comment, the meeting moved to the next item.

Item Requesting Deferral

ZMA-2013-00009 Albemarle Place/Stonefield Proffer Amendment
PROPOSAL: Request to amend proffers on property zoned NMD which allows residential (3 – 34 units/acre) mixed with commercial, service and industrial uses. No new dwellings or change in residential density proposed.
ENTRANCE CORRIDOR: Yes
PROFFERS: Yes
COMPREHENSIVE PLAN: Designated Urban Mixed Use (in Destination Center) – retail, residential, commercial, employment, office, institutional, and open space; Urban Mixed Use (in areas around Centers) – commercial and retail uses that are not accommodated in Centers; and Commercial Mixed Use – commercial, retail, employment uses, with supporting residential, office, or institutional uses.
LOCATION: Northwest corner Hydraulic Road (Rt. 743) and Seminole Trail (US 29) in Neighborhood 1.
TAX MAP/PARCEL: 061W0-03-00-019A0, 061W0-03-00-019B0, 061W0-03-00-02300, 061W0-03-00-02400, 061W0-03-00-02500
MAGISTERIAL DISTRICT: Jack Jouett
(Sarah Baldwin)
DEFER DUE TO ADVERTISING ERROR. TO BE RESCHEDULED.

Mr. Morris noted a deferral was being requested for ZMA-2013-00009, Stonefield Proffer Amendment. He asked staff to explain the deferral request.

Ms. McCulley explained when staff checked the legal advertisement they realized that it was not sufficient to fully describe what was being proposed. Therefore, they needed to readvertise and set a later public hearing date.

Motion: Mr. Lafferty moved and Mr. Smith seconded to defer ZMA-2013-00009, Albemarle Place/Stonefield Proffer Amendment to October 8, 2013.

The motion passed by a vote of 6:0.

Mr. Morris said ZMA-2013-00009, Albemarle Place/Stonefield Proffer Amendment was deferred to October 8, 2013.

Deferred Item

ZTA-2013-00005 Inoperable Vehicles.
Amend Secs. 3.1, Definitions, 4.12.3, Prohibited activities in parking, stacking and loading areas, 4.15.7, Prohibited signs and sign characteristics, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Sec. 3.1 to add definitions related to the regulation of inoperable vehicles; amend Sec. 4.12.3 regarding parking or storing inoperable vehicles, reducing the number of inoperable vehicles from 2 to 1 that may be stored outside of a fully enclosed building on lots less than 5 acres having a Rural Areas or a residential zoning designation (with a limited exception for active vehicle restoration or repair), and requiring that businesses authorized to keep inoperable vehicles outside of a fully enclosed building do so only in the location designated for that use on an approved site plan; and amend Sec. 4.15.7 to clarify the reference to inoperable vehicles. A copy of the full text of the ordinance is on file in the office of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Mandy Burbage)
DEFERRED FROM THE AUGUST 6, 2013 PLANNING COMMISSION MEETING.

The Planning Commission held a work session to set general direction and provide feedback on ZTA-2013-00005 Inoperable Vehicles.

Amanda Burbage presented a PowerPoint presentation regarding ZTA-2013-00005 Inoperable Vehicles. Staff explained background information, the proposed changes and asked for feedback and comments.

- The only change from the last version the Commission saw is the addition of language that inoperable vehicles are kept on some kind of improved parking surface in the area that is behind the face of the house if the face of the house is relative to the street. On a corner lot it would be both faces of the building that are next to the street. This was in response to several Commissioners' concerns at the last meeting and also a citizen who spoke about the concern with inoperable vehicles being visible from the street even if they are covered. Even if there is fencing or some sort of cover over the vehicles it is right there in the front yard and it is still a visible blight. Staff wanted to address that with this setback requirement.

- Another thing staff felt was important, particularly in the Development Area, was requiring that vehicles be kept on some sort of an improved parking surface. It would prevent vehicles being parked anywhere in someone's yard potentially leaking fluids directly into the grass. That is where that language came from.
- The staff report alluded to paved surfaces. In visiting sites in the Development Area staff realized there are a lot of alternatives to asphalt that exist for driveways such as gravel and pervious pavers. Staff wants to expand that acceptable surface to include all types.
- Staff reviewed graphics and actual examples (attached to executive summary) to help the Commission visualize what these recommendations would look like in practice.
- To summarize, the requirement that inoperable vehicles be kept to the side or rear of lots does help address some issues, but also raises some issues. It certainly accomplishes limiting visibility from the street. However, it also might end up pushing those vehicles closer to adjacent properties, which may end up being a visual blight to neighbors.
- Staff found in driving around that a lot of driveways end right in front of their houses. With the existing lot situations, unless someone is willing to create a new area for parking a vehicle, many of these lots would have difficulty complying. The requirement that the vehicle be kept on some kind of improved parking surface keeps vehicles off the grass as mentioned before; prevents fluids from draining directly into the ground; and also further limits where on the lot the inoperable vehicle may be kept. If they are requiring certain surfaces be used, then that further limits where those vehicles can go.
- Staff will walk through four questions to get consensus and clarity from the Commission so they can move forward in drafting ordinance language.

Mr. Morris invited questions for staff.

Mr. Lafferty asked if a car can operate and does not have tags would that be an inoperable vehicle.

Ms. Burbage replied yes. Staff uses the State Code definition of an inoperable vehicle, which is any motor vehicle, trailer, or semi-trailer which is not in operating conditions or does not display valid license plates or does not display an inspection decal that is valid or has been expired for more than 60 days.

Mr. Loach asked about Code Section 15.2.905 where it says the County must allow actively engaged repair or restoration. He asked is there any additional language in the Code that defines what the County can do and what limits they have to impose.

Mr. Kamptner replied staff will get to that discussion later. However, they have already had the discussion about the limitation on the 180 days of being the period of active restoration. That is what the draft currently has. They also need to work out what kind of information they are going to ask the person who is claiming to restore to provide that demonstrates that.

Mr. Smith asked who makes the determination the vehicle is inoperable.

Mr. Morris invited Lisa Green, Code Enforcement Officer, to come forward and answer the question from an inspector's point of view.

Lisa Green, Code Enforcement Officer, noted they had a court case where the Judge asked if the car was actually running. If the inspector finds the engine or the transmission is in the vehicle where you sit it is a no brainer. In each situation the inspector has to make a judgment call. There have been times the inspector has asked that the vehicle be cranked. If it cranks and has an inspection, then it is operable.

Mr. Morris noted that the Commission would review each question with public comment taken separately on each question. He opened the hearing and invited public comment on question #1.

Bob Garland, resident of Canterbury Hills, said requiring inoperable vehicles to be on the side or rear yards, in his opinion, can actually aggravate the situation. If they don't require a setback for that vehicle, the vehicle can be set against the neighbor's yard. In his neighborhood the side setback requirement was 10' to the house, which is one issue. The second issue is if they are required to be on a paved surface, then leaking material can then pool that can be toxic material. He pointed out in an email to the Commission that the main toxic material in cars is antifreeze, which is an extremely toxic subject to both pets and children. Impervious material, such as gravel, would simply allow that to go into the environment directly. Therefore, he really is not crazy about this at all. The only exception would be if they can properly screen it, which is another issue.

There being no further public comment on question #1, Mr. Morris asked for input from the Commission.

Mr. Franco said regarding paved surface that the patio was hard surface and the inoperable vehicle could be parked on it. Then the point is back to what are we trying to regulate – aesthetics? It is causing a lot of environmental concerns. If regulating aesthetics, then getting the inoperable vehicle behind or beside the house and away from the street view would work. He did not think he would require the paved surface. If they are going to go that far they will basically be creating a scenario where no one can comply so they can't have them. If that is the case, then he did not agree with it since it goes to zero.

Mr. Loach said he thought they have to look at the potential environmental impacts if they allow the inoperable vehicles to be parked on the grass. At least on the impervious surface they can see it and know there is a problem to be taken care of.

Mr. Franco pointed out that he felt they are going too far.

Mr. Morris said he liked the language staff used as improved parking.

Mr. Franco noted that a drip pan would make him happy to recognize a problem exists and then they can put the vehicle on a paved surface. In addition, they can put it on plastic or a tarp.

Ms. Burbage pointed out there is another issue with the requirement that it is kept on a surface. It would prevent someone putting their inoperable vehicles anywhere in the back yard.

Mr. Morris noted that they still have the screening. He complimented staff on the examples. It would be difficult for the inspectors to enforce anything they have said. He asked how they get out and look at the improved or paved surface to see if there was drainage. It is a problem that they are trying to deal with.

Mr. Lafferty suggested staff give some examples of improved surfaces and say that the object is to keep chemicals from leaking into the ground.

Mr. Dotson said he was comfortable with the rear and side yard provision. However, he has questions about the paved surface. He wondered if they could say either drain the fluids or provide a drip pan. He wondered if that could be an approach rather than requiring the surfacing. It would be hard for someone to have to create a parking pad or put down an inch of gravel for a short term inoperable vehicle. He generally supports #1.

Ms. McCulley pointed out staff spent a lot of time debating whether they should require that in addition to the parking for the inoperable, which actually becomes storage and not an available parking space. They questioned whether they should still be able to have their required parking in addition to whatever parking they have for an inoperable vehicle. It just got so complicated and intrusive that they backed off of that. She asked Mr. Kamptner if he saw any enabling question with being able to say either drain the fluids or provide a drip pan. Generally, they don't do much at a local level in terms of environmental regulation. She asked can they do something like that.

Mr. Kamptner replied that he would have to look at that in more detail.

Ms. McCulley said they would come back on that. She heard consensus that they are not going to require an improved surface, but try to achieve the environmental concern through other means like drip pans.

Mr. Franco added with the drip pans it would pool the fluids that would attract the animals and provide access to it. Therefore, that is a problem. If there is a leak and a problem there is a responsible party for that. He did not want to encourage that to happen, but it is not like it just happens and then it is somebody else's problem. It is on your lot and you did it. Therefore, it is the same as walking outside and pouring a gallon of antifreeze on the ground.

Ms. Burbage asked if they have consensus on the side and rear lot discussion.

Mr. Lafferty asked if it was side and rear lot shielded, and Ms. Burbage agreed.

Mr. Morris replied that the Commission was in agreement. He asked to go to the next question #2.

Ms. Burbage said question #2 was should form-fitting covers be allowed? At the last meeting some of the Commissioners were comfortable allowing form-fitting covers and some said they could be okay with them if the setbacks were imposed. Given the conversation they just finished she asked if they have consensus that people are okay with form fitting covers.

Mr. Morris agreed noting that the majority of the Commission supported allowing form fitting covers in addition to other forms of screening. He opened for public comment on question #2.

Bob Garland, resident of Canterbury Hills, said if they allow form fitting covers they would propose they be required in addition to the vehicle being screened from view by a fence or landscaping such that they can't be viewed from ground level. At least seven of the enabled localities do not allow form fitting covers to satisfy the definition of screening. So it is not unprecedented to have landscaping or fencing for the screening. If they don't do that, then certainly they should provide some sort of setback limit. They have a setback for houses, garages and for almost everything in this County. Certainly a junk car should be set back from a neighboring property.

There being no further public comment on question #2, Mr. Morris asked for input from the Commission for additional comments. From what he understands there is consensus that they approve of the form fitting covers.

Mr. Dotson asked if this was for screening by fencing or landscaping, and Mr. Morris replied yes it was included.

Ms. Burbage noted it was in addition to the other screening with the previous discussion of setback from the face of the lot.

Ms. McCulley said they want to make sure they are talking about the same thing. They are talking about methods of screening an inoperative vehicle and not just the location with respect to the front face of the house from the street. This question is should a form-fitting cover alone that would effectively screen the vehicle be allowed as the sole means of shielding or screening. The reason they raise that question is because as seen in the photos and some of the descriptions some of the lots are very tight and they don't have room to put up a fence or evergreen screening. In rental situations some people don't have the ability to install or erect necessary screening. On the other hand, some people would say that if the vehicle is covered it is still objectionable. Some localities don't allow form fitting covers.

Mr. Morris clarified it is strictly the form fitting cover not including the screening with a fence or vegetation.

Mr. Franco said they are not talking about location as part of this since they have already talked about location.

Mr. Loach said he agreed with the gentleman that if they are going to have form fitting covers as the form of shielding, then there should be a setback. He noted that Suffolk County allowed a 180 day limit on covers.

Mr. Kamptner said because they have the power under 905 to prohibit covers. They can regulate that if they are going to allow covers however they choose. With covers they can put a time limit on the vehicles using covers. It is different from those that are just shielded or screened from view by landscaping or fencing.

Mr. Lafferty said he liked the Manassas definition, which instead of form fitting covers they say a factory designed car cover.

Ms. Burbage pointed out that was the language staff was planning to use.

Mr. Morris said the Commission was in general agreement with a form-fitting cover manufactured by a reputable dealer and on the side or in the rear in addition to the other forms of screening.

Mr. Franco and Mr. Smith were in favor of form-fitting covers, but not for putting a setback to it.

Mr. Dotson suggested a fifth question about the setback. He thinks it makes sense visually if they have a setback for play equipment and storage sheds to have the same setback for the inoperable vehicle, which typically would be 6'.

Ms. McCulley pointed out that play equipment if it was not a structure does not have a setback. But, a swimming pool, shed and things like that do have a setback.

Mr. Dotson proposed that each Commissioner say whether they favor or don't favor using the same setback as for storage sheds.

Mr. Franco said he was not in favor of that because he thinks if they can have a car with no setback. When a driveway goes around the side of the house he would rather have that car covered and parked in that driveway than pull around into the back. On the practicality side he is for consistency and if it is a vehicle it is a vehicle. If there is no setback, then there should not be a setback.

Mr. Dotson favored treating it like a storage shed with a setback.

Mr. Smith agreed with Mr. Franco.

Mr. Lafferty agreed with Mr. Dotson.

Mr. Loach agreed to a setback in the front. He agreed to no setback if the car is on the side or in the back.

Ms. McCulley clarified that there would be a setback for any inoperative vehicle covered or not regardless of the means of screening to be behind the front face of the house. If they allow form fitting covers she asked if they are suggesting any additional setback from the side of rear other than behind the front line of the house so that it puts it in the side or rear yard.

Mr. Morris noted he had heard three say yes and three say no. He disagreed.

Mr. Loach said if it was set behind the front face of the house he would agree.

Mr. Morris noted that it was consensus by 4:2 that there would be no setbacks. Mr. Dotson and Mr. Lafferty supported having a setback.

Mr. Kamptner asked if there was any durational limit on form fitted covered inoperable vehicles. He asked if there was any desire to pursue that.

Mr. Loach replied no since it was almost redundant on the side or the back.

Mr. Lafferty replied no as long as the form fitted covers were in good repair.

Mr. Morris noted that they would move to question #3 regarding repair and restoration.

Ms. Burbage said as recommended in previous versions they are proposing a 180 day time limit for active vehicle repair or restoration to keep a second inoperable vehicle in the areas where they are otherwise restricted to one. The onerous would be on the owner of the vehicle to demonstrate that progress is being made. If there were to be a complaint and the Code Enforcement Officer visited the site they would need to show some sort of evidence that parts are on order from one week to the next and that progress is being made. The clock would essentially start when it is determined that there is a violation. They are taking the State Code definition for an inoperable vehicle that it is not in working condition, has no plates or inspection decal or expired inspection for over 60 days. That second vehicle could be used for parts. She asked for feedback whether that is an appropriate timeframe.

Mr. Franco said he was in favor of documentation, but felt it should be the owner of the property and not the car because the owner of the car could be somebody different. If they are regulating aesthetics he is regulating where it can be and not what it is.

Mr. Dotson supported the 180 days.

Mr. Smith asked when the clock starts, and Ms. Burbage replied when it is determined to be violation when the Code Enforcement Officer visits the site in response to a complaint.

Mr. Franco asked if this above and beyond the one, and Ms. Burbage replied yes.

Mr. Morris said regarding restoration that it was going to go a lot longer generally than 180 days. However, staff is asking for documentation that the car owner is actually involved in restoring it.

Ms. Burbage replied that was correct.

Mr. Loach questioned if the vehicle was up on blocks. He had no problem with the 180 days, but is there a shorter time period if the vehicle cannot be moved.

Ms. McCulley pointed out the vehicle still has to be screened.

Mr. Lafferty agreed with Mr. Franco that it should be the car owner. He thinks the 180 days is adequate.

Mr. Morris noted the consensus of the Commission was that 180 days was fine. However, they have a split since he feels it should be the owner of the automobile.

Mr. Smith agreed that it should be the owner of the automobile.

Mr. Franco pointed out it would be easier without tags and registration to figure out the owner of the car.

Mr. Morris opened the hearing and invited public comment on question #3.

Bob Garland, resident of Canterbury Hills, commented on question #3. He said 180 days is a long, long time. He seconded what Mr. Morris said about a vehicle restoration. Having a collectible car and having done this all his life he knows something about vehicle restoration. First, it will take a lot longer than 180 days. It is not realistic to expect somebody to restore a vehicle in their yard. Repairs would be a different matter and 180 days would be an extremely long time to leave your car in the shop. However, more importantly is a residential neighborhood the place that a car repair taking six months should occur. They could have welding, the cars be up on blocks or any number of visual blights, noise and various disturbances while this is going on. He thinks 180 days is actually way too long. A more reasonable approach would be 90 days, which is 3 months. It would be 3 months from the time the violation occurred. Certainly there has been a time prior to that they had the car before it became an inoperable vehicle. It is his opinion that by far the majority of inoperable vehicles in Albemarle County are simply junk cars with no possibility or plans for repair or restoration, which is what they are talking about here. If somebody is actively repairing a car in a given period of time he thinks it should be 90 days. He was not fine with a junk car sitting in his neighborhood forever or for 180 days.

Mr. Morris asked if he was saying he would like to have the timeframe cut in half.

Mr. Garland replied that actually he would like no timeframe. He did not think inoperable vehicles or junk cars are appropriate for neighborhoods at all. He did not think repairs are appropriate. They don't license garages in residential neighborhoods.

Certainly a garage could be less obtrusive than having a car in somebody's side driveway.

Mr. Morris invited further public comment.

Neil Williamson, with the Free Enterprise Forum, said this is fascinating in the context with the conversations that he heard at Disk I and Disk II with regards to where the cars go and how they place operating cars and not just inoperable cars. To take away someone's ability to make a repair, particularly for a renter, and force them to take it to a shop when they might be able to do the repair on their own is not really what he thinks this is about. He thinks what they are talking about is junk cars sitting in the Development Area causing problems. The Free Enterprise Forum has concerns that if a car in a driveway is not attractive because it does not run what is a car in a driveway look like that does run that is in the front of the house. He thinks it is important to recognize there are impacts to people here or renters that are doing things to those vehicles to keep them on the road. That is different than holding a car that should not be held. However, that is a distinction that he encourages the County to make as they put forth this ordinance.

There being no further public comment on question #3, Mr. Morris asked for input from the Commission on a recommendation to staff.

Mr. Dotson commented on the 90 days versus 180 days. If the 90 days occurred in winter, then that might not be a time when this would happen. With 180 days at least there would be some warm weather.

Mr. Morris noted the consensus of the Commission was in favor of the 180 days.

Ms. Burbage said they would move to question #4. They talked about phasing at the last meeting. They were proposing that residential districts be handled in phase one and rural areas districts limiting to one on lots less than five acres be handled during phase two. The question is should the introduction of screening standards occur in all districts in phase one or just residential districts since acreage requirement won't happen until phase 2?

Mr. Lafferty suggested they not include the screening standards in the rural area. He noted in phase one they need to find out what impact that is going to have in the Development Area so they might be able to adjust it some.

The Commission supported only changing regulations in the Development Area during Phase one and leaving the Rural Areas until they have more information about how it goes.

Mr. Morris opened the hearing and invited public comment on question #4.

Bob Garland, resident of Canterbury Hills, said they have actually found something they can agree on. He thanked Ms. McCulley and Ms. Burbage for working with him over the past several months. They have worked very hard on this and anything they can do to

make it easier on the staff to implement this policy would be a good thing. Therefore, he supports this 100 percent. He agreed with what Mr. Williamson just said about the difference between a junk car and a car that is truly there for repair or restoration. He has no problems with restoration since he has done that himself. He has repaired his car in his driveway. He has no problem with people actively repairing a car. He does have a problem with the cars that have been in their neighborhood for years if not decades. He was talking about the cars that have been there forever.

There being no further public comment on question #4, Mr. Morris brought the matter back before the Commission for further discussion.

Mr. Franco said he opposed government getting involved with regulation of aesthetics. The next thing coming up is going to be the weeds in front bed, grass height, and all those kind of things that don't affect property values. However, if they are going to regulate this he thinks they are heading the right direction.

Mr. Morris said the Commission's consensus is that it should be phased and phase one is focused on the Development Area. He asked if staff had enough information to go forward.

Ms. Burbage summarized what staff heard from the Commission, as follows.

1) Should inoperable vehicles be required to be **kept behind any face of the house oriented to a street & kept on an improved parking surface**?

   A majority of the Commission was in favor of relegating inoperable vehicles behind the front face of the house, but not imposing an additional requirement about the type of surface that the vehicle is kept on. Staff will bring some more information about the environmental impacts of leaking vehicle fluids and recommend potential measures that can be used to address that.

2) Should **form-fitting covers** be allowed?

   The majority of the Commission supported allowing form fitting covers in addition to the other forms of screening.

3) What is an acceptable **timeframe for vehicle repair or restoration**?

   180 days was an acceptable timeframe provided the owner can demonstrate they are actively working on their vehicle.

4) Should screening standards be applied in the **Rural Area** during Phase I?

   The Commission supported only changing regulations in the Development Area during Phase one and leaving the Rural Areas until they have more information about how it goes.

Mr. Morris agreed that the summary was correct. He asked if a motion was needed to direct staff to draft an ordinance and set a date for public hearing.

Mr. Kamptner replied that all the Planning Commission needs to do is work with staff about figuring out a date to bring it to public hearing.

Ms. Burbage replied that staff has October 22 reserved assuming the Commission would be comfortable going forward with drafting ordinance language. Staff would like to come back to the Commission on that date in public hearing.

Mr. Morris said the Planning Commission agreed with staff's recommendation and suggested staff move forward with the draft taking their comments in consideration and set a public hearing for October 22, 2013.

Old Business:

Mr. Morris asked if there was any old business. There being none, the meeting moved to the next item.

New Business

Mr. Morris asked if there was any new business.

- The next Joint City/County Planning Commission meeting will be held on Tuesday, September 24, 2013 at 6:00 p.m. on the Liveabililty Project.

Mr. Franco moved and Mr. Dotson seconded for adjournment to September 24, 2013. The motion passed unanimously by a vote of 6:0.

Adjournment:

With no further items, the meeting adjourned at 7:12 p.m. to the Tuesday, September 24, 2013 Joint City/County Planning Commission meeting at 6:00 p.m. at the County Office Building, Second Floor, Room #241, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilmberg, Secretary

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