

**COUNTY OF ALBEMARLE
PLANNING STAFF REPORT SUMMARY**

Project Name: ZMA201600009 Wood von Storch Rezoning	Staff: Rachel Falkenstein
Planning Commission Public Hearing: October 18, 2016	Board of Supervisors Public Hearing: To Be Determined
Owners: TMP 45-112: Stuard R. Wood, Jr. and Robin Marie Wood TMP 45-112E: Brian J. McMahon and Stephen K. von Storch	Applicant: Milestone Partners, LLC/Stephen von Storch & Brian McMahon
Acreage: 4.428	Rezone from: Rezone 4.428 acres from R-6 Residential to HC Highway Commercial
TMP: 04500000011200, 045000000112E0 Location: 3400 Berkmar Drive	By-right use: up to 26 dwelling units
Magisterial District: Rio	Proffers: Yes
School Districts: Agnor-Hurt Elementary, Burley Middle, Albemarle High School	Requested # of Dwelling Units: none proposed
DA (Development Area): Places29 – Neighborhood 1	Comp. Plan Designation: Office/R&D/Flex/Light Industrial – commercial, professional office; research and development, design, testing of prototypes; manufacturing, assembly, packaging in Neighborhood 1 of the Places29 Development Area.
Character of Property: Mostly wooded with an existing single family dwelling.	Use of Surrounding Properties: Adjacent uses to the north, east and south are all commercial (zoned HC and C1). To the west across Berkmar is a daycare and a vacant parcel (zoned R6).
Factors Favorable: 1. The uses allowed within the proposed HC zoning are consistent with uses recommended within Places29 for Office/R&D/Flex/Light Industrial. 2. The applicant has proffered restrictions of the allowable uses to bring the HC zoning into closer compliance with the Office/R&D/Flex Light Industrial Land Use designation, including limiting the square footage of allowable retail use on the site. 3. The applicant is proffering reservation of right-of-way for a future expansion of Berkmar Drive.	Factors Unfavorable: 1. The applicant has made minimal commitments regarding the use of the site and the form of the development making it difficult to assess for potential impacts and compatibility with the Neighborhood Model. 2. No commitment has been made to reserve an area for a future connector road between Berkmar to Route 29. 3. It is still unknown if VDOT will allow an entrance location for this site or if a shared entrance will be required. 4. No commitment is being made to pedestrian orientation
RECOMMENDATION: Staff recommends approval of ZMA201600009 Wood von Storch Rezoning, provided recommended revisions are made to the proffers and application plan as described in the staff report below, prior to the Board of Supervisors meeting.	

STAFF PERSON:
PLANNING COMMISSION:
BOARD OF SUPERVISORS:

Rachel Falkenstein
October 18, 2016
To Be Determined

ZMA 201600009 Wood von Storch Rezoning

PETITION

PROJECT: ZMA201600009 Wood Von Storch Rezoning

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL: 04500000011200, 045000000112E0

LOCATION: 3400 Berkmar Drive

PROPOSAL: Request to rezone parcels from R-6 Residential to HC Highway Commercial

PETITION: Rezone 4.428 acres from R-6 Residential zoning district which allows residential uses at a density of 6 units per acre, to HC Highway Commercial which allows commercial and service, residential by special use permit (15 units/ acre)

OVERLAY DISTRICT: Airport Impact Area; Managed Steep Slopes

PROFFERS: Yes

COMPREHENSIVE PLAN: Office/R&D/Flex/Light Industrial – commercial, professional office; research and development, design, testing of prototypes; manufacturing, assembly, packaging in Neighborhood 1 of the Places29 Development Area.

CHARACTER OF THE AREA

The site, containing two parcels of approximately 4.4 acres, is located on the east side of Berkmar Drive, about 1200 feet north of the intersection of Berkmar and Woodbrook Drive. It is mostly wooded and has one existing dwelling unit that appears to be unoccupied and in poor repair. Adjacent parcels are mostly commercial uses. The Better Living builder supply owner is redeveloping the parcel to the north, Kegler's Bowling Alley is to the east and the new Harvest Moon site and Signature Medical Spa are to the south. These parcels represent a mix of HC Highway Commercial and C1 Commercial zoning. Across Berkmar to the west are a daycare and a vacant parcel, both zoned R6 Residential (Attachment A).

SPECIFICS OF THE PROPOSAL

The applicant is proposing to rezone the property from R6 Residential to HC Highway Commercial to allow for commercial development. The applicant is proffering a concept plan for this development, but very few details are provided as to the proposed uses or the form of development (Attachment B). The concept plan provides a commitment for at least 35% of the site's frontage along Berkmar Drive to contain buildings, rather than parking, and also identifies an area reserved for a potential future widening of Berkmar Drive. The concept plan also shows a proposed entrance location, which still lacks VDOT approval and an existing cemetery on site to be preserved. Other details such as building and parking envelopes, details about uses, landscaping, internal circulation, stormwater and grading are absent from the concept plan.

Though the applicant has not stated a plan for specific uses of the site, he has submitted proffers that provide some limitations to uses on the site including restricting the site to no more than 25,000 square feet of retail space, which he estimates to be about 25% of the property's total buildout potential. The proffers also prohibit other by-right HC uses on the site such as hospitals, beauty shops, laundromats, farmer's markets, restaurant drive-thru windows and funeral homes (Attachment C).

APPLICANT'S JUSTIFICATION FOR THE REQUEST

The applicant's justification for the request is provided in Attachment D. He has said that this is a speculative rezoning to better market the property to third parties who have expressed interest for commercial uses. The applicant has stated that the lack of appropriate zoning has been a consistent obstacle to the sale and development of the property. He believes that the HC zoning district is the zoning district most consistent with the Master Plan designation of Office/R&D/Flex/Light Industrial and also most consistent with the zoning of surrounding properties (Attachment D).

PLANNING AND ZONING HISTORY

- ZMA119300013 and SP199300020 C. Todd Shields – Proposal to rezone the property to C-1 with an SP to allow for a commercial recreation facility. The application was withdrawn in 1994.
- ZMA200600008 Berkmar Business Park – Proposal to rezone the property to NMD to allow for commercial and residential uses. The application was withdrawn in 2010.

COMPREHENSIVE PLAN

Land Use: The property is designated as Office/R&D/Flex/Light Industrial in Neighborhood 1 of the Places29 Master Plan. This designation allows for a range of employment-generating uses which include commercial and professional office, research and development, design, testing of prototypes, manufacturing, assembly and packaging. The industrial uses permitted within this designation are expected to be more employee-intensive than other commercial uses and may be less involved in manufacturing and are expected to have the fewest impacts on surrounding properties.

The proposed HC zoning district provides some overlap with the uses recommended for Office/R&D/Flex/LI in the Master Plan. HC zoning has more of a commercial focus than Office/R&D/Flex/LI; however, the applicant is limiting retail use to 25,000 square feet which is approximately 25% of the expected developed square footage. He has proffered out a few other commercial uses which, in total, will help bring the zoning more in line with the recommended Office/R&D/Flex/LI land use designation. More information about the proffers are provided later in this report.

The property is located within the proposed boundary area for the Small Area Plan for Rio/29, currently underway. The Small Area Plan will provide a more detailed land use plan for the area as well as make recommendations about urban form. It is still unknown what the plan will recommend for this property and there is a possibility the recommended land use could change as a result of the plan; however, it should be noted that Office/R&D/Flex/LI land is in limited supply and there has been a desire to retain properties with this land use designation where possible.

Transportation: Access to the property will be from Berkmar Drive, although there are unresolved issues related to the location of the entrance and the possibility that VDOT will require a shared entrance with an adjoining property.

The Places29 Master Plan calls for a network of roads parallel and perpendicular to US 29 and the creation of blocks where possible. The US 29 North Corridor Transportation Study notes a possible connection between Route 29 and Berkmar Drive in the vicinity of this site. It is expected that the Small Area Plan for Rio/29 will provide a more detailed transportation network that will determine the need and ultimate alignment for a connection in this area. VDOT has stated that a connection between Route 29 and Berkmar Drive at this location could be feasible if intersection and roadway improvements are made at the current intersection with Route 29. These upgrades are unlikely to happen until the adjacent parcels along Route 29 redevelop.

As occurred with the recent CMA Properties rezoning, staff has suggested to the applicant that a future connection to Rt. 29 through his property not be foreclosed upon at this time, at least until the Small Area Plan can provide further guidance on the need for this interconnection. The applicant has stated their intention to attempt to maintain an area 40 feet wide along the northern property boundary free of buildings or other improvements that would preclude a future connection within the narrative for this rezoning. Staff is of the opinion that a stronger commitment to keep this area open until the Small Area Plan is complete should be made in the form of a written proffer or as part of the proffered concept plan.

The Neighborhood Model: Staff's analysis below indicates how well this proposal meets the 12 principles of the Neighborhood Model. Due to the limited nature of the concept plan, it is difficult for staff to make a full analysis of the Neighborhood Model principles, though the applicant has provided some proffers that will help ensure certain principles are met.

Pedestrian Orientation	No information is provided about pedestrian facilities within or along the front of the site. Site plan requirements would likely require a sidewalk and street trees along Berkmar Drive when the site develops. It is unknown if buildings will have pedestrian entrances along the street. <i>This principle is currently not met; however, it could be met if a sidewalk and street trees are shown along Berkmar Drive on the concept plan. An additional commitment would also be needed to provide pedestrian entrances and walkways to buildings fronting on Berkmar Drive.</i>
Mixture of Uses	No specific use or uses have been indicated by the applicant, so staff is unable to ascertain whether a mixture of uses will be provided. <i>It is difficult to judge if this principle will be met with the lack of a commitment to specific uses; however limiting the retail use of the site is a positive step towards ensuring other uses can be established in this location.</i>
Neighborhood Centers	The development is not part of an identified center nor is it adjacent to any centers. <i>As a result, this principle is not applicable.</i>
Mixture of Housing Types and Affordability	This property is proposed for commercial zoning district that allows residential uses by special use permit. The Places29 Master Plan does not recommend this property for residential use as a primary use. The applicant is not proposing any residential units, but the zoning would not preclude a future applicant from requesting residential units. The proffers limit residential uses to the upper floors of multi-story buildings, should a residential use be proposed at a later date. <i>This principle is met.</i>
Interconnected Streets and Transportation Networks	As mentioned above, the Places29 Future Transportation Plan notes a proposed roadway connection between Route 29 and Berkmar Drive located in the vicinity of this property. There is an existing easement running from the northeast corner of this property that extends to Route 29 and provides access to an existing residence on the site. A connection to Route 29 in this location could improve interconnectivity in the area and distribute traffic onto and off of Route 29 at an existing signalized intersection.

	<p>The Rio/29 Small Area Plan will determine with more certainty if a connection here would be recommended. Until the Small Area Plan is completed, staff believes that the area between this right-of-way and Berkmar Drive should be kept clear of buildings or structures that could obstruct a future roadway. If the Small Area Plan recommends the connection, this area should remain free of obstructions until the connection can be built.</p> <p><i>At present, the concept plan doesn't provide enough detail to determine if this area will be obstructed. A stronger commitment is needed such as a note or more detail on concept plan or a proffer to ensure this area isn't impeded for this principle to be met.</i></p>
Multi-modal Transportation Opportunities	<p>Sidewalks along Berkmar Drive will likely be required with the site development plan for this property. Bicycle lanes may eventually be provided with a future widening of Berkmar, which is recommended by Places29. The applicant has proffered to reserve an area measured 44 feet from the centerline of Berkmar Drive to accommodate the potential future widening. The Small Area Plan will determine the ultimate recommended streetscape for Berkmar Drive. The 44 foot right-of-way reservation will be sufficient to accommodate two travel lanes, a bicycle lane, sidewalks and street trees.</p> <p><i>This principle has been addressed to some extent by providing a reservation for future right-of-way. However, it is difficult to determine if bicycle and pedestrian accessibility will be accommodated within the development.</i></p>
Parks, Recreational Amenities, and Open Space	<p>This property is not designated for parks or greenways within the Master Plan and with only 4.4 acres and no residential use, parks and amenities are not expected. If the property is developed intensively, provision of a central amenity space could enhance both the design and use of the space.</p> <p><i>This principle is not applicable</i></p>
Buildings and Space of Human Scale	<p>The newly adopted Neighborhood Model setbacks will help ensure that new buildings will be located no further than 25 feet from Berkmar Drive (or at the edge of any utility easements, whichever is further). Buildings this close to a sidewalk can provide easy access for pedestrians. However, no commitment has been made for buildings fronting on Berkmar to have a face to the street and have pedestrian entrances. Building heights will also be limited by the proposed HC zoning. Buildings taller than 45' will be required to be stepped back by at least 15'.</p> <p><i>This principle is partially met; however, more information is needed in the form of a proffer or concept plan commitment to requiring buildings to have facades facing Berkmar Drive with pedestrian entrances for this principle to be met.</i></p>
Relegated Parking	<p>The applicant has committed to having parking be setback no closer to the right-of-way than any existing or proposed primary structure in the primary development zone shown on the concept plan. The concept plan also includes a note stating that at minimum, 35% of the frontage space along Berkmar Drive will be occupied by buildings. This will help limit the amount of parking area that can front along Berkmar, though greater</p>

	<p>conformity with this principle could be achieved with less parking along the street frontage.</p> <p><i>This principle has been partially addressed.</i></p>
Redevelopment	<p>This proposal is for new development on a mostly greenfield site within the Development Area. The existing house will likely be demolished when the property develops.</p> <p><i>This principle has been addressed,</i></p>
Respecting Terrain and Careful Grading and Re-grading of Terrain	<p>A proposed grading plan was not provided as part of the concept plan; however, there are no identified preserved slopes on the property. Any disturbance to the managed slopes on site will be required to meet the design standards within the ordinance.</p> <p><i>This principle has been addressed.</i></p>
Clear Boundaries with the Rural Area	<p>The proposed development is centrally located in the Development Area and does not share any boundaries with the rural areas.</p> <p><i>This principle is not applicable.</i></p>

Relationship between the application and the purpose and intent of the requested zoning district

The purpose and intent of the HC zoning district is to permit development of commercial establishments, other than shopping centers, primarily oriented to highway locations rather than to central business concentrations. It is intended that HC districts be established on major highways within the urban area and communities in the comprehensive plan. It is further intended that this district shall be for the purpose of limiting sprawling strip commercial development by providing sites with adequate frontage and depth to permit controlled access to public streets.

This proposed rezoning will locate additional business and commercial uses in an already commercial area. One entrance location to the site is proposed, though a shared entrance with adjacent parcels may be required by VDOT at the site plan stage of development.

Anticipated impact on public facilities and services

Streets:

As mentioned above, Places29 notes a possible connection between Route 29 and Berkmar Drive within the vicinity of this property. Though it would be staff's preference for an easement to be established along the northern property line at the time of this rezoning to allow for a future connection here, the applicant has stated his hesitancy to do so because of the uncertainty around the need for this roadway and the neighboring property owner's unwillingness to dedicate right-of-way for a roadway through his property.

With the Small Area Plan currently underway, a detailed transportation network for this area has not yet been identified and the only available guidance about road locations comes from Places29 which shows general locations of road connections but does not specifically identify detailed road alignments and locations. Furthermore, the adjacent property owner who owns land to the east with the existing easement and is also currently redeveloping the parcel to the north for a by-right use has made it clear to staff that he is unwilling to provide right-of-way on his property. Because of these circumstances, staff is comfortable with a commitment to keep the northern portion of the site, measured 40 feet from the property line, free from obstructions; however, a stronger commitment should be made in the form of a proffer or proffered statement on the concept plan.

As mentioned above the applicant is reserving area along the frontage of the site to accommodate a future widening of the Berkmar Drive, should the Small Area Plan recommend this.

Traffic impacts on Berkmar Drive are unknown at this time since the ultimate use of the property is still unknown. If determined by VDOT, a traffic study may be required at the time of site plan review and turn lane analysis will need to be provided. The applicant anticipates that turn lanes may be required based on the allowable uses within HC zoning.

The concept plan shows a proposed entrance location at the center of the site on Berkmar Drive. VDOT has stated a desire for a shared entrance between this development and the adjacent parcel to the north, TMP 40-112B, which currently has a site plan under review for the site to be redeveloped for Better Living's building supply business. The proposed entrance for the future Better Living site would not be a desirable entrance for the Wood von Storch site since the turn radius on this entrance would not allow truck traffic to make the turn and enter onto the Wood von Storch site. VDOT has stated they will require a spacing and shared entrance exception from both applicants for the proposed entrance locations and it is yet to be determined if either entrance will be approved by VDOT.

It was staff's preference that this issue be worked out prior to the rezoning moving forward. If the Planning Commission wishes to recommend approval of the request staff suggests a note be added to the concept plan to make clear there is no guarantee that an entrance will be permitted in the location shown. The note should state that the proposed entrance location may be subject to VDOT approval of a shared entrance and spacing exception and that a shared entrance with an adjacent parcel may be required.

Schools:

No residential units are proposed, so no impacts to schools are expected.

Fire and Rescue:

Fire and Rescue service is provided through the Seminole Fire Station and Berkmar Rescue Squad. Fire/Rescue has no objection with this rezoning proposal.

Utilities:

Public water and sewer service is available to the site. No known service capacity issues were identified by Rivanna Water and Sewer Authority (RWSA); however additional capacity analysis may be needed at the site plan stage, if uses exceed minimum thresholds identified by the Albemarle County Service Authority or RWSA.

Anticipated impact on environmental, cultural and historic resources

There is an existing cemetery on the site that the applicant proposes to preserve. The narrative states that the property owner tried to relocate the cemetery in 2008 but was not able to identify or contact all potential decedents who would need to approve a relocation.

The property is currently mostly wooded and the redevelopment of the site would likely require the removal of most if not all of the trees on site.

Anticipated impact on nearby and surrounding properties

No major impact is expected on nearby and surrounding properties with this rezoning request as surrounding properties are also zoned and used for commercial uses. Any parking visible from the street and residential properties across Berkmar Drive will be expected to be screened in accordance with the site plan requirements.

At the Community Meeting for this project held in conjunction with the Places29 Hydraulic CAC only one member from the community was present. That individual did not express any objections to the request. Members of the CAC thought the proposed rezoning was appropriate given the Places29 Land Use designation and the surrounding uses.

Public need and justification for the change

Development of this site can benefit the County by creating additional employment opportunities for residents and an increased tax base. The proposed zoning and range of uses are more in keeping with the recommendations of the Places29 Master plan than the current R6 zoning.

PROFFERS

The applicant has provided proffers which are summarized below (Attachment C). Staff has identified a few issues with the proffers and proffered concept plan (Attachment B). Staff comments are listed below in italics.

1. The following HC uses will not be permitted: pipe and tobacco shops, barber/beauty shops, laundromats, farmer's markets, funeral homes, wayside stands, hospitals, restaurant drive-thru windows.
The following HC uses will be restricted: cemeteries – the existing cemetery shall not be expanded; Mini-storage shall be limited to the secondary development zone or the upper floors within the primary development zone.

CDD and Economic Development staff worked together to identify appropriate uses within the HC zoning and uses that would also be appropriate within the Office/R&D/Flex/LI land use.

2. Retail uses limited to no more than 25,000 sq. ft. of floor area (applicant estimates this to be about 25% of the projected build out).

Retail use is intended to be incidental to the other uses within the Office/R&D/Flex/LI land use designation. Staff is of the opinion this restriction is appropriate for the site and will allow for uses more consistent with the land use designation.

3. Eating establishments limited to 1,500 square feet or less per establishment.

Staff believes this restriction is appropriate for the site and will allow for uses more consistent with the Office/R&D/Flex/LI land use designation.

4. Residential uses shall be secondary and limited to the upper floors of multi-story buildings.

Residential uses on the site would require a special use permit, but this restriction is appropriate to ensure that if residential use were permitted, it would be a secondary use.

5. Reservation of area along Berkmar Drive, measured 44 feet from the center line. If the Small Area Plan determines reserved area is not needed, the reserved area shall be terminated. If the Small Area Plan determines the reserved area is needed, then it shall be dedicated to public use upon demand of the County.

As mentioned previously, staff is supportive of this proffer.

6. Parking to be regulated to the side or rear of buildings within the primary development zone.

Staff is supportive of this proffer as it ensures relegated parking on the site. However, more clarification is needed as to what is meant by the language of the proffer which distinguishes between "parking as a primary use" versus "parking as an accessory use." Stand alone parking on the site would require a Special Use Permit and would not be a desirable use on this site.

7. Development shall be in accord with the concept plan.

This proffer is stating the applicant's desire for a proffered concept plan; however, it isn't clear exactly what elements in the concept plan will be commitments. Staff recommends the language of this proffer be amended to be consistent with the standard "general accord" proffer language to identify major elements of the plan that will be a required part of the development of the site. Major elements should include the frontage treatment along Berkmar Drive, accommodations for pedestrian access, the area along the northern property line to be kept free from obstructions for a potential future connector road and preservation of the cemetery.

The proffer should also more specifically identify the concept plan by date and title. The concept plan should be updated to include the date of last revision and a title so that if this rezoning is approved, it is easily identifiable as the approved concept plan. Staff also recommends this proffer be at the beginning of the proffers so future reviewers and developers are aware up front that there is a proffered plan.

Overall the proffers are in need of technical modifications such as consistency with numbering. They will also need to be reviewed by the County Attorney prior to Board of Supervisors review of this request.

Special Exception Request:

The applicant has submitted a request for a special exception in accordance with Section 24.2.1 to allow the gross floor area of the following uses to exceed 4,000 square feet (Attachment E):

- 47. Laboratories/Research and Development/Experimental Testing
- 48. Manufacturing/Processing/Assembly/Fabrication and Recycling
- 49. Storage/Warehousing/Distribution/Transportation

Planning Commission action is not required for the special exception request; however the Board may consider a recommendation by the Planning Commission. The ordinance does not offer specific criteria for staff to review for an exception from the 4,000 square feet size limitation for these uses. Given that there is no specific use or building proposed along with this exception request, it is difficult for staff to provide any analysis on the request or to evaluate potential impacts on neighboring properties.

This request is supported by Economic Development staff because it will increase the inventory of land available in the County for these desired employment generating uses. Further, the uses above are consistent with the primary uses recommended for the Office/R&D/Flex/LI land use. The Master Plan recommends that buildings within this designation used for research and development, manufacturing, storage, distribution and warehousing be limited to no more than 40,000 square feet. So allowing a larger footprint than 4,000 square feet may be appropriate. Though staff is not able to evaluate impacts to neighboring properties, the Board and

Commission may feel that the uses are appropriate in this location due to fact that neighboring properties are all developed commercially.

SUMMARY

Staff has identified the following factors, which are favorable to this request:

1. The uses allowed within the proposed HC zoning are consistent with uses recommended within Places29 for Office/R&D/Flex/Light Industrial.
2. The applicant has proffered restrictions of the allowable uses to bring the HC zoning into closer compliance with the Office/R&D/Flex Light Industrial Land Use designation, including limiting the square footage of allowable retail use on the site.
3. The applicant is proffering reservation of right-of-way for a future expansion of Berkmar Drive.

Staff has identified the following factors which are unfavorable to this request:

1. The applicant has made minimal commitments regarding the use of the site and the form of the development making it difficult to assess for potential impacts and compatibility with the Neighborhood Model.
2. No commitment has been made to reserve an area for a future connector road between Berkmar to Route 29.
3. It is still unknown if VDOT will allow an entrance location for this site or if a shared entrance will be required.
4. No commitment is being made to pedestrian orientation.

RECOMMENDATION

Staff recommends approval of ZMA201600009 Wood Von Storch, provided that the applicant make the following commitments and changes to the proffers and concept plan prior to the Board of Supervisors meeting:

1. A commitment to keep an area measured 40 feet from the northern property line free from impediments for a potential future roadway.
2. A commitment to providing pedestrian entrances and access from Berkmar Drive.
3. Either written approval from VDOT for the proposed entrance or a note on the concept plan stating that the entrance location is subject VDOT approval and a shared entrance with adjacent properties may be required.
4. A commitment to major elements of the concept plan in a written proffer as described in the proffers section above.
5. Technical revisions to the proffers and concept plan as described above.

PLANNING COMMISSION MOTION:

A. If the ZMA is recommended for approval: Move to recommend approval of ZMA201600009 with revisions as recommended by staff.

B. If the ZMA is recommended for denial: Move to recommend denial of ZMA201600009 with the reasons for denial.

ATTACHMENTS

- A – [Location Map](#)
- B – [Concept Plan](#)
- C – [Proffers](#)
- D – [Narrative](#)
- E – [Special Exception Request](#)