

Albemarle County Planning Commission
FINAL Minutes March 10, 2020

The Albemarle County Planning Commission held a public hearing on Tuesday, March 10, 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; Karen Firehock, Vice-Chair; Tim Keller; Jennie More; Bruce Dotson; Rick Randolph; Corey Clayborne; *and* Luis Carrazana, UVA Representative.

Other officials present were Cameron Langille; Tori Kanellopoulos; Frank Pohl; Megan Nedostup; David Benish, Chief of Planning; Charles Rapp, Planning Director; Jodie Filardo, Director of Community Development; Amelia McCulley, Deputy Director of Community Development; Kevin McDermott; Megan Nedostup; Frank Pohl; 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.

Consent Agenda

Ms. Firehock moved to approve the Consent Agenda. Mr. Randolph seconded the motion, which carried unanimously (6:0). (Mr. Clayborne abstained.)

Recess

At 9:06 p.m., Mr. Bivins announced a recess.

At 9:20 p.m., Mr. Bivins called the meeting back to order.

Public Hearings (continued)

ZMA201800018 and SP201800023 River's Edge

Ms. Tori Kanellopoulos, Senior Planner, said she was also joined by County Engineer Mr. Frank Pohl. She said this is a request to rezone from RA Rural Area to PRD Planned Residential District on two parcels totaling 32.52 acres at 2260 Rivers Edge Lane. She said there is also a request for a Special Use Permit to disturb preserved slopes for an accessway and for stormwater management facilities.

Ms. Kanellopoulos said she would start by talking about the context of the site, then discuss the proposed Application Plan for the rezoning, discuss the proposed Special Use Permit, staffs recommendation, and the motions.

Ms. Kanellopoulos said the proposed development is located at River's Edge Lane off of Route 29. She said it is approximately one-quarter mile north of the intersection of Lewis and Clark Drive and Route 29, at the UVA Research Park. She said there are several commercial uses north of the site, and a federal government facility. She said there are forested parcels in the Rural Area located to the east and south.

She said the adjacent parcel directly to the south is currently undeveloped; however, it is also in the development area.

Ms. Kanellopoulos said the site currently consists of approximately 14 dwelling units, which are currently rental units. She said the properties are bordered by the Rivanna River. She said there are two accessways that run through the property called Rivers Edge Road and River's Edge Lane, and that these two accessways connect and create a loop through the site. She said there is an existing basketball court near the front of the site.

Ms. Kanellopoulos presented additional photographs from the site that show conditions of the existed accessways and the forested character of the site. She presented photographs showing views of the Rivanna River from the site, and another view of the existing accessway.

Ms. Kanellopoulos said the property is currently zoned Rural Area, which allows residential densities of 0.5 units per acre; however, subdividing the property would likely not be feasible. She said nearby zoning districts include Commercial, Industrial, and Residential Districts.

Ms. Kanellopoulos said there are significant environmental features on the site. She said there are preserved slopes (shown on the map in green), stream buffers (shown in dark blue), and flood plains (shown in light blue). She said the existing accessway is in the stream buffer flood plain and preserved slopes. She said the proposed accessway is in the stream buffer and slopes, but not in the flood plain. She said there are approximately 8.62 acres out of the total, outside of those environmental features.

Ms. Kanellopoulos said the properties are designated Neighborhood Density Residential and Private Open Space in the Places29 Master Plan. She said the Neighborhood Density Residential classification calls for residential uses between 3 and 6 units per acre. She said the proposal is above the recommended density in the Comprehensive Plan.

Ms. Kanellopoulos said the private open space and environmental features include the areas in the flood plain, steep slopes, and stream buffer. She said no residential units or parking are located within the environmental features.

Ms. Kanellopoulos said this proposal is also consistent with several Comprehensive Plan policies, including the Growth Management policy; efficient use of the Development Area; promoting density within the Development Areas to help create new, compact urban places; the housing policy of having at least 15% affordable units with rezoning; directing affordable housing activities to the Development Areas; and having hard edges with the Rural Area.

Ms. Kanellopoulos said the proposed development is within the Entrance Corridor and is providing the 50-foot forested buffer called for in the Master Plan.

Ms. Kanellopoulos said the applicant proposes to rezone the 32.52 acres from Rural Area to Planned Residential Development. She said the proposal is for a maximum of 100 dwelling units, each of which is size restricted to a maximum of 1,200 square feet. She said all of the units are rentals, as the property cannot be feasibly subdivided. She said access to the site will be provided using the existing entrance off of Route 29.

Ms. Kanellopoulos said as would be discussed later in the presentation, the applicant has also requested a Special Use Permit to disturb steep slopes to widen the accessway and to install stormwater management facilities.

Ms. Kanellopoulos said the application meets the requirement for a minimum of 25% open space and proposes a variety of amenities, including trails and playgrounds.

Ms. Kanellopoulos said the applicant has also requested a central sewage system per County Code 16-102. She said this request must be approved by the Board of Supervisors.

Ms. Kanellopoulos said as outlined in the staff report, staff has not found any inconsistencies in the Comprehensive Plan with this request. She said the Virginia Department of Health, Albemarle County Service Authority, and engineering review and approval are required prior to central system plan approval.

Ms. Kanellopoulos said Strategy 8c in the Development Areas chapter of the Comprehensive Plan states that density should be calculated using net density by excluding areas not suitable for development, including steep slopes, stream buffers, flood plains, and areas identified as Parks and Green Systems. She said the proposed development has a gross density of 3 units per acre and a net density of 12 units per acre. She said the Master Plan recommends a maximum of 51 units, using the calculation of net density.

Ms. Kanellopoulos said 100 units are proposed, with a range of detached, duplexes, triplexes, and fourplexes, which is double the recommended density in the Comprehensive Plan. She said all of the units are size restricted, with a maximum gross floor area of 1,200 square feet each.

Ms. Kanellopoulos said the applicant has included information regarding accessory units in their narrative as justification for the additional units. She said specifically, the applicant has compared the additional density proposed with this development to be comparable with a more traditional single-family development with accessory units, which are permitted in the Zoning Ordinance and do not count toward the overall density.

Ms. Kanellopoulos said the applicant compares the following scenarios: the applicant could construct larger single-family homes, each of which would have an accessory dwelling unit, which would not count toward density. She said that for example, a 3,000-square-foot house could have an accessory unit that could be 1,050 square feet in size. She said alternatively, as the applicant proposes, the applicant could construct 100 units and size restrict the units so that the overall impact would be similar to 50 larger single-family units.

Ms. Kanellopoulos said there is not sufficient guidance in the Comprehensive Plan for staff to determine when it may be acceptable to exceed the Comprehensive Plan recommended density. She said Master Plans are drafted and adopted through a community-driven process, including review of future land use designations and categories. She said therefore, staff has included exceeding the recommended density as a factor unfavorable with this application and previous applications, and recommends that the density be reduced to meet recommendations in the Master Plan. She said staff welcomes further recommendation and guidance from the Planning Commission.

Ms. Kanellopoulos said the proposal also extends the existing multiuse path, as shown in the Places29 Master Plan. She said in consultation with Parks and Recreation, staff finds that a future public connection with the adjacent parcel to the south (Tax Map Parcel 32-22, K1) would allow for the trail network to connect to North Point and therefore, to the greater trail network.

Ms. Kanellopoulos said Parks and Recreation is planning to eventually connect the trails on each side of Route 29 with a future crossing near this area. She explained that the red arrows on the map showed the approximate location of the public connection that Parks and Rec has identified as an important section of the overall trail. She said staff recommends that the applicant coordinate with Parks and Recreation and Planning staff prior to the Board meeting to determine how best to make this connection.

Ms. Kanellopoulos presented a slide showing the topography and imagery of the area where the path is proposed. She noted that to the left in the image was where the area starts to slope downward and becomes more challenging to install the trail.

Ms. Kanellopoulos said the applicant has also requested a Special Use Permit to disturb preserved slopes to widen the accessway to meet County standards, and to install stormwater management facilities. She said the requested area of disturbance is 39,100 square feet (shown in orange in the Application Plan). She said the County Engineer and Planning staff have no objection to the request. She said the applicant would need County Engineer review and approval of a Virginia Stormwater Management Program application, meeting the steep slope standards of County Code 18-30.7.5, prior to any disturbance activities.

Ms. Kanellopoulos said while there will be some impacts to environmental resources with this development, the County Engineer and Planning staff find the impacts to preserved slopes to be acceptable and find that there would not be substantial negative impacts. She said no buildings or parking are in steep slopes, nor the stream buffer, nor flood plain. She said disturbance of preserved slope is necessary to allow for vehicular access to the site.

Ms. Kanellopoulos said the proposed development provides trails throughout the development and gives residents access to the scenic environmental resources on the site. She said the Natural Resources chapter (Chapter 4) of the Comprehensive Plan highlights the importance of protecting water and topographical resources in the County, especially the water quality of the Rivanna River. She said Strategy 5c states that steep slopes in the Development Areas should be protected, especially those adjacent to streams.

Ms. Kanellopoulos said the potential negative impacts to environmental features are considered against the beneficial aspects of the proposal, including providing affordable housing and directing development to the Development Areas.

Ms. Kanellopoulos said the accessway will not be a private street, but it will have the design and appearance of a rural road section, widening the existing accessway from 12 feet of travelway (plus some shoulder area) to 28 feet, with 20 feet of travelway and 4 feet on each side for shoulders. She said the wider accessway is needed for safe and convenient vehicular travel, and for access for emergency vehicles. She said further development of the site is not feasible without widening the accessway.

Ms. Kanellopoulos noted that while disturbance of steep slopes is needed for the accessway, disturbance of steep slopes for stormwater management facilities may not be ultimately needed during site planning. She said the applicant has chosen to include the disturbance request for the stormwater management facilities with this application so that the full request is contained in one Special Use Permit, and so the applicant does not need to submit an additional Special Use Permit in the future, should the disturbance be necessary.

Ms. Kanellopoulos said the applicant shows three locations for potential slope disturbance for stormwater management facilities. She said the County Engineer has reviewed the general location of the proposed facilities and found them to be acceptable.

Ms. Kanellopoulos said staff has found the following favorable and unfavorable factors for this proposal. She said staff finds that the request is consistent with the majority of the recommendations in the Places29 Master Plan, Comprehensive Plan, and Neighborhood Model principles; and is meeting the County's affordable housing policy. She said staff notes that the proposal is above the recommended density in the Master Plan, and that there are potential negative impacts with steep slope disturbance.

Ms. Kanellopoulos said based on the favorable factors and analysis, as outlined in the staff report, staff recommends approval of the rezoning request with the following changes. She said staff recommends that the application not exceed the recommended density in the Master Plan, and that the applicant coordinate with Parks and Recreation and Planning staff prior to the Board meeting to determine how best to make a public trail connection, as proposed in the Places29 Master Plan.

Ms. Kanellopoulos said staff also recommends approval of the Special Use Permit request, with the following proposed conditions. She noted there was a slight change to Condition #5 to specify the types of erosion and sediment control measures not allowed in the flood plain. She said other than that change, the conditions on the screen were the same as those in the staff report.

Ms. Kanellopoulos presented rezoning motions and Special Use Permit motions for the Commission's consideration.

Mr. Randolph said in the community meeting on January 17, 2019, 60 units were proposed, and that they were now looking at a total of 100 units. He said it was unusual for the Commission to see a community meeting with a number of units proposed, then have the number increase after the community meeting. He asked for an explanation of how this came to pass.

Ms. Kanellopoulos replied that the overall area of disturbance and construction is the same, but that the units are now more clustered together. She said staff did not require the applicant to come back for another community meeting.

Ms. Megan Nedostup (Community Development staff) said she attended the first community meeting and that there was one adjacent owner across Route 29 who was interested in what was going on. She said she didn't see the need to have an additional community meeting, since it wasn't highly attended.

Mr. Randolph said he thought Ms. Nedostup was misunderstanding his question. He said he wasn't asking why there wasn't another meeting held, *but* that he was struck by the fact that the number in the application went from 60 up to 100 units. He said usually, the Commission sees the movement in the other direction. Ms. Nedostup replied that the applicant could speak more about the reasoning, but that she believes they were looking at a different type of development, which is *the* proposal that was in front of the Commission, versus what they originally anticipated when they came in with the application.

Mr. Randolph asked if River's Edge holdings should financially fail, had there been any discussion by staff who would become responsible for paying for system monitoring and generation upkeep of the central sewage system proposed in the application.

Ms. Firehock said she thought it was a pump station.

Mr. Randolph agreed it was a pump station, pointing out that it was a facility, and that he wanted to know who would maintain it going forward.

Ms. Nedostup replied that the applicant could answer, but she believed it was a private facility that would be maintained by the homeowner's association.

Mr. Randolph said they would have a discussion about the liquidity of the homeowner's association and fees associated. He asked if staff has thought in any way about the unaddressed impact of the trails going in here, and no money proposed to go towards trail construction on the site.

Ms. Kanellopoulos replied that some of the trails are private. She said the trails farther back on the site where the homes are would be private. She said in talking with Parks and Recreation staff, they felt that this would be appropriate. She said the main connection they want to make is getting from North Point up to Route 29, then crossing the bridge.

Ms. Kanellopoulos said the applicant is providing a trail connection up to Route 29, which would be along the frontage of Route 29. She said this would likely need to be constructed at a later date, given the topography. She said she didn't know if Parks and Recreation was ready to determine exactly what needs to be constructed, and that staff could discuss this further with them.

Mr. Randolph asked if the bridge would be paid for by the residents.

Ms. Kanellopoulos replied that the bridge was not proposed with this development, since it would be on the adjacent property. She said the applicant is proposing a public connection up to that property so that, in the future, if there were a bridge, it could connect to that with development of the adjacent property.

Mr. Keller asked if the buildings would have basements, or if they were on footers.

Ms. Kanellopoulos replied that she believed they were on footers, and she would let the applicant speak to this.

Mr. Bivins opened the public portion of the session to hear from the applicants.

Mr. Justin Shimp (project engineer) said he was joined by his planner, Ms. Kelsey Schlein. He said this was an interesting project and one he very much liked, where the client has given him leeway to go outside the norm.

Mr. Shimp said in terms of the bridge, the same owner owns the adjacent piece, and that there is a rezoning application in for this. He said they therefore understand that the condition of that will be to connect the bridge on that property, and that this was coming. He said they have the public easement that they give through this property down a road that is already built, and so most of the trail infrastructure does actually exist on the plan.

Mr. Shimp said he had been before the Commission various times to talk about the size of units and density, and that this project was a perfect example of the problem with counting density as a dwelling unit, regardless of the nature. He said for instance, in Albemarle County, if one disturbs over 1 acre and builds a house, they have to do an erosion control plan. He said he is sometimes hired by someone building an estate, and that for example, a landowner in Ivy cleared 6 acres of land and built a 1,000-foot driveway at the side of the mountain (noting it was all legal, with permits) to build a 6,000-square-foot house. He said the disturbance was equivalent to the one he proposed in the River's Edge project, but for one dwelling unit.

Mr. Shimp said likewise, if someone wanted to build a 400-square-foot cabin, it would also be counted as one dwelling unit.

Mr. Shimp said in this situation, they considered some options such as townhomes. He said the version they talked about at the community meeting were traditional townhomes and larger units, totaling 60. He said although this can be done, he thought that there was a better option for the property.

Mr. Shimp said in the past, the Commission has approved accessory dwelling units to be considered as not a part of the density. He said for example, Belvedere has these ADUs, as well as Southwood, Riverside Village, and Old Trail. He said if an applicant brought a plan to the County for a 3,000-square-foot house with a 1,000-square-foot ADU, and there were 51 of these, that this would meet the Comprehensive Plan definition of density. He said that if the principal unit, however, was not three times of the size of the ADU, it doesn't count.

Mr. Shimp said for example, if every two units is 2,400 square feet instead of 4,000 square feet, it is considered too high of a density. He said this did not make sense to him.

Mr. Shimp said he was not asking the Commission to redefine how to look at density that evening, as this was a bigger conversation. He asked them to think about if a project like this could be thought of as a small unit and ADU that happens to be the same size, but that they both fall under a 1,200-square-foot maximum which is what the applicant thinks of as an ADU. He said he believed this was reasonable.

Mr. Shimp said it was important to note that with the footprint of the design, the applicant has proffered in the Application Plan a maximum of 50,000 square feet of footprint. He said comparing this to additional development, they are approaching half of touching the land to build these same units. He said they are impacting less and getting more "kitchens," and that they would have one and two-bedroom units instead of 3 and 4-bedroom houses. He said the number of bedrooms is the same, but they essentially will have more kitchens. He said he believes the overall impacts would be the same, or less, than what would be conventionally built on the property if they did the typical plan.

Mr. Shimp said he believed this was a reasonable justification for the increase in units, and that he was happy to discuss it more.

Mr. Shimp presented the overall plan, noting the access road and explaining that all the units are on a flat, buildable portion of the property. He indicated to where the road would have to *be* widened, for emergency access purposes. He said the applicant has worked with County staff on this and that they feel the impacts are mitigated.

Mr. Shimp said one thing that is unique about this property is that there are many nice trees on it, and that in looking at options, a townhome development requires them to be cleared. He said he came up with a scheme where they have some modular construction, and can build and set the units amongst the forest. He said the idea is that they can set the units up on columns without having to clear or grade the entire area. He said they will have to build the large parking lot, as there are standards that the County has to meet. He said they could build that, put the units off to the side, and minimize their impacts otherwise.

Mr. Shimp said the site is near some employment centers who use a lot of contract employees. He said this project will fit those employees' temporary needs amongst their employment.

Mr. Shimp presented examples of the houses. He indicated to the largest unit, which was 2 bedroom at 1,181 square feet. He said the typical shape of the unit is a long, skinny shape with one or two bedrooms, which can be built in a factory and brought to the site on a trailer.

Mr. Shimp said though they didn't have the exact architecture selected yet, the examples gave an idea of the scale of the structures.

Mr. Shimp presented an example that he noted was very close to what they would build. He said they would have a structure elevated on piers, and the parking lot would be adjacent to it.

Mr. Shimp showed an example of a unit that was closest to the flood plain. He said the lower unit was built above the flood plain by a large margin, and another unit is stacked on top of that. He indicated to the location of the parking lot. He said the grade otherwise follows the natural terrain, and that they can step up the hill with the units.

Mr. Shimp said he had a useful density comparison. He indicated to what represented eight units, noting there were two units over two. He said this was about the same footprint as the traditional three villa homes. He said if they built that, however, there was no room in between, and was straight structure. He said he hoped this illustrated what the applicant was getting at with the size of the structure, and that they were really building 50 or fewer houses. He said there are 36 structures on the plan containing various levels of units, but that in feel, look, and impacts, it falls into the Comprehensive Plan's number.

Ms. Firehock asked if someone would be walking down the stairs to get to their door in some units, while other units were at grade.

Mr. Shimp replied yes.

Mr. Shimp presented the area of pedestrian circulation mentioned earlier. He explained one would come off Route 29 and down the existing 8-foot road that the applicant would convert to a pedestrian trail. He indicated to where the future bridge would be to get across. He noted that most of the infrastructure was already built for this.

Mr. Shimp said because the project was embracing nature, they had a list of alternates to usual play structures (e.g. swing sets). He said though he didn't expect many children to live there, the ones who would can have a place to go and take advantage of the trails.

Ms. Firehock added that "big kids" need nature, too.

Mr. Shimp agreed. He said in summary, there is an increasing supply for smaller units, and that he didn't think any project had come forward with this mixture of units of this type. He said all he needed from the Commission was the acceptance of the idea that an ADU does not have to be one-third. He said they could look at these as smaller units without having to count them as full dwelling units, noting that the Commission has done this with other projects, such as Southwood.

Mr. Bivins asked if anyone from the public cared to speak. Hearing none, he moved the meeting forward with questions for the applicant, as well as for Mr. Pohl, if necessary.

Ms. Firehock said that because she is a proponent of saving trees, she was very much in support of the design the applicant put forward. She cautioned about the fact that there is only one way in and out of the site, which presents a fire risk. She suggested that the applicant would avail themselves of the free services of the Virginia Department of Forestry and their "Fire-Wise" program. She said there are ways to design to make a dwelling safer in case a fire should break out.

Mr. Shimp said this was a good point. He said they have agreed with the fire marshal to provide sprinklers in all the buildings, which will also help mitigate that risk. He said Ms. Firehock was correct that when working the forest, they need to be cognizant of the risks.

Ms. Firehock said the Fire-Wise program is on the Virginia Department of Forestry's website. She said they have people that can come out and help the applicant's site design so that it is safe. She said perhaps there are some trees that do need to come out because they could be at risk. She urged the applicant to consider these things.

Mr. Randolph said on page 4, in the community meeting, there was some discussion about these units being long-term rentals of a year or more. He said a statement is provided on page 4 that says, "It will not be used for short-term rentals." He asked how they would prevent people from renting these facilities and not renting them out on a short-term basis.

Mr. Shimp replied that these were the staffs comments from the community meeting. He said the owner of the property owns Access Properties, who offer affordable housing around town. He said as the owner of this, they prohibit anyone from subleasing without their permission. He said Mr. Randolph was right that it is hard to enforce this with owner-occupied units, but in the case of this project, the units will all be owned by one property owner. He said people would be kicked out if they try to rent short-term, and so there is a control in this particular circumstance.

Ms. Firehock said she was curious how the County would know that this would be a requirement.

Mr. Shimp said he didn't think the applicant ever said that they were going to proffer this, but that it was their intention that they conveyed to the community. He said he had never heard of a development requiring that, and that he didn't know if the applicant would be opposed to it, but that there was no intention of it. He said he couldn't say that the property wouldn't be sold in 20 years and that someone else may have different rules. He said the applicant could only speak to an intention on what they are doing, as owners may change, and rules may change. He said this was more of a zoning question of how they would enforce this, rather than a decision of if this should be approved or not.

Ms. Firehock said a traditional subdivision would have a homeowner's association with the ability to create this rule, but that this was a matter of one individual owner, and that Mr. Shimp just said that this person could retire, go away, or sell the property, resulting in the property becoming an Airbnb or hotel type of community.

Ms. Kelsey Schlein (Shimp Engineering) said it was her understanding that the homestay regulations may preclude short-term rentals occurring regularly on the property, especially if it is not rented to the uses allowed on the Application Plan. She said she was asking for staffs input on this, as it was the applicant's understanding in proposing the Application Plan was that short-term rentals are not proposed as a by-right use on the property and so therefore, they are not allowed. She said it was

her understanding that they would have to comply with the supplementary regulations for short-term rentals.

Ms. Nedostup said staff would have to get back with an answer on that after doing some research on the homestay regulation.

Mr. Keller said that since it was one parcel, he didn't think it would be an issue. He said the most that there could be on one parcel would be the one. He said in other words, they wouldn't be able to turn each one into short-term. He said perhaps they could get the 5 plus 5 if it stayed rural, and that the most they could get out of it would be 10.

Mr. Dotson asked if all of the units would be rentals.

Mr. Shimp said this was correct. He said the applicant would not meet the County subdivision ordinance requirements for division as it is built.

Mr. Dotson noted these were modular units and that this suggests a situation where someone could not own the land, but the building only.

Mr. Shimp said he did not know. He said he supposed one would be able to have a condominium situation there, but that he didn't know for sure about that.

Mr. Dotson asked if this was the applicant's intent.

Mr. Shimp replied it was not their intent.

Mr. Keller asked if the road would be a County road or a private road.

Mr. Shimp replied it would be a private road.

Mr. Keller said if the Rivanna goes through, creates the ox bow, and there has to be a bridge across, they wouldn't have to worry about this being a County cost for the bridge at some point in the future.

Mr. Shimp said no.

Mr. Keller asked about modular versus manufactured.

Mr. Shimp said manufactured relates to older style mobile homes.

Mr. Keller asked if that would defeat the building standards.

Mr. Shimp said this was correct. He said they could not be manufactured home q, considering the building code. He said it has to meet the full building code.

Mr. Keller said this was the clarification that he wanted. He said in effect, they are building units to code.

Mr. Shimp noted the units would not be built off site.

Ms. Firehock said this was an important point.

Mr. Keller indicated that the applicant was asking the Commission about the land disturbance. He recalled the Commission had had an interesting work session on this previously, and that there has been a lot of response to ideas coming forward from that. He asked if the applicant is building on piers so that they don't have to have as much land disturbance, why not do pocket parking so that they can work with the grade more.

Mr. Shimp said he tried that. He said what he really wanted to do was have 14-foot 1-way roads with parking scattered throughout. He said between the fire code and parking regulations, however, it was near impossible. He said he did try this, as it was in fitting with the character that is there now. He said it was not feasible, however.

Mr. Keller said perhaps they could hear from the County Engineer (Mr. Pohl) about this, as these are things that have come up for other projects as well.

Mr. Keller said the last time, they talked limnology (the study of fresh waterways), and that there were issues about this becoming an ox bow lake and the impacts that Mr. Randolph talked about in the last several meetings about the different flood levels and changes to the environment with climate change, which will have an eating-out aspect of the concave side of the rivers. He said this means there will be less and less space or distance between the two channels. He said they didn't know whether this was 10 years, 100 years, or 1,000 years in this environment, in geologic time, but that it is something that is an issue of real concern.

Mr. Keller said the road going in was more of his concern, more so that the buildings. He said the applicant has addressed this, and he applauded them for that. He said they had talked before about floating a road or quasi-bridge concept in the narrowest part so there would be less disturbance to the steep slopes there. He asked the applicant since they were doing other innovative engineering techniques, if there may be a more innovative solution for dealing that type of connection.

Mr. Shimp replied that there are always more solutions, if enough time and money are spent. He said the problem was about the fire trucks. He said if they do an elevated road, it has to support the weight of a fire truck. He said it would kill the project if they had to construct something like this in that couple hundred-foot section of road coming in. He said there was not a scale that can justify or support that kind of cost. He said though the design idea was interesting, the other design components that stack against the applicant makes it unfeasible.

Mr. Keller asked about logging such as in the Amazon, where there is very large gravel put into the road with geotextile put down. He asked if there are ways, they could support it without adding as much land disturbance. He said he was referring to creating a stronger base.

Mr. Shimp said that the problem is that the narrowest point where the road crosses through is quite steep on either side. He said if they start building out on one side and put fill material there, they have to keep it from sliding off down the hill. He said he considered these things, but came to the conclusion that the best way, with minimal risk for rock and mud getting out of hand, is to follow the top of the hill and cut the grade straight down. He said although this was not innovative, this was the most practical solution and satisfies zoning, fire code, and can be done without the risk of a mud slide.

Mr. Shimp said though creative solutions were considered, the project also has to be buildable for the client (for whom he had spent 1.5 years working on the project). He said it was a fair question, but that he hadn't figured out a way to do this that was feasible. or that doesn't create concerns

about how they operate in the slopes. He said he is minimizing the number of slopes they have to touch with this particular concept. He said as far as grading, this was the minimum they could do.

Mr. Bivins asked to see the slope disturbance facts for managing runoff. He asked for explanation of the stormwater management facility and if this involved runoff from the parking lot that could find its way into the north fork of the Rivanna River.

Mr. Frank Pohl (County Engineer) said they would have stormwater coming off this site. He said the first proposal was a level spreader in the flatter areas that Mr. Shimp had proposed, but that there could be implications with the level spreader about erosion along the stream bank, as that stream bank drops. He said they need to get to the river, if there is going to be a problem, but that he wasn't sure if there would be a problem until the design is done and until staff can look at things more closely. He said he suggested that Mr. Shimp show access to the river. He said he would rather have protected access with a built outfall than try to force a solution that might create a problem.

Mr. Pohl said this solution gives them the flexibility and that they could still address it. He said either way, the applicant has to meet the VSMP requirements.

Mr. Bivins asked with oil changes and antifreeze changes, and with 100 units and 100 cars (perhaps 200 cars), if this was a potential problem for that kind of runoff.

Mr. Pohl replied yes. He said they cannot control oil changes that occur illegally and dump into the river.

Mr. Bivins asked how the system controls the potential damage to one of the County's resources.

Mr. Pohl replied that all the projects have this, and that none of them are required to have an oil separator. He said the County does not have the authority to require an oil separator. He said the site is located on the river, and so the applicant can purchase credits and discharge directly to the river without having to provide any attenuation. He said his understanding was that this was not the applicant's intent, and that the applicant was going to provide attenuation, which is how they were going to use the level spreader, which is the one-year stormer vent for the energy balance. He indicated on a corner of the map to a wider line, noting this represents an underground detention facility.

Mr. Pohl said he believed the applicant would utilize off-site return credits.

Ms. Firehock said she wanted to ask the applicant about this. She said the County Engineer is well aware of all the progressive things that could happen, as was Mr. Shimp, but that she wanted to put the question to him instead.

Mr. Bivins said one of the Commissioners was wondering about the 500-year flood and the 1,000-year flood, and whether or not any of this interferes or impacts this project.

Mr. Randolph said there was a discussion during the break, and that he was aware of where the buildings are situated, and the proposal to have them on stilts or columns above the flood plain. He asked what the insulation would be underneath the buildings, because if it gets wet in flooding, then it all has to be torn out if it is fiberglass.

Mr. Shimp said this was true. He said they were above the 500-year storm, and that the probability of that happening in the lifespan of these houses is very low. He said with access underneath, they could replace the insulation without too much hassle, and that it was a remote risk.

Mr. Shimp said that normally in zoning, they don't get into stormwater treatment, but given the specifics of the site, if the Planning Commission were to recommend some percentage of on-site water quality treatment instead of credits, he would not object to that, if that is what they were getting at.

Ms. Firehock said this was possible.

Mr. Shimp said there is a Special Use Permit for the disturbance and that under that, in the past, the Commission has made similar conditions before.

Ms. Firehock said she knew Mr. Shimp has a client and that he is not the purse strings of this project. She said in looking like places like River Bluff (and not suggesting they build \$600,000 homes), they have some features such as permeable parking spaces. She said the applicant could reduce the volume of stormwater that they need to treat in the first place. She said since this development may attract a different sort of individual, as they are building a nontraditional product in the woods, they could have rain barrels or other ways to reduce the amount of underground storage they have to construct as a savings. She said she understands that permeable pavers need to be vacuumed at least once or twice a year, and that this was a paid service, but that they would have to do things to maintain the property anyway.

Ms. Firehock said there are many techniques and technologies to reduce the amount of runoff generated. She said although this was not the applicant's fault, she wanted to say for the record that she was opposed to buying water quality credits and how the State law changed years ago. She said the committee that worked on this put a lot of "and's" in the clauses in the law, and by the time it was voted on in the legislature, they all became "or's." She said therefore, what they have is not what was intended by the best stormwater professionals.

Ms. Firehock acknowledged the applicant is working within the law, but to the degree that they can push their client to do some of this water quality treatment on site would make this a much more attractive project because they are on a fragile landscape in the loop of the Rivanna River that is already severely impacted. She said to her, the greener and more sensible treatment they could put there, in addition to leaving large trees, was ideal.

Ms. Firehock said the County's parking standards, for the records, were draconian and also need work, as the Commission has discussed with Mr. Benish many times.

Mr. Shimp said these were all fair points.

Ms. Nedostup said she had the opportunity to look at the homestay regulations, and that short-term rentals are only permitted in detached single-family dwellings. She said in this case, these are attached units, and so the current regulations would not allow for them to be homestays.

Mr. Keller asked if the units would all be attached.

Ms. Firehock said they were all touching.

Mr. Bivins closed the public hearing.

Mr. Dotson said he had a question for staff. He said looking at the plan, it brings to mind a mobile home subdivision, based on the shape of the footprints. He asked what the density regulations are for mobile home subdivisions, and if they are a straight one-for-one the way single-family detached are or if there is some allowance for more mobile homes than the density calls for.

Ms. Kanellopoulos replied that staff could try to check on this question, as she was not sure offhand. Mr. Keller said the model for this is a PUD of regular houses. He said this has no relationship to a trailer park in any way. He said it would be like a rural subdivision.

Mr. Dotson said he was not convinced by Mr. Shimp's logic of how to address the Comprehensive Plan density question, and that he wondered if there was a precedent in mobile home subdivisions, senior housing, or any other category where the Comprehensive Plan density was not simply translated one for one.

Ms. Nedostup replied that they have not had a lot of those applications. She said the only one she could think of that went above the Comprehensive Plan density was Riverside Village for the affordable units. She said as Ms. Kanellopoulos stated, staff does not have much guidance within the Comprehensive Plan, Zoning Ordinance, or any other policies to direct them.

Mr. Dotson expressed that if the Commission approved this, Mr. Shimp would remember that, and they would see more of this type of request. He said Mr. Shimp was bringing them something new. Ms. Firehock said she understood what was said about the difference of the density, and that there was a lot of effort to explain carriage houses, which she didn't need. She said this was why the Planning Commission exists. She said instead of by-right uses, they look at special exceptions, strange situations, and requests to change the norm. She said in this case, it was not merely a request to increase density, but it is a completely different design where the applicant has shown the proposed density in a nontraditional format, which is actually less impactful to this particularly sensitive landscape in this location. She said this is what she found compelling.

Ms. Firehock expressed her joy with the applicant protecting some trees on the site. She said she was tired of lot line to lot line clearing.

Mr. Dotson said this raises the question of impact-based density. He said one could build a 2,400-square-foot home as a unit, or two 1,200-square-foot homes (a unit), or three 800's as a unit. He said in some of the Airbnb discussions, there was the question about regulating units, square feet, or bedrooms, and determining the best indicator of impacts. He asked if there were some things, however, that do not scale, as perhaps the same number of parking places is still needed. He said if there are two people in a unit, they could perhaps have two cars, or not, for instance. He said it was a very interesting question, and possibly the first project they could add to the work program for staff.

Mr. Dotson said what this reminds him is of the habitat at the World's Fair in the late 1960s that was modular units that were stacked in a very attractive way to make a rather large structure. He said this notion was very appealing, and that the project makes him think of this (and not an Iroquois Indian village).

Mr. Clayborne said overall, he enjoyed the project, and thought there were many clever moments in the proposal. He said it is unique. He said he didn't have an issue with the density, and that the more he studied

it, he didn't have an issue with the uniqueness of the proposal. He said he did agree with his colleagues' stormwater management comments, and however this is tucked into the motion, he could get behind it. He said as of that moment, he saw the application as highly favorable and that it would have his support.

Mr. Keller said although *he* wanted to support the project, he believed they needed to work through it further on a number of points. He said in dissecting the number of questions that had been made thus far, they would perhaps be digging into them further if it wasn't such a late hour.

Mr. Keller said this project was exactly what he had been calling for, and that he was completely supportive conceptually. He said he was not sure, however, how he felt about the two units being together the way they are. He said they were trying for this not to be like a trailer park and yet, it feels like one, to him. He said he thinks that if they are asking an applicant to do something creative, they need to think and work with their County Engineer to see whether they might be able to do something more creative in terms of parking, the roadway in, and how this works with fire and police.

Mr. Keller said he still had concerns and reservations about how narrow the channels at the 500-year flood plain are, between the two channels of the river. He said this warrants more thought.

Mr. Keller said although *he* was close, he personally felt that the Commission should consider these points, as well as the stormwater management.

Mr. Dotson said he knew that State agencies that issue permits related to water and health matters have the ability or process for issuing an experimental permit where they identify the things that the experiment is intended to test. He said they then track it over time. He said this doesn't open the door to having a new rule but rather, it gives a vehicle for going forward with some creative ideas. He said he wondered if some thinking along those lines might apply. He asked what they might want to test with this. He said they all agree it is innovative, and perhaps they could set up a program where this becomes a model, they look at every so often to see if it would be a good idea to make it the normal option.

Mr. Bivins said he didn't know how the Commission would impose that or set it before an applicant. He said perhaps if the applicant, during the process, were to say that this was something they would like to do, it could work, but he didn't know how the Commission could ask the applicant to speak to the Commonwealth to see if it is something they can do and if so, the Commission would stand with them. He said what they might encourage, as they are looking at climate action and the policies that may come before them, is to see if there is a way there to suggest the option to people.

Mr. Dotson said in suggesting they think about this as an experiment and try to specify what they would hope to learn from it, he thinks this could be stated as part of a purpose statement on the

Application Plan. He said there could be a protocol for whatever it is they want to monitor. He said perhaps there was nothing to monitor.

Mr. Bivins said he thought this was a good idea, but that he was hoping they were not suggesting pausing the application.

Mr. Dotson said it would be a way to go forward with the application.

Mr. Bivins asked how they would know what they were suggesting.

Mr. Dotson said at that moment, he didn't have a list of things that he would like to know. He said he hoped there might be some things, however, and that this would be a rationale to go forward.

Ms. More said the project is creative and that she liked the idea, but that she was not comfortable with the idea of doubling the density by using the accessory dwelling, and with them being the same size. She said going this far, the applicant was not asking for a little bit, but was asking to literally double with the accessory unit not being what they typically look for, where there is a certain size for the main dwelling and the accessory. She said this is what made her uncomfortable. She said they were going from 50 to 100, and although she could somewhat understand the applicant's argument for it, this was why she was a "no" on this.

Mr. Shimp said one thing the applicant could do is say 1,200 for 50 and 1,000 for 50, dropping the number down. He said what they see is mostly around 650-700 square feet, and that 1,200 square feet is only his largest unit. He said if there was concern about that being the same, they could make half of the accessory units a smaller square footage.

Mr. Bivins said there was something that he has been very clear about during his chairmanship. He said they are not going to get engaged in doing the work of staff from the dais. He said this would come down however it would, and that he would recommend Mr. Shimp have this conversation with staff. He said the Commission was not going to negotiate the square footage, although it was a valid point to bring forward.

Mr. Shimp said that staff were not going to tell him what the square footage would be, either.

Ms. More said she was only one "no" vote.

Mr. Bivins said Mr. Shimp was advised to stop at this point.

Mr. Randolph said Ms. More was not alone, and that he had the same feelings about it. He said the problem he has with the application is that although it contains some innovative things, he was worried in the long-term that the County would see a low-income community that they will be a party to creating. He said once again, they will have put a low-income community in a location with no public transit available. He said he didn't see any suggestion of a bus stop for a potential future bus. He said it would be left to the Board and CAT in the future to make an argument or, with autonomous buses coming out, to provide transit to this location. He said this was an unaddressed impact, in terms of buses.

Mr. Randolph said there would be 21 students occurring there, at minimum, which was an unaddressed impact.

Mr. Randolph said the bridge was cited as a pedestrian bridge, but that it needs to be thought of from a design standpoint of an emergency exit if the ox bow does come into fruition. He said in his estimation, it would have to be somewhere around 45 feet of water that would have to occur to cross over between the two portions where the ox bow would be eliminated. He asked the applicant to think about another means of exit there.

Mr. Randolph said one thing that has not been put into the queue is that there are many trees on the site and if there was a forest fire, with only one way out, they don't want people having to swim and cross the Rivanna River to get out. He said he was uncomfortable from a safety point that there was only one way in,

but that fundamentally, he was concerned about the unaddressed impacts of education, public transit, and the trails. He said he was concerned long-term about what could happen on the site that they do not have control over.

Ms. Firehock said she had a point that was related, but that she was not expecting the Commission to discuss that evening. She said that in Charlottesville, there were many requests for infill when she was on the Planning Commission there, and that they wrote an ordinance that provided a density bonus in exchange for implementing a certain minimum number of innovative best management practices, such as low-impact development design, so that they got infill with guaranteed green design. She said they can write those types of ordinances in the County, but that they didn't currently have that.

Ms. Firehock said for her to support the project, she would need to see some kind of clause. She said she didn't know how to quantify this, as they were not writing a stormwater plan for the dais, either. She said if they were to add some sort of clause such as, "implement innovative best management practices to reduce stormwater volume generated, and to treat water quality on site to the maximum extent practicable," they would not be setting a specific number on it. She said she wished the application already contained some of this, as it is a sensitive site.

Ms. Firehock said the Wetsel property the Commission just reviewed is largely cleared, and so that site will have a lot more stormwater impact to treat this site because it is already treed, and the applicant is leaving some of the trees in place, which actually generates less stormwater from the start. She said one mature tree can take up to several thousand gallons of stormwater per tree, per year. She said by leaving the trees in place, the applicant already has a site that has much less impact than most of the County's development projects. She said even so, since there is a private road and parking spaces, she would like to see some way to use permeable pavements, cisterns, rain barrels, etc. She said there was a whole host of approaches that were not too expensive.

Mr. Bivins said the applicant was receiving some feedback that evening, and asked if it would be helpful for the applicant to defer before taking a vote.

Mr. Shimp replied that this was reasonable. He said he has not heard specifics on some things, but that he had ideas on things he could revise. He said he wants to move the project forward with everyone feeling good about it. He said there are some things the applicant can address, but that the ox bow condition was out of his hands. He said the stormwater points and narrowing down the square footages could be accomplished. He asked if he could return in four weeks to defer and make some tweaks.

Mr. Andy Herrick (County Attorney's Office) asked if the applicant was requesting a deferral.

Mr. Shimp said yes, with the condition that it not be 3-4 months until he comes back.

Mr. Herrick asked if Mr. Benish knew the upcoming schedule.

Ms. Firehock suggested putting it at 4-6 weeks, noting that it was difficult for staff to juggle all the projects.

Mr. Shimp acknowledged that staff was busy. He said he would be fine with a 4- to 6-week timeframe. He said the changes would be very minor.

Mr. Herrick said he would like Mr. Benish's input on the upcoming schedule.

Ms. Nedostup said if they were looking at stormwater management, they would need to cycle through a review of that with the County Engineer, and that it would be about 4-6 weeks, though she hadn't looked at the schedule of the upcoming meetings in April and beginning of May.

Mr. Bivins asked if the Commissioners would like to add any points, they wanted Mr. Shimp to address.

Ms. Firehock said she had already mentioned fire-wise design, as there is a risky site with one entrance.

Mr. Clayborne said stormwater management was his main concern.

Mr. Keller said he would like the applicant to challenge County staff about the original parking scheme along the side of the road, instead of having defined parking areas. He said he would still like the applicant to think about his point about the narrowing where the two channels are, and whether they could have less environmental impact there.

Mr. Dotson said to build on Ms. More's point, he would like to have the applicant think about a rationale that is different than the accessory unit rationale -- the rationale that even though PUD's don't qualify for bonuses, thinking about it as if it is a bonus because it does things the County says it wants to do. He said he would feel much more comfortable with that than with the accessory unit.

Ms. Firehock and Mr. Randolph agreed.

Mr. Bivins asked Mr. Herrick if this was sufficient.

Mr. Herrick replied yes. He asked if they have determined a specific date to which this should be deferred.

Ms. Nedostup replied that the thought was May 19 in order to give a couple weeks for the applicant to revise and bring in plans for review.

Mr. Herrick said if the applicant was then requesting a deferral to May 19, there would need to be a motion.

Mr. Randolph moved to defer of ZMA201800018 and SP201800023 River's Edge.

Mr. Keller seconded the motion, which carried unanimously (7:0).

Ms. Firehock noted that she would be out of town on May 19. She said she would convey her thoughts to Mr. Shimp and to the Commission before that meeting.

Committee Reports

There were no reports.

Old Business

None

New Business

Mr. Benish said next week's Planning Commission meeting (for 3/17/20) had been canceled, as the applicant asked for a deferral. He said that hearing was tentatively scheduled for June.

Mr. Herrick said his suggestion was that the Commission formally make a motion to defer that application, to make it official.

Mr. Keller moved to defer SP201900013 to June 16.

Ms. More seconded the motion, which carried unanimously (7:0).

Mr. Benish said April 29, there would be a joint meeting with the Board of Supervisors on affordable housing, 10:00 a.m. to 12:00 p.m., in Room 241.

Ms. Firehock and Mr. Randolph said they would not be able to attend this meeting.

Mr. Benish said on April 1, at the Board of Supervisors meeting, there would be a presentation on R-cuts. He encouraged the Commission to listen in or attend. He said this meeting would be sometime after 1:00 p.m. and was actually couched in the VDOT quarterly report. He said this type of presentation would typically occur around 3:00 p.m.

Ms. More asked if the next meeting would be March 24, and if the Yancey item was still tentative.

Mr. Benish replied no, and said his understanding was that this would still be occurring on this date in order to meet some review deadlines. He added that Bamboo Grove had not been scheduled. Mr. Charles Rapp introduced himself as the new Planning Director. He said he looked forward to working with the Commission and serving in the community.

Adjournment

At 10:38 p.m., the Commission adjourned to (March 24, 2020 – CANCELLED) April 7, 2020 Albemarle County Planning Commission meeting, 6:00 p.m., Lane Auditorium, Second Floor, County Office Building, 401 McIntire Road, Charlottesville, Virginia

Charles Rapp (Electronic Signature)
Charles Rapp, Director of Planning

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

Approved by Planning Commission

Date: May 5, 2020

Initials: CSS