Albemarle County Planning Commission
September 15, 2015

The Albemarle County Planning Commission held a regular meeting on Tuesday, September 15, 2015 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 and Tim Keller. Max Lafferty, Vice Chair was absent. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Other officials present were Ron Higgins, Chief of Zoning; Ron White, Director of Housing; David Benish, Acting Director of Planning; Wayne Cilimberg, Deputy Director of Community Development; 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 including consent agenda items.

Diane Berlin, member of Pantops Advisory Committee, provided photos and information on Lynchburg's Wards Road pedestrian crossing for the Pantops pedestrian bridge across 250 as follows:

> "As a member of the Pantops Community Advisory Committee I and my fellow members have interest in finding a way for pedestrians to cross Route 250 at Rolkin Road. The biggest goal of our committee has been to find a way to join both sides of Richmond Road as a first step in integrating us into a cohesive community, part of THE PANTOPS MASTER PLAN. Ken Boyd mentioned that they were getting ready to work on the Capital Improvement Plan. The next day she called Lynchburg to find out about their pedestrian bridge at Wards Road. She spoke to the City Manager and City Planner and got the information needed; met two days later for a tour of the bridge to walk the crosswalk and took pictures. She suggested that the same type of pedestrian crossing would work very well on Pantops and asked it to be considered. (Attachment 1 – Ms. Berlin submitted a copy of the presentation (6 pages) and the photographs of the pedestrian bridge at Wards Road in Lynchburg. Available with the written minutes in the office of the clerk.)

There being no further public comment on other matters, the meeting moved to the next item.

Review of Board of Supervisors Meeting – September 2, 2015,
September 9, 2015 & Joint City/Board work session on September 10, 2015

Mr. Cilimberg reviewed the actions taken on September 2, 2015, September 9, 2015 and September 10, 2015 Joint City/Board work session.

Consent Agenda:

a. **Approval of Minutes**: August 4, 2015 and August 18, 2015

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

Motion: Ms. Firehock moved and Mr. Loach seconded for approval of the consent agenda.

The motion carried by a vote of (6:0). (Lafferty absent)

Mr. Morris said the consent agenda was approved unanimously.

The meeting moved to the first work session item.

Work Session

a. **ZTA-2015-00010 Sign amendments to address Reed Supreme Court Ruling** - Discussion on proposed amendments as a result of recent US Supreme Court decision on Content Neutrality. (Ron Higgins)

In a work session Mr. Higgins presented a PowerPoint presentation on ZTA-2105-00010 regarding the proposed amendments to the Zoning Ordinance as a result of a recent U.S. Supreme Court decision on Content Neutrality. (U.S. Supreme Court Decision of June 18, 2015 in Reed v. Town of Gilbert, Arizona) The Planning Commission adopted a resolution of intent at their July 14th meeting as a result of a U.S. Supreme Court case decision that occurred on June 18, 2015. This decision had an effect on how we look at our regulations when it comes to whether or not signs are control neutral, content based or viewpoint neutral.

There will be two work sessions. The main purpose of tonight's work session is to review the legislation that allows us to have sign regulations at all and to look at why we have them, what we have and what we do. The second work session will be to review the Supreme Court case in Reed v. Town of Gilbert, Arizona and talk about what effect it has on the sign regulations. There is a secondary purpose. In discussing this they have a team of four: Greg Kamptner, Francis MacCall, Stewart Wright and myself. Amelia McCulley is sitting in on these also. They have had a number of discussions since they started working right after the resolution was adopted. One of them is a decision point staff would like the Commission to weigh in on, which he would get to later in the presentation. Mr. Kamptner will provide input as they move through the presentation.

The primary purpose of this session is to provide information to the Planning Commission as follows:

- ⊡ To review the legal background for having sign regulations and how we regulate signs.
- ⊡ To review the U. S. Supreme Court decision in Reed and its effect on sign regulations.

A secondary purpose is get the Commission to provide guidance on one decision point.

Staff wants to inform the Planning Commission about reasons for the zoning text amendment (ZTA) and staff approach to limit the ZTA to addressing Reed.

Staff has one guidance question on Ag Product sign size to ask before we finalize draft the zoning text amendment (ZTA).

The Law Before Reed

- Signs that were viewpoint neutral were deemed to be content neutral
- Example:
  - "Political sign" is defined to mean a sign that "pertains to the candidacy of one or more persons for an elective office, or pertains to one or more issues to be voted upon, in an upcoming election"
  - If the regulations excluded signs from particular political parties or particular positions, they would be impermissibly content based

Reed

- Sign regulations are content based if the laws that apply to particular signs depend on the topic discussed or the idea or message expressed
- Example
  - The definition of "political sign" is content based because the regulations that apply to that sign classification depend on whether the sign pertains to a candidate or an issue in an upcoming election
- Viewpoint neutrality is no longer the relevant consideration

We are proposing changes to assure content neutrality.

The Effect of Reed

- Content neutral sign regulations are valid on their face if they are reasonable and justified by a substantial governmental interest
  - Examples: Aesthetics and traffic safety (distraction)
- Content based sign regulations are valid on their face if they are reasonable and justified by a compelling governmental interest
  - Examples: Protecting public safety (warnings)
- Sign regulations must be amended to eliminate most content based sign classifications and regulations

Compelling government interest is a much higher standard to meet.

Sign Regulations in Albemarle

- Albemarle sign ordinance is part of zoning ordinance.
- Permits are required for signs unless they are exempt.
- Signs in Entrance Corridor (EC) are reviewed by the Architectural Board (ARB) or ARB staff.
- Regulations include: size, height, setback, location, number, physical nature, materials, illumination, motion, permanent vs portable, permanent vs temporary.

Staff has implemented these in a way that is typically content neutral, but the regulations still contain content based standards.

What will not Change

- Requirements for sign permits.
- Regulations pertaining to "time, place, and manner" (size, number, height, location).
- Special Permits for certain signs by Board of Zoning Appeals (BZA) (off-site signs, electronic message signs).
- ARB review of signs in the Entrance Corridors.

- Regulation of commercial signs.

Commercial speech is not really addressed in Reed.

Possible Reed Changes:

- Objective is to remove content-based elements from current sign ordinance.

Example 1: "Subdivision sign" defined as a sign "erected at the entrance of a residential development that identifies the development" could be redefined by removing the clause "that identifies the development".
Example 2: Consolidation of a number of similar types of signs of similar sizes that are exempt from permits (e. g. auction, estate, farm, home occupation, private drive, residence, warning, temp directional, incidental).

Example 1 occurs in many of the definitions.
Example 2 includes "signs" that are all 4 sq. ft. in area.

Planning Commission Decision Point

- Provide guidance on making Ag Product signs consistent with other RA sign sizes.

Currently, Ag Product signs are exempt from obtaining a sign permit and can be up to 32 sq. ft. in area. All other freestanding signs in RA (as well as all residential districts) cannot exceed 24 sq. ft. in area. We need to merge these sign types because they are not content neutral. Staff recommends that Ag Product sign maximum sign area be reduced to 24 sq. ft. to be consistent with all other freestanding signs in RA and residential districts. Do you agree?

Do these need to be consistent?
Should all be 24 sq. ft. or all be 32 sq. ft.?
Content based reason for different size commercial signs may be suspect.

Some next steps in the schedule

- October 20, 2015 – Planning Commission 2nd **Work** Session to review proposed ordinance draft and make further comments.
- November 17, 2015 -- Proposed Planning Commission public hearing on ZTA-2015-00010.
- December, 2015 – BOS Public Hearing.

Planning Commission Action Item

- The Planning Commission is being asked to set November 17, 2015 as the public hearing date for ZTA-2015-00010.

The Planning Commission held a discussion, provided guidance on staff's question and took the following action:

The Planning Commission was in agreement to keep Ag Product signs at 32 sq. ft. The following concerns were raised about making AG Product signs consistent with other RA sign sizes:

- Consistency generally would be safer ground, (Mr. Keller said he was not sure if the argument for consistency necessarily follows since we have said we are treating our rural areas differently than our growth areas.)

- With the change to 24 sq. ft. if existing signs of 32 sq. ft. would remain as nonconforming signs,
- Need for justification of change if challenged,
- Does farm product sign include breweries, wineries and cideries with the broadened definition of Ag products,
- Are there any changes that would affect commercial signage in light industrial areas?

Mr. Morris invited public comment.

Travis Pietila, with the Southern Environmental Law Center, said they understand that staff and the Commission are still in the early stages of reviewing this issue. As they move forward they ask the Commission to keep a couple of things in mind.

- First, our sign regulations play a key role in safeguarding the health, safety and welfare of our community. As noted in the County Code among other things the sign regulations help to ensure the safety of our streets as well as the creation of an attractive and harmonious environment for the benefits of residents and visitors alike. Second, the County Code also states the Board of Supervisors view that our existing sign ordinance represents the minimum amount of regulation necessary to achieve these important ends.
- With these considerations in mind we believe that it is critical that you proceed carefully and air on the side of protection in this review. For example, the staff report notes that currently all freestanding signs in the rural area and residential districts limit it to 24 square feet except for the agricultural product signs which are allowed up to 32 square feet. In cases like this where changes may be needed to comply with the decision in Reed they urge you to reign in the outliers rather than expanding the allowances for all others to meet them. In addition, we urge you to keep in mind that the court in Reed did not set out to weaken the protections of local sign regulations. Its focus was instead on clarifying the means by which a locality can regulate in this area, specifically in the case of noncommercial signs.
- As Mr. Kamptner noted in his memo the County remains free to regulate based on numerous content neutral factors, such as the size, location, number, and duration of signs. They also continue to distinguish between commercial and noncommercial signs with greater lead way to regulate the former. Also, significantly the court provided a non-exhausted list of situations in which a compelling government interest may make valid even a content based regulation of noncommercial signs, such as signs directing traffic or denoting address numbers. As noted in the presentation tonight many of the existing regulations shouldn't require changes. But, for those that may it will be important to think carefully and creatively about how these remaining tools can be applied to account for any negative effects of the Reed decision, such as potentially expanding the types of signs that may be exempted from sign permit requirements. Also, it is to ensure that the overall result provides at least the same level of protection provided by our current ordinance.

Neil Williamson, with the Free Enterprise Forum, said first he would like to compliment staff's review. He was troubled by the Reed decision in many respects, and would encourage the Commission to listen to the podcast of the Supreme Court decision. It takes about an hour, and there are three or four laugh out loud funny moments. In the temporary sign discussion it is important to recognize what they were talking about, a directional sign for what he calls a gypsy church. It is a church that moves from place to place. The only way that people know about it is because of the sign. The court determined it to be a special event sign and they prohibited it from being up less than ten hours before the event. The church service was at 9 a.m., and the sign was up in the dark. So it is clear what they are trying to do is manage signs in a different way. He was appreciative that commercial signs are not being considered in this way. However, he is troubled by where it could go. The manner in which they currently regulate signs is content based for commercial signs in many respects, and he hoped they don't go down that

direction. He had a different view than Mr. Pietila does with regard to consistency and uniformity. The idea that signs are important is critical to commercial activity here in Albemarle County. The county has a good sign ordinance and great sign enforcement. It is tantamount that we continue to have good signs to keep businesses in business. He applauds staff for their review and hopes the Commission will be able to work through this.

There being no further public comment, the public hearing was closed and the matter before the Planning Commission for discussion and action. He invited further discussion or would the Commission like to take action on setting a date for the public hearing.

Mr. Randolph said it sounds like a great idea.

Motion: Mr. Randolph moved and Mr. Keller seconded to set Tuesday, November 17, 2015 as the public hearing date for ZTA-2015-00010.

Mr. Dotson questioned whether the Commission should set a specific date. If something comes up tomorrow where the 17th does not work does staff have to bring it back to the Commission. He asked if it would be helpful to put in a proviso or other suitable date as determined by staff.

Mr. Kamptner pointed out the ordinance will be coming back in October for another work session in which the Commission will have a draft ordinance with his comments following each section explaining staff's recommendation. So at that time if there is a need for more work on it the date can be changed then. To answer Mr. Dotson's question about the definition of an Agricultural Product Sign, it was amended in conjunction with the farm winery amendments that were adopted the same day as the agric sales, farmers market zoning text amendment. The amendments on that date simply added the final clause of the current definition. It is really not a material change and just incorporating the current references to the types of agri sales that we were allowing under those two ordinances, including farm wineries.

Mr. Dotson thanked Mr. Kamptner.

Mr. Morris invited further discussion.

Mr. Keller pointed out as an observation he certainly agreed with what Mr. Williamson said about this point in time. However, they are seeing such as a change in the way people find businesses because of electronic media that there are starting to be some interesting studies on this. In 10 to 15 years it is going to be a very different world in terms of signing. So it will be interesting to see how it plays through. They need to be thinking of that and being aware of it. That may be a reason to consider minimizing the size of signs that will in effect be grandfathered and live on like the old tobacco signs on barns from our past.

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

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

Mr. Morris said the motion was approved to set Tuesday, November 17, 2015 as the public hearing date for ZTA-2015-00010. A more detailed work session will be held on October 20, 2015 to review the draft ordinance. He asked if there are other items that need to be ac ted on.

Mr. Higgins replied that he had everything they need to come back to the next work.

The meeting moved to the next agenda item at 6:47 p.m.

Work Session

b. **Housing**
The work session will provide current status of the affordable housing proffers and highlight some of the issues with implementation. This session is designed to get feedback for developing future steps which should include ongoing discussions between policy makers and the real estate industry. (Ron White)

During the Housing work session the Planning Commission recessed at 7:46 p.m. and the meeting reconvened at 7:52 p.m.

Housing - Planning Commission Recommendation

In a work session Mr. Ron White, Director of Housing, presented a PowerPoint presentation on Housing to provide the current status of the affordable housing proffers and highlight some of the issues with implementation. The session was designed to get feedback for developing future steps which should include ongoing discussions between policy makers and the real estate industry. For those who have not been through this before or into it in depth there are a lot of moving parts in the affordable housing policy and just sitting down and talking about one piece of it at one point in time is not going to lead us to a comprehensive redo if that is what we end up doing. So this is really meant to be that first discussion and to get some feedback.

Background
The Affordable Housing Policy was adopted in 2004. It was included in the review of the Comp Plan. Actually the Affordable Housing Policy that was adopted in 2004 is still appended to the Comp Plan that was adopted by the Board of Supervisors in June, 2015. Some of the objectives and strategies were also included in an overall Housing section to try to pull all of the Housing issues together.

Strategies for Promoting Affordable Housing
- Promoting Partnerships/Providing Incentives
- Fifteen percent of new developments affordable
- By-right zoning and use of density bonus
- Sufficient staffing to implement proffer policy
- Data of existing/proffered units – promote long-term affordability
- Zoning Ordinance amendments related to density & lot size
- Directing affordable development to designated development areas

Most of the strategies have remained pretty much the same. Promoting partnership is worded a little different in the Comp Plan. It is really geared towards working with builders, developers, nonprofits and the financial industry, and pulling those partnerships together that are needed to accomplish affordable housing. There is also wording about providing incentives. They will talk a little more about some potential partnerships a little later.

Tonight the big piece we will focus on is the Affordable Housing Proffer Policy that people have come to know as the 15 percent, which is the expectation for any new development through rezoning or special use permits to provide 15 percent of the developed units as affordable or provide some comparable contribution. To date that comparable contribution has been in the form of cash. They really have not looked at other things. There was a lot of discussion in the work on the comprehensive plan about whether there are other things to look at, such as off-site housing and larger neighborhoods rather than the development itself. In a larger neighborhood

there is a good bit of affordable housing versus just development, which would require some clarification and changes in a future policy. By-right zoning and the use of the density bonus is something that has not been used very often. It provides for a 30 percent density bonus by right with one-half of the units being affordable. Again, it is something that has been used in the County probably two or three times.

One item was sufficient staffing to implement and manage the proffer policy. Currently the proffers are managed between myself in the Housing Office and Rebecca Ragsdale in Community Development. If developments start coming in on a regular basis, again like pre-2007, he was not sure the staffing was there to effectively handle it. The county used to have a Housing Planner help do data collection on existing affordable housing as well as proffered units. Stuck in with that same objective was promoting long-term affordability, which they have discussed previously with both the Planning Commission and Board of Supervisors.

Two things they should consider are zoning ordinance amendments related to density and lot sizes to promote affordable housing and also to direct affordable housing into the development areas. That is the way that development is being done in the county.

Proffer Policy sets forth:

- 15% of units in rezoning/special use permit applications
- Comparable contributions (cash)

This is managed by proffers stating this by setting the following:

- Maximum Sales Prices/Rents
- Notification Period on for sale houses that the developer provides. That period is a time that the Housing Office and anyone that they are working with, and the developer through their sales agents, try to identify a qualified purchaser.

The purpose of the policy is we look at household incomes at or below 80% of the area median income as qualify purchasers. Instead of using the HUD income limits that is one to eight people in the household, they simplify that a little bit by actually having two income limits: one is for a household of one of two persons and two is for a household of three or more persons. Those amounts are right around $60,000 for a one or two person household and $74,000 for a three or more person household. It is important when they start looking at the current maximum sales price with the cost of financing and the cost of a number of things because it creates a very narrow window of potential purchasers.

It is important to look at what has happened to date. Most of this happened, again, pre-2007 with respect to the units that were proffered.

Proffers Received/Production

- *1,250 units proffered (potential based on maximum build out in rezonings)*
  - *193 developed*
    - *37 for sale (27 sold to qualifying families)*
    - *95 rentals (One was 88 units in Treesdale, which was a tax credit project on Rio Road)*
    - *61 accessory units (The majority of those have been in the Belvedere neighborhood.)*
- *Estimated $1.5 million in cash:*
  - *$800,000+ received*
    - *$300,000 downpayment assistance – funds helped 18 purchasers*

- *$141,385 to support housing rehab activities undertaken by the Albemarle Housing Improvement Program, Piedmont Housing Alliance (PHA), and Habitat for Humanity.*
  - *Habitat for Humanity used some funds in the Southwood Trailer Park.*
  - *Piedmont Housing Alliance used some funds in the first phase of renovation at the Meadowlands in Crozet.*
  - *$30,000 used as leverage for $700,000 CDBG grant to rehab homes in Orchard Aces subdivision.*

Some of the discussion that we have had about the cash on hand, which is close to $400,000 now, is what the best way would be to use it. Using that money to leverage other funds, such as in the case of the CDBG grant, was a significant leveraged amount. But, we also have other requests coming in from some of our partners to use money for downpayment assistance, help subsidize lot purchases, etc.

He mentioned the income levels and wanted to provide an idea of what they were talking about with regard to a narrow band of potential purchasers for sale units. He based the principal and interest on these payments at 6%, which is higher than the market is now. As shown a family of one or two could not likely get financing on a $243,000 house because the income that would be needed would be about $64,000 and in a one or two person household the maximum is about $60,000. It would work for a three or more person household with incomes up to $74,000; but, again demonstrating that narrow band it does nothing for folks at $40,000 or $50,000. Affordable housing that has been produced that could benefit those populations are going to be primarily rental, which is likely to be going forward.

Affordable Price (Maximum sales) *$243,750*

Cash needs *3% down* *$7,312.50* *Mortgage Amt. $236,500*
Closing Costs *$7,200.00*

Payment

P & I	*$1129.09*
Taxes	*$ 172.66*
Insurance	*$ 150.00*
MIP	*$ 150.00*
TOTAL	*$1,601.75*

Income needed to support *$64,070*
Maximum other debt payments *$534*

If HOA fees involved ($190/mo.)

Income needed *$71,670* *Total other*
Maximum other debt $597

Land costs have stabilized somewhat, although we are seeing it creep back up. He suggested that maybe some of the developers could talk to that issue a little bit more. They had seen land

costs come down from the highs of 2006/2007, but the costs are still at a level where once the house is built it is difficult to hit anyone much lower than that maximum 80% income level.

He had touched on some of the issues that they have run into. He mentioned that 27 of the 37 for sale units that were built were sold to qualified purchasers. Many of those were in the early days of the proffers. More recently it has been difficult to find purchasers or match up purchasers that are at that level of income that can also qualify for a mortgage. There are a number of reasons for that. Credit scores are higher now. Back pre-2007 we saw credit scores of below 600 getting mortgages. Now if a family does not have a score of 700 to 720 it is likely they are not even going to put an application in. They understand the mortgage industry is going to relax a little bit; however, personally he has not seen or heard it.

Another issue affecting being able to qualify lower income families now is that there are fewer low down payment loans. Most of the loans now require some level of mortgage insurance. FHA loans, in particular, if you are financing over 80% the mortgage insurance premium can be between $125 and $150 a month, and it goes for the life of the loan and does not go away once your balance gets down.

Most of the developments that are coming on line in Albemarle through the rezoning have some level of HOA fees. In one particular development the HOA fees and the mortgage insurance alone would have required at least a $1,000 a month income just to cover those two items before you even start getting into the principle and interest as well as taxes and insurance.

There are fewer down payment assistance loans available. Piedmont Housing Alliance was getting a pretty significant amount of money each year for down payment assistance from a couple of different sources. It included federal home funds, community development financial institutions and at one time the county was providing VHA between $150,000 and $200,000 a year to use towards down payment assistance. Those funds have pretty much dried up. In a meeting with VHA staff this morning they said they have very little left and they don't expect to be getting any more any time soon. What they are hearing from the federal government on the budget is the Home Program, which has been a source of down payment assistance, is facing a 93% reduction in the Senate. We don't know how it is going to come out overall, but at least one body is pretty much decimating the program and it won't be there.

Other issues that have come up in discussion are:

- Maximum sales price and how that is calculated
- Resource issue – Housing Proffer Coordinator
- Long term affordability of for sale houses (Right now the proffer policy and proffers only require the house to be affordable to the first purchaser. Thereafter, there is no requirement.)
- Dealing with accessory units and concerns about how accessory units are used

Addressing these issues is very difficult on the proffers that already exist. Short of a developer coming in and wanting to amend their proffers, bring it through the Planning Commission and the Board with a staff recommendation to amend the existing proffers they have to deal with it the best way they can. Most developers need to have a contract before they start building. Speculative building is not happening at the level it was before.

What they want to do tonight and in future discussions is look at what they might have to change in our policy. The comprehensive plan probably gives us the latitude and flexibility to change a lot in how we operate and implement the policy. He wanted to start the discussion on how do we change things going forward anticipating the best we can what changes may occur

in the market so that we have a policy that works not only for the purposes of lower income families, but also works for the development and the building community. We don't want to have a policy that is so stringent that a developer decides to go by-right and stay away from having to do proffers or whatever the case may be. They still want to encourage the mix of housing types and affordability within the developments.

Questions to start the discussion with:

- What are we trying to achieve with this policy?
- Is an ordinance desired?
- Should general funds be appropriated for downpayment assistance?
- Additional restrictions for long-term affordability
- Should proffered funds be considered for downpayment assistance?
- Should proffered funds be used only for developing affordable units?
- Are Planning Commission members interested in participating in future discussions with industry?

Starting with the first question he thinks the answer and goals for discussion are:

What are we trying to achieve with this policy?

- Increase the supply of affordable housing stock
    - Affordable to whom
    - For-sale versus Rental
    - Sales price alone is not the determining factor – VALUE If we want to increase affordable housing stock the value of that house when it is built is an important component. If a $300,000 house is built and has been committed as an affordable unit and they reduce the price to $243,750 so they meet their proffer, the county has not gotten an affordable unit.
- Targeted populations to occupy proffered units
    - Production of units alone not likely to achieve

Is an ordinance desired?

People will often ask why we don't develop an ordinance like Fairfax County. Fairfax County is often cited as a model for an affordable housing ordinance. They have a lot more pieces to it and a lot more things in place than Albemarle County. We have the same enabling legislation to create an ordinance, but it is predicated on density. Most of the land in Fairfax from what he had been told was zoned R-1. So anything they wanted to develop created additional density. A lot of what he has looked at is we have not increased density significantly, but there have been more rezoning for form rather than density. He was comparing the rezoned density to the comp plan densities in place.

Under the Fairfax Ordinance when he did the calculation for Biscuit Run we would not have gotten very many units of affordable houses, if any, because of the density calculation. Is that something we want to revisit in the future keeping in mind that the enabling legislation allows us to have an ordinance? But, it also requires that the developer take advantage of optional density before they have to comply with the ordinance. So at some level it is still voluntary and similar to our proffer policy.

Should general funds or proffered funds be used for downpayment assistance?

This is an area where if we provided general funds or proffered funds for downpayment assistance we may be able to put some restrictions in that second mortgage. We are not going to be able to enforce any kind of long term affordability because it is a second mortgage and the first mortgage takes precedent. But, we could build something in where if that house is resold

whatever balance is left on the downpayment assistance could be assumed by a second purchaser. That second purchaser would have to be income eligible.

Should proffered funds be used only for developing affordable units? In addition, could proffered funds be used to provide incentives to a nonprofit developer to help meet proffer requirements on another development?

They are looking at two proposals right now, which have not been completely flushed out. One is Habitat for Humanity and the other the Thomas Jefferson Community Land Trust. At some point the Commission might want to have a 10 to 15 minute presentation from The Thomas Jefferson Community Land Trust. The land trust buys the lot, retains ownership of the lot, builds the house, sells the house to the eligible first time home buyer, and through retention of the ownership of the lot can control future resales in perpetuity. The lease agreement that goes with the land trust deal is a 99 year renewable lease. As long as the land trust is operating they could control that unit in perpetuity. They do need and have talked to a couple of developers about trying to do a land trust unit. They have done some work in the city for 7, 8 or 9 houses, and the city has contributed some to that. But, they would need help or financial assistance in purchasing that lot. Habitat would also require some assistance in purchasing lots and getting the house built. He did not want to call these lot subsidies. Ultimately, whatever money that we put into it goes to the benefit of the homebuyer and so it is a subsidy eventually to the home buyer.

Those are two proposals that will do two things that he thinks are important. One, that units get built using cash proffers. Two, there is some long term affordability tied to them. Short of the county purchasing proffered units and putting deed restrictions on a resale he did not know of any other way they could enforce, encourage or promote that long term affordability piece unless developers agree to do it as a part of their proffer. From a private development side, he thinks in the current financial environment it would be very difficult to get financing on a house that had such restrictions in the deed.

With that, he thinks tonight they want to start the discussion and get some feedback from the Commission and the public. He asked if there was any interest as they go forward in Planning Commission members participating in focus group meetings, roundtables, or whatever we may establish to pull industry folks in to talk about this. The industry is obviously developers, builders, lenders, nonprofit partners and other interested parties that are out there. With that he is open to questions.

Mr. Morris noted that first he would invite questions from the Commission with no discussion, open for public input, take a seven minute break and then come back to have the discussion. He invited specific questions for Mr. White.

Mr. Loach said on down payment assistance there was a question about using general funds. He asked Mr. White to define what he meant by using general funds for down payment assistance. Does this give somebody a low interest or no interest loan for a down payment or is it simply giving them money for a down payment.

Mr. White replied our down payment assistance loans in the past have been structured as an interest bearing loan where the individual pays interest. Piedmont Housing Alliance administers a program for us and right now we have about two million dollars in receivables that have built up over the years. The principle is generally deferred until the sale of the property that they pay interest. There are a multitude of ways that you can do it. If you do grants, you can defer it for 5 years and start forgiving in the sixth year and by year 15 it has gone away.

Mr. Loach noted Mr. White said there were 1,250 proffered units and 193 were completed so they have over 1,000. How many of those units become available in a year?

Mr. White replied with the down turn of the economy they don't have enough history to see that. If a multi-family development builds out you might get 40, 50 or 60 units all at one time in rental.

Mr. Loach noted that there is no expected time line for this.

Mr. Keller thanked Mr. White and Mr. Cilimberg for setting this work session up because this is something that many of us have been interested in for a long time. He has lots of questions from very specific to more general, but thinks it would be good to hear from the public.

Mr. Dotson thanked Mr. White for being here and laying out how complex the issue is. He has questions that perhaps members of the audience would like to respond to when they come up. First, as a former academic as somebody who gives grades on an A to a F scale with A being the county is fully meeting the need and an F being we are not adding any affordable housing units each year, where would you say we are. Second, what two things could the county do to improve this grade significantly? He did not know if Mr. White wanted to respond right now or sort of take that under advisement and think about it. He would love to hear from other members of the public that are present.

Mr. Morris suggested that Mr. White hold that answer.

Mr. Randolph said on page 4, in the third paragraph down you make a statement that proffers are proving somewhat problematic in addressing the social economic aspect intended by the policy. He asked that to be spelled out a little more clearly in specifically what he was saying.

Mr. White replied that is an expansion of the comment about just because we get units we can't guarantee that we will get the lower income family in. The reason for that is multiple issues that are particularly related to incomes needed to purchase, credit limits and the lack of down payment assistance. All of those issues are part of it.

Mr. Randolph pointed out he was inquiring because he did not know whether diversity was any part of that and so he was just trying to get a handle just strictly talking about lower income.

Mr. White replied that his focus on this policy is lower income. We actually don't see who purchases these units. Most of the time they get something from a lender, realtor or the builder laying out the income and sales price. That is about all they know about from a diversity standpoint.

Ms. Firehock said she would wait for the discussion.

Ms. Monteith commented as far as some kind of further work with the Planning Commission that she would say yes it would be important. Obviously this is something that is new and when you look at the planning spectrum there are a lot of things that have been worked on for a long time in community planning that make us understand how to do things. However, affordable planning is not understood as well and it is very complex. So in your sentence two should the development of an ordinance be a consideration she would like to know how many communities that are doing affordable housing are using an ordinance or do they have a different structure. She keeps wondering how we can be doing this better, which goes back to Mr. Dotson's question. Obviously, it is a very complex issue, but how could we be more effective. So is an ordinance something that others are using or most of them not using.

Mr. White replied that most localities that are as rural as Albemarle that stay out of the urban area do not have ordinances. Other than probably 1 or 2 sentences in their comprehensive plan saying we ensure that there is affordable housing for our citizens they really don't have affordable housing policies. Fairfax is one that gets noted most often because their original one went to court and was struck down and they had to redo it. It has a lot of moving parts and utilizes a housing authority that is well funded to purchase units and then resale them with restrictions on them. That is why he mentioned there were a couple of ways to get restrictions on houses for long term affordability. The county could purchase those units and then sell them to somebody or provide funding through a nonprofit to purchase those units. He thinks that is the importance of trying to work with a couple of organizations that he mentioned that already have these things in place. If we through the proffers can get the units or at least get the lots that can then be purchased by Habitat or a land trust it would be working as we intended it to. Right now it is not. In response to Mr. Dotson's question he would say C minus because it is not great, but we have had some success. They are revisiting this policy after 11 years with no changes to it and they still don't have a lot of data to go by just because of the economy.

Mr. Loach said he talked before about the rehab work they have done in Orchards Acres. It is very important that we maintain the housing stock that we have that is affordable. He asked in those areas where there is affordable housing is there any plans to purchase rehab and then resale.

Mr. White replied from a standpoint from protecting what is there we used the proffer money to leverage CBG funds for Orchard Acres. We are currently working on a planning grant in southern Albemarle County. However, we are not going to have another Orchard Acres because that is a nice compact community. But, we are trying to identify one or two areas in southern Albemarle that we may be able to do some housing rehab work in and it is likely if we get to a point that we will use some of the proffer money to leverage another grant for that. Orchard Acres is a $750,000 project for 25 units. If we used all the proffer money we had right now toward rehab we might be able to rehab 15 to 18 units around the county.

Mr. Morris opened for public comment and invited anyone who would like to make a statement prior to the discussion period.

Dan Rosensweig, Chair of the City of Charlottesville Planning Commission and head/Executive Director of Habitat for Humanity echoed everyone thanking Mr. White for convening this meeting. This is an incredibly important topic at least to my heart in terms of the stability and livability of this community. It seems pretty clear that the existing series of policies are not working. The comprehensive plan clearly spells out a goal of 15 percent of affordability housing across the spectrum and he did not think he could be as generous as a C minus. I think that creates a special hazard that has seen us at Habitat for Humanity help people who have been living in trailers without heat for decades find affordable housing with significant intervention. It takes aggressive and significant intervention to begin to move the needle. That is the bottom line. So Mr. White referenced staffing needs and perhaps the county needs to take a leadership role and bring together partnerships that Mr. White referenced. We are one of two that he referenced, but there are numerous other creative ways to bring together actors to make it happen. It is really critical to the communities across the country that actually have been successful in creating affordable housing that there has been leadership and an aggressive stance on the part of the political leadership to make it happen. It won't happen without that and early engagement is critical.

Mr. Rosensweig pointed out that early engagement is critical. What we have found that has worked in the city is when developers, nonprofit entities and the city get together before there is

$60,000 worth of engineering money spent and we are looking holistically at a parcel of land, then we are able to look at opportunities for creating more density, a better arrangement of buildings and better financing strategies that are win wins for everybody. Our three way partnership among the city, Southern Development and Habitat that is producing a 46 unit mixed income development with 18 affordable units on Elliot Avenue is a prime example of that. As the discussion moves along I would be happy to enumerate more on other ways for these partnerships. Running low on time, I want to reject the notion that you have to make $74,000 to be able to be a homeowner and enter into that segment of the economy that is part of the ownership class. We have done it for 25 years with families that earn as little as $13,000 a year. We have a 3 percent default rate when the default rate nationally is 8 percent. It can be done. Again, I am very grateful for the opportunity to speak tonight and to join the conversation because I think that there are a lot of arrows in the quiver that we have not shot yet.

Don Franco, developer, said he would like to first start with a question. On the map distributed 95 rentals were created since 2004 and he asked did that include Treesdale.

Mr. White replied yes, it did.

Mr. Franco said going back to what Mr. Dotson was asking how do you grade this that when I looks at the numbers that were presented in the report 37 were offered for sale, 95 rentals and that totaled just under 200 units and 61 were accessory. I looked at that quickly and broke it down - 20 percent was for sale, 50 percent were rentals and then 20 percent was the accessory units. The regulatory changes that we have made have helped make that better. One of the places we need to look at is how we have impacted things without putting that in perspective of how many units we have built since 2004. It is also hard to create that. I think it kind of goes back to one of the questions you started us with, which is what is out goal. Is our goal to increase the increase the stock? When thinking about this earlier I was also asking questions to myself: are we trying to eliminate homelessness; are we trying to make things more affordable; are we trying to create more home ownership opportunities. What is our goal? So understanding all of that has got to come into the equation before you start to put a grade to it. The way I look at it is if we have done that increase I know we have lost some of the units to the proffer the way it was written. But, that has been, again my quick math said 5 percent of the 15 percent. So we have gotten 14 percent affordability albeit the proffers. It is just probably not enough as a community. So I would not evaluate the program as a C minus because I think it is probably doing a little bit better. However, as a community we are probably falling short. So I would look at really the bigger picture and start with the question of what is our goal.

Mr. Loach asked Mr. Franco if he thinks the Neighborhood Model has done anything to increase the integration of affordable housing into developments.

Mr. Franco replied when I first started seeing accessory units being allowed to be developed the biggest thing was you probably as a community have a bigger impact to say hey do you want a new regulation that anything that is built has to have an accessory unit. Then you start to flood the community with accessory units and the prices will start to drop for those rentals that will be out there and the units will be available. I think the Neighborhood Model has done some of that; however, I think it has also done some things that have been problematic. He did not want to enter a debate of Neighborhood Model. However, if you try to create Orchard Acres today and add curb, gutter, sidewalk, wider roads and some of the other things that make that an attractive community, then you are going to start to see that $750,000 that it took to create that back then at a much higher number.

Mr. Loach asked if he thought the idea of having a land trust buy the property and then build the home is something that in a development like Old Trail would be something that could be implemented.

Mr. Franco replied that it can be done. However, not knowing where all the 7 units are that the land trust has done today, I think 4 of the units have been Habitat built. Habitat and the land trust together got some city funding; Habitat built the houses and did the sale, and in the end the land was owned by the land trust. I think there were some advantages to having it done through Habitat because the banking was a little bit easier for the financing and things like that. I think Dan Rosensweig can answer that. But, I think there is still an issue that stands out there with how you would bank that in the normal market.

Mr. Loach pointed out the reason I ask, again, my interest is in integrating affordable housing into neighborhoods rather than having affordable housing developments.

Mr. Franco said that is one of the problems that makes this a very complicated issue. For instance, Willow Glen had some affordable units, and first you have the narrow band that Mr. White is talking about with that 75 to 80 percent qualification AMI person that you are looking for, which is a relatively small market. Then you have to find someone who has got the down payment ability. Then you have to find someone in that small group who wants to live out north of town. The next problem is going to be if that is the product type they can or want to live in. If it is a family and it is a two-bedroom unit that is coming up it does not work for them. There are a lot of different problems in trying to integrate it, not saying it can't be done, but there are a lot of challenges to it.

Neil Williamson, with the Free Enterprise Forum, said he had a comment from somebody who could not be here, but had two specific things that he wanted to say.

1. The city is conducting a thorough housing study to better understand where the real needs are so they can develop solutions targeted to those needs. Should the county consider participating or conducting a separate but similar study?
2. Should the affordable housing policy be reviewed and revised in concert with the proffer policy since each affects the other.

Mr. Williamson said back in 2004 when this came out I spoke out against it. I was quoted saying that you just made new housing less affordable for 85 percent of the new housing buyers. I am for affordable housing; but, I don't think you are looking at this at the right level now. Mr. White has a good report about very specific items. However, I think you need to elevate the conversation and examine where we are today, where we want to be and some of the things Mr. Franco spoke of. Back in 2008 I wrote a piece in the Daily Progress about affordable housing and cited the percentages. Nationally, I think the percentage of home ownership is around 65 percent per the census. I think the last crash showed what some have been referring to with regards to maybe home ownership is not for everyone. The rental market has to be considered as a part of the home affordable housing piece. Where is Albemarle on this? Well, Albemarle is slightly below the rest of Virginia and about equal with the national average. Compare and contrast that with your neighbors and ask where is the most percentage of housing home ownership of all the localities that the Free Enterprise Forum covers. It is in Fluvanna County. Where are we right now? This is the question I have. In 2012, I found that there were 800 affordable units available using the definition. They had to cut one-half of those out because FHA financing won't do condominiums. But, there were still about 400 units at that price point. Where are we in the commercial market now? Where are we on the rental market? These are knowable facts. Where do you want to be? That is the question we need to be asking not that we need to add staff for another planner. The other question you need to be

asking, which is slightly outside of your preview, is talking about how it is funded. When you look at all those dollars there is very little general fund going into all those pretty little dollars. It is the new home buyer that is financing the affordable housing that the existing community is asking for. I don't think that is fair.

There being no further public comment, Mr. Morris closed the public hearing called for a recess.

The Planning Commission took a break at 7:46 p.m. and the meeting reconvened at 7:52 p.m.

Mr. Morris invited discussion more in the form of a conversation with a cut off time at 8:30 p.m.

The Planning Commission held a conversation with staff and members of the public and provided the following feedback:

- Recognizing the complex nature of the housing issues the Commission asked staff to consider recommendations for continuing dialogue in order to come up with a proposal to the Board of Supervisors that addresses all of the affordable housing concerns raised. Commissioner Morris agreed to contact Mr. White and Mr. Cilimberg to begin this discussion.

- Perhaps scheduling for the next few months once a month a study session on affordable housing and each time they focus very specifically on one particular question because there are so many interrelated questions.

- In terms of the topic a suggestion was made not to look at the particular programs, but by stepping back and looking at the county.

- Set up focus or working groups off to the side coupled with PC discussion.

- One or two roundtables with representatives from all interest groups. If the mechanism for working on it is some sort of a roundtable it should be with industry representatives, potential buyers and others.

- Discuss topic at next week's PC meeting with Fiscal Impact Committee.

No formal action was taken.

New Business

Mr. Morris asked if there was any old business. There being no old business, the meeting moved to new business.

New Business

Mr. Morris asked if there was any new business.

- Mr. Benish noted a consultant, Kimley Horn, has been engaged to do an assessment/study on pedestrian crossings for Rt. 250 east and two (2) areas on Rt. 29 north (Hollymead and urban area).
- Ms. Firehock will be absent at next meeting.
- The next Planning Commission meeting will be held on Tuesday, September 22, 2015 in Room 241 at 5:00 p.m.

There being no further new business, the meeting proceeded.

Adjournment

With no further items, the meeting adjourned at 8:30 p.m. to the Tuesday, September 22, 2015 Albemarle County Planning Commission meeting at 5:00 p.m., Room 241, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.

David Benish, Secretary

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