

**Albemarle County Planning Commission
FINAL Minutes March 1, 2022**

The Albemarle County Planning Commission held a public hearing on Tuesday, March 1, 2022 at 6:00 p.m.

Members attending were: Karen Firehock, Chair; Corey Clayborne, Vice-Chair; Luis Carrazana; Fred Missel; Julian Bivins; Jennie More.

Members absent: Daniel Bailey.

Other officials present were: Charles Rapp, Director of Planning; Rebecca Ragsdale; Ben Holt; Bill Fritz; Andy Herrick, County Attorney's Office; and Carolyn Shaffer, Clerk to the Planning Commission.

Call to Order and Establish Quorum

Ms. Firehock said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster." She said opportunities for the public to access and participate in the electronic meeting were posted at www.albemarle.org/community/county-calendar when available. She said there would be further instruction for public comment during public hearings.

Ms. Shaffer called the roll.

Ms. Firehock established a quorum.

Other Matters Not Listed on the Agenda from the Public

There were none.

Consent Agenda

There were no items on the consent agenda.

PUBLIC HEARING

ZMA202100006 Maplewood

Mr. Ben Holt said the application was for a zoning map amendment for a housing complex. He said the applicant requested to rezone the property from C-1 commercial to planned residential development (PRD). He said the airport impact and entrance corridor overlay districts applied to the property. He said the property was at the intersection of Proffit Road and Route 29. He noted the area was designated for urban mixed use and centers in the Comprehensive Plan. He explained that the primary use for the designation was retail, residential, commercial, office, institutional, and open space.

Mr. Holt said the applicant wished to develop a property with a maximum of 102 units, or 30 units per acre. He said the applicant intended to development two-over-two style townhomes. He said

the concept plan included six buildings, three open space areas, and a 10-foot multi-use path. He said the primary open space area included a tot-lot, playground, grass field, and dog park.

Mr. Holt listed the factors that were favorable. He said the request was consistent with the majority of the neighborhood model principles and the growth management policy. He continued that the proposal was consistent with the Places29 Master Plan recommendations for greenspace. He noted the new pedestrian facilities and multi-use path. He said the proposal was consistent with the County housing policy because provisions for affordable housing units were included.

Mr. Holt said there were unfavorable factors. He explained the Comprehensive Plan recommended multiple housing types; however, the applicant stated that the two-over-two townhomes offered different price points and different sized units—a smaller unit on the bottom and a larger one on the top. He said staff recommended approval of the request. He requested the Commission cite the reasons in the staff report if they recommend approval and to state the reason if they recommend denial.

Mr. Bivins asked if there were developments scheduled for the adjacent parcel.

Mr. Holt said the applicant might be able to provide more information.

Mr. Bivins said the Commission did not typically support the approach of rezoning property to PRD to achieve mixed-use development.

Mr. Charles Rapp, Director of Planning, asked if Mr. Bivins was referencing a project heard about a year or two ago adjacent to a Food Lion.

Mr. Bivins said that was correct.

Mr. Rapp said he would have to review the material.

Mr. Bivins said he did not like losing commercial land because there was a small inventory in the County. He asked if the Economic Development Department (EDD) had been consulted. He asked if nearby commercial property could be released and if the adjacent property was planned for commercial use.

Mr. Holt said the Comprehensive Plan called for commercial and mixed-use in the center. He said staff's general evaluation of the proposal at the site was that it aligned with the Comprehensive Plan because there was already adjacent commercial property in the center—a Walgreens and an auto-parts store. He said he believed EDD was alerted about the project when it was assigned, but since he inherited the project from another planner, he was unsure.

Mr. Bivins said there was an opportunity to put commercial property on the bottom floor and residential on the top floor—reflecting the development in Rio29. He said he was disappointed that the Rio29 model was not used. He noted the applicant requested an exemption to the height requirements for setbacks because the applicant wanted to build four-story buildings. He said the Commission was not voting on the exemption. He asked if the exemption was missing, and he said he was not inclined to address the exemption.

Mr. Holt asked if Mr. Bivins was looking at the materials from the original proposal.

Mr. Bivins said he was reviewing the materials that were in the Commission's box when he retrieved them the previous day.

Mr. Holt explained the applicant originally proposed for a building height above the setback requirement for the area, but they had revised the application to be under the setback height requirement. He said setbacks were required for buildings above 65 feet. He said he did not know if the language was left over from the original proposal, but the applicant was in alignment with the Comprehensive Plan and the zoning ordinance requirements for PRD.

Mr. Bivins said the document stated that a special exception request was being processed with the PRD to remove the requirements of the setback for buildings over three-stories in height as permitted by the Albemarle County zoning ordinance.

Ms. Rebecca Ragsdale, Planning Manager, said the applicant may speak to the point further when they get to their presentation. She explained special exceptions could be processed with the site plan, so the exception was not necessarily before the Commission. She said the applicant would either have to meet the ordinance requirements or receive a special exception.

Mr. Bivins asked if the special exception would be approved outside of the Commission.

Ms. Ragsdale said Mr. Bivins was correct. She said a setback was required at three-stories or 45 feet.

Mr. Bivins said the applicant was considering 65-foot-tall buildings. He said the applicant could provide further information.

Mr. Carrazana said he had seen the note Mr. Bivins had mentioned. He said the Commission had addressed special exceptions for other projects. He asked why the special exception for the applicant was not before the Commission.

Mr. Holt asked if Mr. Carrazana wanted to know why staff did not raise the issue to be addressed by the Commission.

Mr. Carrazana said Mr. Holt was correct.

Mr. Holt said he should have noted the item could be a component of the application.

Ms. Ragsdale said a separate application and fee was required for special exceptions. She said the Commission could request the special exception come before the Commission as a condition of approval.

Ms. Firehock noted exceptions had come before the Commission in the past.

Ms. Ragsdale said there were a number of special exceptions on the Board's agenda that did not come before the Commission, as had been discussed previously. She said if the Commission wished to review the exception, their comments could be recorded. She said the exception had not been officially requested.

Ms. Firehock asked for clarification on if the applicant was not requesting a special exception in the future.

Mr. Holt said the applicant would have to clarify if they intended to request a special exception for the setbacks. He said the applicant had originally proposed the buildings to be taller, and they had reduced the height of the building to be in compliance with the Comprehensive Plan and the zoning ordinance. He said he had not seen the note about the setbacks.

Ms. Ashley Davies, Riverbend Development, said the company owned commercial properties in the city and had done commercial development before. She explained that the parcels surrounding the proposed development site were zoned for commercial use. She said the proposed site was a vacant parcel. She mentioned the housing component of the proposal was part of the larger picture—the development was not trying to achieve every goal of the Comprehensive Plan within one three-acre parcel. She said the proposal took into consideration the overall area and the uses throughout.

Ms. Davies said that given the surrounding parcels were zoned for commercial and civic uses, it was beneficial to introduce a new housing type into the area. She explained that two-over-two townhomes were stacked units where within each townhome unit there were two residential subunits. She said there were two garages along the back for each unit, and each residential unit had two floors per dwelling. She said the bottom residential unit was around 1,500 square feet and two bedrooms, and the upper unit was 2,500 square feet and 3 bedrooms.

Ms. Davies said the applicant provided the affordable housing units on site. She said two-over-two townhomes were a new design and popular. She said there was no housing within the commercial center which was supposed to be mixed-use, and the applicant was adding the housing. She said it was important to build a housing type that utilized the land, and the development was at 30 units per acre. She said it was within the best interest to build to the higher densities where possible. She noted the land was flat and close to amenities.

Ms. Davies said the applicant had worked with staff to revise the concept to ensure the pedestrian path and other amenities were planned and conceptualized to higher standards. She reiterated that there was a large greenspace for residents to utilize, and every building fronted onto shared greenspace. She noted there would be a 10-foot bicycle and pedestrian path and a 12-foot landscape buffer around the area.

Mr. Alan Taylor, Riverbend Development, said the adjacent parcel was under contract and undergoing a permitting process for a self-storage facility. He said the process had fallen apart because the Food Lion in the neighboring shopping center had right of first refusal and was invoking the right to prevent the development. He said the owner of the Food Lion likely intended to expand the shopping center.

Ms. Davies explained that the proposed structures were four-stories tall but were below the 65-foot height requirement for setbacks. She said most were around 50 feet tall and some had roof-top patios. She said the units went straight up and did not have a setback in order to accommodate the square footage. She said the applicant would request a special exception if needed. She said the units were pulled back from the roadways and fronted onto shared greenspaces as proposed.

Mr. Bivins said he was concerned that a storage facility would be developed next to the larger greenspace. He said he appreciated Mr. Taylor's response and was relieved. He said the

applicant had noted triplexes in the proposal. He said the triplex layout would allow for businesses or office space to fill the bottom level. He asked for clarification about the use of triplexes in the development. He asked if the townhomes would be purchasable or rentable.

Ms. Davies said the applicant was purchasing the property, so there would be a homeowners' association. She said the two-over-two units would become condo units that could be purchased. She said the condos were offered as the affordable units for rent. She said Brook Hill was another development. She said some components had been sold to senior living facilities, some had been sold to Stanley Martin, and some were self-developed. She said the proposed development was self-developed and units could be for sale or rent.

Mr. Bivins asked if there would be triplexes or if all the units would be two-over-twos.

Ms. Davies said that according to the most recent proposal, the units would be styled two-over-two. She said the narrative should have been edited to remove the reference to the triplexes.

Mr. Missel asked how the applicant decided to provide 12 overflow parking spaces.

Ms. Davies said each of the units provided garage space and an off-street parking space.

Mr. Scott Collins said the driveway space and garage space for each unit allowed the parking to be handled in the unit and the driveway and cut down on the amount of necessary onsite excess parking. He said the overflow parking was provided around the site for guest spaces.

Mr. Missel asked how stormwater management was addressed for the development.

Mr. Collins said an underground stormwater facility was proposed. He said it could potentially be located under the greenspace. He said underground retention would be used along with nutrient credits. He said it was difficult to do above ground stormwater management in a small space. He said there were easements on the site as well—a main trunk line of the sewer, powerlines along Proffit Road, and the future expansion of the right-of-way.

Mr. Clayborne asked if the buildings had elevators.

Ms. Davies said the buildings did not have elevators.

Mr. Clayborne asked what would be included in HOA membership and if there were expected costs.

Ms. Davies said the HOA membership included maintenance of the entire site. She said the cost would not be exorbitant because there was not a community center or other large facility to maintain.

Mr. Taylor said the site was small, and the major amenities were the open spaces, tot lots, and dog park. He said a reserve analysis and HOA analysis had not been completed to determine the costs. He said he believed the cost would be around \$100 a month. He said the applicant's intent was to sell the units, but they could be rented. He said affordable units would be owned by someone who qualified.

Mr. Bivins asked for clarification about the monthly HOA cost.

Mr. Taylor said the directors and officers insurance alone was a hefty expense, and given the amount of units, the monthly HOA cost would start at about \$100 per month. He said a total analysis had not been completed.

Mr. Clayborne said there were missed opportunities for connections. He said there was a Food Lion nearby and a childcare center across the street. He asked if the pedestrian trail was a dead end. He asked for more information about the connections to the surrounding parcels.

Ms. Davies said it was challenging given the existing setup with the surrounding commercial property. She asked if Mr. Clayborne was asking about ways to cross the street. She said the applicant had to utilize the main multi-use path and the sidewalks within the greenspaces, and there was an access easement, so there was the potential to connect into other parcels. She asked for Mr. Clayborne to clarify his question. She said during the site plan phase, safe street crossings could be considered.

Mr. Clayborne said there was a grocery store, and he wanted to know if there would be a connection given more than 100 units were proposed. He said he believed the grade between the parcels was flat.

Ms. Davies said she did not know the best way to access the other parcels. She said if she lived at the development, she would trespass across the other parcels to access the grocery store. She said she understood Mr. Clayborne's question. She said VDOT planned to construct a roundabout for the intersection of Proffit Road and Worth Crossing. She said the applicant designed the proposal considering the future development of the area. She said there was a balancing act between providing the components in the Comprehensive Plan and preparing for future development.

Mr. Taylor said the applicant could provide an easement as part of the proposal so when the land that was vacant between the site and the grocery store was developed, a connection could be made.

Mr. Clayborne said the proposal would be stronger if additional exploration was done for how more connections could be made to the surrounding parcels. He said he was surprised the schools were not addressed. He asked how the applicant could mitigate the impacts on the school system.

Ms. Davies said within Brook Hill, part of the rezoning included a new elementary school site for the area. She said the applicant proffered a 65-acre high school site as part of the rezoning. She said there would be a new elementary school site located in the North Point development. She said new sites for schools were proffered to the north and south of the proposed development.

Mr. Clayborne said about 100 residential units were proposed. He said the applicant's current proposal and plans seemed to show 72 units proposed. He asked if the applicant had a more accurate figure for the number of units.

Ms. Davies said the illustrated plan gave a focused depiction of what was possible at the site. She said the site was surrounded by a variety of easements that prevented flexible development—the applicant had to provide parks and open spaces. She said the applicant would evaluate additional

pedestrian connections while working with VDOT. She said the illustrated plan was what the applicant currently proposed.

Mr. Clayborne said it was difficult to approve a project when it could not be visualized. He asked what building materials would be used during constructing. He asked how durability and sustainability were incorporated into the design.

Ms. Davies said the commissioners could visit the Brook Hill development if they wanted to see an example of the two-over-two construction. She said the materials were high quality—brick and hardy plank materials. She said the units were high quality and built to last.

Mr. Clayborne asked if the applicant had included any sustainability goals. He said he understood the plan was in early stages, but sustainability measures were typically considered at this stage.

Mr. Taylor said the units were large. He said from a sustainability perspective, the units were an efficient way to develop land without causing sprawl while promoting home ownership. He said one of the central tenets of Riverbend was to develop within the development area and place conservation easements in the rural area. He said the applicant wanted to implement home ownership and efficient use of development area land.

Mr. Taylor said the applicant was willing to consider more ways to implement sustainability efforts. He said a sister company of Riverbend was Sun Tribe Solar which provided utility scale solar installations. He noted Riverbend developed the Apex Building which was powered by 55% solar power. He said the proposal was sustainable because it was within the development area and did not create a sprawling development.

Ms. Davies said that developments at higher densities encouraged the development of transportation networks to get people out of personal vehicles.

Ms. Firehock opened the hearing for public comment. She noted there were no speakers signed up for comment. She closed the hearing to public comment.

Mr. Carrazana noted the applicant did not include commercial uses in the proposal. He said he agreed with the applicant's comment that the proposal was part of a tapestry of parcels and uses in the area. He said he was not concerned about the lack of commercial uses in the proposal. He said he agreed with the concerns over the lack of pedestrian connections. He said the application fell short because it did not integrate or connect to the surrounding parcels or amenities in the area. He said he did not see street connections.

Ms. Firehock agreed with Mr. Carrazana's comment. She said the proposal did not relate to the adjacent land uses. She mentioned Mr. Clayborne had asked about sustainability measures. She said the applicant said the proposal was sustainable because it was an infill development. She said she did not see any sustainable measures beyond the infill. She noted the applicant would perform stormwater management along with offsite nutrient credits. She explained nutrient credits meant the applicant would not mitigate any of the nutrient pollution on the site. She said permeable parking spaces or green rooftops could be implemented.

Ms. Firehock noted the developer referenced Brook Hill. She said she had seen the townhouses at Brook Hill. She explained the illustrated plan submitted by the applicant was not proffered and was only illustrative. She explained the renderings from the applicant had no legal bearing, and

the commissioners had to keep that in consideration when making motions or votes. She said no building materials were decided in the application. She said the only thing the Commission could assume were rectangles on the site and perhaps two-over-two units. She said the applicant's illustrations were beautiful but did not represent any reality.

Ms. Firehock explained the County did not require a high level of detail at this stage of the application; however, the Commission preferred applicants provided more information about the extent of the proposal because it was easier to support a more complete plan. She said staff would work to clarify what was expected from and included in application plans. She said the Commission would ask for more from applicants so that when they voted, they had a clearer understanding. She mentioned there were no bus stops or bicycle storage areas proposed—simple transportation elements that could be included.

Ms. More asked for clarification regarding the process for the special exception. She said Ms. Ragsdale had explained the special exception would not necessarily come before the Commission, but the Commission could request to hear the exception.

Ms. Ragsdale said staff would often identify and flag issues during the legislative process, and the Commission would review, comment, and make a recommendation. She said special exceptions often came up during the site plan review process. She said the plan allowed flexibility for the applicant. She said with the current proposal, the applicant would be required to have a setback unless a special exception request was submitted. She said the rendered buildings were not proffered, and the designs could change. She said the ordinance allowed the Board to ask the Commission for feedback. She said proposal items were typically packaged together, but this time they were not.

Ms. More said the issue did not seem entirely sorted out.

Ms. Firehock said she thought that was worth bringing up because it had been discussed earlier. She commented that she was fairly certain that if they were to attempt to step back that top story, they would lose a bedroom out of the unit and it would make that product not as attractive and perhaps not desired to be built. She said the other element of that was that the stepback was intended to reduce the cavernous effect that happened when two tall buildings were close together, but because they had buffers around the site plus the green space, it was not quite as jammed in there as it could have been. She said she guessed if they received that request, they probably would grant it. She said it was still within their purview to request that stepback if it turned out to be necessary, and she was not totally clear about whether they actually needed this exception or not. She said if it were the Planning Commission's desire, they could bring that one element back. She said she was guessing what would happen if they did that based on a previous conversation they had on this about another building that would have had to have a stepback but had a lot of land in front of it and it did not seem that they needed to have a stepback in order to meet the intention of the stepback. She asked if Ms. Ragsdale wanted to add anything.

Ms. Ragsdale said in the recent case that Ms. Firehock referred to, they did not end up needing the stepback after based on some changes they made between the Board and the Commission. She said her sense was that everyone was okay with what they were seeing without a stepback, so they could include that as a comment for the Board to take into consideration if the special exception was submitted before the Board meeting. She said they would keep an eye on this in the future so it was not left open-ended as these things were brought to them. She reiterated that the ordinance did allow it and this was set up with some flexibility on the applicant's part.

Mr. Carrazana said that that was part of the issue. He said they did not know what they were seeing because what was presented was not part of the application. He said it was illustrative, but it did not actually have to be like that and they did not have an amassing. He said there were a couple of buildings by the roads that were in fairly close proximity, so if they had 50- or 60-foot buildings there, it may be cavernous, but he did not know because they were not given the opportunity to take a look at that. He said since the setback was required with the special exception, he did not believe they had enough information, so if they did not bring it back to the Board of Supervisors, then he would suggest that there was more material that was more illustrative at actually depicting the massing of the buildings and layouts, and hopefully incorporating some of the connectivity they talked about today and could be given to the Board if they decided not to bring it back to the Commission. He said his tendency was to ask them to bring it back for that exception.

Ms. Ragsdale said to clarify, the building height on the application plan was 45 feet, so they could not go up to 65 feet, which was a commitment on the application plan. She said it was clear that it would be no more than four stories – with the building height --

Mr. Carrazana said that she said it was 45 feet, but they just said it was 50 feet.

Ms. Ragsdale said that could be his feedback in this case if he thought it should not exceed the four stories. She said four stories was where the setback came into play -- four stories or 45 feet. She said that was a little open ended, and if they were to go up to 65 feet, they would need the setback, and that would comply with the ordinance. She said if he had concerns in this case, pulling those together and what he was okay with and what recommendations he would like to see as far as commitments and limitations, it sounded like where they were headed.

Ms. Firehock said they did not want to do something that derailed their architecture, but it was within their purview to put a height limit on the building.

Ms. Ragsdale said yes. She said they could make that recommendation.

Ms. Firehock said they could include that in the motion to make sure it was crystal clear how tall it would be. She said in Ms. Ragsdale's description just now, it sounded like they were five feet over where the limit where a setback would kick in. She asked if that was correct.

Ms. Ragsdale asked Mr. Holt to help her with the height on those units. She said that was what the note said.

Mr. Holt said he would pull it up in just a second.

Ms. Ragsdale asked if she should share the note with everyone.

Ms. Firehock said to go ahead.

Ms. Ragsdale showed the note in the section about building heights. She said it was directly from the ordinance, as far as section 4. She said the maximum building height for this development shall be four stories, with a building height not to exceed 65 feet for each story that begins over 40 feet, or for each story above the third story; whichever is less, the minimum setback shall be 15 feet. She said they then had a problematic note on the special exception.

Ms. Davies said that the four-story units that had the rooftop area had a height of about 52 feet. She said a lot of it could not be seen because it was set back into the rooftop area. She said another important point about this project was that it was an ARB review area, so it would go through that additional design review. She said she also put in the chat that they were happy to ensure that any special exception for the four-story height came before the Planning Commission.

Ms. Firehock asked for clarification that the maximum height that she stated was 52 feet.

Ms. Davies said that was what was in their designs right now. She said in the zoning, it currently allowed up to 65 feet, but the units they had planned for this were 52 feet.

Ms. Firehock said they needed to keep in mind that if 65 feet was the maximum possible, they should consider it as if they were going to build the maximum, because they were not proffering their design, and the fact that they have a certain intention for it had no legal standing. She said they should say it was at 65 feet. She said the property could be sold after it was rezoned, and then they could build up to 65 feet if they did not like the original design. She asked if there were any further comments about this development. She said she knew one or two Commissioners wanted to see this again, and the applicant was able to come back to them for that one aspect. She said to her, it was difficult to approve this and ask them to come back for the one exception, because it was unclear if they could build this if they said no to going over the 45 feet.

Mr. Carrazana said that what was in front of them was not the stepback issue and the special exception for that, because they did not apply for that. He said they could potentially approve the rezoning, moving away from the commercial, and ask that a more illustrative site plan with the massing and the heights of the proposal, because everything they had now had not been dealt with at the staff level or at the committee level. He said he would request that it come back for approval, because it should with the special exception. He said perhaps counsel could advise, but he did not see how that stopped them from dealing with the issue at hand today.

Ms. Firehock said he could do so, but she was suggesting that it may be best to know whether or not they were intending to do that, because it might kill the project. She said as part of the approval tonight, they could limit the height of the building to lower than the 65 feet and keep it at 52 feet as they said they needed.

Mr. Missel said he thought Mr. Carrazana had a good solution. He said if they approved the rezoning as is, they are saying per their application plan that the maximum height would be 65 feet and they would have to start engaging with the stepbacks above 40 feet. He said if they wanted to build something that was 65 feet and step it back starting at 40 feet, they would collectively be signaling they were okay with if they approved the rezoning. He said he would feel comfortable doing that, and if they had to come back with more detail that Mr. Carrazana had suggested, he would support that as a good compromise to keep the applicant moving and a way for the Commission to focus on the appropriate detail. He said all the other comments he heard he agreed with.

Ms. Firehock said what was originally intended was that it would go to staff and they would review it, and then the Board would vote on the special exception. She said it did not have to come back to the Planning Commission at all. She said she had no problem with it coming back for extra review if that were the wish of the Commission, and that could even be included as part of a motion.

Mr. Clayborne said he would like to see if come back as Mr. Carrazana had said. He said there was just not enough information there. He said he would like to see it come back with more context about verticality, connectivity, or anything like that, so it would be a good idea to bring that piece back.

Mr. Bivins said there were two complementary pieces in the staff's report. He said what was being sent before them in the staff report, there was no exception, and they had to follow the zoning ordinance the way Albemarle County had set forth. He said it was unclear if it was left out because they did not want to do it or if it was an editor's mistake. He said right now, it was an editor's mistake, because what was before them was the zoning amendment that said whatever they built there had to stay within the confines of the zoning ordinance. He said if they decided not to do that, there were two other outs. He said there was the Board of Supervisors and he assumed with the ARB.

Mr. Bivins said what he would be comfortable with was going with what Mr. Missel suggested; they should vote on this to send this forward, and the Supervisors will have read that they discussed the fact that perhaps it was a signal that Mr. Rapp could tell staff if there was a special exception to make sure it came before the Planning Commission from now on, or make sure the applicant did not have that mistake on the plan when they sent it to them. He said right now he was not voting on an exception because there was not one there because staff did not put it before them. He said he did not want to move that it should come before them because he did not want to invest in that kind of mistake with the Commission's power. He said they had sent a strong signal to the applicants, to staff, and to the Supervisors that this was something they needed to deal with, and right now it had to be built the way the ordinance said it had to be built.

Ms. Firehock said he was correct, and that they were not asking to have an exception at this point.

Mr. Herrick said that on a related note, they were bound to consider what the applicant was putting before them this evening. He said that did not necessarily mean the Commission had to recommend approval, but there had to be a recommendation for approval or denial, unless the applicant requested a deferral. He said he did not think the Commission was in a position to say that they refused to act on this until they received more information. He said that the applicant may hear that statement and ask for a deferral, but until the applicant asked for a deferral, he thought that the Commission had to consider it and make a recommendation this evening.

Ms. Firehock asked if anyone was prepared to make a motion.

Mr. Clayborne said that he had a question for counsel. He said a lot of the images they saw tonight had nothing to do with a legal standpoint of what was before them. He asked if it was acceptable to say they had seen these images and wanted to tie a level of quality back to that in the recommendation or was that off limits.

Mr. Herrick said that the Commission could make a conditional recommendation and recommend approval provided that certain conditions were met. He said that though proffers were conditional rezoning, they needed to be careful not to say they were recommending approval of this rezoning with conditions. He said he believed it would be in the Planning Commission's ability to say that their recommendation for approval was conditioned on certain items being met.

Ms. Firehock said that when discussing architecture, they would have to sit down and come up with specific parameters. She said it was hard to say a motion that included something about the drawings they saw, and they did not proffer them.

Mr. Clayborne asked if they thought it was in a place where it could be approved with the condition of seeing connectivity to the commercial areas.

Ms. Firehock said it could be said as they approved the application as submitted, but also requested the applicant add connectivity and whatever else should be added before it went to the Board.

Mr. Missel asked if, from the applicant's standpoint, there was a way to control connectivity to parcels adjacent to them that they did not own. He said he wondered how much of a burden they could place on them to improve connectivity other than to take the paths and roadways and provide easements, which he believed they had done.

Ms. Firehock said they could not show a pathway going across the prior storage lot, but could more clearly say on their plan what was there for the intention of connecting the other parcel, and could put in their narrative that they planned to work with the next owner of that site to work through some connectivity and talk about how they were going to get to certain locations and what transportation, if any, would be provided. She said they may have had all of that in mind and neglected to say much about it.

Mr. Missel asked if they would have to essentially explain their intent on the plan conceptually.

Ms. Firehock said they would call it out.

Mr. Rapp said it sounded like a lot of the concerns that had been expressed did not have solutions at this time. He said they had seen example imagery and heard ideas, but it seemed hard to conceptualize that as they did not know what the solution was to the issues of connectivity, building massing, the building height, how the stepbacks worked in this case. He said he would caution that it was very open-ended as to what it could turn out to be, and they did not have that clarity right now.

Mr. Carrazana thanked Mr. Rapp. He said he found it to be an incomplete proposal, and there were a lot of questions for applicant that were not in their submittal. He said even the height was not there, and there was nothing that showed it was actually 52 feet other than their word. He said he was not opposed to the rezoning request, but that was the issue he was struggling with.

Ms. Firehock said it was certainly within everyone's purview to say they did not have enough information to tilt them towards favorability. She said they all thought residential seemed appropriate, and they thought the tapestry of uses across the landscape, and that while the development itself was not mixed use, there were plenty of businesses that could be walked to from there.

Mr. Clayborne said that Mr. Carrazana summed up his feelings as well, so he felt comfortable making a motion.

Ms. Firehock asked Mr. Holt to show the motions from the staff report on the screen.

Mr. Holt said he found the language if Mr. Clayborne would like him to read it.

Mr. Clayborne said he found the ZMA number so he did not need it.

Ms. Firehock said before they went forward, she had a note from the applicant in the chat that they would like to request a deferral.

Ms. Ragsdale confirmed she saw that as well.

Ms. Firehock said she did not know Mr. Clayborne's motion, but they did not have to accept the request for deferral, and it was within their purview to continue on, but she wanted him to have that information.

Mr. Clayborne said he would accept the deferral.

Ms. Firehock said then there would need to be a motion for a deferral. She said it seemed there was a lot of desire for more information to make a good decision.

Mr. Herrick said that if the Commission were inclined to defer, they probably should clarify whether it was to a specific date, and if there were to be a date specific, there would not be a need to readvertise.

Ms. Firehock said for that to be answered, they could ask Mr. Rapp to look at an opening in the schedule for a date for the deferral.

Mr. Herrick said that the Commission should probably clarify how long of a deferral the applicant would like, so they could clarify the applicant's intent with the length of this deferral.

Ms. Firehock asked Ms. Davies what period of time they would have the changes they felt were important for their deliberations.

Ms. Davies said that given the comments they had, it seemed they were in general happy with the product type they were proposing, so they could easily fold in some additional detail into the application plan to give them a better idea of the unit quality, height, and connectivity notes in just a few days and get that back to staff for processing.

Ms. Firehock asked Mr. Rapp if there was a date that they could defer to that was certain.

Mr. Rapp would ask for at least 90 days so they would have time to accept whatever was submitted for review, prepare it, and schedule everything, advertise public hearings, etcetera.

Ms. Firehock said that Mr. Herrick mentioned if they deferred to a date certain, they would not have to advertise. She said she understood staff would need to do some more review.

Mr. Rapp said May 24 was a possible date.

Ms. Firehock asked if that deferral was too long.

Ms. Davies said they were under contract for the property, so the longer they deferred was problematic for that contract. She said she did not want to put it before them tonight for anything

bad to happen to this project, and she believed they had seen from the presentation what their intent was, and she did not know if there was a better way to handle it. She said they were willing to add those components that gave people assurances of their direction and the knowledge that this also required the ARB review. She said they were very intent on moving on with the project, so she did not want to jeopardize their ability to move forward on the contract with the property. She apologized if that placed any kinks into the consideration, but they had good intent and what they put before the Commission met all the zoning they were requesting, but they did have additional information that provided comfort in the review process, but they also had the ARB component that would handle that specific review piece.

Ms. Firehock said it sounded like May 24 was not an acceptable date because it would mess up their contract.

Mr. Missel said he knew on the ARB, when there were times when they were generally supportive of an application, but there were clarifying items that would have been helpful, and the applicant chose to defer, they opted to not have the benefit of the staff review, which helped streamline the process of the applicant. He said he did not know if that was precedent on the part of the Planning Commission or not, but he thought it may be a possibility to help streamline things.

Ms. Firehock said only staff could answer that.

Mr. Rapp said they had very full dates for the next two months with multiple public hearings each night that the PC would be acting on. He said they did not have an open date until May 24.

Mr. Missel said he understood.

Ms. Firehock said the applicant was not able to defer until May 24, so they needed to vote on this issue.

Mr. Holt asked if Ms. Davies could be given the opportunity to speak one more time.

Ms. Firehock said Ms. Davies had asked about whether this would require another public hearing, and the answer was that it would, which was a challenge. She asked Mr. Clayborne to continue.

Mr. Clayborne asked Mr. Holt to pull up the motions on the screen one more time.

Mr. Clayborne moved that the Planning Commission recommend denial of ZMA2021-00006 Maplewood for the reasons they have discussed, which included lack of connectivity, lack of massing, and lack of clarity on the building height.

Mr. Carrazana seconded the motion.

Ms. Firehock asked if there was any further discussion. She asked if people supported the denial for the reasons Mr. Clayborne stated and what they discussed.

Mr. Bivins said he understood the fullness of the discussions, he would not be supporting the motion.

Mr. Missel felt that he agreed the discussions had all been valid, and he felt there were other ways to get this information other than denying the motion. He said he felt that they would be able to

get that if they approved the motion and then followed up with additional building height requirements as part of a possible waiver request, and there would be other alternative ways to get that detail, including connectivity, so he would not support the denial.

Ms. Firehock said she concurred with that and thought they could tell them they needed to improve this for the Board of Supervisors. She said they had to believe them to a certain level, they could make a strong signal to the Board that they expect this information to be provided, and if it were not, they would not think it was an acceptable application. She said they could forward that as part of their motion should they decide to vote for approval.

Ms. More said she did not support the denial for the same reasons they had discussed, and she thought there were opportunities to fix the things they discussed.

Ms. Firehock said that it was time to call the question.

The motion to deny failed 2-4, with Mr. Clayborne and Mr. Carrazana voting in favor, and Mr. Bivins, Ms. Firehock, Ms. More, and Mr. Missel voting against. Mr. Bailey was absent for the vote.

Ms. Firehock said they were back to the drawing board, because it sounded like there were some people who wanted to support the application. She asked if someone had a motion crafted in support.

Mr. Carrazana said that he agreed there may be a path forward, but what she had articulated earlier before the motion was made was if they signaled that there were specific elements that were missing and this was an incomplete application, and when they took it to the Board, they include more detail that was not illustrative but was about what they were proposing. He said that would be taken to the Board with the special exception of not having a setback, because if they show an actual design in the proposal with elements that can be reviewed by staff. He said he believed that was then a path forward, and they could signal to the Board that it was incomplete and those elements would need to be included for the Board's review.

Ms. Firehock said yes. She said they had done the same in the past, and staff would enumerate to the Board what the Planning Commission said and how it had become part of the review. She said it would not be lost, but it should be included as part of the motion. She asked if someone was prepared to make a motion for approval.

Mr. Bivins moved the Commission recommend approval of ZMA2021-00006 Maplewood, and that they ask staff to include a note explaining the conversation they had about massing, connectivity, and building height, and that staff engage with the applicant to prepare the statement for the Board of Supervisors to emphasize that these issues were important for them to consider as the project moved forward.

Ms. More seconded the motion.

Ms. Firehock asked if that was specific enough for a motion.

Mr. Herrick said that it sufficed as a motion in that it addressed their recommendation for approval or denial of the application, and it was fine to add the additional recommendations of the Planning Commission.

Ms. Firehock asked if there was any further discussion on this proposal. Hearing none, she asked for the role to be called.

The motion passed 5-1, with Mr. Clayborne dissenting. Mr. Bailey was absent for the vote.

Ms. Firehock said she wanted to thank the applicant for their patience as they discussed the application. She said they were well aware of the type of information they liked to see and the level of detail they required to be able to know exactly what it was they were voting for. She said she trusted staff to do their due diligence to make sure these issues were addressed before it went before the Board of Supervisors, who would probably ask for more information regardless. She recommended they take a five-minute recess.

Adjournment

At 8:57 p.m., the Commission adjourned to March 15, 2022, Albemarle County Planning Commission meeting, 6:00 p.m. via electronic meeting.



Charles Rapp, Director of Planning

(Recorded by Carolyn S. Shaffer, Clerk to Planning Commission & Planning Boards; transcribed by Golden Transcription Services)

Approved by Planning Commission
Date: 03/15/2021
Initials: CSS