

Albemarle County Planning Commission
January 26, 2016

The Albemarle County Planning Commission held a regular meeting on Tuesday, January 26, 2016, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Daphne Spain, Karen Firehock, Pam Riley, Jennie More, Bruce Dotson, and Tim Keller, Chair. Absent was Mac Lafferty. Bill Palmer, UVA Representative, was present.

Other officials present were Bill Fritz, Chief of Special Projects; Sarah Baldwin, Senior Planner; Ron Higgins, Chief of Zoning; David Benish, Acting Director of Planning; Sharon Taylor, Clerk to Planning Commission; Mark Graham, Director of Community Development and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Keller, Chair, called the meeting to order at 6:00 p.m. and established a quorum.

ZTA-2015-00014 Neighborhood Model Setbacks and Yards

The Planning Commission will hold a public hearing to receive comments on its intent to recommend adoption of an ordinance amending Secs. 18-3.1, Definitions, 18-4.19, Setbacks and step backs in residential districts, and 18-4.20, Setbacks and step backs in conventional commercial and industrial districts, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend Sec. 18-3.1 by amending the definition of "infill," to clarify that developments still subject to a valid subdivision plat or site plan, or both, are not "infill"; amend Sec. 18-4.19 to add the Planned Residential Development (PRD) and the Planned Unit Development (PUD) districts to those districts subject to that section; to amend Secs. 4.19 and 18-4.20 to clarify that corner lots are not subject to any maximum setback and to clarify when the maximum front setback may be increased without a special exception; and to amend Sec. 4.20 to provide that the minimum setback for parking areas is 10 feet from the right-of-way. 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. (Ron Higgins)

Mr. Higgins presented a PowerPoint presentation to summarize ZTA-2015-00014 Neighborhood Model Setbacks and Yards. Neighborhood Model Setbacks and Yards in the Development Areas Corrections – ZTA-2015-00014 - Planning Commission Public Hearing - January 26, 2016. First, he would take a few moments to bring the new Commissioners up to date.

Background Information

- Zoning Ordinance Adopted December, 1980.
- 2001 Comprehensive Plan Amendments.
- Neighborhood Model (NM) zoning District established in 2003.
- After a number of attempts since 2003, Neighborhood Model Setbacks in the Development Areas adopted June 3, 2015.
- Planning Commission asked staff to come back with this within a year to discuss any changes needed.
- Planning Commission approved a new Resolution of Intent September 1, 2015.

In 1980, the County adopted a Zoning Ordinance. That Zoning Ordinance was a typical zoning ordinance at the time and had a kind of separation of uses, larger setbacks and a kind of suburban character to it.

In 2001, the principles of the Neighborhood Model were adopted. The Comprehensive Plan incorporated Neighborhood Model principles . . . denser, mixed use, pedestrian oriented and anticipated reduced yards. It anticipated reducing yards and having smaller setbacks in conventional districts in the future.

In 2003, we actually adopted a Neighborhood Model District that you could apply to rezone your property to. That has been working well for vacant tracks in large areas in and around the Development Areas.

Since 2003, there have also been several attempts to look at the setbacks in conventional districts in our Development Areas. What staff was trying to do was just look at that one aspect of the ordinance in a by-right way that might make it easier to do the Neighborhood Model form of development in Development Areas. In fact, after a number of attempts staff was able to get that through the whole process in a little more than a year and a half by meeting with Citizen Advisory Committees (CAC's), groups and public hearings. A new set of setbacks was adopted for all our zoning districts that are in the Development Areas, which would be conventional residential/commercial and industrial districts. In our attempts before, the reason it did not happen sooner was because they were a little too ambitious by reducing setbacks next to residential and rural for commercial and industrial. Staff thinks that was not quite ready for prime time and backed off on that and dealt with the massing and the relationship to the street and breaking up the height in a way that would get you to a certain height building and then step it back after 40' or after three stories. After the adoption on June 3 the Planning Commission wisely said that within a year it would helpful if staff could come back and let them know if there are any glitches or how it has been going and what changes, if any, should be made. Staff did that and we are now back before the Commission a bit sooner than promised.

After a fairly short amount of time of implementation planners started asking questions and staff would find that a reference was left out or was in another section. Staff found that if it was not clear to the applicant or the person reading, implementing or administering it that it needs to be changed. The Planning Commission's request was helpful since staff implementation has revealed some minor clarifications and edits that will make it easier to administer.

The process for zoning text amendments (ZTAs) includes adoption of a Resolution of Intent (ROI) that is prepared by staff to take to the Planning Commission or Board of Supervisors. The adopted ROI gives staff our marching orders. So the need for corrections was taken to the Planning Commission in September and the Commission requested staff to pursue it and bring back the information necessary for clarification. Mr. Higgins then walked the Commission through the five corrections/changes.

When ten people read an ordinance they will have a slightly different take on it. So people would read this and say now wait a minute does it really apply to situation A or situation B. So staff looked at the definition of infill to make sure that it was as clear as possible. The intent was clearly not to make the infill definition apply everywhere.

Staff pointed out some interesting little differences. What you see in the new Neighborhood Model Ordinance are some relatively new concepts in the conventional districts, such as the

idea of a maximum setback in addition to a minimum so that there is a build-to range. Over time, not immediately, it will bring buildings closer to the street to engage the street. For the sides in a residential district we had minimum setbacks of 10 feet; whereas, now we have building separations from one house to the next of 10 feet. We also now have a step back. It used to be that if you had a building over 40 feet the entire building would be pushed back, which starts to get a little dicey when you are dealing with phased development. What we now realize is that it doesn't work very well unless you are just dealing with the streetscape and the sense of enclosure along a frontage. So when you get to a certain height, the street wall, then you have to step back the building above that. So we added things like that into the ordinance that we really had not dealt with until the Downtown Crozet District came along.

Corrections/Changes

1) Clarifies the definition of “infill” to not apply everywhere.

Regarding infill, staff wanted to make it clear that when you have a valid subdivision or site plan that has gone through all of the processes and obtained approval that it establishes setback and building envelopes. It would not be infill, but a new development with those setbacks. People were having some confusion over whether or not and when that applied.

Why is this important? It is important because if you are infill your minimum side yards are 10 feet for all properties. Whereas, if you are not infill, have a new development, and decide to use this separation standard, your minimal side yards might be 5 feet because you have a 10 foot separation. What they don't want is to have a plan approved with a 10 foot separation and then 40 percent of the development push them into an infill situation. That is counter intuitive to what you were trying to accomplish.

Staff mentioned the current definition of infill on the first page of the ordinance, which is essentially any property that is less than 120 feet in frontage on the road with 40 percent or more of the property zoned residential and within 500 feet of that property developed with buildings having setback. It tries to protect the character of existing neighborhoods. As we went through the process staff added the whole infill concept, which is very important. So staff does not want to lose the infill concept or do anything that would damage it. On the other hand we want to be able to protect valid site plan and subdivision approvals.

2) Adds PRD and PUD districts to the table in Section 4.19, as they are referenced in the individual district sections (Sections 19 and 20 for the PRD and PUD districts, respectively);

The second correction is simply a cross reference improvement. We have district sections in our zoning ordinance with one for Planned Residential Development and one for Planned Unit Development. The new setbacks apply to those districts, both of which refer to in the table in Section 4.19. At the top of those tables it lists all of the districts that this table applies to. They don't list PRD and PUD, so we are simply listing them so that you will see them in both places. That is a very minor change.

3) Clarifies “corner lots” have no maximum setback on either frontage if they are on an arterial highway;

There is no maximum on either frontage, but potential is still much greater for Neighborhood Model form with minimum setbacks on both frontages.

This is a very interesting one. As staff negotiated through the process for a year and a half it became evident that it was not going to work very well to have maximums along 29 or other major arterials. The compromise was to not have the maximums apply on these commercial and industrial sites along our major arterials. There are only two major arterials, 29 and 250. Staff pointed out an example of a site located at the corner of 250 and Route 20 below Pantops. This is a site that if you applied the maximum you would not be able to utilize this building under a new development or you may have to build the building to the street within 30 feet. The text says that there is no maximum for any lot fronting on a major arterial, which includes the whole lot. However, staff just wanted to make it clear that corner lots have no maximum setback on either frontage if they are on an arterial highway.

The last two, numbers 4 and 5 are even simpler.

- 4) Reinstates the 10 foot minimum parking setback for commercial and industrial districts clearly in the tables of Section 4.20, as intended in the original changes, and;**
- 5) Inserts the word “plaza” after the word “public” in note #1 after the table in Section 4.20 that allows increases in maximum setbacks.**

Mr. Higgins made two points:

--for change number 4, it was always intended that the new building minimum coincide with parking minimum to better encourage relegated parking (to side or rear).
--for change number 5, this is an omission of a word that is also included in the table 4.19 note #3.

For many decades in our commercial districts when you are talking about landscaping, building setbacks and these kinds of things we also have a parking setback. Our minimum parking setback is 10 feet. When developing the minimums and maximums we utilized the 10 foot minimum for parking as our new building minimum and said so in our presentations. Sometime between all of the discussions, hearings, adoptions and the codification of the actual ordinance that was adopted the sentence in the industrial and commercial sections that said parking setbacks shall have a 10 foot minimum got left out. They are putting that back in because it was always intended to be a 10 foot minimum parking and building setback. Again, in the Neighborhood Model concept that actually makes it easier because it encourages you to relegate the parking, which is a standard that allows you to put it to the side or to the rear and makes it just a little bit easier to accomplish.

The last change is a little typo and an omission. As you look through the ordinance draft staff put in two tables, Table 4.19 and Table 4.20. Table 4.19 deals with all the residential districts. Table 4.20 deals with the commercial and industrial districts. At the end of that table there are clarifying notes and staff allowed for some very specific reasons why you might be able to increase your maximum. One says critical slopes, utilities and things that physically cannot move. Another one says if you have an approved plan and there is a public space or a public plaza on that plan that has been approved, you can move the building back behind that. Table 4.20 left out the word “plaza” so it just says public spaces and public, which is the typo/omission that was corrected.

Staff Recommendation

Staff recommends the Planning Commission recommend approval to the Board of Supervisors of the changes in this ordinance with the five corrections or fixes.

Mr. Keller invited questions for staff.

Ms. Spain asked going back to the point about the corner lots with no maximum setback if that was a hypothetical at Route 20 and Route 250.

Mr. Higgins asked if she meant just picking that site, and Ms. Spain agreed.

Mr. Higgins replied actually that site came in for an exploratory pre-app about three or four months ago. He remembered the planners saying does the maximum apply, it does not apply on Route 250, does it apply on Route 20, and the answer is no.

Ms. Spain asked what is at that site now.

Mr. Higgins replied that is the Flow Automotive Mazda dealership. There are actually three or four parcels right in there that are controlled by the same people and over time they will probably be looking at redeveloping that. Again, just like 29 north as they redevelop and consolidate parcels they will want to know how to deal with both frontages on corners.

Ms. Spain noted that west of the river is the city and east of the river is the county. Are our county guidelines similar to the city guidelines in this regard?

Mr. Higgins replied that is probably not because the city has specific zoning districts for each of their entrance corridors and a complete set of guidelines and standards for each of the corridors. However, having worked at the city he can say the city setbacks are less so it is likely you are going to get similar development patterns from both. Also, given the City's and County's Entrance Corridor Design Guidelines your approach to the design review is going to be similar; although, in the city the Entrance Corridor design review is done by the Planning Commission. In the city the same staff person deals with the Architectural Review Board and the Planning Commission. So the answer is over time you will start to see very similar development because their goal is to achieve what we are trying to achieve with this.

Ms. Spain suggested when the Planning Commission meets with the City Planning Commission once or twice a year this is the sort of thing that we would discuss regarding compatibility or the comprehensive plan.

Mr. Higgins replied that it would probably be a melding of some sort and not a conflict. Of course, you would be working on the Rivanna River Corridor, too, so it starts to get very important there.

Mr. Keller opened the public hearing and invited public comment. The being none, the public hearing was closed to bring the matter back to the Planning Commission for discussion and action.

Mr. Kamptner asked to jump in for a minute since there are some additional clarifications he wants to make to the definition of infill. It is kind of a grammatically awkwardly phrased addition, and he wants to clean that up. Looking at the definition this afternoon he concluded it is confusing and not clear so we want to tweak that language. The result will be the same. The intent is that the infill period begins after the site plan or the final subdivision plat are no longer valid, which is normally five years. Just doing some additional work he realized that under the subdivision law there is a break from the site plan law. Normally they are the same. But, once a subdivision parcel is conveyed to a third party that plat takes on some additional life or period

of validity. Therefore, we will try to confine that to a five years period, which is the intent, or any period that is extended by the county, which the county can do under state law.

Mr. Higgins pointed out staff actually left that flexibility and added it into the recommended motion because when staff discussed it this afternoon Mr. Kamptner wanted to leave some room for improving on that definition.

Mr. Benish pointed out it was just a grammatical correction and does not change the intent of what was discussed.

Mr. Dotson noted, as staff mentioned, when the Commission originally recommended approval they asked staff to bring it back with a year's experience, and staff indicated that it hasn't really even been a year. He asked would it be advisable for the Commission to ask again that staff bring it back in another year with more experience or does staff feel that they have enough experience?

Mr. Higgins replied if the Commission wants to do that, then staff had no problem with doing it. To be honest with the Commission it has been relatively smooth because staff uncovered most of the little typos and things when it was new. However, it would not hurt to have a look at it and see how it is doing on a yearly basis. Staff would be happy to do a little update on it.

Mr. Keller asked if staff has heard any complaints or gained any negative feedback from the public about the form that some infills are taking in established neighborhoods.

Mr. Higgins replied that staff has not. We have new minimums so people can start to do that; but, those minimums are established by the closest building in the neighborhood as opposed to the new minimum of 5 feet.

Mr. Benish pointed out we are still probably somewhat early in the process because since that adoption we are mostly going through the paper exercises of approvals before things kind of hit the ground. Some have, but he did not think our staff has heard complaints. However, within a year they might get feedback because more things that we are approving are going to get built and it might be a good check in.

Mr. Keller asked if there was a motion.

Ms. More supported the request with a change in the motion.

Motion: Ms. More moved and Mr. Dotson seconded to recommend approval of ZTA-2015-00014 Neighborhood Model Setbacks and Yards as presented by staff in the draft dated January 5, 2016 with grammatical corrections in the definition of infill; and, furthermore that staff report back within a year for more feedback based on these changes.

Mr. Keller invited discussion. There being none, he asked for a roll call.

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

Mr. Keller noted ZTA-2015-00014 Neighborhood Model Setbacks and Yards will be forwarded to the Board of Supervisors recommending approval at a time to be determined.

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