

**Albemarle County Planning Commission
Final Minutes Work Session and Regular Meeting
February 25, 2025**

The Albemarle County Planning Commission held a public meeting on Tuesday, February 25, 2025. at 4:00 p.m.

Members attending were: Fred Missel, Luis Carrazana, Julian Bivins, Karen Firehock, Nathan Moore, Lonnie Murray.

Members absent: Corey Clayborne.

Other officials present were: Michael Barnes, Alberic Karina-Plun, Tori Kanellopoulos, Tim Padalino, Rebecca Ragsdale, Scott Clark, Bill Fritz, Amelia McCulley, Andy Herrick and Alberic Karina-Plun.

Call to Order and Establish Quorum

Mr. Karina-Plun called the roll.

Mr. Missel established a quorum.

Public Hearing

ZMA202400004 Flow Toyota Mercedes Slopes Rezoning

Rebecca Ragsdale, Planning Manager, said that this was a rezoning request specific to the Steep Slopes Overlay District. She said that the request sought to amend the slopes from preserve to manage, and also to remove proffers associated with the 2016 rezoning. She said that the slopes in question were shown as yellow and green on the screen. She said that she would orient them to the property, and then they would circle back to this exhibit. She said that there were three properties involved, and the slopes were located at the rear of the property that was wooded.

Ms. Ragsdale said that one of the properties, 1357 Richmond Road, was a Flow property with Carriage Hill condos behind it, surrounded by commercial or undeveloped properties along the corridor of Pantops. She said that all of the red-colored parcels were Highway Commercial zoning, and the brown color at Carriage Hill was R-15 Residential. She said that the Pantops Master Plan showed red properties as commercial mixed-use, the brown as community mixed-use, and the green was parks and green systems, consistent with the slopes which were proposed to be amended.

Ms. Ragsdale said that the next exhibit showed the proposed rezoning areas, which included the managed slopes that were already part of a prior action in 2016. She said that this prior action had preserved the slopes in green and accepted a proffer from the developer to preserve 2.4 acres of unique land in the rear of parcels 14 and 14E. She said that this area was adjacent to the intermittent stream and the hillside of Pantops, near the Rivanna River.

Ms. Ragsdale said that the ordinance criteria for managed and preserved slopes were included in the packet, and staff's analysis had been provided in response to these requests. She said that while the slopes did not meet the majority of the managed slopes criteria, they did meet the majority of the preserved slopes criteria, as they were contiguous, abutted a water feature, and were part of the comprehensive plan's reference to the hillside system and parks and green systems designations. She said that their recommendation had been based on their analysis, which led them to recommend denying the application as it was submitted and proposing to rezone the entire area of preserved slopes to manage and remove the proffer.

Ms. Ragsdale said that they had noted in the staff report that provided additional information and an updated exhibit that they may be able to support some narrowly focused provisions in a specific area around the existing stormwater facility, but that was not the proposal before the Commission this evening. She said that to amend or change their recommendation, they would need a revised concept plan.

She said that hypothetically, if they were to revisit the map, he would like to point out the location of that smaller area on the closer-in map. He said that he was wondering if he could identify the specific area where that portion would be situated.

Ms. Ragsdale said that it referred to the area at the rear of 14A.

Mr. Carrazana said that regarding the slope map, he would like clarification on the managed slope that was visible between the two preserves. He said that he would like to be reminded of what year the slope had been altered.

Ms. Ragsdale said that it was a 2016 amendment to the Steep Slopes Overlay District.

Mr. Carrazana asked that the logic behind moving the project to a managed load be explained. He said that he was curious because, upon inspection, it appeared that all the projects shared similar characteristics. He said that he wondered what was the reasoning behind this decision, and whether it was solely based on the proffers provided.

Ms. Ragsdale said that there was a prior disturbance in that area without site plan approval, which resulted in a violation of the steep slopes overlay district. She said that as a result, the decision was made to rezone the property to manage the issue. She said that it was agreed that management was necessary, although there may have been a small area that required correction or revisiting. She said that the rezoning was necessary to address the outstanding violation.

Mr. Carrazana said that it had already been impacted.

Ms. Ragsdale said that was correct.

Mr. Murray said that it seemed like a perverse incentive, as it appeared to encourage violations of certain regulations so they could change it to managed slopes.

Mr. Bivins asked if Ms. Ragsdale could circle the slopes that she was asking the Commission to consider tonight.

Ms. Ragsdale said that the slopes under consideration were located on three parcels, including the rear 14A and the preserved slopes along the property line of 14. She said that they had previously discussed the managed slopes, which were altered on the 14A parcel.

Mr. Bivins said that they were not looking to alter the characteristics of the yellow slope as of tonight.

Ms. Ragsdale said no; that would remain as managed slopes. She said that then, these preserved slopes were located at the rear of 14E.

Mr. Bivins said that he found that very helpful. He said that he would appreciate it if they could point out where the water management plan was located in the document.

Ms. Ragsdale said that there was no water protection ordinance buffer visible on the critical resources layer because the stream buffer was not a requirement for intermittent streams.

Mr. Bivins said that upon walking the property, he noticed something that resembled a water catchment basin area.

Ms. Ragsdale said that there was an intermittent stream present in the field. She said that there were springs and other notable features that they may observe when visiting the area.

Mr. Bivins said that he recently walked behind the Toyota dealership and noticed an asphalt paving between the Mercedes dealership and the Toyota dealership. He said that if one approached the boundary line between the two, it appeared to be a similar feature to what they saw in water treatment facilities. He said that what he was describing was likely an excavation or removal of material, rather than erosion caused by water.

Ms. Ragsdale said that there had been a prior disturbance in that area, which may be visible. She said that they had referenced stormwater facilities in that location before. She said that there were some stormwater facilities located on preserved slopes, which had been designated for that purpose. She said that there may be some designated as managed. She said that their engineering staff had walked the site, and if they had specific questions about it, they could try to provide more information. She said that she may need to refer back to this specific document to ensure they covered all their questions. She said that she was not certain exactly where he was on the site, but the applicant may have additional information that clarified the location.

Mr. Missel asked if there were stormwater management facilities adjacent to managed and preserved slopes.

Ms. Ragsdale said yes. She said that she did not put all of that in the packet because the applicant provided all of the exhibits from the prior site plans, so they did have instances of preserved slopes within this zoning district that were adjacent to stormwater facilities. She said that upon reviewing the GIS layers, these were visible, but they did not necessarily include that as a criterion requiring them to be managed.

Mr. Missel said that there was a possibility that the slopes could be considered managed, given that they were created for stormwater management facilities.

She said that they had reviewed them in the context of this application and acknowledged that only the portion that was on the property in question was relevant to this case.

Mr. Missel said that this referred to parcel 14A. He asked if Ms. Ragsdale could clarify her statement, which was that the applicants would need to submit a revised plan that demonstrated the impacts to that area, specifically stormwater management, in order to be considered a managed slope. He said that he was attempting to understand the specifics of this proposal.

Ms. Ragsdale said that they did not have a plan in place for the Commission to take action on that would define the area transitioning from preserved to managed.

Mr. Missel said that he was reviewing a plan submitted by the applicant, and he had a question regarding sheet 9 of 14, which appeared to include a stormwater management plan with designated steep slopes labeled as preserved. He said that he wanted to clarify that this plan was intended to reclassify it as managed.

Ms. Ragsdale said that that was correct.

Mr. Missel said that he wanted to know if the information provided on sheet 9 of 14 was sufficient, or if they would require additional information beyond what was provided.

Ms. Ragsdale said that they had not proposed a narrower request.

Mr. Missel said that these findings were essentially showing evidence of a past disturbance.

Mr. Barnes said that to clarify, the current proposal before them included designating all of the slopes currently visible as proposed to be managed.

Mr. Missel said that they lacked a plan that outlined how these would be used.

Ms. Ragsdale said that they had indicated that expansion of parking areas would be the use, but what they were seeking was a detailed accounting of the changes, based on the square footage that would be affected, as well as this type of exhibit.

Mr. Missel said that staff was seeking more information before making a judgment on whether the areas could be changed from preserved to managed.

Ms. Ragsdale said that was correct.

Mr. Missel asked if they had asked the applicant for that information at some point.

Ms. Ragsdale said yes.

Mr. Missel opened the public hearing. He asked if the applicant had a presentation.

Kelsey Schlein, Planner with Shimp Engineering, said that she was representing Flow 1381 Richmond LLC and Flow 1357 Richmond LLC, the property owners of these three subject parcels. She said that Flow Automotive Group operated its Flow Toyota facility and Flow Mercedes facilities on these properties. She said that she was joined tonight by Justin Shimp, the engineer for the project, and Polina Andreeva, a planner in their office, who was also working on this project.

Ms. Schlein said that the site context was familiar to all of them. She said that to the east, they had the Riviana Ridge Shopping Center further up the hill. She said that down the hill, they had Free Bridge and the crossing of the Rivanna River moving west toward Charlottesville. She said that she would provide a brief background on Flow and the reasoning behind their request for this redesignation of slopes was needed. She said that Flow had operated in Albemarle County since 2003, with 15 franchises in the County, employing over 426 people. She said that the dealerships served the entire region, and the company had made a significant investment in this area.

Ms. Schlein said that the application tonight represented the struggle at the intersection of multiple planning and land use interests. She said that the site had been used for automobile sales for the past 50 years, and the changing automobile industry demanded more space from manufacturers than dealerships in the past. She said that both Flow Toyota and Flow Mercedes were currently non-compliant with manufacturer specifications, which was the reason for their request tonight.

Ms. Schlein said that she was seeking a redesignation of slopes from preserved to managed to permit expansion of these dealerships. She said that it should be noted that any outdoor storage and display would require an additional special use permit, so if this request was approved, they would be back before the Commission again if any of those areas were designated for outdoor storage and display.

Ms. Schlein said that the blue line on the comprehensive plan designations map indicated a potential for a future roadway connection, which would also necessitate disturbance of these slopes and may become more feasible in the future if the terrain was more amenable to such improvements. She said that Ms. Ragsdale had noted that the request before them tonight was for a redesignation of all preserved slopes on these properties.

Ms. Ragsdale said that they would be back before the Commission again if any of those areas were designated before they were developed. She said that she would like to draw attention to a comment received prior to requesting that this application be forwarded to the Planning Commission. She said that specifically, the comment from staff was that they did not have concerns regarding the change in designation from preserved to managed slopes on parcel 7814A and 7814.

Ms. Schlein said that this comment, along with the staff report, highlighted the challenges in balancing multiple planning interests, including slopes preservation and economic development. She said that she believed that this application had been a struggle due to the intersection of these interests. She said that as the application had undergone changes and moved through the County process, staff had gathered more information and considered alternative conclusions.

Ms. Schlein said that she would like to highlight the two slopes mentioned in the comment letter, as well as the slopes areas that were previously thought to be favorable for designation. She said that after staff's recommendation was issued, they had conversations with staff about their potential support for the redesignation of slopes in this area. She said that they then conducted further investigation on the site, particularly after wet conditions, to identify the intermittent stream and consider modifications to their request to protect the slopes within 100 feet of the stream, even though the stream did not have a designated buffer.

Ms. Schlein said that they also looked at the potential to redesignate the rest of the area as managed. She said that she prepared slides to provide more detail, and she would present five geolocated images to orient them to the site. She said that image one was at the top of the hill, at the break line between the preserved and managed slopes, which showed that the characteristics were largely the same. She said that image two showed the rear of parcel 14E, with clear evidence of previous disturbance in these areas, culvert outfall, and fill-in material in the slopes. She said that image three showed the area behind the Toyota parking lot.

Ms. Schlein said that this was the portion of the site where an eroded gully from a stormwater pipe going across Route 250 ended and eroded out into a constructed ditch. She said that image five showed a tulip poplar and clearly indicated a spring, which appeared to be the start of an intermittent stream. She said that following their meeting with staff, they discussed the possibility of redesignating the slopes constructed as part of the stormwater facility to serve Mercedes, but staff had reservations about redesignating the slopes further south and east along the property line.

Ms. Schlein said that they conducted further investigation to identify the stream's location and then found a potential compromise: preserving the slopes on 14E and any slopes within 100 feet of the stream's start, while redesignating the remainder of the slopes as managed. She said that she would skip through the remaining slides and return to them if time allowed. She said that she would like to draw attention to the 15,704 square feet, which demonstrated characteristics of managed slopes compared to preserved slopes.

Ms. Schlein said that they had included a 100-foot buffer offset to show the preserved slopes. She said that with the remaining time, she would review the slides and highlight the evidence of prior disturbance in these slopes. She said that the Mercedes site plan overlaid on the critical slope and steep slopes overlay map demonstrated how the stormwater facility aligned with the preserved slopes.

Ms. Schlein said that she would also pull the adjacent site plans, including the former auto superstore and construction site plans, to show the grading and soil levels in the area. She said that the Carriage Hill plans illustrated that the slopes in question had been previously disturbed and constructed.

Mr. Murray said that if these properties were re-designated and developed, the intermittent stream would still flow directly into the Rivanna. He said that it would be necessary to determine how stormwater would be treated in this new area to prevent pollutants from entering the stream and ultimately flowing into the Rivanna.

Ms. Schlein said that she believed this was one of those scenarios where they had a clear understanding of the sensitivity of the area and the context of the site in relation to the Rivanna River. She said that she believed there was potential for an opportunity here. She said that she wanted to emphasize this on the record that they would like to propose incorporating on-site treatment measures instead of purchasing nutrient credits for additional disturbance.

Ms. Schlein said that for instance, they could incorporate stormwater facilities that provide on-site treatment, rather than purchasing credits. She said that this could potentially take the form of a biofilter. She said that she believed there was definitely an opportunity for them to incorporate these types of stormwater measures, while also taking into account the site's sensitivity and its proximity to the river.

Mr. Moore said that he was wondering about the timing of the revised proposal that was being presented here, as it was not included in the staff report. He said that this appeared to be late-breaking news.

Ms. Schlein said that in hindsight, they should have sent the revised proposal to staff for consideration. She said that they felt strongly about the fact that all of these slopes had evidence of prior disturbance, and upon visiting the site, they observed fill-in material on 14E. She said that they had felt strongly about this issue for quite some time, but it was not until they pinpointed the exact location of the stream and reviewed the minutes from the 2016 Zoning Map Amendment (ZMA) that they conducted a more thorough study. She said that as a result, they would have liked to have worked this out in advance with staff, and she apologized that they did not do so before proceeding.

Mr. Moore said that the dealerships were currently out of compliance with national manufacturer standards for parking, in terms of square footage. He said that he wondered if the slopes on the eastern side of the parcel would be sufficient to meet that need.

Ms. Schlein said that they would get very close to meeting the required number of on-site parking spaces. She said that they could pick up approximately 100 spaces, which would significantly increase their on-site count. She said that this site plan was previously submitted as a site plan for the rear of the property in the early 2000s. She said that unfortunately, it was withdrawn due to inactivity and subsequently expired. She said that to answer the question, yes, it would bring them much closer to being in compliance, and it also presented an opportunity to create additional service space if needed, which was another factor in achieving compliance.

Ms. Firehock said that it was stated that Flow Toyota was non-compliant. She asked if corporate had instructed them to have a certain amount of space for displaying and storing vehicles.

Ms. Schlein said that yes, it all came from the manufacturer.

Ms. Firehock asked if they had no means to explain to corporate that this was not Nebraska; they had hills here. She said that if they wished to establish a market in the Piedmont region of Virginia, they may need to be more flexible in their approach.

Ms. Schlein said that from her understanding, the corporate push was for the most stringent compliance effort possible.

Ms. Firehock said that she hoped they would appreciate that the market was quite excellent for these car manufacturers, offering high income and the ability to afford these vehicles, which were quite expensive. She said that forcing the landscape to meet an ideal may not be possible in this situation. She said that she wanted to emphasize this point for the record, as she believed it was essential to convey to the corporate officials pushing the local dealerships to meet an unrealistic standard in a hilly environment.

Ms. Schlein said that was a fair point. She said that in this case, the landscape behind the facility presented an opportunity to fill in the area and tie it into the existing grade. She said that there was a severely eroded ditch, which could benefit from some improvements. She said that implementing modern stormwater regulations would be a priority, as the existing conditions would not meet current standards.

Ms. Firehock said that part of the issue was a spring, and there was a crudely constructed ditch nearby. She said that she had purchased her first Toyota engine from a dealership in Maryland, and that particular manufacturer had a multi-story garage where cars were transported to and from the garage in an elevator. She said that given that their land was less expensive here, they did not prioritize it, but there were alternative ways to store cars.

Ms. Firehock said that for instance, they could create elevated parking structures or explore other options. She said that as they began to value the urban ring and keep the current growth area, perhaps they could consider alternative parking solutions. She said that she acknowledged that these alternatives may be more expensive, but they did have limited land, and they could not create more. She said that she would refrain from further discussion for now, but she wanted to highlight that they did not necessarily need surface parking lots to store cars, which often sat idle.

Mr. Bivins said that if he understood an email he received from the Architectural Review Board (ARB), there was something else happening on this property with the redesign of the Mercedes dealership.

Justin Shimp said that he served as the engineer for all the Flow projects, said that he wanted to clarify that that question was not related to this property. He said that he wanted to provide some context to answer the question. He said that the current temporary Hyundai site, which previously housed Porsche, and was now moving to Mercedes-Benz, was undergoing renovations. He said that that was an ARB application to modify the building, but it did not impact this project.

Mr. Bivins asked what would be happening to the subject property.

Mr. Shimp said that the Mercedes dealership, which also carried other brands, was relocating down the street due to the current store being deemed too small for a modern Mercedes-Benz dealership. He said that he believed they would be repurposing the current building.

Mr. Bivins said that the green area that was being asked to be re-designated was what they were currently discussing. He said that the remaining green space on that property was no longer part of the conversation.

Ms. Schlein said that she believed that after they had identified the stream and reviewed the staff report, as well as discussed the staff's evaluation of it, they would like to remove it from consideration.

Mr. Bivins said that on page 11, he would expect to see a moving or gaining of additional parking spaces outside the display area.

Ms. Schlein said that yes, or an additional service space was being considered.

Mr. Bivins asked if service spaces were not considered outside displays.

Ms. Schlein said no; and it was not a body shop. She said that typically, a body shop was approved via a special use permit.

Mr. Bivins said that was not what they were doing. He said that they were actually talking about a garage for typical repairs and servicing. He said that as for the asphalt, would there still be a need for it between the current day Mercedes and the back of the Toyota, or would it be maintained by visiting the BMW dealership, where one could access all of their vehicles from that location?

Ms. Schlein said that yes, there would still be a connection between the two parcels.

Mr. Bivins said that VDOT was undertaking a project on that road. He asked if they were aware that they were eliminating the turn lane in front of this location.

Mr. Shimp said that the answer was yes. He said that VDOT had a project that was removing the turn lanes, except for a turn lane at Town and Country, and another at The People's Place. He said that in the next two years or so, the turn lane where cars were currently unloaded would be removed.

Mr. Shimp said that this was another factor to consider when evaluating these facilities. He said that while it was not the primary issue, he wanted to mention that the problem was not just about storing more cars and items, but rather that customers were often told to wait for a specific number of days or weeks for their vehicles due to lack of space. He said that this was a service-related issue.

Mr. Bivins asked if they would expect customers to use the internal road to the property when dropping off or picking up cars to be serviced.

Mr. Shimp said that they would have to, yes. He said that they were working with Flow, and they recently completed a connection to link BMW to what was now Hyundai. He said that there was a small grass strip in that area. He said that they planned to build a connection there to enable safe unloading of cars from vehicles through the site from 250.

Mr. Shimp said that as a result, there was ongoing work now that Flow had acquired, and he was unsure of the full scope of the situation. He said that they had been working on that side of the street to improve it, but it was a challenge due to limited space. He said that as a result, these inches of asphalt were highly valuable.

Mr. Bivins said that the elimination of the turn lane would make the area more difficult to navigate. He said that it would have been more helpful to have an alternative means of traveling between the two properties, as they were still owned by the same person. He said that having visited the property he observed that there were more new vehicles in the back of the 7814 property, which was a joint Toyota and Mercedes dealership, than there were in the 14A property. He said that given that these new vehicles were already on display, he did not understand why a return to the Planning Commission for outdoor display was necessary.

Ms. Schlein said that considering the existing outdoor storage and display, she believed it predated the entrance corridor regulations and the special use permit required for such uses in an entrance corridor. She said that since this expansion would be establishing a new use on those properties, they would need to apply for a special use permit.

Mr. Missel said that he would like to know more about the plans for future stormwater management. He said that Mr. Murray had also inquired about this, and he was wondering if they were planning to implement underground storage, or if it was too early to determine the specifics.

Ms. Schlein said that this was something they had discussed at length before, particularly after identifying the stream location. She said that as a result, she wanted to reiterate the importance of on-site treatment and purchasing credits. She said that consequently, they would likely incorporate a surface treatment facility alongside an underground detention system as well.

Mr. Shimp said that, as he understood it, all water from Pantops drained directly into the Rivanna. He said that their previous project had involved a similar extended detention basin, which was essentially a permanent wetland. He said that however, that site lacked sufficient water. He said that the issue at hand was a large gully that had been washed out on the adjacent site, adjacent to the 14A parcel. He said that their intention was to fill this gully, pipe it, and discharge the water into a basin, which would capture approximately eight to ten acres of water from the parking lot upstream. He said that this was necessary because the area was currently eroded and contributing to sedimentation. He said that by filling the gully and installing a basin, they believed they could actually address a current problem.

Mr. Missel asked if any members of the public wished to speak on this item. Seeing none, he closed the public hearing and the matter rested with the Planning Commission.

Mr. Bivins said that if they looked upstream, it was clear that this was not the applicant's responsibility. He said that they were not the root cause of the problem; it was the large parking lot of the dealership next to them, which went all the way back. He said that they had previously heard about a hotel being built on the upper side of the car lot there. He asked if that project was going to be built.

Ms. Ragsdale said that there was a site plan that had been submitted. She said that they did not currently have any building permits issued, but the parcel in question had highway commercial zoning, which meant that any of these parcels could be developed. She said that the hotel had successfully moved forward through the development process.

Mr. Bivins said that his point was that they had discussed having unified or shared facilities. He said that he hoped that as this hotel would contribute to the cleaning of the water, rather than placing the responsibility solely on one location that was not causing the problems.

Mr. Barnes said that to clarify, he believed that some of the adjacent properties had stormwater management. He said that the applicant had mentioned that as well.

Mr. Bivins said that they had been upgraded since then. He said that he would share this for their colleagues, if they may recall, they almost lost the Porsche dealership again. He said that Porsche was unhappy because they could not have the desired facade. He said that they should set aside the fact that it was Porsche, as the same conversation could have applied to a Subaru dealership on Route 29.

Mr. Bivins said that what he wanted to emphasize was that car dealers and manufacturers were becoming increasingly concerned with their brand image and how it appeared from the road. He said that they were instructing owners or lessees that if they did not comply, they would escalate the issue to management.

Mr. Bivins said that this could be an uncomfortable conversation, as he could attest to the difficulty of the situation when Porsche was trying to relocate from the BMW location. He said that in fact, it was BMW that ultimately led to Porsche's departure. He said that he was confident that their applicant was working diligently to do the right thing on that property.

Mr. Murray said that he had some process questions regarding the discussion about a proffer for stormwater on the site. He said that the conversation centered on the possibility of making a proffer that would address the quantity of stormwater entering the area, as well as potentially some of the quality issues. He said that he was wondering about the process for that.

Andy Herrick, County Attorney, said that to clarify, the proposal before the Commission tonight was the one that had been submitted to staff, which staff had analyzed. He said that when the Commission made its recommendation later in the evening, it must be for the proposal that had been actually submitted and reviewed by staff. He said that if the Commission wished to make a separate recommendation in addition to that, it was free to do so. He said that however, the Commission was required to make a recommendation on the plan as submitted. He said that if the applicant wished staff and the Commission to consider an alternative, it must go through the proper process of submitting that, having it reviewed, and formally submitting it to the Commission.

Mr. Murray asked if they were permitted to impose conditions on this type of project.

Mr. Herrick said that yes, the Commission could include suggested conditions as part of its recommendation.

Mr. Carrazana said that his understanding was that they were deliberating and discussing the entire application as submitted. He said that what was in front of them was the entire package, not the new proposal. He said that he was concerned about the contaminants that were present in the area. He said that he was not sure what kind of monitoring they had in place or if they had any. He said that the presence of water flowing through the parking lot was likely picking up contaminants and entering the storm drain system. He said that this could be an opportunity to make an improvement.

Mr. Carrazana said that he would encourage the applicant to consider this as they would have to resubmit their proposal anyway. He said that furthermore, he believed it was essential to not only move the slopes from preserved to managed, but also to mitigate contaminants, as they were making improvements to this property. He said that he believed that this approach would create a benefit for both the community and the environment.

Mr. Carrazana said that there was a trade-off to consider, as they were changing from preserved slopes to managed, but in the long run, he thought this could have a more significant positive impact if it was done the right way.

Mr. Murray said that he agreed with that assessment. He said that channelized streams contributed a significant amount of sediment with each rainfall. He said that the existing channelized piece was already contributing sediment. He said that his concern now was that the preserved slopes, which were part of the original system of managed and preserved slopes, may be suffering from a gradual decline.

Mr. Murray said that when development occurred around them, it could lead to erosion and disturbance of these slopes. He said that for example, spills could occur, and drainage pipes could be installed in areas where preserved slopes were located, ultimately leading to their degradation. He said that over time, these areas may lose their quality, and it may become necessary to disturb them as well. He said that this incremental destruction of preserved areas was a concern, and he was unsure how to address it.

Mr. Herrick said that he would like to clarify his earlier response to Mr. Murray's question. He said that as this was a zoning map amendment, conditions could not be imposed on a rezoning. He said that however, the Commission could state that its recommendation was based on certain

factors. He said that to clarify, if conditions were recommended, they would not be conditions imposed within the rezoning itself, but rather conditions that the Planning Commission would be making a recommendation based on.

Mr. Bivins asked if the Commission could make a motion that specifically addressed the newly outlined area, rather than addressing all of it.

Mr. Herrick said that the Commission should make a recommendation on the submission as a whole, and if it chose to make additional recommendations, it was free to do so.

Mr. Missel said that he was trying to think of a creative way to save the applicant time in this process by describing the alternative presented to them tonight in a way that allowed them to make a recommendation for approval or denial, while also considering approval if the other conditions were met. He said that it seemed they could.

Mr. Herrick said that the single most important thing before the Commission was to provide a recommendation either in favor of or against the application once it was submitted. He said that beyond that, it was up to the Commission if they wished to make additional recommendations.

Mr. Moore said that he would like to address Mr. Murray's comments briefly. He said that sometimes, he thought it was essential to acknowledge the reality of the situation. He said that this was a highway with a history of car sales dating back 60 years, and the slopes were likely created by developers in the 1970s. He said that he was having trouble understanding the significance of preserving some of these slopes, as they were likely added for aesthetic or practical purposes at that time.

Mr. Murray said that referring to the greater area, this section of the Rivanna River was actually a highly exemplary biodiversity area, featuring a wide range of rare species. He said that one species, in particular, was known to occur only in this part and one other in the County, and its presence was a notable aspect of this ecosystem. He said that despite the area being subject to disturbance, the Rivanna River's bluffs and surrounding forest were crucial habitats that supported unique plant and animal life. He said that his concern lay in the incremental creep of development into these critical slopes and streams, which could ultimately impact the river itself.

Mr. Missel said that the "death by a thousand cuts" comment was relevant. He said that for him, each case should be evaluated individually. He said that in this instance, the evidence he was seeing, which indicated the disturbance that had already occurred, would justify further disturbance to benefit the greater good. He said that he did not see this as a common perspective in many other places, where the situation might be viewed differently.

Mr. Murray said that he agreed with that. He said that as part of the applicant's new proposal, it was intended to leave the area in a better condition than it was currently. He said that however, that was not explicitly stated in this current proposal. He said that regarding this proposal, he would vote no on it. He said that if he had seen a different proposal that incorporated the elements they had previously discussed, he would vote in favor of it.

Mr. Missel said that there were two options: they could request denial and add comments, or defer it.

Mr. Herrick said that if a deferral was considered, it should be at the request of the applicant, rather than initiated by the Commission.

Mr. Carrazana motioned that the Planning Commission recommend denial of ZMA202400004 Flow Toyota Mercedes Slopes Rezoning for the reasons stated in the staff report. Ms. Firehock seconded the motion.

Mr. Missel said that he would like to note that there was further discussion and detail provided by the applicant at tonight's meeting.

The motion passed unanimously (6-0). (Mr. Clayborne was absent.)

Mr. Moore motioned that the Planning Commission register its support of the revised proposal of ZMA202400004, contingent on keeping the preserved slopes of the western contiguous portion of preserved slopes (Tax Map Parcel 7814E) and clarification of on-site stormwater management practices that will ultimately improve downstream conditions in terms of stormwater quality and quantity. Mr. Bivins seconded the motion.

Ms. Firehock said that she did not feel comfortable with this level of motion; they did not have a formal proposal from the applicant. She said that she also did not want to recommend something that would bind them in the future. She said that the applicant had heard the Commission deliberate before the prior vote, and were therefore well aware of their thoughts on the matter. She said that she did not believe they needed to put those thoughts into a motion.

Mr. Missel said that he tended to agree because he had never heard of this type of motion being used. He said that it was a strong recommendation and a vote of support.

Mr. Moore said that he withdrew his motion. He said that he believed they had all made their points on this item.

Adjournment

At 8:37 p.m., the Commission adjourned to March 11, 2025, at 4:00 p.m., Albemarle County Planning Commission meeting.



Michael Barnes, Director of Planning

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

Approved by Planning Commission
Date:03/11/2025
Initials: CSS