

**Albemarle County Planning Commission
FINAL MINUTES February 4, 2020**

The Albemarle County Planning Commission held a public hearing on Tuesday, February 4, 2020 at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Julian Bivins, Chair; Jennie More; Bruce Dotson; Rick Randolph; Corey Clayborne; and Luis Carrazana, UVA representative.

Members absent: Karen Firehock, Vice-Chair; and Tim Keller.

Other officials present were Mariah Gleason; Tciri Kanellopoulos; Francis MacCall; Kevin McDermott; Frank Pohl; David Benish, Chief of Planning; Andy Herrick, County Attorney's Office; and Carolyn Shaffer, Clerk to the Planning Commission.

Call to Order and Establish Quorum

Mr. Bivins called the regular meeting to order at 6:00 p.m. and established a quorum.

Mr. Bivins welcomed students from the Department of Urban and Environmental Studies from UVA, who were in the audience.

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

Mr. Bivins asked if there were any matters from the public not listed for public hearing on the agenda (including consent agenda) that anyone would like to speak to.

Hearing none, Mr. Bivins closed matters from the public and moved on to the next item.

Consent Agenda

Mr. Bivins asked if anyone cared to pull the item that was on the consent agenda.

Mr. Clayborne moved to approve the consent agenda. Mr. Randolph seconded the motion, which carried unanimously (5:0). (Ms. Firehock and Mr. Keller were absent.)

Public Hearing Items

ZMA201900015 Child Development Center

Ms. Mariah Gleason, Senior Planner with Community Development, presented the staff report. She said there were additional County staff present to answer questions about zoning, traffic, or concerns with the flood plain, as this would be a significant constraint on this particular property.

Ms. Gleason said the subject property is 3.607 acres in size and resides in the Pantops area along Route 20 (Stony Point Road), just across the street from the new Shops at Riverside Village. She said generally, the property is surrounded by residentially-zoned properties, and development include Riverside Village (across the street), Wilton Farm Apartments directly to the east, and several other neighborhoods including Avemore, Fontana, and Cascadia further north,

as well as some community-serving amenities such as the Elks Lodge and Darden Towe Park. She said the park is about 700 feet from the site.

Ms. Gleason said to the south, separated by a stream and existing wooded area, are more commercially-oriented developments that are primarily oriented towards Route 250 (Richmond Road) and car-centric in nature.

Ms. Gleason said the parcel is currently zoned R1 Residential, which allows for residential development at a density of 1 dwelling unit per acre. She said this rezoning proposal is to change the current zoning to a C1 Commercial Zoning District, which allows for retail sales and services as well as residential (by Special Use Permit) to a density of up to 15 dwelling units per acre.

Ms. Gleason said the impetus of the rezoning is to facilitate a child day center use, which is what the applicant's materials and the community meeting spoke to. She said since this is a rezoning, however, staff and the Planning Commission must consider the viability, size, traffic, and intensity of all C1 Commercial uses not proffered out by the applicant. She said there is no guarantee that this site will be a child day center now, or only a child day center, and so this rezoning will ultimately serve to change the by-right uses and nature of the property.

Ms. Gleason said with this application, the applicant has offered two proffers. She said the first proffer removes some of the by-right commercial uses from the property. She said the second proffer works to reduce the setback requirements of Section 4.20, as well as 21.7, which regulate commercial-oriented development.

Ms. Gleason mentioned an update to the staff report. She said the staff report states that reduced setbacks are not an appropriate proffer. She said staff has since found, with further research into the ordinance and its provisions, that they can actually use the rezoning as a mechanism to reduce the setbacks. She noted that just because they can accept them this way, however, doesn't mean that they are appropriate as proffered, and so this will be something the applicant will need to demonstrate -- that the new setbacks are appropriate for this property.

Ms. Gleason said that for example, the second proffer, as it is currently proposed, would allow commercial uses to be developed closer to the property line adjacent to existing residential areas. Development here would be about 3ft from the property line.

Ms. Gleason noted there are currently no proffers around the size or intensity of any use that is not proffered out with the rezoning, including the child day center. She said typically, when staff looks at child day use and new schools, they recommend a condition around the maximum enrollment capacity. She said this happens as part of a Special Use Permit request and that in this instance, the mechanism is actually a proffer.

Ms. Gleason said the property is currently zoned for a single-family residence. She said as such, there are a couple of existing structures on it. She said from north to south, the subject property consists of a four-vehicle carport with existing electrical outlets. She said there is a single-family residential structure there with a small shed in the back, as well as a three-bay metal garage with an office space, large rear overhang, and a small attached garage.

Ms. Gleason said the ordinance defines a structure as anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something have a permanent location on the ground. She said this means not only the enclosed spaces, but that the garage overhang and carport would

be considered structures that would need to be included in the total building square footage of the property. She said currently, those areas are not being included in the rezoning materials submitted by the applicant.

Ms. Gleason said there are several physical constraints that are significant to the site. She said the first is the flood hazard overlay zone, which covers about 2.1 acres of the subject property. She said for land that resides in the flood hazard overlay district, Section 33.3 states that a structure having habitable space is not permitted in the flood hazard overlay district. She said this holds true even if a small portion of the structure lies within the flood plain. She said this would mean that the large metal garage is not permitted to be redeveloped into a habitable space.

Ms. Gleason said the County Engineer has noted that if improvements exceed 50% of the building value, the entire building will need to be removed from the flood hazard overlay district, or the value of improvements will need to remain below 50% of the building value.

Ms. Gleason said there are also overarching regulations about what can happen within a building that resides in the flood plain. She said, for example, one cannot store many things and there are very strict rules about what can be done with structures in that space.

Ms. Gleason said the applicant does have some recourse when it comes to addressing development in the flood plain. She said that as the flood plain map is controlled by FEMA, the applicant can submit a letter of map change to have the flood plain map revised on the property. She said if a survey can show that the buildings do not reside in the flood plain, and FEMA approves the revision, the building may be able to be developed. She said the current understanding, however, was that FEMA has not approved such a revision.

Ms. Gleason said there are also some questions around whether the survey submitted by the applicant during the initial site plan may need to be redone. She said Mr. Frank Pohl was present to answer questions about the flood plain.

Ms. Gleason said the second constraint on the property was with regard to the setbacks. She said setbacks on residential property are much less strict than on commercial properties. She said commercial setbacks are regulated by Section 4.20 and 21.7 of the Zoning Code. She said in those sections, for Commercial, it specifies front setbacks having a minimum of 10 feet and a maximum of 30 feet; and for side and rear, minimum setbacks of 20 feet for parking, and 50 feet for structures abutting residential properties. She said there are no setbacks when the property is abutting other commercially-zoned properties. She said there is also a 20-foot use buffer that maintains a certain distance, at least between Residential and Commercial districts.

Ms. Gleason presented an image showing what the setbacks would look like on the site if it was developed as Commercial, with the 10-foot minimum along the road, the 50-foot structure along the back abutting the residential property, and nothing abutting the commercial. She said three of the four structures are currently within 10 feet of the property line, making it nonconforming. She said thus far, the applicant has not provided any information about how that development might be mitigated in that area.

Ms. Gleason said in relation to the proffers, the applicant has proffered a reduced setback of 20 feet. She said it is unknown, however, how it will mitigate the development now or in the future.

Ms. Gleason said whenever staff considers rezonings, they compare them to the Comprehensive Plan, which is a 20-year planning document that looks at, on a regional level, how the community sees development occurring in the area in the future, usually with a 20-year horizon. She said the

vision for development on this property is for urban density residential and parks and green systems land uses.

Ms. Gleason said the division of the property between the two land use designations is informed here by the location of the flood plain areas. She said areas outside the flood plain (about 1.5 acres) are designated urban density residential land uses, which recommend primary uses that include residential at a density of 6-34 dwelling units per acre, religious assembly uses, schools, and childcare. She said secondary uses within the designation include commercial and retail, as well as offices.

Ms. Gleason said areas inside the flood plain (about 2.1 acres of the site) are designated as parks and green systems land uses, which identifies and preserves stream buffers, flood plains, steep slopes, and privately-owned open spaces in natural areas.

Ms. Gleason said the property also falls within what the Master Plan designates as Neighborhood Service Center. She said this designation is used to recognize this area as serving neighborhood-oriented development at a scale that is pedestrian in nature (small to medium) and also located within walking distance of several neighborhoods. She said in that way, this application is accomplishing the goals of the urban density residential and Neighborhood Service Center, but that there are some questions about whether the size, intensity, and height that is permitted with C1 aligns with that.

Ms. Gleason said that while the Pantops Master Plan has what would be deemed a smaller scale of development, C1 Commercial is meant for more urban, dense developments, which may not be appropriate on this site. She said C1 Commercial allows, for example, up to 65 feet in building height. She said meanwhile, the Shops at Riverside Village are capped at 45 feet. She said this rezoning would allow 5 and 6 stories, compared to 4, and that so far, the rezoning has not been able to put limits around what development naturally would want to look like there that accomplishes the goals of the Master Plan.

Ms. Gleason said there are several questions regarding the alignment, and the question about scale is one of them. She said the appropriateness of all the uses proposed by the rezoning is another major question, as this is a rezoning proposal.

Ms. Gleason said so far, staff has received information that is specifically geared toward child day centers, but that other uses could have different traffic impacts and site configurations that staff would like to see nailed down.

Ms. Gleason said there are several outstanding questions related to the proposal, and that many of the questions would typically be worked out before the Commission would be seeing it. She said part of the rezoning request has some timeline constraints with it, and that the applicant needs to move out of its current facility rather quickly, so they are looking for a new site, which has progressed the timeline of this to be expedient in nature. She said typically, while staff would have about two or three rounds of revisions to work out small and large questions, they were not able to do that here. She said the applicant requested to come straight to a Planning Commission hearing, and so they were not able to receive any comments from staff before now, enough to respond to them.

Ms. Gleason said because the applicant is trying to meet a timeline, the Commission was seeing a rougher application than they usually would. She said the major questions moving forward are if all the proposed uses appropriate for the site, as they have implications around traffic and

infrastructure; whether it is harmonious with adjacent properties; and if the proposed development is consistent with the recommendations of the Comprehensive Plan.

Ms. Gleason said in the urban density residential, the uses could be neighborhood in scale, but currently there is nothing to say that they won't be very urban in nature. She said if development happens on the parks and green systems area, this is not in alignment. She said if all the development is able to happen in the given area, staff would be fine with it, but currently they do not know.

Ms. Gleason said another question was how the development would interact with the flood plain. She said staff cannot recommend any development to be in the flood plain.

Ms. Gleason said some of the smaller questions were to if the public traffic improvements were necessary now, and if there is adequate parking outside the flood plain.

Ms. Gleason said the first question was if the Commission sees any conflicts with having a day center use on the property. She said many of the questions staff grappled with were not around whether this is a good location for a day center use, but more about if this is a good location for all of the proposed uses that the applicant is suggesting happen here, as the rezoning will inherently change the nature and purpose of the property.

Ms. Gleason said as the rezoning will ultimately change the by-right uses, without additional information, and due to the environmental constraints on the property, staff cannot recommend approval of the application at this time.

Ms. Gleason presented the favorable and unfavorable factors that were included in the staff report. She said they are overarching in nature, but that with the information staff was given, it shows how it aligns with what they have to evaluate it against.

Mr. Bivins opened the public hearing.

Ms. Jennifer Slack said she is listed as a developer on the property, but that she is not a developer. She said she is a preschool director and owns Early Childhood Program on Ivy Road for 8.5 years. She said they serve 48 children, infants and toddlers ages 0-3. She said they do a system of continuity of care, keeping children and teachers together for their first three years. She said this is backed by childhood development research and not something that anyone else in the city does.

Ms. Slack said she has been searching for a site for over three years. She said they went to an annual lease so that they could look for a space. She said a year after opening the current site, they had a wait list, and it takes families a year to get into the program. She said there are a number of families that will never get off the wait list. She said this site would allow them to expand in size and in ages, so they would be able to serve more children. She said in addition to the 0-to 3-year-olds, they would expand to 3- to 8-year-olds.

Ms. Slack said the site is off of Route 20 and is adjacent to some commercial and some residential property. She said there is a large gravel parking lot already in place, as well as two large buildings and a carport, noting the carport could make for a nice playground space. She said when she found it, she thought it was ideal. She said she loves the parks and green systems designation and wants that.

Ms. Slack said that unfortunately, early childhood programs have to be in commercial districts unless they have a Special Use Permit, which limited their search when they were searching for a property for the program. She said it is difficult to find commercial space that has suitable outdoor space for the children, and that they have a right to be part of the community.

Ms. Slack said they are proposing to have 124 children. She said they have been working on the site plan, with an initial enrollment of 70 children to accommodate some traffic matters they need to handle before opening. She said ages 0-8 would be included in a year-round program (that does not close in the summer), and would serve children from 7:00 am. to 6:00 p.m., providing full-time care for working families in a high-quality environment, noting that this was something that is very difficult to find in the community.

Ms. Slack said she has been running a small business for almost 10 years. She said she has worked in a highly-regulated industry for much more than that, and is no stranger to navigating those matters. She said when she found the site, she did all the research she could. She said she read the Comprehensive Plan, the site planning requirements, the zoning requirements, and filed for a preliminary meeting. She presented a chart that she used to make the decision and put a piece of property under contract, noting that the chart was missing a couple key pieces of information. She said one is that there is a second hearing with the Board of Supervisors. She said it was very difficult to navigate the process.

Ms. Slack said she hired Shirty Engineering to support them through the process. She said the application has been before the County for three months, which seems like a long time. She said she heard that the applicant before her had been working on their application for three years, and that unfortunately, the kids do not have that time. She said she needs to be out of her current site by the summer of 2020 and therefore needs to move forward.

Ms. Slack said she wants to be respectful of the process and would appreciate the Commission taking into consideration that they have had a limited time. She said they worked very closely with Ms. Gleason, with many phone calls and emails to make sure they collected information. She said unfortunately, they have not had much opportunity to receive feedback from staff.

Ms. Slack said she would work through each of the staff concerns, in turn, and hopefully be able to provide enough information that the Commission would be able to advocate for approval.

Ms. Slack said in terms of parks and green systems in the flood plain, part of the parcel is in the flood plain, and part of it is in urban density residential. She said the parks and green systems follows the flood plain on the map, and so when they initially submitted a concept plan, it looked as if the structure was in the flood plain. She said after they submitted the concept plan, they began the site planning process and conducted a survey. She said the survey of the site shows the actual flood plain (as determined by FEMA) does not include any of the structures on the property. She said a copy of the survey was submitted to the County and is in staffs hands.

Ms. Slack said the dotted line below that is the elevation of the flood plain. She said they are filing for a FEMA map amendment that will move the flood plain from where it currently is to the second line that is further south on the property, allowing for more space.

Ms. Slack said to her understanding, the existing structures are not in the flood plain. She said the parking will remain partially in the flood plain. She said she knew this was a concern of the staff. She said they have proposed to proffer some stream buffers to restore the stream bed and reduce the existing gravel lot to offset that, but that parking in the flood plain is allowable by the regulations.

Ms. Slack said the intensity of C1 uses was another concern that was brought forward. She said those concerns weren't brought forward before the meeting, which is why she was working to address them now. She said they had proffered out the uses that they considered not desirable, but after receiving additional information from staff, they added to that list the manufacturing, processing and assembly, fabrication, and recycling because that was specifically named in the staff report as something that was not desirable.

Ms. Slack said additional intensity proffers are being proposed to restrict the maximum building footprint to 500 square feet to get the community area; to restrict the building height to 45 feet; and to restrict based on trip generation, as 1,000 daily trips would trigger them to do a more intensive study than has been done. She said they have done an initial traffic study and if it were more than 1,000 daily trips, another study should have to be done, so they would restrict to no more than 1,000 trips without going through that process. She noted that Ms. Schlein had the draft proffers for review.

Ms. Slack said she hoped to address the staff concern around the intensity of the CI uses that were not proffered out. She said in the initial site meeting with the County, she discussed the possibility of a Special Use Permit versus rezoning the property. She said the reason they decided to rezone the property was to allow for future possibilities, such as having an on-site space where parents could co-work, come into the program during the day, and breastfeed; or an office space for an early intervention program that did evaluations for the larger community. She said their vision is to use the space and not harness all the other C1 uses.

Ms. Slack said she has been looking for a space for a long time. She said she is a small business owner and has a baby at the school. She said it is not her intention to flip the property to try to sell it to someone else.

Ms. Slack said the small garage was brought up as an issue on the staff report and that it would be brought into compliance. She said the special exemption will be required to remain a gravel parking lot, and that she has an intention to submit that. She said the proffer will be used to set the stepbacks and will be based on existing structures only. She said there is an overhang from the large garage warehouse building and carport that is in the existing setbacks.

Ms. Slack said there was also a question around the phasing of the application. she said they are working through those details in the site plan process, and that currently, they believe it would be initially 70 children with minimal entrance improvements required by VDOT, then moving to 120 children once the right turn lane taper is completed. She said she intends to work with VDOT to make sure that this is a safe space for children, families, and neighbors.

Ms. Slack said she hoped she had addressed the issues and that the Commission would recommend approval of the ZMA because the proposal is consistent with the Master Plan and is supportive of the existing character of the area. She said they have agreed to address the concerns brought forward by staff, and discussed with staff integrating all feedback from this meeting and the staff report by February 10 so staff will have time to fully review the amendments and provide the Board of Supervisors a complete plan in their report before their meeting on April 1.

Ms. Slack said she expects that the amended proffers and this presentation will address at least 90% of the concerns presented. She said the current R1 designation is not consistent with the Master Plan, and that the current use provides no protection for the greenway or streambed. She

said her proposed C1 zoning, with the proffers offered, will not only provide a new home for the school, but also ensure the long-term best use of the parcel.

Mr. Bivins opened the public hearing.

Ms. Rachel Schnore (108 Burnett Way) said she has been at work all day, has not seen her daughter yet, and had several hours of work ahead of her that evening, which would hopefully show how much it meant to her to attend and show her support. She said her daughter has been at Our Neighborhood Childhood Development Center since she was seven months old, and is now 3. She said they were in the process over the past year of looking for new daycares, since she would no longer be able to stay. She said she was thrilled at the project hopefully having a chance to move forward and actually passed the opportunity to be at other schools.

Ms. Schnore said the care was truly unlike anything she has seen in Charlottesville, and that there were certainly other high-quality, thoughtful childhood development centers. She said what Our Neighborhood provides was different than anything she has seen, and that she wished it was available to many more in the community. She said she was very excited not only for her and the age limit increasing, but the ability for many more children to benefit from it in the city.

Ms. Schnore said she feels **the** research-based care, intentionality, and respect that the staff continually shows for infants and toddlers has changed who her daughter is and has raised the standards for her as parent. She said the care has made her daughter very self-aware of her body and emotions and has made her empathetic. She said it has been a critical coaching for her in this time of her life and that she wants her to benefit from it for years to come.

Ms. Schnore said the amount of care and respect the staff shows the children gives her confidence about the respect and care that they will show for the site, respecting the plan, and wanting it to truly be an asset to the community and to the area.

Ms. Rachel Vogus (143 Baylor Lane) said her daughter attends Our Neighborhood and is 2.5 years old. She said the center offers families a high-quality childcare options. She said this location, with its features and access to nature, will allow Our Neighborhood to continue its mission to serve the community through high-quality childcare. She said an interruption to its services would be detrimental to the whole community.

Ms. Vogus said the children, and therefore the future of the community, benefit from high-quality childcare. She said high-quality childcare in the earliest years of life has shown to have positive impacts 50 years later.

Ms. Vogus said local businesses benefit as well. She said families who have the economic means to do so will opt out of working in a community without high-quality childcare options. She said this mostly means mothers, and that mothers leaving the workforce makes it more difficult for local businesses to find and keep talented employees with a wide variety of experiences and perspectives.

Ms. Vogus said the economy benefits. She said Our Neighborhood is a woman-owned small business that pays teachers a living wage, which is unique for the community in childcare. She said higher pay boosts people's spending power in the economy.

Ms. Vogus said Our Neighborhood has a commitment to serving the community as a whole. She said they host regular events open to the whole community. She said that in her opinion, it is the most community-focused childcare center and school in Charlottesville and the County.

Ms. Vogus asked the Commission to take a moment to either remember or imagine what it was like when they were home with their first child, filled with anxiety, uncertainty, and loneliness. She said Our Neighborhood is a place where they join a community and is not just a school. She said it is a place where parent can find support and where children learn the necessary emotional skills to carry themselves forward. She gave an example of a skill the teachers teach the kids to help them learn how to regulate and calm themselves. She said she didn't see this happening at other childcares.

Ms. Vogus likened the program to having Mr. Rogers in the community, centering on emotional learning for children. She said to imagine what the community and world would be like if they taught their youngest citizens to use words to express their feelings rather than violence and outbursts.

Ms. Vogus said it was amazing what Our Neighborhood does and that she hoped the Commission would continue to help them bring this service to the community.

Ms. Genevieve Lyons (1614 Rose Hill Drive) said her almost 2-year-old goes to Our Neighborhood and has been attending since she was five months old. She said it is extremely difficult to find high-quality childcare, or childcare period, in Charlottesville. She said she got on the waiting lists for daycare when she was 18 weeks pregnant and is still on another waiting list for another day center, but hopes she will never have to switch to it.

Ms. Lyons said childcare is essential to communities and anywhere where jobs and families exist. She said the wait lists are very long, partly because it is so hard to find a commercial space. She said there are many regulations about the space being safe for the children to be in. She said this expansion would meet, expand, and fill some of the gap for the need in the area.

Ms. Lyons said Our Neighborhood is a supportive community not only for children, but for adults. She said she has attended childcare classes on the weekends with other parents and community members, and that they are valuable. She said she was very glad to know that Our Neighborhood provides employment at a living wage to the teachers.

Ms. Lyons said that what is good for children and families is good for society, and that they have a vested interest in keeping the space nice for the children.

Ms. Marielle Sheridan (125-A Stribling Avenue) said she sent an email before the meeting that spoke to some of the same quality of care benefits that others have raised. She said she was grappling with the fact that the day center has to register as C1, and that she was thinking about how special Our Neighborhood is as an employer as well as a daycare center within the early childhood space. She said the wages for early childhood teachers in the country are abysmal and sad. She said a common statement is that one can make more money as a dogwalker than an early childhood teacher. She said teachers in grade school can automatically make about \$30,000, where teachers who are serving kids just one-year younger are making maybe half that.

Ms. Sheridan said Ms. Slack is paying her teachers a living wage, and does so much to incentivize the teachers to stay at the center. She said in addition to the continuity of care, which helps build relationships between the teachers and children, she offers move-up bonuses, giving teachers incentives to stay every year, and that the parents all contribute to that because they all are about making sure that early childhood workers are paid for the hard work they do.

Ms. Sheridan said before she got in from the very long waitlist at Our Neighborhood, she was at another center where when she picked up her child each day, the teachers were fighting about who could stay longer so that they could get 30 more minutes of extra pay. She said there was a constant high stress around the absolute poverty that the teachers are living in at other centers that affects the children through the fear, sadness, and negativity that the field forces people to live within. She said supporting Ms. Slack in her endeavor to expand her business is an absolutely amazing thing to do in terms of professionalizing the field and making Charlottesville a place a landmark for what this can look like.

Ms. Karen Beech (334 Chameleon Drive) said she didn't have a child enrolled at Our Neighborhood, but that her older son (who is 4) had to leave in the spring because he is too old to continue attending in their current location, and her daughter is not yet in school. She said her plan is to return to UVA, as she just graduated there in the spring, and to return for another degree in the fall.

Ms. Beech said she hoped that both of her children could attend Our Neighborhood again because when people say they create a community there, it is true. She said those are people who have become her friends, and that Ms. Slack has fostered support for families. She said she tells the teachers there that they have made her a better parent.

Ms. Beech said the Commission would be making the correct decision to allow Ms. Slack to open her school in Albemarle County.

Mr. Cal Morris (505 Explorers Road, Key West) said he truly believes that this is a worthy project, but that he is concerned with the location. He said Route 20 has turned into a de facto eastern bypass, and that anyone who is on Route 20 between 6:30 a.m. until 9:30 a.m. sees a steady stream, and very often, it is backed up all the way to the Key West subdivision. He said at night, going back, it is just the opposite. He said the traffic goes right in front of the property of the proposed daycare.

Mr. Morris said to make things even worse, directly to the south of the property is where the new Wawa and the Holiday Inn will be. He said they have an exit right onto Route 20 that is just to the south of that stream that marks the property line, which is in the flood plain (making it worse). He said to have all the traffic coming out in a right turn only out of Wawa and the hotel, it goes right in front of the property. He said it would seem that although it is wonderful to provide a facility for the children and parents, they may be putting them into a great deal of danger because they are putting them onto a major traffic artery.

Ms. Dawn Osee (108 Lewis Mountain Circle) said she and her husband were attending the meeting with their kids because Our Neighborhood means so much to their family. She said she and her husband both work full-time and have children aged 1, 4, and 6 who have all attended Our Neighborhood. She said they got on the waitlist there while she was pregnant and that it took almost two years to secure a space in their program, which has long been limited by the size of the building it rents. She added that Ivy Road is not a peaceful traffic area, either, but somehow this has never been an issue.

Ms. Osee said Our Neighborhood is an innovative, nondiscriminatory teaching environment for early childhood that supports not only teachers and parents, but children at all levels to become better citizens of a just and equitable society. She said they feel very fortunate to have it in a town like Charlottesville, which struggles on a daily basis with issues of diversity and equality of student treatment in its classrooms.

Ms. Osee said she thinks Our Neighborhood is unique in the best possible way. She said she has already moved her family within the City once to be closer to Our Neighborhood, and is preparing to move again from Lewis Mountain to a residence that is walking distance to Our Neighborhood, if the plans are approved.

Ms. Osee said Our Neighborhood is one of the reasons why she and her husband, who are both highly-trained professionals, have not taken other jobs and moved out of state. She said Our Neighborhood is an asset to the Charlottesville community and that it would be an asset to Albemarle County wherever it is able to find space.

Ms. Osee quoted Virgil by saying, "We can't all do everything." She said Our Neighborhood's motto is that "We can all do this together," which is something her family believes very strongly. She said she understands that staff doesn't recommend approval of the current proposal because of the aforementioned reasons, but that she would like the Commission to do as much as possible to leave the way open for Our Neighborhood to get the site and proposal to a point where all concerns have been addressed between now and the start of next school year. She said it would mean a lot to their very young family.

Ms. Elizabeth Lowe (7 Randolph Court, Key West) said she has already passed the property three times that day. She said she is also a mother and a grandmother. She said safety is her concern, and that she could not emphasize enough how, in her career, she has also had to focus on childcare and finding valuable, special childcare is an incomparable experience. She said she admires the work that Ms. Slack is doing, as she understands from the testimonies.

Ms. Lowe said the traffic on the road is horrendous. She said everyone she has heard speak who is a parent is coming from town. She said when they leave in the morning from that site, they will have to try and swing left onto Route 20, where the traffic is already backed up a very long way. She said it is very dangerous. She said she sympathizes with the time constraints, but that she hoped good sense would prevail among the Commissioners.

Ms. [9:17:05] (3190 Priddy Court, Barboursville) said she lives north and is a parent who drives down Route 20 every day. She said there is some traffic but that it is not tremendous. She said she makes her way through and gets to work in 20 minutes. She said it would actually be a gain for her to have the daycare right there. She said she was on the waiting list for her first son for 14 months, and her second baby is also on the waiting list, and may not be able to attend if the move cannot happen. She said she and the other parents were attending the meeting past bedtime because they care about the daycare.

Ms. [?] said as a scientist, she looks at why the rezoning should happen and the reasons the Commission should recommend it for the Board of Supervisors. She said the property is right outside of the urban development area boundaries, and that the property would at some point become commercial anyway. She said looking at the property lines now, it looks like residential only, but that the residential nature of the area would not be harmed by the conflicted land use if this property were to be rezoned due to the activities there. She said for example, if the rezoning was to be for a night club, the different land uses would not be materially compatible and supportive with the surroundings of the residential area. She said their use of the land would remain compatible and supportive of the residential area there.

Ms. [?] said the parcel may be zoned in a way that no longer makes sense for its surrounding. She said everything around it is expanding commercially, and that there is not a lot of childcare facilities in this area. She said coming from up north down Route 20, it is a struggle to find childcare, and

that with the new developments such as Cascadia, there will be many people who want to use the daycare and not increase the traffic because they are already there. She said she hoped the Commission would recommend the rezoning.

Mr. John McDonald said he came from a small rural county in Northern New York and came down to Charlottesville for his granddaughter's first birthday party. He said his granddaughter attends Our Neighborhood, and his daughter is Ms. Slack. He said when he asked her why she would do all this, she replied that it was about the kids. He said they have a quality program to train the kids to be good people in the world. He said if they will try to work with the kids to make a better world, they have to start some place and time, and the time is now. He agreed that traffic is a problem, but that they need to start somewhere. He urged the Commission to find a way to allow the program to continue.

Mr. Bivins closed the public hearing.

Mr. Randolph asked Ms. Gleason if, given the proposed changes by the applicant before the Commission, she was prepared to make any changes in her recommendations on the application.

Ms. Gleason replied that she received the draft proffers that morning and that they hadn't been distributed to staff, Zoning, Engineering, or VDOT. She said she didn't know if she was ready to do that without having some amount of review.

Mr. Benish said that childcare sounds like a reasonable proposal, but that the rezoning also allows for financial institutions, restaurants, health/spas, manufacturing, service and development, sporting goods, drug stores, clothing stores, and offices. He said it was a matter of making sure that all the other uses (which had not changed) would address the height, what the impacts are, how to evaluate the setbacks that are related to the site, and looking at the traffic implications. He said this was the one opportunity to make sure that the zoning addresses the potential impacts for all the uses besides this.

Mr. Banish said there are approaches to modify the request to take much of those alternatives out, but that this was up to the property owner and applicant to do that.

Mr. Bivins said that much of what they have heard that evening was a first impression, and really refers from going from a Residential zoning to a C1. He said if perhaps the applicant could spend some time with staff, the issues might facilitate a decision that will be helpful. He asked counsel about what this might look like.

Mr. Herrick said the applicant has brought their application forward and is entitled to a recommendation on the application, one way or the other. He said they also have the ability to request a deferral and that given the time frame, he wasn't sure if they were interested in requesting a deferral. He said the options would either be to proceed with the application that was submitted and receive either a favorable or unfavorable recommendation from the Commission, or request a deferral if they so choose.

Ms. More said she was impressed by all the parents who attended. She said she wondered if staff could direct the Commission in understanding the pressure for the timeline and what makes sense for the process. She said if they were able to go through the second round of comments of staff and have time to react to some of the feedback, she wondered what the best-case scenario would be, also seeing that they are dealing things like the flood overlay and a FEMA exception. She said this didn't sound like something that happens quickly, and that it could be slower than VDOT.

Mr. Benish said when new information comes in as a revision, typically what the Commission was seeing that day goes to the applicant as a first round of comments. He said the applicant can then choose to go to a public hearing, or respond to the comments. He said reviewing revisions would typically take a minimum of two weeks to give the other reviewing agencies a chance to queue it in with their other reviews and provide comment back, and for staff to consider comments on that. He said the simpler the application, the more straightforward, the less there is to look at.

Mr. Benish said regarding the flood plain, that information might take more time to evaluate. He said Mr. Pohl (County Engineer) could weigh in on the evaluation of that and the potential LOMA that has been discussed. He said he didn't know how quickly that review would take place.

Mr. Benish said ideally, they were looking at 4-6 weeks to potentially come back with another round of comments.

Ms. More asked if the target to the Board of Supervisors was April.

Mr. Banish said another issue with scheduling an item for the Board of Supervisors is that before they advertise for public hearing, proffers have to be in final form. He said this is a requirement and a courtesy to the reviewing public so that they understand what the Board of Supervisors is evaluating when the item is advertised. He said this advertisement is three weeks before the meeting, so if they don't have an agreement on proffers and are still working through that, it might take some time.

Mr. Benish added that the Board of Supervisors unfortunately has a big backlog and that it is hard to say how quickly something can be rescheduled. He said this is something that is out of his control and is with the clerk of the Board and the schedule that is already on the Board's docket.

Mr. Randolph said the Board is also entering the budget season, which will have an impact.

Mr. Bivins asked if they could hear some comment from the Transportation Planner, Mr. Kevin McDermott, and also from Mr. Pohl about the flood plain.

Mr. McDermott said he has reviewed the submittal and that traffic information was submitted, though not a full TIA because this falls well under the threshold, even at the maximum of 124 students. He said the total daily trips would be about 500, if that. He said he didn't need to get into the questions of the other uses, as if they were looking at that, it would be completely different. He said based on what the proposal is, if they address the proffering out of other uses, 500 daily trips at that maximum of 124 students would make for approximately 100 peak hour trips, half in and half out.

Mr. McDermott said he did make comments about the need for a right turn taper, as the applicant mentioned, if they go over the initial 70 students proposed. He said there was nothing to direct them to stagger those enrollments, so if they were to start at 124, that right taper would be required. He said left turn lanes already exist there.

Mr. McDermott said addressing the overall issue of transportation in the area, he assumed that most trips would be coming from the Charlottesville area, or off of Route 250 in, in the morning. He said this would be the right turns in, which would be easy to make.

Mr. McDermott said the left turns out will be very difficult and are not something that would impede other traffic, but is an issue for the site. He said there is the option that they could make rights out of

there, and there is a signal just north on Route 20 where they can either make a left and take Free Bridge to get back to the City, or make a right and go through the developments to come through Fontana and come back to 250 that way, if they found it was too difficult to make left turns out of their site. He said they could even make a U-turn at that signal, if they really needed to.

Mr. McDermott said overall, at the 100 daily trips, it would not really impact traffic in the corridor, overall, as it is a small percentage increase to the overall traffic. He said safety issues are a concern.

Mr. Clayborne asked what is required to get an area designated as a school zone.

Mr. McDermott replied that he had not gone through that process before. He said he believed that is an application one can make through VDOT, and that it would likely require support from the Board of Supervisors to do that. He said this would allow them to put up the school zone signs and reduce the speeds. He said speeds are likely not an issue because of the congestion they already have. He said perhaps going in the opposite direction of the traffic, one would see high speeds, but that this was not a place where people are speeding because there is a lot of friction with the traffic.

Mr. McDermott remembered that there was one other issue to point out. He said there are two driveways to the site, and his recommendation was that one of those driveways would need to be closed because if not, the left turns could create a safety issue going in because one might not know where people are trying to make the left turns. He said this was a requirement that was put into the comments, and that VDOT would also require that. He said it was something that could be dealt with at site plan stage, but that it would need to be addressed.

Mr. Pohl said when he first looked at the site, he assumed that the County GIS was correct and that the flood plain map shown on the plan was correct, which shows a slight encroachment into the building on one of the corners. He said the plans are not always perfect, and that there is a way to revise those maps through a Letter of Map Amendment. He said a survey was done and was submitted the day before through a PDF, but it wasn't signed and sealed, so he requested the applicants to request for a signed and sealed survey. He said there was a difference of approximately 6 feet between the County GIS and the survey. He said he called the surveyor that day, and he confirmed that he believes there is a 6-foot discrepancy.

Mr. Pohl said there is still the question of whether or not the building is in or out of the flood plain. He said if it is in it, some of the other proposed improvements would also potentially be in the flood plain. He said the flood plain requirements do not go away, even if rezoned, so it would have to address those. He said when he said, "remove the building," there are ways to do that. He said they could pick up and relocate the building. He said regarding the addition on the side and based on the GIS, the limits of the flood plain, and 342 elevation, he couldn't find any permit for that, so that is a noncompliance issue. He expressed that there were still lingering questions, but that it could change based on the plan changing to meet requirements such as parking.

Mr. Randolph expressed there were many unresolved issues.

Ms. More said she was reluctant, with all the outstanding issues and knowing the barriers that people can run into and the time it can take, to offer support to move forward. She said it was not because she didn't support the program, but that she hesitated to allow them to move forward and then end up in a jam. She said she didn't know if the applicant had the ability to defer. She said there was so much to address and that some of it may sort out easily, while other parts of it could take longer than they think.

Ms. More said in order to be successful, she thinks the applicant needs more time for this. She said she knew this was not the right answer for her, because she was running short on time, but that it would be an awful thing to rush forward and find out that it cannot happen. She said she didn't feel like it was fair to push them forward to the Board with all these things left to figure out.

Mr. Dotson said the applicant would be using the existing buildings, and having been to the site that day, there is what looks like a residence, and a garage building. He asked the applicant what her immediate need was, and if they would be going with 70 students into the residence, or if the garage was essential immediately.

Ms. Slack replied that they could move into the residence with a number of students. She said the space is currently slated for 40 children on the ground floor. She said they would be able to meet building code with the basement area because it has two exits to the outside, but that it was slated as staff space, so it hasn't been evaluated by the architects for how many children could fit in that area.

Ms. Slack said her intention was to move into the space rather quickly because it is completely finished, once all the approvals go through, and that the construction on the warehouse would begin as soon as the approvals go through.

Ms. Slack said in terms of the extended small garage that comes off the side, that is not on any of the plans as habitable space, so if removing that were the best course of action, she would be willing to take that.

Mr. Dotson said though he didn't think the matter could be resolved immediately, the reason for his question was for staff to think about whether there could be some way to phase the approval; or to do that which is necessary for the Commission to do, but leave other things to be worked out that are on a longer timeline.

Mr. Bivins said that at some point that evening, the Commission would have to say "yea" or "nay" to the application before them, which may set up many actions that take place between the applicant and staff. He said before them this evening, they had a proposal about whether or not they move the ZMA from Residential to C1 and with the conditions that are there, whether or not the Commission is comfortable enough with the unknowns there. He said he wanted to be clear about what the Commission's jurisdiction was that evening.

Mr. Clayborne said he understood Mr. Bivins' point, but that he wanted to hear more about the phasing plan, because it was not clear. He said perhaps that answer of what's before the Commission is that the one block is future use in the potential flood zone, and that perhaps what the applicant is trying to do is move into the residence. He said perhaps this could offer clarity for the Commission to make the judgement call.

Mr. Clayborne referred to the site plan Daycare Structure B and the shed.

Ms. Slack said the shed is an existing structure, and is a three-bay garage that will need to be completely remodeled to inhabit children. She said her understanding is that the structure itself is not in the flood plain. She said they do have the site plan before the County, and a scheduled meeting two days later with all the site planning staff. She said her hope was to finalize all the details. She said she spoke to Ms. Gleason that day about getting all the final proffers to staff before February 10 so that they would have their standard three-week review, then have the final report to the Board of Supervisors for their April 1 meeting.

Mr. Clayborne asked if Ms. Slack had a feel for the timetable of getting the results from the FEMA request.

Mr. Shimp (project engineer) replied the process takes about 45 days. He said with the Board hearing in April, they could have the LOMA wrapped up before then. He said it is a site plan issue if the land is zoned to C1, but they have to limit their use because of the flood plain line to residential. He said this would be the risk Ms. Slack would take with doing this. He said he did not think this was an issue and that he was 95% certain that the metal warehouse was out of the flood plain. He said they would likely know the next day. He said he believed they could resolve all the major issues before Monday of the following week with just an hour or two sit-down.

Mr. Shimp said Ms. Slack has agreed to limit the traffic, so whatever use happens, it will be limited. He said the flood plain is not as daunting because they simply submit a survey, and that once this is sorted, the flood plain map is amended accordingly, then the County recognizes where they can have a building and where they can't, which the site plan will take care of.

Mr. Clayborne asked Mr. Shimp if he thinks it is reasonable to get through VDOT and the necessary approvals to meet their schedule.

Mr. Shimp replied yes. He said they have already submitted the site plan and already have comments from VDOT on that. He said VDOT is not going to require the applicant to make any major improvements for the 70 children. He said the requirement is to close the second entrance (which the applicant is willing to do).

Mr. Shimp said the reason this can't be delayed is that rezoning has to happen, and the site plan cannot be approved until after that. He said there are then building permits, and a Zoning Occupancy approval. He said the site plan wouldn't be approved by April 1, but shortly thereafter, and they have an extra month or so to work with VDOT that they don't have with the County on that side of things.

Mr. Bivins said he wanted to be clear that while this was an extraordinary situation (likening it to orphans and widows) and that he has had a deep heart for early childhood development since the 1980s, he wanted to be very careful that the Commission was not fracturing its process. He said there are a number of things that will have needed to be cured before staff saw this application.

Mr. Bivins said he was concerned that there are uses that have not been eliminated that would conflict with the setbacks. He said this was a critical piece, given the nature of the residential communities that sit behind it.

Mr. Bivins said he was also concerned that the Commission doesn't have clarity on the flood plain, which makes it a good or impossible project without lots of investment in it. He said these are the types of things that are reasonable as far as discussions that should take place between the applicant and staff. He said he was uncomfortable with the Commission interjecting itself on a very short timeline so that they can move something to the Supervisors that perhaps will not be ready for them to weigh into.

Mr. Bivins said he liked the project very much, but that he did not like the time that the project has come to the Commission. He said this is a serious problem because that would say "yes" to perhaps a use that would make them all uncomfortable. He said he wanted to be clear about what the Commission was being asked to do that evening, and that this was look to approving a ZMA for a wonderful opportunity, but an opportunity that has not proffered out lots of things so that all they are looking at is one use. He said they are being asked to look at the boundaries of possibilities there and have them be very porous at a time that he, for one, feels he doesn't have enough information to make a "yes" decision.

Mr. Dotson said there was a statement made that C1 zoning is consistent with the Comprehensive Plan, which is urban density residential. He asked if staff could talk about that. He said they also made reference to a Neighborhood Center designation. He asked for staffs interpretation of that, and if it was referring to the mixed-use commercial building at Riverside. He asked if they were relying on the Neighborhood Center here.

Mr. Dotson also asked if the requirement for C1 zoning was due to the County, or to State regulations that state that the daycare has to be commercial.

Ms. Gleason said they could all think of retail and commercial uses that are of a smaller scale than the bubble that C1 allows. She said many of the uses that C1 allows could conceivably be appropriate if at the right size, scale, and intensity. She said the issue is that C1 allows such a large envelope, and the Master Plan is looking for a small envelope and scale of development. She said her comment that it is consistent with the urban density residential is a "yes, and" or a "yes, but" statement.

Ms. Gleason said regarding the Neighborhood Center, the Master Plan says it should be small-to medium-scale developments that are pedestrian in scale and walkable from adjacent neighborhoods. She said that while this use accomplishes that, it is not known whether other uses accomplish that as well to support the intent.

Ms. Gleason said in terms of the State regulations, the County allows child day centers by a Special Use Permit in several different designated zoning districts. She said she was not quite sure the need behind the Commercial district, but that this was something the applicant could speak to.

Mr. Benish said his understanding is that the current zoning R1 does permit childcare as a Special Use Permit, but does not permit offices. He said the applicant is interested in having additional uses besides daycare.

Ms. Slack said with a Special Use Permit, she would be allowed to open an early childhood program. She said she opted for the Commercial zoning use. She said selecting the land use wasn't an option, so they couldn't say they wanted to be urban density residential because it was not a choice. She said her understanding was that C1 is the only by-right child daycare use, and that they do have a big plot of land. She said they host events, conference, and visiting teachers from other communities who want to see examples of high-quality early childhood programs. She said she didn't have any plans to develop anything on the site, but could imagine the possibility of something like a co-working space, or early intervention office working out of the site, because it would be convenient.

Ms. Schlein said the applicant submitted a revised proffers statement that morning, and understood that this did not have the opportunity to be fully vetted by staff and included in the staff report. She said the nature of those proffers are to limit the size, scale, and intensity of use on the property. She said the limitations are 45 feet maximum height (consistent with Riverside Village), a maximum building footprint of any new footprint to be 5,000 square feet, limiting to a more neighborhood size and scale of commercial uses. She said there is also a proffer limiting the maximum daily trips on the site to 1,000, which is the threshold for conducting a more comprehensive traffic impact analysis. She said if there was an opportunity for a co-working space, that would allow for some flexibility in the trip generation.

Mr. Dotson asked how the staff considered the neighborhood service; He asked if this was significant in finding that C1, if limited by proffers, is appropriate.

Mr. Benish replied that the Center designation did indicate that this general area could be supportive of a small area that is of service to the surrounding area. He said the Riverside Village development across the street, as an example, does provide some of that center function. He said there could be a question of how much of that is true before it becomes more than a center. He said as the intensity and amount of uses start to spread, that area not maintaining its Neighborhood Center scale was one of staffs issues. He said ensuring there is limited expansion of the nonresidential components serving the large amount of residential surrounding it is how the Neighborhood Center was perceived, which is where the scale issue comes in.

Mr. Dotson said he understood that in thinking about supportive commercial uses, those residential units don't have to be on the same property. He said there is lots of residential around it, which helps him to understand further.

Mr. Benish said urban density residential is shown in the Master Plan. He said they could find that the non-residential component of the urban density residential could be acceptable there, but it is with the limited scale, assuming and looking at the larger area that the residential has been provided.

Mr. Dotson said it would be important to memorialize that in words. He said otherwise, this looks like spot zoning.

Mr. Clayborne asked if the Commission was not allowed to offer deferment.

Mr. Herrick said the rules of procedure allow for the Commission deferring any matter at the request from a member of the Commission, County staff, or applicant provided that the Commission shall not defer any matter beyond the date that the Commission action is required by law, unless the request for deferral is made by the applicant. He said he didn't know if staff had available what date the Commission was required to act by. He said in the absence of that, it would have to be at the request of the applicant.

Ms. Slack said she did not request a deferral.

Mr. Herrick said at that point, the applicant was entitled to a vote on the application as submitted.

Mr. Clayborne moved to recommend approval of ZMA201900015 Child Development Center for the reasons that have been reasonably proffered.

Mr. Dotson said the Commission had not seen those proffers.

Mr. Bivins said he did not hear a second for that motion.

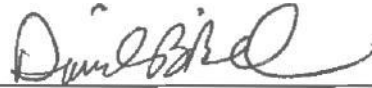
Ms. More moved to recommend denial of ZMA201900015 Child Development Center for the reasons outlined by staff in the staff report.

Mr. Randolph seconded the motion to deny, which carried by a vote of 4:1. (Mr. Clayborne dissented.)

Mr. Bivins explained to the applicant that she would still have her date before the Board of Supervisors.

Adjournment

At 10:01 p.m., the Commission adjourned to February 11, 2020 Albemarle County Planning Commission meeting, 6:00 p.m., Lane Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia.



David Benish, Interim Director of Planning

(Recorded and transcribed by Carolyn S. Shaffer, Clerk to Planning Commission & Planning Boards)

Approved by Planning Commission

Date: 02/18/2020

Initials: CSS