

**Albemarle County Planning Commission  
October 20, 2009**

The Albemarle County Planning Commission held a public hearing, work session and meeting on Tuesday, October 20, 2009, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Marcia Joseph, Don Franco, Bill Edgerton, Linda Porterfield, Thomas Loach, Vice Chairman and Eric Strucko, Chairman. Calvin Morris and Julia Monteith, AICP, non-voting representative for the University of Virginia were absent.

Other officials present were Wayne Cilimberg, Director of Planning; Claudette Grant, Senior Planner; Elaine Echols, Principal Planner; David Benish, Chief of Planning; Mark Graham, Director of Community Development; and Greg Kamptner, Deputy County Attorney.

**Call to Order and Establish Quorum:**

Mr. Strucko called the regular meeting to order at 6:01 p.m. and established a quorum.

**Review of Board of Supervisors Meeting – October 14, 2009**

Mr. Cilimberg reviewed the actions taken by the Board of Supervisors on October 14, 2009.

**Other Matters Not Listed on the Agenda from the Public:**

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

**Public Hearings:**

**ZMA-2008-00007 ATNA Building (Signs 15 & 17).** PROPOSAL: Rezone .7866 acres from CO zoning district which allows offices, supporting commercial and service uses; and residential use by special use permit (15 units/ acre) to C1 zoning district which allows retail sales and service uses; and residential use by special use permit (15 units/ acre). Existing building on site will house an animal emergency care clinic. This proposal also includes one concurrent special use permit SP-08-067, a request to allow a veterinary services clinic on the property. PROFFERS: No. EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential - residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses. ENTRANCE CORRIDOR: Yes. LOCATION: 1540 Airport Road/Southeast corner of the intersection of Dickerson Rd. and Airport Rd. in the Community of Hollymead. TAX MAP/PARCEL: 32/48 Lot A. MAGISTERIAL DISTRICT: Rio

*AND*

**SP-2008-00067 ATNA Building (Signs # 15 & 17).** PROPOSED: Request a special use permit to operate a veterinary services clinic in the existing building on the site. This proposal also includes a concurrent rezoning request (ZMA 2008-007) to rezone .7866 acres from CO zoning district to C1 zoning district. ZONING CATEGORY/GENERAL USAGE: CO Commercial Office - offices, supporting commercial and service uses; and residential use by special use permit (15 units/ acre). SECTION: 22.2.2(5) Veterinary office and hospital and 5.1.11 Commercial Kennel, Veterinary Service, Office or Hospital, Animal Hospital, Animal Shelter. COMPREHENSIVE PLAN LAND USE/DENSITY: Neighborhood Density Residential - residential (3-6 units/acre) and supporting uses such as religious institutions and schools and other small-scale non-residential uses. ENTRANCE CORRIDOR: Yes. LOCATION: 1540 Airport Road/Southeast corner of the intersection of Dickerson Rd. and Airport Rd. in the Community of Hollymead. TAX MAP/PARCEL: 32/48 Lot A. MAGISTERIAL DISTRICT: Rio (Claudette Grant)

Ms. Grant presented a PowerPoint presentation and summarized the staff report. (See Staff Report)

**Purpose of Hearing;**

The applicant is requesting to rezone property (.7866 acres) located at 1540 Airport Road from CO zoning district to C-1 zoning district. This request includes proffers that would limit the use to CO uses and a few C-1 uses that are less intensive and appropriate for this location, including a veterinary hospital. A special use permit is also being requested because the applicant is proposing to relocate and expand the V.E.T.S. Animal Emergency Care Clinic, which has been located at 370 Greenbrier Dr. to this location. The existing building at this new location will house the animal clinic. The applicant has indicated that this location is centrally located for her existing clients, as well as potential new clients, and that V.E.T.S. is currently the only after-hours animal emergency care facility in Albemarle County.

The special use permit utilizing the existing building will allow the applicant to relocate and expand her growing business into a larger space. This is proposed to be a 24-hour emergency animal critical care and referral facility. The applicant has temporarily relocated this facility to another location until the rezoning and special use permit have been processed.

**SUMMARY:**

Staff has identified the following factors favorable to the rezoning and special use permit requested:

1. The rezoning and special use permits are consistent with the Land Use Plan.
2. The rezoning and special use permit will provide the veterinary hospital use an opportunity to expand and relocate to a central location convenient for clients.
3. The veterinary hospital will provide a 24 hours/day service instead of the current hours, which are only after business hours.

The applicant has proposed proffers that would limit the use of this property to CO uses and a few C-1 uses that are less intensive for this location. As mentioned in the staff report there is also a portion of sidewalk on the west side of the entrance road to the applicant's property that is incomplete. The applicant has agreed to complete the sidewalk system up to her property line. While there are no substantive changes needed to the proffers they are in need of technical changes. Staff believes the changes to the proffers can be made between the Planning Commission and the Board public hearing if the Commission is satisfied that they do not need to see the proffers in their final form.

Staff has just identified the following factors unfavorable to this request:

1. The proffers need to be technically accurate.
2. Pedestrian access is not complete to this facility. However the applicant agrees to provide a proffer that will address the pedestrian access.

**RECOMMENDED ACTION:**

**ZMA 2008-007**

Staff recommends approval of this rezoning provided that the proffers (as noted in Attachment E of the staff report) are revised and are technically and legally acceptable prior to the Board of Supervisors public hearing, which would also include a commitment to complete the sidewalk on the west side of the entrance to the applicant's property line.

Staff recommends the following conditions for approval for the requested special use permit, should the rezoning be approved:

**SP 2008-067**

1. Development of the use shall be in accord with the concept plan, entitled "Proposed Fencing" prepared by Gorman Architects, PLC, dated June 20, 2009 (the "Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in conformity with the Plan, development shall reflect the following elements only and all other elements of the Plan may be modified during site plan review and approval: general location of parking areas, buffer and screening from adjacent residential properties, the outdoor dog exercise yard and the canine elimination yard. Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.
2. This special use permit applies to the existing building and any new buildings for the veterinary use will require a new special use permit.

3. The opening of any windows shall be prohibited.
4. Dogs may be walked only in the outdoor dog walk area.
5. No animals shall be boarded overnight or groomed, except for those animals under medical care at the veterinary hospital.
6. The use shall not commence until the building located at 1540 Airport Road is served by public sewer.
7. An 8 foot tall treated solid wood privacy fence in a cabot slate gray #1445 stain for pressure treated wood shall be constructed and maintained along the full perimeter of the property adjacent to the residential properties. The existing trees and landscape along the perimeter of the property adjacent to the residential properties shall not be disturbed. Screening requirements shall comply with Section 32.7.9.8 Screening of the Albemarle County Code.
8. An 8 foot tall treated solid wood privacy fence in a cabot slate gray #1445 stain for pressure treated wood shall be constructed and maintained to enclose the canine elimination yard shown on the Plan.

### **Waivers**

Staff also recommends approval of two waivers that are proposed with this request, as follows.

1. A waiver of Chapter 18, Section 21.7 (C) of the Zoning Ordinance, which requires the maintenance of a 20 foot undisturbed buffer between residential and commercial properties; and
2. A waiver of Section 5.1.11 (b) of the Zoning Ordinance, which requires soundproofed confinements not be located closer than two hundred (200) feet to any agricultural or residential lot line, and which requires the soundproofed confinements, noise measured at the nearest agricultural or residential property line not exceed fifty-five (55) decibels” be approved.

Mr. Strucko invited questions for staff.

Mr. Loach asked since this is a 24-hour building if there are any limitations on the lighting.

Mr. Cilimberg replied that the lighting was covered as part of the existing site plan.

Mr. Loach noted condition five says that no animals shall be boarded overnight or groomed except for those animals under medical treatment at the veterinary hospital. He assumed that except for animals that are patients no other animals can be accepted just to stay overnight.

Ms. Grant replied that is correct.

Mr. Edgerton noted that the map shows two parcels and asked if the request is to rezone both parcels.

Ms. Grant replied that the request is to rezone the one parcel with the building on it.

Mr. Edgerton noted that the Commission just went through a revision of parking on this.

Mr. Cilimberg replied that the Commission went through an allowance for off-site parking, which was associated with another building that has not yet been built.

Mr. Edgerton noted that on page three under the zoning and planning history the last item on the list goes back to 1993 with a request to rezone this property to C-1 that was denied. He questioned why that was denied since that is sort of what the Commission is being asked to do.

Ms. Grant replied that she did not remember all of the details.

Mr. Edgerton noted that rezoning would have been from RA to C-1.

Mr. Cilimberg pointed out that the C-1 generally would have been a wide range of uses, but here they are proffering their C-1 to be uses that are consistent or less intensive than CO.

Mr. Edgerton noted that his last question was on page 4 about the anticipated impacts on public facilities under utilities. It says the building is currently not connected to public sewer. However, the applicant has committed to

making sure that the building is served by public sewer prior to commencing use. He asked if that is included in the proffers.

Ms. Grant replied yes, that it was part of one of the special use permit conditions.

Mr. Cilimberg noted that it was condition six under the special use permit recommendation.

Mr. Edgerton asked if that was something the applicant could do relatively easy or do they need to get permission from the Sewer and Water Authority to expand the district.

Ms. Grant replied that is correct. The applicant is actually in the process of working with the Service Authority to obtain this.

Mr. Edgerton suggested that perhaps the applicant could address that issue when they come up.

Ms. Porterfield asked if the good side of the fence was going to face the residential use. If it is a fence that is board on board and has two good sides that is one thing. But if it is a fence that only has one good side in her past experience they always required that to go toward the residential that it is buffering.

Ms. Grant said that it is a treated wood fence and will be stained an approved color that was approved by the Architectural Review Board. But she did not know if the fence was stained on both sides.

Mr. Strucko pointed out what Ms. Porterfield was saying is that the side with the framing exposed is the bad side.

Ms. Joseph pointed out that staff had said that the Architectural Review Board had reviewed and approved the fence.

Ms. Porterfield asked that they make sure that the good side of the fence faces the residential because an 8' fence is a very big fence. She asked if there has been discussion with the neighbors about the height of the fence and if they were happy with it being 8' tall.

Ms. Grant replied that the applicant has had discussions with the neighbors and could explain the level of outreach she has done. As far as she knows the neighbors did not complain about the fence location.

Ms. Porterfield said that there is a limit that the walking area for the animals can't be used before 6:00 a.m. She thought that was a little early and wondered how the residents felt about that. She suggested limiting it to a reasonable time when people would be up perhaps somewhere around 7 and 8 a.m. before taking animals outside and then have the animals back in at a certain point at night. Staff listed how to limit by-right uses under 22.2.1 and 22.2.2 and is limiting any other use on this property to the specific items listed. She questioned if staff was removing the items that were noted. From her read of 22.2.2 it appeared that 1, 4, 5, 8, 12 and 13 were still in there for use on the property. She asked if staff meant that those uses be excluded.

Ms. Grant asked if she was referring to the proffers, and Ms. Porterfield replied yes.

Ms. Grant noted that was where the technical issues come in to be worked on because there are some uses listed that staff meant to exclude.

Mr. Kamptner noted not entirely because 22.2.2.5 is the veterinary office and hospital. He said that section needs to be cleaned up.

Ms. Porterfield noted that in other words commercial recreation like pool halls, fast food restaurant, the motor vehicle sales and rental and body shop would all be removed. She asked if the animal shelter would dovetail with the animal hospital.

Ms. Grant replied that animal shelter would be one that is removed as well.

Ms. Porterfield asked if that would be the same thing as under 22.2.2.1 that the newsstand/tobacco shops, fire and

rescue squad stations and the tailor and seamstress are being removed.

Ms. Grant replied that those would be allowed.

Ms. Joseph wondered why the sidewalk extension was part of the proffers and not part of special use permit conditions of approval. She asked if it was because it was off-site.

Ms. Grant replied it is off-site.

Mr. Kamptner noted that the rezoning is the most legally sustainable approach to the requirement.

Mr. Strucko opened the public hearing and invited the applicant to address the Commission.

Dr. Sarah Salmon, owner and operator, said that the business has been in operation for the past 20 years. She offered the following comments.

- The Service Authority has already given their approval on the sewer. That part is complete. The last part is signing the documents, which they are doing this week.
- The 8' fence is between two mature tree lines. She would be happy to face the fence whichever way they want. She did not think that the residents would see the fence nor would she be able to see much of it. She had not considered which way the fence would face.
- As far as the timing on walking dogs early in the morning she felt that it would be imperative to understand that they walk dogs one at a time in an additional 8' X 10' additional 8' fenced area. Also 6 a.m. is the time when noises increase due to the airport. In their sound engineer testing the airport made far and above an abundance of noise. It seemed that time would be an appropriate time for walking the dogs.
- The airport location is ideal for several reasons. It is simple for a stressed client to find. Their prior location was difficult to find, but this site is visible from the airport. To be able to find the business quickly and easily will be helpful to their clients when they are stressed.
- She held two neighborhood meetings, which were not abundantly attended. The fence has not been brought up specifically as a concern. In both letters sent to the neighbors she specifically discussed what they were going to do and that they were planning a fence for their privacy and for the business. Any 24-hour business absolutely has to be concerned about noise. They are concerned particularly because they are an intensive care unit, which is very different from a general practice. The guest practice in which they currently function has 30 dog runs, and they have 4. It is imperative for the critical care business to maintain a quiet environment in the space. They don't anticipate any impact to their neighbors. There has not been a problem in the past 20 years and they don't anticipate it in future.

Mr. Strucko invited public comment. There being none, the public hearing was closed and the matter before the Planning Commission.

Ms. Joseph felt that this is a great use of the property. They are eliminating the uses in C-1. That area is growing up and is near the airport. She felt that it was an appropriate use. They are using an existing building. They are hooking up to public sewer. The applicant has talked to the neighbors, which is a wonderful thing to do to make sure that everybody knows what is going on. The neighbors are not here tonight. Obviously the neighbors have been informed. They need to figure out a condition. She asked what action should be taken first.

Mr. Kamptner replied that the rezoning should be first followed by the special use permit and then the two waivers.

Ms. Joseph asked if he had any suggestions for the proffer language now.

Mr. Kamptner replied no, that he needed to sit down with staff and work with the applicant as well to finalize the proffer language as far as the uses and with respect to the sidewalk.

Ms. Joseph said that she understands the sidewalk condition, but it was the uses that need to be clarified so that everyone understands what is in and what is out.

Mr. Kamptner noted that if Ms. Grant knows what is in and out and can advise the Commission, then the

Commission as part of its action can direct the applicant to revise the proffers in order to meet their recommendation.

Ms. Joseph asked Ms. Grant to assist the Commission by clarifying the uses.

Mr. Cilimberg noted that staff has the list for both. Staff thought that it would be best to give the Commission the shorter list as being included or excluded so that they don't have a long list.

Mr. Franco noted that everything that is not CO or the few uses listed is being prohibited.

Ms. Grant noted that the uses in C-1 being taken out are all of the retail sales.

Ms. Joseph asked for a list of those uses they would be keeping in. They know that they are maintaining all of the CO uses and adding a couple of uses in C-1.

Ms. Grant agreed that was correct.

Ms. Joseph asked what uses in C-1 would be allowed.

Ms. Porterfield asked if they are allowing anything by special use permit under 23.2.2.

Mr. Cilimberg noted that staff would cover both by-right and by special use permit uses.

Ms. Grant said that the things they were keeping were administrative and professional office, financial institutions, churches, libraries and museums and eating establishments.

Ms. Joseph asked if that included restaurants.

Ms. Grant stated that was correct.

Ms. Porterfield noted that those uses are limited to 20 percent of whatever use is there and be accessory.

Ms. Grant noted that it is also allowed in the CO.

Ms. Joseph noted that what Ms. Porterfield was saying was that it was allowed in CO if it was only 20 percent of the area.

Ms. Porterfield said that if there would be something going in such as an eating establishment it has to be 80 percent of something that it is accessory to and it can't be more than 20 percent. It can't just be an eating establishment in general.

Mr. Cilimberg noted that he was not sure they can limit it. That is one that they need to discuss the inclusion of. They don't actually need to keep it in the C-1 if it is allowed in CO already.

Mr. Kamptner said that there is some overlapping. Even though the public uses and the utilities are allowed in the CO it would be clearer if those use classifications that are also in C-1 are expressly allowed so there is no ambiguity for the people who are implementing these proffers down the road.

Mr. Cilimberg said that the point is that the eating establishment under C-1 is not the same as the eating establishment under CO. Therefore, he thought that they would not want to have this. But the others that are the same they should keep. It would include #17 gas and #18 public uses.

Ms. Grant noted that it would include #19, temporary construction uses, and #20 dwelling.

Ms. Joseph asked if these are ones in common, and Ms. Grant replied yes.

Ms. Joseph noted that whatever uses are in the CO are good to go, and Ms. Grant replied yes.

Ms. Joseph said what they are looking for is what is being added to the list of acceptable uses on this property. Staff mentioned eating establishment which raised a questions. She asked what else.

Ms. Grant replied that they then get into the special use permit uses.

Ms. Porterfield suggested that they go back to 22.2.1 by right and if she was hearing correctly it is 17, 18, 19, 20 and 22.

Ms. Grant replied that is correct.

Mr. Cilimberg noted that staff also mentioned B1, administrative professional offices.

Mr. Strucko noted that it included 1, 3, 5, 12, 14, 17, 18, 19 and 20.

Ms. Porterfield asked why they are leaving eating establishment since the underlying one is only 20 percent and it is an accessory use to something.

Mr. Cilimberg said that the Commission needs to decide among themselves whether they want it to be included or not. They mentioned they may not want it to be included. The other uses Ms. Grant needs to discuss would be uses allowed by special use permit, which would be remaining.

Ms. Grant noted that all of A is out.

Ms. Porterfield reiterated the numbers to be included as 1, 3, 5, 12, possibly 14, 17, 18, 19 and 20.

Ms. Grant replied that was correct. She pointed out that they were taking out 1, 4, 8, 12, and 13.

Mr. Strucko noted that they could do a Tier III by special use permit, but are excluded from doing a Tier I and Tier II altogether.

Ms. Joseph noted that her understanding was that they were allowing everything in CO. So if it was in CO it was allowed because the underlying zoning right now is CO.

Mr. Kamptner agreed and noted to be clear and consistent in what they have done the Tier I and Tier II Wireless Facilities should be allowed by right also. Even though they are in the CO they should also be included in C-1.

Mr. Strucko asked that they add b.27.

Ms. Grant pointed out that it should be 26 and 27 since both are in the CO.

Mr. Strucko said that they were saying potentially an eating establishment is okay, but a fast food restaurant is not. He noted that in allowing some things and excluding others there seemed to be some inconsistency. He asked if they were not allowing an animal shelter by special use permit.

Ms. Grant said that they are allowing the veterinary office and hospital.

Ms. Joseph noted that an animal shelter is different.

Ms. Porterfield said that she would make a case to remove eating establishment from the previous one #14 so that the only eating establishments would be what could be in the CO, which would be an accessory use to the major use of the property.

Mr. Franco asked if the revised proffer would reference the CO or is it just going to say here are the uses that are allowed.

Mr. Kamptner replied that he thought that it would reference them.

Mr. Franco said that it would reference with saying the uses allowed in CO plus C-1 and this.

Ms. Joseph noted that would be very clear.

Mr. Franco asked if the applicant cares about the eating establishment. He asked if the Commission was comfortable with striking #14 in C-1 and allowing it as accessory in the CO.

Ms. Porterfield said that she was comfortable if everybody else is in agreement, but would love to see the nice side of the fence on the outside on the resident's side.

Mr. Cilimberg noted that would be in the special use permit section.

Mr. Edgerton noted that his only concern was working contrary to what the ARB has already determined since they have seen a rendering of the fence.

Ms. Porterfield said that the other alternative is if the ARB had seen it the other way then they could ask for a fence that has two good sides. She noted that would take care of the problem.

Mr. Franco on asked what type of fencing is going to be used

John Gorman, with Gorman Architects, said that he had been hired by Dr. Salmon to design the fence. The fence is a 4' X 4' post with 2'X 4' stringers that have vertical boards applied to them. So it does have in the terminology as he had heard here that it had one good side. The ARB saw that with the good side facing the Entrance Corridor. It would be facing towards the parking lot and away from the residence. He echoed as Dr. Salmon said that there will be two rows of mature pine trees that are along the property line adjacent to the residential uses. The fence is designed to run between those rows. There is a fence on one of the resident's properties that runs a good third of that distance.

Ms. Porterfield asked what if they are going to leave enough room between so that it can be maintained.

Mr. Gorman replied that the fence they are going to put in is going to run typically 5' off the property line.

Ms. Porterfield noted that maintenance was not going to be a problem, and Mr. Gorman agreed.

**Motion on ZMA-2008-00007:**

**Motion:** Mr. Franco moved and Mr. Loach seconded to recommend approval of ZMA-2008-00007 ATNA Building with the proffers noted in the staff report, amended as discussed so that the proffers are corrected before the Board of Supervisors meeting, which would include the addition of the sidewalk along the western side of the entrance.

The motion passed by a vote of 6:0.

Mr. Strucko noted that there was one issue related to the special use permit concerning the fence.

Ms. Porterfield said that she did not feel very strongly because they don't have an ordinance, which is a discussion that they need to have in the future. When building a fence the good side should face whoever they are buffering. If they need to have two good sides then it should be a fence that has two good sides. In this case it is a very big fence and she would like to see the good side face the property owners that are abutting knowing that the other part basically just faces the parking lot.

Mr. Franco pointed out that in this particular case seeing that it has gone through the ARB and that there are mature trees on both sides of the fence he was less inclined to mess with that aspect of the plan.

Ms. Porterfield noted that she understands that. Her question is whether the Planning Commission is allowed to overrule the ARB. She did not understand the procedure.

Mr. Kamptner replied that in matters of public health and safety the Commission and the Board can act otherwise.

Ms. Porterfield noted that in aesthetics they may not be able to. She did not have a problem, but would suggest when the Commission has time they should discuss fences to see if they could come up with something that would possibly give the better side of a fence to the buffered portions. The Commission will be discussing these types of issues later on the agenda.

Mr. Loach agreed.

**Motion on SP-2008-00067:**

**Motion:** Mr. Franco moved and Ms. Porterfield seconded to recommend approval of SP-2008-00067 ATNA Building concurrent with ZMA-2008-00007 subject to the recommended conditions based on the staff report.

1. Development of the use shall be in accord with the concept plan, entitled "Proposed Fencing" prepared by Gorman Architects, PLC, dated June 20, 2009 (the "Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in conformity with the Plan, development shall reflect the following elements only and all other elements of the Plan may be modified during site plan review and approval: general location of parking areas, buffer and screening from adjacent residential properties, the outdoor dog exercise yard and the canine elimination yard. Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.
2. This special use permit applies to the existing building and any new buildings for the veterinary use will require a new special use permit.
3. The opening of any windows shall be prohibited.
4. Dogs may be walked only in the outdoor dog walk area.
5. No animals shall be boarded overnight or groomed, except for those animals under medical care at the veterinary hospital.
6. The use shall not commence until the building located at 1540 Airport Road is served by public sewer.
7. An 8 foot tall treated solid wood privacy fence in a cabot slate gray #1445 stain for pressure treated wood shall be constructed and maintained along the full perimeter of the property adjacent to the residential properties. The existing trees and landscape along the perimeter of the property adjacent to the residential properties shall not be disturbed. Screening requirements shall comply with Section 32.7.9.8 Screening of the Albemarle County Code.
8. An 8 foot tall treated solid wood privacy fence in a cabot slate gray #1445 stain for pressure treated wood shall be constructed and maintained to enclose the canine elimination yard shown on the Plan.

The motion passed by a vote of 6:0.

Mr. Strucko said that the ZMA-2008-00007 and SP-2008-00067 would go to the Board of Supervisors on December 9 with a recommendation for approval.

**Motion on Waivers:**

**Motion:** Mr. Franco moved and Ms. Porterfield seconded for approval of the waiver request for Chapters 18, Section 21.7 (c) and Section 5.1.11 9 (b) of the Zoning Ordinance based on the staff report, as follows.

- A waiver of Chapter 18, Section 21.7 (C) of the Zoning Ordinance, which requires the maintenance of a 20 foot undisturbed buffer between residential and commercial properties; and
- A waiver of Section 5.1.11 (b) of the Zoning Ordinance, which requires soundproofed confinements not be located closer than two hundred (200) feet to any agricultural or residential lot line, and which requires the soundproofed confinements, noise measured at the nearest agricultural or residential property line not exceed fifty-five (55) decibels" be approved.

The motion passed by a vote of 6:0.

Mr. Strucko said that the two waivers associated with ZMA-2008-00007 and SP-2008-00067 was approved by the Planning Commission. Waivers do not go to the Board of Supervisors.

**Ordinance Approving U.S. Route 29 and Hydraulic Road Official Map** – Ordinance approving an official map under Virginia Code § 15.2-2233 et seq., depicting the location, centerline, existing right-of-way width, and future right-of-way width of the legally established segment of U.S. Route 29 abutting County Tax Map and Parcel Numbers 61W-3-19B, 61W-3-24 and 61W-3-25, and the legally established segment of Hydraulic Road abutting County Tax Map and Parcel Numbers 61W-3-23, 61W-3-24 and 61W-3-25. A copy of the full text of the proposed ordinance and the official map are 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. (David Benish)

Mr. Benish presented a PowerPoint presentation and summarized the staff report.

- The adoption of this official map before the Commission is needed to meet requirements of proffers related to the approval of Albemarle Place rezoning ZMA-2001-07. One of those proffers required the owner of Albemarle Place to reserve and ultimately dedicate additional lands needed for the Route 29/Hydraulic Road improvements, which included the possibility of a grade separated interchange. Specifically the proffer calls for the owner to reserve right-of-way area until an official map or transportation improvement plan adopted by the County that identified the right-of-way or lands necessary for the interchange project. Upon adoption of the official map the County could then request dedication of that area. The proffer needed to be exercised by the end of December of this year.
- Staff has attached a sheet that provides information about official maps from the County's Attorney's Office. An official map is intended to show the future location for proposed streets, alleys or walkways by establishing a center line or metes and bounds location of those improvements. Once an official map is adopted then the County can then acquire that land.
- The proposed map identifies the area needed along the frontage of Albemarle Place development and the 7-11 site for a future interchange at U.S. Route 29 and Hydraulic Road and shows the right-of-way adequate to accommodate that in that northwest quadrant of the interchange. The other three quadrants are in the city.
- The interchange concept is consistent with what was established in the MPO Regional Transportation Plan and in the proposed Places29 Master Plan.
- The official map and the design plan for the interchange have been reviewed by VDOT and the county engineering staff and have accepted both designs as feasible and the official map is adequate to show the necessary right-of-way.
- Action on the official map is not in any way action to approve the construction of the interchange or the design of the interchange. It is to establish the amount of land that may be necessary for this type of improvement in this quadrant.
- Staff recommends that the Commission act on the official map and ordinance which are Attachments A and B of the staff report.

Mr. Strucko invited questions for staff.

Mr. Edgerton referred to Attachment E. He realized they were not approving any interchange design, but from a planning perspective when they are approving a map showing the needed right-of-way that they make sure there is enough land in there to accommodate whatever the ultimate design will be. He asked if it will accommodate a grade separated interchange if it ultimately is the design that gets built.

Mr. Benish replied that is correct. The right-of-way on the official maps in Attachment A reflects this design concept which was reviewed by VDOT and the Offices of the Facilities Engineer, Jack Kelsey. This is an interchange design that seemed to be feasible in this location given the constraints. He noted that Mark Graham who was involved with the Albemarle Place Project including this issue was present to answer additional questions.

There being no further questions, Mr. Strucko opened the public hearing and invited public comment.

Neil Williamson, with the Free Enterprise Forum, felt that it was most appropriate that this issue is coming before the Commission now because they have been looking at this project for seven or eight years. They are now looking at proffer expiration and the need for this map. They are looking at one quadrant of this intersection which is in Albemarle County. The interchanges proposed in Places29 impacts all four quadrants and every one of the over passes. He encouraged the Commission to think about that as they review their packets for Places29. They don't have an opinion because this is an action that is needed in order to move things forward. As the Commission reviews Places29 he asked that they contemplate those right-of-ways and what exactly their vision for Route 29 is.

There being no further public comment, Mr. Strucko closed the public hearing to bring the matter before the Commission for discussion and action.

**Motion:** Ms. Porterfield moved and Mr. Franco seconded to recommend approval to the Board of Supervisors for adoption of the Official Map and Ordinance Approving U.S. Route 29 and Hydraulic Road Official Map as presented including Attachments A and B of the staff report.

The motion passed by a vote of 6:0.

Mr. Strucko said that this matter goes before the Board of Supervisors on December 2 with a recommendation for adoption.

#### **Work Session:**

#### **Neighborhood Volume 2 – Setbacks, yards & buffers**

Review the proposed changes to Development Area requirements for setbacks, yards, and buffers in conventional zoning districts. (Elaine Echols)

- The purpose of the work session was to review the proposed changes to the Development Area requirements for setbacks, yards, and buffers in conventional zoning districts and solicit Planning Commission feedback.

Ms. Echols made a PowerPoint presentation to review updated concepts on the following topics. (PowerPoint Presentation – ZTA-05-01 Setbacks – Goals and Strategies to Reduce Buffers, Yards, and Setbacks in the Development Areas)

- Screening
- Buffers in HI, LI, and C-districts
- Side and Rear Yard/Setback in HI, LI, and C-districts
- Side and Rear Yard/Setback in R-districts
- Front yards in all conventional districts

Staff's goal is to change the regulations in the conventional districts to perhaps set a standard that will allow people to rezone to those districts with a plan instead of having to write these enormous Codes of Development. What staff is talking about is a little bit more form based than it is in the conventional zoning regulations.

DISC Recommendation as of 2001:

- Change ordinances to promote more liveable development areas
- Start with regulations related to "form"

History of Neighborhood Model Ordinance Amendments

- 2001 Neighborhood Model Policy adopted
- 2002 Alleys and Shared Driveways ZTA-STA
- 2003 NMD ZTA
- 2003 Parking ZTA
- 2005 Curb/gutter, sidewalks, tree lawns, and interconnections STA
- 2008 Zero Lot Line ZTA
- 2008 Downtown Crozet District ZTA

#### Goals for Yards and Setbacks – in Development Areas

- Use land more efficiently in the 5% of County designated for development
- Have more “urban” and less “suburban” requirements
- Reduce side and rear yards adjacent to rural and residential districts for Commercial and Industrial Districts
- Allow for admin. reduction of buffer
- Update buffer and screening standards
- Reduce front setback requirements
- Require sidewalks and street trees on streets

#### **Topic 1 of 5: Screening - Purpose:**

- To limit visibility or conceal one use from another
- To reduce noise

#### Existing Regulations:

- Planting strip
- Existing vegetation
- Slightly opaque wall or fence, min. of 6’
- Combination of above or other
- If vegetation: 20’ wide strip
  - 2x staggered evergreen trees 15’ on center
  - 2x staggered evergreen shrubs 10’ on center

#### Problems:

- “Soldiers” – evergreens of the same species lined up in a row
- Lack of clarity in expectation for screen – establishment quickly or over time
- Choice in vegetation sometimes does not fulfill purpose

#### Proposed Changes to Screening:

- Create 3 levels of buffers with vegetation/screening
- Clarify when each level is needed
- Require mixture of evergreen and deciduous trees and shrubs
- Prescribe percentage mix (range) of each
- Increase caliper sizes of trees to create screen sooner if only vegetation is used for screening

#### The three levels would be:

Landscape Buffer – to add vegetation to soften the appearance of the area between two potentially disparate uses to be used between C-districts and R-districts where “buffering” but no “screening” is needed.

Screening Buffer – used to partially conceal in the short term and fully conceal over time. Creates an opaque screen using plantings of evergreen and deciduous trees and shrubs of a larger size at planting. It would replace current screening requirements. A fence would be optional.

Enhanced Buffer – used to fully conceal. It would require a fence. Immediate screen would be achieved. Vegetation would also be required. It would use a mixture of evergreen and deciduous trees and shrubs of larger size at planting. Would need to be used if screening is needed and buffer area is reduced by agent.

#### **Questions and Comments:**

- Will the ARB still be able to prescribe landscape treatments in the buffer areas if they are reduced?

Ms. Joseph asked if once this regulation is put into the ordinance the ARB will have to abide by whatever is in the ordinance.

Ms. Echols replied yes in terms of the width, but the ARB has the ability to ask for additional vegetation. The ARB might be restricted by some areas, but they won’t be restricted by the plants.

Ms. Porterfield expressed concerns with regards to the potential lessening of the distance.

## **Topic 2 of 5: Buffer Areas**

### Purpose:

- To separate uses
- To provide an area of preserved vegetation
- To provide an area for screening when needed

### Existing Regulations – Buffers

- Undisturbed buffer in HI – 30’
- Undisturbed buffer in LI – 30’
- Undisturbed buffer in C-Districts – 20’

- 
- Disturbance = removal or addition of vegetation, grading, construction of retaining walls
  - Screening required for HI and LI in buffer
  - Screening required in C-Districts if disturbance allowed

Some of the problems that exist with having the buffer requirements, as well as setbacks have to do with what it does to those properties in the development areas.

### **Proposed Changes to Buffers:**

Staff does not think that buffers are necessary in every single circumstance and there ought to be some exceptions. Staff believes there should be an undisturbed buffer area requirement between Commercial or Industrial Districts and Rural or Residential Districts except:

- to augment screening
- for grading for required interconnections or access to adjoining properties
- for grading to accommodate utilities which cannot be reasonably placed elsewhere on the site

Staff recommends that reduction, disturbance and grading in buffer area be allowed by the agent down to 10’ if agent determines that the reduction or disturbance will not have an adverse impact on the adjoining or nearby parcels.

In the staff report is a list of the kind of things that the agent would be looking at. If the agent turned them down, then the applicant could appeal to the Planning Commission. The process has not been worked out, but the thought is that if the adjacent property owner wanted to appeal that decision they could as well. Staff would want to notify all of the adjacent property owners before the buffer area would potentially be reduced to get their input before the agent would make a decision. (See Staff Report)

Staff clarified that the 30’ requirement is not proposed for change except for allowing disturbance for those three things noted above.

## **Topic 3 of 5: Side and Rear Yard/Setback in I- and C- districts:**

### Purpose

- To separate industrial or commercial buildings from residential or rural uses on an adjoining parcel
- To move potentially “overwhelming” non-residential buildings away from residential buildings (mass/scale)

Ms. Echols noted that the existing buffer area of 30’ is where nothing else can occur in it. But on the other side of that buffer they could have loading activities, parking activities and storage activities. Staff thought that the location of a building might not be as problematic to adjoining properties as activities that might occur outside of a building.

### Existing Regulations: Side and Rear Yards/Setbacks I&C Districts (in Development Areas)

- 100’ setback for buildings for HI
- 50’ setback for buildings LI

- 50' setback for buildings Commercial

Staff felt that this was excessive in terms of the urban environment they were trying to build.

Problems:

- Creates separation of buildings, not other uses (parking, loading, other outdoor activities)
- Takes up a lot of land area in the Development Areas

**Proposed Regulations: Side and Rear Yards/Setbacks:**

Make buffer area requirement and yard/setback the same

- Reduce setback from 100' to 30' for buildings in HI
- Reduce setback from 50' to 30' for buildings in LI
- Reduce setback from 50' to 20' for buildings in Commercial

**Topic 4 of 5: Side and Rear Yards in R-Districts**

Existing

Side: 15 feet with reduction to 10' if w/in 4miles of fire station and adequate fire flow is available  
 Rear: 20 feet

Proposed

Side: 10 feet  
 Rear: 15 feet

Why changes shouldn't be a problem

- We already allow zero lot line with building separation of 10 feet
- Adequate fire flow must be available in order to get a building permit
- More compact lots are expected in the Development Areas
- Expectation for open space will be in a common area or park

Ms. Echols noted that they would have different regulations for existing neighborhoods so that they don't change the character.

**Topic 5 of 5: Front Yards/Setbacks:**

Purpose:

- To create distance between street and front of building
- To allow for light and air
- To create area for a front lawn
- To (potentially) create a moderately consistent "wall" along the street

Existing Regulations: Front Yard/Setback

R-Districts: 25 feet  
 no parking setback  
 C-Districts: 30 feet for buildings  
 10 feet for parking  
 I-Districts: 50 feet for buildings  
 10 feet for parking

Problems:

- Current setbacks do not allow for efficient use of land
- Parking lots between front of buildings and street do not enhance pedestrian experience
- There are no sidewalk requirements for non-SFD, only "provisions to allow pedestrians to walk safely and conveniently between buildings on the site and from the site to adjacent property."
- There are no streetscape requirements
- One-size does not fit all streets

Proposed Concept – from Places29

- Require curb & gutter, sidewalks and street trees across frontage of all new development and redevelopment in DA
- Base building setback on street width and street speed

Staff reviewed the current recommendation from an 8-lane to 2-lane road. In an 8-lane to 6-lane street staff came up with 38' to 40' as being the comfortable distance between the pavement on the street and the buildings. Staff also used a lot of the images from Places29 to look at how wide the tree lawn needs to be, how wide the sidewalk needs to be, and whether there is a need for a front yard area for vegetation. The wider the street and the greater the number of lanes the greater distance the building needs to be from the street. Staff found that the higher the rate of travel on a 2-lane street the more setbacks were needed than for a lower rate of travel. In the chart in the PowerPoint presentation staff notes estimates for the tree lawn, sidewalk or multi-purpose path, and minimum front yard. Staff asked the Commission to think about whether this is a concept that has merit. There are a lot of issues that need to be worked out.

Issues to be worked out:

- What is the break point between higher and lower-speed 2-lane streets?
- Where can someone easily find the speed limit?
- How is the setback adjusted for on-street parking?
- How do you deal with 3 and 5 lane streets? Turn lanes at intersections?
- What happens if a street is widened?
- How do you deal with “parking lot” streets?

**Questions for Commission:**

- Is the concept worth pursuing for zoning changes?
- Will better form be worth the time it takes to enforce setbacks based on the number of street lanes?

Mr. Strucko opened the work session up and invited public comment.

Public comment was taken from the following persons:

Cliff Fox,  
Neil Williamson, Free Enterprise Forum, and  
Morgan Butler, Southern Environmental Law Center.

The Planning Commission provided guidance and direction as summarized below. No formal action was taken.

- Will the ARB still be able to prescribe landscape treatments in the buffer areas if they are reduced?
- Provide more illustrations, especially photographs to illustrate issues and proposed solutions.
- Provide measurements on diagrams.
- Provide information to the community using roundtables and community associations.
- Refine the drawings and proposals before going to the public.
- Emphasize how existing neighborhoods will still be protected with the proposed changes.
- Once you have gotten input bring the proposals back to the Planning Commission before starting into ordinance language.
- Invite the Building Official and Fire and Rescue staff to speak to the Planning Commission about reduced side setbacks.
- E-mail or send information to the Commission on locations of industrial and commercial properties adjoining residential or rural properties so that Commissioners can visit sites.
- Make sure the adjoining property owner can appeal the decision of the agent if a reduction of buffer area is granted.
- If grading is allowed in a buffer for utilities, require mitigation.
- Is a certified engineering report required for industrial uses? If so, that may deal with concerns about uses inside buildings that might be closer to adjoining properties.
- Identify issues that could be of concern for a reduced building setback.
- Consider administrative reduction of setbacks in the same way (criteria for evaluation, notification, appeals) as reduction of buffer area is proposed.

- Consider effect of bike lanes on setback requirements and, if appropriate, provide for a different setback.
- Make sure that street tree species are appropriate for the area in which they are to grow, i.e., don't plant trees that will grow large in an area that is very small.
- Consider low impact development (LID) in streetscape design requirements.

The Planning Commission asked staff to incorporate the Commission comments into the draft in order to take more specific concepts out to the public through roundtables with the development community, citizen groups and bring it back to the Planning Commission before starting into the ordinance language. No formal action was taken.

#### **Old Business**

Mr. Strucko invited old business.

- Joint City/County Planning Commission Meeting scheduled for December 2. Agenda items to be determined in joint meeting with city staff and Mr. Strucko and Mr. Cilimberg.
- Request to include magisterial districts on PC Schedule
- Places29 Open House to be held from 4 to 5:30 p.m. in lobby on October 27. PC attendance is not mandatory.

There being no further old business, the meeting moved to the next item.

#### **New Business:**

Mr. Strucko asked if there was any new business. There being none the meeting moved to the next item.

#### **Adjournment:**

With no further items, the meeting adjourned at 8:26 p.m. to the Tuesday, October 27, 2009 meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

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