

**Albemarle County Planning Commission
FINAL Minutes Regular Meeting
November 29, 2022**

The Albemarle County Planning Commission held a public hearing on Tuesday, November 29, 2022, at 6:00 p.m.

Members attending were: Karen Firehock, Chair; Corey Clayborne, Vice-Chair; Julian Bivins; Fred Missel; Daniel Bailey; Luis Carrazana; and Lonnie Murray.

Members absent: none

Other officials present were: Charles Rapp, Director of Planning; Andy Herrick, County Attorney's Office; Kevin McCollum; Rebecca Ragsdale; Cameron Langille; and Carolyn Shaffer, Clerk to the Planning Commission (via Zoom).

Call to Order and Establish Quorum

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 none.

PUBLIC HEARINGS

SP202200024 Ivy Proper Water Consumption and SP202200031 Ivy Proper Catering and SP202200025 Ivy Proper Veterinary Office

Items 4b and 4c were heard concurrently.

Ms. Rebecca Ragsdale, Planning Manager, stated that agenda items 4b and 4c would be combined into a joint public hearing, but separate action would have to be taken on each item.

Ms. Ragsdale said that there were separate use categories in the ordinance. She said that the parcel was 0.87 acres located in the former Village of Ivy. She explained that the Village of Ivy was once a development area and contained some commercial zoning.

Ms. Ragsdale explained that a site plan had been approved in June 2022 and that a building was currently under construction. She noted that the proposals were related to the building under construction. She said that the Buckingham Branch railroad was along the northwest portion of the property. She noted that the property was along Route 250 and Owensville Road.

Ms. Ragsdale said that there were some commercial uses that were developed around the property, including offices, Scotts Ivy, the Ivy Post Office, and Ivy Garden Center. She said that

there were some residential uses across the railroad tracks more than 250 feet away, however, the lot line was closer than 200 feet, so a special exception was required.

Ms. Ragsdale noted that the proposal was located in the rural areas of the Comprehensive Plan. She said that village residential zoning was typical of former villages, otherwise known as rural crossroads communities.

Ms. Ragsdale stated that there were three separate proposals. She clarified that the site plan had been approved and the building was under construction. She explained that a portion of the building was proposed to be a veterinary office, and there was a modification to the supplemental regulations that applied to the offices. She explained that there was a requirement that if they were improved that they be more than 200 feet from a residential property line. She clarified that the proposed use was closer than 200 feet to the lot line. She noted that the building would be soundproofed.

Ms. Ragsdale explained that the second special use permit request related to water consumption. She said that for properties that were not served by public water, there was a limit of 400 gallons per site acre per day. She said that the proposed use was limited to 348 gallons per day. She explained that the request was to allow more flexibility and tenant mixture and would allow up to 875 gallons per day. She explained that no concerns were raised regarding the request.

Ms. Ragsdale said that in recent years, there had been a few such proposals come before the Commission with sites of varying sizes, but there were a few examples of 1- or 1.3-acre sites approved up to 1,000 gallons per day or 5,000 gallons per day. She stated that it was dependent on the water study, and they had not had any concerns raised regarding the site.

Ms. Ragsdale explained that the ordinance had been amended a few years ago for a few use categories to make them permitted by special use permit regardless of the water issue if they were not served by public water. She explained that restaurant use was a category that required a special use permit, and there may be the potential for a small catering operation. She continued that there would be no onsite dining or carryout and that the site would be limited to the proposed water budget.

Ms. Ragsdale explained that they analyzed each of the special use permit requests and found no concerns with the detriment to abutting properties. She noted that the veterinary use would be soundproofed and comply with the other applicable regulations in the ordinance. She said that the site plan was already approved which included reviews for stormwater and traffic impacts. She continued that there were no additional impacts anticipated with the veterinary use.

Ms. Ragsdale stated that the area was primarily commercial development, so staff believed the use would not change the character of the area. She said that they did not believe there would be issues with the use being in harmony with the surrounding uses, and there were no public health and safety concerns. She said that while the proposal was in the rural area, there was the notion of crossroads communities that would provide a certain level of service for rural area residents.

Ms. Ragsdale stated that staff recommended approval of each special use permit with conditions that limited the size and scale of operations for the veterinary clinic. She said that there were typical conditions that stipulated where the building and parking would be located, and there would be no outdoor exercise areas or runs. She said the conditions specified the hours of operation

and that there be no boarding.

Ms. Ragsdale stated that the applicant expressed concerns about the condition stating there be no hours of operation on Sunday. She said that such a requirement would limit emergency appointments, so staff was agreeable to a change. She stated that the water special use permit was limited to the impacts associated with water consumption.

Ms. Ragsdale stated that conditions typically limited the water consumption to 875 gallons which is what had been reviewed. She said that it was typical to have a monitoring requirement and reporting requirement to the Zoning Administrator.

Ms. Ragsdale stated that the catering operation would be limited to the conditions that limited the size and scale and prevented a full-scale restaurant operation. She said she was available to answer questions.

Mr. Missel asked how many applications they had received that were of a similar type. He asked if they were mapped within a certain area so that they could identify whether adjoining properties had also requested higher levels of groundwater use. He asked if there was a general approach to mapping and tracking groundwater in the County.

Ms. Ragsdale responded that in terms of special use permit requests, they were tracked. She said that it was a specific analysis. She said that they looked at the surrounding properties, and it was included in the technical report. She stated that none of the wells nearby the site had requested a special use permit to go over the 400 gallons per site acre per day. She said that there had been about four or five similar applications in different parts of the County, but they were sending in well reports if the condition was stipulated, and there had not been any issues.

Mr. Carrazana clarified that the 875 gallons per day limit applied to the whole development—the veterinary use, catering use, and any other potential use.

Ms. Ragsdale responded that the water consumption special use permit was specific to the water condition. She said that it did not limit the uses, but as the tenants came in, they would be required to submit zoning clearances, so there would be additional review and monitoring. She said that it allowed for the flexibility of tenant mixtures. She said that the limit applied to the full 6,500 square feet.

Mr. Carrazana clarified that groundwater mapping was available technology, and if they were not using it, then they should. He noted that there were groundwater issues in Ivy.

Mr. Bivins noted that the site plan had three entrances to the building. He clarified that they were reviewing two of the three possible uses for the building because the building had what appeared to be three doors.

Ms. Ragsdale responded that it was a multi-tenant building, and the special use permits that were required were for the veterinary use and the catering.

Mr. Bivins clarified that a stationary store use could rent the additional space without further review from the Commission.

Ms. Ragsdale said that was correct. She said they were approving any of the other permitted

commercial uses.

Mr. Bivins clarified that if the catering company went out of business, a different commercial activity could fill the space without further review by the Commission unless the use required further review by the Commission.

Ms. Ragsdale responded yes.

Mr. Bivins noted that there was not an area to exercise the animals at the vet, but animals needed outdoor space. He said that clients would arrive and likely let their animals outside before going to the vet. He asked how the County would facilitate the need for designated space for the animals to exercise or relieve themselves. He asked if it would be possible.

Ms. Ragsdale responded that it was not a necessary special use permit condition, but there was area on the site where people could walk their dog if necessary.

Mr. Bivins clarified that people could walk their dogs.

Ms. Ragsdale responded that it was more like a regular outdoor run or kennel.

Mr. Bivins clarified that no runs would be allowed.

Ms. Ragsdale said that was right.

Mr. Bivins requested that they remove the limitation on customer pickup for the restaurant use. He said that the catering business may have special event personnel who needed to pick up food from the business to take to an event, or a client may need to pick up food from the business. He stated that not allowing customer pickup would require the caterer to only provide delivery. He noted changing practices since the COVID-19 pandemic.

Mr. Clayborne asked if a test was performed and submitted for the acoustic levels.

Ms. Ragsdale said that there would be verification of the sound level.

Mr. Murray asked where stormwater would be treated on the site.

Ms. Firehock responded that it was underground tanks and that it was only treated for volume. She said that the applicant would purchase offsite credits for the water quality.

Mr. Murray noted that they were removing water from the water table but not putting it back in.

Ms. Firehock said that they were because there was a septic system. She said there were figures showing how much water would be returned to the groundwater and how much would be lost. She said that a majority of the water was returned.

Ms. Firehock asked for clarification regarding what was included in the water use estimate for the veterinary use. She noted that other uses stated the water usage was for four people but that the veterinary use was only one "use."

Ms. Ragsdale said that it was broken down by the practitioner.

Ms. Firehock clarified that it was categorized by the practitioner and assumed the associated staff and animal uses.

Ms. Ragsdale said yes.

Ms. Firehock opened the hearing for public comment. She stated that the applicant was able to make their presentation.

Mr. Reed Murphy said that in terms of the water usage and mapping the water table, they performed a tier 3 groundwater analysis which studied the groundwater in the entire area. He said that the study should have been included in the Commission's materials.

Mr. Murphy noted that the septic capacity was 875 gallons per day. He stated that underneath the parking area was a culvert for stormwater management that released water back into the groundwater. He said that during max-quantity events, the stormwater facility would overflow.

Mr. Murphy stated that most of the stormwater would go back into the ground and the regular usage would go into the septic system which would partially go back into the ground. He said that based on the tier 3 analysis, only 5% of the water did not get returned to the ground. He said that the 875 gallons per day applied to the whole project.

Mr. Murphy explained that the building was currently under construction and not fully leased. He said that they wanted to provide the most flexibility for leasing uses. He said that he provided examples from the North Carolina administrative code because the Virginia administrative code did not have the same examples. He said that the North Carolina code estimated about 250 gallons per practitioner per day and assumed the associated uses.

Mr. Murphy said that the sound was part of the zoning clearance and permit approval for construction. He said that the sound would be evaluated during the construction process. He said that he was available to answer any questions.

Mr. Bivins asked if it would be appropriate for a caterer to offer in-person food pickup. He asked if the applicant was committed to preventing in-person order pickup.

Mr. Murphy said that they were not wedded to the condition. He explained that the County code and state code did not have the same definition for "caterer." He explained that the County code did not have a definition for a caterer use, so it fell under a more general restaurant use. He said that the use was not a restaurant because it did not serve food on the premises.

Mr. Murphy said that staff believed it was important to include the use in the restaurant category. He said that the water usage and parking needs were different. He said that they would support permitting a catering use to allow prepared meal pickup. He said that he supported allowing the veterinary office to be open for emergency services on Sundays.

Mr. Clayborne asked where the veterinary use was located within the building.

Mr. Murphy responded that it would be located furthest to the east and that it was intentionally located furthest from the residential uses.

Mr. Clayborne noted that the proposal was located within an entrance corridor, so there was likely to be an ARB review. He asked if the catering use would be a commercial kitchen with an exhaust fan on the exterior.

Mr. Murphy responded that there would be an exhaust fan. He stated that the site had undergone ARB review. He said that the building design was modular with alternating gabled and flat roofing styles. He explained that the HVAC units were located on the flat-roofed portions and were set back behind parapet walls so that they were not visible. He said that they had not anticipated a caterer and exhaust hood, but the conceptual design for the kitchen was that the vent hood would have to be located on the flat-roofed section behind the parapet wall.

Mr. Clayborne said that his question was answered and that he did not want to be driving down the road only to see an exhaust hood.

Mr. Murray asked for more information regarding lighting and how the applicant would prevent light pollution.

Mr. Murphy explained that the lighting plan was part of the site plan which had been approved. He said that they had to submit the specifications for all of the exterior light fixtures—downlighting, lumens, and projection distance to the property line—during the site plan process.

Ms. Firehock clarified that they were only reviewing the use and the water consumption.

Mr. Missel said that the traffic analysis stated that there were multiple VDOT studies, including a turn-lane warrant analysis. He said that the last sentence of the report stated that there were no impacts identified or concerns specifically related to the veterinary office or catering use. He asked if the traffic analysis would change if onsite pickup was allowed for the catering use.

Mr. Murphy said that he did not know the answer, but the issue may arise during the zoning clearance process. He said that if they wanted to lease the space to a catering use, they would have to go through zoning approval, and if the traffic analysis suggested there were impacts from onsite pickup, then it may not be permitted. He said such a determination would occur during the zoning review process upon approval of the tenant and the use.

Ms. Ragsdale said there were no initial concerns regarding onsite pickup, but they could have transportation review the proposal again. She noted that there was the zoning process where VDOT could determine if there would be an intensification of the use. She noted that the proposed structure was a mixed-commercial building and could have a range of uses.

Mr. Murphy said that VDOT's main concern was about the location of the entrance and the visibility with the railroad trestle. He said that there were required protocols related to eastbound traffic and the need for a left-turn lane. He said such items were vetted during the site plan process. He said that the entrance was shared and that was part of the approval process. He said that the radii had to be lessened to ease entering and exiting traffic.

Ms. Firehock opened the hearing for public comment. She noted that there were no commenters. She closed the public hearing and brought the item back before the Commission.

Ms. Firehock said that adding the Sunday operating hours seemed appropriate. She noted that some animals may need the extra time to recover with specialized observation or care.

Mr. Missel stated that there was a draft amendment allowing flexibility on Sundays for emergency appointments.

Mr. Bivins said that was fine.

Ms. Firehock asked if the amendment would include animals that were boarded overnight.

Ms. Ragsdale said that the wording could be worked on, but the motion should provide for those items.

Ms. Firehock said that a technician could be staying to look after the animals even though it was not an emergency appointment.

Mr. Herrick suggested that the amendment could state that Sunday operations shall be limited to emergencies only.

Ms. Firehock said that the condition should allow for continued care of currently boarded animals but not for new appointments.

Mr. Herrick said that it could.

Ms. Firehock noted that the applicant noted that they would like to allow people to pick up orders from the catering business. She said that the area was tricky for traffic even though they met the entrance standards. She noted that there was a lot of turning on the road. She said that it may not be a good idea to allow people to pick up dinner orders while on the way home, but if there were large catering orders that needed to be picked up, it would make sense.

Ms. Firehock said that the condition should be phrased in a way that was appropriate. She suggested it state that only large orders be permitted for in-person pickup.

Ms. Ragsdale said that the wording could be drafted, and they could follow up with transportation to determine if it were an issue. She stated that there were weekday hours, other hours of operation, or only weekend pickup if they wanted to avoid rush hour traffic.

Ms. Firehock said she was concerned because of the traffic at rush hour. She said that they should not add to the traffic by encouraging people to pick up a dinner order on the way home.

Mr. Carrazana stated that it was a multi-tenant development and that there could be some other retail use that had daily customers. He said that he assumed VDOT had considered that there would be multiple tenants and a variety of uses.

Ms. Ragsdale stated that there could be retail tenants that were open. She stated that the veterinary use had an hours of operation condition, and other tenants would not be limited.

Mr. Carrazana said that he assumed VDOT's analysis factored in the retail uses and appropriate trip generation. He said that he did not believe allowing in-person pickup would exceed the traffic from a typical retail shop.

Mr. Bivins said that he could not tell from the site plan how much green space was around the

building. He noted that it was significantly more than 200 feet from the nearest residential structure even though the property line was closer. He noted that the railroad tracks were nearby. He suggested that the veterinary use be located on the other side of the structure because there was natural buffering. He said that the use should be located at the front if people were coming and going to drop off and pick up their pets.

Ms. Firehock noted that the railroad trestle was elevated and had a big embankment.

Mr. Carrazana said that the track was elevated, so he was not concerned about the property line distances because of the conditions of the development and the elevated track.

Ms. Firehock said that pet owners had to have access to a grass patch for their pets that was away from the traffic.

Ms. Firehock moved that the Commission recommend approval of SP202200025 Veterinary Office for the reasons stated in the staff report and with the staff-recommended conditions including the amended condition regarding hours of operation on Sundays. Mr. Carrazana seconded the motion.

Mr. Missel asked to review the edit made to the condition.

Ms. Ragsdale responded that they were not voting on the exact wording, but the edit would cover emergency appointments on Sundays.

Ms. Firehock said that they were not able to draft the language from the dais.

Mr. Clayborne clarified that the motion was specifically for the veterinary use.

Ms. Firehock said that was correct.

The motion carried unanimously (6-0).

Mr. Missel moved that the Commission recommend approval of SP202200024 for water consumption increase to 875 gallons per day for the reasons stated in the staff report and with the staff-recommended conditions. Ms. Firehock seconded the motion, which carried unanimously (6-0).

Mr. Carrazana moved that the Commission recommend approval of SP202200031 Catering for the reasons stated in the staff report and with the staff-recommended conditions.

Mr. Herrick asked Mr. Carrazana if the motion included the condition regarding the customer pickup of food.

Mr. Carrazana said that it was not included.

Mr. Herrick asked Mr. Carrazana to clarify whether his motion was to allow customer pickup of food. If so, Mr. Herrick stated that the staff-recommended conditions would be revised to allow customer pickup of food.

Mr. Carrazana responded yes.

Mr. Missel seconded the motion, which carried unanimously (6-0).

Mr. Herrick asked if the Commission would address the special exception for the veterinary clinic.

Ms. Firehock stated that they were not required to take action on the item.

Mr. Herrick responded that it was optional and not required for the Commission to take up the proposed special exception.

Ms. Firehock suggested they not take up the action. She noted that they did not have a legal authority in terms of special exceptions.

Adjournment

At 11:10 p.m., the Commission adjourned to December 13, 2022, Albemarle County Planning Commission meeting, 6:00 p.m,



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: 01/10/2023
Initials: CSS