Albemarle County Planning Commission
April 15, 2014

The Albemarle County Planning Commission held a regular meeting on Tuesday, April 15, 2014 at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

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

Other officials present were Sarah Rhodes, MPO Program Manager, Thomas Jefferson Planning District Commission (TJPDC); Rachel Falkenstein, Senior Planner; Amelia McCulley, Zoning Administrator/Director of Zoning; Frances MacCall, Principal Planner; Wayne Cilimberg, Director of Planning; David Benish, Chief of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order

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 none, the meeting moved to the next item.

Committee Reports

Mr. Morris invited committee reports. There being none, the meeting moved to the next item.

Review of Board of Supervisors Meeting – April 2, 2014 and April 9, 2014.

Mr. Cilimberg reviewed the Board of Supervisors actions taken on April 2, 2014 and April 9, 2014.

Consent Agenda:

a. Approval of Minutes: March 18, 2014

Mr. Morris asked if any Commissioner would like to pull an item from the consent agenda for further review.

Motion: Mr. Lafferty moved and Mr. Dotson seconded for approval of the consent agenda.

The motion carried by a vote of (7:0).

Mr. Morris said the consent agenda was approved.

Presentation:

a. MPO Long Range Transportation Plan
Update on Charlottesville-Albemarle Metropolitan Planning Organization's (MPO) 2040 Long Range Transportation Plan (LRTP). (Sarah Rhodes)

Sarah Rhodes, the MPO Program Manager from the Thomas Jefferson Planning District Commission, presented an update on the Metropolitan Planning Organization's (MPO) 2040 Long Range Transportation Plan and distributed the current format of the fiscally-constrained project list. (Attachment

A – Memo to Albemarle County Planning Commission from Sarah Rhodes regarding the 2040 Long Range Transportation Plan Process Update and fiscally-constrained visioning project list which is on file with the printed minutes in the office of the clerk.)

Our community needs to update the Long Range Transportation Plan every five years. It has been a two-year process and this plan is due at the end of May. The full draft of the plan is available on-line for review. Long Range Transportation Plans are meant to provide a community vision for transportation improvements over the next 20 years and have to be fiscally-constrained. That means this community cannot plan to spend more money than it is expected to receive over the life of the plan document. She invited additional comments after this meeting to be emailed to her.

She reviewed the fiscally-constrained portion of the Long Range Transportation Plan, which was approved by the MPO on March 6, 2014. This document, while it has been approved, is still subject to change and will likely change. The whole point of the Long Range Transportation Plan is that it is a visionary document. Given the exciting transportation topics going on in this community right now they anticipate amending this plan a lot. She reviewed the process and explained the fiscally-constrained appendix and project lists/maps, which includes a map of improvements in the six-year improvement program. It includes roadways and bridges; and several projects including the US 29 Widening Project, Hillsdale Drive Extended; Meadow Creek Parkway; McIntire Road Extended with only the US 250 Interchange Project that is still in the six-year improvement program; US 29 Western By-Pass Project, Best Buy Ramp Project; and a project in the city for improvements to Fontaine Avenue.

Next she reviewed the projects the community actually elected to move forward as part of the Long Range Transportation Plan, which includes two major interchange projects on I-64 at Exit 118 and Exit 124. They also have the Rio Road Interchange, which is fully funded in this plan. A portion of the Berkmar Extended Project is funded in this plan and the bridge itself is fully funded. Finally, the plan includes the widening of US 250 from North Milton Road into I-64, which is called the US 250 Shadwell Widening. Those are the major improvements.

She reviewed the transit funding, bridge project list with location map, bike/pedestrian improvements, funding breakdown, and visioning list.

Recommendation: At this time the MPO is not asking for any action from the Planning Commission regarding this plan.

The Planning Commission held a discussion with Ms. Rhodes and staff on the proposed LRTP plan and made comments based on the information presented regarding the following issues:

- road project list,
- bridge replacement list (expressed concern about large percentage of total costs),
- cost estimates and prioritization,
- small scale intersection improvements, and
- bike/pedestrian improvements in particular on Main Street, Bicentennial Trail and Pantops. (expressed safety concerns and the importance of providing bicycle lanes)

No formal action was taken.

Work Sessions:

CCP-2014-00001 CMA Properties – Pre-application Work Session

Proposal by CMA Properties to determine if use of the property for automotive related uses connected to the expansion of the Colonial Auto Center car dealership is in conformity with the Comprehensive Plan and potential next steps for the applicant. The subject property consists of Tax Map Parcel 40-173, which is a 3.5 acre parcel, located on Berkmar Drive behind the existing Colonial Auto Center. The property is zoned R6 Residential and has a land use designation of Urban Density Residential in areas around

Centers in the Places29 Master Plan. It is the former site of the Greenfield Mobile Home Park that closed in June, 2013. (Rachel Falkenstein)

Mr. Benish introduced the new planner Rachel Falkenstein.

In a pre-application work session Ms. Falkenstein presented a PowerPoint presentation to determine if use of the property for automotive related uses connected to the expansion of the Colonial Auto Center car dealership is in conformity with the Comprehensive Plan and potential next steps for the applicant. Staff posed several questions and requested feedback from the Commission. Since the Commission does not do this all that often staff explained what a pre-application is.

- The pre-application process is for proposed development projects, such as a Zoning Map Amendment or Special Use Permit before a formal application has been submitted.
- The purpose is to gather feedback from the Planning Commission on:
    - Project's consistency with the Comprehensive Plan and appropriateness of the proposed use.
    - Next steps for the applicant.
    - Any other issues with the project that need to be addressed.
- The action of the Planning Commission is non-binding but is meant to help an applicant know whether a project is worth pursuing further.

The applicant has submitted a conceptual plan that shows the proposed use of the property. The applicant has noted that he does not have specific or detailed plans yet for the property. So this is truly conceptual. The shaded area on the conceptual plan shows the proposed expansion of the Colonial Auto Center. The applicant would like to use the property as an expansion of the existing business for an expanded parking area and proposed new building along Berkmar Drive. (See Staff Report for additional information)

Summary:

Factors Favorable:

1. Developing the site for commercial uses rather than the recommended residential uses reduces the capacity for residential growth in the development areas and the surrounding neighborhood; however this loss is not so significant that it cannot be made up by the redevelopment of other sites in the area.
2. Although the proposed use is not a target industry, the proposal is consistent with the Economic Development goals of the Comprehensive Plan including encouraging the expansion of existing businesses (applicant predicts 20-30 new jobs) and encouraging infill development.
3. The redevelopment of this site may provide an opportunity to incorporate transportation improvements recommended in the Places 29 Master Plan.

Factors Unfavorable:

1. The proposed use is not in conformity with the Comprehensive Plan and Places 29 Master Plan with respect to recommended land use.
2. The conceptual plan does not meet Neighborhood Model principles and the proposed layout may cause issues for visibility and drainage.

RECOMMENDATION: Based on the information provided for review, staff does not find the proposal to be in conformity with the Comprehensive Plan. If the Commission agrees, but believes the proposal has merit, then it is asked to provide guidance on potential next steps for the applicant. If the Commission believes it can support a change to the Places 29 Master Plan, the Commission is asked to advise on one of the three options below:

1. Review the proposed land use amendment during the next Places 29 Master Plan update. This update will include the development of the small area plan for the intersection of Rio Road and Route 29 which includes the CMA site. After the Plan is updated the applicant can choose whether or not to pursue a Zoning Map Amendment (ZMA). This is the approach that

staff has typically recommended to applicants interested in land use changes to the Comprehensive Plan.

2. Advise the applicant to apply for a Comprehensive Plan Amendment (CPA), for which the next deadline for filing is September 2, 2014. After the CPA review the applicant can choose to pursue a ZMA. Processing requests in this order allows staff and the Commission to review proposed CPAs on their own merit, without a specific proposal attached. This approach is similar to the approach recommended to property owners who asked for land use changes late in the Comprehensive Plan review process.
3. Review the application for a CPA in conjunction with the submittal of a rezoning request for the property. This recommendation should be forwarded to the Board of Supervisors for concurrence due to the current status of the draft Plan. While not typically recommended, this approach is possible due to the small size of the site and narrow focus of the proposed uses.

At this juncture, staff believes the second option is the most appropriate. However, if the Commission wishes to recommend the third option, it is asked to advise on the most important features needed for a land use change.

Mr. Morris invited the applicant to address the Commission.

Present for the application was Pete Borches, with CMA Properties, Inc.; Scott Collins, of Collins Engineering and Valerie Long, of Williams Mullen, who presented a PowerPoint presentation to explain the proposal and answer questions.

Mr. Morris invited public comment. There being none, the matter was before the Planning Commission for discussion.

The Planning Commission held a discussion with staff and the applicants and provided feedback on the questions posed by staff, as follows.

Questions for the Commission

- **Does the Planning Commission find the proposed use to be appropriate for this site and could you support the applicant moving forward with a Comprehensive Plan Amendment?**

It was the consensus of the Planning Commission that the proposed use could be appropriate for this site and the Commission supports the applicant moving forward with a Comprehensive Plan Amendment (CPA) at the next application date, September 2, 2014.

- **Which option should the applicant pursue for an amendment to the Comprehensive Plan?**
  - **A. Wait for the proposed land use amendment to be reviewed during the next Places 29 Master Plan update.**
  - **B. Apply for a Comprehensive Plan Amendment (CPA), for which the next deadline for filing is September 2, 2014.**
  - **C. Apply for the CPA in conjunction with the submittal of a rezoning request for the property.**

Planning Commission Discussion on Question 2:

Mr. Cilimberg explained they would first of all be deciding that a CPA change is appropriate to consider, which they would be passing a resolution of intent to do and referring it to the Planning Commission, and saying at the same time that a concurrence rezoning could be allowed. That is also what B could also be, but it is just further down the road.

Mr. Kamptner noted the staff report pages are not numbered, but if you go to the staff recommendation they are listed as 1, 2 and 3. There is more detail. He thinks option B is a sequential process and Option C provides for a concurrence process.

Mr. Cilimberg pointed out Mr. Dotson was suggesting that option B could become a concurrent process rather than a sequential one which has happened before and essentially could be like C only occurring later because it waits until the application date for comp plan change.

Mr. Keller noted he would do option B concurrent, but with the proviso with the Places29 Committee input.

Mr. Randolph noted he did not think anybody in supporting B wants to in any way delay the project.

Mr. Morris said he fully understands.

Mr. Randolph said the goal is to just ensure that they have a procedure that is not going to come back to haunt us in the future and secondly provides an adequacy of time for both the Planning Commission and the Board of Supervisors to fully absorb the implications of this application. The problem as he sees it for the Board of Supervisors is that they are just beginning to plan the comprehensive plan review. They have not even fully embraced the document yet to start thinking about making an exception and going ahead and change the zoning and waiving the comp plan. He would really urge the Commission to be deliberate, which he thinks B is, but he is not interested in such deliberations that it is going to be a long drawn out process. He was fully behind B, but with urgency to try to get it expedited as quickly as possible.

Mr. Morris asked if everyone agrees.

Mr. Lafferty asked if that is the same thing as saying C with the filing in September.

Mr. Randolph replied that it was not.

Mr. Lafferty asked do they want the filing for the change in the comprehensive plan and then the site plan and rezoning.

Mr. Randolph replied yes.

Mr. Morris noted they have a split vote. However, he thinks the vast majority or at least five Commissioners are saying to lean towards B.

Mr. Benish said it was a consensus to use option B in some form. He thinks there is a desire to expedite the process and to bring the rezoning along at the appropriate time.

Mr. Morris agreed.

Mr. Benish said if that was the direction, then they can work from that understanding they would like to keep it expedited and get to the rezoning process when necessary for the review process. He was also hearing they would want the input from the Places29 Advisory Council. They can schedule that and then report to the Commission what their finding was. If there are major changes or issues the Commission can revisit the issue. However, otherwise they will just report what their findings are.

Mr. Lafferty asked if that would be part of the comprehensive plan amendment that goes in September.

Mr. Benish said it sounds like they wanted the comment from them sooner.

Mr. Morris noted he would like it as soon as possible.

Mr. Benish said they would provide them an overview and report back to the Commission what they have provided. Then if that sends the Commission in a different direction they can advise them.

Planning Commission Consensus to Question 2:

There was a consensus of the Planning Commission supporting Option B. There was consensus that a rezoning concurrent with the CPA may be appropriate and that the decision should be made at the time of the CPA processing**.**

The Commission also asked the applicant to get feedback on the proposal from the Places 29 Advisory Council. Staff will report back to the Commission regarding the council's feedback on the proposed use.

- **Are there any other major issues that the applicant should consider when moving forward with this request?**

The Planning Commission noted the following major issues that should be considered when moving forward with the request:

1. More specificity for what is actually being proposed on the site regarding use and design.
2. The visual and character impacts to Berkmar Drive.
3. The potential connection of Meyers Drive to Berkmar Drive.
4. Determining an adequate right-of-way for the ultimate Berkmar Drive expansion.
5. Several members mentioned a desire not to intensify the scale of development in terms of its impervious surface and environmental impacts.

The Planning Commission took a five minute break at 7:59 p.m.

The meeting reconvened at 8:07 p.m.

ZTA-2014-00002 Miscellaneous Administrative Amendments
Discussion on amending County Code §18 (Zoning Ordinance) for Miscellaneous Administrative Updates, Corrections and Clarifications (Amelia McCulley)

Ms. McCulley and Francis MacCall presented a PowerPoint presentation to summarize the staff report regarding ZTA-2014-02 Administrative Amendments.

In a work session staff presented a PowerPoint presentation on amending County Code 18 (Zoning Ordinance) for miscellaneous administrative updates, corrections and clarifications as outlined in Attachment B of the executive summary. Because the majority of these are housekeeping in nature, staff highlighted three for focused discussion.

Focus Discussion #1

1. Location of additional dwellings on RA or Residential property
    A. Address inconsistencies between RA and Residential;
    B. Establish purpose and applicable regulations.

What is in question is how far we should clarify the ordinance.

There are 2 Focused Discussion items.

Focused Discussion #1

Clarify that this focused discussion relates only to dwelling units (defined in Z.O. as "single unit providing independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation"). Also want to clarify that zoning regulations are enabled to address **land use impacts** and generally shouldn't address owner-occupancy versus rental-occupancy.

1) The current inconsistency lies with Residentially-zoned property only invoking requirements for **rental units.**

2) Purpose: a) address land use impacts; b) to the greatest extent possible, assure that what we allow people to build under one regulation is consistent with other relevant regulations. For this discussion, staff recommends that the purpose to be served with regulating a 2nd dwelling is to assure that in the future it could be subdivided consistently with the zoning and subdivision ordinances. It is also not uncommon for people to need to subdivide these dwellings into individual lots (financing, estate settlement).

The Planning Commission held a discussion, asked questions and provided feedback on the questions posed by staff, as follows.

- *Why go beyond what is required currently?*
- *Are we willing to say that they should never have a second dwelling unit because the property cannot be subdivided?*
- *Questioned if there was no setbacks for the second home.*
- *Minimum fire standards?*
- *This is wide open – these questions need to be answered about particular sites. They don't have enough information to respond to questions.*
- *Don't understand what can and cannot do. When third dwelling the public needs to know fully what is required. Does it require a site plan?*
- *Requirements at top of chart are generally sufficient except one Commissioner was not sure about road frontage.*
- *Questioned road frontage provisions.*
- *A common drive will suffice but if third dwelling then requires a road requirement. Is that correct?*
- *Site plan public street frontage?*
- *Site plan third dwelling units?*
- *The Commission noted that they would have to see additional details regarding question 1.*
- *Is there a reason why septic fields/requirements are not on the list?*

Focused Discussion #2

2. Regulations relating to Swim, Golf and Tennis Clubs

5.1.16 SWIMMING, GOLF, TENNIS CLUBS

Each swimming, golf or tennis club shall be subject to the following:

a) *The swimming pool, including the apron, filtering and pumping equipment, and any buildings, shall be at least seventy-five (75) feet from the nearest property line and at least one hundred twenty-five (125) feet from any existing dwelling on an adjoining property, except that, where the lot upon which it is located abuts land in a commercial or industrial district, the pool may be constructed no less than twenty-five (25) feet from the nearest property line of such land in a commercial or industrial district;*

b) *When the lot on which any such pool is located abuts the rear or side line of, or is across the street from, any residential district, a substantial, sightly wall, fence, or shrubbery shall be erected or planted, so as to screen effectively said pool from view from the nearest property in such residential district;*

****

Clarify first two requirements relate only to swim pools.

Section 5.1.16

d) *The board of supervisors may, for the protection of the health, safety, morals and general welfare of the community, require such additional conditions as it deems necessary, including but not limited to provisions for additional fencing and/or planting or other landscaping, additional setback from property lines, additional parking space, location and arrangement of lighting, and other reasonable requirements;*

****

Currently includes broad provisions for Board consideration and that is generally limited to legislative actions (rezonings, special use permits, special exceptions).

Question: should we establish specific standards that apply to: a) all swim, golf or tennis facilities, b) only to those that are permitted by special use permit or rezoning or alternatively, c) impose no specific standards?

Section 5.1.16

e. *Provision for concessions for the serving of food, refreshments or entertainment for club members and guests may be permitted under special use permit procedures.*

****

- Problematic because it implies concessions are not permitted without a special use permit.
- The definition of accessory use (customary and incidental) will limit most of these activities associated with swim, golf or tennis facilities.

Staff recommends eliminating this provision.

Question: Is there any benefit in keeping it and codifying practice (i.e. must be a permitted accessory use, etc.)?

The Planning Commission discussed, asked questions and provided feedback on the questions posed by staff. The following key issues/concerns were raised for further consideration:

- *General agreement that standards would remain and apply to legislative actions.*
- *Noise and Nuisances - There is no mention of potential noise. Suggested inserting "nuisances" to be considered that arise from the club from the property line.*
- *Asked staff to do research on tennis courts separation and nuisance*
- *Issue of scale*
- *Staff to research setbacks before going forward to Board.*
- *Tweak this language to clarify that the size, scale and nature of these facilities in the context of a special use permit are completely appropriate as part of that review.*
- *Questioned if "entertainment" should be taken out since it was such a big word to use in the provisions. They have a noise ordinance, but there are a lot of ways that "entertainment" can be obnoxious or not appreciated by the neighbors.*

Ms. Firehock noted one question on #13 regarding resubmital of similar denied variance. It says include a provision for variances and quasi legislative applications similar to that for legislative applications. Are you saying that you are going to take what is required now for legislative applications and apply that to a denied variance?

Ms. McCulley replied yes that is what she is saying. There currently is no limit to intermediately turning around the next day that you are denied on a variance and resubmitting the exact same thing. Whereas, with legislative actions they have one year in which someone has to wait before submitting substantially the same thing.

Ms. Firehock said that she supports that, but just wanted to make sure that is what she meant.

Mr. Morris opened the work session for public comment. There being none, the public hearing was closed and before the Commission. He asked if staff was finished.

Ms. McCulley replied that she had what she needs. Staff will do some research and come back to the Commission as soon as the ordinance is drafted for public hearing.

Old Business

Mr. Morris asked if there was any old business.

- Committee Appointments – The Commission concurred with Ms. Firehock serving as liaison to the National Heritage Committee.
- Staff will be meeting with Mr. Morris and Mr. Dotson to discuss a process for the Commission's further review of priority strategies in its recommended Comprehensive Plan update.

There being no further old business, the meeting proceeded.

New Business

Mr. Morris asked if there was any new business.

- Public roundtable scheduled for Wednesday, April 16 from 5:30 p.m. to 7 p.m. in room 241 of County Office Building on Amendment to Zoning Ordinance to Address State Code Requirements for Agritourism Farm Breweries.
- No Planning Commission meeting on April 23, 2014 or April 30, 2014.
- The next Planning Commission meeting will be held on Tuesday, May 6, 2014.

There being no further new business, the meeting proceeded.

Adjournment

Mr. Lafferty moved and Mr. Randolph seconded to adjourn to April 16, 2014, Agritourism & Farm Breweries roundtable meeting at 5:30 p.m. in meeting room 241.

The motion was approved by a vote of 7:0.

With no further items, the meeting adjourned at 9:00 p.m. to Wednesday, April 16, 2014 Agritourism & Farm Breweries roundtable meeting at 5:30 p.m. in meeting room 241, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

_____

V. Wayne Cilimberg, Secretary

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