

Albemarle County Planning Commission
DRAFT Minutes June 4, 2019

The Albemarle County Planning Commission held a public hearing on Tuesday, June 4, 2019, at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Julian Bivins; Daphne Spain; Bruce Dotson; Pam Riley, Vice-Chair; Karen Firehock; Jenie More; and Luis Carrazana, UVA representative (left at 8:40 p.m.).

Members absent: None.

Other officials present were Leah Brumfield, Senior Planner; David Benish, Interim Director of Planning; Megan Nedostup, Senior Planner; Kevin McDermott, Transportation Planner; Carolyn Shaffer, Clerk to Planning Commission; and Andy Herrick, Deputy County Attorney.

Call to Order and Establish Quorum

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

ZMA201800007 Belvedere Proffer Amendment – Carriage Houses

Mr. Benish presented the staff report. He stated that this is a proposal to amend the proffers and code of development for the Belvedere development, noting that Belvedere is located north of Rio Rd., east of the Norfolk Southern Railroad and Dunlora area in Neighborhood 2 in the Places 29 Master Plan area.

Mr. Benish lots of single-family detached and attached units, and the request is also to allow for carriage house units to be attached to the primary structures; currently, the carriage houses are only allowed as detached units. He noted that they would like to allow accessory apartments to count towards the proffer requirement that requires that a certain number of carriage house units be provided.

Mr. Benish reported that Belvedere was approved in 2005, and it permitted a maximum of 775 dwelling units and 110,000 square feet of commercial use. He said that it was the first neighborhood model district in Albemarle County. He stated that there were approved proffers as part of the rezoning approval that addressed the issue of affordable housing, and those approved proffers called for the applicant providing cash contributions per each dwelling unit developed. He said they also called for constructing a minimum of 103 carriage house units, which are small units typically 800 square feet in size. He noted that by the definition within the code of development, carriage houses must be physically separated from the primary unit – and most of them are above a garage.

Mr. Benish stated that the proffers at the time when they were approved did not require that the carriage house units be offered to low- to moderate-income families; this was more of a market-driven approach to address affordable housing, and the intent was to provide small-type dwelling units new to the area at the time. He said the smaller-type units in the market tend to be more affordable because of their size, and could address other household or family needs. He added that the concept for those approved proffers was that this method of providing affordable housing was a market-driven approach, and their availability and affordability was at the discretion of the owner.

Mr. Benish said that regarding the process of implementing the proffer and meeting the 103-unit requirement, staff calculates there are actually 82 carriage house units that have been either constructed or approved and are under contract for construction. He stated that there are 80 detached units and two others that were built as attached units that technically wouldn't count towards the 103, and these proffers and changes relate to providing how the remaining 21 units are provided, in regard to the accessory apartment change.

Mr. Benish said that in the analysis of the request, in terms of allowing accessory apartments to be counted or considered as carriage houses and meeting the 103-unit requirement and providing those are consistent with the housing policy, and the comprehensive plan which encourages the provision of those types of units, staff has determined that it's a housing type that does provide for affordability and addresses other certain household needs. He said that it supports the provision of housing, which meets various age levels and mobility needs.

Mr. Benish stated that the biggest potential downside identified is that an accessory apartment that is within the primary structure has the potential to be lost or reabsorbed into the house through renovations, whereas the physically separated carriage houses would likely stay there for a longer period of time. He said that both are small type of units, and it is completely at the discretion of the property owner to ever make them available, so they are subject to similar characteristics.

Mr. Benish said that in the analysis of the location and design changes proposed, regarding whether they can be attached to the primary unit or located on single-family attached lots as opposed to solely on detached lots, staff did not find a major issue with that change. He stated that part of the rationale is that the lot sizes are already relatively small in the Belvedere development, so there is not a significant difference in the size. He noted that the lot sizes for most of the attached single-family units are probably too small to accommodate a carriage house anyway, and they probably would be accommodated on a larger lot with a villa type of home.

Mr. Benish stated that there are design standards in the code that ensure compatibility of architecture and design. He said that in total, staff feels that there is not a significant change to the form of development in the Belvedere development, and that the accessory apartments for the remaining 21 units provide for a comparable variety of affordable small units (82 units).

Mr. Benish said that in summary, staff finds that the additional design flexibility for carriage houses is beneficial, and the accessory apartments allow a design and a type of unit that potentially provides for easier access to people with mobility needs, and the proposed design and location of the carriage houses would not impact the character of the area. He added that the one potential negative might be that the accessory apartments within buildings may be lost over time. He said that staff recommends approval, and there are some technical changes to the language that staff would like to work with the applicant on, but there are not substantive issues with the proffer proposed. He offered to answer any questions.

Ms. Firehock said that in factors unfavorable, Mr. Benish mentioned that it would be difficult to prevent enlarging the house by reducing the division. She asked if this is a simple matter of stating that this is not allowed, or if the issue is that it is too difficult to enforce. She said that from the outside, the unit would look attached, but one wouldn't be able to tell if the owner had knocked down the wall between them.

Mr. Benish stated that he was speaking to the accessory apartments that are within the primary structure, and they are typically invisible to the outside. He said they have to have a separate entrance but internally, the walls that separate it could be taken away. He agreed that there is an enforceability issue – but technically, the proffer does require them to be there; it was just difficult to enforce.

Mr. Keller invited the applicant to speak.

Ms. Valerie Long with Williams-Mullen, representative of the applicant (New Belvedere Inc.), introduced herself and Steve Krohn (Executive VP for New Belvedere and the development manager of the project). Ms. Long offered to present slides and photographs to show the existing carriage house units in Belvedere. She also offered to present examples of units that look, act, and function like carriage house units but didn't meet the technical requirements to qualify unless the technical proffer amendment is approved.

Presenting slides, Ms. Long pointed out a traditional carriage house unit in Belvedere, located over a detached garage, and she noted the size of the lots. She pointed to another photo showing a detached carriage house, showing the stairs and separate entrance on the side. Ms. Long then showed a photo of an attached carriage house unit, showing the similarities. She also pointed to a unit that looks like a carriage house unit but is not one and was actually just a bonus room above a garage. She said that she included this example in the presentation to show how similar it looks to carriage houses in terms of architecture, regardless of whether it's an actual dwelling unit or just an extra room.

Ms. Long showed an example of a unit that the proposal would allow to count towards a carriage house unit and pointed out a residence in Old Trail, which is a garage attached to the primary dwelling, with the space above the garage being a carriage house unit. Ms. Long said that this was allowed under the Old Trail code of development because they have a very similar description in terms of what qualifies as a carriage house unit. She said that the applicant has

essentially modeled their proposal to match what's permitted in Old Trail, and she also noted a separate side entrance.

Ms. Long also showed an example of one of the technicalities the applicant is trying to avoid: a garage with a unit above it in Old Trail. She said that although it appears to be a detached garage (because the structure is obviously separate), it does not qualify due to the fact it is attached to the primary unit by a porch. Ms. Long stated that there are a number of homes in Belvedere where the builder has been very creative to come up with similar ways to have a carriage house unit above a garage that is attached to the primary structure, such as a breezeway between the two, so that someone traveling from the garage or carriage house unit to the primary dwelling did not get wet in the rain. She explained that this type of example technically did not count because it's an attached unit, and it is an example of what the applicant is trying to avoid.

Ms. Long concluded that this proposal supports numerous goals in the comprehensive plan to support the county's affordable housing goals, and would address questions or comments.

Mr. Bivins asked if there were any comments from the public. Hearing none, Mr. Keller asked if Commissioners had any questions for the applicant or staff.

Mr. Dotson asked if the proposal was approved whether the carriage house unit have a separate entrance, its own address, and a kitchen and bath of its own.

Ms. Long confirmed that it would have those things and that, especially to qualify as a separate dwelling unit under the county's zoning ordinance, it must have the kitchen and restroom, in addition to other elements.

Mr. Dotson asked if this type of unit is a unit in its own right.

Ms. Long confirmed that it is.

Mr. Benish added that the only right it doesn't have is to have its own accessory apartment.

Ms. More asked about a favorable factor that would allow a design type that potentially provides easier accessibility than the typical above-garage unit, and asked if there is a possibility for this to fit into a dense location that did not have stairs.

Ms. Long confirmed this and said there are some units that, if this proffer amendment was adopted, would qualify and count towards the minimum number of required carriage house units in Belvedere that are in basement apartments that may not technically be ADA compliant but would be far more accessible to someone with limited mobility than would be a traditional carriage house unit where they have to climb a flight of stairs.

Ms. More said that's why she finds herself in favor of the request in general and cited examples in which stairs made it difficult for an aging parent with limited mobility, and the family for care for the aging parent.

Ms. Long stated that a walk-out unit could have allowed the parent to stay closer to the family for longer. She said that even if the unit is technically not ADA-compliant, it would lend itself to having a parent be able to age in a place close to their family. Ms. Long thanked Ms. More for sharing her thoughts and said this was exactly the plan and goal.

Mr. Bivins asked if the entire garage could be an accessory unit.

Ms. Long answered that it could in some respects, but it may present a problem in complying with the parking requirements under the code of development that required parking spaces for each attached and detached unit.

Mr. Benish said there needs to be at least two parking spaces per unit, and there has to be a parking space for the accessory apartment as well.

Mr. Keller asked if the inside of a garage counts as one of the spaces, and if the spaces have to be stacked.

Mr. Benish responded that they don't have to be stacked, and stacking can be used if you can fit the car length in it, but inside the garage does count as parking space.

Mr. Bivins asked if with the 21 remaining units, there were any plans to call back any existing units and make them part of the 21.

Ms. Long replied that other than the two attached units that Mr. Benish mentioned, which have either already been built or are underway but technically don't count, it would be all new units going forward.

Mr. Bivins asked if there would then be 19 new units.

Ms. Long confirmed this was correct.

Ms. Spain said these were the original "tiny houses" in Albemarle County, thought of as mother-in-law apartments, for aging parents, but they can also be for boomerang kids. She said that any multi-generational housing would be more appealing on the market. She added that the Senior Center is going to be located in Belvedere, which may create demand for people who are not related to those in the primary house. Because of these factors, Ms. Spain stated that she is in favor of the proposal.

Ms. Long said that Belvedere is already receiving more interest from people who are interested in living very close to the Senior Center.

Mr. Keller asked if staff had any data on carriage houses and if newer developments where carriage houses were located had data pertaining to who is living in those units – mother-in-law, boomerang kids, or family-occupied versus serving as a rental. He also asked if it is known if there are any voucher rentals being used there for affordable housing.

Mr. Benish said he is not aware of any information for Belvedere in particular, but Stacy Pethia may have more broad information on this.

Mr. Keller then asked if the HOAs in Belvedere and Old Trail preclude Airbnb. He said that a quick Google search shows there are many Airbnbs in these places.

Ms. Long responded that until the new zoning text amendment underway was enacted, under current law, you could not have a homestay in a single-family attached unit.

Mr. Keller clarified that he wasn't asking about the law but the reality.

Ms. Long said that the HOA does not speak to the issue, as it is a zoning issue. She said it's been much discussed, and that there is concern that different rules and different sections within Belvedere would create a significant amount of confusion for the residents, as well as enforcement challenges for the county, and this problem they were trying to avoid.

Mr. Keller said the topic of Accessory Dwelling Units (ADUs) has come up in terms of both Airbnb and carriage houses, as well as in the densification discussion. He asked if there should possibly be a terminology change in which one refers to the units as ADUs, instead of calling them carriage houses.

Ms. Long said she didn't know if she could speak to that and that the terminology does not matter as long as they would qualify under the proffers. Ms. Long says she doesn't believe that "carriage house" is actually defined in the zoning ordinance, which is why there exist references to ADU, two-family unit, and so forth. She said this is probably something that should be addressed in the longer term to create clarity for everyone so these types of proffer amendments wouldn't be needed. She added that carriage houses are indeed ADUs.

Mr. Keller asked if there were any other questions for the applicant. Hearing none, he thanked Ms. Long.

Mr. Dotson **moved** to recommend approval of ZMA201800007 – Belvedere Carriage House Unit Proffer Amendment, including modifications to Appendix A and Tables 1 and 2 of the code of development, provided that technical changes to the wording of the proffers are completed as noted in the staff report. Ms. Spain **seconded** the motion. The motion was approved by a vote of 7:0.

Mr. Keller thanked the applicant, and asked the Commission to consider ADU policy.