

**Albemarle County Planning Commission
October 16, 2018**

The Albemarle County Planning Commission held a public hearing on Tuesday, October 16, 2018, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Julian Bivins, Pam Riley, Vice-Chair; Jennie More, Daphne Spain, Karen Firehock, Bruce Dotson and Mr. Carrazana (UVA Rep).

Other officials present were Rachael Falkenstein, Principal Planner; Andrew Gast-Bray, Assistant Director of Community Development/Director of Planning; Sharon Taylor, 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.

From the Public: Matters Not Listed for Public Hearing on the Agenda

Mr. Keller invited comment from the public on other matters not listed on the agenda. Hearing none, the meeting moved to the next agenda item.

Consent Agenda

Approval of Minutes: January 30, 2018, February 6, 2018, February 13, 2018, June 26, 2018, and August 7, 2018

Mr. Keller asked if any Commissioner would like to pull an item off the consent agenda. Hearing none, he asked for a motion.

Ms. More moved, Mr. Dotson seconded for acceptance of the consent agenda, which was approved unanimously by a vote of 7:0.

The meeting moved to the next item.

Work Session.

PROJECT: CCP201800004 – River’s Edge

MAGISTERIAL DISTRICT: Rivanna

TAX MAP/PARCEL(S): 03200-00-00-005A0, 03200-00-00-005A1, 03200-00-00-022K1

LOCATION: 2256 Rivers Edge Lane

PROPOSAL: Potentially rezone property to increase the number of units allowed by-right and to add commercial space.

PETITION: Potentially rezone 37.74 acres from RA Rural Areas, which allows agricultural, forestal, and fishery uses, and residential at a density of 0.5 unit/acre in development lots, to a different district, which allows mixed use development. A maximum of 145 units is being considered for a gross density of 3.8 units per acre and approximately 31,000 square foot of commercial/office. Proposed density of the project, based on the Master Plan (net density), is 8.37 units per acre.

COMPREHENSIVE PLAN: Property is in the Places29-North Development Area. Master Plan

shows uses as Urban Density Residential – residential (6.01 – 34 units/ acre) with supporting uses such as religious institutions, schools, commercial, office and service uses; Neighborhood Density Residential – residential (3 – 6 units/acre) with supporting uses such as religious institutions, schools and other small-scale non-residential uses; and Privately Owned Open Space/Environmental Features – privately owned recreational amenities and open space; floodplains, steep slopes, wetlands, and other environmental features.
(Rachel Falkenstein)

Ms. Rachael Falkenstein presented a PowerPoint presentation to summarize the staff report for CCP-2018-00004 River's Edge for the Commission's consideration. Tonight's work session is a compliance with the Comprehensive Plan review. This is an application received from time to time to gather input from the Planning Commission on proposed projects consistency with the Comprehensive Plan and it typically proceeds an application for a rezoning or a special use permit. The project tonight would be a potential rezoning and it is really just meant to help the applicant to understand how the Comprehensive Plan would be interpreted about the project and then to just know if the project is worth pursuing further. No action is taken tonight and the feedback you give is nonbinding.

Background On Site:

- The property is located on Route 29 North on TMP 32-22K1, 32-5A, 32-5A1 just south of the NGIC property.
- Total acreage 37.7.
- RA, Rural Area Zoning within the Designated Development Areas for Places29.
- Comp Plan: Neighborhood Density Residential, the parcel south of the river is Urban Density, and it has some areas of privately owned open space
- There are some significant natural features: North Fork Rivanna around most of the property, Flat Branch, Floodplain, WPO buffer and preserved slopes.
- The current use of the property is residential. There are about 14 existing units on the property and the rest of it is mostly wooded. The property to the south is undeveloped.

Ms. Falkenstein said the next slide shows the applicant's proposal for the property, again, it is conceptual at this point. The applicant is proposing 145 multi-family residential units on this piece and then approximately 30,000 square feet of commercial office to the south.

Ms. Falkenstein said as you saw in your staff report there are four questions for consideration tonight and she planned to go through these one by one, talk a little bit about the question, what staff's interpretation of the plan is, and then pause after each question and allow the Commission to discuss and consider each question.

Mr. Keller asked if everybody was comfortable with doing that taking it one piece of time, and the Commissioners agreed.

Ms. Falkenstein noted the first question is:

- 1. Can density from TMP 32-22K1 (Urban Density Residential) be applied to TMP32-5A1 (Neighborhood Density Residential), considering the separation caused by the river and other environmental resources.**

Ms. Falkenstein noted the parcels north, 5A and 5A1 are designated for Neighborhood Density Residential (yellow): that call for 3-6 units per acre in the Comprehensive Plan and the parcel to the south, which is 22K1 is designated Urban Density Residential (orange) which recommends 6-34 units per acre.

She said the applicant is asking if they can apply some of the density from this piece to the other piece above as per the applicant's calculation based on their survey of the property and the developable land. So, the applicant is saying the two Neighborhood Density Residential pieces can accommodate 88 units (TMPs 5A & 5A1 (14.7 acres developable land) x (6 units/acre) = **88 units**).

Ms. Falkenstein said she would pause for a second to talk a little bit about net density versus gross density and this will come up in question 4 as well. She said when we calculate density on a site with a rezoning and we look at the Comprehensive Plan we use a net density calculation and that means we subtract out areas of green spaces that are not designated in the Comprehensive Plan for development. She noted in this site would be the areas shown in green and we will talk about whether the Comprehensive Plan or the GIS should be used to calculate net density – that is a future question, but she just wants to point out that the applicant for the sake of this question used the Comprehensive Plan net to calculate density. She said the applicant is saying that 88 units on the developable acres 14.7 of these two parcels; 89 units on the orange piece is asking if they can apply some of the units from this piece to increase the density here, sort of borrow density from down here and apply it up here. She pointed out they are asking for 145 units on this piece whereby the calculation would only allow 88 units if you only apply Neighborhood Density. (TMP 22K1 (2.62 acres developable land) x (34 units/acre) = **89 units**)
Total = 171 units for all 3 parcels

Staff's recommendation:

Ms. Falkenstein said staff's recommendation is that would not be an appropriate transfer of density given the large physical separation between the two properties and the fact that it would not be an integrated development or have any really shared infrastructure or features. She invited discussion and questions.

Mr. Keller pointed out we are going to see if the Commission has questions for each of these and then we will open to the applicant and go back to the next question. He asked if the Commission wants to hear from the applicant.

Ms. Firehock suggested that the Commission hear the entire presentation and then we can have a more reasonable deliberation.

Mr. Keller asked staff to go through all the points now, hear from the applicant and then we will go point by point for our response to you, and Ms. Falkenstein replied yes that would work.

Ms. More asked when you are talking about the net density calculation you are saying the green space was taken out; however, you do calculate the stream buffer, floodplain and critical slopes.

Ms. Falkenstein responded that she would talk about that a little bit more with question 4 – but for this number of 88 units it is based on the calculation of the Comprehensive Plan, which is shown in the Comprehensive Plan map, with the green space subtracted out. She said there is a discrepancy between what is shown in the Comprehensive Plan and what is shown on the GIS.

Ms. Falkenstein said the second question is:

2. Would Neighborhood Model District (NMD) be an appropriate zoning district for the proposed development or should the applicant seek separate zoning designations for the proposed commercial and residential pieces?

Ms. Falkenstein said that for this one she took a snippet from our ordinance about the purpose of the Neighborhood Model Zoning District; it is intended to provide for compact, mixed-use developments with an urban scale massing density and an infrastructure configuration that integrates the versified uses

within close proximity to each other. Therefore, she overlaid the applicant's proposal on the GIS and you can see there are two separate developments and she would not call these integrated or sharing density and infrastructure.

Staff's recommendation:

The commercial and residential pieces are not integrated and therefore an NMD zoning district would not be appropriate. Staff recommends the two pieces be considered with separate zoning applications and not Neighborhood Model District.

Ms. Falkenstein said the third question is:

3. Would neighborhood scale commercial use (i.e. veterinarian office, barber shop, yoga studio, etc.) in an area designated as urban density residential (specifically TMP 32-22K1) be found in compliance with the Comprehensive Plan?

Ms. Falkenstein said the language from the Comprehensive Plan had been listed in the presentation of some of the uses that would be appropriate within Urban Density Residential and you can see it allows for retail commercial office uses that would be supportive of the neighborhood. Although it recommends these in centers, they could be appropriate in areas around centers by section.

Staff's recommendation:

- Staff agrees that the uses described by the applicant, with the proper scale, are consistent with the secondary uses recommended by the Master Plan.
- The proposed development could supplement the adjacent proposed residential uses (North Pointe). North Pointe is under site plan review right now, so it will be coming soon, and we think it would be a good mix of uses and supportive of that neighborhood to the south.
- With the design of the site, staff would recommend the applicant consider the Neighborhood Model principles of pedestrian orientation, relegated parking, and buildings and spaces of human scale.

Ms. Falkenstein said next is the fourth question. She pointed out the first three questions were submitted by the applicant and the fourth question is a staff question since we just wanted to get clarification on this in how we calculate density on a site. She said this comes back to Commissioner More's question - what land should be available for development in calculating potential density.

4. (Additional question from staff) What land should be available for development and calculating potential density? Is strict adherence to the area shown on the Master Plan as Open Space required or should the area available for development be calculated using more recent mapping technology, which better depicts the environmental features (stream buffer, preserved slopes)?

Ms. Falkenstein said on the slide staff put side by side the Comprehensive Plan map showing the area designated for green space and then the map on the right is the GIS showing the stream buffer, preserved slopes and green stream buffer and then the area of floodplain on the property. As you can see there are several areas that are not shown as green space specifically the slopes and some areas of stream buffer that pinch on the property that are not shown as green space on the Comprehensive Plan. The question is which map should be used to calculate the net density of the property. Ms. Falkenstein said she did a side-by-side comparison of what the calculations would be for the density.

Ms. Falkenstein noted when the Master Plan was adopted; the designation of Privately Owned Open Space/Environmental Features was intended to capture open space owned by HOAs or other private entities and environmental features such as floodplains, steep slopes, wetlands and other areas of environmental constraints where construction of buildings is discouraged. Since the Master Plan was

adopted, the County has adopted the Steep Slopes Overlay district which designating preserved and managed slopes. Since that time staff has also completed more detailed and accurate mapping of the streams and their buffers. See graphics in presentation for a comparison between the Master Plan and current GIS data.

Staff's Recommended Approach

GIS Critical Resources

Net Density Calculation

Comp Plan Land Use Map Net Density Calculation (see PP)

5A Developable Acreage: 1.9

5A1 Developable Acreage: 12.8

Total Developable Acreage: 14.7

(14.7 acres) x (6 DU/acre) = 88.7 DUs

Staff's recommended approach:

GIS Critical Resources

Net Density Calculation (See PP)

5A Developable Acreage: ~1

5A1 Developable Acreage: ~ 8.2

Total Developable Acreage: 9.2

(9.2 acres) x (6 DU/acre) = 55.2 DUs

GIS measurements are approximate

The difference between the two methods is about 33 units.

Staff's recommendation is consistent with PC's recommendation the proposed Adelaide development in Crozet

Summary of Staff Recommendations

Question 1: Staff is of the opinion that transferring the density from TMP 32-22K1 to TMP 32-5A is not appropriate.

Question 2: Staff does not believe that NMD is an appropriate zoning district for the proposed development and recommends that the development of the property as proposed be considered with separate rezoning applications.

Question 3: Staff agrees that the listed commercial uses could be appropriate on TMP 32-22K1 as secondary uses, with the appropriate design and scale.

Question 4: Staff recommends that more accurate GIS-data should be used to calculate the net density of the site.

Mr. Keller invited questions for staff. Hearing none, Mr. Keller opened for public comment and invited the applicant to speak.

Ms. Kelsey Shriner, Planner with Shimp Engineering, said here with me is Justin Shimp, President of Shimp Engineering. Ms. Shriner said starting off with our questions for the compliance with the Comprehensive Plan that Rachael has already gone over and additionally based on staff's final fourth question since you have already heard these there is no need to review, but there was one more question that we had. She said the County is committed to preservation of the rural areas and critical environmental resources to accommodate future populations. The County has designated the development areas as land for future growth; land area is limited in the development areas and it would be prudent for the County to develop these areas efficiently and at an appropriate scale. Given that

regulations exist to preserve critical environmental resources and stated housing goals in the Comprehensive Plan what is the benefit to the County to subtract this land area from density calculations.

Ms. Shriner said the purpose of this work session she is really hoping it is an opportunity for a conversation to move towards creative development of this area. Therefore, she hopes that it is okay if Justin and I talk through this together and you ask questions as they arise and asked to have a conversation about this. She said in comparison maps the future land use map offers 14.9 acres to be used towards the density calculation. With the County GIS, it is approximately 8.6 acres and then these maps overlaid with one another what the developable area is here. So, the breakdown to provide an understanding of how the numbers of units that could possibly be accommodated on this site given the difference between net and gross density calculations. So, to walk through this – the calculation area for 32-5A and 32-5A1, which are the two parcels that are designated as Neighborhood Density Residential from 3 to 6 dwelling units per acre that would allow approximately 97 to 195 units if the total land area could be calculated towards density on the site. Then using the future land use map at 14.9 acres the possible density is reduced to 44 to 89 units giving you effectively 1.4 to 2.7 dwelling units per acre. With the overlay of the GIS, you are looking at 8.6 acres and you were saying the dwelling units to 25 to 51 and reducing the dwelling units per acre .8 to 1.6, which is not consistent with density recommendations for the development areas in the residential.

Mr. Justin Shimp asked to jump in and talk about this since it has been talked about before and this map is a good one to look at - the yellow there is effectively the areas we are allowed to build in and so regardless of how many units, whether it be 10 or 1,000 that is the area we could touch essentially. So, in looking at this net density, and as Kelsey said the question that comes to our mind is if taking those areas out isn't changing the area disturbed then is that contributing towards preservation of green areas or is it contributing towards a loss of housing stock. He said that is the concern that we have when you say oh well we are just going to take this and knock down the number of units, you are not actually preserving more stream buffer, you are not actually protecting any waterways differently, you are just building larger more expensive units in the same acreage and we don't necessarily see that as a good thing. She said so in the context of the rest of this he suggested you think about that and we are curious to hear your thoughts.

Ms. Firehock why not ask for an increase in density more than the Comprehensive Plan – you don't intend to disturb steep slopes but want to build more densely.

Mr. Shimp replied that before we finalize the plan we will have a very high-level debate first for more compact scale for more density on the site and how you are going to weigh that for compliance with the Comprehensive Plan.

Ms. Firehock said that it becomes challenging in calculating density and why do it different from Adelaide. She suggested tabling this and continue.

Ms. Falkenstein said that kind of is getting to question 1 that we want to know what density would be appropriate to transfer density to the NH density piece.

Ms. Firehock said she was trying to think how we arrive at that without throwing the math out the window. She suggested that the minutes be pulled for previous discussions on this issue.

Mr. Gast-Bray said what density you think is appropriate in asking for rezoning and in a sense at one point trying to redo when ask what makes sense. He said we have to be consistent with the Comprehensive Plan in how we have done that and there are different arguments in how the Planning

Commission rules and the precedent on Comprehensive Plan deliberation. Mr. Gast-Bray noted that he can't answer that for you.

Mr. Shimp noted there have not been very many rezonings; however we are looking at it in the County's best interest.

The Planning Commission held a discussion with staff and the applicant about the proposal.

Mr. Keller invited public comment.

Morgan Butler, with the Southern Environmental Law Center, said it was sort of a fundamental question with this if we bring the discussion back to this proposal that relates to some of the questions that are before you tonight. As he sees it this proposal is basically asking to stretch two different Comprehensive Plan designations. The first one is to allow Urban Residential Density on the parcel that is designated for Neighborhood Residential Density and the second one is to have secondary uses, so basically commercial uses not only be the primary use on that Urban Residential designated parcel but be the only use on that parcel. He said so basically you have this Urban Residential parcel on the south and the Neighborhood Density Residential and the applicant is seeking to pull the density up to the northern part, which is designated for less density, and do commercial instead on the parcel that is designated for high density residential.

Mr. Butler said my question is why not simply the Urban Density Residential on the Urban Density Residential parcel do, drop the commercial on that parcel, and then do the Neighborhood Density Residential on the Neighborhood Density Residential portion. He said the benefits of this approach would be that it is consistent with the Comprehensive Plan and you are not doing those two distortions that we just talked about and he thinks there are other potential benefits that would be worth thinking through one of which is if we put the high density on the northern part he thinks that poses a problem that if the high density is on the southern parcel you are channeling the traffic from that high density development through the North Pointe entrance onto 29, which is already a designated entrance.

Mr. Butler said if we have the high density in this other area then that is presumably going to create a new intersection perhaps with a new traffic light on Route 29 and that is not the way we want to be treating that primary highway. He said if my memory serves me correctly he thinks that Neighborhood Residential density on the border of NGIC was intentional when Places29 was developed. He said there were reasons why they were thinking well I am not sure we want to have high density right there next to NGIC.

Mr. Butler said he also wants to point out that the application itself talks about the point of the project is to put high density residential and the problem is the lack of ample housing types since we want to create housing opportunities with a mixture of housing types and there is actually a portion of the application that says if there is a desire by either the applicant or the County for more residential space within the development the proposed commercial space could be repurposed as multi-family residential units. He said so again, maybe there is a very simple question to this that he is not privy to, but to me the question is why not do the Urban Density Residential on the Urban Density Residential piece, do the Neighborhood Density Residential on the Neighborhood Density Residential piece, be consistent with you Comprehensive Plan and avoid some of these thorny proportions that we are being asked to do. Thank you.

Mr. Keller invited further public comment. Hearing none, he invited the applicant to come back up for rebuttal. He pointed out that in response to the last speaker that my feeling was that we were going to be addressing that when we go back with staff to go over the four questions.

Mr. Shimp said we certainly imagine that the density of the two together would not exceed the sum so if we went with some residential density on the Urban Density piece that would reduce the available density on the northern piece. He said what those numbers end up being are obviously in the point of discussion here. He said there are other things such as the access that he could clarify that they were only going to have a right in and right out on 29 from this other entrance and we have already talked to VDOT about that and that is understood that there is not going to be a new light or anything like that. Mr. Shimp said so there is not really going to be a transportation impact from the difference between 50 and 100 units on the northern parcel.

Mr. Shimp said as far as the commercial uses it probably is not likely to do that as all commercial, we were just illustrating how much would fit there; but probably you would have a mixture on that particular site. He said it is attached to North Point which is all residential on that end so it seemed like maybe some commercial use in there to sort of cap off that high density neighborhood made sense, but he did not know that it would not be a mix of both in which case we would subtract that amount from what we took from the other side and that would be limiting our density there. He pointed out that is how we viewed it.

Mr. Keller invited questions for the applicant. Hearing none, he asked staff to lead us through the questions.

Ms. Falkenstein said to recap this question is whether the Comprehensive Plan map or the more recent GIS data should be used to calculate net density on the site and staff's recommendation is for the GIS.

Mr. Dotson said just a reaction to that and then he has a follow-on question. The applicant is saying that if you use the reduced acreage you are limiting the development potential of the growth area. The other way to view it is that development potential was never there because of the constraints on the land and so that is a different way of viewing it. He said my question is the Comprehensive Plan says Neighborhood density which 3 to 6 units to the acre is and so if the applicant came in for a standard rezoning they could request R3 or R6.

Ms. Falkenstein replied that we don't have R-3, so they could request R-2, R-4 or R-6 or any residential rezoning but it is a question of how we calculate whether this is in compliance with the Comprehensive Plan and which map we use.

Mr. Dotson said unless there was a traffic issue that he would assume it would be a straight forward conventional rezoning.

Ms. Falkenstein replied the way we do that in the past is ask for a proffered plan that is no longer on the table with conventional rezoning and typically we ask applicant to max even with the rezoning.

Mr. Herrick noted that it was ultimately up to the Board of Supervisors if their concerns are met for the rezoning application.

Mr. Dotson asked if the Board decided that R-6 was okay or whatever and then the next steps would be the site plan and at that point the determination would be made of the number of dwelling units.

Ms. Falkenstein replied with R-4 or R-6 no constraints and the gross density calculation was done at that point.

Mr. Dotson said he wondered why the applicant is not doing that and suggested bringing up under new business discussion about how calculating that is different from net density which is a zoning term.

Mr. Keller said the Commission would start with the first question and go through each one.

The Planning Commission discussed and provided the following responses to staff's questions.

Q1: Can density from TMP 32-22K1 (Urban Density Residential) be applied to TMP32-5A1 (Neighborhood Density Residential), considering the separation caused by the river and other environmental resources.

Question 1: Staff believes transferring the density from TMP 32-22K1 to TMP 32-5A is not appropriate.

Question 1: The Planning Commission agreed with staff's recommendation.

Q2: Would Neighborhood Model District (NMD) be an appropriate zoning district for the proposed development or should the applicant seek separate zoning designations for the proposed commercial and residential pieces?

Question 2: Staff does not believe that NMD is an appropriate zoning district for the proposed development and recommends that the development of the property as proposed be considered with separate rezoning applications.

Question 2: The Planning Commission agreed with staff's recommendation.

Q3: Would neighborhood scale commercial use (i.e. veterinarian office, barber shop, yoga studio, etc.) in an area designated as urban density residential (specifically TMP 32-22K1) be found in compliance with the Comprehensive Plan?

Question 3: Staff agrees that the listed commercial uses could be appropriate on TMP 32-22K1 as secondary uses, with the appropriate design and scale.

Question 3: The Planning Commission agreed with staff's recommendation noting connectivity was important.

Q4 (Additional question from staff): What land should be available for development and calculating potential density? Is strict adherence to the area shown on the Master Plan as Open Space required or should the area available for development be calculated using more recent mapping technology that better depicts the environmental features (stream buffer, preserved slopes)?

Question 4: Staff recommends that more accurate GIS-data should be used to calculate the net density of the site.

Question 4: The Planning Commission was in general agreement with staff's recommendation that more accurate GIS-data should be used to calculate the net density of the site. (Ms. Fire hock disagreed and suggested gross density be used for the calculation.)

Mr. Carrazana agreed with staff noting at UVA we consider gross, however, take the last GIS information looking at the buffers; however, we need to maximize buildable area and be good stewards. He said you need the latest information for the master planning and site planning and can do that by being conscious of the environment and get to the question of what the density is. He suggested using the latest data and technology and for a complex challenging site he was concerned with what potentially could happen to a site with the river condition and the low point of access – dipping down in site and coming up bluff where building on. He said there would have to be disturbance at that point and raised the question of who is controlling the river, which needs a follow-on conversation.

Mr. Dotson said he had a question of the applicant about the narrative that said studio/one-bedroom apartments.

Mr. Shrimp said we concur with that, the issue would be if you only have 8 acres and we take it in the broader context of there is 168 townhomes being built in North Point directly and those are all going to be three-bedroom townhomes. He said we would take that in the context of the whole corridor there and not our individual acreage.

Ms. Firehock said this is because it acts like an island and she thinks of it more as its own neighborhood because it really can't interact that well physically because of being built on a hill that is almost pinched off.

Mr. Shimp said that we will think of that as we move forward.

Mr. Keller invited questions for the applicant. He said as a follow up on this that a lot of what we are seeing as a response to the lending market so we are seeing these as rentals as opposed to ownership and looking into the future do you see opportunities for the studio and one-bedroom units being converted after their time out or their 15-year or whatever to owner occupancy. As we are talking about a different kind of density in our country he just wonders about that and whether they will lend themselves to that and if they will continue to be rentals well into the future.

Mr. Shimp replied in response to that what we are looking at is more of a small scaled attached housing and that becomes the easier way for home ownership. He pointed out they did a condo building at Riverside Village and they have every unit type in that development – there is 24-unit condo in the back so the operating costs to get that up means you really have to sell those units for \$300,000 and up a piece to make that work. He said that it would be nice to build a \$100,000 condo that could be owner occupied but he thinks that is going to be difficult in terms of cost of getting that started but maybe the answer would be in the less dense developments not the family style but going with much smaller houses for thoughtfully designed duplexes and triplexes that can be owner occupied with whatever lending perimeters there are. He said maybe 15 years from now that will be different but now my clients are saying we want to separate rental from owner occupied because of that sort of end use constraints.

Ms. Firehock commented that she would like to see more diversity of unit types in building since otherwise it would be limited to a small set of demographics such as older community or students and there would be no opportunity for more stability and if get married would have to leave. She said that it would be a transient place and not a solid community and she did not like to see all of one type.

Mr. Keller thanked Mr. Shimp and noted the meeting would move to the committee reports and would have a conversation under new business.

Committee Reports

Mr. Keller invited committee reports.

Ms. Riley reported:

- The Village of Rivanna CAC met and received an update on the Rivanna Village. Currently about 85% of phase 1 infrastructure is complete and they plan to start phase 2 in four to six months. The second item is that three of the staff members David Hannah, Bill Fritz and Tory Canopalas presented the draft proposal to improve stream health in the development area and we had a good discussion around that.

Mr. Bivins reported:

- The Hydraulic CAC went on a tour of the Charlotte Humphries Park to appreciate what might make it more accessible and usable to the public.

There being no further committee reports, the meeting moved to the next item.

Review of the Board of Supervisors Meeting- October 10, 2018.

Mr. Gast-Bray reviewed the actions taken on above dates.

Old Business

Mr. Keller invited old business.

Mr. Dotson said he wondered if there is a fee when we have a review and report like the one we just finished, and Ms. Falkenstein replied no, it is free.

Mr. Dotson said it is obviously a significant amount of work, but they don't come to us very often and he thinks it has been useful tonight to have that discussion.

Mr. Keller said the question is there a long-range savings in your time by having this happen up front.

Ms. Falkenstein replied that she thinks it is useful on a unique situation like this to have your feedback ahead of time rather than staff going back and forth with the applicant and us disagreeing; it is just good to get ahead of it.

Mr. Keller said that he would think when there is as much agreement with staff as there in a situation like this it is quite useful, and he would imagine when there are split views on it.

Mr. Gast-Bray added that the guidance for how to improve as we move things forward it is rare that we get a chance to dialogue with you on the Comprehensive Plan itself and sort of the interpretation directly because there is usually an application in front of you that you are judging. He said so for us it is useful information and thinks we will see a little bit of that in the new business discussion that apparently is coming.

Ms. Riley said she was assuming in this case the applicant requested the work session, but sometimes does the staff recommend a work session as opposed to moving forward in a pre-application discussion.

Ms. Falkenstein replied yes, and she believed that was the case with this one, but she was not at the pre-application meeting. She said typically what happens is an applicant will come in and have a unique interpretation of the Comprehensive Plan that staff is either not in support of or is not sure and wants the Planning Commission's feedback, so we recommend sometimes applicants do it. She pointed how there

is no application for it, so the applicant has to ask for it, fill out an application but there is no fee for it.

New Business

Mr. Keller invited new business. He said one item is to continue the Planning Commission's discussion of the density calculation and by right and whether there is a ramification of that which is counter-productive to zoning and it fits with the Comprehensive Plan. He noted this is something that came up on the old FIAC days in the development community as the proffers were going away we were projecting that this was going to become more and more a set of issues. He said Mr. Shimp has weighed in on that for us as well when we had a discussion with developers. He said the second one, if we have any time, is an interesting thing he saw and maybe Ms. Firehock has more information on this, but it was the idea as developments have done work in what would be the public zone so that when we are thinking about 29 North in particular that the landscape zones then become part of a Park Authority. He said so you are really working for a continuous flow of green space under the same Authority. Mr. Keller suggested that they discuss this if they have time and if not may be another time. He asked if someone could take the lead on the density discussion.

Mr. Carrazana said that one of the questions that he has and if he understands as staff describes it that by right they are using gross density and Ms. Falkenstein replied that is correct.

Mr. Carrazana said if someone rezones you now switch to net density.

Ms. Falkenstein replied that is correct in the zoning process so typically with the rezoning you have an application plan especially for planned developments, you have application plans that will show a proposed development's proposed density and we typically recommend the density be capped at that net density calculation. She said that becomes part of the approved rezoning as a cap on the number of dwelling units that can be allowed on the property in the future.

Mr. Carrazana asked what the rationale is, and Ms. Falkenstein replied the Comprehensive Plan guides us to that and has strategies saying that net density should be used when calculating density on the property.

Mr. Gast-Bray said they are moving towards, especially you will be seeing with Rio 29, we are trying to basically get more specific about performance. He said but you have to remember back when this was done we were doing most things not by form but by density. He said so density is a proxy for the kind of development you expect that to be, but he does not know that is specifically for the case of Albemarle because he was not here at that time, but generally that is the rule.

Mr. Gast-Bray said they are thinking what that looks like 3 to 6 dwelling units, etc. He said so by having it be the net density you are kind of trying to say well with the net density that is the only place you can build and then 3 to 6 kinds of gives you an indication of what that building might look like. He said that usually derives from that, but he was assuming that is the case here, but he was not here at the time. He said as a result that is why staff recommends that sort of is the thought process that went through in developing that, but you would have to confirm that.

Mr. Gast-Bray noted that being said, in the future if we start looking at that he thinks the applicant is somewhat right we have more tools at our disposal, we are talking more about what the explicit thing about the form is and we should be looking at doing an economy of scale with our resources because it is much more expensive to have a spread out kind of density that we have to serve with the same amount of infrastructure that we could serve with less infrastructure in a tighter pattern. He said that is a possibility, but he has learned over the two years here at Albemarle he does not like to interpret things based on

anything other than the history of what Albemarle was thinking at that time. He said that is why he thinks there is a distinction between what they were thinking at that time and what we may be thinking in the future with where are we would like to go and be more explicit and make that calculation much clearer and thinks we get ourselves caught in the vagueness, etc. He said to someone's point, the Comprehensive Plan is a vision and you must have the right to express that vision without having calculated and planned everything. However, we have not really adjusted our zoning to reflect where that is, so we are using the Comprehensive Plan vision as sort of the tool to get to this future minus having done that rezoning.

Mr. Gast-Bray said so at some point we must figure out how that mechanism really needs to work that we are getting as close to the vision that we hope to get as possible but planning in enough of the flexibility to adapt to circumstances that perform the same way or better than we had imagined in that context. He said that requires a lot of the things that you were saying, we just don't have all those tools handy or certainly not in place yet.

Mr. Carrazana said as you move forward, and you begin to see developments like this to get to perhaps challenge what might be limitations of the Comprehensive Plan and flexibility in how you deal with that is going to be very important. He said the one thing he can tell you is he does not know what the appropriate density on this site is, it is a very challenging site and 55 dwelling units is what would be recommended and thinks you have 145.

Ms. Falkenstein replied that is correct.

Mr. Carrazana said the one thing that is missing for me is really an overlay of your development onto the critical slopes or the buffers so to really see that with all those limitations with your development. But as he looked through the pages, he can see where you could potentially get close to that development. He said so if he was developing this at UVA he would say that you are probably in a density that you could get close to it, but he did not know if he could get 145 and does think there are some limits particularly if you want to incorporate some walking trails and the way your parking is laid out. He said when you get to a master plan in a site plan he would guess you would get less in your number but certainly believes that 55 is too low of a number so perhaps it is somewhere in between but we don't have the answer. He said if we are going to be guided strictly by saying well this is what our new technology is telling us so that you can only build 55 then we certainly might be missing opportunities in the future.

Mr. Bivins said part of what we are doing when we look at density when we are looking at that piece would be the Comprehensive Plan, which was done in 2011, and we are looking at it now in 2018 and then we are trying to predict the way people will live and function together once this project is complete. He said so we are doing a bit of sort of future casting at a time that we are also having to look back at things and would like the ability to be guided by that Comprehensive Plan and understand that the way people live and the way that they are going to want to exist in rented or owned structures is going to be different than it was in 2011. He asked how to do you do that in a way that respects the essence of the Comprehensive Plan but also allows a bit of nimbleness to be able to reflect and be able to flex to a new way of living.

Mr. Bivins said he was somewhat disappointed that the industry today, and he has heard this through a number of builders, that you can't do condos and it is going to be rentals or it is going to be this and realizing that you never know if it is going to be a rental because you don't know what a person is going to do with his or her single-family home so it can all possibly be rental at some point in time. He said to go to Commissioner Firehock's idea that you create a development that has a community or a place to it, which is one of the things he thinks is so special about Albemarle County that we have ways in which we are true to ourselves and to the rural nature of this community. He said we also are emerging to what it is

going to look like to have Route 29 like in the picture showing cows and horses. He said that is a good anchor point of where we were as opposed to where we are today.

Mr. Bivins said he was very comfortable with GIS because he likes the new technology and topography piece, but he also recognized that while vision is a moment that people came to at a point in time and does not necessarily know that is fully accurate of where we are sitting today. He said it is a guide and would like present conditions to have some flexibility into it and on this piece of property that in fact it is an upgrade in the number of units that are there. He said presently there are 12 units there and whether it is 55 or 88 there is still an increase in bodies that live there using that piece of property and so that is a win for a whole group of people on a lovely piece of property. He said for me the Comprehensive Plan is a time and place; it is a suggestion how you should craft my thinking and how he should adhere to things but also recognize that there is an economic condition that is before us that was not there in 2011. He said it is also how people live and how people come here and NGIC was not there today in the way it is today in 2011 and that is a whole different sort of atmosphere and group of people needing housing in that part of our county.

Ms. Spain said she hoped the applicant will find a way to increase the number of units over 55 and was glad Commissioner Firehock mentioned that we very often vote for and recommend lower density because of objections of neighbors. She said we don't have any neighbors here this time, so this is one of the few opportunities that we are not hearing from people complaining about the higher density and it could be whatever you do with an accommodation of the environmental concerns that she thinks this is an opportunity.

Ms. Riley said she was interested in seeing how we can get more density in the development area but also believes to allow development on sensitive environmental areas is a goal that we need to continue to uphold. Ms. Riley said she appreciates Mr. Shimp's interest in pushing the envelope, believes you are pushing the right questions and thinks you are recognizing very well that there are conflicting goals in the Comprehensive Plan, particularly around affordability and density. However, she thinks it is important that the design in the community be high quality and that we don't compromise that as well as that we are not building on land that we should not be, but ultimately the cost of living in the community over time and this is leading into another topic whether it is public streets or private lanes. She said these kinds of issues ultimately speak to affordability as well. She said the issue of whether we allow more density is more complicated than just the questions we are discussing here and just wanted to lay out some of those additional issues.

Ms. Firehock said she would just make her annual statement that part of the logic of how the county perceives redeveloping the urban area and urban ring is what we want in the Comprehensive Plan and then people come in and ask for the rezoning. In the past they would then proffer various things that we needed because the State of Virginia does not allow impact fees so our way to get at that was to hope for the proffers that would offset the cost of this increased development. Now proffers are severely limited in Virginia, so we don't have that tool any more for all intents and purposes so she again would make my annual plea that we actually bite the bullet and go ahead and rezone the urban area for what we actually want and at that point we can then introduce a lot of the creative ways of getting a density. Ms. Firehock said she sees a lot of these blobs of 3 to 6 units per acre and she does not know if she would look at all those sites and come to that same conclusion – we do have better GIS mapping apparently so now is as good a time as any. However, she knows it is painful and takes a lot of time – but we did it in Charlottesville and she was on the Commission there and it ended up with a much more realistic and dense city that we needed. Mr. Firehock suggested that we are at that point in Albemarle County.

Ms. More said one comment is that some people chose to go by right because the process is dainty or because they can calculate the gross. Ms. More said she was not against density but thinks where we

place it is important and noted concerns with by right development on R-6 in Crozet. Ms. More said she did not know how the zoning distinctions were made in Crozet since she thought they would want the density closer to the center radiating out and pointed out that our neighborhood in Crozet found out what by right really means and how it will impact our neighborhood and would like to know where else in the county there exists this by right R-6 because she thinks there is an assumption on the part of most people.

Mr. Dotson said he was uncomfortable having two different standards one for by right and one for rezoning for calculating density and so he was trying to think about that in my comments. He said we need to look at the policy and the implications if we went one way versus the other. He said policy to me is a statement that does not have to do with any one site, it is if this then that, so it is general. He said what happens when you apply the policy to a particular site and take into account the uniqueness and configuration of the site, the question comes that well you want a policy that is flexible to accommodate different designs and how do you do that without being arbitrary and he thinks the way you do it is you make findings and make your rationale clear. He said we are interpreting the policy for this site in this way for these reasons which starts to get at what is an appropriate density for a site. He said maybe it is not one of those problems that can't be solved – how do you link policy and applications – he thinks you just must be very explicit about your rationale.

Mr. Keller said that Mr. Dotson stated my concern and he was not sure how we would go forward and thinks there is a question for Andy Herrick because there is this precedent whether it would be viewed as a taking if the Supervisors in their wisdom were interested in changing how the by right calculations occur from gross to net.

Mr. Herrick said he thinks there is probably a misunderstanding as to what the different standards apply to and he would highly recommend for recommended reading in Chapter 8, Strategy 8C of the Comprehensive Plan, which Mr. Shrimp eluded to in his comments. He said as sitting here this evening he flipped to Chapter 8, which the part of the Comprehensive plan, that deals with development areas – Strategy 8C in a single page pretty succinctly describes what the issue is – the fact that there is a disconnect between the Zoning Ordinance on the one hand which is calculated based on the gross and then the Comprehensive Plan that is based on the net and where exactly in time that disconnect took place. He said Strategy 8C is a recommendation to bring the Zoning Ordinance into compliance with what is now the relatively new Comprehensive Plan standard, but again he would recommend that to you as a description.

Mr. Herrick said he did not see it as being a legal problem because at the end of the day the Zoning Ordinance governs, and the Zoning Ordinance allows for a gross density. He said the Comprehensive Plan, again, has been stated many times, is just a tool or a vision and so when a planner is trying to interpret whether a property proposal is in compliance with the Comprehensive Plan they are going by the Comprehensive Plan standard which is net and would recommend for your reading of Strategy 8C in Chapter 8 of the Comprehensive Plan.

Mr. Keller thanked Mr. Herrick and that he thinks we have done a wrap up on this. He said that this relates to this and other things staff is going to be doing and it would be whether it is when this project comes in or another one and thinks it would be interesting when a developer is contemplating whether to do by right or come for a zoning change that it would be interesting to hear your perspective on that. He said it was up to Andrew to decide whether this is important enough and we are seeing enough variations between the two sets of solutions that you are going to bring something to us to further consider. He agreed with Mr. Dotson that it seems that even if there is that clarity that Andrew has spoken to there still is a disconnect that seems to be significant in the way by right is determined and when there is a zoning change. He said then that gets into the density that Ms. Firehock was referring to and then that relates to the Comprehensive Plan in looking and thinking about what this range of numbers is, which gets back to

the applicant and the views that many of us up here have that the higher density is not necessarily the issue with all the environmental concerns can be dealt with that it is as Ms. Spain has said then the neighboring communities come into play. He said by definition he did not think there had ever been a case where they wanted more higher density adjacent to them.

Mr. Keller said he did not know what the proper forum is for you to be able to address the next step, this is great that we have an applicant and you have worked with him to have these questions to allow us to think about it. He said now that we have done this he thinks that we are all interested in seeing where this might go, and suggested staff think about it and come back to us with an item about that.

Ms. Falkenstein said she would just add that in my mind the proper form to look at density and how a site should be developed holistically is the Master Plan Update. She said these master plan updates are to come back to you and that is the time to talk about whether we want to be specific about what density should be on a property or if we want to think about it in a different way in terms of performance or form perimeters and things like that. She said it is sort of a big picture way to think about so that we don't have to get into these site-specific questions as to how it should be interpreted so it is a little clearer as Andrew said how the site performs versus a prescriptive number for the site.

Mr. Keller said that we don't want to encourage more controversy but Pantops is going to be coming to us soon and that could provide an opportunity for a mini case study within that right to bring that kind of idea as one portion or area of it so that we could see what if.

Ms. Spain noted if that is the case we better hustle because the plan is coming before us soon and Monday night we are meeting to finalize it.

Ms. Falkenstein said we are asking the CAC to endorse the land use piece of it, but the land use is using the traditional land use categories of the previous plan so there is a bigger discussion that needs to happen around that we should get started on it if it is going to be done in time for Pan tops.

Ms. More said the important point is the hope with the master planning process and the community engagement. She said hopefully people are engaging that given those ranges does leave that room for how often we see people come in and say we really want the most that you can have. But, in other cases like with the Downtown Crozet District, which is not form base code but is very prescribed, the neighborhoods that are slightly older if they had done a little research and understand where their neighborhoods are in proximity to the Downtown they understand that is where super intense density is called for. She said there is an intention to create some buffering and things like this but property owners in those slightly newest older neighborhoods engaging in that process and becoming aware, so it should not be a surprise to a citizen that is engaged in that process and gone through and understood why these areas have been picked to create this. She said so we would not have as many angry neighbors coming out and saying how can it be this way because it was all part of the process that people could be involved in with staff there to explain why that is what the plan calls for.

Mr. Bivins said he was struck that this feels very similar to the 400-gallons per acre per day piece when we were trying to look at the usage of a piece of property and whether it should be by right or by special use permit and if not mistaken the Supervisors have put that on pause. Mr. Bivins said he was not saying that was a minimal issue, but at the end it was maybe like 30 pieces of property that were impacted by that – but that brought some of the emotion among ourselves what should be by right and special use and the public came to speak to us and wondered how we would set up a series of conversations to do something much more emotion lifting with the density of a piece of property given that some of the local lore that he has heard that at one point there was a lot of smoke filled rooms that allowed property to be zoned special ways. He said in some communities, people have said at some point we are going to

undertake a significant look at the zoning at large and see; however, he was not suggesting that. But at some point, he thinks we need will need to wrestle with if there a function that can get through the pain of looking at our land and saying even the most basic question is 5 percent enough for a developed area. He asked how to get past things to have a meaningful and forward-facing conversation about land use in this century moving forward.

Ms. Firehock said that she did not know the site and did not know what the right density for this site that would be appropriate and did not know the context why that was picked.

Mr. Keller said the second item on the Park pieces he would hold for when we have Pan tops or something where there is a comparable example of what he was talking about when he brings it up.

The meeting moved to the next item.

Item for follow-up.

Mr. Keller invited items for follow-up.

Mr. Dotson asked what the item is about on the 30th agenda on the schools.

Mr. Gast-Bray replied that is the school of the future that you had originally requested come with the presentation already given to the School Board.

Mr. Dotson said the other thing he sees long-range transportation and assumes Will Cockrell and Wood Hudson are going to come do that. In the last meeting he had seen something in their newsletter about an infrastructure pilot study and Will was the spokesperson on that and we asked that to be included at the same time.

Mr. Gast-Bray replied that would be included at the same time.

The meeting moved to the next item.

Mr. Shrimp asked to speak, and Mr. Keller replied that it was unusual but would allow him to speak.

Mr. Shimp said that in my office we literally spend 8 to 12 hours a day discussing this issue that we are discussing and our conclusion that a good first step is to look at all the yellow, the blob, and relate those to scale and not density because that is what people are afraid of. He said what we find is someone says oh we are going to have a 60-foot tall apartment next to us and he gets that. However, if it is the same size as a 4,000 square foot house and it has 6 units in it – what is the difference. Mr. Shrimp said we are doing it already on Rio Road and are going to submit very soon a plan at Rio with the Form-Base Code and it is a simple way to look at it – that would be a drawing on the maps instead of 3 to 6 buildings at a certain square footage and characteristic and that maybe can be accomplished with densities without compromising the initial character or changing the map drastically.

Mr. Keller thanked Mr. Shimp for his comment and that when he comes in with that can remind us that it was a prototype that you previously discussed.

There being no further items, the meeting moved to adjournment.

Mr. Keller announced:

- No Planning Commission meeting on Tuesday, October 23, 2018. The next meeting will be on

Tuesday, October 30, 2018 at 6:00 p.m. in the Lane Auditorium.

Adjournment

There being no further business, the meeting adjourned at 8:09 to the next regular Planning Commission meeting at 6:00 p.m. in Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Andrew Gast-Bray, Secretary

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

Approved by Planning Commission
Date: 01-15-2019
Initials: sct